Federal Communications Commission

HEARINGS

BEFORE

THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

SEVENTY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 8301

A BILL TO PROVIDE FOR THE REGULATION OF INTERSTATE AND FOREIGN COMMUNICATION BY WIRE OR RADIO, AND FOR OTHER PURPOSES

APRIL 10, 1934

Printed for the use of the
Committee on Interstate and Foreign Commerce

UNITED STATES
GOVERNMENT PRINTING OFFICE
54846 WASHINGTON : 1934

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SEVENTY-THIRD CONGRESS

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COMMUNICATIONS—H.R. 8301

TUESDAY, APRIL 10, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to call of the chairman, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We have met for the consideration of H.R. 8301, introduced by me on February 27 this year. On the desk of each member is a report of the interdepartmental committee that studied this question of communications for some weeks, perhaps months, last summer. We also have on our desks a preliminary report on communications companies made by Dr. Splawn under authority from this committee some months ago which report I think will be most instructive and enlightening to the members of the committee and may be helpful in the consideration of the proposal that is before us. It contains many facts and some conclusions, which it appears to me that the committee especially and the public generally might well know.

We have asked Secretary Roper to conduct the hearing for us this morning and make such statements with reference to the general proposition of communications and specific reference to this bill as he desires and then to call anyone to follow him to explain the bill. We thought it would be better to proceed in this manner as Secretary Roper was the head of this committee, or rather the one who set the committee up to make the study, and then have someone whom he would designate to explain the provisions of the bill. Mr. Secretary.

STATEMENT OF HON. DANIEL C. ROPER, SECRETARY OF COMMERCE

Secretary ROPER. Mr. Chairman and gentlemen of the committee: With your approval, I will make a brief and only a very general statement this morning touching the history of the work of our interdepartmental communications committee, and then ask certain members of that committee who are present today to analyze the bill before us and make such suggestions and recommendations to your committee as their study of H.R. 8301 seems to justify.

Last summer, at the suggestion of the President, I assembled an interdepartmental committee to conduct what the President stated should be a study—not an investigation—of the present condition of what we are accustomed to call "the communications" related pri-

marily to interdepartmental service. The committee thus assembled consisted of, in addition to the Secretary of Commerce—

Dr. W. M. W. Splawn, special counsel House Committee on Interstate and Foreign Commerce; Dr. Irvin Stewart, Department of State; Lt. Comdr. E. M. Webster, Coast Guard, retired, Treasury Department; Maj. Gen. Irving Carr, War Department; Capt. S. C. Hooper, Navy Department; Maj. Gen. C. McK. Saltzman, Commerce Department; Dr. J. H. Dellinger, Bureau of Standards; and Herbert L. Petty, Federal Radio Commission.

This interdepartmental committee made a very painstaking study of communications, dealing, however, primarily with material gathered through their own contacts with departmental personnel and departmental data. They did not contact the public except as persons outside of the Government on their own initiative requested consideration through written statements and suggestions.

In view of the fact that your committee and the Interstate Commerce Committee of the Senate had been for some time devoting much study to many phases of the communications subject, our committee advised at frequent intervals with the chairmen of these congressional committees.

Furthermore, through the courtesy of Chairman Rayburn, our interdepartmental committee had the continuous cooperation and assistance of that very thorough student of transportation problems, Dr. W. M. W. Splawn, then the special counsel of your committee and now a member of the Interstate Commerce Commission.

While our committee was unanimous in their concluding view that existing conditions required Federal regulation, there was a difference of opinion in the committee with regard to some of the conclusions, hence the report of the committee was submitted in two parts, Capt. S. C. Hooper of the Navy Department filing a minority report.

In order that the President, and through him your committee, might have all the views and recommendations of the interdepartmental committee, I submitted to the President, on January 23 last, both the majority and the minority reports through the following letter:

> Our interdepartmental committee organized sometime ago at your instance to make a study of communications has completed its work and I am transmitting herewith the results of the same.
>
> The committee differed in some of the details and the report is accordingly in two parts. With a view, however, to presenting compositely the full reflections of the majority and minority members of the committee, I have prefaced the study with a summary in which I have endeavored to bring in coordinated fashion the important points of both divisions of the report. However, the majority report and the minority report are attached as appendixes.
>
> Special attention is also directed to appendix C, which shows the history of the communications laws and regulations, containing the opinions of the committee as to the necessity of the amendments.
>
> Our committee is not submitting any bill, or bills, designed to put into effect the suggestions contained in the report, in view of the fact that the Interstate Commerce Committee of the Senate and the Interstate and Foreign Commerce Committee of the House are engaged in a similar study of communications. In view of this situation, you may desire to transmit this report to these two committees for such use as they may desire to make of it in the preparation of any bill covering the matter and in the conduct of hearings in connection therewith.

As my summary to the President and the report in both parts are already in the possession of the committee, I will not repeat either here. As stated in my letter of transmittal, our interdepartmental

committee did not prepare and submit a bill undertaking to cover the recommendations of the committee, believing that in view of the great importance of the subject and the studies which both committees of Congress had already made, you would prefer to approach the construction of the bill in the light of all the data gathered by yourselves and that submitted by us when you were ready to prepare the measure. Thus, the bill now before your committee, H.R. 8301, is the product of your committee, but several of the members of our interdepartmental committee have made a study of the bill and will, if you so desire, give your committee the benefit of their views. I have not myself undertaken to study the technical features of the measure, though I may say that I am in accord with the general objectives sought through the bill.

Mr. Chairman, Dr. Irvin Stewart, of the State Department, has made a very thorough study of the entire bill, including its technical features, and I will ask your permission now, sir, to introduce Dr. Stewart to explain the bill, and I hope then when he shall have finished you will permit of a statement by Captain Hooper, of the Navy Department, who filed the minority report of our interdepartmental committee.

The CHAIRMAN. Thank you, Mr. Secretary.

Secretary ROPER. Thank you, Mr. Chairman.

STATEMENT OF DR. IRVIN STEWART, DEPARTMENT OF STATE, WASHINGTON, D.C.

Dr. STEWART. Mr. Chairman and members of the committee.

The CHAIRMAN. Dr. Stewart, before you proceed, if you do not mind, I would like for you to qualify by telling the committee what has been your experience.

Dr. STEWART. I am an officer of the Treaty Division of the Department of State, having charge, under the supervision of an assistant secretary, of matters relating to electrical communications.

I was a member of the American delegation to the International Radio Conference in Washington in 1927; of the American delegation to the meeting of the International Technical Consulting Committee on Radio Communications, Copenhagen, Denmark in 1931; a delegate to the International Radio Conference in Madrid in 1932; a representative at the International Telegraph Conference meeting in Madrid, at the same time as the radio conference and a member of the delegation to the North and Central American Regional Radio Conference, Mexico City, in 1933.

The Department of State favors the principle of the pending bill for the establishment of a Federal Communications Commission, but expresses no opinion upon its detailed provisions, as the provisions relate to matters which for the most part are not within the jurisdiction of the Department of State.

In my further remarks before you this morning I shall not be speaking for the Department of State but at the request of Secretary Roper as a member of the interdepartmental committee on communications, and with the consent of the Secretary of State at the request of Chairman Rayburn, as an individual who desires to be of such service as he may be to the committee in its consideration of the bill.

The committee is fortunate in having before it at the outset of its deliberations on this bill the monumental study prepared by Dr. Splawn upon holding companies in the communications field.

The report contains a great deal of information which will be of undoubted benefit to the committee in its consideration of the bill and at the request of Dr. Splawn, relayed to me through the chairman of the committee, I trust that you will permit me to point out certain salient features of this report which you may wish to have fresh in your minds in the consideration of the bill and in hearing other witnesses who appear before you.

To do justice to the report itself and the companies concerned, I should like to let the report speak for itself, merely calling your attention to the language of the author of the report who, a very able man, spent a great deal of time and thought in the preparation of the language itself.

I would first invite your attention—and I believe you all have copies of the report before you—to the form of the report, which consists of a summary and recommendations by Dr. Splawn, followed in part A by a study of the telephone industry; in part B, by a study of the telegraph and cable companies; part C, by a study of the radio companies.

Part C is divided into two parts, one dealing with radio communications and the other with radio broadcasting companies.

Upon page v, opposite the flyleaf, Dr. Splawn sets out the authority under which he was working and the objectives which he sought:

> I have the honor to submit this preliminary report on communication companies, based on an investigation of holding companies and companies engaged in telephone, telegraph, and cable, or other operations for the purpose of ascertaining the ownership and control, direct or indirect, of stock, securities, or capital interests by holding companies, investment trusts, individuals, partnerships, corporations, associations, and trusts and the organization, financing, development, management, operation, and the control of such companies, made pursuant to authority of House Resolution 59, Seventy-second Congress, first session, and House Joint Resolution 572, Seventy-second Congress, second session. Information thus far filed in response to a questionnaire addressed to telephone, telegraph, and cable, and radio companies forms the basis upon which the following report is made.

The table which is given on page vii, gives in a comparative form, the relative size of the industries affected by the present bill.

You will observe in the first item in that table, "Investment in fixed capital (plant and equipment)", telephone companies reporting an investment of $4,660,662,997. The telegraph and cable companies $465,639,421, and the radio companies approximately $25,000,000, or, in terms of percentage, the telephone represented almost 91 percent of the total investment, the telegraph business a little over 9 percent, and the radio companies approximately one half of 1 percent.

The seventh item in that table, "Operating revenues", shows that the telephone companies received 90.49 percent of the total revenue, telegraph companies 9.51 percent, and the radio companies approximately one half of 1 percent.

In number of miles of wire involved, the telephone companies owned 97.42 percent; the telegraph companies, 2.58 percent.

On the following page there is another table which shows in terms of per capita cost for 1922, 1929, and 1932 the amount paid by the users of the service.

The telephone, you will observe, in 1922 was $5.77; in 1929, $9.65; and in 1932, $8.41.

The telegraph and cable companies in 1922, $1.26; 1929, $1.55; and 1932, $0.88.

The radio, in 1922, $0.03; in 1929, $0.06 in 1932, $0.05. According to the paragraph following the table, "These comparisons indicate that telephone and [radio] communication revenues are steadily increasing, whereas telegraph and cable and freight revenues are declining."

Taking up the telephone industry, you will find on page 2 a table which divides the telephone industry into the Bell System companies, certain other integrated or partially integrated systems, and independent telephone companies reporting to the Interstate Commerce Commission. The first item therein is investment in plant and equipment.

Mr. MERRITT. What page is that table on?

Dr. STEWART. Page 2. That shows that in investment in plant and equipment the Bell System accounted for 92.30 percent of the total of all of the telephone companies. The partially integrated and smaller integrated group of the telephone industry accounted for 6.92 percent, and the independent companies 0.78 percent.

In the amount of wire mileage, just below the double line, the Bell System accounted for 95.48 percent; the partially integrated and smaller integrated group of the telephone industry, 4.02 percent; the independent telephone companies, one half of 1 percent.

And those figures hold approximately for the other items, showing the amount of traffic handled by the respective companies.

Now, with regard to the American Telephone & Telegraph Co. and the Bell System itself, you will find pertinent information on page xi. At the bottom part of that page you will find an analysis of the income of the American Telephone & Telegraph Co. for the years 1922 to 1932, which shows the operating income at $366,830,139, with a net income of $1,427,336,552. According to the statement on page xii, the major portion of the American Telephone & Telegraph Co.'s income was derived from its investment in securities of its regional or operating companies.

Discussing the competitive situation in the telephone industry, Dr. Splawn goes on to say there is a higher degree of concentration of ownership of the telephone than the telegraph and cable facilities, as has been made apparent from the comparative operating sheets hereinafter set forth. Then, skipping a couple of sentences:

> The extent to which there is actual or potential competition between telephone companies may be observed when it is pointed out that the Bell System operates in all 48 States and the District of Columbia and that 42 other telephone systems and 69 small independently operated telephone companies operate in 37 States, leaving 12 States and the District of Columbia in which the Bell System meets absolutely no competition from any other telephone company unless it be such small companies as do not report to the Interstate Commerce Commission, and rural or farmer lines for which no data were available.

In the next paragraph he again refers to the figures showing the percentage of traffic handled by the Bell System.

On the telegraph and cable side of the report, you will find comparative statements on page 76.

Mr. LEA. I would like to ask you a question.

Dr. STEWART. Surely.

Mr. LEA. Do these statistics presented there show the relative charges made where there is no competition as compared with those States in which there is competition?

Dr. STEWART. So far as I am aware, there is nothing of that sort in the report.

On page 76 there is a summary of the telegraph and cable companies and, again, the industry has been divided into three groups: The Western Union, the International Telephone & Telegraph Corporation System (including All America Cables, Commercial Pacific Cable Co. and the Mackay Co.—that is, the Postal Telegraph & Cable System) and the independent telegraph companies.

The first item, Investment in plant and equipment, shows that the Western Union group represents 70.13 percent of the total investment; International Telephone & Telegraph Corporation System, 29.68 percent; and the independent companies, 0.19 percent.

The seventh item, Operating revenues, shows that the Western Union accounts for 75.26 percent of the total; the International Telephone & Telegraph System, 24.63; and the independents, 0.11 of 1 percent.

The figures on the comparative number of messages in interstate and foreign commerce with respect to these companies are shown on page 94 and page 95. On page 94 there is the International Telephone & Telegraph group, under which there is listed the Postal Telegraph-Cable System. You will observe in the last two lines that "Of the total telegraph and cable messages transmitted, 84.40 percent were interstate and foreign transmission, and 15.60 percent were intrastate transmission."

For All America Cables, Inc., 87.60 percent were interstate and foreign transmission and 12.40 percent transmission between foreign countries.

The Commercial Cable Co., in the last two lines, during 1932, 99.50 percent were interstate and foreign transmission and one half of 1 percent transmission between foreign countries.

The Commercial Pacific Cable Co., at the top of page 95, 87 percent were interstate and foreign transmission, and 13 percent transmission between foreign countries.

Mr. PETTENGILL. Excuse me just a minute.

Dr. STEWART. Surely.

Mr. PETTENGILL. When you say transmission between foreign countries, is the United States of America one of those?

Dr. STEWART. No, sir. Take, for instance, the All America Cables, Inc.—that might represent a message between Panama and Ecuador.

Mr. PETTENGILL. I see. Countries foreign to the United States.

Dr. STEWART. Yes, sir.

On the matter of control, there are some interesting facts brought with respect, first, to the American Telephone & Telegraph Co., on page ix.

At the head of the Bell System group is American Telephone and Telegraph Co. It controls a large number of telephone operating companies and other corporations, each of which has the advantage of being a component of a large system to which the benefits of its operations accrue. Through this relationship these constituent companies obtain the cooperation of the manufacturing, research, engineering, accounting, and financing departments of American Telephone and Telegraph Co. These constituent or subsidiary companies are controlled almost entirely through ownership of securities.

Then, if I may skip the last part of that paragraph and the next paragraph and take up the last paragraph on the page:

Definite individual or group voting control of American Telephone and Telegraph Co. is not readily ascertainable. This company had 700,851 stockholders at December 31, 1932. Its 29 largest record holders held only 5.242 percent. Included in this number was the Sun Life Assurance Co. of Canada, which held 0.678 percent. There was only one director included among the 30 largest holders, namely, George F. Baker, who held only 0.08 percent, but no general officers of the company were numbered among this group of holders. The average number of shares held by stockholders, after excluding the 30 largest holders and the shares held by them, was 25.2 shares each. At the stockholders' meeting on March 28, 1933, there were voted 10,653,561 shares, or 57.09 percent of the total outstanding stock. Of the number voted, only 2,448 shares, or 0.02 percent, were voted in person.

Then, skipping the next two paragraphs:

Control of the corporation is undoubtedly held by the directorate and official management which presumably employs proxy machinery at corporate expense to become a perpetuated body. In the case of recent forms of proxy used by American Telephone and Telegraph Co. and Radio Corporation of America, no provisions were made for the insertion of any name other than or in addition to those already printed thereon, so that stockholders were thereby precluded from making their own selection or appointment of proxies. The light of publicity should be focused on the methods or actions bearing on the designation or nomination of proxies.

The administration of the vast telephone empire controlled by American Telephone and Telegraph Co. is concentrated in a directorate of 18 persons and a management of 12 general officers. The Bell System group, at December 31, 1932, comprised 257 companies.

That is supplemented on page Arabic 6 by another statement under the heading "American Telephone and Telegraph Co., Corporate Control and Stock Ownership." The last complete paragraph on page 6 is as follows:

The American Telephone and Telegraph Co. is a good and clear illustration of the rapid increase in the diffusion of stock ownership without any individual or clearly defined group holding a substantial amount of the stock. It would appear that the great majority of this company's 700,851 stockholders exert an inconsequential force in the direction of ownership control. Under such conditions control may be held by the directorate or official management which can employ proxy machinery at corporate expense to become a self-perpetuating body, even though as a group they own but a relatively small percentage of the voting securities.

With respect to the International Telephone & Telegraph Corporation, you will find information on page xiv, under the heading "International Telephone & Telegraph Corporation."

The 30 largest holders in whose names stood 887,505 shares accounted for 13.87 percent of the total voting securities. The largest holder was the Sun Life Assurance Co. of Canada, which held 98,275 shares or 1.54 percent of the voting power. The only directors included among the 30 largest stockholders were Clarence H. Mackay and Edward J. Berwind, who held 1.22 and 0.76 percent, respectively. No general officer of the company was included among the 30 largest holders. The outstanding stock was held in average amounts of 56.14 shares by 98,169 parties.

At the stockholders' meeting of May 10, 1933, there were voted 3,653,561 shares, or 57.09 percent of the total voting power. Of this number only 193 shares were voted in person. While this company's stock diffusion was not as great as that of American Telephone & Telegraph Co., the number of shares voted in person at this meeting was a much smaller percentage of the total than that voted in person by American Telephone & Telegraph shareholders.

For Western Union you will find similar information on page xiv, under "Western Union", second paragraph, as follows:

The 30 largest holders of voting securities of the Western Union Telegraph Co. at December 31, 1932, held 12.52 percent of the voting power. Among these 30 largest holders were Donald G. Geddes, William K. Vanderbilt, and Vincent Astor, directors, who held, respectively, 1.21, 0.39, and 0.34 percent of the total voting power. No general officer of the company was included among the 30 largest holders and no individual other than Donald G. Geddes held as much as 1 percent of the voting power.

Then the last paragraph on that page:

At the stockholders' meeting of April 12, 1933, there were 492,835 shares, or 47.15 percent, voted. Information as to the number of shares voted in person or by proxy was not obtained.

That may be supplemented by a statement on page 81, with respect to the same company. At the bottom of page 81 is the following:

As similarly shown under parts A and C of this report, Western Union is another illustration of the absence of any definite ownership control where there is a diffusion of stock ownership. Under such conditions control may be held by the directorate or official management which can employ proxy machinery at the corporate expense to become a self-perpetuating body, even though as a group they own but a relatively small percentage of the outstanding voting securities.

Similar information with respect to the Radio Corporation of America appears on pages 118 and 119 of the report. The last paragraph of page 118 is:

A marked portion of the voting by R.C.A. stockholders has been accomplished by proxy. As similarly shown in part A of this report, relating to telephone companies, such a trend is usually a corollary of increased diffusion of shareholdings. The following statement shows that approximately 72 percent of the voting rights then effective were exercised at the stockholders' meeting held on May 2, 1933, and that of the shares then voted, only 8.67 percent were voted in person.

Then skipping the table shown at the top of page 119, the next paragraph reads:

In connection with the possibility, likewise referred to in part A of a directorate and/or management perpetuating itself in office through the application of the proxy system, there is shown opposite a copy of the proxy-appointing form most recently employed by R.C.A. Obviously this form was not designed to make it convenient to stockholders to exercise their right to appoint and constitute proxies other than those whose names appear thereon, two of whom are directors, and one the secretary of the corporation. It is also noteworthy that none of these 3 nominees is included among the 30 largest holders, named on pages 122 and 123 of any class of voting securities outstanding on April 3, 1933.

Significant figures with respect to the issuance of securities appear with reference to the American Telephone & Telegraph Co., on page 26 of the report. The next to last paragraph on the page:

An issue of 35-year 5-percent gold debentures dated February 1, 1930, and due February 1, 1965, principal amount $150,000,000, was sold to J. P. Morgan & Co. at 96.50 percent, or $144,750,000. According to the Commercial and Financial Chronicle of February 1930, these bonds were offered by J. P. Morgan & Co. and associates at 99.50, and the issue was oversubscribed by $400,000,000, subscriptions aggregating $551,000,000 having been received. These bonds are redeemable as an entirety only at the option of the company, on any interest-payment date at 110 percent of the principal amount, together with accrued interest if redeemed on/or prior to August 1, 1960, and thereafter and prior to maturity at 100 percent. For the week ended January 31, 1930, the price range was: Low, 100⅛, and high 100¾. The highest cash price realized was 110¼, in 1931.

A similar statement with respect to the same company appears on roman page xv, which contains this information with reference to the American Telephone & Telegraph Co., under the subhead Capital Structures:

The capital structure of American Telephone & Telegraph Co., and certain associated telephone companies, at December 31, 1932, aggregated in round figures $5,250,000,000. Of this more than $5,000,000,000 capital structure, only about 26.78 percent of the issues were passed upon by public agencies. Capital stocks accounted for $1,265,621,000, and bonds, $129,882,000.

More than $3,250,000,000 in securities were placed in the hands of the public without any public agency's passing upon their issuance.

Public agencies did not pass upon the issuance of the securities of many of the smaller integrated or partially integrated telephone companies.

For example, the Theodore Gary & Co. group with its subsidiary top companies, but not including subsidiaries of such top companies, had a capital structure at December 31, 1932, aggregating $59,958,092. No action was taken by any public agency in passing upon this amount of securities.

With respect to the telegraph companies, similar information is found on page 85 of the report, near the bottom of the page.

With respect to the capital structure of the Western Union and its subsidiary, the Mexican Telegraph Co., no action was taken by any public agency in passing upon the issuance of its securities.

No action was taken by any public agency in passing upon the issuance of any of the securities of International Telephone & Telegraph Corporation or of All America Cables, Inc., Commercial Pacific Cable Co., and the Mackay Co. (Postal Telegraph-Cable System), Mackay Radio & Telegraph Co. of California, and Mackay Radio & Telegraph Co. of Delaware, its subsidiaries, which reported to the Interstate Commerce Commission. There are no specific data available with respect to the seven small independently operated telegraph companies hereinafter referred to, which would indicate what action, if any, had been taken by any public agency in passing upon their security issues.

The facts with reference to radio appear on page 130, top of page:

Except in the case of Don Lee Broadcasting System, which corporation was authorized during the year 1932 by the department of investment, Division of Corporations of California, to issue 1,863 shares of no-par common stock, no instance is known of action taken by any public agency in passing upon the issuance of radio and affiliated companies' securities, which, with respect to the companies listed below, had an aggregate book or stated value of $168,760,983, at December 31, 1932.

Throughout the report there is a vast amount of information on depreciation and other reserves that are significant. I am not calling particular attention to them, because I feel that I cannot adequately present them to the committee at this time. The committee may care to have a representative of the Interstate Commerce Commission discuss them either in the hearing or in its executive session in order that their full import may be before the committee in advance of final action.

Now, the report of Dr. Splawn contains his recommendations, set out on page xxix under the head of "Conclusions and Recommendations."

First. I recommend the enactment of H.R. 8301, Seventy-third Congress, second session. The bill would accomplish three purposes: (*a*) A codification of existing Federal legislation regulating communications; (*b*) a transfer of jurisdictions from several departments, boards, and commissions to a new communications commission; and (*c*) a postponement for future action after further study and observation of some of the more difficult and controversial subjects.

Second. If a new commission be set up or be created to regulate communications in interstate commerce, it is suggested that the new body should have available adequate funds. These may be obtained by assessing the expenses of

the communications commission or board against the companies in accordance with some principle laid down by Congress.

That recommendation is supplemented by the information on page xvi in connection with a discussion of the Interstate Commerce Act, Dr. Splawn finds that the Commission does not have the power to require the filing of schedules of rates by communications companies. The second paragraph of that section is:

At the present time there is little, if any, Federal regulation of the rates, practices, and charges of the several branches of the communication industry. This is, however, not due to any lack of interest or sense of responsibility by the Interstate Commerce Commission; rather, it has been due to the absence of an effective mandate from the Congress. Congress has not had enough interest in or information about the communication companies to respond in a mandate to make inquiries coupled with appropriations sufficient to carry on an investigation. It is my judgment that as much as $1,000,000 should be appropriated to the commission or bureau to which is assigned the first sweeping investigation of the companies, their accounts and financial structures, their operating costs and earnings. Such a sum as may be necessary might well be assessed against the communication companies. This would have the effect of enabling the regulatory body to carry forward necessary inquiries. It would also have the advantage that the companies, as the corporations regulated, would pay directly for the regulation just as the railroads are doing for the Coordinator of Transportation under the Emergency Transportation Act of 1933.

Reverting to page xxix, under "Conclusions and Recommendations":

Third. Some of the big companies are very much interested in being permitted to consolidate with other corporations.

Then follows an amendment which presumably would carry out that policy, and which I will not read.

At present there is a monopoly in telephone service for long distance which has been recognized as lawful in the present act to regulate interstate commerce. While the telephone companies, with the authority of the Interstate Commerce Commission, may enter into consolidations, no such authority has been extended to the telegraph companies by wire.

Then, Dr. Splawn expresses an opinion as to what the effect would be if authority were granted for the mergers, and in the last sentence of that first paragraph makes certain suggestions as to mergers:

It seems that Congress, in dealing with such a proposal, will have to take notice of the fact that the telephone monopoly might acquire and absorb the telegraph industry. Again, the savings that would come through substituting a monopoly for competition in telegraphy would result largely from reductions in purchases and personnel.

In the next paragraph, the last sentence states:

Again, Congress would want to be satisfied that if telegraphy by radio were to be furnished by companies that own lines, that the merger would not be a death warrant to the new and developing wireless industry.

The bill now considered holds in abeyance the answers to some of these questions until such a time as a further study and observation may make clear what Congress might reasonably expect from a given policy.

Then the fourth recommendation:

The holding company has been found, as a result of this investigation, to be as prolific of abuses in the field of communications as in other utilities already studied. What is disclosed by the examination of the Associated Telephone Utilities Co. is in my judgment, but typical of what may occur under existing laws.

That refers back to the discussion on page xviii dealing with the Associated Telephone Utilities Co. The third paragraph, second sentence, states:

Substantial blocks of the securities were acquired by A.T.U. from its officers and directors, who, under a provision in the certificate in incorporation, were not liable to account for any profit or benefit derived from the transactions.

On page xix, he states that the Associated Telephone Utilities applied to the Interstate Commerce Commission for authority to make a consolidation, and failing to get that authority, went ahead, anyway.

On page xix, the last paragraph, Dr. Splawn points out some of its actions.

The investigation of A.T.U. accounts develops that its investment and income accounts were greatly overstated. Had its accounts been under Federal regulation similar to those prescribed for common carriers subject to the Interstate Commerce Act, it is reasonable to assume that most of those overstatements would not have occurred. A proper statement of A.T.U.'s investment and income accounts would have produced a showing which would have tended to keep the company's indebtedness within reasonable bounds.

And on page xxi, the first complete paragraph:

The immediate cause of the receivership of the company, on April 1, 1933, was the inability to secure an extension of the maturity on that date from all of the holders of $3,858,000 of 2-year 6-percent secured notes. The underlying causes were the decreased revenues of its subsidiary companies; the impairment of capital due to the policy of attempting to support the market price of its own securities; the reacquirement of common stock from certain of its officers and directors; heavy interest and amortization charges incident to the company's indebtedness, and the cost of mergers and consolidations which in many instances involved the acquisition or retirement of preferred stocks and bonds of the merged companies.

Then, skipping the next two paragraphs, which refer to the holding-company situation with respect to communications, and coming to the third paragraph:

The organizers retain control with a minimum of invested capital. If any considerable amount of assets is turned in by the organizers, it is accompanied by the capitalization of profits thereon. The voting powers, if any, extended to the public are not relatively in the ratio of capital furnished. The marketing of securities is generally accompanied by expenditure of holding companies' funds to maintain a certain level of market prices. The controlling interests are usually preferred in the liquidation of indebtedness and the distribution of profits—often the controlling interests are given options to purchase additional stock at stated prices.

Of the advantages cited for holding-company control are the economies effected by centralized control of financing, engineering, purchasing, and management. So far no figures have been encountered concretely proving that such economies have to any considerable extent been passed to the operating companies; in fact, there is information in many cases that such economies are absorbed in the support of complex financial structures erected by the holding and subholding companies.

Now, referring back to page xxx of Dr. Splawn's conclusions and recommendations, I take up where I left off:

Moreover, the American Telephone & Telegraph Co., which is both a holding and an operating company, is more powerful and skilled than any State government with which it has to deal. A bill regulating communications in interstate commerce will fall far short of being effective unless it first restricts the use of the holding company to what is absolutely essential and necessary, and, second, unless the regulation is extended to the holding company in like manner as to the operating company.

It is my belief that the first step to be taken in the direction of the effective regulation of communications companies is a thorough and detailed study of the big companies and their subsidiaries. Such an inquiry will require no less than a year. If 5 to 10 men of proper experience be put in the office of the Bell companies, for example, over 100 men would be required for that one system. Such

an inquiry should not be undertaken with an appropriation of less than $500,000, and perhaps it should be as much as $1,000,000. The first assignment to the new communications commission or board might be an intensive study of communications companies—among other things, their accounts, records, and memoranda; their methods of handling depreciation; their operating expenses; contracts for service with a view to determining whether the contracts are in the interest of the operating companies or the stockholders of the service companies; to what extent communications companies contribute to campaign expenses or otherwise participate in political activities. An exploration of possible economies might be made, as is being made in the railroad field under title I of the Emergency Transportation Act of 1933. It must be borne in mind that the American Telephone & Telegraph Co. system has assets estimated at $5,000,000,000, and that the gross telephone revenue of the system in the year 1932 was $989,722,645; that is to say, that this one system in the field of communication has assets to about one fifth of all the railroads, and that the average per capita contribution to its telephone service in 1932 was $7.93. The average per capita contribution to telephone service in 1932 for all companies was $8.41. The magnificent plant that the American Telephone & Telegraph Co. system owns has in the main been paid for by the users of the service. There is no difficulty about obtaining further capital for necessary expansions.

The American people are entitled to know if they are being overcharged for this service, though they may be satisfied with the quality of the service. How much more should it cost to place a long-distance call from Washington to San Francisco than from Washington to Baltimore? If 20 cents be a reasonable charge for such a service from Washington to Baltimore, may it not be possible to place the call with any exchange in any American city at approximately the same cost?

This report shows a very liberal scale of salaries for the officials of the American Telephone & Telegraph Co. The generosity with which the management rewards itself, the importance of the industry, and the magnitude of its operations call for actual and not nominal regulation. Telephone business is a monopoly—it is supposed to be regulated. Thus far regulation, particularly by the Federal Government, has been nominal largely because Congress has not made appropriations sufficient to enable the Interstate Commerce Commission to give effect to existing statutes.

Mr. Chairman, those are the points that particularly appeal to me in discussing Dr. Splawn's report. I regret that I have taken so much of the committee's time in presenting them.

With your permission, if you believe it would be of interest to the committee, I would like to take a few moments in discussing H.R. 8301 and to point out the major differences in the proposed bill and existing legislation.

I would first call attention of the committee to page 3, paragraph (e), Interstate Communication. That definition has been so drawn that it does not include communications between points in the same State, but through points outside. Such communication is covered in the Interstate Commerce Act, but has been omitted here, I presume, in order that telephone communications for convenience routed outside of the State will not be brought under the Commission but will be left to the State commissions.

The definition of "foreign communication", on page 4, paragraph (f), taken in connection with article 2 of the present bill, gives the communications commission jurisdiction over all foreign communications. Under the Interstate Commerce Act at the present time jurisdiction of the Interstate Commerce Commission extends over foreign communications insofar as they take place within the United States. This extends that and gives the new commission jurisdiction over the entire communication.

On pages 4 and 5, under (j) and (k), the first contains the definitions of "parent" and "subsidiary", and the second deals with affiliated companies.

Those definitions were taken from a redraft of a bill that was introduced by Senator Couzens some 3 or 4 years ago to establish a communications commission. After conducting extensive hearings, the Senate Interstate Commerce Committee prepared a redraft of the bill after consideration, covering the definition of "parent" and "subsidiary" and affiliated companies, in an attempt to reach the holding-company situation. I think you will find considerable discussion in these hearings in reference to holding companies. It may be that opponents of the definitions as written will offer some constructive suggestions which the committee will find acceptable.

Dr. STEWART. The Commission itself is set up on page 7, section 4. There is nothing particularly novel in the provisions relating to the Commission except that on page 11, lines 5 to 8, there is a proviso reading:

> Provided that the Commission shall make a special report not later than February 1, 1935, recommending such amendments to this act as it deems desirable in the public interest.

That, I take it, is to take care of such controversies as those relating to mergers, which Dr. Splawn pointed out in his report.

In section 5, page 11, there is an article which provides that the Commission, which is composed of 7 members, shall be divided into 3 divisions: One with jurisdiction primarily over broadcasting; the second with jurisdiction primarily over telephones; and, third, with jurisdiction primarily over telegraphs.

The organization of the Interstate Commerce Commission has, I assume, been partially responsible for that suggested set-up. As you are aware, the Interstate Commerce Commission has had some jurisdiction over telephone companies, but for the most part its funds, and its time, have been such as would not permit it to consider communication companies to any great extent.

The powers of the Commission are of two types. One type may be exercised upon complaint made to the Commission. The second type may be exercised by the Commission upon its own motion.

In the communications field, the unit cost per message is much lower than the unit cost of transportation. The result of unjust and unreasonable rates or unjust and discriminatory service, may be important in the aggregate, and yet not be of sufficient importance to any individual user to warrant bringing the complaint.

The provisions, giving the Commission power to investigate upon its own motion, therefore are of considerable importance. Their bearing upon this section, as I understand it, is this: Broadcasting, which also is under this Commission, is an extremely important and a very popular subject. There may be a tendency on the part of any commission which is devoted both to broadcasting and to communications to give its primary attention to broadcasting. The pressure will all be that way and the Commission may find it convenient not to undertake investigations on its own motion because it will be too busily engaged with the more popular and more prominent broadcasting.

The CHAIRMAN. I take it this set-up is designed to insure that there will be certain divisions of the Commission which will be primarily interested in communications, so that those investigations on its own motion would be sure to go forward.

Dr. STEWART. Yes.

Title II of the act——

The CHAIRMAN. Mr. Stewart, after the hearing in the Senate, I understand that Senator Dill's bill, the one he introduced last week, changes that set-up somewhat, and that he provides for a commission of five members, with two divisions, in one division putting the telegraph and telephone together, and the radio being put into another division. Would you have a thought about that?

Dr. STEWART. Senator Dill's second bill preserves the fundamental features of this, of making the decision of the division final. Now, whether there will be enough business before the new Commission in its early days to warrant a separate division for telephone and telegraph, I am not sure.

I think the bill will be workable under either method so long as there is a fairly clear-cut division of jurisdiction between the divisions, as there is in both bills, and so long as the decision of a division is final, so that the whole Commission will not be occupied simply with broadcasting.

Title II is the substance of the bill and is based largely upon the Interstate Commerce Act. The Interstate Commerce Act itself, of course, is a composite of a number of acts and of amendments, and the provisions are not in any very logical order. The authors of this bill appear to have changed the provisions around primarily in the interest of a more logical presentation.

Section 201. (*a*) On page 14, relating to service and charges. In the Interstate Commerce Act that related to transportation companies and not communication companies. The authors of the bill undoubtedly felt that for a proper regulation of the communications industries there should be, first, an obligation upon the communications companies of a public service character.

The section does not go so far as the Interstate Commerce Act goes with respect to transportation in that it does not require the establishment of through routes in the absence of an order by the Commission, nor does it provide for the compulsory establishment of physical connections between carriers, nor does it provide for the division of rates on through routes.

Paragraph (b) of section 201 is largely taken from the Interstate Commerce Act, but of the four subjects mentioned there in line 15, charges, practices, classifications and regulations for and in connection with such communications service, charges is the only one which in the Interstate Commerce Act relates to communications. The reference to fair practices, classifications, and regulations of the Interstate Commerce Act relate only to transportation and not to communications companies.

The proviso beginning at the bottom of page 14 and continuing on page 15 differs considerably from the proviso in the Interstate Commerce Act and in important respects.

Under the Interstate Commerce Act, contracts between carriers might be made without regard to the provisions of the act, that is, for the exchange of services. Under this provision, such contracts may be made only if the commission finds they are in the public interest. That involves, I understand, considerable difference of opinion between the two principal telegraph companies, one of which has a large number of such contracts, and the other of which I believe does not have so many.

Mr. COLE. May I ask a question there?

Dr. STEWART. Surely.

The CHAIRMAN. Mr. Cole.

Mr. COLE. Where you say the rates must be just and reasonable, and then, later on in the bill, the Commission has power to authorize and prescribe what they consider to be just and reasonable, it is impossible to define what you mean by that, is it not, under existing law?

Dr. STEWART. I think so. I think that the courts have had plenty of difficulty and prefer to pass upon the justness and reasonableness of particular rates. I am not aware of any general definition which would be of great help to the committee. The provision is one which is taken from the Interstate Commerce Act and has been construed many times in connection with the railroads.

Mr. COLE. Yes. I understand that it has been construed a great many times and is being construed today in a great many courts. I am wondering if it is not possible to put a definition in the bill at this time, to come down to some acceptable definition as to what just and reasonable rates might mean, in line with the courts' attitude, or something acceptable to judicial interpretation on the subject.

The CHAIRMAN. We tried that in the Transportation Act of 1920 with reference to rates for railroads, and in 1933 we abandoned it.

Dr. STEWART. I should feel extremely reluctant to attempt such a definition.

Section 202 is drawn largely from the Interstate Commerce Act.

Paragraph (b), lines 16 to 19 are new, but they are covered, I believe, in the general purport of the act itself.

Section 203, on page 15, requires the filing of schedules of charges by carriers and of all rates, practices, and so forth, relating to such charges.

In the Interstate Commerce Act, that relates only to transportation companies.

The Commission has found that it does not have the power to require the filing of schedules by communications companies and in several of its annual reports has recommended that the law be amended to require communications companies to file such schedules of charges.

I assume that the authors of the bill thought that if there was to be effective regulation, particularly upon the Commission's own motion, it was important that the Commission have the information as to the reasonable rates and practices before it.

Section 204 provides for a hearing as to lawfulness of charges and for the suspension of charges under certain circumstances. In the Interstate Commerce Act that relates only to transportation and not to communications.

Page 19, section 205, gives the Commission the power to fix maximum rates. In the Interstate Commerce Act the power extends to maximum and minimum rates. I assume the authors of the bill must have thought there was little danger of unreasonable minimum rates and more danger of unreasonable maximum rates. It is applicable to communications companies in Interstate Commerce Act.

Section 206, liability of carriers; section 207, complaints and suits for damages; section 208, reparation proceedings; and section 209, orders for payment of money, are taken largely from the Interstate

Commerce Act. They applied to the communications companies in that act.

Section 210 is new and seems designed to further protect the jurisdiction of the State commissions over intrastate telephone communications.

Section 211 is in the Interstate Commerce Act and applies to communications companies.

Section 212 relates to interlocking directorates and officials dealing in securities. In the Interstate Commerce Act that relates only to transportation companies. It is here extended for the first time to communication companies, and apparently is in line with what Dr. Splawn had in mind in his report.

Section 213 deals with the valuation of carrier property. It differs substantially from the provisions of the Interstate Commerce Act, which is applicable to communications companies, in that this provision makes the valuation discretionary. Under the Interstate Commerce Act it is mandatory, although the Commission has had some difficulty, I believe, getting funds to make all of the valuations it is required to make.

The act also gives to the Commission a little more latitude in determining the method of valuation.

The section probably needs amendment to permit use to be made of the work which the Interstate Commerce Commission has already completed and is now engaged upon in the valuation of telegraph companies.

Section 214 deals with the extension of lines and circuits. It is, if one may judge from the hearings before the Senate committee, a section upon which there will be some discussion in this committee.

In the Interstate Commerce Act it referred only to transportation companies. I assume that here the framers of the section had in mind that telephone systems were a natural monopoly and that there should be some control by the Federal communications commission as to the extent of duplication which would be permitted in new interstate telephone communications.

In telegraph communications, the theory of this bill, as of the present law, is a continuation of competition. One reason for the clamor for the merger of telegraph companies today is because of the duplication of facilities and it may be that the framers of the bill thought that in view of that duplication and of the demand for mergers, it might be well to give the commission some jurisdiction over extensions.

Page 28, section 215, dealing with transactions relating to services, equipment, etc., is a section which I believe will be discussed at great length in this committee. The section has three paragraphs, the first authorizing the commission to examine into transactions relating to equipment, supplies, research, services, financing, credit, or personnel, which may affect the charges made or the services to be rendered by the carrier.

That paragraph further gives the commission power to declare such contracts void or to permit them to be carried out upon such modifications as it may find necessary in the public interest. Paragraph (b), on page 29, deals particularly with the situation of the holding companies and requires prior approval by the commission of contracts relating to equipment, service, and so forth.

Paragraph (c) gives the commission the right to require all such transactions to be entered into after competitive bidding.

I take it that the framers of this section had in mind the holding-company situation as it exists in the communications business. That is the heart of the section. In (b) the author seems to be trying to meet the holding-company situation, and the provisions in (a) and (c) may be designed primarily to buttress section (b). There is going to be considerable opposition, I take it, to that provision. It may be that some of those who are opposed to trying to reach the holding companies in this particular way will give the committee the benefit of some affirmative suggestions as to how the same end may be accomplished, if they believe the end to be desirable.

Section 216 is in the Interstate Commerce Act.

Section 217 is in the Elkins Act.

Section 218, through line 9, is in the Interstate Commerce Act. The new matter gives authorization to the Commission, or direction to the Commission, to keep itself informed as to technical developments and improvements in electrical communication to the end that the benefits of new inventions and developments shall be made available to the people of the United States. There may have been two reasons back of that: One, the thought that if the Commission should keep up with technical developments of the industries to be regulated, it could regulate more effectively. The second may have been that under some circumstances a company might feel that it was to its temporary advantage to hold an invention off of the market and not give the benefit of it to the public.

Lines 13 to 17 of that same section are also new and appear to be another attempt to deal with the holding-company situation.

Section 219, page 30, is taken almost entirely from the Interstate Commerce Act with four exceptions. It is made applicable, line 21, page 30, to parent or subsidiary and affiliated companies. That is, the requiring of the filing of reports.

On page 31, line 2, there is a new requirement as to the amount and privileges of each class of stock and there is also, in line 5, a new requirement to the effect that the names of all holders of 5 percent or more of any class of stock must be made known; and lines 10 and 11, that the compensation paid to the officers and directors must be made known in the reports.

Section 220, I believe, will also be the subject of considerable discussion before your committee. The first paragraphs, that is, through paragraph (g), are taken from the Interstate Commerce Act, which give to the Interstate Commerce Commission the right to prescribe uniform accounting, to fix depreciation charges, and makes those provisions the only provisions on the subject. That is, it takes away any jurisdiction that the State may have had.

On page 36, paragraphs (h), (i), and (j), are new material which would leave to the State commissions certain authority over the subject matter. It has been said from time to time that 98½ percent of the telephone business is intrastate, and I understand that the State commissions, for that reason, believe that as to that business they should have the right to prescribe the regulation of accounts and charges. I think that you will get a full discussion of that before the committee.

Section 221, page 37, contains special provisions relating to telephone companies.

Paragraph (a) is identical with the language appearing in the Interstate Commerce Act.

Paragraphs (b) and (c), page 38, are new and I take it are designed again to protect the jurisdiction of the State commissions over intrastate telephone communications; (b) is probably a subtraction from the existing power in that it seems designed to overcome the effects of the Shreveport rate case so far as telephone communications are concerned.

Title III, pages 39 to 57, relates to procedural and administrative provisions, and is drawn largely from the Interstate Commerce Act.

On page 43 there is a section, section 306, dealing with mandamus to compel furnishing of facilities. In the Interstate Commerce Act, from which this is taken, that provision applies only to transportation companies. Its application to communications companies is new.

On page 50, section 310, paragraph (a), is new, and probably is designed to pave the way for cooperation between the States under the supervision of the Federal commission, in handling problems of joint interest. Paragraph (b) is adapted from the Interstate Commerce Act.

Title IV, pages 57 to 60, follows generally the provisions of the Interstate Commerce Act and the Radio Act.

On page 58 is section 403, which applied only to transportation in the Elkins Act. Here the provisions against rebating, and so forth, are made applicable to the communications companies.

Title V, pages 60 to the end of the bill, relating to miscellaneous provisions, provides largely for the transfers necessary to bring the new commission into existence.

On page 64, is section 505, dealing with unauthorized publications, which in the present law, the Radio Act, is applicable only to radio communications. It is here applied to wires. The evil is sought to be met, primarily, one which is found in radio, because of the lack of secrecy; but it is here made applicable to wires as well.

Page 66, section 506: Those provisions are new in that they take temporary legislation enacted during the War and make permanent law of it.

The first paragraph is designed to give the President the power to determine priority of communications in time of war, and section (b) makes it unlawful to obstruct interstate or foreign commerce in time of war. The language is identical, practically, with the temporary acts, except that it is made permanent.

Mr. Chairman, that concludes my statement.

Mr. MERRITT. Mr. Chairman——

The CHAIRMAN. Mr. Merritt.

Mr. MERRITT. Is there any other country which at the moment has any more efficient telephone service than the United States?

Dr. STEWART. Not so far as I am aware of.

Mr. MERRITT. Or that has lower rates?

Dr. STEWART. I beg your pardon?

Mr. MERRITT. Or that has lower rates?

Dr. STEWART. I am not familiar with the comparative rates. I think that it would be rather difficult to compare rates of one country with another, because of different conditions.

Mr. MERRITT. That is all.

The CHAIRMAN. Any other questions?

Mr. PETTENGILL. Yes, I would like to ask a question.

The CHAIRMAN. Mr. Pettengill.

Mr. PETTENGILL. On page xxi, you spoke about the holding companies and the report says:

> Of the advantages cited for holding company's control are the economies effected by centralized control of financing, engineering, purchasing, and management.

Is there any further discussion or treatment of that except in that portion of the report?

Dr. STEWART. Not so far as I am aware; but I will make a further study of that point and submit the information to you.

Mr. PETTENGILL. I am intensely interested in that subject.

The CHAIRMAN. Any further questions?

Mr. LEA. Yes.

Mr. PETTENGILL. That is a subject I am particularly interested in, especially as to whether the holding companies really perform a useful economic service, or whether they cover subterfuges for extracting profits.

Dr. STEWART. I think that Dr. Splawn might have considerable more information than he gave in the report.

The CHAIRMAN. And this is a preliminary report, I will say. I will also say for the benefit of the committee that the drafting service made up a copy of the bill, showing what was old law and what was transferred here and what was new. It was to have been on the desks of the members this morning, but somebody down in the Government Printing Office messed the thing up, and it will not get here until afternoon sometime, so that we will have it on our desks tomorrow. That draft will show that or at least be a convenience to the committee.

Mr. Lea, you wanted to ask some questions?

Mr. LEA. No.

The CHAIRMAN. Mr. Stewart, we are very much obliged to you.

Mr. PETTENGILL. May I ask one more question?

Dr. STEWART. Surely.

The CHAIRMAN. Mr. Pettengill.

Mr. PETTENGILL. Where is the minority report to which reference has been made?

Dr. STEWART. That has reference to the report of the interdepartmental committee on communications. The document which was printed was a composite of the two reports, but does not include a number of annexed documents which were appended to the minority report.

Mr. PETTENGILL. Where is the minority report?

Dr. STEWART. So far as I am aware, it is in the White House. I do not know whether it has been made available.

The CHAIRMAN. Perhaps Secretary Roper could answer that question.

Secretary ROPER. Captain Hooper, who will follow, with your permission, will explain the minority report, if it is your pleasure to hear him now.

The CHAIRMAN. Yes; we might go along with Captain Hooper. We have got 20 minutes.

STATEMENT OF CAPT. S. C. HOOPER, UNITED STATES NAVY, DIRECTOR COMMUNICATIONS DIVISION, OFFICE OF NAVAL OPERATIONS, NAVY DEPARTMENT, WASHINGTON, D.C.

Captain HOOPER. I have had 33 years' service as a naval officer; a graduate of the Naval Academy with the usual details of shore and afloat service. For 11 years I was in charge of the radio division of the Bureau of Engineering. For 5½ years I have been Director of Naval Communications and have had two tours of duty as United States Fleet radio officer.

I have either attended or taken part in the preparation of most of the international conferences on radio.

Mr. Chairman and gentlemen, the Navy Department is acutely aware of the potentialities of our communication systems as a factor in the defense of our country. At the same time, it is cognizant of the fact that under ordinary peace-time conditions the majority of our people take little thought of the organization and control of these agencies as they may affect the requirements of national security. It is with satisfaction, therefore, that the Navy Department notes the provisions of the bill are in harmony with these requirements. Centralization of control is considered to be a great stride in the right direction. Moreover, unless our communication systems in time of peace are adequate, efficient, and free from foreign influence they cannot be expected to function properly under the greater strain of war. The Navy Department believes that this bill will prove of great value in establishing and maintaining communication systems of this type and is heartily in accord with its provisions.

The Navy Department is of the opinion that one of the primary duties of the Communication Commission should be to formulate a national communications policy which should be presented to Congress at the time of making its special report on February 1, 1935, in order that such policy may be definitely adopted or rejected by Congress. To this end it is suggested that in section 4, paragraph (k), page 11, line 7, after the word "recommending" the words "a national communications policy, including" be inserted.

In view of the fundamental soundness of the bill and the valuable benefits to the public which its enactment should insure, the Navy Department desires to raise no controversial question or put forth any objection which would obstruct its passage. There are, however, five amendments of the act which the Navy Department advocates in order to more fully protect the interests of national defense and prevent any expansion of foreign influence in our communication systems.

The Navy Department has formulated amendments which I believe will accomplish both purposes without in any way detracting from the purpose of the bill, changing the present set-up of our communication companies or the organization or duties of the proposed Commission. They are in the nature of precautionary measures.

Section 1 relates the purposes of the act. It [illegible]ses, or should express, the broad policy by which the Commission is to be guided in its decisions. One of the most potent factors which will operate either for or against our success in any future war is our vast system of internal and external wire, cable, telephone, and radio communications over which this Commission is now being placed in control.

While the demands of national defense in time of peace affect our communications lightly, nevertheless, a firm foundation must be built within our communication companies on which our war-time communication structure may be placed swiftly and safety. The transfer of our commercial organizations from a peace to war basis cannot be accomplished in a month, or even a year, unless the groundwork is carefully laid. The Communications Act of 1934 should recognize this fact and, to afford the members a complete statement of the general purpose of the act by which, in general, their actions are to be guided, I suggest that in line 2, page 2, after the comma, after the word "charges", the words "for the purpose of safeguarding these services and facilities in order that they may be utilized to best advantage in the interest of common defense" be inserted.

Section 4 (j) as written provides that every note and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. Many matters will be considered by the Commission which concern national defense. The Navy is interested in many questions which involve the set-up of our communications, the manufacture and development of new material, inventions peculiarly adaptable for use in naval communications, the perfection of war-time communication plans, and the training of Reserve communication personnel, some of the details of which must not be made public and which are of necessity intimately related to questions under the jurisdiction of the Commission. In many cases it will be necessary for the Navy Department to divulge information to the members of the Commission which, in the public interests, must be kept secret. For these reasons it is recommended that on page 10, line 21, in the last sentence of section 4 (j), the period be deleted and the following words be inserted after the word "interested": "except that the Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense when such publication would be prejudicial to the requirements of national defense."

Senate bill S. 2910 contains a provision in section 303 (g) which provides that the Commission shall investigate new uses for radio, provide for experimental uses of frequencies, and generally do any and all things it may deem desirable to promote, encourage, and develop the larger and more effective use of radio in the public interest. I desire to commend this section to the committee as an important provision, and recommend that it be incorporated in H.R. 8301. Great Britain's dominance of the cables of the world was a large factor in the development of her national commerce and political relations in the early days. The United States now stands foremost in the radio-communication field. If we use this new medium of communication wisely, it will prove as valuable an asset to us as the cables have been to Great Britain.

Our supremacy in radio cannot be maintained except by active encouragement and development of its use. Its possibilities are almost untouched today. The Navy and its air force are almost totally dependent on radio communication for the execution of its mission. The transmission of orders and information, even the control of gunfire are dependent upon rapid, efficient radio communication. Who knows what future developments may bring? In this day of treaty navies, a differential in means or methods of com-

munications may mean victory or defeat. In this bill the Navy Department urges the incorporation of a directive providing for active encouragement and development of radio.

Sections 6 and 7 of the Radio Act of 1927 provide that:

SEC. 6. * * * Upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations within the jurisdiction of the United States as prescribed by the licensing authority, and may cause the closing of any station for radio communication and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station and/or its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners. Radio stations on board vessels of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation or the Inland and Coastwise Waterways Service shall be subject to the provisions of this act.

SEC. 7. The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further sum as added to such payment of 75 per centum which will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 24, or by section 145 of the Judicial Code, as amended.

Section 606 (c) and (d) of both S. 2910 and S. 3285 applies the above provisions to wire and cable communications also.

H.R. 8301 does not repeal the provisions of the Radio Act of 1927, and therefore sections 6 and 7 are still effective but pertain only to radio. The Navy Department believes that in national emergency it might become fully as necessary for communication by wire and cable to be administered by the President as is now authorized for communication by radio. There can be no doubt that control of communications by the Executive is a power which he must necessarily exercise for the public welfare in time of national emergency. This was proven true in the World War. We cannot afford delay on the outbreak of war. To do so may mean disaster. We cannot say now that we may give him this power as soon as conditions may appear to be forcing us into war. To pass such an act then would probably be forcing us into war. To pass such an act then would probably be construed by the other power as an unfriendly act on the part of the representatives of our whole people. It would have far more weight in the minds of a possible adversary than would a precautionary proclamation by the President that a state of public peril existed, and might precipitate hostilities.

For the reasons, I recommend the addition of sections 506 (c) and (d) to the bill to read as follows:

(c) Upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all offices and stations for wire or radio communication within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any such office or station and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such office or station and/or its apparatus and equipment by any department of the Government, under such regulations as he may prescribe, upon just compensation to the owners.

(d) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto, but no allowance shall be included for the use of any radio frequency. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per centum of the amount and shall be entitled to sue the United States to recover such further sum as added to such payment of 75 per centum will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 24, or by section 145 of the Judicial Code, as amended.

These provisions are identical with sections 606 (c) and (d) in S. 2910.

Due to the lessons of the World War, the Navy Department, under Secretary Daniels, recommended Government ownership of all radio. Congress did not approve this, but in lieu thereof enacted legislation requiring private ownership and operation, with positive assurance that radio would be owned by United States citizens, that directors and officers of radio companies would be United States citizens, and that four fifths of the stock would be in the hands of United States citizens. Now we find that there is a loophole in the law which permits a holding company not conforming to the original intent of the law to own many foreign and domestic subsidiaries and employ foreigners, although the domestic subsidiaries may themselves comply with the law. I fail to see how this can be proper, because if a holding company owns the subsidiary, it dominates its every act.

The revised Senate bill, S. 3285, in section 310, covers this situation without needlessly damaging the companies affected, and I recommend to the committee that the following section, corresponding to section 310 of S. 3285, be incorporated in the Communications Act of 1934, to read as follows:

Shall I read that, Mr. Chairman?

The CHAIRMAN. I think you might as well read it. It is not very long?

Captain HOOPER. No. [Reading:]

Sec. X. (a) The station license required hereby shall not be granted to or held by—

(1) Any alien or the representative of any alien;

(2) Any foreign government or the representative thereof;

(3) Any corporation organized under the laws of any foreign government;

(4) Any corporation of which any officer or director is an alien or of which more than one fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one fourth of the directors are aliens, or of which more than one fourth of the capital stock is owned of record or voted, after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country: *Provided, however*, That nothing herein shall prevent thel icensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by act of Congress or any treaty to which the United States is a party;

(b) The station license required hereby, the frequencies authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such license, to any person, unless the Commission shall, after securing all information, decide that said transfer is in the public interest, and shall give its consent in writing.

The purpose of this section is to preserve the status quo as regards foreign participation in the directorship and ownership of our communication companies and their holding companies. It will entail no changes in directorates or ownership as now established at present to the best of my knowledge, but it will prevent further foreign domination of our communication systems, the path to which is now open.

We are not suggesting return to Government ownership of radio at this time. We still bear in mind the difficulties we had during the war, and we visualize that these will become much more serious in future wars due to the increased use of radio. All we ask as a substitute for Government ownership are words which legally mean what the ownership of radio was intended to mean, so that our own companies will meet the requirements of national defense, so that their personnel can be in our Reserve, drill in peace for war, and can shift promptly from peace to war status when required. Congress is insistent that the War and Navy Departments be efficient in all respects, yet how can we be efficient if such an important arm of the services is not prepared in the highest degree?

Both Republican and Democratic Secretaries of Navy have appeared before Congress on this very subject. Actually, President Roosevelt, during his term as Assistant Secretary of the Navy, had a great deal to do with the efforts of the Navy to divorce private radio absolutely from foreign control and influence. It is only my task to endeavor to state the policies and reasons therefor.

The Army and Navy Joint Board has recently made a study of the subject and has reached conclusions which are embodied in the following letter and from which I shall quote. I may add that both the Secretary of War and the Secretary of the Navy have approved these conclusions.

I will not read, but will ask that that be made a part of the record, the report of the Joint Board.

The CHAIRMAN. Very well.

(The matter above referred to is as follows:)

THE JOINT BOARD,
Washington, January 19, 1934.

J.B. No. 319 (ser. no. 522).
To: The Secretary of the Navy.
Subject: American commercial systems in their relation to national defense.
Reference: (a) Joint Board No. 319 (ser. no. 516) of July 13, 1933, joint effectiveness of Army and Navy communications systems.

1. Having under consideration by reference from the Navy Department proposals of the Director of Naval Communications for increasing the joint effectiveness of Army and Navy communications systems, the Joint Board on July 13, 1933 (reference (a)), recommended the appointment of Army and Navy committees to make a special study of each proposal for its consideration and action. The Joint Board itself has given careful study to the question of American commercial systems in their relation to national defense, and having reached the conclusions given below, recommends that committee N, originally charged with the study of this subject, be discharged.

2. The Joint Board is of the opinion that the communication system of the Nation is of vital importance to the national defense, and its freedom from foreign influence is essential. The Joint Board, therefore, recommends approval of the following general principles as a guide to the Army and Navy on the subject "American commercial systems in their relation to the national defense." The Army and Navy will be governed by these principles in all communication questions which are of a commercial nature affecting the national defense.

(*a*) All commercial communication facilities in the United States and its possessions (except terminals of cables connected with foreign countries) should be

owned (except as modified by subparagraph (c) below) and operated exclusively by citizens of the United States and its possessions.

(b) The directors of all United States communications companies, including holding companies and excluding foreign subsidiaries or subsidiary holding companies operating wholly in the foreign field, should be citizens of the United States or its possessions.

(c) No more than one fifth of the capital stock of any United States communication company, including holding companies, should be owned by aliens or their representatives, and foreign-owned stock should not be entitled to voting privileges.

(d) With respect to (a), (b), and (c) insofar as cables, all termini of which are not in United States territory, are concerned, the laws and treaties governing their ownership and operation should stand in general as at present. Proposed changes in laws and treaties not relating to the matters covered in (a), (b), and (c) above, should be examined in accordance with the principle stated in (m) below.

(e) The merger of foreign-controlled communication services or facilities with American communication services or facilities, including holding companies, if such merger violate principles (a), (b) and (c), should be prohibited.

(f) The development and expansion of any phase of the communication art, either in the domestic or international field, should be allowed to proceed naturally insofar as the inherent limitations of the art permit. This natural development should be subject to the restrictions imposed by the needs of national defense, including the needs outlined in the succeeding paragraph and by those imposed by the Federal Radio Commission or such communication-control agency as may be set up in its place, whose actions are necessarily based on existing conditions in the radio field and the state of development of the radio art at the time.

(g) Provision should be made for the permanent assignment of those radio frequencies and other communication facilities required for national defense and other authorized Government agencies.

(h) Communications in certain strategic areas must be operated by the Army and Navy. It is essential that each service have its own self-contained, self-operated communications with its units, wherever located, subject to the joint-command principles set forth in Joint Action of the Army and the Navy.

(i) The United States Government should operate certain public-communication facilities such as radio aids to navigation for ships and aircraft and the transmission of weather, time, and hydrographic reports.

(j) The commercial communications system should be capable of being quickly and effectually placed under such Government control as will meet the needs of national defense upon the outbreak of hostilities.

(k) It is desirable that operating personnel of the commercial communication companies be trained in Army and Navy communication procedure in peace time. To this end the Army and Navy should each accomplish such training as is practicable in its respective field.

(l) It is desirable that operating personnel of the commercial-communication companies be commissioned or enlisted in the Army and Navy Reserve. To this end the Army and Navy should each enroll such reserve personnel as existing circumstances dictate in its respective field.

(m) In case of a proposed merger of communication companies, the Army and Navy should reserve judgment on such merger until they have had an opportunity to study the effect of such merger on national defense.

(n) To safeguard the interests of national defense in all communication matters and to assure that the above principles are carried out, the Secretaries of War and of the Navy should have representatives present, in full discussions of proposals before any Federal body set up for the purpose of regulating communications, to present those features which may affect the national defense. In all cases, due consideration should be given the requirements of national defense as stated by the Secretaries of War and of the Navy and in case a decision is made by such Federal regulatory body adverse to such requirements as stated by one or both Secretaries of War and of the Navy, final decision in the matter should rest with the President.

(o) The Army and Navy personnel who are technical experts in communications should be available to the civil agencies of the Government when and as required. To this end the advice of such experts should be governed by the principles laid down above, but otherwise they should be free to express their individual views in their own particular field.

Captain HOOPER. That is the end of the quotations from the Army and Navy Joint Board.

For many years the Navy Department has been concerned with the question of foreign influence within the communication systems of the United States. On March 22, 1932, the Secretary of the Navy addressed a letter to the Chairman of the Senate Interstate Commerce Committee upon this subject, which, as it summarizes the opinions of the Navy Department, I shall quote:

If it were possible to create an absolutely neutral and unbiased world-wide international communication organization, such an organization might prove an excellent and prosperous one, despite the fact that it would stifle competition and development in the several phases of communications and would provide no safeguard of the public's interests. The creation of an international communication company that will serve all nations with the same degree of impartiality can never be possible until after the day that nationalism and national trade rivalries have ceased to exist.

For over three quarters of a century all of the great powers of the world except the United States have realized the immense importance and advantages of nationally controlled communications in the development of their national commerce and their national policies. To gain the advantages that accrued from the control of communications, the great nations built up their own world-wide systems of submarine cables, and American commerce suffered from being left at the mercy of these foreign-owned communications systems. With the advent of radio, the same foreign nations that controlled the cables of the world set about and were in a fair way to obtain world-wide control of radio. But the lessons that the United States had learned from the foreign dominance of the cables and the dangers from espionage and propaganda disseminated through foreign-owned radio stations in the United States prior to and during the war brought about the passage of the Radio Act of 1927, which was intended to preclude any foreign dominance in American radio, the only field for international communications that was not already dominated by foreign interests.

The great nations of the world fully realize the tremendous importance, both to commerce and national defense, of owning and controlling their own radio systems. Great Britain, France, Germany, Russia, and Japan have all built up radio systems controlled either by the Government itself or by strictly national corporations, and these countries will never consent to the injection of international influence in their communication organizations.

Considering from a strictly national-defense point of view, the question of international ownership or dominance of American radio companies, a few of the more salient objections should be emphasized. In the event of war between other nations, nationally owned companies would be expected to scrupulously guard against committing an unneutral act, whereas an international company would not only lack the same incentive, but might even find it advantageous to perform unneutral service. Such stations might easily be employed in espionage work and in the dissemination of subversive propaganda.

It is not sufficient that the military forces have authority to assume control of radio stations in war. A certain amount of liaison between radio-company executives and department officials responsible for Government communications is required in peace time. Familiarity on the part of commercial executives of American radio companies with communication operating methods, plans, and developments of the military departments of the Government is certainly to the best interests of the Nation. Some of these matters are of a very secret nature. For the Navy Department to initiate and carry out this important contact with commercial companies, the divulging of confidential plans to directors is necessary. This is obviously impossible with even one foreigner on the board.

International companies must have agreements between their subsidiaries and the parent companies for a free exchange of information. Foreign personnel are transferred from one subsidiary to another so as to obtain intimate knowledge of the methods and equipment employed by other branches. It is impossible for a military service to work in close cooperation with or disclose its new developments to an organization which has foreign affiliations of this nature and employs foreign personnel.

With these points in mind—commercial and national defense—and realizing the foreign dominance in cables, it must be apparent that no truly international communication system is possible. Nations will not agree to the relinquishing

of their leadership in any branch of the field when such factors may affect adversely their commerce or national defense. National ownership or control of communication systems will continue to exist and no other practical plan for the great nations can be foreseen at the present time. Until world conditions are changed, this department will look with apprehension upon any legislation which permits communication companies in this country to be subject to foreign influence. Such companies must of necessity include international companies.

This is the end of the letter.

While the radio communication system operated by the Navy in peace time is sufficient for peace-time needs, it would be inadequate in time of war and would have to be augmented by the facilities of commercial radio companies. These additional facilities, like those normally operated by the Navy, must be able to pass from peace to war status at a moment's notice.

For efficient operation in war there must be training and indoctrination in peace. Such training and indoctrination must involve the disclosure of military secrets, such as:

(*a*) Certain features of war plans.

(*b*) Secret calls and secret-operating procedure.

(*c*) Secret codes and ciphers, with instructions for their use, and methods for maintaining their security, and preserving their secrecy.

(*d*) Secret instructions for providing proper frequencies, changing frequency channels in war under conditions as they arise for military reasons.

(*e*) Secret instructions for radio deception of the enemy.

(*f*) Means of obtaining security against espionage, and of effecting counterespionage against the enemy.

(*g*) Certain secrets of equipment.

Such secrets may not be divulged to any company, or to individuals of any company regarding which the least doubt can be entertained as to the citizenship, patriotism, and loyalty of any of its officers or personnel.

It is believed that the time will come when all nations, not under the domination of more powerful ones, will insist that their communication facilities be owned and operated by their own nationals, as have already all the major powers except the United States. However, there are at present many countries which for financial or other reasons do not wish to establish modern communication facilities for themselves, but are willing and anxious to have them established by foreign interests. In view of this fact, it is believed that no law or policy of our Government should at this time prevent American interests from competing with those of other nations in this fertile international field, provided that any American concern engaged in such international business own or operate no radio facilities within the United States or its possessions.

On the other hand, all great nations today insist on 100-percent control of their radio communications, as radio is so vital to commerce, international, relations, and national defense, that the communications of such nations are considered by them to be sacred. In time, this will be the case with all nations. Even now, the great naval powers will not permit foreigners to own radio stations within their borders or possessions and, in time, other nations will expect the Golden Rule to be applied on this subject.

Mr. Chairman, Secretary Roper stated that I would give you some further information concerning the report of the minority member

of the Interdepartmental Communication Advisory Committee, which I shall be glad to give and explain very briefly.

The CHAIRMAN. I think you had better come back tomorrow, Captain.

Captain HOOPER. It will only cover about two pages.

The CHAIRMAN. I know, but some of the members may want to ask you some questions.

Captain HOOPER. Very well.

The CHAIRMAN. You can be here tomorrow?

Captain HOOPER. Yes.

The CHAIRMAN. We will adjourn until 10 o'clock tomorrow morning.

(Thereupon, at 11:45 a.m., the committee adjourned until 10 a.m., of the following day, Apr. 11, 1934.)

COMMUNICATIONS—H.R. 8301

WEDNESDAY, APRIL 11, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order.

I asked the Drafting Service to prepare this bill in a way that we could tell what is new and what is old, and also to indicate the transposition of the law, and I will ask Mr. Perley, Legislative Counsel, if he will make an explanation of the bill.

STATEMENT OF ALLAN H. PERLEY, ASSISTANT LEGISLATIVE COUNSEL, HOUSE OF REPRESENTATIVES

Mr. PERLEY. You will notice that the special committee print just handed to you has a note at the top of it, on the first page, intended to explain the difference between the Roman and Italic type in the print. The note explains it in a general way, but in order to avoid confusion, I might state that some of the definitions shown in italics apply only to radio broadcasting, and the explanatory note should not be construed to mean that those definitions apply to telephone, telegraph, and cable companies. Because of the limitation of having only two kinds of type to show the differences, it was necessary to print those particular definitions either in roman or italic, and italic was decided upon.

The CHAIRMAN. All right. Thank you.

STATEMENT OF CAPT. S. C. HOOPER, UNITED STATES NAVY, DIRECTOR COMMUNICATIONS DIVISION, OFFICE OF NAVAL OPERATIONS, NAVY DEPARTMENT, WASHINGTON, D.C.—Resumed

The CHAIRMAN. Captain Hooper, you may proceed.

Captain HOOPER. Mr. Chairman and gentlemen of the committee, my statement yesterday was made as a representative of the Navy Department commenting upon the proposed act. Today I will make a statement about the minority report as some of the members of the committee asked about that yesterday.

I was the member of the committee organized by Secretary Roper who submitted a minority report.

With reference to the differences between myself, as the minority member, and some of the other members of the committee appointed

by Secretary of Commerce Roper, I should like to state that there was no disagreement on the main point that there should be a Federal Communications Commission. The differences arose over matters discussed within the committee, which do not appear in the bill under consideration.

As to the extent of regulation, the subject of mergers, and so on, under the provisions of the bill, these points are left for further study by the new Commission, with direction for the Commission to make a report to Congress at the end of 1 year. That will permit final decision on these controversial matters by Congress, which is as I recommended.

I will say that I believe that it is important that our communications policy should be one which insures competition between telephone and telegraph and, in addition, provides for enforced, but limited, competition—not cutthroat competition—in the telegraph field. Whether this competition is between two telegraph-cable-radio companies or between a radio company and a wire-cable company remains to be worked out. However it is worked out, the radio must be insured of rapid development and application and must, for military reasons, if for no other, be free from foreign influence either by the front or back door.

Perhaps the new Commission can learn to regulate the overhead, service, and rates of telephone companies to the satisfacton of both the public and the companies; perhaps not. It is going to be a difficult task. If it succeeds, and other disadvantages are removed, perhaps it will be safe, if desirable, to proceed further with amalgamations. At present, I feel it would be a dangerous thing to do because it might eventually result in one communication company, with the power to control all broadcasting, telephone, and telegraph messages. That is too much power to give any one man.

I am glad to see that the final decision as to mergers is not to be left to the Commission. I have been long in the Government service and feel that we here in the executive departments are prone to be convinced by the energetic, clever, and persistent officials of these great companies. They wear us down. That is what they are paid for. We in the Government are ever changing and do not have the chance to keep close to the public as does Congress. And the public cannot afford to employ such experienced and capable men as do the companies, to keep forwarding the public interest. The final decision relative to monopolies, in my opinion, should rest with Congress.

We engineers can point out many advantages of a merged company, and it may be shown that most foreign nations have a single governmental or private monopoly of communications. But those of us who travel know that telephone and telegraph communications in the United States far excel those abroad, and over half the telephones in the world are in the United States. All this has come about through the initiative developed under the competitive system. Regulation of any company which has little competition is necessary; also unfair practices should be curbed.

Now, as regards the minority report, the Secretary of Commerce in his testimony yesterday submitted that to the committee, and it consists of about 50 pages. The first part is a discussion of the points involved, of my position, and of my objection to what the majority members wanted in some respects, and then in the second part I have

rewritten the majority report, including the language that I would like to have as part of that report. Also, I have submitted a number of enclosures discussing the various points involved.

I take it the report is too long to be read before the committee. If the committee would like any part of it read, I would recommend the first 7 or 8 pages which discuss the major points at issue. If not, I would leave it merely for the record.

The CHAIRMAN. You may proceed with your reading, if you desire. If not, you may file it for the record and it will be available for the members.

Captain HOOPER. Well, I will read the first part, then [Reading]:

1. The report includes —

(*a*) Comments on report of majority members of committee and discussion of position of minority member.

(*b*) A rewriting of the majority committee report to include (1) information and arguments of value not contained in majority report; (2) recommendations desirable for inclusion in a United States communications policy; and (3) a suggested improvement in organization for bettering communications administration and policy.

2. The writing of this report, including clerical work, necessarily had to be limited to a period of less than 4 working days, during which time I was occupied with my regular duties. My contribution is necessarily an attempt to present as comprehensive a discussion of the subject as time would permit. To make a proper study of this subject, one would naturally wish to consult representatives of all interests, but under the circumstances, this was not possible.

The following is quoted from the minutes of the meeting of November 20, 1933:

"Secretary Roper * * * in this report * * * requested that we give the pro and con of the present policy to President Roosevelt."

The report indicates that these instructions were not adhered to except in discussing the subject of Government ownership, although on two occasions I requested that the chairman adhere to them. The majority members appeared so anxious to have something in the report that would permit Congress, or possibly the regulating body, to refer favorably to mergers that parts of the report which were intended to help in the presentation of both sides of the discussion were carefully ruled out. For example, in the original draft of the report there appeared a reference to the British merger of radio and cables as an illustration of an example this country should follow, but when I introduced an amendment to that paragraph to include the facts about the present feeling against the British merger in England, the entire reference to the British merger was voted out. Other examples of such procedure could be given.

The minority member of the committee feels that the majority members of the committee have gravely erred in largely confining their report to domestic commercial communication facilities. The problems of companies engaged in international communications are inextricably entwined with those of companies in the domestic field as the overseas cable and radio circuits must connect with domestic circuits and, in many cases, are owned by the same company or holding company which owns the domestic circuits. Also, the subject of regulation of radio broadcasting, mentioned so prominently in the directive to the committee, and of such great importance to the communication facilities of the Nation, has not been considered by the committee, although their report recommends regulation of the communication service of the country, without excluding broadcasting, by a single body.

The minority member feels that any study of Federal relationship to communications is incomplete unless a thorough study of radio broadcasting has been included. The majority members' report does not specifically recommend amalgamation of radio with either land wire or cable companies. On the other hand, it does not contain reference to possible mergers that may be inimical to national interests with respect to both commerce and national defense. It is believed that the report should point out the dangers of mergers which permit foreign influence to enter the radio field from the direction of foreign cable companies and of communication companies, including holding companies, which are partly officered by foreigners. By failing to point out the dangers of mergers of this kind, the majority members' report may be construed as giving approval to such mergers.

Also, the wording of the report may be taken as an indication that a merger of telegraph communications is favored by the committee.

The minority member believes that the amalgamation of wire and cable companies may be desirable, but that competition should be preserved in the telegraph field, and radio allowed to develop under its own officers and directors, free from the influence of wire and cable interests, at least for a limited time. Rigid regulation would, with great difficulty and expense, be able to control such a powerful monopoly as might be permitted under the recommendation of the report of the majority members. There is no positive assurance that the public will be protected by Government rate control to the same extent as it is automatically protected by competition. In the case of the present virtual telephone monopoly, the effectiveness of such control is questioned even by the majority members' report itself, and naturally control would be still more difficult in efforts to regulate a monopoly of all communications.

Prior to the advent of radio, the British controlled, through cables, the communications of the world. Through this control, their advantages in trade, influence on world opinion, and national defense were tremendous. Directly after the war, a wholly American radio company was formed which broke the British stranglehold on communications and gave the United States a similar leading position in the radio field with its accompanying commercial and political advantages. This wholly American company now operates circuits connecting the United States with all the great world centers, and is absolutely independent of the cable interests. The minority member of the committee believes that these advantages should not be cast aside, and submits that they will be cast aside if radio and cables are permitted to merge. Furthermore, it is the general consensus of opinion that the cables will be obsolete in 15 years and that a merger of cable with radio would simply permit the salvaging of an obsolete system and saddle the radio companies with an additional financial burden that would eventually have to be written off as a loss to the public.

The majority members of the committee believe that the regulatory body should have the power to permit all communication companies to amalgamate under provisions similar to those now extended to the telephone companies. The minority member believes that this would be an irretrievable error. To permit the consolidation of all communication companies would be to permit the setting up of a powerful wire, radio, and cable monopoly, and would necessitate the establishment of extensive, expensive, and complicated government machinery to regulate it. Such a monopoly would be difficult, if not impossible, to control and would be capable of swaying the opinion of the people, and through them, the policies of the Government itself. Furthermore, the influence felt from such a monopoly would be tained by foreign bias, caused by bringing into the merger the foreign financial interests of the cable companies. (Refer to enclosure A.)

My experience in Government affairs has convinced me that if the large companies in an industry wish to attain a common end, they will eventually succeed unless the laws passed by Congress are such as to provide adequate barriers. With clever executives and high-priced lawyers, the Government administrators have little chance in the long run to resist such pressure, due to the ever-changing personnel in the Government, regardless of the unquestioned faithfulness of these employees. Consequently, I believe that unlimited discretion should not be given to any regulating body, on matters of broad policy, especially to the extent of authorizing departure from antitrust and other natural laws under which the public is protected.

An an indication of the danger of neglecting radio without positive protection under the law, this committee actually at the first meeting tentatively passed a resolution intended to prohibit the use of radio for domestic telegraph purposes between cities within the United States. Had it not been for my strenuous opposition to this, I believe the committee would have included such a recommendation in its report.

Moreover, the committee unanimously adopted a resolution, on my recommendation, requiring that communication companies, including holding companies, be owned by American citizens, but later deleted this from the report simply because of its possible effect on the French cable terminating on our shores. I contend that we should not be deterred in our efforts to bring about policies for the benefit of American business, and for national defense by existing conditions which have come about without any national communication policy.

History shows us that consciously or unconsciously, monopoly is the goal of all competitors in the various fields of industry. When, and if, monopoly is achieved, incentive for development is lessened, service slackens, rates and prices

are subject to the decision of the monopolist, and the public must accept what he is willing to give. Radio-telegraph companies should be kept free from domination by the wire and cable interests at least until radio's now unrealized possibilities have been developed and their application stabilized to some extent. It is believed that the almost unlimited field of development in radio is the cause prompting the desire of the cable companies to obtain through mergers, an important interest in, if not control of, the radio systems in order to salvage their present financial investments in a nearly obsolete communication system. The Government of the United States has always been alive to the dangers of private monopoly and has always opposed it. The recent decision of Congress in the case of the railroads, to require, but limit, competition, is illustrative of the attitude of the country on this subject (refer to enclosure B).

I wish to point out here that competition between point to point wire telephony and one telegraph company is not sufficient. Telephone service is a personal service. The great majority of the people are in constant intimate touch with the telephone. This condition furnishes a constant and powerful pressure on the telephone company to provide the most perfect and immediate service. However, this condition does not obtain in the wire or radio-telegraph field. A smaller proportion of the people use these facilities and then only at sporadic intervals. Public opinion does not have the opportunity to crystallize on the subject of rates or services of the telegraph companies that it does with the telephone. For this reason the public must rely for protection on the driving force of competition.

In France and Germany there is a monopoly in domestic wire communication. In France the service is very poor. Moreover, these two countries are so situated and their policies conflict to such an extent, that many times war between them is an imminent possibility. They must rely on their wires for rapid mobilization and government control of communications is necessary to eradicate the chance of a fatal few hours delay. Our situation here is altogether different. In our country, rapid and secret communication by radio with our fleets, merchant marine, and outlying forces is the prime necessity on the outbreak of war. Here again is seen the necessity for a 100-percent American radio company. (Refer to enclosure C.)

The communication situation in France likewise gives us an example of the wire telegraph becoming so entrenched that even the telephone has not been given the opportunity to compete with it on the large scale which it has in the United States. In this country, although the telephone has already attained its place, radio has not, and its development and expansion would be retarded if a merger of wires and radio were permitted.

The merger of the British cable and radio companies, which was consummated in 1929, has not been a financial success. More serious than this, the radio companies who were forced into the merger with the cables by the threat of the British Government to back the cables against them, appear to have suffered disproportionately due to the fact that the cable interests have been protected at the expense of radio. The technical development of radio in the United States, where Congress has not permitted it to be merged with cable and wire interests, stands ahead of the world. To risk a sacrifice of this position by permitting it to be drawn under the control of those interests would be a serious mistake. (Refer to enclosure C.)

International radio service is cheaper than cables. The service is direct, and does not have to pass through intermediate countries. If the international circuits are extended into the interior key cities of the United States, it will be a great advantage to nonseaboard areas. Why deny any one section of the United States an advantage held by another section if this is unnecessary? If we permit radio between, for example, Chicago and Berlin, why not permit the channel to be used between Chicago and New York as a party line, if it is cheaper? The Navy today has numerous radio party lines. Shall we allow the wire companies to merge, and expect them to voluntarily replace wire circuits with radio? It would not be human nature for such a merger to do other than protect their existing set-up as long as possible. This would certainly delay the development and application of radio in the domestic field. Refer to enclosure E.

Here it must also be explained that there are insufficient radio channels available for two domestic telegraph companies to compete with each other if the two companies are permitted to use both wire and radio. There are, however, sufficient channels available for one radio company to enter the domestic telegraph field. Refer to enclosure F for frequencies already in use. Therefore, it must be seen that if wire telegraph companies are permitted to merge, there are five strong

reasons for likewise permitting domestic radio companies to merge, namely: (1) To furnish the necessary competition in the telegraph field; (2) to permit natural development of radio under its own officials without being retarded by domination of wire interests; (3) the available frequencies will support only one company capable of connecting the major cities, in the present state of the radio art; (4) to provide the necessary feeder stations for a 100 percent American radio company in the international field; (5) the incentive for development of ultra-short wave radio entailed in the development of pick-up and delivery service.

A monopoly of record communication companies at this time would be followed in a few years by an attempt to combine this monopoly with the Bell Telephone system and the broadcasting companies, and would later be followed by an attempt to combine our American monopoly with foreign monopolies. In the end we would have an international communication monopoly with more power than the United States Government. The creation of an international communication company that will serve all nations with the same degree of impartiality can never be possible until nationalism and international trade rivalries have ceased to exist. Until that time arrives this country must concentrate on the development of strictly nationalized communication companies. Refer to enclosure D.

The minority member believes that unrestricted competition in communications should cease, but believes limited competition, rather than monopoly, is the cure. Refer to enclosure B.

Turning now to the constitution and powers of the suggested regulatory body. From the legal, engineering, and public-service standpoints, it appears that the Government's regulation of private communications should be administered either by a communications commission of a quasi-judicial character or placed directly under the jurisdiction of a Cabinet officer. In the event of the latter, there should be established a board of communication appeals whose function would be limited to issues involving equity. In either event, whether the regulatory administration is placed directly under a Cabinet officer or under a communications commission, all interested parties should have recourse to a Federal Court in the District of Columbia for the purpose of appealing adverse decisions.

Inasmuch as there is a very close relationship, insofar as availability of facilities is concerned, between the departments of the Government operating their communication systems, such as the Army, Navy, Coast Guard, and the Airways Division, and the organizations, both domestic and international, which operate public service communication systems, it would seem advisable to establish a National Communication Advisory Council consisting of representatives, appointed by the President from the various interested Government departments, including the Department of State. This National Advisory Council, together with the civil body responsible for the administration of civil communications, would be charged primarily with the formulation of policies. Where these policies involved, either directly or indirectly, the interests of non-Government communication organizations holding license under the Government, or directly involved the interest of the public, the civil communications administration and the Advisory Council should be constituted as a communications committee of the whole to hold public hearings at which any person who could qualify as an interested party would be permitted to appear, and give evidence, as well as arguments.

I might divert for a minute, and say, as the bill has been worked out, I am in favor of it the way it stands.

The above constitutes a brief summary of papers presented before the committee by the minority member and for the above reasons, the minority member believes that:

First. In the interest of service to the public, fair rates, development of the art of telecommunications and governmental economy, the policy of the Government should be to require and, at the same time, limit, competition in the telegraph communication field between that number of companies which can operate at a reasonable profit.

Second. No policy, such as permitting the merger of radio and cable or wire companies, should be adopted, which would tend to retard the

development or expansion of any phase of the art of telecommunications, either in the domestic or international field. Positive action should be taken to insure the rapid development and application of radiotelegraphy.

Third. The communication companies of our country, including holding companies, should be privately owned by American stockholders, operated and controlled by American directors, officials and personnel.

Fourth. Encouragement should be given to American-owned communication enterprise in foreign countries which is independent of radio companies licensed to own or/and operate radio facilities within the United States and its possessions; on the other hand the merger of foreign controlled, or partly foreign controlled communication services or facilities with those of American communication companies, including holding companies, should be prohibited.

Fifth. A National Communication Advisory Council, composed of the members of the Federal regulatory body and representatives, appointed by the President from Government departments interested in communications, should determine the broad national communications policy, and its major dependent policies along such lines as proper limitation of competition, determination of regulations defining fair competitive practices or agreements, insurance that new developments and inventions will be afforded opportunity to be applied, broad policies concerning broadcasting and recommendations to Congress regarding treaties with foreign countries concerning communications.

Sixth. The licensing powers of the Federal Radio Commission should be extended to include the stations of all non-Government telecommunication agencies. This body should be assigned some of the duties pertaining to telecommunications which are now assigned to other Government agencies and its name should be changed to "Federal Communications Commission". Its powers should be of a quasi-judicial nature and should be defined by Congress. Acting alone, in addition to its present duties it should be empowered to regulate interstate and foreign rates and services of telecommunication companies engaged in that class of traffic upon the representation of one or more State commissions that rates are unjust. Acting alone, it should be empowered to prevent the execution of agreements or practices which are unfair or destructive, and to carry out the policies decided upon by the National Communication Advisory Council and the laws enacted by Congress.

Seventh. Provision should be made for the permanent assignment of such radio frequencies and other communication facilities as are required for national defense and other authorized Government agencies and any policy upon which the Government decides should fully meet the requirements of national defense.

I think the rest of it is repetition.

The CHAIRMAN. Maybe I did not quite understand your position. Is it that no foreigner should own stock in these American companies?

Captain HOOPER. That is the position of my statement, particularly, yes, sir; that only a certain percentage of the stock should be owned by foreigners, and that should be nonvoting.

The CHAIRMAN. How is that?

Captain HOOPER. And that the stock should be nonvoting.

The CHAIRMAN. How much would you say?

Captain HOOPER. Twenty percent, I believe, is what I said in my testimony; or 25 percent—25 percent or 20 percent, and I think it should be nonvoting.

The CHAIRMAN. You have completed your statement?

Captain HOOPER. Yes, sir.

The CHAIRMAN. Any questions?

Mr. PETTENGILL. Mr. Chairman

The CHAIRMAN. Mr. Pettengill.

Mr. PETTENGILL. Did I understand you to say that you endorsed the bill in its present form?

Captain HOOPER. Yes, sir.

Mr. PETTENGILL. I am not quite clear, Captain, with reference to your statement about mergers of wire, radio, and cables. There is nothing in the bill that authorizes that or contemplates it, or anything of the sort, is there?

Captain HOOPER. No, sir; that is left for the working out of the commission. I merely read from my minority report.

Mr. PETTENGILL. You are simply making a statement as to that?

Captain HOOPER. Yes, sir.

Mr. PETTENGILL. What your thought is that the general policy should be?

Captain HOOPER. Yes, sir.

There were some questions asked yesterday about the minority report and I was reading from that.

Mr. PETTENGILL. May I ask this question? But the bill is all right as it stands?

Captain HOOPER. Yes, sir.

Mr. PETTENGILL. May I ask about this? It is not quite clear to me why you filed the minority report if you endorse the bill, or have some changes been made since you made up the minority report?

Captain HOOPER. The minority report was submitted in Secretary Roper's committee when we were discussing mergers and monopolies and other problems and the bill as it is now made up takes care of all of that by leaving the problems to be studied by the commission and a report is to be made back to Congress. That is perfectly in accord with what I recommended.

The CHAIRMAN. We are very much obliged to you, Captain.

Captain HOOPER. Thank you.

NAVY DEPARTMENT,
OFFICE OF CHIEF OF NAVAL OPERATIONS,
Washington, December 7, 1933.

From: Capt. S. C. Hooper, United States Navy, member.
To: Chairman President's Communication Policy Committee.

1. The attached papers include—

(*a*) Comments on report of majority members of committee and discussion of position of minority member.

(*b*) A rewriting of the majority committee report to include (1) information and arguments of value not contained in majority report; (2) recommendations desirable for inclusion in a United States communications policy; and (3) a suggested improvement in organization for bettering communications administration and policy.

2. The writing of this report, including clerical work, necessarily had to be limited to a period of less than 4 working days, during which time I was occupied with my regulr duties. My contribution is necessarily an attempt to present as comprehensive a discussion of the subject as time would permit. To make a proper study of this subject, one would naturally wish to consult representatives of all interests, but under the circumstances, this was not possible.

S. C. HOOPER.

COMMENTS ON REPORT OF MAJORITY MEMBERS OF COMMITTEE AND DISCUSSION OF POSITION OF MINORITY MEMBER

The following is quoted from the minutes of the meeting of November 20, 1933: "Secretary Roper * * * in this report * * * requested that we give the pro and con of the present policy to President Roosevelt." The report indicates that these instructions were not adhered to except in discussing the subject of Government ownership, although on two occasions I requested that the chairman adhere to them. The majority members appeared so anxious to have something in the report that would permit Congress, or possibly the regulating body, to refer favorably to mergers that parts of the report which were intended to help in the presentation of both sides of the discussion were carefully ruled out. For example, in the original draft of the report there appeared a reference to the British merger of radio and cables as an illustration of an example this country should follow, but when I introduced an amendment to that paragraph to include the facts about the present feeling against the British merger in England, the entire reference to the British merger was voted out. Other examples of such procedure could be given.

The minority member of the committee feels that the majority members of the committee have gravely erred in largely confining their report to domestic commercial communication facilities. The problems of companies engaged in international communications are inextricably entwined with those of companies in the domestic field as the overseas cable and radio circuits must connect with domestic circuits and, in many cases, are owned by the same company or holding company which owns the domestic circuits. Also, the subject of regulation of radio broadcasting, mentioned so prominently in the directive to the committee, and of such great importance to the communication facilities of the Nation, has not been considered by the committee, although their report recommends regulation of the communication service of the country without excluding broadcasting, by a single body. The minority member feels that any study of Federal relationship to communications is incomplete unless a thorough study of radio broadcasting has been included. The majority members' report does not specifically recommend amalgamation of radio with either land wire or cable companies. On the other hand, it does not contain reference to possible mergers that may be inimical to national interests with respect to both commerce and national defense. It is believed that the report should point out the dangers of mergers which permit foreign influence to enter the radio field from the direction of foreign cable companies and of communication companies, including holding companies, which are partly officered by foreigners. By failing to point out the dangers of mergers of this kind, the majority members' report may be construed as giving approval to such mergers. Also, the wording of the report may be taken as an indication that a merger of telegraph communications is favored by the committee.

The minority member believes that the amalgamation of wire and cable companies may be desirable, but that competition should be preserved in the telegraph field, and radio allowed to develop under its own officers and directors, free from the influence of wire and cable interests, at least for a limited time. Rigid regulation would, with great difficulty, and expense, be able to control such a powerful monopoly as might be permitted under the recommendation of the report of the majority members. There is no positive assurance that the public will be protected by Government rate control to the same extent as it is automatically protected by competition. In the case of the present virtual telephone monopoly, the effectiveness of such control is questioned even by the majority members' report itself, and naturally control would be still more difficult in efforts to regulate a monopoly of all communications.

Prior to the advent of radio, the British controlled, through cables, the communications of the world. Through this control, their advantages in trade, influence on world opinion, and national defense were tremendous. Directly after the war, a wholly American radio company was formed which broke the British stranglehold on communications and gave the United States a similar leading position in the radio field with its accompanying commercial and political advantages. This wholly American company now operates circuits connecting the United States with all the great world centers, and is absolutely independent of the cable interests. The minority member of the committee believes that these advantages should not be cast aside, and submits that they will be cast aside if radio and cables are permitted to merge. Furthermore, it is the general concensus of opinion that the cables will be obsolete in 15 years and that a merger of cables with radio would simply permit the salvaging of an obsolete system and saddle the radio

companies with an additional financial burden that would eventually have to be written off as a loss to the public.

The majority members of the committee believe that the regulatory body should have the power to permit all communication companies to amalgamate under provisions similar to those now extended to the telephone companies. The minority member believes that this would be an irretrievable error. To permit the consolidation of all communication companies would be to permit the setting up of a powerful wire, radio, and cable monopoly, and would necessitate the establishment of extensive, expensive and complicated Government machinery to regulate it. Such a monopoly would be difficult, if not impossible, to control and would be capable of swaying the opinion of the people, and through them, the policies of the Government itself. Furthermore, the influence felt from such a monopoly would be tainted by foreign bias, caused by bringing into the merger the foreign financial interests of the cable companies. (Refer to enclosure (A).)

My experience in Government affairs has convinced me that if the large companies in an industry wish to attain a common end they will eventually succeed unless the laws passed by Congress are such as to provide adequate barriers. With clever executives and high-priced lawyers, the Government administrators have little chance in the long run to resist such pressure, due to the ever-changing personnel in the Government, regardless of the unquestioned faithfulness of these employees. Consequently, I believe that unlimited discretion should not be given to any regulating body, on matters of broad policy, especially to the extent of authorizing departure from antitrust and other natural laws under which the public is protected.

As an indication of the danger of neglecting radio without positive protection under the law, this committee actually at the first meeting tentatively passed a resolution intended to prohibit the use of radio for domestic telegraph purposes between cities within the United States. Had it not been for my strenuous opposition to this, I believe the committee would have included such a recommendation in its report.

Moreover, the committee unanimously adopted a resolution, on my recommendation, requiring that communication companies, including holding companies, be owned by American citizens, but later deleted this from the report simply because of its possible effect on the French cable terminating on our shores. I contend that we should not be deterred in our efforts to bring about policies for the benefit of American business, and for national defense by existing conditions which have come about without any national communications policy.

History shows us that consciously or unconsciously monopoly is the goal of all competitors in the various fields of industry. When, and if, monopoly is achieved, incentive for development is lessened, service slackens, rates and prices are subject to the decision of the monopolist, and the public must accept what he is willing to give. Radiotelegraph companies should be kept free from domination by the wire and cable interests at least until radio's now unrealized possibilities have been developed and their application stabilized to some extent. It is believed that the almost unlimited field of development in radio is the cause prompting the desire of the cable companies to obtain through mergers an important interest in, if not control of, the radio systems in order to salvage their present financial investments in a nearly obsolete communication system. The Government of the United States has always been alive to the dangers of private monopoly and has always opposed it. The recent decision of Congress in the case of the railroads, to require, but limit, competition, is illustrative of the attitude of the country on this subject. (Refer to enclosure (B).)

I wish to point out here that competition between point-to-point wire telephony and one telegraph company is not sufficient. Telephone service is a personal service. The great majority of the people are in constant intimate touch with the telephone. This condition furnishes a constant and powerful pressure on the telephone company to provide the most perfect and immediate service. However, this condition does not obtain in the wire or radiotelegraph field. A smaller proportion of the people use these facilities and then only at sporadic intervals. Public opinion does not have the opportunity to crystallize on the subject of rates or services of the telegraph companies that it does with the telephone. For this reason the public must rely for protection on the driving force of competition.

In France and Germany there is a monopoly in domestic wire communication. In France the service is very poor. Moreover, these two countries are so situated and their policies conflict to such an extent that many times war between

them is an imminent possibility. They must rely on their wires for rapid mobilization and government control of communications is necessary to eradicate the chance of a fatal few hours' delay. Our situation here is altogether different. In our country, rapid and secret communication by radio with our fleets, merchant marine, and outlying forces is the prime necessity on the outbreak of war. Here again is seen the necessity for 100 percent American radio company. (Refer to enclosure (C).)

The communication situation in France likewise gives us an example of the wire telegraph's becoming so entrenched that even the telephone has not been given the opportunity to compete with it on the large scale which it has in the United States. In this country, although the telephone has already attained its place, radio has not, and its development and expansion would be retarded if a merger of wires and radio were permitted.

The merger of the British cable and radio companies which was consummated in 1929 has not been a financial success. More serious than this, the radio companies who were forced into the merger with the cables by the threat of the British Government to back the cables against them, appear to have suffered disproportionately due to the fact that the cable interests have been protected at the expense of radio. The technical development of radio in the United States, where Congress has not permitted it to be merged with cable and wire interests, stands ahead of the world. To risk a sacrifice of this position by permitting it to be drawn under the control of those interests would be a serious mistake. (Refer to enclosure (C).)

International radio service is cheaper than cables. The service is direct, and does not have to pass through intermediate countries. If the international circuits are extended into the interior key cities of the United States, it will be a great advantage to nonseaboard areas. Why deny any one section of the United States an advantage held by another section if this is unnecessary? If we permit radio between, for example, Chicago and Berlin, why not permit the channel to be used between Chicago and New York as a party line, if it is cheaper? The Navy today has numerous radio party lines. Shall we allow the wire companies to merge, and expect them to voluntarily replace wire circuits with radio? It would not be human nature for such a merger to do other than protect their existing set-up as long as possible. This would certainly delay the development and application of radio in the domestic field. (Refer to enclosure (E).)

Here it must also be explained that there are insufficient radio channels available for two domestic telegraph companies to compete with each other if the two companies are permitted to use both wire and radio. There are, however, sufficient channels available for one radio company to enter the domestic telegraph field. (Refer to enclosure (F) for frequencies already in use.) Therefore, it must be seen that if wire telegraph companies are permitted to merge, there are five strong reasons for likewise permitting domestic radio companies to merge, namely:

1. To furnish the necessary competition in the telegraph field.
2. To permit natural development of radio under its own officials without being retarded by domination of wire interests.
3. The available frequencies will support only one company capable of connecting the major cities in the present state of the radio art.
4. To provide the necessary feeder stations for a 100 percent American radio company in the international field.
5. The incentive for development of ultra-short-wave radio entailed in the development of pick-up and delivery service.

A monopoly of record communication companies at this time would be followed in a few years by an attempt to combine this monopoly with the Bell Telephone system and the broadcasting companies, and would later be followed by an attempt to combined our American monopoly with foreign monopolies. In the end, we would have an International Communication monopoly with more power than the United States Government. The creation of an international communication company that will serve all nations with the same degree of impartiality can never be possible until nationalism and international trade rivalries have ceased to exist. Until that time arrives, this country must concentrate on the development of strictly nationalized communications companies. (Refer to enclosure (D).)

The minority member believes that unrestricted competition in communications should cease, but believes limited competition, rather than monopoly, is the cure. (Refer to enclosure (B).)

Turning now to the constitution and powers of the suggested regulatory body. From the legal, engineering, and public-service standpoints it appears that the

Government's regulation of private communications should be administered either by a Communications Commission of a quasi-judicial character, or placed directly under the jurisdiction of a Cabinet officer. In the event of the latter, there should be established a Board of Communication Appeals whose function would be limited to issues involving equity. In either event, whether the regulatory administration is placed directly under a Cabinet officer or under a Communications Commission, all interested parties should have recourse to a Federal court in the District of Columbia for the purpose of appealing adverse decisions.

Inasmuch as there is a very close relationship, insofar as availability of facilities is concerned, between the departments of the Government operating their communication systems, such as the Army, Navy, Coast Guard, and the Airways Division, and the organizations, both domestic and international, which operate public-service communication systems, it would seem advisable to establish a National Communication Advisory Council consisting of representatives, appointed by the President from the various interested government departments including the Department of State. This National Advisory Council, together with the civil body responsible for the administration of civil communications, would be charged primarily with the formulation of policies. Where these policies involved, either directly or indirectly, the interests of non Government communication organizations holding license under the Government, or directly involved the interest of the public, the civil communications administration and the Advisory Council should be constituted as a Communications Committee of the Whole to hold public hearings at which any person who could qualify as an interested party would be permitted to appear and give evidence as well as arguments.

The above constitutes a brief summary of papers presented before the committee by the minority member and for the above reasons, the minority member believes that—

1. In the interest of service to the public, fair rates, development of the art of telecommunications and governmental economy, the policy of the Government should be to require and at the same time limit competition in the telegraph communication field between that number of companies which can operate at a reasonable profit.

2. No policy, such as permitting the merger of radio and cable or wire companies, should be adopted which would tend to retard the development or expansion of any phase of the art of telecommunications, either in the domestic or international field. Positive action should be taken to insure the rapid development and application of radiotelegraphy.

3. The communication companies of our country, including holding companies, should be privately owned by American stockholders, operated and controlled by American directors, officials, and personnel.

4. Encouragement should be given to American-owned communication enterprise in foreign countries which is independent of radio companies licensed to own or/and operate radio facilities within the United States and its possessions; on the other hand, the merger of foreign controlled or partly foreign controlled communication services or facilities with thoses of American communication companies, including holding companies, should be prohibited.

5. A National Communication Advisory Council, composed of the members of the Federal regulatory body and representatives, appointed by the President from Government departments interested in communications, should determine the broad national communications policy and its major dependent policies along such lines as proper limitation of competition, determination of regulations defining fair competitive practices or agreements, insurance that new developments and inventions will be afforded opportunity to be applied, broad policies concerning broadcasting and recommendations to Congress regarding treaties with foreign countries concerning communications.

6. The licensing powers of the Federal Radio Commission should be extended to include the stations of all non-Government telecommunication agencies. This body should be assigned some of the duties pertaining to telecommunications which are now assigned to other Government agencies and its name should be changed to "Federal Communications Commission." Its powers would be of a quasijudicial nature and should be defined by Congress. Acting alone, in addition to its present duties it should be empowered to regulate interstate and foreign rates and services of telecommunication companies engaged in that class of traffic upon the representation of one or more State commissions that rates are unjust. Acting alone it should be empowered to prevent the execution of agreements or practices which are unfair or destructive, and to carry out the

policies decided upon by the National Communication Advisory Council and the laws enacted by Congress.

7. Provision should be made for the permanent assignment of such radio frequencies and other communication facilities as are required for national defense and other authorized Government agencies, and any policy upon which the Government decides should fully meet the requirements of national defense.

DECEMBER 5, 1933.

My comments have pointed out my differences, with reasons therefor, with the majority report. There follows a rewriting of the report to include points, additions, and alterations, which I consider are necessary to make the report of value. It is drawn up on lines paralleling the report of the majority members. Portions of the report of the majority members which the minority member considers should be deleted are enclosed within parentheses. Changes, additions, and comment by the minority member are italicized.

MINORITY REPORT OF THE NAVAL MEMBER OF THE COMMITTEE

The commercial communication service can be conveniently considered in *four* classes: (*a*) *two-way radio telegraphy,* (*b*) *two-way wire and cable telegraphy,* (*c*) two-way telephony, (*d*) broadcasting. *As will be explained later in the report, the problems of radio and cable-wire telegraphy cannot be considered broadly under one group without obtaining a distorted version of the situation. The problems and the utility of radio differ greatly from those of wire or cable telegraphy. (Refer to enclosure (A).)* The committee has considered the status of commercial communication broadly and finds the problems of the *four* classes to be very different. The studies made indicate that, notwithstanding these differences, certain uniform conclusions may be reached. (Perhaps the major conclusion is the need of effective governmental regulation of the interstate and foreign aspects of commercial communication.) *This is perhaps one of the main conclusions, but not the major one. As will be explained later, other considerations are just as important if not more so than this.* It is in the field of two-way telegraphy that existing problems are most acute. The problems of (*d*) broadcasting are not considered in this report. *The minority member considers that this omission is a serious error especially since the majority members express the belief that the communication service (without excluding broadcasting) should be regulated by a single body. I feel that such an opinion should not be expressed without a study of the problems of broadcasting.*

There are four major communication organizations in the United States:

(*a*) The American Telephone & Telegraph Co. and its associated companies, with almost a monopoly in the domestic telephone service, operating 13,793,000 telephones. These companies own an immense wire system covering the United States, primarily used for telephone purposes, but which includes surplus wires and circuits which can be and are to some extent leased for other purposes, including telegraphy. This company operates (an international) radiotelephone *stations which communicate with radiotelephone stations in many foreign countries and through these to nearly all foreign countries.* The telephone service of the American Telephone & Telegraph Co. and its associated "Bell" Companies reach many localities not having telegraph offices. *It is a purely American company although it owns about 30 percent of the capital stock of the Bell Telephone Co. of Canada.*

(*b*) The Western Union Telegraph Co., engaged in telegraph and cable communication service, operating approximately 23,000 telegraph offices in this country (a very large percentage of which are economically unproductive, but which are maintained out of the revenue from the important city offices). *The minority member questions the portion of the statement within parentheses. He doubts that Western Union is maintaining a large percentage of its 23,000 offices for philanthropic reasons. It is more likely that the increase in business derived from traffic to and from these small towns, entailing as it does no additional operating expenditures in the large cities, more than pays for, in normal times, the expenses of these small offices. The committee is not in possession of such facts as would warrant it to make a statement on either side of the question.* The Western Union also operates a cable service to the West Indies, Europe, and in conjunction with a British company, to South America. *It is primarily an American company.*

(*c*) The International Telephone & Telegraph Corporation, operating through subsidiaries a domestic telegraph service, *a domestic radio service, a marine radio service,* a cable service to Europe, the West Indies, South America, and the

Orient, and a radio service to the West Indies, South America, Europe, and the Orient. This company also operates telephone services in foreign countries through subsidiaries *and extensive manufacturing companies in the United States and abroad.* This company has a number of subsidiary companies, among which *are:*

(1) The Postal Telegraph Co., competing with the Western Union. The Postal operates a comparatively small system of about 2,800 offices, located principally in the larger cities, which also are served by the Western Union.

(2) *Mackay Radio Telegraph Co., operating a rapidly expanding domestic radiotelegraph company with 7 stations built or building, a marine radio service with 8 stations on both coasts of the United States, and 13 overseas radio circuits to Europe, the West Indies, South America, and Asia.*

(3) *Commercial Pacific Cable Co., operating a cable from San Francisco to Shanghai via Honolulu, Midway, Guam, and Manila.*

(4) *All America Cables, with an extensive network from New York to Central America, the West Indies, and South America.*

(5) *Commercial Cable Co., operating six trans-Atlantic cables from New York.*

(6) *Thirty-one manufacturing companies in Norway, Belgium, Shanghai, France, Argentina, England, Germany, Japan, Australia, Denmark, Spain, Italy, Roumania, Czechoslovakia, Austria, Poland, and two in the United States.*

(7) *Nineteen radiotelegraph and telephone companies in Brazil, Argentina, Chile, Spain, Cuba, Peru, Mexico, Uruguay, Puerto Rico, China, and Roumania.*

It is primarily an international company, the principal ownership and management of which is American. Its principal business is in countries other than the United States, and it is on these foreign companies, officered and operated by foreigners, that it now must look for support to combat the mounting deficits incurred in recent years by its United States subsidiaries.

(d) The Radio Corporation of America engaged in *overseas* radiotelepraph and *overseas* radiotelephone communication service. Its principal communication subsidiaries are:

1. R.C.A. Communications, Inc., providing *40 circuits* to the West Indies, South America, Europe, Asia, and Africa.

2. Radio Marine Corporation, *operating 12 marine-radio service stations,* providing ship-shore and ship-ship traffic.

3. *National Broadcasting Co., operating a chain radio broadcast system.*

4. *Two manufacturing companies in the United States.*

In addition to these four major organizations, there are a large number of independent telephone companies, lines and associations, operating over 4,000,000 telephones, but which handle a small percentage of the telephone service of the country.

There are several smaller radio companies engaged in telegraphy, among which are:

(*a*) The Globe Wireless Co., *a subsidiary of Robert Dollar Steamship Co.,* providing service *between* the west coast of the United States across the Pacific to Hawaii, Guam, and Asia, *and to ships, and between cities on the United States Pacific coast.*

(*b*) The American Radio News Corporation, engaged in the transmission of press traffic with stations in New York, Chicago, Denver, San Francisco, Atlanta, and Cuba.

(*c*) The Press Wireless Co., engaged in the transmission of press traffic between stations in the United States, South America, Mexico, Canada, Hawaii, and Denmark.

(*d*) The Tropical Radio Telegraph Co., *a subsidiary of the United Fruit Co.,* with a commercial service between certain points within the United States *and between certain points in the United States* and Central American countries.

(*e*) *Other small domestic radio companies are:*

(1) *Central Radio Telegraph Co.*

(2) *Michigan Wireless Telegraph Co.*

(3) *Wabash Radio Corporation.*

(4) *Pere Marquette Radio Corporation.*

(5) *Western Radio Telegraph Co.*

(*f*) *The Government operates the following communication systems:*

Under the Commerce Department, a radiotelegraph system for the Airways Division and marine beacons for the Lighthouse Service.

Under the Treasury Department, a system of radiotelegraph stations on both coasts of the United States for the Coast Guard, for communication with their ships and for purposes of safety of life at sea.

Under the Department of the Interior, a radiotelegraph service for the Forestry Section.

Under the Navy Department, a radiotelegraph system of communication between both coasts, between the naval districts, on both coasts to ships at sea (including radio direction-finder stations), and to Hawaii, Alaska, Manila, Panama, Puerto Rico, Guam, and Samoa.

Under the War Department, a cable service to Alaska, a radio and wire telegraph network within the United States and Alaska and a radiotelegraph service to its overseas units and transports.

(g) Several commercial-aviation communication systems operating radiotelegraph and radiotelephone service between their landing fields and between the landing fields and their planes.

This brief outline shows an interesting picture of a collection of communication agencies not working in accordance with any national plan. *In the commercial field,* each company is a good one, but in the telegraph field each lacks certain facilities to render the greatest efficiency. The Radio Corporation, for example, is seriously handicapped through lack of system of offices throughout the country to serve as feeders for its international radio service. *Consequently, it has a contract with the Western Union for pick-up and delivery service, domestically, but this is an unsatisfactory situation.* Both the Western Union and Postal, operating the domestic telegraph offices throughout the country, own and operate cables to Europe. They naturally prefer to send messages originating in the interior via their own cables in preference to turning them over to the Radio Corporation for transmission by radio. (However, should the Radio Corporation establish a system of domestic offices and handle domestic service between United States cities, it would make such inroads into the revenues of the Western Union as to compel that company to close the unproductive stations in the small towns and villages now maintained out of the profits of the Western Union made in the larger cities.) *The minority member believes that the Radio Corporation of America, or any other independent radio company, would hesitate to enter the domestic field against two such competitors as Western Union and Postal Telegraph-Cable Co. under present conditions. However, if Western Union and Postal Telegraph should merge, the minority member feels that it would be necessary to permit a radiotelegraph company to enter the domestic field in order to preserve for the public the benefits of the cheaper rates and better service which competition engenders, in addition to furnishing more direct international communication. There already exists quite an extensive, though not unified, intercity radio service. If these various radio companies were permitted to, and would, combine, this merger would furnish competition to a unified domestic wire telegraph company which the majority members seem to favor. The merged wire companies would have little to fear from a merger of radiotelegraph companies for many years, but the public would benefit by reduced rates, better and more direct service in the meantime. Research and development in the ultra short wave field would be required to develop pick-up and delivery service and this would undoubtedly be reflected in the rapid advancement of all phases of the radio art. In nations of great area, such as Brazil, Russia, and China, which could not afford landline structures like the more compact nations, radio is already being applied to connect large cities because of low costs of installation and operation, greatly to the public advantage. After radio has been developed and its application determined, we should consider the advisability of unifying it with wires and cables. Not now. And when it has finally demonstrated its possibilities, our attitude toward it may have changed considerably. Because of the wise provision of Congress, the cable companies were not permitted to engage in radiotelegraphy in the international field and rapid expansion of our international radio service followed. The same protection should be afforded radio in the domestic field.*

The subsidiaries of the International Telegraph & Telephone Corporation, with a domestic telegraph and international radio and cable service across both the Atlantic and Pacific are handicapped by having a relatively small number of domestic offices to feed their international services.

The Western Union has a large number of domestic offices and a trans-Atlantic cable service. It has no radio facilities whatever and no cable facilities on the Pacific.

In the foreign field, our numerous United States communication companies are at a disadvantage in their competition with foreign companies. The external communications of practically every large country in the world are either private monopolies under government control or are owned or operated by the government itself. Our numerous companies, competing against each other and against foreign monopolies are played off, one against the other, by the foreign monopolies, are forced into

positions whereby they are compelled, to save themselves, to make contracts advantageous to the foreign monopolies and disadvantageous to themselves.

OWNERSHIP OF (DOMESTIC) COMMUNICATION COMPANIES OF THE UNITED STATES

The contents of this section apply to communication companies engaged in international communications as well as those in domestic service.

GOVERNMENT OWNERSHIP

The proponents of Government ownership believe that such a national policy will result in—

1. Lower tolls due to—
   (a) the elimination of the present communication company profits and excessive overhead costs.
   (b) the elimination of large "accounting" costs through the use of the postage stamp in prepaying telegrams.
   (c) the saving on interest charges upon borrowed funds.
2. Better service by the consolidation of the telegraph and telephone, both wire and radio services.
3. The prevention of discriminatory services.
4. The prevention of speculative management.
5. The extension of service to localities not now served.
6. *The ability to present a united front to foreign systems.*

The opponents of Government ownership hold, that such a national policy is objectionable due to—

1. The danger of political domination and interference.
2. Government "red tape."
3. The charge that the Government does not conduct its business economically.
4. The *conjecture* that Government ownership would discourage initiative, technical research and advancement.
5. The belief that the communication service under Government ownership in foreign countries is inferior to ours under private ownership.
6. The belief that the people do not want Government ownership.

The committee believes that communication companies and their holding companies should be privately owned and operated, at least for the present. *The minority member of the committee believes that this conclusion is sound as far as it goes, but does not consider that it is sufficiently explicit to be adopted as a policy by this country. For instance, such a policy could permit foreign domination of all our United States communication companies, a condition which would be unthinkable for reasons of commerce, foreign relations, and national defense. In 1927, when the radio act was made law, Congress was alive to this possibility and went to great length in section 12 of that act to prevent foreign influence from entering our communication system. They were unsuccessful, to some extent, as a loophole in the law permits a foreign-dominated holding company to own United States communication companies. This flaw in the law has already been utilized for that very purpose, and the minority member strongly advises that now is the time to remedy the defect. The minority member is of the opinion that all the communication companies of the United States and its possessions and their holding companies should be privately owned by American stockholders, operated and controlled by American directors, officials and personnel. To this end, the minority member of the committee believes the provisions of section 12 of the Radio Act of 1927 should be amended and strengthened in order that the intent of the provisions of this section may not be evaded by setting up holding companies with foreign directors or influenced by foreign stockholders, which holding companies now may control United States communication companies under the provision of this section, although not so intended by the framers of the law. I believe that the law should go still further and prohibit any United States communication company from owning commercial facilities in foreign countries unless provided for by treaty.*

There is no doubt that the original intent of the law was the same as that expressed in this paragraph of the report, but it would appear that now is the time to indicate t he measure necessary to actually make the law effective.

REGULATION

Although the cable, telegraph, telephone, and radio are inextricably intertwined in communication, the Federal regulation of these agencies in our country is not centered in one governmental body. The responsibility for regulation is

scattered. This scattering of the regulatory power of the Government has not been in the interest of the most economical or efficient service. In this connection, the following is quoted from the report of the standing committee on communications of the American Bar Association, adopted at the annual meeting August 30–September 1, 1933:

"In this connection it should be borne in mind that there is now no Government agency authorized to deal with communication problems as such. The Interstate Commerce Commission has certain jurisdiction over the rates and charges of both wire and wireless companies engaged as common carriers in transmitting messages for hire in interstate and foreign commerce (49 U.S.C.A. 1). The executive branch of the Government has jurisdiction over the granting of licenses for the landing of commercial cables (47 U.S.C.A. 34–39). * * * The Federal Radio Commission has authority to license and to regulate the operation, but not the rates and charges, of wireless communication agencies engaged in interstate and foreign commerce (47 U.S.C.A. 81–119). That the communication problem is worthy of serious consideration by Congress and those in authority cannot be doubted. Division of authority over subject-matter not readily susceptible of division has continued too long. Communication problems are communication problems whether the agency employed by telephone or telegraph, wire or wireless. All communication systems of any magnitude own and operate or by arrangement use facilities of both types. The reasons are readily apparent. * * *

"We submit that it is hardly consistent with economy or maximum efficiency to have the regulation of wireless communication agencies under one body and such relation of wire communication agencies as exists under another, while the question of rates for such service, frequently involving both types of facilities, are largely governed by the conditions of competition prevailing at a particular time and place. The situation created thereby is not only contrary to the public interest, but is contrary to the interests of the communication companies themselves."

In addition to the regulatory powers over communications exercised, by different agencies of the Government mentioned above, the committee also finds that certain rate-making powers are vested in the Postmaster General by virtue of section 3, title 47, United States Code.

The most far-reaching regulatory power over rates and practices of telegraph, telephone, cable, and radio companies is vested in the Interstate Commerce Commission. This important body, already burdened with its great responsibilities on railroad regulation, has never been active in the regulation of communication agencies. The activities of the Commission in connection with communication were the subject of review in hearings held by the Senate Committee on Interstate Commerce in the second session of the Seventy-first Congress, the Hon. Joseph B. Eastman appearing for the Commission. The testimony showed that the Commission had no departments, bureaus, or divisions that dealt exclusively with radio, telephone, telegraph, or cable matters (p. 1566); that few such cases had ever been heard by the Commission; and that there were no employees in any of the departments or bureaus who dealt exclusively with communication matters, with the exception of one clerk and certain engineers (p. 1575). The testimony indicated that the regulation of communication agencies was a minor activity of the Commission. Commissioner Eastman testified: "In my opinion—and I think this opinion is shared by other members of the Commission—the telephone, telegraph, and cable are more closely connected with radio than with railroads. And while I have given no great amount of study to the question, I am inclined to believe that the supervision of communication companies by one Commission would be preferable to the present method of divided control."

The committee realizes that the communication traffic of the United States exceeds that of any other country. It realizes that the country's technical communication facilities are as good as those of any other country (but it is of the opinion that they are not of the greatest possible use to the people under the present conditions, particularly as regards organization, extent, and rates).

The minority member believes that these facilities have been developed through competition. He also believes that the continuation of a policy of enforced limited competition in the wire and radio telegraph field under the guidance of a policy regulatory body, whose duty it would be to determine the number and types of telegraph companies competing in various areas, will continue to develop our telegraphic com-

munication service and facilities to a greater extent and at far less cost ot the Government than would occur through rigid regulation of rates and services.

The domestic telephone service of the country is mainly provided by the American Telephone and Telegraph Co. and its associated companies. The service rendered by this company is technically the best in the world, but there are many complaints that it is too expensive. Recently the company has introduced over its wires a rented "teletype" service which the telegraph companies feel is an invasion of the field of telegraphy. *Both these conditions should be made subject to the consideration and decision of the proposed regulatory body.*

The Bell system owns over 80,000,000 miles of wire (in cables and open construction) which reach all sections of the United States.

The extension of the telegraph service to territory not now served is, in general, impeded by the cost of such extension. The wires of the telephone company now reach very many communities not provided with telegraph offices. Inasmuch as the telephone wires now reach these small places and can by proper equipment be used for telephony and telegraphy, simultaneously, without mutual interference, provisions can be made through proper regulation by which the telegraph service can be extended through the use of these telephone facilities to many of these communities not now served. *However, the minority member believes that only through strenuous and costly Government effort, will the telegraph companies ever be compelled to install telegraph offices, and pay operators to operate stations in towns where the volume of telegraphic communication is so small that the offices do not pay. The minority member believes that it is because of this lack of business in the majority of small towns, rather than the expense involved in competition in large cities which prevents extension of telegraph services to those small towns. However, the regulatory body could compel the telephone company to handle telegrams by telephone to small towns at fair rates. I might here remark that this seems to be already in effect.*

There is no existing communication policy for the development and improvement of our national communication facilities nor one single office in Washington to which all communication problems can be referred.

The committee believes that the communication service so far as congressional action is involved should be regulated by a single body.

(The committee believes that rigid regulation under a regulatory body exclusively devoted to that duty:

(1. Will reduce rates by regulating profits and overhead expenses and intercompany chares.

(2. Will prevent discrimination.

(3. Will control exclusive contracts which are made by communication companies with hotels, railroads, and foreign countries.

(4. Will regulate annual depreciation charges.

(5. Will prevent speculative management.

(6. Will prevent the "watering" of stocks.

(7. Will permit the extension of service to localities and homes not now served.)

The minority member of the committee is not in agreement with the very general statements made in the above section of the report enclosed within parentheses, and does not believe that the committee has sufficient knowledge of the subject to make these claims.

The committee has been given no opportunity as yet to make a study of the telephone situation in the United States, except for the meager data contained in the report. There is a feeling, however, that the cost of renting telephones is too expensive and the majority members propose to remedy this by clothing the proposed Federal regulatory body with power to regulate services and rates. I feel that perhaps the overhead expense claimed by the telephone companies, on which rests one of the main bases for their rate structures, and which must be paid for by the telephone subscriber, may be too great. The absence of competition (which, nevertheless, is undesirable on a grand scale in this field for reasons I have already indicated) is probably the major cause of such high rates. However, I have no knowledge on which to base any assertion that a Federal rate-control body can remedy this situation. In fact, I am inclined to believe that such rate control by a Federal regulatory body would be almost impossible without enormous expense to the Government and unprecedented invasion of the principle of State rights.

Almost the entire expense of the telephone companies is incidental to local service and plant charges. State and municipal regulatory commissions have authority to regulate local charges based on these expenses. The Interstate Commerce Act prohibits the Interstate Commerce Commission from regulating intrastate rates. As only about 1½ percent of telephone traffic is on long-distance business, comparatively

little revenue is received by the telephone companies for long-distance interstate or foreign calls and this type of service does not appear to be unduly expensive even now. For the Federal rate-regulating body to attempt to regulate interstate rates would necessitate investigation by this body into the costs of services, plant structure, and financial condition of the telephone companies in every city in the Union.

This would entail considerable expense in order to obtain the questionable result of reducing rates on the comparatively few interstate communications handled by the telephone companies. On the other hand, if the Federal rate-control body is to actually function to reduce rates on the huge volume of intrastate traffic (which comprises about 98½ percent of the total telephone traffic, the rates on which are practically the only ones affecting the public to any great extent), I can visualize no other way for this body to act efficiently than by appointing commissions in every city and large town in the United States, replacing all State and municipal commissions, in order to investigate costs, services and conditions there. Rates could never be regulated from Washington without such assistance. Such a procedure would appear to be an extravagant waste of Government funds, unless we are sure it will result in benefit to the public. I do believe that machinery should be set up for the suggested Federal regulatory body, whereby if one or more State commissions complain of excessive interstate rates charged by the telephone monopoly, the regulatory body could compel hearing of all parties and render decisions as to what telephone rates were just. While it is true that the Interstate Commerce Commission does regulate rates within States to a certain extent, the regulation of telephone rates within States and cities would be a vastly more difficult proposition, due to the many local and internal municipal problems encountered by communication companies which have no bearing on railroad problems. Lacking further opportunity for study, I believe that rigid regulation of rates by a Federal regulatory body would be impossible unless accomplished at prohibitive expense. I believe that limited competition will accomplish the desired results in the telegraph field and that a Federal regulatory body empowered to hear complaints of State commissions and render decisions as to rates of telephone companies will accomplish them in the two-way voice communication field.

From the legal, engineering, and public-service standpoints it appears that the Government's regulation of private communications should be administered either by a Communications Commission of a quasijudicial character, or placed directly under the jurisdiction of a Cabinet officer. In the event of the latter, there should be established a Board of Communication Appeals, whose function would be limited to issues involving equity. In either event, whether the regulatory administration is placed directly under a Cabinet officer or under a Communications Commission, all interested parties should have recourse to a Federal court in the District of Columbia for the purpose of appealing adverse decisions.

Inasmuch as there is a very close relationship, insofar as availability of facilities is concerned, between the departments of the Government operating their communication systems, such as the Army, Navy, Coast Guard, and the Airways Division, and the organizations, both domestic and international, which operate public-service communication systems, it would seem advisable to establish a National Communication Advisory Council consisting of representatives, appointed by the President from the various interested Government departments including the Department of State. This National Advisory Council, together with the civil body responsible for the administration of civil communications, would be charged primarily with the formulation of policies. Where these policies involved, either directly or indirectly, the interests of non-Government communication organizations holding license under the Government, or directly involved the interest of the public, the civil communications administration and the Advisory Council should be constituted as a Communications Committee of the Whole to hold public hearings at which any person who could qualify as an interested party would be permitted to appear and give evidence as well as arguments.

MERGERS

Prior to the war the British, through their ownership and control of a vast cable system extending to all parts of the world, had gained a leading place in the communication field. This leadership they used for their own commercial and political advantage and was of enormous assistance for this purpose. After the war, utilizing the newly developed radio art, the United States set up a purely American radio company in the United States, which seriously threatened British supremacy and obtained for the United States a similar leading position in the radio field, with its accompanying commercial and political advantages.

The minority member of the committee believes that these advantages should not be sacrificed and that our purely American communication companies should not be permitted to slide into such a position that they would be amenable to the influence of foreign countries. For this reason, the minority member of the committee believes that the merger of foreign-controlled communication services or facilities with American radio, cable, telephone or/and telephone companies, including holding companies, should be prohibited.

Although under the existing unrestricted competitive system, the United States does not have *a fully* adequate telegraph service, *it must be remembered that competitive private enterprise has made our already extensive telegraph service possible. It is doubtful if monopoly could have done as much. Prior to the entry of Postal Telegraph into the domestic wire-telegraphy field, Western Union rates were much higher and their offices fewer. Competition has lowered the former and multiplied the latter.* It has often been recommended that out of the existing overlapping facilities, a unified service be developed either by Government ownership or by private ownership under government regulation. (Unrestricted competitive system has prevented our smaller towns and villages from having telegraph offices. France, for example, with a unified system and a population about one third that of our country, has more telegraph offices than the United States. Germany, with a population about one half that of the United States, has about one third more telegraph offices.) The waste and strife of unrestrained competition is well illustrated by the duplication of offices of the Western Union and Postal companies. In New York City there are approximately 300 Western Union offices and 150 Postal offices. Offices are similarly duplicated in all the larger cities. Each duplication means two sets of managers, messengers, clerks, operators and equipment. *However, the fact that two companies have offices and operating staffs in the same block is a decided advantage to the public, although not to the owners. This sort of competition exists in nearly all lines of business today. From the viewpoint of the public, rather than being an argument against competition, it is an argument for it. The majority members believe* that the people pay a higher rate to maintain this unrestrained competition *and state that* under a unified service, rates could be lowered and many small communities enjoy a telegraph office which they do not now have, the duplicate personnel eliminated by consolidation being absorbed by the service extended to regions now not served.

This paints a pleasant picture of the benefits of a merger, but the minority member disbelieves these statements. Experience shows that competition produces lower rates. This I have already pointed out is the exact result of the entry of Postal Telegraph into the domestic telegraph field. Since the advent of radio in competition with the cables, the same reduction of rates has ensued. To consolidate these services would set up a powerful wire, radio, and cable monopoly, susceptible to foreign influence, and necessitating the setting up of extensive, expensive, and complicated Government machinery to regulate. Such a monopoly would be difficult, if not impossible, to control and would be capable of swaying the opinion of the people and through them, determining the policies of the Government itself. The service given by the wire monopoly of France is very poor. One compelling reason which dictates a record monopoly in those countries is the necessity for immediate and rapid mobilization in case of war. Those countries are so situated adjacent to each other and their relations are such that they must be instantly prepared for a major war. A few hours' delay in a mobilization order may have terrific consequences. The Navy is the first line of defense for this country. Mobilization of land forces can proceed at a slower pace without disaster. France and Germany must rely for immediate action at the outbreak of war on their domestic wire systems. The United States must rely on her radio communication with the fleet and merchant marine.

The British merger of her cable and radio companies has not been a financial success. More serious than this, the radio companies who joined the merger appear to have suffered disproportionately due to the fact that the cable interests have been protected to the disadvantage of radio. The technical development of radio in the United States, where it is not merged with cable and wire interests, stands ahead of that of Great Britain, and to sacrifice this position would be a serious mistake.

Under the provisions of existing law two or more telephone companies wishing to consolidate are permitted to make such application to the existing regulatory body, now the Interstate Commerce Commission. The law prescribes ample safeguards whereby all interested parties may be heard at a public hearing, after which the regulatory body may issue a permit or may refuse the same.

(The committee believes the same provisions should be extended to all communication companies.)

The minority member of the committee believes that the preceding sentence should be deleted from the report and that the following should be substituted: "The committee believes the same provisions should be extended to wire and cable telegraph companies and to radiotelegraph companies in such manner that radio may have the opportunity to compete with wire and cable in both the international and domestic telegraph fields."

RATES

(The subject of rates is one properly for consideration and control by the recommended regulatory body.)

The minority member is not in agreement with this statement for the reasons put forth in my discussion of "Regulations." If the principle of limited competition is adopted, as I recommend, in the field of telegraphy, this principle will provide an automatic rate regulation in itself and I forsee little need of the regulatory body concerning itself with the rates of telegraph companies. Lacking detailed data concerning the rates of the telephone company, I am unable, at present to see how rate regulation of their services can be accomplished to any appreciable extent by a Government regulatory body without prohibitive expenditures, except in the manner which I have indicated in my discussion under "Regulation" and in the last paragraph of this report, suggesting certain improvements to be made in the existing Federal Governmen machinery for administering communications.

RECOMMENDED POINTS TO BE ADOPTED UNDER A NATIONAL COMMUNICATIONS POLICY

In view of the foregoing, the minority member recommends that the following points be adopted in the institution of a national communications policy for the United States Government:

(1) *In the interest of service to the public, fair rates, development of the art of telecommunications and governmental economy, the policy of the Government should be to require and, at the same time, limit competition in the telegraph communication field between that number of companies which can operate at a reasonable profit.*

(2) *No policy, such as permitting the merger of radio and cable or wire companies, should be adopted, which would tend to retard the development or expansion of any phase of the art of telecommunications, either in the domestic or international field. Positive action should be taken to insure the rapid development and application of radiotelegraphy.*

(3) *The communication companies of our country, including holding companies, should be privately owned by American stockholders, operated and controlled by American directors, officials, and personnel.*

(4) *Encouragement should be given to American-owned communication enterprise in foreign countries which is independent of radio companies licensed to own or/and operate radio facilities within the United States and its possessions; on the other hand the merger of foreign controlled, or partly foreign controlled communication services or facilities with those of American communication companies, including holding companies, should be prohibited.*

(5) *Provision should be made for the permanent assignment of such radio frequencies and other communication facilities as are required for national defense and other authorized government agencies, and any policy upon which the Government decides should fully meet the requirements of national defense.*

Some improvement in the Federal Government machinery for the administration of telecommunications appears desirable. Suggestions for such improvement follow:

(1) *A National Communication Advisory Council, composed of the members of the Federal regulatory body and representatives, appointed by the President from Government departments interested in communications, should determine the broad national communications policy, and its major dependent policies along such lines as proper limitation of competition, determination of regulations defining fair competitive practices or agreements, insurance that new developments and inventions will be afforded opportunity to be applied, broad policies concerning broadcasting and recommendations to Congress regarding treaties with foreign countries concerning communications.*

(2) *The licensing powers of the Federal Radio Commission should be extended to include the stations of all nongovernment telecommunication agencies. This body should be assigned some of the duties assigned to other Government agencies and its name should be changed to "Federal Communications Commission." Its powers should be of a quasi-judicial nature and should be defined by Congress. Acting alone, in addition to its present duties it should be empowered to regulate interstate and foreign rates and services of telecommunication companies engaged in that class of*

traffic upon the representation of one or more State commissions that rates are unjust. Acting alone it should be empowered to prevent the execution of agreements or practices which are unfair or destructive and to carry out the policies decided upon by the National Communication Advisory Council and the laws enacted by Congress.

S. C. HOOPER, *Captain, U.S. Navy.*

INDEX OF ENCLOSURES

Enclosure (A). Memorandum submitted by Capt. S. C. Hooper, United States Navy. Subject: American Radio Communication Companies should be 100 percent American.

Enclosure (B). Memorandum submitted by Capt. S. C. Hooper, United States Navy. Subject: Advantages of Enforced Limited Competition as Compared with Unrestricted Competition or a Monopoly.

Enclosure (C). Memorandum submitted by Capt. S. C. Hooper, United States Navy. Subject: A Survey of the Commercial Communication Systems of the United States.

Enclosure (D). Extract from letter from the Secretary of the Navy to chairman Interstate Commerce Committee dated March 22, 1932.

Enclosure (E). Memorandum submitted by Capt. S. C. Hooper, United States Navy. Subject: Domestic Radio Communications.

Enclosure (F). Memorandum submitted by Capt. S. C. Hooper, United States Navy. Subject: Frequencies now in Use for Domestic Radiotelegraph Communication.

OCTOBER 10, 1933.

Mr. CHAIRMAN. At our last meeting a question arose as to whether or not the problems of the various forms of rapid communications were indivisible. As this question may assume some importance later in our study, I wish to give the committee my ideas on the subject now.

The problems of all communication services, aside from those pertaining to finance and administration, which are common to all business institutions, no matter what their character, are those concerned with engineering and operation. The main problems of operation are development of efficient service and the lowering of operating costs. The problems of engineering are those of plant installation, maintenance, research, technical development, and extension of circuits.

The problems of operation are to a certain extent common to all forms of communications. Trained personnel must be stationed at the operating centers and organization must be perfected to handle expeditiously all messages routed through them. The organization must provide for the right number of trained individuals and their functions must be clearly defined to eliminate lost motion and unnecessary cost. These problems have been solved to a large extent already. The great problems remaining to be solved pertaining to the development of efficient service and the lowering of operating costs are now those of engineering and the majority of these are still awaiting solution in the laboratory.

These engineering problems present a wholly different aspect and the problems of the wires and cable telegraph differ widely from those of the radio. The few that are common to both are of such nature that they are vital to one service and of minor importance to the other.

In plant installation, the telegraph engineer is faced with the question of how to bring in his wires, a comparatively light problem for him, but a major one for the telephone engineer, who must wire his switchboard also, and none for the radio engineer. The size and construction of the carrier wires are of concern to the telegraph engineers, but none exist for the radio. In extending circuits and maintaining old ones, radio engineers have the entirely different problem of overcoming interference or developming new frequencies while telegraph and telephone lines must be strung to poles or laid through conduits. Storms and earthquakes may disrupt telephone or telegraph or cable circuits and a repair force must be ready to put them in service again promptly, Radio communications cannot be disrupted in this manner. Static and fading are major problems of radio while they do not enter into telegraph or telephone transmission (except for the radiophone).

In radio, research is devoting its major efforts to putting television on an operating basis, development of ultra short waves, and facsimile. Technical development in radio is being made in tubes, receivers, antenna, power units, distant control units, beam wireless, radio direction finders, high frequency, none of which have any considerable application to wire or cable telegraphy.

The development of wire and cable telegraphy has progressed nearly to its limit and is now practically static. Development of radio has just begun and its possibilities are practically unlimited.

The wire systems have a great advantage at present as the pick-up and delivery local circuits are developed and operating satisfactorily, whereas the development of local pick-up and delivery by radio on superhigh frequencies has yet to be perfected.

Rates, due to installation costs, increase more rapidly with distance in wire communication than with radio. Radio service, not being dependent on the construction of wire or cable lines, is far more direct than wire or cable service. Even different dot-dash codes are used for radio and wire communication.

We must draw the conclusion, therefore, that the major problems of the radio industry are totally different from those of the wire and cable.

ENCLOSURE A

AMERICAN RADIO COMMUNICATION COMPANIES SHOULD BE 100 PERCENT AMERICAN

(Memorandum submitted by Capt. S. C. Hooper, United States Navy)

That the communication facilities of a nation are vital to the nation's welfare is universally recognized. A natural corollary of that truth is that the communication facilities of a nation must be controlled and operated exclusively by citizens of that nation, and entirely free from foreign influence.

Particularly is this important with regard to radio, which occupies a status different from that of any other rapid communication service. Rapid communications over systems other than radio are subject to easy physical control, censorship, and interruption. Such is not true of radio.

The Navy is vitally interested in establishing an American commercial radio-communication system entirely free from foreign influence from considerations of national defense only. Particular considerations which dictate this stand are summarized below.

Radio is the sole means of communication with our mobile forces, and with allied and neutral vessels in time of war. It is the nerve system by which movements of the fleet are controlled both in peace and war. The merchant marine, also, will come under the jurisdiction of the Navy in time of hostilities or impending hostilities, so that means of controlling its movements and operations must likewise be under naval jurisdiction.

While the radio communication system operated by the Navy in peacetime is sufficient for peacetime needs, it would be inadequate in time of war and would have to be augmented by the facilities of commercial radio companies. These additional facilities, like those normally operated by the Navy, must be able to pass from peace to war status at a moment's notice.

For efficient operation in war there must be training and indoctrination in peace. Such training and indoctrination must involve the disclosure of military secrets, such as:

(*a*) Certain features of war plans.

(*b*) Secret calls and procedure.

(*c*) Secret codes and ciphers, with instructions for their use, and methods for maintaining their security.

(*d*) Secret instructions for changing frequency channels in war to avoid enemy interference or to create interference against the enemy.

(*e*) Secret instructions for radio deception of the enemy.

(*f*) Means of obtaining security against espionage, and of effecting counter espionage against the enemy.

Such secrets may not be divulged to any company, or to individuals of any company regarding which the least doubt can be entertained as to the patriotism and loyalty of any of its officers or personnel.

Radio experts all agree that the art of radio is still comparatively in its infancy. Developments already well established indicate that apart from its place in the communication field proper, the art of radio has almost infinite possibilities in such lines as the distant control of offensive and defensive weapons and instruments of war. Developments of this nature will go hand in hand with development and research in the radio-communication field. Such developments should be religiously guarded from the knowledge of possible enemies. Such cannot be expected if the companies perfecting such developments are composed of other than loyal Americans.

It is furthermore not sufficient that American radio companies be 100 percent American with respect to their activities within the bounds of United States territory. It is almost equally important that companies operating radio facilities in the United States have no holdings or ties in foreign countries which might tend toward divided allegiance. An American radio company owning facilities or subsidiary companies in foreign countries must naturally desire to standardize equipment and methods, exchange personnel and information and do friendly turns for its foreign affiliates, which would involve giving to foreigners the benefit of all new developments perfected in this country.

Such an international company, dependent as it must be upon the good will of foreign governments for the maintenance of its foreign holdings, could not be depended upon to forego any steps necessary to maintain such good will, even to the extent of divulging information which might be prejudicial to the national defense of the United States. It is impossible for a military service to work in close cooperation with, or to disclose its new developments to an organization which has foreign affiliations of this nature and employs foreign personnel.

The above considerations are only those which bear directly upon national defense. Other considerations, though they do not bear directly upon national defense, still make it highly advisable that American commercial radio systems be purely American. Among such considerations are those of economics and of international trade relations.

An American company owning stations or subsidiaries in foreign countries can have no lasting assurance against discriminatory legislation or edicts, or even against confiscation of such foreign holdings. Any such discrimination or confiscation could not but weaken the financial structure of the company. It would not only cause loss of the company's business with the country or countries involved, with consequent loss to American investors, but it might affect the American holdings of such company, possibly making necessary, for reasons of economy, curtailment of services or facilities within the United States. Furthermore, no company so pressed financially could afford to allot any considerable sums to the research necessary to any real advance in the radio art.

Apart from the military secrets mentioned above under considerations of national defense, there are trade secrets and confidential, commercial, and Government arrangements which the best interests of American trade and diplomacy require to be kept from the knowledge of foreign governments and foreign commercial concerns, at least in the preliminary or initial stage of negotiations. No American commercial radio company employing aliens can properly safeguard such confidential matter from its employees, or through them from interested foreign parties. Divulgence of such information could not but harmfully affect our foreign trade.

It is even to be feared that representatives of an American radio company with foreign links, if they be other than loyal Americans, might be tempted to play American commercial concerns against their foreign competitors for the purpose of stimulating communication business.

Again, any discriminatory or confiscatory action against an American radio company's holdings in a foreign country would be apt to engender a patriotic anti-American feeling in such country which would be manifested against all American interests there, possibly leading to a boycott of American goods; in any case our trade in general would suffer. The serious patriotic demonstrations in Spain against the International Telephone & Telegraph Co., which occurred soon after the fall of the monarchy, gave evidence of the dangerious postion of such a company.

It is believed that the time will come when all nations, not under the domination of more powerful ones, will insist that their communication facilities be owned and operated by their own nationals as have already all the major powers except the United States. However, there are at present many countries which for financial or other reasons do not wish to establish modern communication facilities for themselves, but are willing and anxious to have them established by foreign interests. In view of this fact, it is believed that no law or policy of our Government should at this time prevent American interests from competing with those of other nations in this fertile international field, provided that any American concern engaged in such international business own or operate no radio facilities within the United States or its possessions.

The Congress recognized the importance of keeping our radio facilities purely American, in passing the Radio Act of 1927, section 12 of which prohibits the issuing of a radio license to any company of which any officer or director is an

alien or the representative of an alien, or of which more than one fifth of the capital stock may be voted by aliens, etc.

This act apparently safeguards radio communication facilities within the United States from foreign influence. It leaves a loophole, however, which makes it possible for parent or holding companies with foreign officers or directors indirectly to obtain radio licenses through subsidiary companies of which all officers and directors are American citizens, in conformity with law. Furthermore, the provisions of the Radio Act of 1927 do not restrict American radio concerns from owning stations and subsidiaries in foreign countries, or from forming foreign affiliations which make it impossible for the concerns forming them to remain purely American.

Amendment of section 12 of the Radio Act of 1927 is necessary to prevent such issuance of licenses indirectly to companies which are not 100-percent American. Additional legislation must be enacted to safeguard the American radio-communication system against the dangers of foreign affiliations which make it impossible for American radio to be in fact 100-percent American.

The statement made by the Secretary of the Navy before the Senate Interstate Commerce Committee during hearings on H.R. 7716, a bill to amend the Radio Act of 1927, is appended hereto.

It is recommended that the principles listed on page 9 of this paper, dictated by considerations of national defense, be adopted by the committee.

STATEMENT OF THE SECRETARY OF THE NAVY BEFORE THE SENATE INTERSTATE COMMERCE COMMITTEE, ON DECEMBER 22, 1932, DURING HEARINGS ON H.R. 7716, A BILL TO AMEND THE RADIO ACT OF 1927

The Director of Naval Communications has brought to my attention certain opposition to the proposed amendment to section 12 of the Radio Act of 1927. He has also informed me that he gave his personal opinion before the Interstate Commerce Committee of the Senate concerning this section when he was testifying in regard to H.R. 7716, on Saturday, March 12, 1932. The chairman of the committee said that he wished to close the hearing on this subject on that date, and that an official statement would be appended to the record if so submitted. This statement is therefore forwarded for the consideration of the committee.

Cooperation with radio and cable organizations of the United States and other countries pertains to the amicable adjustment in such matters as the handling of commercial traffic. The primary mission of the Naval Communication Service is to safeguard the communication interests of the United States, both public and private. It is to safeguard these interests that I bring to your attention the danger of permitting an international company to own a radio company licensed to operate within the United States or its possessions. By an international company is meant (a) a holding or operating company which has as integral parts of its organization holding or operating companies which are owned or controlled by their respective nations or nationals; or (b) an organization which owns or controls several companies organized under the laws of their respective nations; or (c) a holding or operating company which may be dominated or influenced by the employment of directors, executives, or operating personnel of several nationalities.

The first Federal legislation to regulate radio communication within the United States was passed in 1912. It is evident that an attempt was made in this act to limit the ownership of radio stations within the United States to American citizens. Section 2 of that act is quoted in part as follows:

"That every such license shall be issued only to citizens of the United States or Puerto Rico, or to a company incorporated under the laws of some State or Territory of the United States or Puerto Rico * * *."

The wording of this section failed to prevent foreign ownership of radio companies operating within the United States. The danger of foreign ownership of American radio companies was so forcibly brought out prior to and during the World War, that Congress included section 12 in the Radio Act of 1927.

The wording of this section appeared at the time it was written to be comprehensive and to definitely assure this country of American control and ownership of radio stations operating within the United States. This section is quoted in part as follows:

"SEC. 12. The station license required hereby shall not be granted to, or after the granting thereof, such license shall not be transferred in any manner, either voluntarily or involuntarily, to (a) any alien or representative of any alien; (b) to any foreign government or the representative thereof; (c) to any company,

corporation, or association organized under the laws of any foreign government; (d) to any company, corporation, or association of which any official or director is an alien, or of which more than one fifth of the capital stock may be voted by aliens or their representatives or by a foreign government or representative thereof, or by any company, corporation, or association organized under the laws of a foreign country * * *."

But even this language has proven insufficient to prevent the control of American radio stations from passing into the hands of internationally owned corporations. The provisions of this act have been circumvented by the International Telephone & Telegraph Co. This company contends that it is only a holding company, and that inasmuch as its largest radio operating company, the Mackay Radio Telegraph Co., complies with the Radio Act of 1927, that the International Telephone & Telegraph Co., being only the holding company, does not come within the jurisdiction of this section.

It is now proposed to amend the Radio Act of 1927 so that section 12 will, in effect, apply to holding companies as well as to operating companies. There is little doubt that in case the language of section 12 is not changed and H.R. 7716 becomes law, the International Telephone & Telegraph Co. must necessarily remove foreigners from its board of directors or else divorce the Mackay Radio Telegraph Co. from its holdings. If such is the case, it is believed that a part of the difficulties which are foreseen by this Department will be eliminated. However, it is believed that the real root of the danger will still exist unless the law is so worded as to preclude any semblance of international as well as foreign ownership, control, operation, or influence of radio companies operating within the United States.

If it were possible to create an absolutely neutral and unbiased world-wide international communication organization, such an organization might prove an excellent and prosperous one, despite the fact that it would stifle competition and development in the several phases of communications and would provide no safeguard of the public's interests. The creation of an international communication company that will serve all nations with the same degree of impartiality can never be possible until after the date that nationalism and national trade rivalries have ceased to exist.

For over three quarters of a century all of the great powers of the world except the United States have realized the immense importance and advantage of nationally controlled communications in the development of their national commerce and their national policies. To gain the advantages that accrued from the control of communications, the great nations built up their own world-wide systems of submarine cables, and American commerce suffered from being left at the mercy of these foreign-owned communication systems. With the advent of radio, the same foreign nations that controlled the cables of the world set about and were in a fair way to obtain world-wide control of radio. But the lessons that the United States had learned from the foreign dominance of the cables and the dangers from espionage and propaganda disseminated through foreign-owned radio stations in the United States prior to and during the war brought about the passage of the Radio Act of 1927, which was intended to preclude any foreign dominance in American radio, the only field for international communications that was not already dominated by foreign interests.

The great nations of the world fully realized the tremendous importance, both to commerce and national defense, of owning and controlling their own radio systems. Great Britain, France, Germany, Russia, and Japan have all built up radio systems controlled either by the Government itself or by strictly national corporations, and these countries will never consent to the injection of international influence in their communication organizations.

Considering from a strictly national-defense point of view the question of international ownership or dominance of American radio companies, a few of the more salient objections should be emphasized. In the event of war between other nations, nationally owned companies would be expected to scrupulously guard against committing an unneutral act, whereas an international company would not only lack the same incentive, but might even find it advantageous to perform unneutral service. Such stations might easily be employed in espionage work and in the dissemination of subversive propaganda.

It is not sufficient that the military forces have authority to assume control of radio stations in war. A certain amount of liaison between radio-company executives and department officials responsible for Government communications is required in peace time. Familiarity on the part of commercial executives of American radio companies with communication operating methods, plans, and developments of the military departments of the Government is certainly

to the very best interests of the Nation. Some of these matters are of a very secret nature. For the Navy Department to initiate and carry out this important contact with commercial companies, the divulging of confidential plans to directors is necessary. This is obviously impossible with even one foreigner on the board.

International companies must have agreements between their subsidiaries and the parent companies for a free exchange of information. Foreign personnel are transferred from one subsidiary to another so as to obtain intimate knowledge of the methods and equipment employed by other branches. It is impossible for a military service to work in close cooperation with or disclose its new development to an organization which has foreign affiliations of this nature and employs foreign personnel.

With these points in mind—commerce and national defense—and realizing the foreign dominance in cables, it must be apparent that no truly international communication system is possible. Nations will not agree to the relinquishing of their leadership in any branch of the field when such factors may affect adversely their commerce or national defense. National ownership or control of communication systems will continue to exist and no other practical plan for the great nations can be foreseen at the present time. Until world conditions are changed, this Department will look with apprehension upon any legislation which permits communication companies in this country to be subject to foreign influence. Such companies must of necessity include international companies.

As I have stated before, the Navy Department is of the opinion that the amendment to section 12 of the Radio Act of 1927, which is now proposed in H.R. 7716, will be of considerable assistance in eliminating foreign control of American radio systems, but it will not prevent American radio systems from being influenced or dominated by foreigners through their control of international communication companies. Further, I am inclined to the belief that both sections 12 and 17 of the radio act should be broadened in their scope, so that the requirements of these sections will preclude, first, all possibility of any international company owning, controling, or operating radio companies licensed to operate in the United States; and, second, all possibility of any international company, through the employment of foreign directors, executives, or operating personnel, from dominating or influencing radio companies licensed to operate in the United States.

PRINCIPLES

1. The communication system of the Nation is of vital importance to the Nation's welfare, and freedom from foreign influence is essential.

In view of the above basic principle, the communications policy of the United States should be developed along lines conforming to the following:

2. All communication facilities of the United States and its possessions should be owned and operated exclusively by citizens of the United States.

3. The directors of all United States communication companies, including holding companies, should be United States citizens.

4. No more than one fifth of the capital stock of any United States communication company, including holding companies, should be owned by aliens or their representatives, and such stock should carry with it no voting privileges.

5. The merger of foreign-controlled communication services or facilities with American radio, cable, telegraph, or/and telephone companies, including holding companies, should be prohibited.

6. No policy should be adopted which would tend to hinder the development or expansion of any phase of the communication art, either in the domestic or international field, particularly with regard to the rapid advancement of radio.

7. Any policy adopted should make provision for the permanent assignment of such radio frequencies and other communication facilities as are required for national defense and other authorized Government agencies.

ENCLOSURE (B)

ADVANTAGES OF ENFORCED LIMITED COMPETITION, AS COMPARED WITH UNRESTRICTED COMPETITION, OR A MONOPOLY

At the outset of the development of any new enterprise competition is the prime mover. Companies are formed in various localities, backed by capital attracted by the prospects of satisfactory returns on the investment, and each company

striving to obtain a greater hold on the enterprise as a whole by various means. In other words, each separate organization has monopoly as its goal. In the early stages the field is large, the companies few, the incentives are many, and the companies use every means to improve their position. Research is fostered, lines are extended, rates are lowered, all in the attempt to freeze out the other fellow. The public benefits by all this.

As the struggle progresses, duplication of facilities arise in the case of strong companies striving for supremacy in the same area. The smaller companies, unable to compete with organizations with more resources in the shape of capital, patents, etc., at their command, are either forced out of business or compelled to amalgamate with the stronger companies, and the tendency toward monopoly receives a fresh impetus. At this stage the larger companies, finding competition between themselves growing to ruinous proportions, may attempt to cooperate with one another by mutual agreement on rates and services, which may or may not be for the benefit of the public. They may, on the other hand, start a rate war in a desperate attempt to end the competition, or they may seek to amalgamate. At this stage the public ceases to benefit by unrestricted competition.

If the companies agree on rates, these rates will be high enough to support the two (or more) duplicating systems with the correspondingly greater overhead costs. If a price war is started, research will suffer and, if one company does not go under (thus making further progress toward monopoly), the resources of both companies will be damaged to such an extent that services must be curtailed, and the stockholders and the public will suffer.

The final phase is that in which one company emerges in entire control of all others or the Government is forced to take over the control. It appears that the United States communication systems have entered the second phase in their progress toward monopoly and are headed rapidly toward the final one. We have to choose now whether we shall permit the progress toward monopoly to continue, whether we shall permit the unrestricted competition to go on, or whether we shall compel communication companies to compete with each other on a fair basis. Recently the railroad systems of the country were faced with the same problem and Congress solved it with a decision which called for enforced competition between a limited number of companies. Parallel trunk lines were compelled to compete with each other.

The history of this country has been one of continued governmental opposition to the attempts of private organizations to obtain monopoly over any utility. The reasons are obvious and strong. A private monopoly puts the absolute control of the utility in the hands of a few and, regardless of whether or not this monopoly would be exercised for the benefit of the public (which is rarely the case), the Government of the United States has always felt that to permit such a condition would be inviting private individuals to obtain a strangle-hold on the utility or commodity concerned. In the absence of competition, unless regulated by the Federal Government, a monopoly can raise rates or prices without regard to public interest. It can turn money over to its officials or stockhlders which should be used for research, extension of its services and development of material. This would not occur if keen competition were compelled. I have noticed that the express service has decreased in officiency and courtesy very materially since it was merged under the head of Railway Express. They will no longer make deliveries on Saturday afternoons, Sundays, or holidays.

We must realize that if a monopoly is permitted, our only salvation will be to set up and operate extensive government machinery to regulate it. This would be cumbersome, expensive, and, to a large extent, ineffective. In our examination of the bill S. 6, we have touched upon a few of the ramifications which would be encountered in government regulation of such a far-reaching monopoly. Accounts, property valuation, State laws, international agreements, rate structures, costs, installation, overhead expenses, all would have to be accurately known by the regulating body, and the enforcing of its decisions in the courts of the 48 States of the union against the legal retainers of such a powerful organization would be expensive, slow, and difficult. This is already apparent in the case of the American Telephone & Telegraph Co. and is recognized by our committee member, Senator Dill. However, the telephone can operate officiently only under the control of one company. It would be unthinkable to compel each subscriber to have two or more telephones on his desk for communication with various localities, and the close personal contact with the telephone which the public has controls, to a certain extent, the policies of the American Telephone & Telegraph Co. as regards rates and services. However, this personal, continuous contact does not exist in respect to wire, cable, and radio.

I gave the committee my opinions of the disadvantages of governmental ownership at the last meeting. The necessary monopoly which the Government operates with respect to Postal Service is an example of the cost of such service. This service is already developed and consequently there is no need for the research and invention which competition fosters and no funds are expended for it. Nevertheless, the United States Postal Service shows a large yearly deficit and its high executive positions are political plums. Can we recommend increasing the tax burden with similar Government ownership of rapid communications? We all agree that unregulated competition in the communication field must cease, but competition must remain unless we are prepared to advocate private or Government-owned monopoly, whose disadvantages I have set forth. There only remains enforced regulated competition.

The governmental regulation necessary to guide enforced competition is far less than that necessary to control a powerful monopoly. A Federal rate and service control agency would be necessary in the case of a monopoly, but why do we wish to regulate rates and services if competition exists? The present Western Union and Postal Telegraph rates are certainly fair and reasonable. Before the Postal Telegraph entered into competition with the Western Union, the Western Union rates were unreasonable and the service was not extensive. Again, both rates and services for transoceanic communication have improved since radio entered the field as a competitor of the cables. These companies have strained every nerve to improve service and decrease rates since then.

Governmental regulation of the capital structure requirements of the communication companies and limitation of the number of competing organizations by types would be the only main requisites for adequate governmental regulation under enforced competition. Competition will continue to foster research and technical development. The absurdly high salaries of officials will be automatically curtailed. There will be no possibility of competing companies running up outrageous installation and maintenance charges in order to keep up rates, as would be the tendency in a Government-regulated monopoly.

A monopoly of record communication companies at this time would be followed in a few years by an attempt to combine this monopoly with the Bell Telephone System and later would follow an attempt to combine our American national monopoly with foreign monopolies. In the end, we would have an International communication monopoly with power greater than the United States Government.

I have no evidence to convince me that two record communication companies in the United States cannot continue to exist independently of one another, nor do I believe that there is any lack of communication facilities in small towns at the present time. The residents can always deliver their messages to the nearest telegraph office by telephone.

To sum up, I believe in competition and in establishing a regulatory body which will limit this competition to the number of companies which can operate at a reasonable profit, but with no powers to regulate rates or services. The regulatory body should also have the power to prevent agreements between domestic and foreign communication companies which will be ruinous to their competitors.

S. C. HOOPER,
Captain, United States Navy.

ENCLOSURE (C)

A SURVEY OF THE COMMERCIAL COMMUNICATION SYSTEMS OF THE UNITED STATES

OCTOBER 9, 1933.

In connection with a great deal of discussion, newspaper articles, lectures, and recent legislation introduced in Congress, there is unquestionably a tendency toward the consolidation or merging of large enterprises which serve the public. Compelled evidently by the will of the people, the executive branch of the Government has decided to "ease up" on antitrust laws to a reasonable extent. The pendulum is swinging rapidly toward a point where all types of carriers, as defined by the Interest Commerce Act, will be compelled to amalgamate for limited, rather than unlimited competition, their properties and operating facilities, or else go into the hands of a receiver.

I have seen the need for certain specific amalgamations of communication carriers for several years and I have from time to time, advocated the institution

of a definite plan which would permit an orderly procedure in carrying out such a vast program, with a view to limiting the competition to that required for the protection of the public. I have deviated very little from my original proposal, but whether I testified before a congressional committee or stated my views before commissions or included my remarks in lectures, I found one insurmountable obstacle. Before constructive stops could be taken, it was a necessity that the Government announce a communications policy in order to give all departments and offices of the Government and all commercial companies organized under the laws of the United States, a lead upon which they could base plans for the future. This was necessary as it was obvious that too many communication companies were being organized. The facilities in use within the United States and emanating therefrom were manifold. But such a policy was practically impossible. No department or office in the Government had entire control of communication systems. No department or office in the Government could offer leadership to other interested departments or to commercial communication enterprises.

Thus, we came to a point in the midst of a depression where quick action was necessary to save the rapidly falling, intricate communication carrier systems of the United States. Several plans have been advanced as to proper procedure to follow. I give below my ideas in this matter.

In considering amalgamations of communication companies, it is first necessary to inspect the laws which guide in this matter.

LAW

Section 17, Radio Act of 1927, in brief.

"SEC. 17. After the passage of this act no person, firm, company, or corporation, etc. * * * in the business of transmitting and/or receiving for hire energy, communications, or signals by radio * * * shall by purchase, lease, construction * * * acquire, own, control, or operate any cable or wire telegraph or telephone line, etc. * * * or shall acquire, own, or control any part of the stock or other capital share of any interest in the physical property, etc. * * * any such cable, wire, telegraph, or telephone line or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce * * * or unlawfully to create monopoly in any line of commerce; nor shall any person, firm, company, or corporation, * * * in the business of transmitting and/or receiving for hire messages by any cable, wire, telegraph, or telephone line or system, etc. * * * by purchase, lease, construction, or otherwise, directly or indirectly acquire, own, control, or operate * * * any system for transmitting and/or receiving radio communications or signals * * * or shall acquire, own, or control any part of the stock, * * * other assets of any such radio station, apparatus, or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce, etc. * * *."

In addition to the above section of the Radio Act of 1927, the communication companies must carry out provisions of the Interstate Commerce Act as amended. But in particular, section 17 was inserted in the Radio Act to cover a particular situation which would insure the development of a new art.

INTENT OF LAW

Conforming to the Constitution, the fundamental principles upon which the United States is founded, the law demands that—

(*a*) Efficient service and reasonable rates will be guaranteed.

(*b*) The science of radio will advance, unhampered, by top-heavy control or entanglement with other communication means.

(*c*) There be an assurance that wire telegraph, telephone, and radio competition will not throw the control of a great enterprise into the hands of a few, either to the disadvantage of the public or to the disadvantage or curtailment of legitimate business enterprise.

(*d*) Government competition with commercial companies is to be avoided.

PRESENT SITUATION

Radio, wire, and cable companies have developed their systems unhampered to any great extent by any law, except that of supply and demand. Land-wire companies (Postal and Western Union) are every day approaching nearer to receivership. The radio companies, R.C.A. Communications, Inc., the Mackay Co., the Globe Wireless Co., the Tropical Radio & Telegraph Co., and the Press

Wireless Co., are making ends meet with the greatest difficulty. All of these companies compete with Western Union and Postal cables. The only communication company left in the United States which appears to be on an assured, permanent, sound financial basis is the American Telephone & Telegraph Co. The situation demands immediate action. If nothing is done to change the set-up of the present-day system, the following may happen:

(*a*) The land-wire companies will go into receivership, with the result that either the Government or the only strong company left, the American Telephone & Telegraph Co., will be compelled to take over their management.

(*b*) One or more of the large radiotelegraph companies will go into the hands of receivers, with the result that, as in the case of the land-wire companies, the American Telephone & Telegraph Co. will have to take over the management, the company or companies will be completely wiped out, or the Government will have to take over the control of all international radio.

(*c*) Cable companies with their vast and extensive networks are certainly not paying propositions at the present time when their operating costs are compared to radio operation. They are being supported by other communication services which are associated with them. They are facing the same situation as other communication systems and will either carry down with them their associated companies or will be wiped out.

DISCUSSION

Monopoly.—A single monopoly of communications in control of all radio broadcasting, wire and radiotelephone, wire and radiotelegraph, and cables, would be potentially dangerous and should never be permitted. The far-reaching influence that such a corporation would have on the economic affairs of the United States in peace time is beyond comprehension. Every business would certainly feel the power of this organization. From a standpoint of national defense, such a monopoly in a national emergency would rule the Nation. It is not a necessity either for technical or economic reasons. It is true that the technical set-up of communicating agencies might be simpler, but the absence of competition would eventually slow the pace of development and the position of the United States in radio would gradually lag behind other leading powers.

The pressure for the merger of all forms of rapid communications is due to the present depression and to the advent of radio as a competitor with the cables. The Postal and Western Union companies were thriving enterprises for many years before the depression, and both Mr. Carlton and Mr. Mackay have always, up to the last 2 years, insisted that competition between two telegraph companies had great advantages and both of the companies could be justified from an economic point of view. Now, if the depression is drawing the Western Union and Postal companies under a single head for the protection of their capital investment, such a merged corporation must be kept as an entity in competition with the telephone company and radio must be given a chance to develop and find its place independently of both. If, in the past, it was necessary that the Western Union have a competitor in the telegraph field to bring it to its high state of development and prosperity, which Mr. Carlton has claimed, and with which I agree, certainly with this new merger, there will be a place for a competitor in the form of radio.

In the early days of testing trans-Atlantic radio, the cable and wire-telegraph executives stated that radio could not possibly compete with cable. This was my feeling also, yet Mr. Nally and Mr. Sarnoff and others thought that the experiment of radio competition with cable was worth attempting. As a result of their courage and vision, radiotelegraph companies prospered and the development of point-to-point radio is well known. R.C.A. has its 40 direct circuits to foreign countries. This is the service which is taking the business from the two cable companies and reducing the income of the Western Union and Postal. None of this would have come about, at least from this side of the Atlantic, if radio had been kept under telegraph and cable executives.

The same parallel may be expected if merged wire companies are permitted to control domestic radio. The radio art is not developed and with micro and ultra-short waves for local pick-up and distribution, who knows what the position of radio will be 30 years hence if the opportunity is given?

Certainly, national defense must not dominate a picture of such economic proportions, but it is an important part of the scheme and commercial executives must give consideration to it, particularly to the interest of the military services in the radio. If we permit the set-up of communications of the United States to drift into a situation where development will not naturally keep pace with other

leading powers, our Army and Navy will be that much less efficient and less able to perform their functions in national emergencies.

To enlarge on the Navy's utter dependency on radio communications, it is a foregone conclusion that in future wars, as indeed was the case in the World War, our naval commanders must rely on the radio to give them the first information of the enemy, his strength, his position, and whither he is bound.

They can no longer control the activities of their own forces by the medium of visual signals, scattered as they will most certainly be over many miles of the surface of the ocean. They must rely on radio to coordinate the efforts of the fleet and to signify the plan of the Commander in Chief to all so that each unit will act in harmony with the other to carry out his plan.

Only by radio can the activities of our aircraft be controlled. Only by radio can they transmit such information that they may gather to the commander. The accuracy of fire of our big guns on the battleships will depend on the information transmitted to them from observers by radio signals. The control of aircraft bombing attacks and gas attacks will depend on the efficiency of radio communication between the units of the attacking force.

In war, accuracy and speed in communications is everything. With our treaty navies, the loss of a few moments may determine victory or defeat. It is vital, therefore, for both the Army and Navy, that development of radio in the United States be assured until all its possibilities have been exhausted and that this development be pushed at a rapid pace.

For these reasons, it is essential that commercial radio communication not only be retained in the hands of a company or companies who have no favors to seek from possible future enemies, but that a strong organization be formed which will assure it to prosper with resultant rapid development.

In the hysteria of the present moment, we must not cast aside the advantages to our Nation of the set-up worked out by Admiral Bullard and Mr. Young in 1919 under the Wilson administration. The reasons for a strong American radio company are even greater today than they were then. Other things being equal, the Nation which possesses the better radio system, possesses better control over public opinion and military secrets. That nation will also possess greater advantages in both foreign and domestic trade and her ships, both merchant and naval, will travel in greater security on their missions during peace and war.

To return to the peace-time aspects of commercial radio. There is no more reason for amalgamating all of our communication systems than there is for amalgamating all competing gasoline filling stations. The public must buy gasoline. It will purchase gasoline from those stations which sell the best gasoline for the money, render the best service and are located in central positions. The public must also send messages, and it will send them through those systems which offer them the best dependable service for the money and through those systems whose offices are centrally located.

The situation confronting the communication companies of the United States is now very similar to that which the commercial carriers face. The railroads and the telegraph systems appeared first and were developed by private competing enterprises. Both find their greatest utility over long hauls and their use is restricted to fixed routes. First costs and maintenance are comparatively high. In order to make use of them, people have to make a special effort. That is, they must go to the termini, or in recent years, make use of other means to transport themselves or the message to the stations.

The telephone and the automobile next appeared. Both are designed for personal use. The telephone is usually found on the desk at the user's elbow and the automobile is kept in the garage back of the house. Both are available for instant use and are invaluable in shortening the daily tasks of life. As a consequence, they have grown enormously and are almost universally used. Their spheres of usefulness have broadened in recent years. Long-distance telephone circuits span the continent and transcontinental bus lines extend from coast to coast. The railroads and telegraph companies have had to lower their rates considerably to meet these new competitors and even so are still having difficulty in meeting them.

The next utilities to appear in the transportation and communication fields were the radiotelegraph and aviation. Both these utilities give more rapid, direct, and cheaper service than the preceding ones. Neither of these services has been developed to any extent and the possibilities of both are almost untouched.

Who would dream of compelling the bus companies to merge with the railroads, to be administered and have their rates determined by them at the present stage of development? Who would dream of requiring the telephone to merge with the

telegraph with the same ensuing results? All the advantages of competition with its vastly cheaper rates and better service would be lost.

And finally, would the public or Congress or the aviation companies consent to compelling aviation with its unlimited possibilities as a carrier to be merged into either the railroad, or the automobile industries? It must be plain that either of these mergers would be a knockout blow to the struggling aviation industry. To enable railroads to keep their heads above water, the development of aviation would be retarded. The automobile business is a going concern, and offers a utility in great demand. Its interest is in perfecting and selling this utility. All its efforts are needed in this direction. It would have little interest in furthering the development of aviation.

The exact analogy holds true for the radio industry. If it is bound to the dying cable and wire telegraph business, its growth will be retarded to save the excessive upkeep costs of that unwieldy system. If it be merged with the powerful telephone company, it becomes merged with a highly complex, huge and extensive monopoly whose sole effort, in serving millions of people, is to give adequate, well-administered service at reasonable rates. This undertaking is large enough for any one organization, no matter how efficient and I say it has no room for the vast radio systems of this country. It is beyond the bounds of reason, under the present conditions, to expect the telephone company to give the thought, energy, and support to the advancement of radio which a radio company must of necessity give in order to obtain a place in the sun or survive.

In 1929 Great Britain concluded a gigantic merger of all her cable and radio companies. Perhaps we can gain some idea of what to expect of such a combine by studying the history of this merger.

To begin with, the situation in Great Britain in 1928 was similar in many respects to what it is in the United States today. The wireless companies had forced the cable companies to reduce their rates, but the radio companies were still operating at a large profit while the cable companies were reduced to a serious position. To save the cable companies from destruction, the conference decided to merge all wireless and cable interests in one company under the control of the Government. What has been the result?

At the time of the merger, the standard net revenue was fixed at 1,865,000 pounds. Great care was taken by the most responsible men in the Empire to arrive at a just figure here, and it must be taken as what they sincerely thought was a conservative estimate of the merger's earning capacity.

Excess net revenue was to have been divided 50 percent to the company and 50 percent to reduction of rates.

This net revenue, however, has never been earned.

In 1929 it was approximately 1,445,976 pounds; 1930, 1,386,875; 1931, 717,080; 1932, 700,180, or only about one third of the standard net earnings.

In 1929 and 1930 full dividends were paid on the 5½-percent preferred stock. The cable companies own about six times as many of these shares as the radio interests. Only 2½ percent was paid in 1931 and 1932. No dividends have ever been paid on either class A or B stocks. The cable interests and radio interests own about an equal amount of this stock.

The revenue of the Marconi Co. has dropped from 300,745 pounds in 1929 to 53,646 pounds in 1932 and is now about one sixth of what it was then.

That the Marconi Wireless regrets having entered this merger cannot be doubted as witness the chairman's report at the annual general meeting, July 1930. (They were earning about four times as much (201,889 pounds) in 1930 as they are now.)

He said:

"Your directors recommended the shareholder to make the exchange, and they are still of opinion that that advice was right in the circumstances. Looking back on the conditions under which we had to take our decision, we are satisfied that no other advice was possible. I have seen the statement made in more than one quarter that the advice we gave our shareholders was wrong, since, if we had declined to merge with the cable companies, we had such a powerful weapon in wireless that by developing our services to their fullest possible extent we could have put the cable companies out of business. The argument put forward is that we were at the very beginning of the possibilities of wireless, whilst the cables had arrived at a point when they were proving so expensive that it was doubtful whether they could be continued at a profit.

"In these circumstances, our critics say, all we had to do was to continue as a separate entity and in time to step into the whole of the business of the cable

companies. Unfortunately, this was not the case. Had it been, we should never have advised our shareholders to enter into the merger. What is forgotten is that when we went before the Imperial Wireless and Cable Conference we were told that the Marconi Co. would not be allowed to destroy the business of the cable companies; in other words, that if we did not come to an agreement, an arrangement would be made between the Government and the cable companies. We should then have found ourselves faced with the competition of the Government and the cable companies acting together, and the cable companies with their huge reserves, amounting to many millions, could have embarked on a rate war which would have had disastrous consequences to the revenues of our companies in India, South Africa, Canada, and Australia, as well as on the revenues of our own services from this country."

In other words, *he can only justify the merger by the threat of the government to back the cables against Marconi Wireless.* If we are to preserve the leadership in radio which we now possess, we must be warned by the unfortunate results of this merger.

The question of the regulation of rates must be given consideration. It is undoubtedly true at the present time, in the midst of the depression, that anyone of several companies with slight readjustments could take over the work of the several competitors and in a short period could make cheaper rates available to the public. A single monopoly of all types of communications would have the potential ability of giving the public the cheapest rates possible. As stated before, the technical developments will be retarded and for this reason alone, such mergers should not be permitted. Also, regulations of rates by the Federal or State governments is a complicated problem and it requires a large machine at the present to protect the interests of the public. Competition, on the other hand, provides a natural means of rate control, necessitating merely a checking, regulatory body. In addition, however, there is the fact that a merger of all communications under a single head would create more unemployment at the present time and this fact must be given due weight when considering the extent to which mergers may be permitted.

GENERAL CONCLUSIONS

A domestic radio company has been proposed by both the R.C.A. and the Mackay company. The companies have stated that they believe such a system practical from an operating standpoint and within a short period, ultra high frequencies will make it practical from an engineering viewpoint.

With the employment of high frequencies, "party radio lines" to certain main points in the United States for foreign traffic should be set up. For example, have Chicago, Detroit, Pittsburgh, and New York on the same frequencies to Europe. A small domestic distribution cost would be saved and if properly administered, the foreign traffic in itself would pay. For domestic distribution, a domestic radio service to communities of 50,000 or over and other key cities could be instituted. The investment in such a service is certainly small in comparison to the wire companies' investment in property and the cost of leasing wires from the telephone company.

A pick-up and delivery service in the cities could not exceed the proportionate cost of this service to wire telegraph companies. This service costs the Postal Co. about $2,000,000 a year and Western Union Co. about $5,000,000. In the case of the Postal Co., it is about one tenth of the entire operating cost and one fifteenth of the Western Union operating expenses. To reach communities where direct radio service is not available, wire telephone could be utilized to a great extent as is now done by the Postal Co.

Office space would certainly not exceed that used by wire companies. In fact this large item of operating expense, about 20 percent, would be considerably cut.

The upkeep of connecting lines would not exist. The entire engineering cost is low. The capital investment is found only in the radio transmitting and receiving plant. This upkeep would be a fractional part of the cost of keeping wire system running.

The speed of transmission would be equal to that of wire companies and to many points where wires require a relay, it would be faster.

Under normal conditions, accuracy would be equal to that of wire lines. Under certain atmospheric conditions, more repeats would be required by radio. On the other hand, when floods, fire, earthquakes, or other disasters occur, radio would be more reliable and certainly be easier to again place in operation.

In addition, the investment loss would be smaller by radio under such circumstances.

To sum up the situation, a combined foreign-domestic radio service has great possibilities. It can and will compete with wire systems unless a general amalgamation is permitted. If such a combine is allowed, it will be a definite setback to the science of radio.

ENCLOSURE (D)

COPY

EXTRACT FROM LETTER FROM THE SECRETARY OF THE NAVY TO THE CHAIRMAN, INTERSTATE COMMERCE COMMITTEE, DATED MARCH 22, 1932

It it were possible to create an absolute neutral and unbiased world-wide international communication organization, such an organization might prove an excellent and prosperous one, despite the fact that it would stifle competition and development in the several phases of communications and would provide no safeguard of the public's interests. The creation of an international communication company that will serve all nations with the same degree of impartiality can never be possible until after the day that nationalism and national trade rivalries have ceased to exist.

For over three quarters of a century, all of the great powers of the world, except the United States, have realized the immense importance and advantages of nationally controlled communications in the development of their national commerce and their national policies. To gain the advantages that accrued from the control of communications, the great nations built up their own world-wide systems of submarine cables, and American commerce suffered from being left at the mercy of these foreign-owned communication systems. With the advent of radio, the same foreign nations that controlled the cables of the world set about and were in a fair way to obtain world-wide control of radio. But the lessons that the United States had learned from the foreign dominance of the cables and the dangers from espionage and propaganda disseminated through foreign-owned radio stations in the United States prior to and during the war brought about the passage of the Radio Act of 1927, which was intended to preclude any foreign dominance in American radio, the only field for international communications that was not already dominated by foreign interests.

The great nations of the world fully realized the tremendous importance, both to commerce and national defense, of owning and controlling their own radio systems. Great Britain, France, Germany, Russia, and Japan have all built up radio systems controlled either by the government itself or by strictly national corporations, and these countries will never consent to the injection of international influence in their communication organizations.

Considering from a strictly national defense point of view, the question of international ownership or dominance of American radio companies, a few of the more salient objections should be emphasized. In the event of war between other nations, nationally owned companies would be expected to scrupulously guard against committing an unneutral act, whereas, an international company would not only lack the same incentive, but might even find it advantageous to perform unneutral service. Such stations might easily be employed in espionage work and in the dissemination of subversive propaganda.

It is not sufficient that the military forces have authority to assume control of radio stations in war. A certain amount of liasion between radio company executives and Department officials responsible for Government communications is required in peacetime. Familiarity on the part of commercial executives of American radio companies with communication operating methods, plans and developments of the military Departments of the Government is certainly to the best interests of the Nation. Some of these matters are of a very secret nature. For the Navy Department to initiate and carry out this important contact with commercial companies, the divulging of confidential plans to directors is necessary. This is obviously impossible with even one foreigner on the board.

International companies must have agreements between their subsidiaries and the parent companies for a free exchange of information. Foreign personnel are transferred from one subsidiary to another so as to obtain intimate knowledge of the methods and equipment employed by other branches. It is impossible for a military service to work in close cooperation with or disclose its new developments to an organization which has foreign affiliations of this nature and employs foreign personnel.

With these points in mind—commercial and national defense—and realizing the foreign dominance in cables, it must be apparent that no truly international communication system is possible. Nations will not agree to the relinquishing of their leadership in any branch of the field when such factors may affect adversely, their commerce or national defense. National ownership or control of communication systems will continue to exist and no other practical plan for the great nations can be foreseen at the present time. Until world conditions are changed, this Department will look with apprehension upon any legislation which permits communication companies in this country to be subject to foreign influence. Such companies must of necessity include international companies.

ENCLOSURE (E)

DOMESTIC RADIO COMMUNICATIONS

1. Attention is invited to enclosure F which shows that already 50 stations within the United States, using 130 frequency channels, are now licensed for domestic commercial radio communication. It will be impossible, I believe, to stop this service, and if it is not stopped, there will be geographic areas which are not served by radio which will insist that it is sectional favoritism to permit domestic radio in one area and not in another. There was an argument such as this in Congress in 1929 which resulted in the passage of the Davis amendment to the Radio Act of 1927, requiring equal treatment in all geographic zones as regards power and wave lengths. Another situation arises in this connection which must be carefully considered. New York now enjoys direct radio communication with Europe. Chicago, which can communicate by radio with Europe just as easily as New York, should not be forbidden that privilege, and if they are, the people of Chicago will insist again that is is sectional favoritism to permit such communication to New York and not to Chicago.

2. The Navy member of the committee has never contended that domestic radio should be extended faster than available frequencies permit. The Navy member desires to let the domestic radio, especially feeder circuits necessary for use in conjunction with transoceanic circuits, extend as frequencies can be considered available and as the art develops.

3. The domestic frequency situation is about as follows: There are already available 100 channels unassigned. Between R.C.A. and Mackay there are already assigned about 39 frequencies for domestic service. Press Wireless, Inc., now has 20 frequencies for domestic point-to-point work. Certain high frequencies below 6,000 kcs are now used for transoceanic work. A great many of these frequencies could be shared (part or all time) with a domestic radio company. Sixty-three of these frequencies are already so assigned.

4. It is thus evident that there are available at least 130 frequencies in the 3,000–6,000 kcs band for the domestic radio company in question, and at least 30 more frequencies can be made available from sources above indicated. This is the number that one company determined they would utilize to link 110 cities. However, this company contemplated using about 40 channels to provide about 160 circuits. In fact, it was demonstrated that the company could work with but 750-cycle separation in the 3,000–6,000 kcs band. With 160 frequencies available, it should be possible to utilize 160 frequencies for 4 times 160 or 640 circuits.

5. While difficulties would no doubt prevent the practical use of 640 circuits with but 160 frequencies, nevertheless, it appears that there should be an ample number of frequencies for a domestic radio company, even though the traffic load between points cannot be definitely determined. The company which determined that it needed 160 circuits to serve 110 cities failed primarily because of lack of financial backing to weather the starting period—not because of technical difficulties.

6. The number of channels is sufficient for service between the principal cities of the United States. If there is built up a unified radio company for overseas and domestic commercial service, there will also be available the frequencies which would be released by amalgamating not only Mackay and R.C.A., but Globe Wireless channels, Tropical Radio Telegraph Co. channels, Press Wireless, American News, and others. This will take care of the domestic field except for connecting to the big cities the areas surrounding them. It is my idea that eventually the developments in superhigh frequencies and microrays which would carry 20–200 miles (varying on the frequencies) will be used for such local pick-up and delivery service. This is the development that we should be interested to see coming about and from which our services will gain the benefit.

Mr. Marconi has already been able to communicate 180 miles on a wave length less than a foot in length and says that only because of the lack of development of a suitable tube does this field remain open. When the field is opened up, there will be thousands of channels for short-distance work available which can be used simultaneously in adjacent areas 20 to 200 miles apart.

7. If the radio is put under the wire companies, they will not be interested in this development. They will wish to maintain the status quo. Their plant is now built and in operation, and their executives are "wire minded." I have no objection to letting the Western Union absorb the Postal Telegraph. Such a merger would add $20,000,000 to the gross annual receipts of the Western Union without additional operating expense, and the Western Union is also operating at a good profit on capital investment. At the same time we object to closing the door to competition entirely and this door will be closed if the Western Union absorbs the Postal Telegraph Co. and radio is not allowed to compete. The danger of radio making sufficient inroads to eat up the $20,000,000 additional is very remote—at least as far as we can see—but the competition will suffice to keep the combined Western Union-Postal Telegraph Co. from raising rates and decreasing the efficiency of their service. I have noticed that the express service has decreased in efficiency and courtesy very materially since it was merged under the head of Railway Express. They will no longer make deliveries on Saturday afternoons, Sundays, or holidays.

8. Prior to the advent of radio, the British controlled, through cables, the communications of the world. Through this their advantages in trade, influence on world opinion, and national defense were tremendous.

9. Through the formation of an American Radio Co., as a result of efforts of the Navy Department, that British strangle hold on communications was broken, and today we have an independent American radio set-up of circuits connecting this country with all the great world centers, and absolutely independent of the cables.

10. Because of the inability of these radio circuits to connect domestically with our interior cities, the radio company has had to make certain agreements with the wire-cable companies which are drawing them in under the control of these companies.

11. Now, I am reliably informed that the heads of the Western Union, International Telephone & Telegraph, and Radio Corporation of America are in London holding some sort of a conferenc amongst themselves and with the British cable and radio merger officials. In this, I foresee the drift toward an international set-up, which, if it comes about, will be dominated by the British. And if this comes about, the British will have broken down our independence in radio, and will have regained not only the domination of cable-communications control, but also the domination of cable and radio control of record communications.

12. The knowledge that these officials were going to London was carefully kept from us.

13. As to the statement that I am the only one favoring my set-up, I admit that the bankers who own the great companies and the executives of these companies are opposed to me and desire a merger. But, I know also that the men who have worked in radio a lifetime and fought against the wire interests to get a place in the sun for radio are with me. Most of them are employed by these big companies and therefore do not dare say so, but they tell me so in private. I have had 5 visitors call on me in the last 10 days to volunteer their views on this subject, and they are all in favor of keeping radio separate from the wires and cables. Even if I were alone in this that would prove little. I noted that for years the railroads did everything possible to discredit the man who has recently been appointed head of the Federal Transportation Commission because of his views, but now he has more support in this field than anyone else. Numerous examples of similar men stand out as the means of progress and history.

14. If the radio comes under the domination of wire and cable interests, we must remember that there must be some sort of an international control clearing house on all matters of rates, service, interference, and routing of traffic. Our Government is not organized to compete against the British Empire in matters of this sort and the British Communications Committee will gradually but surely obtain complete dominance of the situation.

15. Who knows what the future will open up in radio which will be of value to the military and naval services? Now, we have the art in its infancy, but the day may come when radio communications, radio interference, radio control of

ships, aircraft, automobiles, bombs, chemicals, radio control of explosives secreted under bridges and rocks, news, propaganda, espionage, and many other unforeseen activities will give the Nation which controls the air the advantage which will make for victory or defeat. We must permit the maximum development of this art, and keep it clear of direct or indirect foreign control to safeguard our future.

16. I call particular attention to the statement of the Chief of the Radio Division of the Bureau of Standards in the minutes of one of the President's Communication Committee meetings, where he said in substance that if a communication set-up is made which constrains one branch of communications, research will not develop as rapidly in that branch.

17. Every new art must fight its way against the old, and this question of opposition of domestic radio is simply history repeating itself.

S. C. HOOPER,
Captain, United States Navy.

ENCLOSURE (F)

NAVY DEPARTMENT,
OFFICE OF CHIEF OF NAVAL OPERATIONS,
Washington, November 8, 1933.

MEMORANDUM

Subject: Frequencies now in use for domestic radiotelegraph communication.

The following shows commercial radio stations working within the United States on a point-to-point basis as of October 15, 1933, together with frequencies used and owners of stations.

Combined exterior and interior wave lengths.
x Stations on wave lengths under construction.
Authority for the data, Federal Radio Commission publications.

NOTE.—Commercial coast stations, ship to shore or shore to ship, not listed. Inland waterways, Army and Navy, Department of Commerce airways, and Coast Guard stations not included, as they are not commercial.

RADIOMARINE CORPORATION OF AMERICA

New York, 170–442.
San Francisco, 436–3120–5100–5110.
Duluth, 167–177–410–425–454–3120.
Chicago, 167–177–410–425–454.
Cleveland, 161–177–425.
Buffalo, 161–177–410–425–454–3120.
Portland, Oreg., 131–170–478.

RADIO COMMISSION OF AMERICA COMMUNICATIONS, INC.

New York, #4276–#4500–5180–5190–#13855–#17860.
San Francisco, 5100–5110–#9010–#13690.

CENTRAL RADIOTELEGRAPH CO. (MICHIGAN LIMESTONE AND CHEMICAL CO., A SUBSIDIARY OF UNITED STATES STEEL CO.)

Rogers City, Mich., 165–177–410–425–454.
This station works the following RMCA stations: Duluth, Chicago, Cleveland, and Buffalo.

MICHIGAN WIRELESS TELEGRAPH CO. (HURON TRANSPORTATION CO.)

Alpena, Mich., 163–177–410–425–454.
Wyandotte, Mich., 163–177–410–425–454.

WABASH RADIO CORPORATION (ANN ARBOR R.R., SUBSIDIARY WABASH R.R.)

Frankfort, Mich., 169–410–425–454.
Manitowoc, Mich., 169–410–425–454.
Manistique, Mich., 169–410–425–454.

PERE MARQUETTE RADIO CORPORATION (PERE MARQUETTE R.R.)

Ludington, Mich., 169–410–425–454.
This station works above Wabash stations.

WESTERN RADIO TELEGRAPH CO. (SEVERAL OIL COMPANIES)

Bartlesville, Tex., 182.
Borger, Tex., 182.
Breckenridge, Tex., 182.

TROPICAL RADIO TELEGRAPH CO.

Boston, 436–3120–6770–#6777.5–#10450–#10460–#12940–#12955–#17580.
Miami, 436–#6770–#6777.5–#10450–#10460–#12955.
New Orleans, #6777.5–#6785–#10460–#12955–#12970.
Mobile, 6777.5–#6785–#12970.

MACKAY RADIO TELEGRAPH CO. (I. T. & T. CORPORATION)

New York, 392–418–474–5245–5990–7668.5–7752.5–#7760–8980–#8990–#10170–#10820–#13015–#14710–#14725–#15580.
x Chicago, 4650–4655–5230–5240–5980–7760–8970–8990–10170–13030–14695.
x New Orleans, 4675–5235–7745–9290–10820.
x Seattle, 5225–7737.5–13015–13030.
Portland, Oreg., 34.50–47.50–71.26–418–3120–4670–7655–8980.
San Francisco, 55.36–418–3120–13690.
Los Angeles, 39.9–51.68–63.18–68.92–79.32–418–3120–4395–4400–4405–x5250–5975–5980–5985–#6875–#7655–#7670–7752.5–8710–8810–#8850–#10890–#13750–14725–#15535.

PRESS WIRELESS, INC. (SEVEN NEWSPAPERS)

Los Angeles, #4730–#5290–x5335–#5240–#5350–5360–#6920–#8810–#14635–#15640.
Salt Lake City, 5290.
Kansas City, 4720.
Denver, 4725.
x Atlanta, 5300.
x Memphis, 5300.
x Minneapolis, 5335.
x Dallas, 4715.
Seattle, 4735.
x Washington, D.C., #4715–#4725–#4735–5285–#5295–#5335–#5345–#5355–#6920–#7340–#7355–#7850.
New York, #4715–#4725–#4730–#4735–#5285–#5295–5300–#5345–#5350–5355–#5360–#6920–#7715–#7820–#7850–#14635–15580–#15730–#15850.
Chicago, 4735–#5305–5340–#5350–5360–#6920–#7340–7820–#8810–#14635–#15640.
San Francisco, #5280–5285–5290–#5295–#5300–#5305–#7355–#7715–#7820–#14635.

GLOBE WIRELESS (ROBERT DOLLAR CO.)

New York, #7437.5–#9410–#10930–#14875–#18820–#22700.
Seattle, 460–3120–#7437.5–#9410–#10930–#14875–#18820–#22660–#22700.
San Francisco, 460–3120–#7430–#9410–#10930–#14860–14875–#18820–#22700.
Los Angeles, 460–3120–4395–4400–4405–#7437.5–#9410–#10930–#14875–#18820–#22700.

AMERICAN RADIO NEWS (HEARST)

x Atlanta, 95.
x Redwood City, Calif., 95–99–9230–9300–10090.
Chicago (Tinley Park, Ill.), 95–99–x7625–7640–9320–9390–10090.
New York (Carlstadt, N.J.), 95–99–#7625–#7640–#9230–#9390–#10090.

The total number of frequencies allocated to this service is 130 and are as shown below. Sixty-three of these frequencies are used for both internal and external radio transmission.

34. 50	5110	#7820
39. 90	5180	#7850
47. 50	5190	8710
51. 68	5225	#8810
55. 36	5230	8850
63. 18	5235	8970
68. 92	5240	#8980
71. 26	5245	#8990
79. 32	5250	#9010
95. 00	#5280	#9230
99. 00	#5285	9290
131	#5290	9320
161	#5295	#9390
163	#5300	#9410
165	#5305	10090
169	#5335	#10170
170	#5340	#10450
177	#5345	#10460
182	#5350	#10820
410	5355	#10890
418	#5369	#10930
425	5975	#12940
436	5980	#12955
442	5985	#12970
454	5990	#13015
460	#6770	13030
474	#6777. 5	#13690
3120	#6785	#13750
4276	#6875	#13855
4395	#6920	#14635
4400	#7340	14695
4405	#7355	#14710
#4540	7437. 5	#14725
4650	#7625	#14860
4655	7640	#14875
4670	#7655	#15580
4675	7662. 5	#15640
#4715	#7670	#15730
4720	#7715	#15850
#4725	7737. 5	#17860
#4730	7745	#18820
4735	7752. 5	#22600
5100	#7760	#22700

S. C. HOOPER.

The CHAIRMAN. We have a State commissioner or two here who have to go away, and Mr. Paul Walker, of the Oklahoma Public Service Commission, I believe is the name of his commission, is present.

STATEMENT OF PAUL WALKER, CHAIRMAN OF THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, OKLAHOMA CITY, OKLA.

Mr. WALKER. Mr. Chairman and gentlemen of the committee, I was under the impression yesterday that the State commissioners would not be reached until Friday, and I have left my memorandum in the hotel.

The CHAIRMAN. We will not be able to hold a meeting of the committee on Friday, and that is why I am asking you—that is the reason why we have gotten to you so quickly this morning.

Mr. WALKER. I am chairman of the Corporation Commission of the State of Oklahoma. My name is Paul A. Walker. I am appearing here in support of a communications bill.

My interest lies chiefly in the direction of telephone regulation. At the present time there is little or no regulation of telephones so far as rates and services are concerned. It is true that the Interstate Commerce Commission has jurisdiction over telephone and telegraph companies and their rates and services, but it is known to everyone that the Interstate Commerce Commission has never found it practical to do anything toward the regulation of telephone rates. That is not said by way of criticism of the Interstate Commerce Commission. It has been a very much overworked commission and has never had any opportunity or any personnel or organization to devote to telephone rates, and no appropriation therefor.

The telephone problem is so vast that a State or a State commission, equipped, even as the best equipped State commissions are, is practically helpless. That is, a State commission is virtually powerless to regulate telephone rates. I will give you one practical example. Some time ago, something like 2 years ago, the Corporation Commission of Oklahoma entered into a general investigation of telephone rates and services. We took up first the question of toll rates, made an appraisal of the toll properties of the Southwestern Bell Telephone Co. That matter got far enough along for the engineers and the accountants to make their reports to the commission and to introduce their exhibits showing these inventories of the toll properties and a general accounting of the toll business of the Southwestern Bell Telephone Co. The hearings developed at that time that the Southwestern Bell Telephone Co. had spent something like $300,000 in the some 18 months during which the investigation was under way, in making an appraisal of the toll and exchange properties in the State of Oklahoma and an accounting thereon.

The State, while it had a relatively liberal appropriation for utilities investigations—approximately $50,000 per year—was able to spend not to exceed $20,000 on the investigation, because at the same time it had under way an investigation of the natural-gas rates, an investigation of the electric rates, and some other matters. So you can see, from the standpoint of matching dollars, so to speak, and all that goes with it, that it is an impossibility for the State of Oklahoma to do the work in any reasonable time necessary to make anything like the same kind of a showing that the telephone company makes. Now, in a situation of that sort, of course the public does not get its day in court, as I see it. This is not said particularly in criticism of the telephone company. It is said in criticism of the condition as it exists today.

Another thing, even if the State had the money, the interstate feature of the matter, the ramifications of the holding companies, the complications brought about by the manufacturing companies which sell to the telephone companies, makes it an impossibility for the State commission to get anywhere so far as results are concerned in a telephone-rate investigation.

Now, so far as the exchanges, local exchanges, are concerned, it is true that the larger share of the business is State business; not only as to that which is local to the exchange, but as to the toll service, from the majority of the exchanges. Nevertheless, the interstate features of it bring in so many complications that the State commission cannot follow them out.

If there is to be effective regulation at all of the telephone business, it must be brought about through the Federal Commission.

Now, the representatives of the National Association of Railroad and Utilities Commissioners, of which association the Corporation Commission of Oklahoma is a member, has discussed the features of the bill with a view to protecting State rights. I have always been a believer in State rights and supporter of State rights, and what I say is not to be construed at all as an attack on State regulation, but in support of effective State regulation of telephone rates.

The same argument and statement I am making applies so far as the principles are involved, or are concerned, to the telegraph business. I am making no attempt to go into the other agencies or methods of communications.

Again, to sum up, let me say that I am heartily in favor of this bill and of an interstate Communications Commission. I think such commission ought to be separate and apart from other Government departments and given an opportunity to function much as the Interstate Commerce Commission has been. and that the set-up ought to be somewhat along that line.

I thank you, Mr. Chairman.

The CHAIRMAN. We are very much obliged to you, Mr. Walker.

The CHAIRMAN. Mr. Benton, who is the next witness?

Mr. BENTON. Mr. Kit F. Clardy has come in, Mr. Chairman.

The CHAIRMAN. We will give him 5 minutes.

STATEMENT OF KIT F. CLARDY, CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS

Mr. CLARDY. Mr. Chairman and members of the committee; may I at the outset thank you very much for the opportunity to appear at this time this morning.

As chairman of the legislative committee of the National Association of Railroad and Utilities Commissioners, I would like to add to what Chairman Walker of the Oklahoma commission has said, and in further extension of those remarks, I would like to call the committee's special attention to the particular things in which the State commissions are vitally interested.

We are apprehensive, of course, lest in the course of passage of the bill through the Congress some slip may occur. We are very well satisfied with the general nature of the bill as it now stands; but a similar bill in the Senate has been redrafted so that certain of the provisions are altered in such a way as to perhaps result in crippling State regulation of accounts and depreciation in a very vital way. We would like to emphasize the fact that 98 percent of the business is intrastate business and subject to State control, and that it would hardly be meet, to use the homely phrase used by one of the members of our committee, to let the 2 percent tail wag the 98 percent dog.

The control of the interstate feature is important. The furnishing of information to the States is vital; but it is not vital enough to justify any legislation which would destroy State regulation; because after all, the only effective control so far as intrastate rates is concerned must be afforded by State commissions. Furthermore—and here is a fact that perhaps may be new to some of you—in the State of Michigan, alone, there are approximately 1,400 telephone companies. You cannot multiply that by 48 to find the total number of telephone companies in the Nation, but there are thousands and thousands of companies, most of which are small farmer and small rural companies, that present almost exclusively a State problem.

To permit the Federal Commission, therefore, to have its jurisdiction extended in the same way that the Shreveport decision extended the jurisdiction of the Interstate Commerce Commission, so far as railroads are concerned, would be fatal. I have no apprehension that this bill will come out of the hopper in that shape, but I do not believe that it will serve any bad purpose to call attention to the fact that because of the very size of the bill and of the emphasis that has been placed on the necessity for Federal regulation, there may be some disposition to perhaps overestimate the importance of the Federal regulatory problem.

I believe that from the standpoint of the States we could sum up our position by saying that Federal regulation should be attempted only insofar as it is necessary to supplement and round out State regulation, and perhaps make State regulation more effective by placing at the disposal of the State commissions information that we are not in very good position to obtain.

It is true that the interstate tolls will have to be regulated by the Federal Commission; but I think that on the whole it would be discovered that so far as the rate feature is concerned, interstate tolls are not very far out of line, if out of line at all. The present rate problem is, and has to do with, local exchange rates, and if the new draft of the bill now in the Senate should be permitted to pass instead of the one now before your committee, or if this bill should get into the shape of the redraft of the Dill bill we entertain some apprehension as to the effect upon State regulation.

Mr. COLE. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Cole.

Mr. COLE. Can you state how many States now have physical valuations of telephone and telegraph companies' holdings for rate purposes?

Mr. CLARDY. No; I cannot, because those are valuations which, of course, are of very little use shortly after they are completed. For instance, in our own State, the companies and the State together have just finished expending approximately $1,000,000 on valuation. I venture to say that by the time the litigation that will finally wind up and conclude that matter is finished, that that valuation will not be worth a great deal.

Mr. COLE. Is it your idea that under this bill the Commission shall go into every State and make such physical valuations? They will have to; will they not?

Mr. CLARDY. They will have to undertake that partially in order to segregate properly the inter and intra State properties. In other words, do what the States are now trying to do in each rate case, to

segregate out the property used and useful and devoted to interstate traffic and exclude that from consideration in arriving at a rate basis for intrastate rates.

You place your finger on one of the most troublesome problems. I think the estimate given yesterday that it will take practically half a million to a million to undertake this investigation is a rather optimistic estimate but the Commission will accomplish something of great value in that direction if it can assist the State commissions, especially if it can give to them a bird's-eye picture of the whole situation.

The CHAIRMAN. How many States have any regulation over rates?

Mr. CLARDY. I will have to venture a guess. It is 45, if I am not mistaken. It may be a different number than that; but it is approximately 45.

Thr CHAIRMAN. How many of them have laws that have to do with anything to do with the issuance of new securities of these companies?

Mr. CLARDY. Well, I would rather not make a guess on that. I can furnish that information for the committee, however.

The CHAIRMAN. Do you think that as many as half, or as many as a fourth?

Mr. CLARDY. I should say approximately half.

The CHAIRMAN. Half?

Mr. CLARDY. I should think so. The issuance, of course, of securities, so far as my own State is concerned, and most of those States that have securities statutes, are concerned, would prevent the validation and sale of any of the securities within the borders of the State. Some of them do not go so far as that, but so far as the A. T. & T. set-up is concerned, the parent company, so to speak, the necessity for some securities regulation from the interstate and Federal standpoint, I think is apparent enough to require discussion.

The CHAIRMAN. What proportion of the property of the telephone companies would you think are controlled by companies that do business in more than one State? A great majority, would it not be?

Mr. CLARDY. Oh, yes, sir. Well, I think one of the necessities for this particular kind of legislation is to be found in the fact that nobody could even venture a good guess to the answer to your question.

The CHAIRMAN. You do not yet challenge the doctrine in the Shreveport rate case with reference to rates for railroads?

Mr. CLARDY. I did not quite catch that, Mr. Chairman.

The CHAIRMAN. You do not challenge the wisdom of the adoption of the doctrine in the Shreveport rate case with reference to railroads?

Mr. CLARDY. Well, I am in the position of giving the usual answer that one does when he has not consulted the other members of the committee he represents, and from my own standpoint, I would be inclined to say that is so much water over the dam; and while it crippled State regulation from the rail standpoint, it is not nearly so bad as it would be in the telephone field.

The CHAIRMAN. Maybe not.

Mr. MERRITT Mr. Chairman——

The CHAIRMAN. Mr. Merritt.

Mr. MERRITT. As I understand, you say that something like 98 percent of the business is intrastate, and you do not think that this bill is essential as to that?

Mr. CLARDY. I would not put it quite that strong.

Mr. MERRITT. You are more afraid of the bill than you are in favor of it?

Mr. CLARDY. I would not say that, either. I would be afraid of it, should it be changed in such a manner as to Shreveport us out of the telephone regulatory field. In other words, if it substantially ousts us from our jurisdiction, we would be, of course, against such a bill; but we do not apprehend that you are going to change it as the redrafted Dill bill has been changed.

Mr. MERRITT. You are aware, are you not, that any Federal agency which has the spending of money in the States has a tendency to take over the authority within the States?

Mr. CLARDY. We are afraid of that. Of course, any regulatory body, I presume, would go in that direction, and in that connection there is this danger. So far as regulation of rates is concerned, this new commission will have practically nothing to do. I say that because the interstate rates represent such a small portion of the total business. Having to justify their existence, they will perhaps reach out in some other direction. It is only human nature to do so; and if they do they may go in the direction that you forecast

Mr. MERRITT. You think that their principal object would be to show that they had some reason for existing?

Mr. CLARDY. Well, human nature being what it is, I suspect that; but if the bill is properly drawn, it will prevent that and can be a great help to the State commissions. We think the bill in its present form would be of a great deal of assistance to our State commissions.

Mr. MERRITT. The other 2 percent of interstate business, on that the rates now are about right?

Mr. CLARDY. I did not hear that.

Mr. MERRITT. I say, for the 2 percent of interstate business, you think the present rates are not excessive?

Mr. CLARDY. Well, I do not think they are not excessive. I believe on comparison with intrastate rates they will be less out of line than intrastate rates. In other words, the intrastate rates is the principal problem in connection with the subject of rates in the telephone field today.

Mr. MERRITT. Under those circumstances, would you not think that a million dollars, which you think is rather too small an estimate, would be a large amount to spend for a commission to justify its existence and its interfering with the States, when the interstate rates over which it would have jurisdiction are all right, anyway?

Mr. CLARDY. No; because if they spent the money wisely, as the State commissioners hope they will, they could furnish us information that would be of great value so far as our intrastate problems are concerned.

For instance, we now have a great deal of difficulty in saying what is interstate and what is intrastate property. It is almost impossible to determine it, because every exchange and every piece of machinery and all help and everything else, may at any moment be carried over exclusively, temporarily at least, into interstate business. There has got to be some new philosophy developed, perhaps, by this commission to assist the State commissions in proper determination within a reasonable length of time.

The different States now have the difficulty, in starting a piece of telephone legislation, of ever getting to the end of it. In my own State, a decade has been consumed and we are still not anywhere near the end of the rope—at least, I do not think we are.

The CHAIRMAN. May I call your attention to the fact that you are talking about 98 percent of the rates being interstate?

Mr. CLARDY. Yes

The CHAIRMAN. May I also call your attention to the fact that about 98 percent of this bill does not have to do with rates, but has to do with other things?

Mr. CLARDY. That is right. And I am not expressing this as any criticism of the bill, but merely putting the committee and Congress, as it were, on guard against what might possibly happen unless these things were called to your attention.

Mr. MERRITT. I, in a small way, try to be on guard against having the United States absorb the whole business of the United States, interstate and intrastate.

The CHAIRMAN. May I call attention to the fact that the Interstate Commerce Commission already has power over the telephone and telegraph companies to a considerable extent.

Mr. CLARDY. Yes We, Mr. Chairman, appreciate this fact, that if the present power now given to the Interstate Commerce Commission should be exercised up to the hilt, we would not only be Shreveported out of control, but we would be checked and double-checked. We would be right out of the field entirely. Fortunately for the States, the Interstate Commerce Commission has not exercised the full measure of its power in that direction; and this bill, by limiting the power granted to the new commission, is a good step in the right direction, unless the present language of the bill should be changed.

Mr. MERRITT. This happens to be wrong?

The CHAIRMAN. Let us get your position straight. I thought that the position of the State commissioners was that they were in favor of this bill.

Mr. CLARDY. We are, Mr. Chairman, and I am trying in my feeble way make it clear that we hope that the bill as it stands will not be so changed.

The CHAIRMAN. I am afraid that you are being led off into giving the impression that you are opposed to this bill and that you would rather not have it pass. I did not want that to come about.

Mr. CLARDY. No.

The CHAIRMAN. We are very much obliged to you, Mr. Clardy.

Mr. CLARDY. Thank you.

STATEMENT OF EUGENE O. SYKES, CHAIRMAN FEDERAL RADIO COMMISSION

Commissioner SYKES. Mr. Chairman and gentlemen of the committee; my name is Eugene O. Sykes, Chairman of the Federal Radio Commission.

The Radio Commission has studied this bill and presents the following written statement.

The CHAIRMAN. I believe, Mr. Sykes, that your secretary, Mr. Petty, served as a member of this interdepartmental committee?

Commissioner SYKES. Yes, sir.

The CHAIRMAN. And endorsed the report that they made?

Commissioner SYKES. Yes, sir.

The Federal Radio Commission desires to express its endorsement of the creation of a Federal Communications Commission.

It has examined H.R. 8301 and desires to suggest the following changes, giving its reasons therefor:

(a) The jurisdiction given to the three divisions on pages 11 and 12 should be changed as follows:

(1) The Radio Broadcast Division shall have jurisdiction over all matters relating to or connected with broadcasting and with amateur service.

(2) The Telephone Division shall have jurisdiction over all matters relating to or connected with common carriers engaged in telephone communications, other than broadcasting, by wire, radio, or cable, including all forms of fixed and mobile radiotelephone service when connection is effective with a public telephone network.

(3) The Telegraph Division shall have jurisdiction over all matters relating to or connected with common carriers engaged in record communication by wire, radio, or cable, including all forms of fixed and mobile radiotelegraph service.

REASON

It is believed that this allocation of jurisdiction will result in a better coordination of related radio and wire services. Broadcasting is in itself an important subject and not related to the mobile services. The mobile services, however, are closely related to the radio services, both telegraph and telephone.

Mr. PETTENGILL. May I ask what you mean by mobile?

Commissioner SYKES. Mobile simply means a service between a station that moves and some other stations, for instance like a ship, service between ship and shore, or a ship and another ship.

Mr. PETTENGILL. Would that cover a police radio car?

Commissioner SYKES. Yes, sir; that is a mobile service.

The word "cable" is added to division (2) to make it similar to division (3). There is in existence, at least, one international telephone cable.

(b) At the end of line 22, page 12, add:

"(2) The assignment of frequencies and/or bands of frequencies to the various radio services."

REASON

All radio services must use a common medium, and the type of service is not necessarily the criterion of interference. This change will avoid conflicts of jurisdiction between divisions.

Line 23, page 12, change (2) to (3).

Line 24, page 12, change (3) to (4).

Delete, "teletype service, telephoto service."

REASON

These services are only two of many similar services which might be named and relate only to types of terminal equipment. They are forms of record communications. If permitted to be used by both telephone and telegraph companies, they come under the category of matters which fall within the jurisdiction of more than one division.

Lines 5 to 8, page 18. Amend the last sentence to read: "In any case where a conflict arises under this section as to jurisdiction of any division or where jurisdiction of a service is not allocated to a division by this act, the Commission shall decide which division shall have jurisdiction of the matter, and the decision of the Commission shall be final."

REASON

There are several radio services now in existence which are not allocated in divisions by this bill. The character of these services changes from time to

time, and it is desirable to give the Commission authority to allocate them to the division to which they are most closely related. This allocation may change as the character of the services changes.

Section 211: Insert (a) before the word "every" in line 10, page 22.

Add a paragraph to this section to read as follows:

"The Commission shall have authority to require the filing of any other contract of any carrier and shall also have authority to exempt any carrier from submitting copies of such minor contracts as the Commission may determine."

REASONS

Many contracts are and will be made by carriers with persons other than carriers in relation to matters which may be investigated under the authority conferred upon the Commission by the act. No question should arise as to the authority of the Commission to compel the filing of such contracts.

Section 214: Add the following at the end of paragraph (a), page 26:

"*Provided, however,* That the Commission may upon appropriate request being made, authorize temporary or emergency service preliminary to any proceeding under this section."

REASONS

Many cases arise where on short notice communication by means of wire, radio, or cable might be necessary and should be permitted without the formal proceeding required or intended by the section.

I might add there, Mr. Chairman, that these same suggestions were made to Senate committee, and in the amended bill introduced by Senator Dill practically all of these suggestions have been adopted and are now carried in the amended bill.

H.R. 8301 does not repeal the Radio Act of 1927, as amended, and all sections of that act not expressly repealed or amended thereby continue effective.

With the exception of section 402 of H.R. 8301, which broadens the existing provisions of section 32 of the Radio Act of 1927 so as to include "wire communications treaty" as well as "radio convention or treaty", section 501 (a) which amends section 3 of the Radio Act of 1927 by abolishing the Federal Radio Commission, and section 505, which amends section 27 of the Radio Act of 1927 so as to include "any interstate and foreign communications by wire or radio", this bill suggests no changes in the existing Radio Act of 1927.

If it is the consensus of opinion that no changes should be attempted at this session of the Congress, the Commission is willing with a single exception hereinafter set forth, to withhold its suggestions for amendment until a later date, as a Communications Commission can continue to function under the bill as it is now written.

This single exception has referenee to an amendment which has already been submitted to take care of the Mexican situation as proposed by S. 2660, Seventy third Congress, second session, as follows:

That amendment then is quoted. I see no reason for reading it. It has passed the Senate with a slight amendment, has a favorable report from the Radio Committee, from the House, and I understand is pending on the calendar. It is also incorporated in the amended bill, in the amended Senate bill. In other words, gentlemen, the Commisssion believes that so far as the radio provisions of this bill are concerned, the new commission can get along very well until it comes to make its recommendations of any proposed changes in the law 1 year from now.

There are no vital changes, in other words, that are now necessary in the Radio Act, in our opinion, and since you gentlemen are incorporating into your bill all of the present radio measures, we desire

then not to make any suggestions of amendments to the radio law; but should you desire to make any changes in the radio sections of the law, then we have suggested in the following pages certain changes that we think would be beneficial. I see no reason to read those proposed changes, because you have not gone into changes in the Radio Act. Should you desire to do so, the balance of the statement makes those suggestions, but if you do not desire to make any, we feel like the new commission can operate very nicely under the present radio law.

I believe, Mr. Chairman, that is about all I desire to say, unless someone desires to ask some questions.

The CHAIRMAN. Mr. Huddleston desires to ask you some questions.

Mr. HUDDLESTON. Mr. Sykes, may I ask your attention to the beginning of your statement and your suggestion that the work of the commission be divided with what seems to be very considerable rigidity among the divisions of the commission, as created by the provisions of the bill.

In the case of the Interstate Commerce Commission, they create their own divisions and assign the work to the proper divisions.

Now, just why should we not have the same kind of a system as applicable to this commission?

Commissioner SYKES. I see no particular objection to leaving the commission to set up its divisions itself, sir. These suggestions follow the suggestions of the bill as to the general divisions, but merely make some suggestions thereto to more clearly put into the division certain things that were not suggested in the bill.

Mr. HUDDLESTON. I have in my mind there must be inevitably some overlapping of duties and functions.

Commissioner SYKES. Oh, yes, sir; that is true.

Mr. HUDDLESTON. And while at the outset certain members of the Commission may have unusual qualifications to deal with certain aspects of the work, it seems to me undesirable that you should freeze that situation. I am impressed that the actions of the Commission should be the result of the judgment of all its members, however much they may listen to the views of those who have a special fitness in a particular line. That is the reason for my question.

Commissioner SYKES. Yes.

Mr. HUDDLESTON. I wanted to know if there was any particular reason applicable to this provision.

Commissioner SYKES. One important suggestion we made there with reference to radio is that the Commission en banc have the allocation of radio frequencies to service. Under this bill as now written the radio divisions would have that. That, of course, is a most important thing, and we think that the Commission en banc should do that.

Now, of course, the new amended Senate bill divides the Commission into grand divisions instead of 3, with 5 commissioners instead of 7; but with the suggestions made here by the Commission I think the division of services among two or three divisions would be very well allocated; but I do not know. I do not know that that is necessary. As suggested by you, the Commission, if that provision were not in the bill, could set up its own grand divisions just as the Interstate Commerce Commission does now.

Mr. HUDDLESTON. I have no idea whether the work of the three divisions will be equal.

Commissioner SYKES. Well, sir, I have thought about that a good deal and it is awfully hard to say. The broadcasting part of it, of course, we know practically what that will be. That will be a very busy division; but I can visualize with the putting into effect of this particular law that this will be one of the busiest commissions for several years, every division of it, to organize and get the necessary data, to make the necessary reports to Congress within the next year, every one of them, I think, would be very busy. In fact, I think it would be quite unusual if they can make a very exhaustive report within a year.

Mr. HUDDLESTON. Have you any comment to make on the number of the Commission, whether it should be 5 or 7?

Commissioner SYKES. Well, I do not think the number, whether it is 5 or 7, will make so much difference, provided there is appropriations so that they can set up the proper personnel.

The CHAIRMAN. Any further questions?

Mr. WOLFENDEN. Mr. Chairman——

The CHAIRMAN. Mr. Wolfenden.

Mr. WOLFENDEN. Well, then, it is your opinion that a commission of 5 would answer just as well as a commission of 7?

Commissioner SYKES. Well, I think they can do the work. I rather like the three grand divisions with a commission of 7; but I do not think that makes so much difference. I think a commission of 5 can do it all right.

Mr. PETTENGILL. Mr. Chairman——

Mr. COOPER. How many members are on the Radio Commission?

Commissioner SYKES. Five.

The CHAIRMAN. Mr. Pettengill.

Mr. PETTENGILL. What led you to recommend an antilottery section of the Federal Radio Act?

Commissioner SYKES. There is no prohibition against the broadcasting of lotteries in the present radio act.

Mr. PETTENGILL. Is it going on?

Commissioner SYKES. We have recommended several times the enactment of legislation to prevent lotteries in broadcasting.

Mr. PETTENGILL. Well, are lottery broadcasts going on at the present time?

Commissioner SYKES. In some instances, I understand they are, sir. A great many stations have discontinued it.

Mr. COLE. I might say that is being advocated before another committee right now.

Mr. PETTENGILL. Yes.

Mr. WOLVERTON. I think our colleague from New Jersey—Mr. Kenney—would be very much interested in your expression of views. At this very moment he is before the Committee on Ways and Means participating in a hearing on the very subject.

Mr. PETTENGILL. Advocating a national lottery. Advocating the advantage of his national lottery bill, and that committee has given him a hearing this morning on it.

Commissioner SYKES. I think that our postal laws prohibit anything with regard to lotteries going through the United States mails and we thought to be logical they should prohibit it from being

broadcast. We have made that recommendation to several committees. It was in one law, but the radio act had passed about 3 years ago, but it was not signed by President Hoover at the time.

Mr. COOPER. I am inclined to believe that our colleague's—Mr. Kenney's—bill would repeal that law.

Commissioner SYKES. What is that?

Mr. COOPER. I am inclined to think that his bill on lotteries would repeal those laws.

Commissioner SYKES. Yes; I imagine it would. I have not seen it, but I imagine that is what he is trying to do.

The CHAIRMAN. Any further questions?

We are very much obliged to you, Mr. Sykes.

(The remainder of the statement above referred to is as follows:)

No person, firm, company, or corporation shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Federal Radio Commission upon proper application therefor.

Such application shall contain such information as the Commission may by regulation prescribe, and the granting or refusal thereof shall be subject to the requirements of section 11 of the Radio Act of 1927 with respect to applications for station licenses or renewal or modification thereof, and the license or permission so granted shall be revocable for false statements in the application so required or when the Commission, after hearings, shall find its continuation no longer in the public interest.

REASONS

The Commission has found that radio broadcast transmitters have been located in foreign countries and programs therefor furnished largely from American studios when the party operating the station has been refused a permit to operate in this country.

However, if changes are to be considered at this session of the Congress, the Commission desires to invite the committee's attention to the following matters:

The Commission has heretofore recommended that a lottery section be added as follows:

"No person shall broadcast by means of any radio station for which a license is required by any law of the United States, and no person, firm, or corporation operating any such station shall knowingly permit the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes. Any person, firm, or corporation violating any provision of this section shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than 1 year, or both, for each and every day during which such offense occurs."

REASONS

Existing Federal statutes prohibit the importation into the United States of any lottery ticket or advertisement of any lottery (42 Stat. 936) and also the carriage from one State, Territory, or District of the United States to any other State, Territory, or District of the United States, or the advertisement thereof is forbidden (36 Stat. 1136). These statutes have not been interpreted by the courts as applied to advertising by radio broadcasting, and the foregoing amendment is suggested to carry out the legislative policy expressed therein against the dissemination of lottery information by radio in the United States.

The Commission has recommended that section 9 of the Radio Act of 1927 be amended as follows, and for the reasons hereinafter set forth:

Strike out all of section 9 of the Radio Act of 1927 as amended March 28, 1928 (45 Stat. 373) and insert in lieu thereof the following:

"In considering applications for licenses, or modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such a distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide an equitable distribution of radio service to each of the same."

REASONS

With slight changes, this is section 9 of the Radio Act of 1927 prior to its amendment. Developments during the past few years have made it possible to measure accurately radio broadcast service.

The provision of the bill which contains the "Davis amendment" to the original section 9 of the Radio Act of 1927 is contrary to natural laws and results in concentration of the use of frequencies in centers of population and a restriction of facilities in sparsely populated States, even though interference would permit the operation of one or more additional stations. Because of the size of the zones, this distribution results in providing ample broadcasting service in small zones and lack of service in large zones. Experience has proved that the section as proposed is very difficult of administration and cannot result in "an equality of radio broadcasting service." In the provision suggested, service is made an important criterion, making it possible to carry out the statutory provisions of public interest, convenience, and necessity without artificial restrictions.

It is further recommended that section 16 of the Radio Act of 1927, as amended July 1, 1930 (46 Stat. 844), be amended as follows, for the reasons hereinafter stated:

"An appeal may be taken in the manner hereinafter provided from orders of the Commission to the Court of Appeals of the District of Columbia in the following cases:

"(1) By any applicant for renewal of an existing radio station license whose application is refused by the Commission; and

"(2) By any licensee of a radio station whose license is revoked by the Commission.

"Such appeal shall be taken by filing with said court, within 20 days after the decision complained of is effective, notice in writing of said appeal and a statement of the reasons therefor, together with proof of service of a true copy of said notice and statement upon the Commission. Unless a later date is specified by the Commission as part of the decision, the decision complained of shall be considered to be effective as of the date on which public announcement of the decision is made at the office of the Commission in the city of Washington.

"Within 30 days after the filing of said appeal the Commission shall file with the court the originals or certified copies of all papers and evidence presented to it upon the application involved or upon its order revoking a license, and also a like copy of its decision thereon, and shall within 30 days thereafter file a full statement in writing of the facts and grounds for its decision as found and given by it.

"At the earliest convenient time, the court shall hear and determine upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision of the Commission and, in event the court shall render a decision and enter an order reversing the decision of the Commission, it shall remand the case to the Commission to carry out the judgment of the court: *Provided, however,* That the review by the court shall be limited to questions of law and that findings of fact by the Commission, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that the findings of the Commission are arbitrary or capricious. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under section 347 of title 28 by appellant, by the Commission, or by any interested party intervening in the appeal.

"The court may, in its discretion, enter judgment for costs in favor of or against an appellant, but not against the Commission, depending upon the nature of the issues involved upon said appeal and the outcome thereof: *Provided, however,* That his section shall not relate to or affect appeals which are filed in said court of appeals prior to the passage of this act."

REASONS

Where the Commission enters an order affecting the renewal of a radio station licen se or the revocation thereof the right to existence of a radio station is involved. No other order that could be entered under the jurisdiction conferred upon the Commission by the proposed Communications Act would affect the very right of

existence of any carrier or other company. The proposal would amend section 16 of the Radio Act of 1927 so as to afford a right of appeal in cases involving affirmative orders of the Commission, but not affording any right to appeal in cases of negative orders of the Commission.

The CHAIRMAN. Commissioner McManamy has been trying to get away and come up to the hearing. If we can, we will get through with him this morning.

The CLERK. I think that I could know in just a minute.

The CHAIRMAN. It seems that we are not going to be able to get Commissioner McManamy this morning.

Is there anyone here representing any department of the Government that has not been heard that wants to be heard?

A subcommittee of the committee is at work on the stock exchange bill. We do not have a great deal of time to work at that, if we are going to have hearings every morning and sessions of the House every afternoon. After consultation with the ranking member of the minority and some of our colaborers on the committee, and the subcommittee on the stock exchange bill, we have decided, in order to get that out of the way, to adjourn these hearings until next week.

So, we will take these hearings up not earlier than next Wednesday.

(Thereupon, at 11:25 a.m., the committee adjourned to meet at the call of the chairman.)

COMMUNICATIONS—H. R. 8301

TUESDAY, MAY 8, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We are here for a resumption of hearings on H.R. 8301, a bill to provide for the regulation of interstate and foreign commerce by wire or radio, and for other purposes. We will hear Commissioner McManamy.

STATEMENT OF COMMISSIONER FRANK McMANAMY, INTERSTATE COMMERCE COMMISSION

Commissioner MCMANAMY. Mr. Chairman and gentlemen of the committee, I appear by request of the chairman to make a statement with respect to the general features of the bill under consideration, H.R. 8301. As I understand the bill, it will create a Federal Communications Commission to regulate interstate and foreign communications by wire and radio, also the transmission of energy by radio.

This bill, H.R. 8301, is very similar to S. 2910, introduced by Senator Dill. The chief difference is in the treatment of the provisions relating to radio. This bill does not repeal the Radio Act of 1927, but abolishes the Federal Radio Commission and transfers its powers, duties, and functions under that act and any other provisions of law to the Federal Communications Commission, while the Senate bill restates the radio provisions and repeals the Radio Act of 1927. The bill also transfers to the Federal Communications Commission regulation of telephone, telegraph, and cable lines at present exercised by the Interstate Commerce Commission.

I make no comment with respect to the matters now under the jurisdiction of the Federal Radio Commission. What I shall say applies solely to the matters to be transferred from the Interstate Commerce Commission. The Interstate Commerce Commission believes it to be sound public policy and in the interest of effective and economical regulation to consolidate under a single regulatory commission such closely related activities. In addition to transferring the control presently exercised by the Interstate Commerce Commission over telephone, telegraph, and cable lines, the bill contains certain provisions increasing the power of the regulatory commission over such activities for the purpose of making the control more

complete and effective. This also appears to be sound public policy and in the interest of effective regulation. To a considerable extent the provisions of the bill reflect adaptation of the provisions of the Interstate Commerce Act to the subject matter of the bill. This we believe to be advisable because much of the Interstate Commerce Act has been construed judicially and a new act based thereon with court interpretation of various provisions would probably not be subject to such involved litigation as usually follows the enactment of new laws.

The Interstate Commerce Commission has had a limited jurisdiction over telephone, telegraph, and cable companies, whether wire or wireless, since June 18, 1910. Annual and monthly reports are filed with us by 287 telephone companies and 13 telegraph and cable companies, and monthly reports are received from 103 telephone companies and 13 telegraph and cable companies. From the reports so filed, selected financial data are compiled by our Bureau of Statistics and published in mimeograph form. The telegraph companies also file their tariffs with us under an order entered in Limitations of Liability in Transmitting Telegrams, 61 I.C.C. 541, requiring that such tariffs be filed with the Commission for its information.

Complaints with respect to rates, charges, or service of telephone, telegraph, or cable companies have been rather infrequent, but a number of such have been filed and disposed of. Under former paragraph (9), now paragraph (18), of section 5 of the Interstate Commerce Act, 285 applications for authority to consolidate have been filed, 285 hearings have been held, 284 cases have been decided, 1 has been withdrawn, and none are pending. These and other matters arising under the act have been handled as presented and our work in that respect is current. I might add that there has been a steady decrease in the number of applications filed, only six having been filed during 1933.

VALUATION

A somewhat different situation exists with respect to valuation. This is explained in our annual report for 1933, at page 76, where it is stated:

> Section 19a is applicable to all carriers subject to the provisions of the act. Insufficient appropriations have prevented us from proceeding with the valuation of carriers other than railroads with the exception of the Pullman and telegraph companies. The valuation of these latter companies is being prosecuted as far as appropriations permit. Requests for additional appropriations to value other carriers such as pipe line and telephone companies have been made from time to time.

In other words, the Commission has made no valuation of the property of telephone and radio companies, nor is any such valuation pending, and the Commission not only has advised Congress of this situation in its annual reports but also has so advised the Bureau of the Budget and congressional appropriation committees.

VALUATION OF TELEGRAPH PROPERTY

The Commission has completed the final valuation of all telegraph properties except those of the Western Union and Postal Systems, and on those it has issued tentative valuations referred to later.

The other companies are:

Bridgton Telegraph Co. (121 I.C.C. 684, V.D. 944).

Colorado & Wyoming Telegraph Co. (125 I.C.C. 95, V.D. 955).

Continental Telegraph Co. (130 I.C.C. 672, V.D. 1010).

Maryland & Delaware Telephone & Telegraph Co. (121 I.C.C. 51, V.D. 888).

Mountain Telegraph Co. (125 I.C.C. 26, V.D. 956).

Northern Telegraph Co. (125 I.C.C. 413, V.D. 953).

Philadelphia, Reading & Pottsville Telegraph Co. (32 Val Rept. 205, V.D. 1075).

Vermont International Telegraph Co. (125 I.C.C. 164, V.D. 963).

The wholly owned telegraph and telephone property of all steam railroad carriers has been included in their final valuation reports. Such property consists of about 70,000 miles of pole lines. About 30,000 miles of pole lines are jointly owned by steam carriers and the Western Union Telegraph Co. With the exception of the above-referred-to property, all other telegraph property is owned and operated by the Western Union Telegraph Co. and the Postal Telegraph Co.

Western Union Telegraph Co.: A tentative valuation report on the property of this company was served on the carrier on March 27, 1928. No final report has been made because the Western Union, in 1929, proposed that a new field inventory and report as of a current date would be of greater value, and, further, that it (the company) would make such inventory and furnish the Commission such data as might be necessary to compile a current report, the expense of the Commission being limited to expense of field representatives to check and verify the company's work. This proposal was agreed to. It is the procedure proposed in the bill now under consideration. The new inventory has been completed and field checked, and the preparation of a current valuation report is now in process and it can be submitted before the close of this year. The property of the carrier consists of about 165,000 miles of pole line with appurtenant wire, cable, equipment, etc.

Postal Telegraph Co.: A tentative valuation report on the property of this carrier was served on the carrier on August 29, 1928. Final report has not been made for the same reasons as recited with respect to the Western Union. A new inventory and compilation of report on this carrier has not been commenced because our telegraph forces, limited by the necessity of reducing staff to meet reduced appropriations, has been completely occupied with the property of the Western Union. The Postal is under agreement to commence work whenever directed. Plans are under way to begin this work shortly. It is estimated that a complete report can be ready early next year. The Postal's property consists of approximately 29,000 miles of pole line wholly owned and used, 2,000 miles of pole line jointly owned, also a large amount of owned wire on poles of other companies.

This situation is directed to the attention of the committee because it probably will be necessary to determine whether this valuation work shall be completed by the Bureau of Valuation of the Interstate Commerce Commission or be turned over to the new commission for completion.

Another fact that will require consideration is that certain telegraph lines are owned by steam carriers and will have to be so valued, and certain telegraph property is jointly owned by steam carriers and

telegraph companies. There is also property over which there is a hotly contested conflict between the telegraph companies (chiefly the Western Union) and the railroads which lies in the twilight zone of ownership and use with respect to which the Western Union has intervened in almost all of the larger railroad valuation cases claiming ownership of the telegraph lines. It probably would not be advisable to attempt to cover this situation by amendment to the bill because of the practical difficulties that would be involved. The situation can probably be adequately handled by cooperation and consultation between the two Commissions. Further discussion of this matter is contained in our report on S. 2910, a similar bill, copy of which is attached to this statement to be made a part of the record of this hearing.

Section 310 (a) contemplates the creation of joint boards from members of State commissions which will hold hearings and perform certain other duties, and provides that such joint board members shall receive allowances for expenses. It has been suggested that I direct the attention of the committee to the need for office space for such joint boards. H.R. 6836 was intended to provide for the creation of similar boards and the question of office space was given consideration by the Interstate Commerce Commission and the following recommendation was made:

> Upon recommendation of the Commission the Government authority controlling the allotment of space in public buildings shall assign for the use of the national organization of the State boards and of their representatives suitable office space and facilities which shall be at all times available for the use of joint boards created under this act and of members or representatives of said boards cooperating with the Commission under this or any other act.

In order to facilitate the work of such joint boards, your committee will probably find it desirable to incorporate in this bill a provision for the assignment of suitable office space for the use of the joint boards.

That concludes the statement which I have prepared.

The CHAIRMAN. Any questions?

Mr. PETTENGILL. Mr. Chairman——

The CHAIRMAN. Mr. Pettengill.

Mr. PETTENGILL. Mr. Commissioner, what would be your recommendation about the continuation of these valuation proceedings of the work which formerly was done by the Bureau of Valuation, Interstate Commerce Commission, now to be turned over to the new commission? Could some of the personnel of the Bureau of Valuation of the Interstate Commerce Commission be loaned to the new commission and thus effect continuity of the work and so forth?

Commissioner MCMANAMY. I doubt if that could be arranged, sir; because of the number of men that are working not only on that work, but on other valuation work. It would seem to me that the economical thing though to do would be to have the Interstate Commerce Commission, Bureau of Valuation, complete this work which is well under way and which probably could be done in that way at a lesser cost than to build up a new organization; but as I have suggested in the statement here, it may be possible for that to be worked out by conferences and consultations between the two commissions. That is only my personal judgment.

Mr. PETTENGILL. In other words, if the new bill is passed and a new commission is created, it could permit the valuation provisions to be continued as they are now and with the same personnel.

Commissioner MCMANAMY. I see no reason why it could not.

Mr. PETTENGILL. At least for the time being.

Commissioner MCMANAMY. Yes, sir.

Mr. MAPES. Mr. Chairman——

The CHAIRMAN. Mr. Mapes.

Mr. MAPES. Mr. Commissioner, is there a division in the Commission that devotes its attention to the telegraph and telephone work?

Commissioner MCMANAMY. No, sir. The cases relating to that subject, which have been filed, and which have been very few have been handled by the different divisions as they may have been assigned.

We have a valuation division which devotes its entire time to that and which handles all of the valuation work.

Mr. MAPES. How much authority does the Commission have over fixing the rates and charges of telegraph and telephone companies?

Commissioner MCMANAMY, It has authority to hear complaints and fix rates and charges, on complaint. I presume that its authority is extensive enough that it could initiate an investigation on its own motion and investigate rates.

Mr. MAPES. Could it change the rates that are charged?

Commissioner MCMANAMY. Yes.

Mr. MAPES. Upon complaint?

Commissioner MCMANAMY. Yes.

Mr. MAPES. How much of the time of the Commission is devoted to that work?

Commissioner MCMANAMY. I could hardly give you an estimate, sir. It has been very small. There have been only, as I recall it now, 16 complaints filed altogether.

Mr. MAPES. That is due to the fact that the complaints are so small that you do not give more attention to it?

Commissioner MCMANAMY. Well, I do not know. The fact that we have received so few complaints is probably due to the fact that it is very difficult for one individual to complain and successfully prosecute a complaint. It costs him more than he could afford for the size of the complaint presented.

Mr. MALONEY of Connecticut. Mr. Chairman——

The CHAIRMAN. Mr. Maloney.

Mr. MALONEY of Connecticut. Would you say, Mr. Commissioner, that the activity of the public-utilities commissions of the States insofar as these utilities are concerned, is comparable with your own experience here; that it is only a small part of the work of the State commissions?

Commissioner MCMANAMY. I think that you will hear a representative of the State commissions which could give you more reliable information or more accurate information than I can on that.

Mr. MERRITT. Your idea would be that after the enactment of this legislation, it would rather tend to stir up complaints?

Commissioner MCMANAMY. Well, I cannot say as to that, sir.

Mr. MERRITT. Do you think that that would be the tendency?

Commissioner McMANAMY. No; I do not think so. I do not find that regulatory commissions attempt to stir up complaints anywhere. My impression is that they handle carefully such complaints as may be filed; and if a general situation arises which makes an investigation on their own motion necessary, they are instituted, but otherwise not. I can say that definitely so far as the Interstate Commerce Commission is concerned, we have a bureau which is solely devoted to the keeping down of complaints.

The CHAIRMAN. You think if there is going to be regulation, the matter over which, or affecting matters over which the Interstate Commerce Commission has jurisdiction, it would be well to transfer that to this new commission?

Commissioner McMANAMY. Yes. We see no objection to that.

The CHAIRMAN. We are very much obliged to you, Mr. Commissioner.

Commissioner McMANAMY. Thank you, Mr. Chairman.

(The report above referred to is as follows:)

INTERSTATE COMMERCE COMMISSION,
Washington, March 16, 1934.

Hon. C. C. DILL,
Chairman Committee on Interstate Commerce,
United States Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: The detailed study of S. 3310, creating the Federal Communications Commission, to which I referred in my statement before your committee, has now been completed, and I am authorized to make the following report in behalf of our Legislative Committee.

To a large extent the provisions of titles I, II, IV, V, and VI of the bill reflect adaptation of provisions of the Interstate Commerce Act to the subject matter of the bill. Provisions of a number of related acts also would be given application to communications, either by repeating or making reference to the provisions of those acts. Particular attention has, therefore, been given to determining whether any of the changes in language made in such adaptation will weaken those provisions or make them in any way unworkable in respect of the carriers and services subject to the bill.

As shown later in detail, some changes in language will effect a change in the application or meaning of the present law. Modification of some of those changes undoubtedly will be necessary. On the other hand, it is by no means certain that some of the changes do not represent an underlying intent of your committee to bring about such different construction. The impossibility of determining that fact from the bill, and our desire to aid in every possible way in perfecting the details of the bill, suggest the advisability of calling all changes to your attention. There can then be no oversight, and no unintended consequences. We include also reference to a few minor typographical and clerical matters. For the sake of brevity the Interstate Commerce Act is referred to as the "I.C. Act".

In determining the nature and effect of the changes, the scope of the bill as compared with the scope of the I.C. Act and related acts was first ascertained, and all similar provisions were carefully compared. This check discloses that of the acts administered by this Commission all provisions now applicable to communications are embraced in the bill, and that the bill also includes a number of provisions now applicable only to transportation. Transportation provisions of the I.C. Act which would thus be extended to communications are listed below:

Section of I.C. Act	Description of subject	Corresponding section of bill
1(4)	Duty to furnish transportation and to establish through routes	201(a).
1(6)	Reasonable classifications, regulations, practices, etc., required	201(b).
1(18)-1(22)	Convenience and necessity certificates for construction or abandonment required.	214.
6	Filing and observance of schedules of charges	203.
15(7)	Investigation and suspension of proposed changes in charges	204.
20(a) (12)	Interlocking directorates	211.
23	Mandamus to compel movement of traffic	406.

Of the remaining provisions of the I. C. Act confined to transportation and not embraced by the bill, special mention should be made of sections 1 (9) and 15 (3), (4), (6), and (8). Section 1 (9) imposes upon rail lines the duty to establish switch connections. There is no duty under the bill to establish physical connection between communication lines. Questions relating to such physical connections arose in *Okla.-Ark. Teleph. Co.* v. *Southwestern Bell Teleph. Co.* (183 I.C.C. 771). We merely mention the matter for your consideration and do not recommend that such provision be included in the bill. The paragraphs of section 15 bear upon through routes and are considered in connection with section 201 of the bill.

Because the bill is so largely patterned after the I. C. Act, there should not be the same need for court test of its provisions as is usually true of new legislation. On the other hand, the mere fact that any unnecessary change has been made is apt to lead to a conclusion by the courts that a different construction of the new provision is intended. Mere rearrangement of existing provisions would not, of course, necessarily bring about that result, and, generally speaking, little attention has been given to the order in which the provisions are set forth in the bill. But where there is any departure from the language of the acts which could open the doors to a different construction, our recommendations have been influenced by the thought that such possibility should not be permitted, unless clearly intended. Detailed consideration follows the arrangement of the bill.

TITLE I. GENERAL PROVISIONS

In the I. C. Act the carriers, transportation and transmission, and territory to which it applies are stated in section 1 (1) and (2), except that reference to section 1 (3) containing definitions is necessary. Section 2 of the bill shows the persons, communications and transmission, and certain of the territory to which it applies. It is not as clear cut and specific as the act. Not only is reference to the definitions in section 3 necessary in respect of the meaning of various terms, but reference to that section and to section 210, in an entirely different title of the bill, is necessary in respect of territorial application. Whatever may be said of sections 2 and 3 as to this feature, it is clearly more logical to include in the statement of the application of the bill the restriction in section 210 of its non-application to intrastate carriers and communication.

Section 3: The definition of "interstate" differs in an essential particular from the meaning of "interstate" under the I.C. Act. The act applies to transmission from any place in the United States through a foreign country to any other place in the United States. The bill also applies to such transmission but only when the points in the United States are not in the same State. Such transmission between points in the same State is not, of course, interstate, and unless the bill be modified, would not be subject to either Federal or State regulation.

The I.C. Act applies to telegraph, telephone, and cable companies operating by wire or wireless and "transmission" includes the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or appliances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted, collectively called messages. Under the bill, "communication" is the transmission of writing, signs, signatures, pictures, and sounds of all kind by aid of wire, cable or other like connection or by radio, and, as does "transmission of energy by radio", includes all instrumentalities, facilities, and services incidental to such transmission. Nowhere in these provisions of the bill is the word "telephone" used nor is the word "services" defined. Perhaps the words "sounds of all kinds" sufficiently designates "telephones", and perhaps the word "services" is in itself sufficient to connote "receipt, forwarding, and delivery of messages", etc. It seems preferable, however, that matters of such importance should not be left to the necessity for construction, but should be as definitely stated in the bill as they are now in the act.

The word "messages" is used in several places in the bill, notably in section 201 repeating the provision of section 1 (5) of the I.C. Act for classification of messages. Either the word "messages" wherever used should be changed to "communication", or "messages" should be defined in this section.

The definition of "person" might include "firm"; and as the succeeding definition of "corporation" includes "joint-stock company" and "association", the last two can be omitted from the definition of "person." In this connection it is noted that under section 2 the bill applies to "persons" whereas the I.C. Act applies to "common carriers." The definition of "common carrier" in the bill

includes "persons" but the definition of "person" does not include "common carrier." Both terms are used throughout the bill and care must be exercised to prevent any consequent confusion.

The limitation of "land station" to one "used for radio communication with mobile stations" seems questionable.

The word "charges" is defined in paragraph (b) of section 202. Paragraph (a) of that section prohibits discrimination and preference in charges but is by no means the only paragraph of the bill relating to charges. Inclusion of that definition in this section seems preferable.

Section 4: The numerous provisions relating to the organization and functions of the Commission are similar to sections 11, 14 (2), 14 (3), 17 (1) (in part), 18 (in part), 19 (in part), 20 (5) (in part), 20 (10) (in part), 21, and 24 of the I.C. Act. The remaining portions of sections 17 (1), 18, 19, and 20 are covered by other sections (220 and 409) of the bill.

Presumably paragraph (i) of the section is intended to cover the same ground as the following provision in section 17 (1) of the I.C. Act:

"The Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division of the Commission, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States."

This is the specific provision under which this Commission prescribes its rules of practice and the forms of pleadings before it. Paragraph (i) is more general in terms and may be sufficiently broad in scope to cover rules of practice and forms of pleading. Those matters are of such importance, however, that the question of the Commission's authority should not be left in doubt. The paragraph should be modified accordingly.

In paragraph (j) the words "or any division thereof" appearing in section 17 (1) of the I.C. Act have been omitted after the word "Commission" in line 26, sheet 10, and line 1, sheet 11. Despite the provisions of section 5 (c) of the bill, which is very largely the same as section 17 (4) of the I.C. Act, these words should be retained in paragraph (j). Their retention will not affect the length of the bill and will obviate any possibility of controversy.

In connection with paragraph (f) authorizing numerous appointments of personnel without regard to the civil-service laws or the Classification Act of 1923, it may not be amiss to point out that practically without exception positions in our organization are filled either by direct appointment from civil-service registers or by promotion of those within the ranks as training and experience enable assumption and satisfactory performance of higher grade duties. Years ago some of the higher grade positions were filled without reference to civil-service laws, but we have since found that voluntary arrangements made with the Civil Service Commission for establishment of registers covering such positions have worked extremely well.

Section 5: In the last analysis this section must reflect the policy of Congress in respect of divisions of the Commission, rather than a close adherence to similar provisions in section 17 of the I.C. Act, but there are several features upon which comment may be helpful.

Authority for the creation of divisions within this Commission was first granted in 1917 pursuant to our specific recommendation. Unlike the bill, we were left free to establish such divisions as were found necessary. Several permanent divisions have been established, to which the Commission has assigned administration of designated provisions of the I.C. Act. As occasion required the number of divisions, the personnel, and the nature of the duties of each, have been changed by the Commission, and from time to time special divisions have been created for the purpose of handling specifically assigned subjects. For example, the taking of testimony in some of the large rate cases has been before a specially constituted division. The volume of work in respect of telephone, telegraph, cable, and radio matters has not necessitated the creation of a division to handle those matters. Whether the volume of work in respect of any of these subjects, following the enactment of the bill, would require special divisions for each of the branches of communication seems highly conjectural. Moreover, specification of the divisions of the communications commission might well impose upon the entire body an irksome detailed burden of numerous minor duties in respect of other subjects which could better be handled by a division, and might give to the divisions, instead of the commission, the important task of formulating the policies and determining upon the construction of the bill in respect of major subjects.

This last contingency seems likely from the provisions of the bill. Paragraph (a) provides that the divisions shall exercise "the jurisdiction of the Commission" over radio, telephone, and telegraph matters. Paragraph (b) provides that the Commission shall have jurisdiction of all matters "which do not fall within the jurisdiction of a division". Provision is subsequently made in the bill for rehearings by the Commission of decisions of the divisions, but it would be the divisions and not the Commission which would have primary jurisdiction. In practice this Commission has found it better to act itself on novel questions, laying down general principles for guidance of the divisions in deciding subsequent like matters.

The incongruity between paragraphs (a) and (b) is intensified by the provisions of paragraph (c), which is taken largely from section 17 (4) of the I.C. Act. Under paragraph (c), the divisions shall have as to any matter under their jurisdiction "all the jurisdiction and powers conferred by law upon the Commission". But as just pointed out the Commission has only a rehearing jurisdiction over radio, telephone, and telegraph matters. There is no provision in the bill similar to section 17 (5) of the I.C. Act that nothing in the section shall be deemed to divest the Commission of any of its powers.

We believe that there would be less trouble for the Communications Commission and less need for subsequent legislative action, if this section were modified so as to follow section 17 of the I.C. Act more closely. This would be especially true if it were decided that the volume of work requires a lesser number of Commissioners than the seven proposed to be appointed. Indeed, creation of any divisions might then be entirely unnecessary at the present time. Of course, the specific provisions of the bill restricting the membership of the divisions could be retained, if desired. We express no opinion on that question, merely pointing out that such restrictions have never been considered in the creation or functioning of our divisions.

TITLE II. COMMON CARRIERS

Section 201: Paragraph (a) is an adaptation to communication companies of the provisions of section 1 (4) of the I.C. act imposing upon transportation companies the duty to furnish transportation service and to establish through routes.

Under the act, the charges applicable over the through routes must be "just and reasonable" and the facilities and the rules and regulations in respect of the operation of such routes must be "reasonable." These words have been omitted from the bill. Of course, under paragraph (b), all charges, regulations, etc., must be just and reasonable, and like requirement in (a) would seem to duplicate (b). But that is not true of facilities, which are not mentioned in (b). Furthermore, the act also contains the seemingly duplicative provisions, and that fact alone suggests the advisability of inserting the words here. There can then be no possibility of a different construction of the provision and no ground for contention that a different construction is intended.

Read literally, the bill imposes no duty upon the carriers to establish through routes prior to determination and order by the Commission. The requirement reads: "in accordance with the orders of the Commission * * * in cases where the Commission * * * finds such action necessary or desirable in the public interest." The carrier's duty should be separate from the Commission's power to require observance of the duty or to prescribe the governing rule when the carrier fails to perform its duty. The power of this Commission in respect of through routes is found in section 15 (3) and (4) of the I.C. act. That power is directly and specifically conferred. This paragraph is the only provision of the bill dealing with through routes, and it confers power upon the Communications Commission only inferentially. That course is dangerous.

Concomitantly with the duty to establish through routes and through rates, section 1 (4) of the I.C. act also requires the establishment of divisions of joint rates, and section 15 (6) gives this Commission power to fix such divisions. Probably similar provision should be made here.

Section 15 (8) of the I.C. act also confers upon the shipper the right to route his traffic when there are two or more through routes and through rates between the same points in which the originating carrier participates. Whether a similar right should be conferred in connection with the through routes for communications might be considered.

Paragraph (b) of the bill is very similar to section 1 (5) of the I.C. act requiring all charges to be just and reasonable, except that it embraces classifications, regulations, and practices which are covered by section 1 (6) of the act, applicable

only to transportation. The broadening of the bill in this respect is essential for effective administration.

The inclusion of the proviso relating to exchange of services requires some modification. Carriers subject to the I.C. act are precluded from granting free transportation except as specifically provided and may not accept anything other than money in the payment of their charges. The proviso constituted an exception to those provisions. The bill should, and probably will, receive the same construction as the act insofar as payment of charges in money is concerned, and the proviso would be sufficient to constitute an exception to that requirement. But under the bill it would be repealed from the I.C. act, and the proviso, as carried in the bill, would be insufficient to offset the application of those prohibitions of the act to dealings between transportation and communication companies.

The situation can only be met by permitting the exchange of services notwithstanding the provisions of both the I.C. act and the bill. As the bill is broader than the act for the reason that it authorizes exchange of services with any common carrier, air lines, water lines, and motor lines as well as rail lines, it is suggested that the proviso in the bill be changed to read somewhat as shown below and that the provision be not repealed from the I.C. act:

"* * * *Provided further*, That in addition to the exchange of services and passes or franks permitted by the Interstate Commerce Act, a common carrier subject to this act may contract with any common carrier not subject to the Interstate Commerce Act for the exchange of their services, if the Commission is of the opinion that such contract is not contrary to the public interest."

The reference to "passes or franks" in this suggested provision is based upon the following proviso of section 1 (7) of the I.C. Act which has not been included in the bill:

"* * * *And provided further*, That this provision shall not be construed to prohibit the privilege of passes or franks or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees, and their families of other common carriers subject to the provisions of this act."

Section 202: There is here such an intermingling of the provisions of sections 2 and 3 (1) of the I.C. Act that it is futile to attempt any determination of the possible effect of the bill. The decisions of the Supreme Court are filled with statements that abolition of discrimination, whatever its form, was the heart of the original act to regulate commerce. There are by no means as many findings under section 2 as under section 3 (1), but the issue of unjust discrimination under section 2 is frequently presented to this Commission in respect of transportation matters, and the section stands as a public protection. The length of the bill would not be appreciably affected if the provisions of the act were used almost verbatim, and we see no reason why that course should not be followed.

Section 203: The provisions of section 6 of the I.C. Act relating to the filing, use of, and observance of schedules of charges for transportation are here extended to communications, as they must be if the purposes of the bill are to be fully accomplished.

Three provisions of the act have been omitted from the bill: Paragraph (4), requiring that in joint tariffs the participating carriers be specified, and providing for the filing of concurrences; paragraph (11), relating to quotation of rates for transportation; and paragraph (12), providing for posting of the name of the rail carrier's station agent. The application of paragraphs (11) and (12) to transmission and transmission companies is probably highly conjectural, but the provisions of paragraph (4) cannot be omitted without weakening and making unworkable the provisions for establishment of through routes and through rates and publication of the schedules relating thereto.

Four matters in paragraph (a) should be mentioned:

1. Change of the word "route" in line 10, sheet 16, to "system" would conform with like change in the language of the I.C. Act made in two places in line 11.

2. The I.C. Act contains elaborate provisions for publication of charges over through routes. The bill attempts to shorten these to the clause "whether such charges are joint or separate." This is indefinite, and something like the following, in lieu of the clause quoted, might better serve to attain the ends desired: "when a through route has been established, whether the charges applicable over such through route are jointly or separately established."

3. Insertion of the words "from time to time" after "Comm ssion" in line 17 would follow the language of the I.C. Act and would remove any doubt concerning the right of the Commission to change these regulations after once prescribing them.

4. The schedules required are those showing charges for wire or radio communication. That may be the intent, but, as the bill applies to transmission of energy by radio as well, the present limitation may be an oversight.

The limitation of paragraph (c) to communication also may be an oversight. The use of "schedules" in line 6, sheet 17, instead of the words, "the charges applicable thereto", appearing in the act, is vague and may prove to be the source of controversy. The words "and regulations made thereunder" in lines 7 and 8 would be less awkward and clearly unambiguous, if changed to read, "and with the regulations made thereunder." The words "by any means or device" in line 13, read "in any manner or by any device" in the I.C. Act. As the provision would be enforced through proceedings for collection of forfeiture or penalty for violation thereof and would thus be strictly construed, it may be better to obviate any possibility of an unintended consequence by using the words of the act.

Paragraph (d), authorizing the Commission to reject any schedule which does not comply with the section or any of the Commission's regulations, goes much beyond the present provision of the I.C. Act authorizing rejection because of failure to state an effective date. Whether a given schedule does or does not comply with the section or a regulation thereunder might well be a controversial matter concerning which the carriers would be entitled to a hearing. The failure of the bill to provide such hearing might prove unconstitutional. Apart from this, it is unnecessary to broaden the provision as proposed. The next section of the bill confers power to suspend and investigate any proposed charges, or changes in charges, and that power should serve equally as well as the power of absolute rejection in all cases except the failure of the schedules to state an effective date. The act should be followed in this provision.

Paragraph (e) fixes the penalty for failure to comply with the section or the Commission's regulations or orders thereunder. The corresponding provisions of the I.C. Act is limited to the regulations and orders. Violation of the section is punishable under the general-penalty provision of section 10 (1), and is subject to a maximum fine of $5,000—a heavier penalty than that provided by the bill. Such heavier penalty may be necessary to bring about compliance with this section of the bill.

Section 204: Suspension and investigation of proposed charges or changes in charges is here provided by adaptation of the provisions pertaining to transportation charges in section 15 (7) of the I.C. Act. The important differences between the two provisions are shown in the following quotation, in which the provisions of the I.C. Act deleted from the bill are enclosed in black brackets, and the new matter inserted is in italics:

* * * the Commission * * * *may,* either upon complaint or upon its own initiative without complaint, [at once, if it so orders without answer or other formal pleading by the interested carrier or carriers, but] upon reasonable notice, * * * enter upon a hearing * * * and * * * may [from time to time] suspend the operation of such * * * charge * * * [and defer the use of such rate, fare, charge, classification, regulation, or practice,] but not for a longer period than [seven] *three* months * * * and after full hearing, [whether completed before or after the * * * charge * * * goes into effect,] the Commission may make such order * * *.

Every one of these changes is apt to interfere with the effective administration of the bill. A 3-month period of suspension has proved impracticable in the administration of the I.C. Act and unquestionably would be found impracticable under the bill. The provision for entry of accounting orders does not meet the situation. Such orders are likewise provided by the I.C. Act, yet the latter permits a 7-month suspension period. Moreover, it is not clear that an accounting order can satisfactorily be used in connection with charges for communications. The length of the bill will not be appreciably increased if the language of the act be followed closely, and that course would preclude any possibility of a weaker provision in the bill than now applies to transportation.

Section 205: In authorizing the Commission to prescribe just and reasonable charges, etc., the bill has made important changes in section 15 (1) of the I.C. Act, as follows:

First. The words "made as provided in section 13 of this Act" are omitted after the word "complaint" in line 19, sheet 19.

Second. The words "either in extension of any pending complaint or without any complaint whatever" are omitted after the word "initiative" in line 20.

Third. The references to "individual or joint" charges, classifications, etc., are dropped.

Fourth. Requirements in respect of maximum or minimum charges are dropped.

Fifth. While the cease-and-desist part of the section relates to any charge, the future part relates to any charge "for such transmission." Transmission is not defined in the bill, and it is generally used in connection with radio energy.

Little more than the mere statement of the changes is required to demonstrate the weakening of the present provision which would be effected by the bill. This is one of the most important sections, and such questions as the power of the Commission to prescribe future charges for communications should not rest upon chance when they can readily be resolved by the bill itself.

Section 207: This provision for the recovery of damages, taken from section 9 of the I.C. Act, has generally been designated in interstate commerce parlance as "election of forum for recovery of damages". In view of the omission of the words "and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt", and of the change suggested in the title of the next section, that title is preferable to the title proposed in the bill.

Section 208: This section is taken largely from section 13 (1) of the I.C. Act; although the reference to State Commissions is taken from section 13 (2) of that act. The provision of section 13 (1) for proceedings on the Commission's own motion has been carried into section 403 of the bill.

The designation of the section as "Reparation Proceedings" weakens the provision and may affect the smooth working of the whole bill. There is no separate provision for the making of complaints seeking correction of unlawful charges, etc., for the future, and this provision is not now limited to complaints for reparation. It is suggested that the section be entitled: "Complaints to the Commission."

The principal changes occur in the first sentence and are shown below (deleted matter being enclosed in black brackets and new matter in italics):

* * * any person, [firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization,] or any body politic or municipal organization, [or any common carrier] *or State commission or the similar agency of any Territory*, complaining * * *

In view of the definition of "person" in section 3 of the bill, the omission of "firm, corporation, company, or association" is of no importance. The omission of "any mercantile, agricultural, or manufacturing society or other organization" and of "any common carrier", however, may not be without effect. There have been cases before this Commission in which the right of a mercantile society to complain has been questioned, and there have been numerous instances of complaint by one carrier against another. The bill cannot leave the right of such parties to complain in doubt, without weakening the present provision.

Change has also been made in the second sentence of the section, which relieves a carrier making reparation "for the injury alleged to have been done" for liability "only for the particular violation of law thus complained of." The first clause has been changed to read "for any injury alleged to have been caused"; and the second, to "only for this violation of law thus complained of." The substitution of "any injury" for "the injury" is especially open to question. The act specifically ties "the" injury to the complaint. The use of "any" tends to ambiguity. It is safer to use the words of the act.

Section 211: The filing of contracts required by section 6 (5) of the I.C. Act extends to contracts between communication and transportation companies. With the enactment of the bill, and the concurrent repeal of the application of the act to communication companies, question might arise as to the existence of any requirement that such contracts be filed with either Commission. To obviate that possibilty, it is suggested that a proviso be added to the paragraph as it appears in the bill and in the act. The proviso in the bill might read:

Provided, That this paragraph shall be held to apply to contracts, agreements, or arrangements between carriers subject to this act and carriers subject to the Interstate Commere Act.

That in the I.C. Act might read:

Provided, That this paragraph shall be held to apply to contracts, agreements, or arrangements between carriers subject to this act and carriers subject to the Communications Act of 1934.

If the filing of such contracts by both communication and transportation companies with both Commissions proves unduly burdensome, the two Commissions undoubtedly could cooperate so as to make one filing with either suffice for the purposes of both.

Section 212: The I.C. Act does not apply to interlocking directorates of communication companies, and we express no opinion upon the policy of the proposal.

Attention is called, however, to the fact that the general penalty provision of the bill states only maxima, whereas section 20a (12) of the act names minima of $1,000 and 1 year.

Section 213: It is not clear that the provision of paragraph (o) authorizing the Commission to "exercise all of the powers and authority conferred upon" this Commission for administration of the valuation provisions in section 19 (a) of the I.C. Act, is sufficient to provide for protest against and hearing upon any valuation fixed by the Commission. No valuation made without the right of hearing thereon can stand the test of court proceedings.

As has heretofore been stated to your committee, this Commission now has under way the valuation of the Western Union Telegraph Co. and the Postal Telegraph Co., and, with the experienced organization it has built up, can readily complete those projects if the Congress so desires and makes appropriate and adequate provision therefor in the bill.

Possibly paragraphs (c) and (d) of section 221 of the bill, which contain new provisions bearing upon valuation of telephone companies, would be better placed as part of this section.

Section 214: The provisions of section 1 (18)–(22) of the I.C. Act as to certificates of public convenience and necessity for rail construction are here adapted to construction of lines and circuits. Whether it is practicable or good policy to so extend these provisions, we do not undertake to say. Several provisions, however, undoubtedly will require further consideration.

It is assumed that the omission of the provisions relating to abandonment of lines is intentional.

The words "line" and "circuit" are not defined. Perhaps they are self-sufficient, but any necessary definition should not be overlooked. Definition of "extension" also would seem desirable, so that the provisions would not hinder or preclude such necessary operating changes as rearrangements of existing lines or circuits for the purpose of meeting changes in the flow of traffic, which otherwise might technically be regarded as extensions of the prior separate lines or circuits.

The act contains provisions for the filing of applications for certificates and for promulgation by the Commission of rules for the conduct of proceedings. If section 4 (i) of the bill be modified as hereinbefore suggested, the omission as to rules will not be material. Specific provision for the filing of the applications should be made.

The requirement of paragraph (b) that notice of the application be published in a newspaper "in each county which said line or circuit will serve" differs from the requirement of the act that such publication be in a newspaper "in each county in or through which said line of railroad *is constructed or operates.*" The provision of the bill may lead to unanticipated results. A line constructed in two counties only can be, and might be, used to "serve" every other county in the United States.

Paragraph (e) purports to follow section 1 (22) of the I.C. Act. The act, however, relates only to certain kinds of tracks within the State, and does not exclude construction of main lines even though wholly within a State. Such lines usually are parts of interstate systems. The same can well be true of communication lines or circuits. The paragraph should be eliminated, or should be modified so as to exclude only "lines or circuits within a single State and used solely for intrastate communication."

Section 215. There is no similar provision in the I.C. Act. It is observed that paragraph (a) would give the commission power to modify prior contracts. That power is bound to be highly controversial, and is of doubtful propriety.

Section 217. This states for general application what is provided in some individual sections of the I.C. Act and in general terms of section 1 of the Elkins Act. No comment is necessary, except to point out that the words "or user" in lines 14 and 16 are not clear.

Section 218. This repeats part of section 12 (1) of the I.C. Act, the remainder thereof appearing in section 409 of the bill. The bill broadens the provision of the act by including the duty to keep informed as to improvements in electrical communications. As the provision apparently contemplates completed developments and improvements and new inventions, and does not authorize "fishing expeditions" into the privacy of the inventor's laboratory or mental processes, there can be no sound objection to that provision. Probably improvements in radio transmission of energy should be included.

The bill narrows the act by omitting at the end the words "and the commission is hereby authorized and required to execute and enforce the provisions of this act". There are numerous references to this duty in the construction of

other provisions of the act by both the courts and this commission. It is much safer to retain the words.

Section 219: This covers sections 20 (1) and (2) of the I.C. Act relating to annual and other reports of the carriers.

The requirement that such reports be filed with the Commission omits the qualification "at its office in Washington". If, as presumably it will, the Commission establishes offices in other cities, the omission might give rise to controversy. Retention of the words would obivate that possibility.

Paragraph (4) of this section of the act, relating to the administration of the oath to these reports, is omitted from the bill without apparent reason. It should be included.

Section 220: The first seven paragraphs of this section largely follow paragraphs (5), (6), (7), and (8) of section 20 of the I.C. Act and include the substance of provisions in paragraph (1) of that section. The last three paragraphs are new.

Paragraph (j) of these new paragraphs should be most carefully considered. It unquestionably directly conflicts with, and destroys the uniformity of systems of accounts and depreciation accounting required by, the preceding provisions of the section. That is not true under the present law. In this connection consideration should also be given to the last four lines of paragraph (h).

In paragraph (b), the words "after the Commission has prescribed the classes of property for which depreciation charges may be included", and the words, "after the Commission has prescribed percentages of depreciation," are not derived from the I.C. Act. They are unnecessary, and it seems better to drop them, rather than take the risk of effecting an unforeseen change in the law. This subject is sufficiently complex and productive of contention, without needlessly adding to the difficulties of administration.

The new provision in paragraph (c) placing a burden to justify entries in accounts upon the person making the entry would be strengthened if it were extended to the "person making, authorizing, or requiring such entry."

The words "or other person" in line 6 of paragraph (d) have no antecedent correlative in this section of the bill. Either they must be dropped or some corresponding change must be made in preceding provisions of the section. The words "for each day of the continuance of such offense" read in the act: "for each such offense and for each and every day of the continuance of such offense." The change would be more accurate if the bill were modified to read "for each day of the continuance of each such offense."

The provision of paragraph (e) relating to the destruction or falsification of "any such account, record, or memoranda" reflects a departure from the act which reads: "the record of any such account, record, or memoranda." As this is a penal provision, and thus is subject to strict construction, the broader language of the act, which includes the records of the various documents as well as the documents themselves, should be retained.

Paragraph (f) is addressed to the same subject as, but is materially different from, section 20 (8) of the I.C. Act. The act prescribes a penalty against an examiner convicted of divulging information. The bill merely requires that no member, officer, or employee of the Commission shall divulge information. The difference in the provisions may reflect an intended difference in policy.

That portion of paragraph (g) making it unlawful to keep any accounts, records, or memoranda other than those prescribed by the Commission is taken from the provision of the I.C. Act otherwise covered by paragraph (e) of the bill. The transposition results in elimination of a minimum penalty for such offense.

Section 221. There are no differences of importance between paragraph (a) and section 5 (18) of the I.C. Act. Possibly ineffective or inadequate interstate regulation might result from the new provisions of paragraph (b). Paragraphs (c) and (d) were considered under section 213, relating to valuation of carrier property generally.

TITLE III. SPECIAL PROVISIONS RELATING TO RADIO

This title deals with matters coming within the jurisdiction of the Federal Radio Commission and has not been considered.

TITLE IV. PROCEDURAL AND ADMINISTRATIVE PROVISIONS

Section 401. A duplication between that portion of paragraph (a) appearing in line 24, sheet 68, through line 9, sheet 69, and paragraph (b) is noted. Paragraph (b) follows section 16 (12) of the I.C. Act almost word for word, and the

provisions should be dropped from paragraph (a). There are no differences of importance between the remainder of paragraph (a) and section 20 (9) of the I.C. Act from which it is derived.

Under paragraph (c) the Expediting Act and certain provisions of the Judicial Code are made to "apply to any suit in equity arising under title II of this act, wherein the United States is complainant." Inasmuch as the Expediting Act relates to "any suit in equity * * * wherein the United States is complainant", and inasmuch as the District Court Jurisdiction Act (see section 402) provides for three-judge courts, expedition, and direct appeal to the Supreme Court, in proceedings to enforce and set aside the commission's orders, it would suffice if these words were modified to read "apply to title II of this act."

Section 402. This incorporates by reference the machinery now provided by the District Court Jurisdiction Act for court test of orders. Attention is called to a similar provision in the Packers and Stockyards Act, which, as stated in title 7, section 217, of the United States Code, reads:

"For the purposes of sections 201 to 217, inclusive, of this chapter, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of sections 201 to 217, inclusive, of this chapter, and to any person subject to the provisions of sections 201 to 217 inclusive, of this chapter."

This provision apparently has proven satisfactory. The act was passed in 1921 and there has been no subsequent amendment of this provision. It may be desired to substitute a tested provision for the present language of section 402. If such substitution be not desired, the present text should be changed by using the correct title of the act, viz, Urgent Deficiencies Appropriation Act of October 22, 1913. The courts invariably use that title. "District Court Jurisdiction Act" is merely a descriptive designation originated years ago.

Section 405. This adds to section 16a of the I.C. Act the words "or any person or any State or political subdivision thereof, aggrieved or whose interests are adversely affected." At times, petitions for reopening of transportation cases have been presented to us by persons not parties to the original proceeding. Such petitions are not considered, nor do we believe that they should be. Otherwise, any person interested in a case could defer action therein until a decision has been rendered, knowing that if the decision be favorable he will be saved time, effort, and money, and, if unfavorable, can obtain a reopening of the case. Such procedure is not conducive to effective administration. The rights of any person not aware of the proceeding prior to a decision are fully protected by the provisions under which he could file his own complaint or the commission could open the earlier proceeding on its own motion.

Section 406. In this section, adapted without important change from section 23 of the I.C. Act, the words in line 24, sheet 72, "at the same rates as are charged", although taken verbatim from the act, represent the only instance in which the word "rates" has been used in the bill (disregarding title III). Consistency would be attained by substituting "at the same charges."

Section 409. The first eight paragraphs restate without important change provisions in sections 12(1)–(7), 17(1), 18(1), 19 and 20(10) of the I.C. Act. Paragraphs (i) and (j) repeat the two paragraphs of the Compulsory Testimony Act.

In paragraph (i) the word "tariffs" has been omitted after the word "papers" in line 15, sheet 78. It seems dangerous to anticipate that the remaining documents as specified here will include more than they do in the act. The word "tariffs" (or perhaps "schedules of charges") should be restored to prevent a possible weakening of the law. In line 24, sheet 78, and lines 4 and 5, sheet 79, the word "individual" has been substituted by the bill for the word "person" and the words in lines 2 and 3, sheet 79, "is compelled, after having claimed his privilege against self-incrimination, to testify" have been substituted for the words "may testify." We suggest that "individual" be changed to "natural person" and that the second substitution be not made. Enactment of the Compulsory Testimony Act of February 11, 1893, followed a decision of the Supreme Court that an immunity provision very similar to immunity provisions in the original act to regulate commerce was unconstitutional. Later, in the appropriation for court enforcement of certain acts made in the Legislative, Executive, and Judicial Appropriation Act of February 25, 1903, provision was made for immunity "in any proceeding, suit, or prosecution under those acts." Still later, the Immunity of Witnesses Act of June 30, 1906, extended the immunity under the two foregoing, and other like provisions, "only to a natural person who, in obedience to a

subpena, gives testimony under oath or produces evidence, documentary or otherwise, under oath." That act was the result of court decisions construing the word "person" in the prior enactments. The requirement that the evidence must be in obedience to a subpena has been stressed in court decisions. The bill would extend immunity beyond a subpena. A voluntary witness directed by the court during the course of his examination to answer a question, which the witness theretofore declined to answer on the ground of self-incrimination, would be "compelled to testify" and would thus receive immunity under the bill. Perhaps that is the intention, but it seems desirable that the matter be acted upon advisedly and not as a result of oversight.

Section 410. There is no provision in the I.C. Act similar to paragraph (a) conferring upon joint boards nominated by State commissions power to act on matters under the bill in such manner as the communications commission determines. The State officials are not required to act, and there would seem to be no doubt as to the constitutionality of the provision. (See *Dallemagne* v. *Moisan*, 197 U.S. 169, and Willoughby's "The Constitution", vol. 1, p. 92, note.)

Paragraph (b) is similar to section 13 (3) of the I.C. Act except that it omits the requirement of notice by the commission to the States in investigations in which State-made charges or regulations are brought in issue. Section 13 (4) of the I.C. Act empowering this commission to remove unjust discrimination against interstate commerce caused by State-made intrastate charges or regulations also is omitted from the bill. These omissions unquestionably weaken the bill as compared with the act but whether this weakening is a matter of importance would depend largely upon the extent to which exercise of such power might be necessary. In only one instance has this commission been called upon to consider the provision in connection with communication charges, viz, *Okla.-Ark. Teleph. Co.* v. *Southwestern Bell Teleph. Co.* (183 I.C.C. 771). No State-made rates were there involved, however, and there was no necessity to undertake exercise of the power.

Section 412. Excepting the proviso, this largely follows section 16 (13) of the I.C. Act. In the bill the words "copies of schedules, classifications and charges" have been substituted for "copies of schedules, classifications, and tariffs of rates, fares, and charges" appearing in the act. The word "charges" standing by itself is meaningless and it is suggested that it be replaced by "tariffs of charges."

Section 413: This is much the same as a provision in the Mann-Elkins Act (or Commerce Court Act) of June 18, 1910. As enacted, the provision related to proceedings before the commission "or before said Commerce Court." The two references to the Court appearing in the act have been changed to "or before any Court" and "or Court" (lines 8–9 and 19). In abolishing the Commerce Court and repealing "all laws relating to the establishment of", and "all laws and parts of laws inconsistent with the foregoing provisions relating to" that court, the District Court Jurisdiction Act made provision for service of process of the District Courts. We are not advised of any court proceeding in which service of process of those courts has been made or attempted under this provision, and the reference to courts should be dropped from this section.

Section 415: This repeats the statute of limitations contained in section 16 (3) of the I.C. Act. Its application to transmission of energy by radio is not clear.

TITLE V. PENAL PROVISION—FORFEITURES

Section 501: Like section 10 (1) of the I.C. Act, this provides a general penalty; but unlike the act "aiding or abetting" in doing unlawful acts or in omitting to do required acts is not made punishable.

Apparently it is intended that in instances where a forfeiture is provided both such forfeiture and the penalty of this section be assessed. In some instances this may be rather drastic. As you undoubtedly are aware, too drastic penalties have been held invalid. (See *United States* v. *Clyde Steamship Co.*, 36 Fed. (2d) 691.)

SECTION 503. Paragraph (a) is similar to the third paragraph of section 1 of the Elkins Act which applies to the transportation of property. It is not believed that the changes made in adapting the provision to communication are of such nature as to make this provision weaker than that applicable to transportation. It is noted, however, that the paragraph does not extend to rebates in connection with transmission of energy by radio.

Paragraph (b) is much the same as section 16 (8) of the I.C. Act, but the sections specified in line 9, sheet 88, are open to question. The act names sections 3, 13, and 15. Reference to section 15 was contained in the original enactment, which in section 15 (1) specifically gave to the Commission the power to pre-

scribe rates for the future. Reference to sections 3 and 13 was inserted by the Transportation Act, 1920, which added in section 3 the provisions as to common use of rail terminals and as to extension of credit for freight charges, and added in section 13 the provisions as to unjust discrimination against interstate commerce. None of these provisions of sections 3 and 13 are in the bill. The sections named in the bill cover portions of section 1 and section 15 (7) of the I.C. Act. It is impossible to understand why the bill makes no reference to section 205 which covers section 15 (1) of the act. This penalty was originally enacted for the specific purpose of requiring obedience to orders entered under that provision. It became applicable to transmission when the act was extended thereto in 1910, and unless reference is made to section 205, there will be a material weakening of the present law. While the entry of orders is provided for in sections 201 and 204 of the bill, violation of such orders, as just pointed out, has not heretofore been subject to the severe penalty provided in this section. The efficacy of that penalty in inducing obedience to orders under section 15 (1) has been recognized by the courts (see *Baltimore & O. R. Co.* v. *United States ex rel Pitcairn Coal Co.*, 215 U.S. 481), but it may be regarded as too drastic in respect of violation of the other orders.

Section 504. Paragraph (a) repeats section 16 (9) and (10) of the Interstate Commerce Act and adds the sentence beginning in line 20, sheet 88. The comments under section 501 with reference to both penalty and forfeiture for the same offense are pertinent here.

Paragraph (b) is new. Fines are not "collected by the Commission."

TITLE VI. MISCELLANEOUS PROVISIONS

Section 601. Paragraph (a) proposes to transfer to the Communications Commission the powers and duties of this Commission under the Government-Aided Railroad and Telegraph Act. That act embraces telegraph lines of subsidized telegraph companies and telegraph lines of subsidized railroad companies. Presumably it is intended to effect complete transfer. Such transfer, however, should not be permitted to affect the administration of acts under which this Commission now functions in respect of transportation companies. As the provisions of the bill are not as clear as they might be, it is suggested that this paragraph be made to read as follows:

"SEC. 601 (a). All duties, powers, and functions of the Interstate Commerce Commission under the act of August 7, 1888, 25 Stat. 382, relating to operation of telegraph lines by railroad and telegraph companies granted Government aid in the construction of their lines, are hereby imposed upon and vested in the Commission: *Provided*, That such transfer of duties, powers, and functions shall not be construed to affect the duties, powers, functions, or jurisdiction of the Interstate Commerce Commission under, or to interfere with or prevent the enforcement of, the Interstate Commerce Act and all acts amendatory thereof or supplemental thereto."

Section 602. The repeal in paragraph (b) of provisions of the I.C. Act relating to communication should make exception of the proviso in section 1 (7) of that act relating to exchange of franks between communication and transportation companies and should be accompanied by amendment of sections 1 (5) and 6 (5) of that act as hereinbefore suggested.

Section 604: To obviate any possible hiatus between this provision and other provisions of the bill, it is suggested that the following proviso might be added to the paragraph:

Provided, That they shall be construed as though promulgated by, and as constituting requirements of, the Commission.

The words "the Commission" in line 12, sheet 93, presumably have reference to the words "the Interstate Commerce Commission", in line 10. In that event they should be changed to read "that Commission."

Mention of several matters pertaining to the bill generally may prove helpful. There is no provision with reference to further proceedings in, and disposition of, pending court cases.

In many instances the words "carriers subject to this act", and like clauses, are used. In other instances, merely the word "person" or "carrier" is used, despite the fact that the clause "subject to this act" appears in the corresponding provision of the acts. Uniformity, of course, is desirable, if not essential, and can briefly be brought about by omitting the clause in the individual provisions and including in the definitions in section 3 a paragraph to the effect that "carrier" or "person" wherever used in the bill means a "carrier or person subject thereto."

In a number of instances the words "and/or" have been used. In *State* v. *Dudley*, 159 La. 872, the court said:

"The expression 'and/or' is quite frequently used in contracts but we confess this is the first time we have ever found it in a legislative act. When used in a contract the intention is that the one word or the other may be taken, accordingly as the one or the other will best effect the purpose of the parties as gathered from the contract taken as a whole. In other words, such an expression in a contract amounts in effect to a direction to those charged with construing the contract to give it such an interpretation as will best accord with the equity of the situation and for that purpose to use either 'and' or 'or' and to be held down to neither. Such latitude in contracts is, of course, permissible to individuals, who may contract as they please, but not so with a legislature in making its laws; it must express its own will and leave nothing to the mere will or caprice of the courts, especially in the matter of punishing offenses."

These words have been noted in the bill as follows: Line 15, page 2; line 2, page 5; lines 1 and 2, page 29; the last line on page 32, line 16, page 40; line 18, page 44; lines 9 and 10, page 50; line 15, page 53; line 4, page 54; lines 4 and 17, page 56; lines 2, 4, 13, and 24, page 57; and lines 4 and 6, page 58.

The words "wire and radio" in the last line on page 1 and in lines 3 and 8 on page 2 should be changed to read "wire or radio."

The words "full opportunity for hearing", or like words, appear in section 202, line 21, sheet 14; section 205, line 18, sheet 19; section 214, line 3, sheet 28; and section 215, line 4, sheet 29. As there is no intention to differentiate between an "opportunity" for a hearing and the hearing itself, the words "opportunity for" should be dropped. The courts insist upon hearings as the basis of mandatory action.

Typographical or clerical errors have been noted as follows:

Sheet 3, line 24, insert a comma after "Columbia".

Sheet 12, line 2, "Proofs" should be "proof".

Sheet 32, line 1, "improvement" should be "improvements."

Sheet 72, line 21, "prevent" should be "prevents".

Sheet 81, line 10, insert a comma after "manner".

Sheet 85, line 14, "(7)" should be "(g)".

Sheet 86, line 7, in view of section 216, the words "and any receiver or trustee thereof" are unnecessary, and should be omitted.

Sheet 88, line 7, in view of section 216, the words "receiver, trustee," are unnecessary, and should be omitted.

It seems unnecessary to add that our sole endeavor in bringing these matters to your attention has been to aid to as great extent as possible in perfecting the details of the bill. We shall, of course, be glad to cooperate in any further possible manner.

Respectfully submitted.

FRANK MCMANAMY,
Chairman Legislative Committee.

STATEMENT OF MAJ. ROGER COLTON, SIGNAL CORPS, UNITED STATES ARMY, REPRESENTING THE WAR DEPARTMENT

The CHAIRMAN. Major Colton, we will hear you.

Major COLTON. My name is Maj. Roger Colton, Signal Corps, United States Army, representing the War Department.

Mr. Chairman and gentlemen of the committee, I have a statement that I would like to read.

The CHAIRMAN. Proceed.

Major COLTON. The War Department is in hearty accord with the language of title I, section 1 of H.R. 8301, which sets forth as an objective the provision of an efficient Nation-wide and world-wide communication system. A communication system of this character is of the utmost importance to the Army in its operations whether they be at home or abroad, on the land or in the air.

For this reason the War Department concurs in the recommendation of the Navy Department that title I, section 1, be amended by inserting the words "for the purpose of safeguarding these services

and facilities in order that they may be utilized to best advantage in the interests of common defense" after the word "charges" in line 2, page 2 of the bill.

The CHAIRMAN. Why do you think that is necessary; that language?

Major COLTON. Well, we feel that it sets forth the intention of Congress in that matter and emphasizes the importance of communications in national defense other than——

The CHAIRMAN. Do you think that there is any question about the President having power to do that, in case of an emergency, take them and do as he pleases?

Major COLTON. I did not understand your question, Mr. Chairman.

The CHAIRMAN. Do you think that there is any question about that language or about the President having authority at the time of an emergency to do as he pleases?

Major COLTON. No, sir; and we would not insist on this lanugage, but we think it is advisable and provides a directive for peace-time development of communications.

The War Department also recommends that title I, section 4 (j) be amended by adding thereto after the word "interested" on line 21, page 10, the sentence, "The commission is authorized to withhold publication of records of proceedings containing secret information affecting the national defense."

Mr. PETTENGILL. You are referring to the Senate bill, or the House bill?

Major COLTON. I am referring to the House bill.

Mr. PETTENGILL. What is that page and line, again?

Major COLTON. That is line 21, on page 10 of the House bill. I think the reference is correct.

Mr. MALONEY of Connecticut. Mr. Chairman——

The CHAIRMAN. Mr. Maloney of Connecticut.

Mr. MALONEY of Connecticut. Would you reread the recommendation again?

Major COLTON. The War Department also recommends that title I, section 4 (j) be amended by adding thereto, after the word "interested" on line 21, page 10, the sentence—

The Commission is authorized to withhold publication of records of proceedings containing secret information affecting the national defense.

The Department believes that would be advisable, because the War Department, and the Navy Department too, frequently has to present matter concerning the assignment of military frequencies and allocations of frequencies, and other military communication matters to the Commission, now the Federal Radio Commission and the Department would not like some of those things to be published. I do not think that the Congress would like them published.

As regards title V, section 501, page 60, it is noted that subparagraph (a) continues the Radio Act of 1927, as amended, in effect.

Section 6 of the radio act gives the President complete authority as regards governmental radio frequencies and facilities, and no change in this respect is recommended.

The latter part of section 6 of the radio act also gives the President control of commercial radio upon proclamation that there exists war or a threat of war. The War Department recommends that this authority of the President be extended to cover all communication

companies, by amending title V, section 506, page 66, by adding after subparagraph (b) thereof, subparagraphs (c) and (d) of section 606 of Senate bill 3285 as follows:

(c) Upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster, or in order to preserve the neutrality of the United States, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all offices and stations for wire or radio communication within the jurisdiction of the United States as prescribed by the Commission, and may cause the closing of any such office or station and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such office or station and/or its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners.

(d) The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto, but no allowance shall be included for the use of any radio frequency. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 percent of the amount and shall be entitled to sue the United States to recover such further sum as, added to such payment of 75 percent, will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 24 or by section 145 of the Judicial Code, as amended.

It is also believed that some alteration of section 12 of the radio act is advisable in order to assure American control of holding companies which control subsidiaries engaged in radio communication. Section 310 of the Senate Bill No. 3285, Calendar No. 830, Report No. 781, this Congress, is satisfactory to the War Department in this respect. The provisions of the section of the Senate bill referred to are as follows:

Sec. 310. (a) The station license required hereby shall not be granted to or held by—

(1) Any alien or the representative of any alien;

(2) Any foreign government or the representative thereof;

(3) Any corporation organized under the laws of any foreign government;

(4) Any corporation of which any officer or director is an alien or of which more than one fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country——

Mr. PETTENGILL. Excuse me for just a minute. The language you have just been reading, I understand, is from a bill proposed to amend the Federal Radio Act; is that right?

Major COLTON. I am suggesting on behalf of the War Department that section 310 of the Senate bill, no. 3285, as reported out by the committee——

Mr. PETTENGILL. What bill is the Senate bill you are speaking of? It is not the Federal communications bill?

Major COLTON. It is a bill that has not yet been passed. It has been reported out by the committee.

Mr. PETTENGILL. I see. Now, give me the number of that bill.

Major COLTON. Senate 3285, Calendar 830, Report No. 781. It is the third of three similar bills.

Mr. PETTENGILL. And it is the bill to amend the Federal Radio Act?

Major COLTON. Well, that is the Senate communications bill.

Mr. PETTENGILL. The Senate bill is S. 2910.

Major COLTON. S. 3285 is a later edition of S. 2910.

Mr. PETTENGILL. I beg your pardon. You are referring to a later bill.

Major COLTON. Yes.
Mr. PETTENGILL. I see. I have got it now. Go ahead.
Major COLTON (reading):

(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one fourth of the directors are aliens, or of which more than one fourth of the capital stock is owned of record or voted after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus are required by act of Congress or any treaty to which the United States is a party.

(b) The station license required hereby, the frequencies authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of, or indirectly by transfer of control of any corporation holding such license, to any person, unless the Commission shall, after securing full information, decide that said transfer is in the public interest, and shall give its consent in writing.

As regards section 17 of the radio act which restricts the merging of radio companies with wire or cable companies, the War Department takes cognizance of the fact that a message may start out by telephone, be transferred to a wire circuit, then to a cable, then to a radio circuit, and may be finally delivered by messenger. In its own organization the Army has found it essential to efficient operation that all these means of communication be operated as a unit in each command and feel that commercial agencies should be allowed the advantages of such an organization. The War Department feels that an organization of this character is a logical development and is in accord with the joint board principle advocating development of communications along natural lines.

While the War Department appreciates that such natural development may be restricted for pertinent reasons by any Federal control agency given control, the importance of wire communications to the Army in war is such that any action jeopardizing their adequacy and efficiency by destructive competition, from radio or otherwise, is a matter of serious concern. If this were merely a matter of cost to civilian agencies, the War Department would not feel itself primarily concerned. Such, however, is not the case. In time of war or other emergency radio and wire communications are both of vital importance to the Army.

The use of radio by the Army is rapidly and steadily increasing and will continue to increase. As far as we are able to see at present there are not enough frequencies available in the entire radio spectrum to take care of the minimum needs of the Army in combat. Hence, in case of war, it appears that commercial radio communication would have to be materially curtailed, with the result that the greater part of any peace-time communications carried by radio would necessarily be transferred to the wire companies. Therefore, if in peace time the organization of radio companies for domestic communications is encouraged to such an extent as to cause a material reduction in wire facilities, we may, in time of war, find the wire companies without the facilities or the organization necessary to handle the tremendous volume of war-time communications.

But again this matter is still closer at hand. It is a fact that in the most popular so-called "domestic radio bands" there is even now such a scarcity of frequencies that it is difficult to obtain suffi-

cient frequencies for Army training, particularly in connection with air and air-ground communications.

To sum up in this connection, the War Department believes that undue expansion of domestic radiotelegraph communication facilities is contrary to the interests of national defense and that any consolidation of communication facilities that Congress or the Commission may find to be economically sound and in the public interest will probably be of advantage to national defense. However, in advance of a public hearing on a proposed merger of communication companies, the War Department feels that it should reserve judgment until it has had an opportunity to study the effect of such particular merger on national defense.

Mr. PETTENGILL. May I see that statement?

Major COLTON. Yes, sir.

The CHAIRMAN. Are there any questions?

Mr. PETTENGILL. Just one second, please. Well, do not keep the witness.

The CHAIRMAN. We are very much obliged to you, Major.

Major COLTON. Thank you.

STATEMENT OF HENRY A. BELLOWS, WASHINGTON, D.C., CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE NATIONAL ASSOCIATION OF BROADCASTERS

The CHAIRMAN. Mr. Bellows.

Mr. BELLOWS. Mr. Chairman and gentlemen. My name is Henry A. Bellows. I am a resident of Washington, D.C. I appear before your committee as chairman of the legislative committee of the National Association of Broadcasters. For the purposes of the record, I desire to introduce a list of the officers, directors, and members of this association, and to call attention to the fact that on November 14, 1933, the National Recovery Administration certified that the National Association of Broadcasters "imposes no inequitable restrictions on admission to membership therein and is truly representative of the radio-broadcasting industry."

I should like to add that the National Association of Broadcasters has never paid me, and presumably never will pay me, anything, either directly or indirectly, for any services I have ever rendered to it. All of its committee chairmen are actively engaged in the radio-broadcasting industry and serve the association without remuneration.

To save the time of your committee, I desire to present a very brief statement regarding H.R. 8301, confining it to the measure as it is now before you, but I should like to have your permission to submit later, for the record, an additional statement in writing, in the event that it seems desirable to lay before you a more extended outline of the views of our association.

In appearing before you as the representative of the broadcasting industry, I want to make it clear that the broadcasters are wholly in accord with what they conceive to be the purpose and intent of the President's message, sent to Congress on February 26, 1934, and consequently are likewise in complete accord with any legislation which carries out that purpose.

Permit me to quote three sentences from the message:

> I recommend that the Congress create a new agency to be known as the "Federal Communications Commission", such agency to be vested with the authority now lying in the Federal Radio Commission and with such authority over communications as now lies with the Interstate Commerce Commission.
>
> It is my thought that a new commission such as I suggest might well be organized this year by transferring the present authority for the control of communications of the Radio Commission and the Interstate Commerce Commission.
>
> The new body should, in addition, be given full power to investigate and study the business of existing companies and make recommendations to the Congress for additional legislation at the next session.

We believe that the intent of this message is perfectly clear; that the proposed commission is to take over the present authority of, the authority now lying with, the Radio and Interstate Commerce Commissions for the control of communications and that additional legislation on the subject is expressly advised to be reserved to the next session of Congress, after the Commission has had an opportunity for investigation and study.

It is because the bill before you, in our judgment, carries out this intent insofar as radiobroadcasting is concerned that we appear here in support of it; it is because the companion bill in the Senate, S. 3285, appears to us to go directly counter to the President's recommendations that we have felt constrained to oppose it.

From our standpoint, the essential feature of your bill is that while it necessarily does away with the Federal Radio Commission it leaves intact the Radio Act of 1927, as amended.

Gentlemen, with all the emphasis at our command we urge you to retain this wholly admirable feature of your bill.

We protest most earnestly against any proposal for the repeal of the Radio Act of 1927, as amended. The President's message does not even suggest any such drastic action, nor does there appear to be any instant necessity which warrants it. The Radio Act of 1927, as amended, may not be perfect. Most of us could suggest ways in which we think it might be improved, though there would be wide disagreement among us as to those improvements, but the fact remains that for 7 years it has stood the tests of administration and of court action. If changes in it are desirable, we believe they should be made, as the President indicates, only after investigation and study by the new commission.

That there has been no urgent demand for any such changes appears from the history of recent bills to amend the Radio Act. There was no general outcry when, a year ago, H.R. 7716, the omnibus amending bill, failed of enactment. Congressman Bland reintroduced that same bill in the House March 9, 1933, as H.R. 1735, and there has not been enough general interest manifested for his committee as yet to consider it. Almost every one recognizes that, despite minor defects, the Radio Act of 1927, as amended, and the court decisions under it, have established a solid, workable, and sound basis for Government regulation of radio.

And what is to be gained by repealing the Radio Act? Either it is incorporated bodily and unchanged in the new law, in which case nothing is accomplished by repealing it, or else the new law alters its provisions, in which case the bill not only goes counter to the President's suggestion, and legislates before investigation by the Commission instead of after it, but also launches the new Commission

on a sea whereon there has been raised an artificial and a wholly needless storm.

No one can possibly foretell at this time what form this tremendously significant legislation now before you will ultimately assume. No one can possibly, in advance, draft legislation which will adequately and fully define the activities, powers, and methods of this new Commission. The Commission itself must, after careful study and investigation, help in determining its legislative needs.

If it is suggested to you that title III of the Senate bill is really the Radio Act of 1927, with only a few minor changes, we want to urge upon you, from our years of practical experience in radio, that the changes are neither few nor minor; that one of them seems to us to throw into utter confusion the whole legal structure which 7 years of work have painstakingly built up; that another establishes a punitive policy, chiefly at the expense of the listening public; while a third destroys all hope of reasonable stability in the radio industry. Still another would, in practice, virtually bar all political discussion from the air. But even if the changes proposed were less drastic, we would still contend that this is no time to repeal the Radio Act, that repeal is absolutely unnecessary, that it is contrary to the advice of the President, and that it means the imposition of a serious and needless handicap on the new commission.

Gentlemen, there are a few matters in H.R. 8301, which we would like to call to your attention, less in any spirit of criticism than in order to offer to you our practical experience in broadcasting to assist you in the drafting of this tremendously important law.

For example, on page 2, line 15, how is this act to be made applicable to all foreign communication or transmission of energy by radio which "is received within the United States"? You cannot prevent radio waves from entering our country, nor can you control their reception. We suggest that some other word or phrase than "received", such a phrase, for example, as "commercially utilized", might be clearer.

In the definition of "radio communication", page 3, lines 5 to 9, we suggest that it would be more accurate, and also more in harmony with the definition in the preceding paragraph (a), to change the word "radio", after the word "by" in line 6, to "wireless."

In the definition of "radio station", page 5, lines 20 to 22, we suggest that there is at least some vagueness, largely because a "station" is defined as a "station." Does the definition cover studios, remote-control points, and other associated equipment? It is our suggestion that this definition might well be clarified so as to make it apply specifically to any apparatus equipped to transmit radio frequencies.

In the definition of "broadcasting", page 6, lines 8 to 10, I must admit that I do not understand what is meant by the words in line 10, "directly, or by the intermediary of relay stations." It seems to us that this might well be omitted, and a period put in place of the comma at the end of line 9.

There is, however, one point which seems to us of vital importance. This is the confusion which is bound to arise under section 302 of this bill (p. 40, lines 21 through 24, and p. 41, lines 1 through 8) because of the failure to adjust the procedure under this section with that provided for in section 16 of the Radio Act of 1927, as amended. Since the Radio Act will remain in force after the enactment of this new legislation, it is essential that the law should clearly set forth

what suits may be brought under the provisions of the District Court Jurisdiction Act, as specified in section 302 of this bill, and what suits fall within the quite different scope of section 16 of the Radio Act.

Accordingly, we submit the following amendment to section 302 and urge its adoption for the purpose of eliminating this dangerous conflict between the two laws:

SEC. 302. (a) Except as hereinafter provided in paragraph (b) hereof, suits to enjoin, set aside, annul, suspend, or otherwise review an order of the Commission under this Act, shall be brought in the several district courts of the United States, and the provisions of the District Court Jurisdiction Act (38 Stat. 219) are hereby made applicable to all such suits, and all references in said Act to the Interstate Commerce Commission shall apply to the Commission. The provisions of said Act as to venue of suits to enforce orders of the Interstate Commerce Commission are hereby made applicable to all suits to enforce orders of the Commission made under the provisions of this Act.

(b) Decisions and orders of the Commission involving radio broadcasting stations or other radio stations which are not common carriers as defined in paragraph (h) of section 3 hereof, shall be reviewed only by an appeal which may be taken to the Court of Appeals of the District of Columbia in the manner provided by section 16 of the Radio Act of 1927, as amended by Act approved July 1, 1930.

Mr. COLE. Mr. Chairman, may I interrupt?

The CHAIRMAN. Mr. Cole.

Mr. BELLOWS. Yes.

Mr. COLE. That means that all suits to review the orders of the Commission, pertaining to radio, would be exclusively in the District of Columbia courts.

Mr. BELLOWS. Exactly.

Mr. COLE. Not so as to all other subjects before the Commission.

Mr. BELLOWS. Not so as to the others.

Mr. COLE. Why lodge all of the litigation in the District of Columbia?

Mr. BELLOWS. Simply because in the entire development of the law as regards or affects radio communications, the District of Columbia courts have been the sole courts to which appeals might be taken, and through the Court of Appeals in the District of Columbia and apparently very sound body of law has been built up. The question has been raised as you know, as to whether appeals could be taken simply on questions of law, or whether appeals could also be taken on questions of fact, findings of fact by the Commission. The amendment to the Radio Act to which this refers, the amendment approved July 1, 1930, provides that appeals may be taken only on questions of law. Under the original wording of the act, the court was made a sort of super radio commission which could review the evidence, take additional evidence, and so on. The present system appears to be working out exceedingly well, and it is the feeling of most of the people who have considered it—I think it is the feeling of the Radio Commission itself—that a much more orderly development in Radio Commission cases, which is highly specialized, is provided by having those appeals centralized in one court.

Mr. COLE. I can see how the Radio Commission might well want all reviews of its orders right here in its home town. Under the bill before us the radio companies that have several stations on the Pacific coast, or in other parts of the country, wanting their day in court to have reviewed what this Commission might do would have to come all the way here to Washington.

Mr. BELLOWS. Exactly.

Mr. COLE. I think that is a pretty good monopoly for the lawyers of Washington, but too much of an imposition on the people in the rest of this country.

Mr. BELLOWS. I may say there has been a good deal of discussion from exactly the point of view that you bring up. In general the broadcasters have felt that since all hearings, or practically all hearings, are held here in Washington they would rather go ahead under the present law, that is, section 16 of the radio act, with the appeals brought here in Washington, than they would to have the jurisdiction for appeals distcibuted over the district courts.

I am not an attorney, so that I cannot go into the thing adequately. I will say this, however——

Mr. COLE. Let me make this suggestion to you, for your consideration, that this new commission has so much work before it, or necessarily will have, that it would be expected to have hearings throughout the country. If you leave the jurisdiction of review in the district courts, as to practically all orders that they pass, why make exception in the case of radio, is what I cannot understand; why make exception in the case of radio? If you make exception in the case of radio I presume that some would want the same done as to telephone and telegraph. Why, you would have to increase this court here two or three times its present capacity, would you not?

Mr. BELLOWS. I do not know, of course, how many cases there would be brought up that affected telephone and telegraph communication companies.

Mr. COLE. Certainly the reviewing of rate investigations would take all of the time of the present court.

Mr. BELLOWS. As you know, the Senate bill in its present status—it has been amended—provides for taking certain appeals to the district courts, while certain other appeals can be made only to the Court of Appeals of the District of Columbia. Where the commission itself initiates the action, the appeal may be taken to any 3-judge district court. Where the action is initiated by the individual station, the appeal must be taken only in the Court of Appeals of the District of Columbia, which seems a rather complicated division.

In connection with what you say, the main point, obviously, is that whatever is done, this section ought to be amended in such a way as to bring it in harmony with section 16 of the radio act, or, if you want, to strike out section 16 of the radio act. At present you have got two different provisions covering appeals, and our present and principal recommendation is that however you desire to have the appeals handled, these two sections, one in the radio act and one in this bill, be brought in harmony. I do not believe as they stand now, if this bill becomes a law, anybody would know how to appeal on radio matters or how an appeal would be handled, because section 16 of the radio act still remains in effect and it is definitely not in line with the section here, and that is the real basis of our recommendation, to get them into line.

Mr. PETTINGILL. Mr. Bellows, you said that the decisions of the District courts——

Mr. BELLOWS. I said the Court of Appeals of the District of Columbia.

Mr. PETTENGILL. Yes; I meant that. But, their decisions are available in every district court of the United States as precedents, are they not?

Mr. BELLOWS. That I think is only open to question in this: That the problems involved in reviews of acts by the Commission are pretty highly technical, and they involve a reasonable degree of education of the courts in the technical side of radio communications. The Court of Appeals of the District of Columbia has received that education by reason of the various cases that have been brought there. I think a good many of the attorneys representing individual broadcasters that I have talked to, have the feeling that if these appeals should be referred to the district courts throughout the country, there will be, at any rate, initially, a good many conflicting decisions. The courts will not have the background in radio education and the advantage of knowing what the technical problems are, that the court of appeals has. And various attorneys with whom I have talked have felt that, at any rate in the beginning, it would increase the burden on the new Commission to have to handle cases before district courts which know nothing about radio communications. If subsequently the new Commission recommends to the Congress a change in the law making all cases alike, subject to appeal to the district courts, certainly the broadcasters have no objection whatsoever; but I think it is fairly obvious that the new Commission is going to have a tremendous lot to do and it seems that that task will be made more difficult if, in the very beginning, it has to handle a lot of appeals in the district courts throughout the country, instead of handling them as the Radio Commission does now, in every case, in the Court of Appeals in the District of Columbia.

So that our recommendation would really come down to this, that in the beginning we suggest that it might be better for the Commission, better for everybody, to keep the present system as regards the radio cases at least until the Commission has been going long enough so that it has adjusted itself. But, so far as the general principle of the matter is concerned, we have no objection if it is decided that it is better to have the cases handled as provided in this bill. There are obvious advantages in doing so.

We do feel strongly that whatever you do, these two sections of the two different laws should be made to harmonize and harmonize in any way that you think is best.

Mr. COLE. May I ask you at that point, is there any doubt in your mind that with the passage of this bill anything in the Radio Act inconsistent with the provisions of this act is automatically repealed?

Mr. BELLOWS. I am not sure about that. I assume that is the case, but I am not entirely sure whether section 16 of the Radio Act is wholly inconsistent with this new provision.

Mr. COLE. It would be inconsistent if there is one provision in this bill for review and another in the Radio Act which was not carried in this bill as you recommend?

Mr. BELLOWS. That is a question which a lawyer would necessarily have to pass upon. The opinions that we have had from various attorneys are that the two things are not wholly inconsistent. They are simply confusing; there are apparently two different ways in which appeals could be taken, and our suggestion is simply that if it is your desire to repeal section 16 of the Radio Act because it is con-

trary to and not in harmony with this section, this act should specifically say so, and then there is a perfectly clear situation.

We cite these points to indicate the sort of cooperation we shall be delighted to give you in the final drafting of this bill if we can be in any way helpful to you. Our principal reason for appearing before you today is to express our complete accord with the manner in which, so far as radio broadcasting is concerned, you are undertaking this difficult and complex task, and to assure you of our whole-hearted support in your effort to carry out the purpose and intent of the President's message by establishing this new Commission without destroying or impairing the Radio Act.

(The list of officers and directors of the National Association of Broadcasters as above referred to is as follows:)

OFFICERS AND DIRECTORS OF THE NATIONAL ASSOCIATION OF BROADCASTERS

President.—Alfred J. McCosker, WOR, New York, N.Y.
First vice president.—Leo Fitzpatrick, WJR, Detroit, Mich.
Second vice president.—John Shepard, 3d, WNAC, Boston, Mass.
Treasurer.—Isaac D. Levy, WCAU, Boston, Mass.
Managing director.—Philip G. Loucks, NAB, Washington, D.C.

DIRECTORS

One-year term.—Henry A. Bellows, Columbia Broadcasting System, Washington, D.C.; E. B. Craney, KGIR, Butte, Mont.; Walter J. Damm, WTMJ, Milwaukee, Wis.; W. W. Gedge, WMBC, Detroit, Mich.; and Quin A. Ryan, WGN, Chicago, Ill.

Two-year term.—J. Thomas Lyons, WCAO, Baltimore, Md.; Lambdin Kay, WSB, Atlanta, Ga.; C. W. Myers, KOIN, Portland, Oreg.; I. Z. Buckwalter, WGAL, Lancaster, Pa.; and J. T. Ward, WLAC, Nashville, Tenn.

Three-year term.—William S. Hedges, WEAF, New York, N.Y.; H. K. Carpenter, WPTF, Raleigh, N.C.; Artnur Church, KMBC, Kansas City, Mo.; Frank M. Russell, WRC, Washington, D.C.; and I. R. Lounsberry, WGR-WKBW, Buffalo, N.Y.

Active members of the National Association of Broadcasters as of May 7, 1934

Bay State Broadcasting Corporation, Boston, Mass	WAAB
Drovers Journal Publishing Co., Chicago, Ill	WAAF
Bremer Broadcasting Corporation, Jersey City, N.J	WAAT
Omaha Grain Exchange, Omaha, Nebr	WAAW
Atlantic Broadcasting Corporation, New York, N.Y	WABC
First Universalist Society of Bangor, Bangor, Maine	WABI
Allen T. Simmons, Akron, Ohio	WADC
Associated Radiocasting Corporation, Columbus, Ohio	WAIU
Southland Radio Corporation, Laurel, Miss	WAML
WAPI Broadcasting Corporation, Birmingham, Ala	WAPI
WAVE, Inc., Louisville, Ky	WAVE
Pillar of Fire, Zarephath, N.J	WAWZ
WBBM Broadcasting Corporation, Chicago, Ill	WBBM
C. L. Carrell, Ponca City, Okla	WBBZ
James E. Davidson, Bay City, Mich	WBCM
WBEN, Inc., Buffalo, N.Y	WBEN
Lake Superior Broadcasting Co., Marquette, Mich	WBEO
North Carolina Broadcasting Co., Inc., Greensboro, N.C	WBIG
WBNS, Inc., Columbus, Ohio	WBNS
Standard Cahill Co., New York, N.Y	WBNX
Banks of Wabash, Inc., Terre Haute, Ind	WBOW
Louis G. Baltimore, Wilkes-Barre, Pa	WBRE
WBT, Inc., Charlotte, N.C	WBT
Piedmont Broadcasting Corporation, Danville, Va	WBTM
WCAE, Inc., Pittsburgh, Pa	WCAE
Monumental Radio Co., Baltimore, Md	WCAO
WCAU Broadcasting Co., Philadelphia, Pa	WCAU

Active members of the National Association of Broadcasters as of May 7, 1834—Continued

Burlington Daily News, Inc., Burlington, Vt	WCAX
Superior Broadcasting Service, Inc., Carthage, Ill	WCAZ
B. Bryan Musselman, Allentown, Pa	WCBA
Baltimore Broadcasting Corporation, Baltimore, Md	WCBM
Northwestern Broadcasting, Inc., Minneapolis, Minn	WCCO
L. B. Wilson, Inc., Covington, Ky	WCKY
WCLO Radio Corporation, Janesville, Wis	WCLO
Arthur Faske, Brooklyn, N.Y	WCNW
Pensacola Broadcasting Co., Pensacola, Fla	WCOA
Clinton R. White, Chicago, Ill	WCRW
Congress Square Hotel Co., Portland, Maine	WCSH
Tampa Publishing Co., Tampa, Fla	WDAE
Kansas City Star Co., Kansas City, Mo	WDAF
National Radio & Broadcasting Corporation, Amarillo, Tex	WDAG
WDAY, Inc., Fargo, N.Dak	WDAY
Times-World Corporation, Roanoke, Va	WDBJ
Orlando Broadcasting Co., Inc., Orlando, Fla	WDBO
WDEL, Inc., Wilmington, Del	WDEL
Dr. George W. Young, Minneapolis, Minn	WDGY
Durham Radio Corporation, Durham, N.C	WDNC
WDOD Broadcasting Corporation, Chattanooga, Tenn	WDOD
WDRC, Inc., Hartford, Conn	WDRC
Joseph H. Uhalt, New Orleans, La	WDSU
James L. Bush, Tuscola, Ill	WDZ
National Broadcasting Co., Inc., New York, N.Y	WEAF
Shepard Broadcasting Service, Inc., Providence, R.I	WEAN
Head of the Lakes Broadcasting Co., Superior, Wis	WEBC
Harrisburg Broadcasting Co., Harrisburg, Ill	WEBQ
Howell Broadcasting Co., Inc., Buffalo, N.Y	WEBR
Edison Electric Illuminating Co. of Boston, Mass	WEEI
Berks Broadcasting Co., Reading, Pa	WEEU
Community Broadcasting Corporation, Charlottesville, Va	WEHC
Enquirer-News Co., Battle Creek, Mich	WELL
National Broadcasting Co., Inc., Chicago, Ill	WENR
WESG, Inc, Elmira, N.Y	WESG
Debs Memorial Radio Fund, Inc., New York, N.Y	WEVD
St. Louis University, St. Louis, Mo	WEW
Dallas News-Journal, Dallas, Tex	WFAA
Fifth Avenue Broadcasting Corporation, New York N.Y	WFAB
Westchester Broadcasting Corporation, White Plains, N.Y	WFAS
Greenville News–Piedmont Co., Greenville, S.C	WFBC
Gable Broadcasting Co., Altoona, Pa	WFBG
Onondaga Radio Broadcasting Corporation, Syracuse, N.Y	WFBL
Indianapolis Power & Light Co., Indianapolis, Ind	WFBM
Baltimore Radio Show Inc., Baltimore, Md	WFBR
Flint Broadcasting Co., Flint, Mich	WFDF
WFI Broadcasting Co., Philadelphia, Pa	WFI
WGAL, Inc., Lancaster, Pa	WGAL
WGAR Broadcasting Co., Inc., Cleveland, Ohio	WGAR
Evansville on the Air, Inc., Evansville, Ind	WGBF
Scranton Broadcasters, Inc., Scranton, Pa	WGBI
Hampton Roads Broadcasting Corporation, Newport News, Va	WGH
WGN, Inc., Chicago, Ill	WGN
Buffalo Broadcasting Corporation, Buffalo, N.Y	WGR
Marquette University, Milwaukee, Wis	WHAD
Stromberg-Carlson Telephone Manufacturing Co., Rochester, N.Y	WHAM
Louisville Times & Courier Journal Co., Louisville, Ky	WHAS
WHB Broadcasting Co., Kansas City, Mo	WHB
Rev. E. P. Graham, Conaton, Ohio	WHBC
Rock Island Broadcasting Co., Rock Island, Ill	WHBF
Press Publishing Co., Sheboygan, Wis	WHBL
Anderson Broadcasting Corporation, Anderson, Ind	WHBU
WHBY, Inc., Green Bay, Wis	WHBY
Matheson Radio Co., Inc., Boston Mass	WHDH
WHEC, Inc., Rochester, N.Y	WHEC

Active members of the National Association of Broadcasters as of May 7, 1934—Continued

Troy Broadcasting Co., Dothan, Ala	WHET
WHFC, Inc., Cicero, Ill	WHFC
Radio Air Service Corporation, Cleveland, Ohio	WHK
Marcus Loew Booking Agency, New York, N.Y	WHN
New Jersey Broadcasting Corporation, Jersey City, N.J	WHOM
WHP, Inc., Harrisburg, Pa	WHP
Badger Broadcasting Co., Inc., Madison, Wis	WIBA
WIBG, Inc., Glenside, Pa	WIBG
WIBM, Inc., Jackson, Mich	WIBM
Topeka Broadcasting Association, Inc., Topeka, Kans	WIBW
Bridgeport Broadcasting Station, Inc., Bridgeport, Conn	WICC
Missouri Broadcasting Corporation, St. Louis, Mo	WIL
Johnson-Kennedy Radio Corporation, Chicago, Ill	WIND
Pennsylvania Broadcasting Co., Philadelphia, Pa	WIP
WJAC, Inc., Johnstown, Pa	WJAC
Huse Publishing Co., Norfolk, Nebr	WJAG
The Outlet Co., Providence, R.I	WJAR
Pittsburgh Radio Supply House, Pittsburgh, Pa	WJAS
Cleveland Radio Broadcasting Corporation, Cleveland, Ohio	WJAY
James F. Hopkins, Inc., Detroit, Mich	WJBK
Lamar Life Insurance Co., Jackson, Miss	WJDX
WJJD, Inc., Chicago, Ill	WJJD
WJMS, Inc., Ironwood, Mich	WJMS
WJR, The Goodwill Station, Inc., Detroit, Mich	WJR
Old Dominion Broadcasting Co., Washington, D.C	WJSV
WJW, Inc., Akron, Ohio	WJW
National Broadcasting Co., Inc., New York, N.Y	WJZ
Indianapolis Broadcasting Co., Indianapolis, Ind	WKBF
WKBH, Inc., La Crosse, Wis	WKBH
WKBN Broadcasting Corporation, Youngstown, Ohio	WKBN
Buffalo Broadcasting Corporation, Buffalo, N.Y	WKBW
Lancaster Broadcasting Service, Lancaster, Pa	WKJC
Sunbury Broadcasting Corporation, Sunbury, Pa	WKOK
WKRC, Inc., Cincinnati, Ohio	WKRC
WKY Radiophone Co., Oklahoma City, Okla	WKY
WKZO, Inc., Kalamazoo, Mich	WKZO
Life & Casualty Insurance Co., Nashville, Tenn	WLAC
American Broadcasting Corporation of Kentucky, Lexington, Ky	WLAP
WLBF Broadcasting Co., Kansas City, Kans	WLBF
Broadcasters of Pennsylvania, Inc., Erie, Pa	WLBW
Albert S. Moffat, Boston, Mass	WLEY
Lit Bros. Broadcasting System, Inc., Philadelphia, Pa	WLIT
Agricultural Broadcasting Co., Chicago, Ill	WLS
Voice of Brooklyn, Inc., Brooklyn, N.Y	WLTH
Lynchburg Broadcasting Corporation, Lynchburg, Va	WLVA
Crosley Radio Corporation, Cincinnati, Ohio	WLW
National Broadcasting Co., Inc., Washington, D.C	WMAL
National Broadcasting Co., Inc., Chicago, Ill	WMAQ
WMAS, Inc., Boston, Mass	WMAS
Southeastern Broadcasting Co., Inc., Macon, Ga	WMAZ
Michigan Broadcasting Co., Detroit, Mich	WMBC
Peoria Broadcasting Co. Peoria, Ill	WMBD
Havens & Martin, Inc., Richmond, Va	WMBG
Moody Bible Institute Radio Station, Chicago, Ill	WMBI
Paul J. Gollhofer, Brooklyn, N.Y	WMBQ
WMC, Inc., Memphis, Tenn	WMC
Knickerbocker Broadcasting Co., Inc., New York, N.Y	WMCA
Waterloo Broadcasting Co., Waterloo, Iowa	WMT
Shepard Broadcasting Service, Inc., Boston, Mass	WNAC
House of Gurney, Inc., Yankton, S.Dak	WNAX
Howitt-Wood Radio Co., Inc., Binghamton, N.Y	WNBF
New Bedford Broadcasting Co., New Bedford, Mass	WNBH
Memphis Broadcasting Co., Inc., Memphis, Tenn	WNBR
WODAAM Broadcasting Corporation, Newark, N.J	WNEW
Muscle Shoals Broadcasting Corporation, Muscle Shoals City, Ala	WNRA

Active members of the National Association of Broadcasters as of May 7, 1934—Continued

Southland Industries, Inc., San Antonio, Tex	WOAI
Central Broadcasting Co., Des Moines, Iowa	WOC-WHO
WOKO, Inc., Albany, N.Y	WOKO
American Broadcasting Co., Washington, D.C	WOL
Radiophone Broadcasting Station WOPI, Inc., Bristol, Tenn	WOPI
Bamberger Broadcasting Service, Inc., New York, N.Y	WOR
Alfred F. Kleindienst, Worcester, Mass	WORC
Woodmen of the World Life Insurance Association, Omaha, Nebr	WOW
Paducah Broadcasting Co., Inc., Paducah, Ky	WPAD
Wm. Penn Broadcasting Co., Philadelphia, Pa	WPEN
Otis P. Eure, Hattiesburg, Miss	WPFB
WPG Broadcasting Corporation, Atlantic City, N.J	WPG
Cherry & Webb Broadcasting Corporation, Providence, R.I	WPRO
WPTF Radio Co., Raleigh, N.C	WPTF
Miami Broadcasting Co., Inc., Miami, Fla	WQAM
WRAK, Inc., Williamsport, Pa	WRAK
WRBL Radio Station, Inc., Columbus, Ga	WRBL
National Broadcasting Co., Inc., Washington, D.C	WRC
WREC, Inc., Memphis, Tenn	WREC
Jenny Wren Co., Lawrence, Kans	WREN
Racine Broadcasting Corporation, Racine Wis	WRJN
Stuart Broadcasting Co., Knoxville, Tenn	WROL
Larus & Brother Co., Inc., Richmond, Va	WRVA
Crosley Radio Corporation, Cincinnati, Ohio	WSAI
Doughty & Welch Electric Co., Inc., Fall River, Mass	WSAR
Atlanta Journal Co., Atlanta, Ga	WSB
WSBC, Inc., Chicago, Ill	WSBC
Montgomery Broadcasting Co., Inc., Montgomery, Ala	WSFA
Southern Broadcasting Co., Inc., Birmingham, Ala	WSGN
Winston-Salem Journal Co., Winston-Salem, N.C	WSJS
National Life & Accident Insurance Co., Nashville, Tenn	WSM
WSMB, Inc., New Orleans, La	WSMB
WSOC, Inc., Charlotte, N.C	WSOC
Toledo Broadcasting Co., Toledo, Ohio	WSPD
St. Petersburg Chamber of Commerce, St. Petersburg and Clearwater Chamber of Commerce, Clearwater, Fla	WSUN-WFLA
Philip Weiss Music Co., Rutland, Vt	WSYB
Worcester Telegram Publishing Co., Inc., Worcester, Mass	WTAG
National Broadcasting Co., Inc., Cleveland, Ohio	WTAM
WTAR Radio Corporation, Norfolk, Va	WTAR
WTAX, Inc., Springfield, Ill	WTAX
Travelers Insurance Co., Hartford, Conn	WTIC
Milwaukee Journal Co., Milwaukee, Wis	WTMJ
Savannah Broadcasting Co., Inc., Savannah, Ga	WTOC
Truth Radio Corporation, Elkhart, Ind	WTRC
Evening News Association, Inc., Detroit, Mich	WWJ
Loyola University, New Orleans, La	WWL
Citizens Broadcasting Co., Inc., Asheville, N.C	WWNC
Long Island Broadcasting Corporation, Woodside, N.Y	WWRL
Kunsky-Trendle Broadcasting Corporation, Detroit, Mich	WXYZ
KALE, Inc., Portland, Oreg	KALE
E. M. Woody, Elk City, Okla	KASA
Beard's Temple of Music, Paragould, Ark	KBTM
North Mississippi Broadcasting Corporation, Texarkana, Ark	KCMC
Santa Barbara Broadcasters, Ltd., Santa Barbara, Calif	KDB
Donald L. Hathaway, Casper, Wyo	KDFN
National Broadcasting Co., Inc., Pittsburgh, Pa	KDKA
KDLR, Inc., Devils Lake, N.Dak	KDLR
Intermountain Broadcasting Corporation, Salt Lake City, Utah	KDYL
Earle C. Anthony, Inc., Los Angeles, Calif	KECA
Bee Bakersfield Broadcasting Co., Bakersfield, Calif	KERN
KFAB Broadcasting Co., Lincoln, Nebr	KFAB
Buttrey Broadcast, Inc., Great Falls, Mont	KFBB
James McClatchy Co., Sacramento, Calif	KFBK
Sabine Broadcasting Co., Inc., Beaumont, Tex	KFDM

Active members of the National Association of Broadcasters as of May 7, 1934—Continued

Eugene P. O'Fallon, Inc., Denver, Colo	KFEL
Radio Station KFH Co., Wichita, Kans	KFH
Earle C. Anthony, Inc., Los Angeles, Calif	KFI
Marshall Electric Co., Marshalltown, Iowa	KFJB
KFJI Broadcasters, Inc., Klamath Falls, Oreg	KFJI
University of North Dakota, Grand Forks, N.Dak	KFJM
KFJR, Inc., Portland, Oreg	KFJR
Fort Worth Broadcasters, Inc., Fort Worth, Tex	KFJZ
Mid-Western Radio Corporation, Greeley, Colo	KFKA
Henry Field Co., Shenandoah, Iowa	KFNF
Nichols & Warinner, Inc., Long Beach, Calif	KFOX
KFPL Broadcasting Station, Dublin, Tex	KFPL
Southwestern Hotel Co., Fort Smith, Ark	KFPW
Symons Broadcasting Co., Spokane, Wash	KFPY
Don Lee Broadcasting System, San Francisco, Calif	KFRC
Airfan Radio Corporation, San Diego, Calif	KFSD
Echo Park Evangelistic Association, Los Angeles, Calif	KFSG
Concordia Theological Seminary, St. Louis, Mo	KFUO
Los Angeles Broadcasting Co., Inc., Los Angles, Calif	KFVD
Hirsch Battery & Radio Co., Cape Girardeau, Mo	KFVS
Warner Bros. Broadcasting Corporation, Los Angeles, Calif	KFWB
Frank E. Hurt, Nampa, Idaho	KFXD
Exchange Avenue Baptist Church, Oklahoma City, Okla	KFXR
Meyer Broadcasting Co., Bismarck N.Dak	KFYR
Northwest Broadcasting System, Inc., Spokane, Wash	KGA
Don Lee Broadcasting System, San Diego, Calif	KGB
KGBX, Inc., Springfield, Mo	KGBX
E. E. Krebsbach, Wolf Point, Mont	KGCX
Donald C. Treloar, Kalispell, Mont	KGEZ
Eagle Broadcasting Co., Inc., Corpus Christi, Tex	KGFI
Ben S. McGlashan, Los Angeles, Calif	KGFJ
Red River Broadcasting Co., Inc., Moorhead, Minn	KGFK
Central Nebraska Broadcasting Corporation, Kearney, Nebr	KGFW
Golden Gate Broadcasting Co., San Francisco, Calif	KGGC
Powell & Platz, Coffeyville, Kans	KGGF
Curtis P. Ritchie, Pueblo, Colo	KGHF
Northwestern Auto Supply Co., Inc., Billings, Mont	KGHL
KGIR, Inc., Butte, Mont	KGIR
J. M. Heaton, Las Vegas, Nev	KGIX
Wichita Falls Broadcasting Co., Inc., Wichita Falls, Tex	KGKO
Honolulu Broadcasting Co., Ltd., Honolulu, Hawaii	KGMB
National Broadcasting Co., Inc., San Francisco, Calif	KGO
Gish Radio Service, Amarillo, Tex	KGRS
Mosby's Inc., Missoula, Mont	KGVO
Oregonian Publishing Co., Portland, Oreg	KGW
Don Lee Broadcasting System, Los Angeles, Calif	KHJ
Louis Wasmer, Inc., Spokane, Wash	KHQ
KID Broadcasting Co., Inc., Idaho Falls, Idaho	KID
Harold H. Hanseth, Eureka, Calif	KIEM
Carl E. Haymond, Tacoma, Wash	KIT
Julius Brunton & Sons Co., San Francisco, Calif	KJBS
Fisher's Blend Station, Inc., Seattle, Wash	KJR
Interstate Broadcasting Corporation, Ogden, Utah	KLO
George Roy Clough, Galveston, Tex	KLUF
Reynolds Radio Co., Inc., Denver, Colo	KLZ
May Seed & Nursery Co., Shenandoah, Iowa	KMA
W. W. McAllister, San Antonio, Tex	KMAC
Midland Broadcasting Co., Kansas City, Mo	KMBC
Virgin's Broadcasting Station, Medford, Oreg	KMED
James McClatchy Co., Fresno, Calif	KMJ
M. M. Johnson Co., Clay Center, Nebr	KMMJ
KMO, Inc., Tacoma, Wash	KMO
Voice of St. Louis, Inc., St. Louis, Mo	KMOX
Oregon State Agricultural College, Corvallis, Oreg	KOAC
The Bee, Inc., Reno, Nev	KOH

Active members of the National Association of Broadcasters as of May 7, 1934—Continued

Mona Motor Oil Co., Council Bluffs, Iowa	KOIL
KOIN, Inc., Portland, Oreg	KOIN
Seattle Broadcasting Co., Inc., Seattle, Wash	KOL
Fisher's Blend Station, Inc., Seattle, Wash	KOMO
Mission Broadcasting Co., San Antonio, Tex	KONO
H. H. Hanseth, Inc., Marshfield, Oreg	KOOS
National Broadcasting Co., Inc., San Francisco, Calif	KPO
Pillar of Fire, Denver, Colo	KPOF
Wescoast Broadcasting Co., Wenatchee, Wash	KPQ
Houston Printing Co., Houston, Tex	KPRC
KQV Broadcasting Co., Pittsburgh, Pa	KQV
Pacific Agricultural Foundation, Ltd., San Jose, Calif	KQW
First Congregational Church of Berkeley, Oakland, Calif	KRE
Voice of the Orange Empire, Inc., Ltd., Santa Ana, Calif	KREG
KRGV, Inc., Harlingen, Tex	KRGV
Radio Sales Corporation, Seattle, Wash	KRSC
Pulitzer Publishing Co., St. Louis, Mo	KSD
Radio Service Corporation, Pocatello, Idaho	KSEI
Radio Service Corporation of Utah, Salt Lake City, Utah	KSL
Iowa Broadcasting Co., Des Moines, Iowa	KSO
Sioux Falls Broadcasting Association, Sioux Falls, S.Dak	KSOO
National Battery Broadcasting Co., St. Paul, Minn	KSTP
Associated Broadcasters, Inc., San Francisco, Calif	KTAB
KTAR Broadcasting Co., Phoenix, Ariz	KTAR
KTAT Broadcast Co., Fort Worth, Tex	KTAT
Tri-State Broadcasting System, Inc., Shreveport, La	KTBS
Hot Springs Chamber of Commerce, Hot Springs, Ark	KTHS
Tulsa Broadcasting Co., Inc., Tulsa, Okla	KTUL
KUJ, Inc., Walla Walla, Wash	KUJ
Puget Sound Broadcasting Co., Inc., Tacoma, Wash	KVI
KVL, Inc., Seattle, Wash	KVL
Southwestern Sales Corporation, Tulsa, Okla	KVOO
KVOS, Inc., Bellingham, Wash	KVOS
Cedar Rapids Broadcast Co., Cedar Rapids, Iowa	KWCR
International Broadcasting Corporation, Sherveport, La	KWEA
Portable Wireless Telephone Co., Inc., Stockton, Calif	KWG
Thomas Patrick, Inc., St. Louis, Mo	KWK
International Broadcasting Corporation, Shreveport, La	KWKH
Frank P. Jackson, Brownsville, Tex	KWWG
American Radio Telephone Co., Seattle, Wash	KXA
KXL Broadcasters, Portland, Oreg	KXL
KXRO, Inc., Aberdeen, Wash	KXRO
Electrical Research Products, Inc., New York, N.Y	
Jansky & Bailey, Washington, D.C	
M. A. Leese, Washington, D.C	
Radio Pictures, Inc., New York, N.Y	W2XR
RCA-Victor Co., Inc., Camden, N.J	
Western Electric Co., New York, N.Y	
World Broadcasting System, New York, N.Y	

That completes my statement, Mr. Chairman.

SUPPLEMENTARY STATEMENT BY THE NATIONAL ASSOCIATION OF BROADCASTERS REGARDING THE AMENDMENT TO H.R. 8301 PROPOSED BY FATHER JOHN B. HARNEY

To the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

GENTLEMEN: When, on May 8, 1934, the National Association of Broadcasters presented its testimony before your committee, H.R. 8301 contained nothing relating to the subject matter of the amendment thereto advocated in the testimony before you on May 9 of Father John B. Harney.

Since, however, the adoption of this amendment would manifestly (*a*) revolutionize the method of determining the fitness of applicants to receive broadcasting licenses which has been in effect since 1927, (*b*) virtually destroy the American

broadcasting industry as at present established, and (c) involve the proposed Communications Commission in an enormous and probably impossible task, so complex as to prevent it for at least a year from even undertaking anything else, the National Association of Broadcasters avails itself of your permission to file a supplementary statement.

THE SENATE STATEMENT

Before discussing the testimony presented before your committee in support of this amendment, the National Association of Broadcasters desires to present for the record a brief statement, which it has prepared regarding an identical amendment to S. 3285, submitted in the United States Senate, as follows:

"On Friday, April 27, there was submitted in the Senate jointly by Senators Wagner and Hatfield an amendment intended to be proposed to the communications bill (S. 3285).

"This amendment, in brief, calls for the termination of all radio-broadcasting licenses 90 days after the effective date of the act, and a complete reallocation of all broadcasting facilities in order that 25 percent thereof may be allocated to 'educational, religious, agricultural, labor, cooperative, and similar nonprofit-making associations,' such associations to be permitted to sell broadcasting time commercially.

"The National Association of Broadcasters, which has been found by the National Recovery Association to be 'truly representaive of the radio-broadcasting industry,' protests in the name of several hundred broadcasting statons and millions of radio listeners against any such proposal, for the following specific reasons:

"(1) The proposal would impose on the new Commission an enormous task, not only in making the new allocation but in the hundreds of court actions which would inevitably result therefrom. The new Commission would be so burdened by this tremendous task, involving the complete reorganization of the entire system of American broadcasting, that for at least a year it would be absolutely unable to undertake any other part of its duties.

"(2) The expense, both to the Federal Government and to present radio licensees, chiefly for defending and prosecuting court actions, would inevitably amount to millions of dollars.

"(3) The proposal is diametrically opposed to the recommendation of the President that new legislation should follow study and recommendation by the Commission.

"(4) The proposal to make allocations by congressional enactment rather than by action of the Commission completely revolutionizes the entire theory and structure of allocations set up by the Congress in the Radio Act of 1927, as amended.

"(5) The proposal would reduce, and in some instances perhaps destroy, the service now being rendered to the people of America by over 600 radio stations, and would jeopardize all the nvestments made therein.

"(6) At present the sole test of fitness for a license, or for a renewal thereof, is service to the public as a whole. This proposal would set up a new test—service to a special group, class, or denomination.

"(7) The proposal does not, and presumably cannot, indicate any possible way in which the facilities thus set aside are to be allocated as between religion, education, labor, and agriculture, or between different religious organizations, the only possible result being hopeless conflict.

"(8) The associations and groups designated in the proposal are already receiving from broadcasting stations in the aggregate far more extensive facilities for broadcasting than they could possibly have if their activities were thus segregated.

"(9) This same issue has previously come before the Congress, and has never received favorable consideration by the committees which have studied it. The National Association of Broadcasters has placed itself on record, by unanimous action, as opposing any segregation of broadcasting facilities by legislation for special groups of any sort, on the ground that public interest, convenience, and necessity require that every broadcasting station shall serve every listener within its normal range.

"(10) At a time when every effort of the Federal Government is being directed toward economic recovery, the unstabilizing of a whole industry by such a proposal as this would appear utterly at variance with the national policy.

"(11) The proposal, in specifically authorizing religious, educational, and similar stations to sell time, actually would merely transfer facilities from exist-

ing commercial stations to other time-selling stations, thereby establishing religious, educational, and similar groups as competitive commercial broadcasters.

"For the reasons herein summarized, the National Association of Broadcasters, speaking for the radio broadcasting industry as a whole, urges every Senator to oppose the Wagner-Hatfield amendment, and not to destroy the whole structure of American broadcasting by supporting a proposal regarding which the broadcasters have not even had an opportunity to be heard."

A REVOLUTIONARY PRINCIPLE

It was stated before your committee that no one had dared, or would dare, to oppose the basic principle of this amendment, the principle that a considerable proportion of all broadcasting facilities should be allocated to certain organizations.

The National Association of Broadcasters, without qualification, does oppose this principle of allocation. It maintains that the sole test of fitness for a broadcasting license is service to the public as a whole, as distinguished from service to any particular class, group, or denomination.

Every nation in the world in which broadcasting has developed, whether through private initiative or Government operation, has consistently maintained this principle that every broadcasting station has an obligation to serve every type of listener within its normal range. It is clearly this type of service which the Congress had in mind when, in framing the Radio Act of 1927, it made "public interest, convenience or necessity" the statutory guide for the licensing authority.

It is the manifest duty of the licensing authority, in passing upon applications for licenses or the renewal thereof, to determine whether or not the applicant is rendering or can render an adequate public service. Such service necessarily includes the broadcasting of a considerable proportion of programs devoted to education, religion, labor, agriculture, and similar activities concerned with human betterment.

In actual practice, over a period of 7 years, as the records of the Federal Radio Commission amply prove, this has been the principal test which the Commission has applied in dealing with broadcasting applications. Most of the evidence presented by applicants with regard to program service has been concerned with programs of a public-service character from which no revenue has been received.

The National Association of Broadcasters fully agrees that the facilities of broadcasting should be made available in the fullest possible measure, as it maintains that they now are, and either free of all charge or at the lowest possible cost, in the service of education, religion, and other activities for human betterment, but it insists that these facilities should be those of stations serving the public as a whole.

FREEDOM OF SPEECH

It was alleged before you that the special allocation of broadcasting facilities to particular groups or denominations is necessary to protect the right of free speech.

The National Association of Broadcasters maintains that the exact opposite is the case, and that such a system of special allocation would, in fact, deprive millions of people of the right either to utter or to hear free speech. In the field of religion alone, it is obvious that an assignment to religious organizations of 25 or even 50 percent of the total facilities would by no means take care of everyone. Suppose that religious organizations were assigned 10 "cleared" channels. There are 3 or 4 times that many religious denominations or groups of national scope, many of which would inevitably be shut out in the race for broadcasting facilities of their own. Would the Methodist, the Christian Scientist, the Jew be invited to make free use of the facilities controlled by another denomination, as today they are all invited to use the facilities of the general-service broadcasting stations? There would be freedom of speech only for those groups lucky, rich, or influential enough to secure all the available allocations; for the rest there would be no freedom at all.

As to the present situation, the attention of your committee is respectfully directed to the report of the hearings on H.R. 7986 before the House Committee on Merchant Marine, Radio, and Fisheries, held in March 1934. This bill, as its author stated in his testimony, was expressly designed to protect freedom of radio speech, and especially freedom from censorship of any kind, in all matters relating to politics, religion, education, and charity. Despite the fact that this

bill had received wide publicity, not a single witness came before the committee to testify to or even suggest any restriction of free speech, or any form of censorship, with regard to politics, education, or charity, and the only witnesses testifying to any restriction in the matter of religious utterance all represented a group which admittedly attacked the clergy of all churches. It is significant that among those testifying in strong opposition to this bill were the executive secretary of the National Council of Catholic Men and the executive secretary of the Federal Council of Churches of Christ in America.

The National Association of Broadcasters is as jealously determined to safeguard the right of free speech by radio as the newspapers are to safeguard their rights in the same field. The evidence presented before the House Committee on Radio proves conclusively that these rights are now being admirably maintained, and that while broadcasting stations necessarily exercise a reasonable and necessary power of selection, just as a newspaper editor does, there is no such thing as a radio "censorship."

Freedom of speech can be maintained in radio only by insisting that every station shall serve every listener within its normal range, whether Democrat or Republican, conservative or radical, rich or poor, Catholic or Jew, city dweller or farmer. It can most quickly be destroyed by assigning facilities to a favored few among the groups which seek to appeal to a special and limited audience.

DESTRUCTION OF BROADCASTING

The amendment purposes, in substance, to put one fourth of the present American radio stations out of existence, in favor of (a) increased facilities for a very small number of existing stations, and (b) a considerable number of new stations which will presumably be built.

It is to be noted that the stations thus to be favored are specifically "commercial" in that they are all authorized to sell time for advertising. The only difference between them and the stations to be wiped out to make way for them is one of ownership. Furthermore, the stations thus to be destroyed must, by the terms of the amendment, include many of those now rendering the highest type of service to the public, with the largest investments in transmitting equipment.

Since it is inconceivable that the American people would tolerate such a wholesale destruction of radio stations, some attempt would necessarily be made to accommodate the displaced stations on channels already overcrowded. It is safe to say that, if this amendment were adopted, nearly all of the existing stations would find their effective service reduced from 50 percent in the case of the luckiest ones, to 100 percent, in the case of those for which no place could be found.

These stations which would thus be sacrificed are the pioneers, the stations which, after the first years of experimental development and the harassing years of the depression, have just begun to look forward with reasonable hope. It is their investment, not alone of capital, but of effort, which this amendment would sweep away. The mere knowledge that all licenses were to be canceled would of itself mean the immediate loss of a large volume of current business, with hundreds of men and women thereby thrown out of work.

And what of the listening public, with its 18,000,000 radio-equipped homes? Would the drastic reduction or complete loss of service from the stations to which it now listens be compensated for by the expectation that some day there would be other stations built to take their places? This amendment apparently disregards utterly the rights of the public. In order that one particular church station may secure more time, it would sacrifice the rights of 60 or 70 million radio listeners, who, in 90 days, would find every station to which they had become accustomed to listen either crippled or silenced.

AN IMPOSSIBLE TASK

The proponents of this amendment, in suggesting that a complete new allocation be made in 90 days, evidently have no conception of the enormous task involved. The mere mechanical mapping out of such a reallocation would require months of intensive work by a corps of experts, and that would be only the beginning. Every existing license is, by the amendment, declared void in 90 days, and this without giving the licensee any right to a hearing, for if the Commission were to hold hearings every day, it would require at least 2 years to get through the list of the present licensees.

Manifestly, every licensee whose license is thus voided, in flat defiance of existing law, without his having had so much as an opportunity to be heard, is going to carry his case to the courts. How is the Commission going to deal with 600 court cases, particularly since, under the terms of H.R. 8301, these cases will be brought in widely scattered United States district courts? Is it even thinkable that the courts will uphold a law that deprives people of the use of their property without so much as a hearing?

And this is the task which this amendment would impose, not on the present Radio Commission, which at least has a reasonable familiarity with the subject and which can confine its activities to the field of radio, but on a new commission, charged with the duty of regulating the entire field of communications. It would need a huge appropriation, over and above all its other expenses of operation, exclusively for the task created for it by this one amendment. With the personnel contemplated in H.R. 8301, it is perfectly safe to say that if this amendment were enacted, the Commission for at least a year would not be able to give any attention to anything except this one problem.

CONCLUSION

The National Association of Broadcasters believes, quite as firmly as the proponents of this amendment, that broadcasting must serve the cause of human betterment. It maintains that today it is rendering such service in a notable degree, but this association will always actively support any measure which will truly increase the scope and effectiveness of that service. It believes that radio must always stand firmly for the right of free speech. It insists, however, that neither public service nor freedom of speech can be assisted by making service to a particular class, group or creed, the test of fitness for a broadcasting license instead of service to the people as a whole. It maintains, for the reasons herein set forth, that the proposed amendment to H.R. 8301 is utterly destructive to the rights of the radio-listening public, to the broadcasting industry, and to the work of the Communication Commission itself, and therefore it urgently requests your committee to reject this amendment.

The CHAIRMAN. Any questions? We are very much obliged to you, Mr. Bellows. We will adjourn until 10 o'clock tomorrow morning.

(Thereupon, at 11 a.m., the committee adjourned to meet the following morning, Wednesday, May 9, 1934, at 10 a.m.)

COMMUNICATIONS—H. R. 8301

WEDNESDAY, MAY 9, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

Mr. HUDDLESTON. The committee will come to order. The chairman has asked me to preside for a while this morning.

Mr. McDonagh, you desire to be heard?

STATEMENT OF JOSEPH McDONAGH, REPRESENTING THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, WASHINGTON, D.C.

Mr. MCDONAGH. Mr. Chairman, I desire to be heard. My name is Joseph McDonagh, representing the International Brotherhood of Electrical Workers.

The International Brotherhood of Electrical Workers makes an appearance here today, in conjunction with the Commercial Telegraphers' Union of North America, to request that employees of the communications corporations be given proper protection in organization activities and that a system of modern industrial relations be set up. We are submitting here a request for the establishment of an industrial relations committee similar to the one they have in the railways, and I will leave that with the committee.

Mr. HUDDLESTON. Yes; you may file it with the reporter.

(The document referred to is as follows:)

Proposal of International Brotherhood of Electrical Workers and Commercial Telegraphers' Union of North America for amendments to Railway Labor Act.

We propose that the title of the Railway Labor Act be changed to "The Railway and Communications Labor Act", and that the act be divided into two parts:

Title I. Railway.

Title II. Communications.

UNDER TITLE II. COMMUNICATIONS

GENERAL PURPOSE

To insure stabilization of employment, and continuity of service; to advance cooperative relations as between labor and management; to guarantee collective bargaining, and to provide means whereby management and the employees, through representatives of their own choosing, shall confer on problems dealing with wages, hours, working conditions, and the positive side of service, there shall be created a National Council for Industrial Relations for the communications industries.

DEFINITIONS

The term "carrier" means any person engaged in communication by wire, cable, or radio, as a common carrier for hire; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

The term "employee" includes every person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service).

NATIONAL COUNCIL FOR INDUSTRIAL RELATIONS

1. The function of the National Council for Industrial Relations shall be to effectuate title II.

2. One member of the National Mediation Board, as provided in title I of ths act, shall be designated Director for Industrial Relations, under title II.

3. The Director for Industrial Relations may, when necessary, set up regional councils for industrial relations.

4. All councils shall be composed of equal numbers of employers, or their representatives, and of employees, or their representatives. Decisons shall be unanimous.

5. Conferences as between labor and management shall be mandatory.

6. When disputing parties elect to submit disputes to councils they shall do so on written forms, agreeing to abide by decisons rendered.

7. No employee and no one seeking employment shall be required as a conditon of employment to join any company or to refrain from forming, organizing, or assisting a labor organization of his own choosing.

8. It shall be deemed inimical to public interest for any communications industry to use funds of the industry to organize, aid in organizing, or to maintain company organization of employees.

STATEMENT OF JOUETT SHOUSE

Mr. HUDDLESTON. Is Mr. Shouse in the chamber?

Mr. SHOUSE. Yes, Mr. Chairman.

Mr. Chairman, Col. Grayson M.-P. Murphy, of New York, will speak on behalf of the cable and radio users' protective committee.

Mr. HUDDLESTON. We will be glad to hear Colonel Murphy.

STATEMENT OF G. M.-P. MURPHY, NEW YORK, N.Y., APPEARING ON BEHALF OF CABLE AND RADIO USERS' PROTECTIVE COMMITTEE

Mr. MURPHY. Mr. Chairman, and members of the committee, my name is G. M.-P. Murphy, of 52 Broadway, New York, and I am appearing on behalf of the radio users' protective committee.

I appear before you in my capacity as chairman of the cable and radio users' protective committee, which was appointed in January of this year to act for over 50 banks, banking houses, stock-exchange and commodity firms, and export and import houses in attempting to combat certain drastic increases in trans-Atlantic cable and radio rates that were imposed at that time. We have since been requested to represent also certain additional firms in the export and import field and an association of shipping firms and ship brokers who, I am informed, handle a large proportion of the ocean-borne freight traffic of the United States. In traffic volume the businesses represented by our committee constitute one of the largest groups of users of international cable and radio telegraph communications, and particularly is this true of messages requiring fast transmission. The volume of such business handled by this group is exceedingly

important and affects many essential interests throughout the country. These and similar organizations are the channels through which is handled a large proportion of certain essential types of business which Americans do abroad.

What I hope to show you is that an absolute monopoly controls the cable and radio telegraph service across the Atlantic Ocean; that this monopoly has exercised its powers to raise rates to an extraordinary extent and that there exists no tribunal in this country competent to rule on the justice or reasonableness of these rates. I have come to urge that in view of these circumstances the Congress promptly pass an adequate bill providing for the regulation of the cable and radio telegraph services which American citizens must use in the transaction of their international affairs. I am personally opposed to any unnecessary governmental regulation of private enterprise, yet I have reluctantly but definitely come to the conclusion that the only hope of fair treatment for those whom I represent lies in effective governmental regulation which is now lacking in this particular field.

As to the details of the bill now under consideration by your committee I am not qualified to speak, nor, with one minor exception, shall I address myself to any of its specific terms but I venture to bring to your attention certain matters which I believe clearly indicate the necessity of including in it the control which I advocate.

The R.C.A. Communications, Inc., Commercial Cable Co., Western Union Telegraph Co., and French Telegraph Cable Co., as a consequence of the cable and radio facilities which they control and of their arrangements with foreign governments and with other communications companies throughout the world, have an absolute monopoly on all cable and radio telegraph business which can be carried on across the North Atlantic by the people of this country. From this monopoly there is no escape. If an American citizen does any international business involving the use of the cable or radio to Europe, he can deal only with some one of these concerns. No matter how the American user of these services may be oppressed, he must take his choice between doing business on the terms laid down for him or doing no business at all. He has no recourse to his Government and apparently no recourse to any court of the United States.

On the 14th of last December the communications companies I have named and other American companies delivered to the users of their various overseas services two circulars announcing certain changes in rates and services to take effect on January 1, 1934. Among these changes were, first, drastic increases, running as high as 66⅔ percent, in the rates for night letters, which are characteristically the popular service of a vast number of individual and business users throughout the country; second, abolition of the reasonably priced preferred service which had been in existence for many years, and, third, the inauguration in the place of the preferred service of a new urgent service which increased the rates on fast messages across the North Atlantic in amounts ranging from 60 to over 100 percent. There had been no previous notice of these increases, so that time was not allowed before the effective date even for letters to be exchanged between American business men and

their foreign branches and correspondents, although the very existence of certain of the enterprises affected is seriously endangered by the new rates.

As promptly as possible after the notices were received a number of users of trans-Atlantic cables, and radio met, and that meeting resulted ultimately in the appointment of the committee of which I am now chairman. Through this committee negotiations were patiently carried on over a period of approximately 6 weeks in an endeavor to reach some reasonable compromise with the companies.

These negotiations produced no satisfactory results. It was developed, however, first, that these rates were the outcome of an agreement between the companies and were not, as they repeatedly claimed, in the circulars referred to and elsewhere, the necessary result of a conference of the International Telegraph Union held at Madrid in 1932; second, that the companies had had to obtain the consent of the British Post Office before these rates could be imposed; and, third, that they were delaying and proposed to still further artificially delay their ordinary service to concerns whose business was dependent on prompt communications, so that the users requiring even reasonably fast service would be forced to use and pay for the new high-priced urgent service.

Not being able to deal on a reasonable basis with the communications companies, we requested our counsel to explore the possibilities of finding relief through governmental agencies. Certain powers in this situation lie legally within the State Department. Under the typical cable landing licenses granted by our Government, it is distinctly provided that rates shall be just and reasonable, that copies of all tariffs shall be filed with the Department of State and that any agreement which the companies may make with any other cable company or with any foreign government, either for the purpose of regulating rates or for any other purpose, shall be subject to the approval of the State Department, that information concerning it shall be transmitted to the Secretary of State immediately after execution, and that the Department have 30 days after receipt of such information within which to signify its disapproval of the agreement.

We learned that, in spite of this clause, all of the cable and radio companies which I have named, after completing their arrangements in secret with such foreign agencies as they found necessary, proceeded to put their new rates in effect without the required notice of these agreements to our State Department, while only one company filed the required schedule of rates. These facts are admitted by our State Department but the officials of that Department advise us that the legal remedies which are available to them are not sufficient to make effective action possible. In this connection, I quote from a letter dated March 9, 1934, addressed to counsel for this committee by Mr. R. Walton Moore, Assistant Secretary of State, in which he says:

> The action of the communication companies in putting a new service at increased rates into effect without prior consultation with or approval by the Government would appear strongly to support the need for the establishment of a commission such as that recommended by the President.

We thus find that there is serious question as to the ability of the State Department under existing legislation to protect our inerests.

We are advised by our counsel that we can probably find no relief in the courts. We are faced with the opinion of Commissioner Eastman of the Interstate Commerce Commission, in discussing the powers of the Commission over rates for international communications, that "The only part of that transmission that we have regulation over, as I understand it, is the part which takes place in the United States." We consequently find ourselves apparently without any defense in the matter.

Under the present laws, so far as we can learn, the cable and radio telegraph group I have named can engage in mutually satisfactory agreements between themselves and foreign interests and those American citizens who are dependent on this service are absolutely at their mercy and have nowhere to go for relief. This appears to be true even where such agreements, as in the present case, are effectively in restraint of trade. In other words, we have the spectacle of a monopolistic group of companies, almost wholly American, having to obtain the consent of foreign interests to outrageously increased rates which it is charging to American citizens, while the American Government, itself suffering from some of the new rates and conditions, is not only ignored in the matter but finds itself substantially powerless to take any action in the circumstances.

I therefore venture to urge that the Congress at this session pass legislation which will result in the establishment of a tribunal with adequate powers to control the matter of rates and services in international communications, including specifically such powers as may be necessary to deal with the complicated international aspects of the problem. I respectfully request that such action be taken at this session of Congress, because of the heavy, and I believe unjust burdens, which the users of the services I have described must bear until legal relief can be secured.

In particular, I should like to urge that your committee retain the definition of foreign communications as embodied in the bill as originally introduced by your chairman. In the Senate bill this definition has subsequently been amended to include the phrase "insofar as such communication or transmission takes place within the United States." As I understand it, it is the presence of this qualifying phrase in the Interstate Commerce Act which has been responsible for the practical ineffectiveness of control of foreign communications by the Interstate Commerce Commission and I think it would be highly unfortunate to have any ambiguity or possible limitation of jurisdiction in respect to this matter.

Although it is my information that the State Department has already transmitted to the chairman of your committee a copy of our letter of February 16 embodying our complaint and a copy of the Department's answer by date of March 9, I am attaching such copies hereto as part of my statement, as well as a copy of a statement made by Mr. C. O. Pancake to the Senate Committee on Foreign Relations, and trust that they will go into the records of the hearing and will be given careful consideration by your honorable committee.

Mr. HUDDLESTON. Any questions, gentlemen?

We are glad to have heard you, Colonel.

(The matter referred to is as follows:)

FEBRUARY 16, 1934.

The Honorable CORDELL HULL,
Secretary of State, Washington, D.C.

DEAR MR. SECRETARY: On December 14, 1933, the users of cable service received a circular dated December 1, 1933, and signed by eight American communications companies, announcing the inauguration of a double urgent rate to telegrams on the North Atlantic, which is roughly a 100 percent increase to the users of fast service.

The companies attempted to justify their action by the decisions of the Madrid Telegraph Conference of 1932, although the urgent rate has been embodied in the convention since 1875, but has never been applied to North Atlantic traffic where a regional arrangement has always existed. Under this regional arrangement some companies accepted fast messages at the normal rate, others accepted them at the preferred rate which was 25 percent more than the normal rate.

The Madrid Conference reduced the urgent rate from triple to double the normal rate because urgent business had practically disappeared from the communication routes of the world, and it was thought this reduction would stimulate the production of urgent traffic.

During the debate on this change in the urgent service, the British and Canadian delegations pointed out that a regional arrangement existed on the North Atlantic which should not be disturbed because of the harmful effect it would be certain to have on the business of Great Britain with Canada and the United States. The convention decided that it was without jurisdiction on regional arrangements. It was understood that the British Postoffice and the American State Department would have jurisdiction should the cable companies operating in that territory attempt to apply an urgent rate.

That there has never been an urgent rate on the North Atlantic is due to the great volume of business and the abundance of facilities for its transmission. During the past 10 years facilities have increased enormously due to the invention of the perm-alloy loaded cable, one of which will carry all the traffic now handled by 18 cables in operation at the present time, and by the improvement in radio service to a point where it is as fast as, and cheaper to operate than, a submarine cable. The beam system of radio, put into service in Canada in recent years, and now operating commercially across the North Atlantic, is much less costly in construction than the long-wave radio, and operates to an enormous speed.

All this would seem to dictate an infinitely cheaper communication service in this region where facilities exist for handling many times the total traffic available.

The landing license for submarine cables, which the President of the United States has the authority to issue or revoke in the event of breach or nonfulfillment of its conditions, contains several clauses pertinent to this situation, one clause stating—

"that the rates to be charged for messages over the cable * * * shall be just and reasonable * * *"

In view of the many facilities it would seem that the present 100 percent increase is not just and reasonable.

Another clause in the landing license reads:

"That without the consent of the Department of State the licensee shall not lease, transfer, assign, or sell the cable nor consolidate, amalgamate, or combine with any other party or parties. If the licensee shall enter into any agreement with any other cable or communications company or any foreign government either for regulating rates or for any other purpose not covered by the preceding sentence, provision shall be made in any such agreement whereby it shall be subject to the approval of the Department of State and shall be transmitted to the Secretary of State immediately after execuion and the Department of State shall have 30 days next after receipt thereof within which to signify its disapproval of the agreement."

To secure this rate increase the communication companies had to have at least the consent of the British postoffice; furthermore, the Imperial and International Communications, Ltd., which operates two cables across the North Atlantic, obviously must increase its rates to meet the increase of the American companies, or otherwise the American companies would lose business to it. The Canadian Marconi and Independent Co., British owned, having facilities

in abundance but little business because of exacting restrictions imposed by an interlocking agreement among all the companies operating across the north Atlantic, was forced to apply the double urgent rate along with the rest, although there is no possibility of its receiving urgent business for transmission under the present arrangement. All this would argue that the clause of the landing license, quoted above, has been violated because the American and British companies must have entered into an agreement to apply the urgent rate on the North Atlantic simultaneously.

The above quotation from the landing license provides that any agreement with any other cable or communication company or any foreign government, whether with reference to the regulation of rates or for any other purpose, must be subject to the approval of the Department of State. For the purpose of consideration by the Department the above clause further provides that such agreement shall be transmitted to the Secretary of State immediately after execution and the Department shall have 30 days within which to signify its disapproval.

If our information is correct, no such notice as that above cited has been given to the Department of State. It would seem, therefore, in view of the facts as set out and in view of the plain provisions of the landing license, that the communication companies have failed to comply with the necessary requirements and that the President through the Department of State has the power to revoke the licenses of such companies.

While the Department of State is primarily concerned with possible infringement of the landing license, yet there are other considerations entering into this general situation which it may be well here to set out.

The users of communication service in the United States, particularly those users of urgent service, which includes banks, commodity houses, stock-exchange firms, import and export firms, in fact all businesses operating internationally, require a fast and efficient cable service. Such service has always been available at normal rates. Many such businesses are now operating at a loss, and able and at normal rates. Many such businesses are now operating at a loss, and unfair increase will at once curtail their operations and no doubt many of them will be forced to abandon their operations in Great Britain and to certain points on the continent of Europe.

The companies attempt to justify the recent increase on the basis of unsatisfactory income, particularly during the past 2 years. This situation is due to two principal causes, first, the depression, and second, a highly unsatisfactory competitive condition as between the communications companies. The first cause, we hope, is in the way of working itself out naturally, and would not of itself justify a discriminatory rate increase, applying to only one class of customers as this increase does. The competitive situation on the other hand is largely a result of the fact that Radio Corporation has never had the preferred rate and has been giving the equivalent service at the ordinary rate; certain customers of the cable companies have been offered or have taken advantage of this situation to obtain preferred service at the ordinary rates, with the result that a chaotic situation has grown up in which certain customers of these companies are obtaining improper preferences over others. The companies as well as the customers desire to eliminate these conditions, but the companies have been unable to agree among themselves as to any reasonable way of doing this and have as a consequence settled on the present arbitrary and discriminatory action. In the process they are not merely charging higher rates for urgent service, but are artificially and arbitrarily delaying all classes of messages, a practice which is tending to destroy the efficiency of other organizations and is throwing away all of the benefits of the technical progress made in recent years and is certainly indefensible on either moral or economic grounds except that it is the easiest way for the companies to solve a problem that is essentially their own.

Since these new and exorbitant rates went into effect as of January 1, 1934, the companies having control of communications over the North Atlantic have attempted to force the users of their service to employ the urgent rate rather than the ordinary rate. With that in view there has been intentional delay in the transmission and delivery of messages sent by the ordinary rate. This is easily susceptible of proof by a comparison between the average time required for the transmission and delivery of ordinary messages for 6 weeks prior to January 1 with the average time so employed for 6 weeks subsequent to January 1. Naturally the question arises whether this may not be considered collusion in restraint of trade.

Following notice of the proposed impositon of the increased rates, users of North Atlantic communication service united in an organization known as Cable & Radio Users' Protective Committee. Representatives of this committee have had numerous conferences with representatives of the communication companies but have been unable to arrive at a satisfactory adjustment of the matter. Therefore, this committee comes to the Department of State to seek, at the hands of the Executive branch of the Government, protection from rates which are unfair, unjustified, and which, if continued, will result in impeding seriously the progress of business recovery. The committee believes that under the authority of the landing license the President, through the Department of State, has ample authority to deal with the situation and, indeed, is charged with the duty of protecting American users of North Atlantic communication facilties.

There are various precedents with which the Department of State is entirely familar that arose during the adminstration of President Grant and a strikng instance is the action taken by President Wilson in the matter of the cable to Barbados Island.

While it well may be that recourse can be had by the committee to other agencies of the Government, it seems obvious because of the power conferred through the landing license that the Department of State is the proper arm of the Government to offer the necessary protection and redress to American citzens in this instance. It is, therefore, respectfully urged that the Department shall immediately take the steps that seem proper to deal with the situatien. On behalf of the Cable & Radio Users' Protective Committee of New York we present this plea and petition.

We are, dear Mr. Secretary, with great respect,

Your most obedient servants,

SHOUSE, MORELOCK & SHRADER,
By JOUETT SHOUSE.

DEPARTMENT OF STATE,
March 9, 1934.

MR. JOUETT SHOUSE,
National Press Building, Washington, D.C.

SIR: In further reply to your letter of February 16, 1934, relating to the communication service across the North Atlantic, I should like to call your attention to bills recently introduced in the Senate (S. 2910) and the House of Representatives (H.R. 8301) for the establishment of a Federal Communications Commission. These bills were introduced following a message from the President recommending the establishment of such a commission.

Both bills contemplate that the new commission shall have jurisdiction of rates and service such as those of which you complain. In view of the President's request for the establishment of the commission and of the pending hearings before the Senate and House Committees on Interstate Commerce, it is not thought necessary for the Department to go into a detailed discussion of the questions presented in your letter of February 16.

The action of the communication companies in putting a new service at increased rates into effect without prior consultation with or approval by the Government would appear strongly to support the need for the establishment of a commission such as that recommended by the President. The Department is communicating this view to certain communication companies. It is also sending a copy of your letter and of this reply, as well as of the letter to the communication companies to the chairmen of the Senate and House Committees on Interstate Commerce for their consideration in connection with the pending bills.

I am informed that the congressional committees are to hold hearings on these bills in the very near future, and I have no doubt that you will be given ample opportunity to present before the committees the views of your clients.

With respect to your statement that it was understood at the Madrid Conference of 1932, that the "British Postoffice and the American State Department would have jurisdiction should the cable companies operating in" the North Atlantic region "attempt to apply an urgent rate", it may be said that the Department is not aware of any such understanding and that the American delegation to this conference was not a party thereto.

Very truly yours,

R. WALTON MOORE, *Assistant Secretary*
(For the Secretary of State).

STATEMENT TO COMMITTEE ON FOREIGN RELATIONS OF THE UNITED STATES SENATE BY C. O. PANCAKE, OF NEW YORK, ON BEHALF OF CABLE & RADIO USERS' PROTECTIVE COMMITTEE

On behalf of a large and important group of users of cable and radio service I wish to invite the attention of the Senate Committee on Foreign Relations to the serious effect which the ratification of the Madrid Treaty will have on American users of overseas radio and cable service and to American foreign business generally, unless ratification is accompanied by such clarification as will effectively eliminate and thereafter prevent such harmful action as that already taken under the monopolistic agreement entered into by the North Atlantic companies, with the regulations of the Madrid Convention as their pretext. These companies by their concerted action, but under cover of the convention, have substantially doubled the rates for fast messages and increased the rates for night letters by two thirds. Furthermore, in order to force their customers to use the new double rate for fast messages, they have artificially delayed the transmission of normal rate messages. If action so completely repugnant to public policy can successfully be taken under cover of this treaty or its accompanying regulations, we respectfully submit that the treaty should not be ratified without full and proper investigation of the facts herein set forth.

In support of our contention that the American companies justify the action by the decisions taken at Madrid, we refer to two bulletins dated December 1, 1933 (but not delivered until December 14), signed by 9 communications companies, all but one of which (French Telegraph Cable Co.) are American. One of these bulletins begins as follows:

"In accordance with the amendments to the International Telegraph and Cable Regulations adopted by the Madrid Conference the following new rules in international communications will be effective as of January 1, 1934." (Copies presented herewith.)

Similar bulletins were issued by the Canadian companies operating across the North Atlantic and by the Imperial and International Communications, Ltd. (the British monopoly), which handles the British end of the Radio Corporation of America and Canadian Marconi traffic.

While nothing is said in these bulletins as to the artificial slowing down of normal rate traffic and the existence of a collusive agreement to this effect would probably be denied by the companies, there is ample evidence on this point. The intentions of the companies in this regard were more or less frankly stated by their officers before the regulations went into effect and analysis of traffic during 1933 as compared with 1934 shows conclusively that the speed of normal service has been materially slowed up and that those users who require really fast service must now pay the new double urgent rate. This point, furthermore, has been repeatedly discussed in meetings held in New York between members of our committee and executives of the companies, the latter contending, as a matter of fact, that a still greater slowing up was necessary.

Further in support of our original contention, I quote from a letter addressed to our committee and signed by Mr. David Sarnoff, President of Radio Corporation of America Communications:

"I have your letter of December 22 * * * in which protest is made regarding the possible effect in consequence of the application of the International Telegraph regulations imposed upon all communication agencies by the new Madrid convention rules which become effective January 1, 1934."

We have similar letters from all the cable companies to the same effect. These are at the disposal of your honorable committee if desired.

The second of the two bulletins mentioned above is short and reads as follows:

"The new international regulations adopted by the telegraph administrations of the world, which become effective January 1, 1934, reduce the rate for urgent telegrams from triple to double the normal rate. The American communication companies are now prepared to offer urgent or priority service at double rates to clients requiring extremely rapid communication service. Such messages require the addition of the paid word 'urgent', and will be transmitted with the utmost expedition."

To those not fully familiar with the situation this circular would appear to have announced a decrease in rates and many persons were so misled. The facts of the matter, however, are that although an urgent rate has been em-

bodied in the telegraph convention since 1875 it has never been applied to the North Atlantic, where a regional arrangement has long existed. Under this regional arrangement the cable companies have for many years, until abolished on January 1, offered a "preferred" class of service for which they charged 25 percent more than the normal rate. The Radio Corporation, however, never established the preferred classification but until the first of this year gave a corresponding service at the normal rate.

Mr. R. B. White, president of the Western Union Telegraph Co., in a letter to our committee in which he outlined the competitive situation that has arisen and the improper discrimination as between customers that the companies had been making, all as a result of the above condition, then says:

"This was a situation that obviously cried for correction, and an opportunity occurred when the Madrid conference paid belated attention to the pleas of the American companies for a reasonable rate on priority messages and reduced the rate for urgent from triple to double the ordinary rate."

In other words, to correct an improper and admittedly unsatisfactory situation of their own making, these companies are using the Madrid Conference as a cloak to increase the rates on priority messages from a rate of 25 percent above the normal rate to 100 percent above the normal rate, in addition to which they charge for the extra word "urgent", not charged for under the old "preferred" rate. In the case of Radio Corporation customers this increase is even greater.

We submit that the proceedings of the Madrid Conference clearly indicate that however unfortunate the results of its action may have been so far as to American cable users, the intention of the conference was not to increase rates. The reduction for the urgent rate from triple to double the ordinary rate was made because urgent messages had practically disappeared from the communication routes of the world and it was thought that the reduction in rates would stimulate the production of urgent traffic. I quote from the minutes of the Madrid Conference while this proposal was under discussion:

"Great Britain draws attention to one particular aspect of the question. In the cables between Great Britain and the United States of America there are no urgent telegrams but only a special preferred service for which a tariff supplement of 25 percent is charged. If Great Britain accepts the reduction in rates for the urgent telegrams it does not want this used as a pretense later on to increase the special tariff applied on cables on the North Atlantic."

The debate on the minimum-word court at Madrid, a proposal designed to produce somewhat the same financial result as the imposition of the double-urgent rate, proves conclusively that the convention sought to prevent any rate increase. Such important nations as Great Britain, Germany, Holland, and Japan spoke against the proposal and for the same reason, that it would increase rates and decrease traffic. The proposal was defeated.

Subsequently the British Government has apparently reversed itself in this matter and has given its permission to the companies to apply the new rates. I quote from a letter written by Mr. F. J. Brown, director for the International Telegraphic Companies Association, to Mr. Owen Jones, British commissioner of International Chamber of Commerce, who is secretary of a protest committee organized in London—

"The companies accordingly decided, with the consent of the British Post Office, to substitute the urgent rates for these special rates. Such substitution, it will be seen, if not actually dictated by the Madrid regulations, was the direct and logical result of those regulations."

From this it will be noted, as your committee may be aware but as is not generally appreciated, that the American companies operating to Great Britain may not increase their rates without the consent of the British Post Office. Similar consent from our State Department would seem to be required under the terms of the American cable landing licenses, issued under the terms of the Kellogg Act, which provides that "rates shall be just and reasonable", and that "the company shall not consolidate, amalgamate, or combine or enter into any agreement with any other cable or communication company, or any foreign government either for the purpose of regulating rates or for any other purpose within 30 days after due notice of intention to do so has been given to the Department of State. And the Department of State shall have 30 days next after receipt thereof within which to signify its disapproval of the agreement." The State Department was apparently never notified of this increase.

In other words, we have the spectacle of a monopolistic group of American companies having to obtain the permission of the British Government to an

outrageous increase in the rates to American and other users while they ignore our own Government in the matter and depend for their justification on the action of an international convention. The only opportunity for our Government to express its opinion with reference to this convention is in connection with ratification of the pending treaty.

The question may well be asked, and is, in fact, suggested by the statements of Messrs. White and Brown, just quoted, as to whether the contentions of the companies are correct in this matter, or whether they are deliberately using the Madrid Convention as an improper pretext for imposing rates not actually required by the convention and which they could not otherwise justify. As a matter of fact, the opinion of the users whom I represent is that the Madrid Convention is being used merely as a pretext. The companies, on the other hand, take the opposite position, with the result that their customers face a condition not only unfair and burdensome but which, if not corrected, will be actually destructive of sound established businesses built up on the basis of former rates.

We must call attention, furthermore, to the fact that these companies are in all probability advised by eminent counsel and it is doubtful if they would have taken the risk inherent in what otherwise could only be interpreted as collusive action in restraint of trade if they had not been advised that the Madrid Convention gave them some color at least of justification.

In connection with the above question, the convention which the United States delegates to Madrid signed specifically states in article 2, page 3, that: "The provisions of the present convention shall bind the contracting governments only with respect to the service governed by the regulations to which these governments are parties." In his report to the Secretary of State the chairman of the American delegation to Madrid emphasizes this point as follows: "As your Government signed only the convention and the general radio regulations, the Government of the United States will have obligations only with respect to radio and not with respect to telegraphy or telephony. Thus, while the radio and telegraph conventions have been combined, the United States continues to be bound only with respect to radio. In other words, there is no fundamental change from the position of the United States as it existed prior to the convening of the Madrid Conference."

It is important that your honorable committee should take into account the facts as above set forth in their practical effect on the American users of North Atlantic communication service. It matters little whether these new and destructive rates are the necessary consequence of the Madrid Convention, or whether the circumstances surrounding this convention merely enable the companies to use it successfully as a cloak under which to impose new rates at will. In either event the users are entitled to such protection as can be afforded.

It is, therefore, respectfully suggested that until a determination can be had as to the rights of the companies to impose such increased rates and artificially to slow up ordinary traffic your committee might well consider the advisability of postponing the ratification of the Madrid treaty.

STATEMENT OF ANDREW R. McDONALD, FIRST VICE PRESIDENT THE CHAIRMAN OF THE EXECUTIVE COMMITTEE OF THE NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS

Mr. HUDDLESTON. Our next witness will be Mr. McDonald of the National Association of Railroad and Utilities Commissioners. We will be glad to hear you, Mr. McDonald.

Mr. MCDONALD. Mr. Chairman and gentlemen: My name is Andrew R. McDonald, member of the Public Service Commission of the State of Wisconsin, first vice president of the National Association of Railroad and Public Utilities Commissioners, and chairman of its executive committee. This association is made up of the regulatory commissions of 47 States and our insular possessions.

The constitution of our association provides that the executive committee shall represent the association between conventions. In

accordance with that authority I appear here in support of this bill. Our association also has a committee on legislation to represent the association in favor of or opposition to legislation at Washington. The legislative and executive committees have discussed this matter and have decided that representatives of both committees should appear and urge passage of the bill.

We favor this legislation because it represents, in our judgment, a legitimate exercise of national control in those matters of communications which it is appropriate for the Federal Government, and may be difficult for the States, to reach.

This bill reflects the normal and proper relationship which should exist between the Federal Government and the State governments, namely, the Federal Communications Commission in its sphere of interstate commerce and the various State utility commissions in their respective realms of intrastate business.

We endorse the principle of this bill, because it specifically reserves to the State governments their rightful powers over matters of purely State concern, such as so-called "exchange" or local rates of telephone companies.

In railroad cases, State regulation has become practically a dead letter, due to the Shreveport doctrine which announced that intrastate rates would be set aside where they constituted a discrimination against interstate commerce.

Because of the pronounced difference in the facts, the Shreveport doctrine has no application to the communications' service. Over 99 percent of telephone calls are local and never cross State lines, if the experience of my home State of Wisconsin may be taken as a guide. In the Illinois Bell Telephone case it was developed that only six tenths of 1 percent of total originating calls in the city of Chicago were destined for interstate points.

It is inconceivable that the power of the States in 99 percent of the cases should be abrogated because of theoretical discrimination against 1 percent.

On the other hand, 86 percent of the tons of revenue freight carried by class 1 railroads in Wisconsin in 1932 were interstate traffic.

Despite the fact that the telephone business is fundamentally local in character, there exists a substantial need, in our judgment, for the use of Federal power over those factors which are primarily Nation-wide in their operation and effect.

For instance, the American Telephone & Telegraph Co., said to be one of the largest corporations in the world, conducts the Bell system of telephone service throughout the United States. We submit that there is room for invoking the authority of the Federal Government in such matters as the rates of the so-called "long lines department" of the American Telephone & Telegraph Co., for interstate long-distance service; the furnishing of materials and supplies by the American Telephone & Telegraph's affiliated manufacturing corporation, namely, the Western Electric Co.; the rendering of so-called "license" or "management" services by telephone holding companies, among them the American Telephone & Telegraph Co.

In our opinion, a Federal agency with appropriate powers and jurisdiction can be helpful to State regulatory bodies in investigating, finding, and reporting the facts as to the operations of the

American Telephone & Telegraph Co., so analyzed as to give the State commissions adequate information to make the necessary findings in connection with local exchange and intrastate toll rates.

Also, if a Federal agency were empowered to investigate and determine the facts relating to the Western Electric Co. and report those facts to the State commissions, the latter would be materially aided.

I do not refer to the American Telephone & Telegraph and Western Electric cases as exclusive instances, but only as examples of the purposes and end which this bill evidently is designed to accomplish.

We believe, therefore, that the communications bill now proposed will be of material assistance to the States in supplementing State jurisdiction, and thereby obtaining a comprehensive and effective regulation of the communications utilities in the interests of the Nation as a whole.

At the forty-fourth annual convention of the National Association of Railroad and Utilities Commissioners a resolution was introduced by Hon. Hugh White, president of the Public Service Commission of Alabama, was referred to the executive committee for consideration, and upon favorable reports to the association was unanimously adopted.

That resolution is presented here, and I will ask leave to have that printed following my remarks, and I will not take time for the reading of it if that is satisfactory.

(The resolution is as follows:)

Whereas the collapse of large utility holding and investment companies has aroused public interest in the problem of their supervision and control; and

Whereas the relations between holding companies and their affiliates and operating utilities have in many cases been inimical to the public interest and have led to public demand for Federal regulation of such holding companies; and

Whereas this association is not convinced that general Federal regulation of relations between utilities and their affiliated companies is necessary or desirable, but recognizes that State regulation may be greatly helped if the powers of the Federal Government can be utilized in determining facts as to relationships and business arrangements between utilities and affiliated interests: Now, therefore, be it

Resolved, That this association deems it desirable and necessary that the facts as to the corporate and business relationships between holding companies or their affiliated interests and affiliated public utilities as to matters affecting the reasonableness of rates and charges made to the utilities for services or commodities or other purposes by a holding company or other affiliated interest be made available to the regulatory bodies of the several States, and that the executive committee and the committee on legislation be directed to support appropriate legislation to obtain these results.

Believing that this bill is in line with the declaration contained in this resolution, we desire to recommend the enactment of this bill.

Mr. PETTENGILL. In what year was that adopted?

Mr. MCDONALD. In 1933.

Mr. PETTENGILL. Excuse me for just a moment.

Mr. MCDONALD. Yes.

Mr. PETTENGILL. As chairman of the executive committee of your national association of railroad and public utilities commissioners, you speak, so far as you know, for all of the public utilities commissioners of the several States?

Mr. McDONALD. Yes. The resolution I just spoke of, if you would care to have me read it, directs the legislative and executive committees to support legislation of this kind if it is introduced.

Mr. PETTENGILL. I see.

Mr. McDONALD. And that was unanimously adopted.

Mr. PETTENGILL. And, so far as you know, there is no dissent to that resolution?

Mr. McDONALD. There was none at the convention and there has been none mentioned since.

Mr. PETTENGILL. At any time?

Mr. McDONALD. Not so far as I know. Certainly there has none come to me.

Mr. PETTENGILL. And you are satisfied, as you set forth in your statement, that the rights of the State governments are protected over intrastate.

Mr. McDONALD. We believe they are preserved in this bill, H.R. 8301, in the handling of intrastate business.

Mr. PETTENGILL. You do not see any dangers in the bill, as some of the critics of the bill have set forth, that it is going to centralize all communications control here in Washington?

Mr. McDONALD. No; I do not. In particular, the bill clearly provides that exchange business shall be regulated by the States even though in certain instances part of it may be interstate.

Mr. PETTENGILL. Do you see anything in the bill that would give control in Washington over construction and extension of intrastate lines and services?

Mr. McDONALD. No; I think not.

Mr. PETTENGILL. I do not, either. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Benton.

STATEMENT OF JOHN E. BENTON, GENERAL SOLICITOR OF THE NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS, WASHINGTON, D.C.

Mr. BENTON. Mr. Chairman, I have prepared a statement of 13 pages, which I have handed to the reporter. I would like to have it appear in full, but some parts of it I may omit reading, if that is satisfactory to the committee, for the purpose of expediting the hearings.

My name is John E. Benton. I am general solicitor of the National Association of Railroad and Utilities Commissioners. My office is in the Otis Building, Washington, D.C. I appear at the direction of the executive and legislative committees of the association.

This bill proposes to create a communications commission which will exercise jurisdiction over communications companies. These companies are now subject to Federal regulation in certain respects and under various statutes by different Federal departments.

The State commissions believe that it will be conducive to effective regulation in the public interest to consolidate regulatory powers over these various agencies of communication in the hands of a single agency.

The interest of the State commissions is threefold:

First—and this is paramount—they are solicitous that any legislation which may be enacted by Congress shall be so drawn that State regulation of intrastate communications shall not be broken down or hampered by the Federal law or by the operation of the Federal agency thereunder.

Second, as public officials, State commissioners are interested that the citizens of their respective States shall receive the benefit of effective regulation in that part of the regulatory field which, under the Constitution, is not within the reach of the States, and

Third, the State commissions desire that there shall exist a national regulatory agency equipped with powers and with funds to enable it to find and to make public the facts as to the cost of the services and equipment applied to operating utilities by holding companies and by affiliated companies, such as the American Telephone & Telegraph Co., or the Western Electric Co., which companies are in most instances beyond the jurisdiction of State commissions, so that information is often beyond their reach.

A resolution adopted by the National Association of Railroad and Utilities Commissioners asking the Congress to establish such an agency has already been presented to this committee in the statement of Mr. McDonald, chairman of our executive committee.

The particular interest of the State commissions is in the wire companies. Radio may become important to them from the point of view of regulation as the uses of radio increase. State representatives do not wish to surrender the future as to that industry, although the present prospect is that efficient Federal regulation will obviate occasion for State regulation, unless State regulation of intrastate rates shall some time become necessary. At present Federal regulation meets the need in the radio field.

The greatest interest of the State commissions is in the telephone wire companies. The telephone business is essentially an intrastate business. Over 95 percent of the gross operating revenue of telephone companies is from intrastate business, and over 98 percent of the messages passing over telephone wires are intrastate.

This situation differs widely from the railroad situation, where more than 85 percent of freight tonnage is interstate.

Nobody suggests that the Federal Government ought to attempt to displace the State regulatory agencies in the regulation of intrastate telephone business, yet there is danger that State regulation will be seriously hampered and broken down if care be not taken in the framing of any law providing for an active Federal commission, exercising jurisdiction in the communications field.

It will not do merely to create a new commission and transfer to it the existing powers of the Interstate Commerce Commission or of other Federal departments. The laws under which the Interstate Commerce Commission may now control telephone rates, were not framed for telephone companies. They were framed to provide regulation for railroads, and the telephone companies were brought under regulation merely by extending these laws to apply in certain respects to telephone companies.

The Interstate Commerce Commission has the same power now to override State regulation in the telephone field as it has in the

railroad field, although in the railroad field more than 85 percent of the business is interstate, while in the telephone field less than 2 percent of telephone messages are interstate.

It is common knowledge that under the Interstate Commerce Act the power of the Interstate Commerce Commission has been so extended that State regulation of intrastate railroad rates has become little more than nominal. Such influence as State commissions now exert as to railroad rates is principally in an advisory capacity under the cooperative provisions of the law acting through joint boards in conference with the Interstate Commerce Commission in Washington.

State commissions have not been interfered with in telephone regulation heretofore, notwithstanding the extensive powers of the Interstate Commerce Commission, because that Commission has not been active in the telephone field. Railroads have absorbed its attention. This bill proposes to establish a Federal commission which will have no jurisdiction except over communications companies. The purpose is to create a commission which shall give its time exclusively to communications companies. Its sole activity will be in that field. It will naturally exercise its full powers.

Unless the Congress wishes to bring control of local telephone business, which is now subject to State regulation under the domination of the new commission, it cannot merely transfer the existing power of the Interstate Commerce Commission to this new commission. It must describe the field within which the new commission shall operate.

The Couzens communications commission bill, in the Seventy-first Congress, as that bill was first introduced, did not do that. It proposed to transfer the present powers of the Interstate Commerce Commission to the new commission unchanged. The State commissions were greatly alarmed. The national association in convention by unanimous action adopted a resolution protesting against the passage of the bill and 37 State commissions by resolution or otherwise took separate action in opposition. They were heard at great length against the bill before the Senate committee; and I think we are justified in believing that we satisfied the committee that no Federal commission ought to be given powers which would enable it to interfere with State regulation.

After the hearing on the Couzens bill, a redraft of the bill was made which never got beyond a committee print but which contained some important provisions for safeguarding State regulatory powers which have been carried into this bill.

This bill has been drawn with care to safeguard State power to regulate local telephone service. It has been carefully considered by our executive and legislative committee representatives and has met their approval. They believe that it provides for effective Federal regulation where Federal regulation is necessary, and that it safeguards State regulation. Furthermore they believe that the new commission to be created will obtain information which will be available and helpful to the State commissions in their regulatory work. They accordingly appear here in support of this bill.

I will refer very briefly to certain provisions of the bill which safeguard State regulation, for the purpose of emphasis.

Section 210 restricts the scope of the act to interstate service and rates. The so-called "Shreveport power provisions" of the Interstate Commerce Act have not been carried into this act.

Section 221 (b) recognizes the local character of exchange service, even though to some patrons of a particular exchange, the service may be rendered across State lines. Taking advantage of the rule laid down in the *Pennsylvania Gas Co.* v. *Public Service Commission of New York* (252 U.S. 23), which holds that in the case of such local service, a State may regulate where Congress does not regulate; exchange service is left, by section 221, to the exclusive regulation of the State, where the State has made provision for regulation by a State commission.

Section 220, which is the section giving the Commission jurisdiction to prescribe accounts and reports, also takes account of local conditions and safeguards the powers of State commissions in the matters of depreciation and of accounting regulations. The State commissions are very solicitous that the act shall be so phrased that it cannot be construed as imposing any depreciation regulation promulgated by the Federal Commission upon the regulatory agencies of the States. The matter is important because an excessive depreciation allowance can only be made at the cost of excessive rate charges to the public.

It has been the practice of the telephone companies to accrue very generous percentages for depreciation. President Gifford, in his statement before the Senate committee, at page 97 of the printed hearing on S. 2910, testified that the Bell companies set aside about 4½ percent "for the property as a whole."

As the Bell Co. handles depreciation, this forms a book reserve. It goes into property and the Bell system has been largely built up out of these reserves which have been provided by the rate payers. When the commissions come to fix rates in any State, however, the telephone people contend that the value of their property has not been lessened in proportion to the increase of the depreciations reserve accrued against it. Depreciation "does not reduce the value of the property", President Gifford testified at page 98 of the Senate hearing.

Mr. PETTENGILL. Mr. Benton, on page 183 of the Senate hearings, you are reported as having said:

> What the State commissions fear is that the Federal Commission will fix depreciation rates which will not be in accord with the facts in a given case; and said that when the rates fixed by the Federal Commission are too high, the telephone company will contend in court that the State commission has no right to consider the depreciation matter at all, because the rate has been fixed by an order of the Federal Commission, under a Federal statute.

Has that matter, which was apparently the only objection in your mind at that time been cured by any amendment to the bill?

Mr. BENTON. That matter is all right in this bill and all wrong in the last draft of the Senate bill.

Mr. PETTENGILL. I see.

Mr. BENTON. Ever since the power to fix depreciation rates was given to the Interstate Commerce Commission in 1920, the State commissions have been apprehensive that when an order finally came to be fixed by a Federal Commission it would be pointed to by the utilities as depriving the State commissions thereafter of going

into the question of depreciation in rate cases, where they make careful investigations, by which alone depreciation can be accurately determined.

The State commissions have time and again passed the resolutions asking Congress to amend the Transportation Act so as to safeguard State regulations in that particular.

Mr. PETTENGILL. In other words, you think it will be clearly feasible under the draft of the bill now pending that a State regulatory body and the Federal body might have different depreciation rates?

Mr. BENTON. I do. We are not asking for any limitation of the power of the Federal Commission to fix depreciation rates for the purposes of Federal accounting.

Mr. PETTENGILL. That is right.

Mr. BENTON. And, we do not ask for any particular form of words, but there should go into the act a provision which makes it clear that in the administration of their laws for the regulation of rates, the State commissions shall have the power in rate cases to determine what allowances shall be made for depreciation in the rates which are fixed.

In the telephone case decided a week ago Monday by the United States Supreme Court, involving an order made by the Illinois commission fixing telephone rates in Chicago, the decision of the Court turned upon the question of depreciation. This is the language of the Chief Justice with respect to that, in announcing the conclusion of the Court:

> According to the practice of the company, the depreciation reserve is not held as a separate fund but is invested in plant and equipment. * * * If the predictions of service life were entirely accurate and retirements were made when and as these predictions were precisely fulfilled, the depreciation reserve would represent the consumption of capital, on a cost basis, according to the method which spreads that loss over the respective service periods. But if the amounts charged to operating expenses and credited to the account for depreciation reserve are excessive, to that extent subscribers for the telephone service are required to provide, in effect, capital contributions, not to make good losses incurred by the utility in the service rendered and thus to keep its investment unimpaired, but to secure additional plant and equipment upon which the utility expects a return. * * *
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> In the light of the evidence as to the expenditures for current maintenance and the proved condition of the property—in the face of the disparity between the actual extent of depreciation, as ascertained according to the comprehensive standards used by the company's witnesses, and the amount of the depreciation reserve—it cannot be said that the company has established that the reserve merely represents the consumption of capital in the service rendered. Rather it appears that the depreciation reserve to a large extent represents provision for capital additions, over and above the amount required to cover capital consumption. This excess in the balance of the reserve account has been built up by excessive annual allowances for depreciation charged in operating expenses.

This was a unanimous decision and Mr. Justice Butler, in a separate concurring opinion, emphasized the fact that by excessive charges for depreciation, the company was building up reserves which greatly exceeded the actual depreciation accruing.

I point to that case because it illustrates exactly the point which the State commissions stress. Accurate determination of the proper amount to be allowed for depreciation can only be determined in a particular case by a careful investigation, such as is made in a rate case. If the Illinois commission had been prevented from investigat-

ing this question, the public could not have received the reduction in the Chicago Telephone case, which has now been established as reasonable by judgment of the United States Supreme Court sustaining the order of the Illinois commission.

If there had been a Federal order which the court took to foreclose the State commissions and prevent them from determining how much ought fairly be allowed for depreciation, the Chicago Telephone Co. case could never have been decided by the Supreme Court the way it was, because the Illinois commission could not have gone into that matter.

Now it has been settled, and I will take time to read this, by the decision of the Interstate Commerce Commission itself, in a report written by Mr. Commissioner Eastman, that there is not any such thing as determining a uniform percentage of depreciation to be allowed for all telephone companies. This is the language of the Commission:

> All parties to this proceeding concede that uniform rates of depreciation cannot be established for all telephone companies. There is entire agreement that rates of depreciation for the same classes of property differ materially, depending upon conditions under which the particular company operates, and that if we are to prescribe rates of depreciation, as the statute contemplates, a careful study must be made of the situation of each individual company. Nor, so far as we are aware, has any exception been taken to the assertion of the committee representing the National Association of Railway and Utility Commissioners that the great bulk of telephone business consists of intrastate local community service; that the interstate service is largely toll service; and that it constitutes an insignificant fraction of the total business. These being the facts, and disregarding for the moment the proper interpretation of the law we are called to administer, it is obvious that the determination of rates of depreciation for the various classes of telephone property is a task which could more appropriately, conveniently, and economically be carried on by the State commissions.

Mr. PETTENGILL. You see no danger then as expressed in this cry that this is going to deprive the State regulatory bodies of jurisdiction, under adequate law, of looking after the interests of their own people on intrastate business?

Mr. BENTON. Mr. Pettengill, I do not. On the contrary I think it removes provisions of the law which are now existent, because of the mere extension to telephone companies of laws that were never drawn for telephone companies, under which State commissions might be very greatly hampered if the Interstate Commerce Commission entered the telephone field and regulated there as they are regulating now in the railroad field.

I have already said that when the Couzens communications bill, two or three sessions ago was introduced it proposed the creation of a new commission and transferring to it the same powers that the Interstate Commerce Commission now has. That caused very great alarm among the State commissioners throughout the country. The National Association unanimously adopted a resolution opposing that bill. Thirty-seven commissions individually took separate actions in opposition to it. They were heard at very great length before the Senate committee, and I think it is fair to say that their representations convinced that committee if they were going to establish a communications commission they could not do so by merely transferring the power which the Interstate Commerce Commission then had to the new commission; but that they must define the field

within which the new commission was to act. A new bill was drawn. It never got beyond the committee print. I assume that the committee which drafted this bill had that redraft. Certain provisions which were in it have been carried into this bill. The State commissions were also permitted to file a brief in that connection, and that undoubtedly was considered in the preparation of this bill, H.R. 8301, which is before this committee. This bill has been drafted to safeguard State powers and to leave State commissions power to regulate intrastate business unhampered.

The Senate redraft, however, seems to have shown response to a very vigorous attack made upon the accounting sections by President Gifford before the Senate committee. He claimed that the provisions of paragraphs (h) and (j) of section 220 with respect to depreciation, and with respect to permitting some of the smaller companies not to report, and with respect to allowing the State commissions to make requirements additional to those required by the Federal commission, "Strike down practically all the sound and salutary provisions of the preceding paragraphs, and introduce chaos in face of the present orderly, sound, tried, and tested accounting."

Actually, the bill as it is drawn and is here does not destroy anything that any Federal commission ever has done.

While the Interstate Commerce Commission was given the power to prescribe depreciation in 1920, it never has done so. It has put out an order which looks toward doing so at some time. All that the order now outstanding requires is that the telephone companies shall file their estimates—each company to file its own estimates—as to what the rates of depreciation are that are applicable to its several classes of property, with the State commission, and within 3 months the State commission shall say to the Interstate Commerce Commission what it thinks the depreciation rates ought to be, and then sometime the Interstate Commerce Commission proposes to put out an order prescribing what the depreciation rates shall be.

That is an attempt to give the State commissions a chance to say something which is well meant, but anybody who thinks about it for a minute will know that the State commissions are not going to be able, in 3 months' time to make a careful investigation of all of the companies that are operating within the several States, and make any intelligent report to the Interstate Commerce Commission or any other Federal commission on the subject. Nevertheless, that is all that the Interstate Commerce Commission could do, because it was under a mandate to prescribe these depreciation rates. That it is a sizeable job is made fairly certain, I think, by the fact that 14 years ago Congress told the Commission to do it and that Commission has not been able to do it yet.

Mr. MONAGHAN. Mr. Chairman——

The CHAIRMAN. Mr. Monaghan.

Mr. MONAGHAN. I would like to know whether any of these State commissions are looking into the matter of telephone rates.

Mr. BENTON. They have been.

Mr. MONAGHAN. Then, why is not something done to adjust the disparity between State rates?

Mr. BENTON. They are doing it, but as Mr. Commissioner Eastman points out, it requires for each company a careful investigation

of the particular company, a study of its history, and the life of the different units of property that go to make up the entire plant. Every State commission is operating on limited appropriations, with limited forces, and the only opportunity a commission gets to make a careful study of that character is when a rate investigation is on and it concentrates its force upon the property of a particular company. It can then make an intelligent decision as to that company, but it cannot go out with half a dozen engineers and make 100 investigations at any one time.

Mr. MONAGHAN. Would you not say then, on the basis of what you have said, that it would appear that the State commissions are somewhat derelict in their duties with reference to telephone and other rates, and other matters affected by a public interest?

Mr. BENTON. I do not think it would appear so from anything that I have said.

Mr. PETTENGILL. Might it not be that the State legislatures are a little derelict in not providing sufficient appropriations

Mr. BENTON. I think that is a proper conclusion, Mr. Pettengill.

Mr. MERRITT. Mr. Chairman——

The CHAIRMAN. Mr. Merritt.

Mr. MERRITT. As I understand, the differences, if there are such, between the telephone companies and States, relate mostly to depreciation rather than rates.

Mr. BENTON. There have not been any differences as to either, Mr. Merritt. The Interstate Commerce Commission never determined a telephone depreciation rate, and I do not have any recollection of any case in which it has fixed telephone rates.

Mr. MERRITT. I have not yet understood clearly the particular difficulties under which the telephone companies and the State commissioners labor under existing conditions which would be cured by this act. If there are no differences, I do not quite get the necessity for the act, yet.

Mr. BENTON. I have pointed out that there is a portion of the field which the States cannot reach. That is the long-distance telephone field, and that that is the field that this bill aims to cover through the Federal commission. Then, I pointed out that there are holding companies, and subsidiary companies furnishing services, and furnishing supplies and equipment to the operating companies which are not subject to the State commission's control, and often not located within the jurisdiction of the State commission and of the State in which the operating companies do business, and the State commissions are not in a position to acquire accurate information as to what that service and what that equipment costs.

They believe if there is a Federal commission set up, having jurisdiction over the entire country, that these facts will be available not only to the Federal commission, but to the State commissions.

Those are two purposes of affirmative aid to negotiations.

I have also pointed out aside from those that the present law offers an opportunity for very great harm to the State regulations, if any Federal commission should use the present law to its full extent.

This bill will correct that.

Mr. MERRITT. If that is so, would you say that the present question is one of valuation of property, in the last resort?

Mr. BENTON. No, Mr. Merritt; that is not the situation.

Mr. MERRITT. Then I do not get the purport of your remarks, that is all.

Mr. BENTON. Well, I will point out that——

Mr. MERRITT (interposing). What benefit will they get from finding out about these subsidiary companies?

Mr. BENTON. That bears ordinarily on operating expenses. To an extent, it would enter into the question of valuation, so far as equipment which is supplied is concerned.

The United States Supreme Court, in an opinion handed down by Mr. Justice Butler in *Board of Public Utility Commissioners of New Jersey* v. *New York Telephone Co.* (271 U.S. 23), has held that if the company sets aside more reserve for depreciation in any year than is needed for that year, the excess becomes its property, and no commission can compel it afterward to expend such excess to cover depreciation occurring in later years. The New Jersey commission attempted that, and the Federal court enjoined their rates because they were trying to make the company use the depreciation fund it held for depreciation accruing in later years.

The Interstate Commerce Commission itself has found and reported that this matter of fixing depreciation is one which ought to be left to the State commissions, and it has gone so far as it can to leave the fixing of such rates to the State commissions.

I want to quote just what the Interstate Commerce Commission said in its report, made by Mr. Commissioner Eastman, in the Telephone Depreciation case, reported in 118 I.C.C. 372. He said:

> Upon one proposition all parties are agreed, and that is that the service lives of the same kind of property vary widely in different companies. It is impossible to lay down any general rule which will apply in the case of all companies, or even in the case of a particular class of companies, owing to the different conditions which surround the use of the property in each individual case. * * *
>
> There seems, indeed, to be no way in which prospective service life for the future can safely be estimated through an automatic or mechanical process. The estimate must need be made by combining the results of actual past experience with the best available engineering advice as to the probabilities.

Because this is true, the State commissions believe that it is not in the public interest that the act shall contain a mandate to the Federal commission to fix rates of depreciation unless it shall be made entirely clear in the act that such determination is for the use of the Federal commission only and is not to affect the State commissions in their regulatory work.

Any commission which undertakes to prescribe depreciation rates for all the telephone companies in the United States, must do so largely by guesswork or largely upon the estimates or recommendations of somebody else.

Discussing the difficulty of determining depreciation, the Interstate Commerce Commission in the case just cited, through Commissioner Eastman said:

> Under such circumstances and in view of the great diversity of conditions existing among the various companies, the best that can be done is to require each company, in the first instances, to make an estimate of the prospective service lives of the various classes of property and consequent depreciation

percentages for each of its primary accounts of depreciable property in the manner above prescribed, and submit the result, accompanied by a detailed exposition of the facts of record and the engineering advice upon which the estimate has been based. * * *

In the present instance aid from the State commissions is not only desirable, because of the essentially local character of most of the telephone service, but also because of the substantial relief which it will afford us in the burden of determining prospective service lives and depreciation percentages for the large number of telephone companies operating in this country.

We are, therefore, of the opinion that in all cases where State commissions have authority intrastate over telephone companies, the prospective service lives and depreciation percentages estimated in the first instance by such companies, with the accompanying expositions of the reasons therefor, should be transmitted to the appropriate State commissions or commission, instead of to this commission, and that our temporary order prescribing depreciation percentages should be based upon the recommendations of such commissions. Further proceedings, with a view to modifications of the temporary orders, should be conducted for us by the State commissions.

While this order of the Interstate Commerce Commission was made in 1926, it has been postponed from year to year and the telephone companies have never filed their estimates with the State commissions. The last order requires that they shall do so on August 1 of this year, and that the percentage rates shall be determined and become effective on January 1, 1935, whether the new commission would repeat this order of course we do not know. It is perfectly obvious, however, that no State commission will be equipped with such forces of technical experts as to enable it suddenly to make recommendations as to depreciation rates for all companies within their respective jurisdictions which will be accurate. And likewise that the Interstate Commerce Commission cannot possibly check the company estimates, to say nothing of making investigations to determine their accuracy. If the depreciation rates are ordered as proposed, they will be little more than guesswork if they depart from estimates made by the companies themselves. This, however, is the best which the Interstate Commerce Commission is now able to do 14 years after the Transportation Act amendment was passed.

The State commission can, if it is allowed to, take the companies one by one, in rate cases, as such cases arise, and make necessary investigations and just determinations as to the percentage rates which should be allowed for depreciation; but this plan to procure State commission action in 3 or 4 months, or in any other brief period, is one which cannot possibly be carried out.

The State commissions accordingly ask that the new act contain language which will make it clear that their power to determine depreciation in rate cases is to be in no way circumscribed or interfered with.

Paragraph (j) of section 220 of H.R. 8301 contains such language. We do not ask for that exact language, but we do ask for language which will leave the State commissions unhampered as to allowances to be made for depreciation in cases involving intrastate rates.

Paragraph (j) of section 220 also preserves the power of State commissions to require accounts to be kept and information to be shown additional to that called for by the Federal Commission, if any shall be necessary.

Paragraph (i) provides, however, that before promulgation any system of accounts, the Federal Commission shall call in the State commissions and consider any recommendations they may make.

It is our belief that under this paragraph, a system of accounts will be determined upon which will meet Federal and State requirements which can be used alike by all commissions. Paragraph (j), however, reserves to the States power to require something additional, if necessary for State purposes. In this connection it must be remembered that the State commissions will be required to regulate exchange business and may well require data not found necessary for the Federal Commission regulating toll business only.

Further responding to President Gifford's criticism of section 220, I want to say that in fact these paragraphs strike down nothing which has ever yet been done by the Interstate Commerce Commission. While the Interstate Commerce Commission for 14 years has had power to prescribe depreciation rates, it has not yet done so.

That section merely proposes to provide, in plain terms, that the control of intrastate telephone business as now exercised by the States, shall continue to be exercised by them without interference by the Federal Commission.

The bill, as it stands, will give to the proposed communications commission complete power to regulate within the field mapped out for it, but will refrain from destroying or hamstringing State regulation as now exercised.

The provisions of paragraph (h) of section 220 introduce no new principle. The Interstate Commerce Commission now classifies telephone companies and exempts certain telephone companies from making reports generally required. There are many thousands of small companies such as cooperative companies and farmers lines which ought not to be put to the cost of keeping elaborate accounts and making reports to the Federal Commission. Paragraph (h) merely authorizes the Commission to make such exceptions when it finds the same consistent with the public interest. It is permissive only.

There are certain amendments to the bill which we wish to request, which are not designed to defeat any purpose aimed at by the bill, but to make it free from any ambiguity on certain highly important points. They are the following:

From section 220 (a) on page 32, in line 24, strike out the words "any and all." This is to avoid a conflict between this paragraph and paragraph (j) of the same with section 220 (j) which preserves the power of a State commission to require additional accounts.

Amend section 220 (b) by striking out from line 12, on page 33, the words "such carriers shall not" and inserting after the words "may be included" in line 14, the words "no such carrier shall, in the accounts prescribed by the commission", so that lines 12 to 16, inclusive, shall read as follows:

> After the Commission has prescribed the classes of property for which depreciation charges may be included, no such carrier shall, in the accounts prescribed by the Commission, charge to operating expenses any depreciation charges classes of property other than those prescribed by the Commission.

This also is to avoid conflict between the paragraph amended and the provisions of paragraph (j).

Amend section 221 (a) by striking out from line 6, on page 38, the words "as now existing."

Paragraph (a) is the same as paragraph 9 of section 5 of the Interstate Commerce Act, but these particular words should not

be carried into the new act inasmuch as the Shreveport power of the Interstate Commerce Commission is not to be vested in the new commission. These particular words were dropped from the redrafted Senate bill.

The last amendment, of which I want to speak, is new to this bill. It is designed to authorize the provision of office space for the use of joint boards. Authority to make such provision would be provided by an amendment proposed to be added to section 310 (b).

This bill, as it stands, in section 310 (a) provides for the use of joint boards; and section 310 (b) carries into this act the provisions of section 13 (3) of the Interstate Commerce Act, under which the Interstate Commerce Commission avails itself of the cooperation services and facilities of the State commissions. To make clear the full need for the provision proposed, a brief statement of the existing situation should be made. It is rather vitally important as an aid to an attempt which is being made to coordinate the work of Federal and State commissions through joint boards.

The provision of section 13 (3), just referred to, was enacted experimentally in the Transportation Act. It provided for the use of the services and facilities of the State commissions, but without any corresponding provision enabling the facilities of the Interstate Commerce Commission to be made available to the State commissions. That angle of the matter was not thought of when the Transportation Act was passed, nor until experience developed the need for such facilities.

The enlarged powers given to the Interstate Commerce Commission by the Transportation Act have enabled that Commission to override State regulatory regulation by mandatory orders prescribing intrastate rates. Without stopping to go into details, it may be said that within 18 months after that act was passed, the Federal Commission had made more than a score of State-wide orders prescribing intrastate rates. These orders, while they remained in effect, destroyed State power and left the intrastate rates frozen where they were not subject to workable regulation by either State or Federal commissions. This led finally in 1922 to the so-called "cooperative agreement" which was reported by the Interstate Commerce Commission to Congress, under which the interstate freight-rate orders were dissolved.

That agreement contemplated joint conferences and joint hearings by joint boards which have been constantly going on from that time to this in freight-rate cases. The result has been, we believe, that the Interstate Commerce Commission has made rates with a better understanding of the needs of the shippers in various States, and there has been a minimum of litigation arising out of rate controversies between Federal and State commissions.

The cooperative agreement has, however, involved a substantial expense to cooperating State commissions. Representatives of State commissions conferring with the Interstate Commerce Commission and sitting on joint boards constantly have occasion to come to Washington. The State commissions have found it necessary, through their organization, to maintain an office here for the primary purpose of attending to these matters with the Interstate Commerce Com-

mission. Under existing law, the Interstate Commerce Commission cannot provide office space for this purpose.

On the other hand, outside of Washington the facilities of the State commissions and the services of these commissions and of their forces have been freely placed at the disposal of the Interstate Commerce Commission. It has become more or less a common practice for State boards to hold hearings for the Interstate Commerce Commission in cases involving construction and abandonment. This saves representatives of the Interstate Commerce Commission from going out to hear these cases. After a hearing the State commission transmits the record of the evidence with any comment of recommendation it may make to the Interstate Commerce Commission. When the State commission has competent reporters available the hearing is reported by them. There is no expense for any of this to the Federal Commission.

The expense of cooperating to the State commissions has been substantial. The item of office expense is one of the smaller items. Nevertheless, in these days when State commission appropriations are being reduced to the bare bones, the item is not unimportant; and the matter of suitable space is now of particular consequence in view of the early relocation of the Interstate Commerce Commission in its new building, near which suitable office space will be difficult to obtain.

This matter was presented to this committee at the last session at an informal committee session before the motor-vehicle bill was introduced, and H.R. 6836, section 3 (g) contains a provision designed to provide that suitable office space should be made available to the State boards.

The motor-vehicle bill, however, seems liable not to pass at this session, whereas this bill, we assume, will pass. This bill contains the substance of section 13 (3) of the Interstate Commerce Act, just as the motor-vehicle bill contains it; and like that bill this bill provides that the commission shall be authorized to avail itself of the "cooperation, services, records, and facilities" of the State commissions.

We ask that the passage respecting joint boards and joint use of facilities be made substantially the same as in the motor-vehicle bill. The office space thus authorized will be available for the use of the joint boards authorized by this act and by the Interstate Commerce Act, and for such as may be authorized by any legislation passed for the regulation of motor vehicles. Our suggestion is that section 310 (b) be made to read as follows:

> From any space in the Interstate Commerce Commission building not required by the Interstate Commerce Commission, the Government authority controlling the allocation of space in public buildings shall assign for the use of the national organization of the State commissions and of their representatives suitable office space and facilities which shall be at all times available for the use of joint boards created under this act and for members and representatives of such boards cooperating with the Federal Communications Commission or the Interstate Commerce Commission, under this or any other act; and if there be no such suitable space in the Interstate Commerce Commission building, the same shall be assigned in some other building in convenient proximity thereto.

I have shown this language to the representatives of the Interstate Commerce Commission and Commissioner McManamy and the

same meets his approval. This is the matter of which he spoke, at the conclusion of his remarks yesterday.

In this connection, as I have said, throughout the country the offices, the services, and the facilities of the State commissions are freely placed at the disposal of the Federal Commission, and that it has become more or less common for the Interstate Commerce Commission to ask the State commissions to hold hearings. That saves the Interstate Commerce Commissioners from going out or sending examiners out, and when the commissions have reporters available they report the hearings, and the transcripts are sent in to the Interstate Commerce Commission with any recommendation or comment which the State commissions want to make. That, of course, is without expense to the Interstate Commerce Commission. So this would not be a one-sided arrangement.

I have rather hurriedly passed over these several matters. I think that I have touched upon everything which was essential to be discussed, from the State commission's point of view.

I shall be very glad to answer any questions that any member of this committee may ask me.

The CHAIRMAN. We are very much obliged to you, Mr. Benton.

Mr. BENTON. Thank you, Mr. Chairman.

STATEMENT OF REV. JOHN B. HARNEY, SUPERIOR GENERAL OF THE PAULIST FATHERS, RADIO STATION WLWL, NEW YORK CITY

The CHAIRMAN. Is Dr. Harney in the room?

Dr. HARNEY. Yes, Mr. Chairman.

Mr. Chairman and members of the committee, I want to thank you for the privilege of appearing before you to speak about the bill that you have under consideration.

As to the bill itself, which deals with telephone, telegraph, cable, radio, and such means of transmitting information, and I am not qualified to speak in any technical way. However, I wish to register my own opinion and personal conviction that all of these means of transmitting information should be at all times under the regulatory control of the Federal Government, and that inasmuch as these means of communications have very much in common they should not be under many different departments of the Government, but under the control and direction of one supervisory body.

My main purpose in appearing before you is to advocate an amendment to the Federal communications bill, an amendment by virtue of which, if it becomes a law, Congress will reserve for the use of what I will call human welfare agencies, education, religion, labor organizations, agricultural, cooperative, fraternal organizations, one fourth of all radio broadcasting facilities and allocate them only to such organizations which have as their primary purpose the betterment of human life and not the making of profit for themselves.

An amendment to this effect was submitted to the Senate Committee on Interstate Commerce, which I would like to read to you:

(r) To eliminate monopoly and to insure equality of opportunity and consideration for educational, religious, agricultural, labor, cooperative, and similar non-profit-making associations, seeking the opportunity of adding to the cultural and scientific knowledge of those who listen in on radio broadcasts,

all existing licenses issued by the Federal Radio Commission, and any and all rights of any nature contained therein, are declared null and void 90 days following the effective date of this act, anything contained in this act to the contrary notwithstanding.

(b) The Communications Commission, herein created, shall, prior to 90 days following the effective date of this act, reallocate all frequencies, wave lengths, power, and time assignments within its jurisdiction among the citizens of the five zones herein referred to.

(c) The Commission shall reserve and allocate only to educational, religious, agricultural, labor, cooperative, and similar non-profit-making associations one fourth of all the radio broadcasting facilities within its jurisdiction, excepting those facilties issued to ships and to the use of the United States Government departments or agencies. The facilities reserved for, or allocated to educational, religious, agricultural, labor, cooperative, and similar non-profit-making associations shall be equally desirable as those assigned to profit-making persons, firms, or corporations. In the distribution of radio facilties to the associations referred to in this section, the Commission shall reserve for and allocate to such associations, such radio broadcasting facilities as will reasonably make possible the operation of such stations on a self-sustaining basis.

(d) Under this proposed amendment the licensee cannot dispose of this license to any commercial interests, as the said license will, upon the nonuse thereof, automatically revert to the Communications Commission to be disposed of according to the terms of this amendment.

(e) Further, the holder of a license granted by the Communications Commission under the provisions of this bill must at all times have complete control of the management and operation of the station and of its facilities.

(f) The licensee may sell such part of the allotted time granted by this bill and the Communications Commission as will make the station self-supporting.

That is the amendment as orginally submitted, and an amendment substantially to the same effect has been presented upon the floor of the Senate by Senators Wagner and Hatfield, and an amendment almost identical with that has been presented on the House floor by Congressman Rudd, of Brooklyn.

There is some question as to the desirability of the wording of this amendment as I have read it. Personally, and I think that those who are of the same mind as myself will agree with my statement, it is of no concern whatsoever to us what the language shall be. This doubtless is not the finished product the House Committee on Interstate and Foreign Commerce will draw up. What we are interested in is the three main points contained in that amendment.

First, that 25 percent of all broadcasting facilities which are at the disposal of the Government agency shall be reserved for the use of what I call human-welfare organizations under which heading I would group all societies and organizations that have as their primary objects the helping of man to understand and solve his problems, to gain that contentment and peace and happiness which we all desire. Twenty-five percent should be reserved for those agencies;

Secondly, the facilities given to them for their use should be as desirable as those that are handed over to purely commercial interests for exploitation; and

Thirdly, there should be given to the stations which may be created by these different organizations enough broadcasting time to enable those stations to be in a fair measure reasonably self-sustaining.

They are not out, as I view it, to make money for any individual; to make money for any organization; but merely to pay their own way so that they will not have to be constantly the subjects or objects of charity.

Now, a question may come up, why should any such amendment as this be proposed? Has not the Federal Radio Law and the Federal Radio Commission which it created, adequate provisions and power to meet all of these needs? I will answer that, perhaps theoretically, the Federal Radio Law, and the Federal Radio Commission are able to cover the ground. Whether they are or are not, I cannot say, but I can be very positive that they have not done it.

Here in our country, there is nothing of which we are prouder than our educational system. There is no civic activity I think upon which the people of the United States spend more money from the grade schools up to the State-supported universities. Education is our proudest boast. How has education fared under the present Federal Radio Law? At the hands of the Federal Radio Commission? Most ignominiously.

At one time there were in the United States 105 stations, broadcasting stations, classified as educational. Today there are but 30. What has become of the other 75 and why?

Out of the 100 percent of broadcasting facilities controlled by the Federal Radio Commission, less than 2½ percent is available for the use of all these human-welfare agencies. Is not that an absolutely outrageous situation in our country? Educational, religious, social service, and other organizations at work for human welfare, with their back to the wall and condemned to death by starvation, while the men that want to exploit radio and to exploit it purely for personal or corporate profit have more than 97½ percent of the broadcasting facilities. To me this is a situation that calls for prompt and effective remedy.

One may say that the Federal Radio Commission can remedy it. I say that the Federal Radio Commission has permitted the situation to arise. It has not shown due consideration—perhaps it has not even the power—to show due consideration for educational and other human-welfare agencies.

As a matter of fact, the Federal Radio Law, if I am rightly informed, lays it down that no holder of broadcasting franchise shall have any vested property right whatsoever in that frequency or power or facility. They get it for 3 months or 6 months, at a stretch. They have no property rights whatsoever, and yet here is an anomalous situation. What is known as the dominant station upon a clear channel, though according to law it has no vested property right whatsoever, yet by action of the Federal Radio Commission has this vested right, that it is master of that clear channel and that even the Federal Radio Commission itself cannot authorize the establishment of other broadcasting stations upon that clear channel without the consent of the dominant station.

It has sold a hold upon that facility that even the Federal Radio Commission is helpless, by the Federal Radio Commission's own act to interfere with that dominant station.

Not to blame the gentlemen who now constitute the present Federal Radio Commission, allow me to say, that this rule or regulation was created before any one of them went on the Federal Radio Commission. However, it must also be said that, though they have the power, they have not seen fit to abolish that resolution and set themselves free to determine whether or not conditions in the broadcast-

ing world would permit of the erection of other broadcasting stations hundreds or thousands of miles away from the dominant station upon that clear channel. That is why it seems to me it is necessary for Congress to take effective action itself.

A writer in "The Nation" for May 9 has said that the conditions in the radio world may be called drunk and disorderly. We have chaos in the broadcasting world. We have it though the Department of Commerce and Federal Radio Commission have been in control of these matters for 10 years. Still, the situation is chaotic and the educational institutions, human-welfare institutions, have practically no opportunity to do their beneficial work for our people. To me it is obvious that they ought to have in the radio field the same untrammeled opportunities for carrying on their work that they have in the general life of the Nation. They have their own schools. They have their own colleges. They have their own press, as they should have, wherein they can speak freely without being under the domination and control of anybody else, having no censorship over them other than that of good manners and of respect for truth. They should have the same opportunity to carry on their beneficial, uplifting, helpful work, by means of the radio that they have by means of the school and of the press.

Now, of course, there will be much opposition and there is much opposition, to this amendment. Yet, I would say this, not one man has dared to come out and find fault with or condemn what I will call the heart of this amendment, namely, that one fourth of the radio broadcasting facilities shall be reserved for human welfare agencies. No man has done it. No man dares do it. One would make himself a laughing stock of the American public, which has its heart set upon education, if one would dare to get up and say that one thinks education should not have any opportunity to make use of the radio; should be debarred from that exceedingly powerful means of reaching, instructing, elevating, and improving the minds and morals of man.

The CHAIRMAN. How did you arrive at 25 percent?

Father HARNEY. Twenty-five percent?

The CHAIRMAN. Yes.

Father HARNEY. Well, in this way: I believe that our country spends, our people, as a whole, spend for the maintenance of education, of religion, of other human welfare activities, about 50 percent of the total amount expended by them for all governmental and civic activities altogether. At least 50 percent of the expenditures of the people of the United States go for the very purposes—that is, for human welfare—for which we are seeking this amendment.

Now, you say why not ask for 50 percent? Principally because I think that with a 25-percent reservation of broadcasting facilities for these human welfare agencies they would have enough to get along.

The objection has been made, made in a letter to the Honorable Schuyler Merritt, that this amendment is an appeal of a special interest, presumably, the Catholic Church, of which I happen to be a member.

Now, in reply to that, I want to say very positively and with the certainty that I cannot be honestly contradicted, that this amend-

ment is not looking out for the particular interest of any one denomination. I dare say there has never been brought before the Congress of the United States any measure that has a wider scope than this one for which I ask your attentive consideration and for which I hope to get your support.

There is certainly not one single kind of human welfare agency that is left out. I could not name them all. That is an impossibility. So, I use that broad, all-inclusive term "human welfare organizations."

That amendment is every bit as much in favor of the Protestant churches as it is in favor of the Catholic; every bit as much in favor of Protestant fraternities like the Free Masons, Odd Fellows, as it is in favor of the Catholic organizations, such as the Knights of Columbus. It is not merely for religion. It is for educational institutions of all sorts, from the primary schools to the universities. It is for every kind of organization which, as I say, has as its objective the betterment of the conditions in which we live and by which our lives are affected. Now, no agencies, or organizations that can be reasonably presumed to be contributing to the general welfare of the people is excluded from the benefits that this amendment will confer, nor is commerce left out. Commerce is left the lion's share—75 percent.

You ask me why I am thinking of 25 percent. Because I think that will be sufficient.

If in some future day it should prove to be inadequate, then let the changed conditions determine or suggest new legislation. For the present I think that will be adequate.

And, I say there has been, and there can be, no controversion of that which is the very heart of this amendment, that we should reserve for human welfare agencies a decent share of broadcasting facilities.

Of course, there has been indirect—and it has got to be indirect opposition to this amendment—no man will dare come out and take the flat-footed stand against the amendment as it is.

I find a first argument against it was in a letter addressed to the Honorable Schuyler Merritt, by no less a person than Judge Sykes, chairman of the Federal Radio Commission, in which Judge Sykes told him that this was a special interest appeal.

Many special interests—

I am quoting exactly—

are able to appeal to Congress, or to particular Members of a Congress, and time does not permit a complete hearing on the question at issue. It seems most desirable, therefore, that all cases be heard by the administrative body.

And so forth.

A copy of that——

Mr. MERRITT. May I interrupt, Father?

Father HARNEY. Yes.

Mr. MERRITT. I take it that that is my correspondence that you are referring to?

Father HARNEY. Yes.

Mr. MERRITT. Relating to an application of a special body in New York for the special allocation to them by law——

Father HARNEY. But, we have never asked for that. It is true that we have sought to get fair play from the Federal Radio Commission, but—and, we did not get that—and, we have striven for 7 years to get it, and we have been cut down from full time to a miserly 2 hours a day.

Then, when we did not get that, we said, "Here is a terrible situation. What can be done?"

Mr. MERRITT. What you were applying for was special legislation?

Father HARNEY. Oh, no, no. He has no right to say that. There is the amendment that I have read, word for word.

Mr. MERRITT. Well, that contained the particular matter that was under consideration by Mr. Sykes. That had nothing to do with the general bill?

Father HARNEY. How about this letter? It says that you had received several requests for special legislation to be enacted.

Mr. MERRITT. Who says that?

Father HARNEY. This letter of Eugene O. Sykes to you.

Mr. MERRITT. Oh, yes.

Father HARNEY. I am reading from a copy of it. You said that you had received requests that special legislation be enacted to give WLWL more broadcasting time than it now enjoys.

Mr. MERRITT. That is true.

Father HARNEY. And that is not true; the statement is not true.

Mr. MERRITT. I can show you my other correspondence.

Father HARNEY. I know what Judge Sykes said, but Judge Sykes is under a misapprehension. There is absolutely nothing in this proposed legislation that even mentions WLWL.

Mr. MERRITT. That is true, as to this amendment. I do not deny that.

Father HARNEY. Well, that is the only legislation that has been asked for.

Mr. MERRITT. But that correspondence did not relate to this particular amendment.

Father HARNEY. But, we have asked for this very amendment and no other legislation is asked for. I put that down——

Mr. MERRITT. What is it that the application was for?

Father HARNEY. I presume that Judge Sykes thought it was—possibly he did not even read this legislation.

Mr. MERRITT. That does not have anything to do with this legislation.

Father HARNEY. The point there is, that that is a positive statement, Mr. Merritt. There it is. I have a copy of the letter. You stated that you had received several letters requesting special legislation be enacted in order to give station WLWL more broadcasting time than it now enjoys.

Mr. MERRITT. Yes.

Father HARNEY. I say that no special legislation has been asked either in the House or the Senate. The only legislation that has been asked for that might indirectly, indirectly only, and ultimately be of benefit to our station is this particular amendment, or some modification of it that contains the same essential language.

The CHAIRMAN. In order that we may understand this thing. Are you quoting from Mr. Merritt's letter?

Father HARNEY. I am quoting from the letter of Judge Sykes to Hon. Schuyler Merritt.

The CHAIRMAN. I thought that you said that it was Mr. Merritt's letter.

Father HARNEY. I am quoting what Judge Sykes said. I do not know what Mr. Merritt wrote. I know just——

The CHAIRMAN. You do not know what Judge Sykes asked——

Father HARNEY (interposing). What is that?

The CHAIRMAN. You do not know what somebody asked——

Father HARNEY. Judge Sykes——

The CHAIRMAN (continuing). Just a minute. You do not know what somebody asked Mr. Sykes to do and what legislation somebody else recommended to Judge Sykes?

Father HARNEY. I know this, he is writing, however, to Hon. Schuyler Merritt, and in writing to Hon. Schuyler Merritt he says to him "you stated that you had received "——

The CHAIRMAN. Yes.

Father HARNEY. That is, Mr. Merritt had received.

The CHAIRMAN. All right, go ahead. Mr. Merritt stated that he received it?

Father HARNEY. Yes, sir; exactly.

The CHAIRMAN. All right.

Father HARNEY. Requests that special legislation be enacted in order to give station WLWL more broadcasting time.

The CHAIRMAN. Yes. What did Mr. Merritt say about that?

Father HARNEY. I do not know.

Mr. MERRITT. I have received such requests.

Father HARNEY. You have received such requests.

Mr. MERRITT. Yes.

Father HARNEY. May I ask what legislation was asked for, more time. for WLWL?

Mr. MERRITT. I do not know; they asked for legislation, and they came to me to support it.

Father HARNEY. This is the amendment.

Mr. MALONEY of Connecticut. Mr. Chairman——

The CHAIRMAN. Mr. Maloney.

Mr. MALONEY of Connecticut. Mr. Chairman, I think I might clear that up. I think that Mr. Merritt has received communications, as many Members of Congress have, from persons who have seen the amendment and have been led to believe that it was a special request for WLWL, and I think that some people writing in, writing to him, have led Mr. Merritt, as I am sure they have other Members, to believe WLWL was asking for some additional time. I think myself that it was a misunderstanding.

Father HARNEY. I can assure you, as the head of the Paulist Fathers who own and operate WLWL that we have never asked for any special legislation. We do think, indirectly and ultimately, if this should become a law, we will be benefited, because our station is not representative merely of the Paulist Fathers.

The CHAIRMAN. The only thing that I am interested in is this. I know that Mr. Merritt does not write letters and make statements that are not true, and that was the only interest I had. Mr. Merritt says that he has had letters.

Father HARNEY. There is no question about that.

The CHAIRMAN. Urging him to do this.

Father HARNEY. Mr. Sykes put in what Mr. Merritt says. I am not questioning the fidelity of his memory, but I am questioning, and denying flatly the impression that was created in his mind, because I know——

The CHAIRMAN. That is different.

Father HARNEY. Because I know that no such special legislation has been asked for. I know that this is the only legislative measure that has been proposed.

Mr. MAPES. Would not this be a fair statement of it, perhaps, to say that the responsible people have not asked for it, but others may have done so?

Father HARNEY. Possibly.

Mr. MALONEY of Connecticut. That is what I intended to say.

Mr. MAPES. Is that the situation?

Father HARNEY. That might be, because the owners of WLWL have been the prime movers in trying to secure this legislation and the people could easily confuse this and think, well, all this is just to help WLWL.

I say that it is not and I refer to the amendment itself, to its very contents, as proof, that it is not special legislation for any special institution or any special kind of work, but it has the broadest conceivable scope. It includes every human welfare agency, every one of them, every Protestant Church, as much as Catholic; Jewish, as well as Protestant; fraternal organizations, agricultural cooperative societies, labor organizations, social service organizations—whatever organizations, regardless of who it is working for, as long as it is for human welfare. They all have the opportunity to be benefited and helped, and enabled to carry on their work by the passage of such an amendment.

Mr. MALONEY of Connecticut. I would like to make Mr. Merritt's position clear. I am positive that he has received many requests saying that the amendments were designed to help WLWL, because I have received many just like that.

Father HARNEY. I am sure that that may be true. I do not deny it; but I want to deny the accuracy of that impression, which you have received honestly and fairly, but the people writing to you have not stated the case clearly and that is what I am trying to do, state it very clearly and definitely, so that all such wrongs, incorrect impressions will be removed from your mind, because if it were a bit of special legislation just for us, I would not blame you for kicking it out, of course, without consideration, but it is not that. And, I think that the real complaints with respect——

Mr. WOLVERTON. Will you explain to me, under your proposed amendment, just how facilities would be divided so as to get the 25 percent that you desire for cultural or human interest broadcasts?

Father HARNEY. You mean how would we take it off of the broadcasting bands, or how the commission would select the organizations that would benefit by these facilities?

Mr. WOLVERTON. From a practical standpoint, how would you work out a division of these facilities?

Father HARNEY. Well, I would start at the lower end and go all of the way to the higher end of the broadcasting band and take 25 per-

cent out of every section. It runs, I suppose, from about 500- to 1,400-, or possibly 1,500-kilocycle frequencies. I would take out all along the line.

Mr. WOLVERTON. What do you mean by "facilities"? Do you mean time placed at the disposal of a station or, does it refer to number of stations entitled to use a designated wave length?

Father HARNEY. It means three things—perhaps more—but at least three things, surely. It means first the use of certain wave lengths or frequencies—550, 600, 750, or whatever it may be. It means the use of a definite frequency. It means also the amount of power that one is authorized to use in broadcasting over that frequency, anywhere from—well, WLW which now has 500,000 watts, and some stations have 50,000 watts. Our own station uses 5,000 watts. and then, as a third item of broadcasting facilities, the amount of time.

Now, we, ourselves, are not perfectly satisfied with the frequency that we have, namely, 1,100 kilocycles. We are perfectly satisfied with the amount of power that we are authorized to use, namely, 5,000 watts; but we are utterly dissatisfied with the very limited time that we have, namely, only 2 hours a day, and one of those hours not very acceptable or desirable from any point of view, particularly the point of view of our special work, from 6 to 7 p.m.

Mr. WOLVERTON. How would you remedy that situation with reference to your particular station, taking it as an illustration? Would you be given additional time by taking it away from some other station?

Father HARNEY. If you are going to have it, or if you are going to give education and religion what they ought to have, you have to take it away from some people that now have it. In other words, these gentlemen that are out for their own pockets have been able to corral for their own benefit 97½ percent of the broadcasting facilities of the United States. They have got that.

Mr. WOLVERTON. You are interested——

Father HARNEY (interposing). We say that is outrageous.

Mr. WOLVERTON. Do you advocate giving increased time to stations already in existence?

Father HARNEY. No, no; it would enable some of those stations that have been forced off the air, for one reason or another, to come back. There were at one time 105 educational stations. Today there are 30.

Mr. WOLVERTON. How many stations on your particular frequency?

Father HARNEY. There are just two on our frequency, WLWL and WPG, at Atlantic City, here in the East.

Now, WPG at Atlantic City is 100 percent controlled by the Columbia Broadcasting Co.

Mr. WOLVERTON. Only that station and yours?

Father HARNEY. That station and ours are the two stations on the 1,100 frequency here in the East.

Mr. WOLVERTON. Now the time on that wave frequency is divided between those two stations?

Father HARNEY. Exactly. They get 110½ hours a week and we get 15½.

Mr. WOLVERTON. So your objection is to the allotment of time between those two stations.

Father HARNEY. So far as our particular case is concerned.

Mr. WOLVERTON. Well, I am using that as an illustration so that I may understand the application of your amendment.

Father HARNEY. Yes.

Mr. WOLVERTON. Under your proposed amendment, would the situation be rectified by requiring WPG to give a certain part of its time for the purpose you speak of, as cultural?

Father HARNEY. Require WPG to do that?

Mr. WOLVERTON. Yes.

Father HARNEY. No; not by the legislation itself. That would have to go to or be left to the communications commissions as it is now in the hands of the Federal Radio Commission.

Mr. WOLVERTON. I am trying to understand the purpose of your amendment.

Father HARNEY. If it were legislation——

Mr. WOLVERTON. I am seeking enlightenment.

Father HARNEY. Yes.

Mr. WOLVERTON. Would a provision enabling the Commission to increase your time, or require WPG to utilize a part of its time for the cultural or religious purposes you have mentioned, meet the situation?

Father HARNEY. No.

Mr. WOLVERTON. I would like to understand the purpose or application of your proposed amendment.

Father HARNEY. This amendment has nothing whatsoever to do with the amount of time that a commercial station, frankly and fully commercial, may give cultural programs. No; it is that the human-welfare agencies themselves shall be enabled to do this, shall have their own broadcasting facilities and not be under the domination or control directly or indirectly, open or subtly, of any commercial organization. For example——

Mr. WOLVERTON. In other words——

Father HARNEY (interposing). If I wish to speak, so far as my qualifications permit, upon my personal opinion of the problems that affect the general life of the Nation, I do not wish to have what I think wise to say censored, deleted, by any official, high or low, of any commercial station.

Now, it may sound conceited, but I do not think it is, and I think you will concede that perhaps there is justice in it, in regard to some matters, I have a wider knowledge, a better and a truer knowledge, a sounder knowledge, than the gentlemen that handle the destinies of commercial broadcasting stations.

I know a whole lot more about moral principles than the whole organization of the Columbia Broadcasting System, because it is not my own thought. It is what I have gleaned from the best thought of the ages.

If I have to speak upon a subject that is ethical, that has to do with morality, I do not want to hand my manuscript over to them and then have them say, "We do not like it. You tone this down. Cut this out."

I say that I want, as an American citizen, to be under only two censorships: First, that of good manners, that while I may advocate my own views and opinions strongly, yet I will not advocate them

in such a way as to be rude to others, but with due regard for their feelings.

Mr. MONAGHAN. In other words, Father, you believe that that same freedom of speech over the radio should exist that exists today under the Constitution in other fields of education?

Father HARNEY. Absolutely; and that is one of the things this amendment is intended to correct. If these commercial stations were simply told, "You must give 25 percent of your time", that makes them masters of what shall be put on the air.

Mr. WOLVERTON. If 25 percent of the time should be utilized for moral purposes, would it not be just as helpful in promoting better living conditions if it should be one station as another?

Father HARNEY. No.

Mr. WOLVERTON. Is it your thought that the religious stations are to be utilized entirely for religious purposes, or are they to be utilized for commercial purposes also?

Father HARNEY. For commercial purposes, insofar as may be necessary to enable them to be self-sustaining.

Mr. WOLVERTON. Well then——

Father HARNEY. Not making money out of them.

Mr. WOLVERTON. Then your proposed amendment would not preclude any of these cultural organizations which have stations, from also using them for commercial purposes?

Father HARNEY. No. In fact, it specifically says——

Mr. WOLVERTON. And, may I ask, is it your opinion——

Father HARNEY (continuing). They should be enabled to sell enough of their time, which they enjoy, to make themselves self-supporting.

Mr. WOLVERTON. Does your station utilize any of its time for commercial purposes?

Father HARNEY. It has a few spot announcements. It would not get, in the course of a whole year, it would not get, I think I can safely say, 5 percent of what it costs to operate the station.

Mr. WOLVERTON. WPG, to which you refer, is a commercial station.

Father HARNEY. Yes.

Mr. WOLVERTON. Would it be possible, if your proposed amendment was enacted into law, for the Radio Commission to require WPG to utilize 25 percent of its time for cultural purposes?

Father HARNEY. Not by virtue of this amendment; no.

Mr. WOLVERTON. The amendment only applies to the allotment of wave frequencies to stations?

Father HARNEY. Absolutely.

Mr. WOLVERTON. Who would determine the division between the different organizations, such as educational, religious, agricultural, labor, and so forth?

Father HARNEY. The Commission would have to do it.

If I may remark, the N.A.B. has made a statement in opposition to this amendment in which there is one flatly false statement. This amendment does not ask Congress to do the allocating of broadcasting facilities. There is nothing whatsoever of that sort there. What it asks of Congress is one very simple thing: Give a mandate to the commission that you create to keep one fourth of the radio pie for the use of welfare, human-welfare organizations, while the gentle-

men are out to get what they can for themselves, have the other three quarters of the pie to do with as they please.

Now, that is all this amendment really asks.

Mr. WOLVERTON. Well, if religious stations are given an opportunity to use three fourths of the time for commercial purposes, why could not the purpose be also effected by requiring a commercial station to give one fourth of its time to cultural purposes?

Father HARNEY. Because it leaves to the managers of that station the determination as to what shall go on the air, makes them lords and masters of what shall be said. It gives them the right, not the Government, not any responsible organization, but an indiscriminate organization of all kinds of conflicting ideas and theories and principles. It gives them the right to say whether the Catholic Church, for example, shall be allowed any time, or whether the Methodists or Lutherans.

Mr. WOLVERTON. I am assuming that if the principle of this amendment should be enacted into law, that it would be a matter to be arranged.

Father HARNEY. May I just imagine that I happen to be the head, imagine that I am in the place of Samuel Paley and I am the head of the Columbia Broadcasting System, which owns several stations and has many other stations tied up in such a way that the Columbia Broadcasting System tells those stations what they shall put on at this hour, and this hour, and that hour.

Mr. WOLVERTON. Well——

Father HARNEY (interposing). Just a moment. I am not making my point. I have not reached my point yet.

Mr. WOLVERTON. Proceed.

Father HARNEY. Suppose that is my position and I am ordered by Congress, through the Federal Radio Commission, to give 25 percent of this time which I control to the use of educational, religious organizations, and so forth. Now, who is to determine what human-welfare organization shall sit down at my table and use this broadcasting time that I am ordered by the Government to give to certain guests? Who is going to determine who those guests shall be?

Mr. WOLVERTON. Well, would not the same difficulty arise in allotting wave frequencies.

Father HARNEY. No. I beg your pardon; no.

Mr. WOLVERTON. I frequently listen and have been greatly benefited and helped by some of the lectures or sermons that I have heard delivered during the Catholic hour. Did those discourses come over your station, WLWL?

Father HARNEY. WLWL was silent at that time.

Mr. WOLVERTON. I beg your pardon.

Father HARNEY. WLWL was silent at that time, could not speak.

Mr. WOLVERTON. I have also listened to Dr. Fosdick's talks on Sunday afternoon and I have been greatly benefited by them. His discussions have come over a general broadcasting system, as I understand.

Father HARNEY. Surely.

Mr. WOLVERTON. Do you infer that the persons speaking during the Catholic hour, Dr. Fosdick, or any others are limited as to what they can say, or their speeches deleted, or censured before they are permitted to speak?

Father HARNEY. I can give testimony as to one gentleman who has talked many times over the Catholic hour, Father Gillis, of our own community. Father Gillis has told me that subject after subject which he wanted to discuss, which he thought ought to be discussed, ought to be brought to the attention of the American people, Protestants, as well as Catholics, that he would not talk on those things.

Mr. WOLVERTON. Well, I am not in accord with anything that would permit that situation to exist.

Father HARNEY. But it does.

Mr. WOLVERTON. The purpose of my questioning is to determine whether your amendment is broad enough, if it is determined to be a proper policy, to designate a certain percentage or portion of the wave lengths to moral or cultural purposes, or whether that amendment you have suggested is broad enough to control general broadcasting companies in their use of time or whether it can be only applied to stations already in existence operated by religious organizations.

Father HARNEY. Not to stations already in existence, but to stations that will very probably come into existence if there is an opening created for education and religious organizations to get broadcasting facilities.

At present there is none. We have been striving for 7 years to get more than that miserable 2 hours a day and we cannot get it.

Mr. MALONEY of Connecticut. Mr. Chairman——

The CHAIRMAN. Mr. Maloney.

Mr. MALONEY of Connecticut. Did you at one time have full time?

Father HARNEY. In the beginning we had full time.

Mr. MALONEY of Connecticut. How did you lose it?

Father HARNEY. The Federal Radio Commission—I think it was the Department of Commerce did it first—just simply calmly notified us (the telegram was timed 5:22 p.m.) effective this date—you will broadcast from 6 to 8 p.m.

Mr. MALONEY of Connecticut. And you were whittled down to 2 hours?

Father HARNEY. No; we had been chiseled to half time already, but then along came that order depriving us of half of the time which we had been dividing with WMA, which at that time was a puny, inconsiderable station as compared to our own.

Mr. MALONEY of Connecticut. How long have you been operating your station?

Father HARNEY. 1925, when we went on the air.

Mr. MALONEY of Connecticut. How old is WPG, if you know?

Father HARNEY. A little ahead of us, a few months, but at that time, remember, that that was a municipal station of Atlantic City and not on the same frequency as ours. We have been shoved around on different frequencies I think five times all told.

Mr. HUDDLESTON. May I ask, is your station a self-sustaining station?

Father HARNEY. No; not at all.

Mr. HUDDLESTON. What does it cost per year to operate?

Father HARNEY. Well, I would say, roughly speaking, we need about $40,000 a year.

Mr. HUDDLESTON. And, how much do you receive?

Father HARNEY. Now, that can go down a little, and it could go up a great deal.

Mr. HUDDLESTON. How much do you realize from your commercial activities?

Father HARNEY. I could not tell you exactly, but I am willing to say positively that it does not amount to $3,000 a year.

Mr. HUDDLESTON. And, you have to make the balance of the $50,000 up from other sources?

Father HARNEY. Well, in the beginning we could appeal very easily to our own Catholic people for a little contribution when times were not hard; but in the depression, with hundreds, with thousands, of people out of work, hundreds of families dependent for every kind of support upon charitable organizations, we have not been able to make any appeal to our people to support our station, because it has got to go, the money has got to go, to keep them from starving; it has got to go to feed the hungry, clothe the naked, and keep a roof over the heads of those who otherwise would be homeless.

Mr. HUDDLESTON. How do you make up the difference?

Father HARNEY. We made up the difference by taking it out of our own pockets, and we are not rich people.

Mr. HUDDLESTON. You mean that you took——

Father HARNEY. The Paulist Fathers. The little community of 93 men.

Mr. MONAGHAN. May I ask a question?

The CHAIRMAN. Mr. Monaghan.

Mr. MONAGHAN. We Members of Congress—I know I have—have received petitions with thousands of signatures from people who are followers of the radio broadcasts of Judge Rutherford. I would be interested in knowing whether this amendment would help out in that situation. Would it create that liberty of the radio, in all channels, small radio, National Broadcasting Co., and every sort of company, that has the use of facilities of the air; would it create that degree of freedom which he desires? Would it enable Judge Rutherford, in other words, to broadcast?

Father HARNEY. Why, Judge Rutherford, I think—now, I am open to correction—but, I think that Judge Rutherford already owns, or his own organization owns or controls two or three broadcasting stations, and they broadcast on forty or fifty.

But, this amendment would leave it open to Judge Rutherford and his crowd to get a franchise to broadcast, provided the Commission could be convinced that their broadcasts are for human welfare and are in the public interest, convenience, or necessity.

Not every man that wears the garb of religion even is entitled to talk religion, or talk for religion on any subject. There have been some men who have utilized the radio simply to sling mud. You can refer specifically to our friend Frank Ford—gone, but not forgotten—whose pièce de résistance and every broadcast was simply sending out calumny against the Catholic Church. He was greatly worried, very much disturbed, because we at WLWL would not pay any attention to him. He called me up, pretended to be somebody else, and called me on the telephone and wanted to know why I did not answer this, that, and the other.

Mr. MONAGHAN. My purpose was not to get into that exactly, but to find out whether or not, for the information of the members of this

committee this amendment is designed to aid all alike, whether it be Dr. Harry Emerson Fosdick, Dr. Daniel A. Polling, whose broadcasts I enjoy very much, Judge Rutherford, or any of those men, and whether or not it is designed upon the broad principles of freedom of the air.

Father HARNEY. Absolutely.

Mr. MONAGHAN. So far as speech is concerned.

Father HARNEY. Absolutely. Personally, for example, I have no wish to keep Judge Rutherford off of the air. He is a horrible example, but I do not care whether he is broadcasting or not. He does not bother me any more than a yellow dog barking on the street. If the dog gets close enough I may impel him hurriedly in the opposite direction with a well-aimed kick. It does not mean anything. Franklin Ford never turned a hair on my head, although he attacked me personally. He did not worry me a bit. I merely grinned.

Mr. MONAGHAN. I never heard him. But, judging from what you have said, I believe you and I agree with Voltaire when he said: "Though I do not agree with what you say, I will defend to the death your right to say it", and, this amendment gives anyone that right.

Father HARNEY. It surely does; it places no limitation. It simply says any human-welfare organization. Now, as I say, I cannot specify them all, because there are too many of them.

Now, any organization that can classify as contributing to human welfare, education, religion, ethics, social service, comes within the scope of this amendment. They can go before the Commission and say, "Gentlemen, we want the franchise. We want a part of this 25 percent." "On what grounds?" "Well, we are" thus and so. We have so many thousands, so many hundred thousands. We speak for such and such philosophy, such and such a religion. We want the right to broadcast. We can have our own newspaper. There is no limitation there. We do not want limitation placed upon the use of the air. Use of the air, however, is limited. The Government takes complete control of it.

Mr. MONAGHAN. That would answer the objection raised by Judge Sykes that this particular thing is a special interest.

Father HARNEY. Well, he makes that statement, but I say it is not a special interest, unless you want to say that those who are working for human welfare are pursuing special interests and that the gentlemen who are working for their own pockets are not. Why not the other way about, with all due respect to Judge Sykes and others, why not say that those who are working for their own pocketbooks are the gentlemen who are working for special interests?

The CHAIRMAN. We are going to have to close. We have gone 5 minutes past our usual adjournment time and the committee wants to have a short executive session.

SUPPLEMENTARY BRIEF BY VERY REVEREND JOHN B. HARNEY, SUPERIOR GENERAL OF THE PAULIST FATHERS

In view of the fact that by reason of the many questions asked I was unable in the time at my disposal to submit all of the points I had in mind and thought of importance, I beg leave to file with the commission the following brief additional statement.

The National Association of Broadcasters, which claims to be truly representative of the radio-broadcasting industry, recently issued a statement in which it protests in the name of several hundred broadcasting stations and millions of radio listeners against the proposals contained in this amendment. The National Association of Broadcasters has absolutely no warrant for declaring that it speaks in the name of millions of radio listeners, whereas millions of listeners have written and expressed their wishes to Congress in favor of the amendment. It is absolutely certain that they have never told their listeners the contents of this proposed amendment. They have not dared to do it. However brazen they may be, they will not dare to do it now or later because they know full well that if their millions of listeners were acquainted with the provisions of this amendment and with the facts that have called for its presentation, the majority of their listeners, as all real thinking American people will do, would say that the amendment is fair and just and ought to become law.

The National Association of Broadcasters does not even speak for the whole of the broadcasting industry. At the present moment only 333 broadcasting stations in the United States belong to that association. There are at least 254 other broadcasting stations, so that at best the National Association of Broadcasters speaks for less than 60 percent of the holders of broadcasting licenses, and speaks only for those who are interested in exploiting radio not for the public interest, convenience, or necessity, but for the fattening of their own selfish pocketbooks.

In its statement the National Association of Broadcasters does not dare to meet this issue squarely. It simply calls attention to the difficulties that will be imposed upon the Commission appointed to carry out this mandate to Congress. Its argument is: We have 97½ percent of the broadcasting facilities. Education and human welfare have less than 2½ percent. Let things stand as they are. Let education and human welfare agencies get along as best they can with what they have under their own control and with the crumbs that we will from time to time drop from our well-laden table.

It makes a false statement when it says that it is proposed to have allocations made by congressional enactment. There is no hint even of such a proposal in the amendment submitted to you. All that this amendment really asks is that Congress make due provision for the radio welfare of those organizations that are seeking human betterment rather than selfish pecuniary profit.

It was once thought that the Federal Radio Commission could be trusted to make due provision for these human welfare agencies, but the Radio Commission's own acts prove that no such trust can be placed in its hands. If Congress wants to protect the radio future of human welfare agencies it must lay down an emphatic law to that effect and give clear, definite mandates which the Commission will have to carry out.

The National Association of Broadcaster's policy in connection with this amendment is to their discredit the exact opposite of our own. We have come out in the open; we have told those whose support we have solicited just exactly what the amendment aims at and just why such an amendment is called for.

The National Association of Broadcasters has not followed that policy. I repeat, it does not dare to follow it. At most it gets some of its hirelings to snipe at the amendment. One in particular, Mr. Boake Carter, calling attention to the merits of the Philco receiving set asserted that those in charge of educational and other human-welfare radio stations cannot give the American people the kind of radio program that the people appreciate and desire. A friend of mine, a wag I think, suggested that Mr. Carter was fearful of the ability of the Philco receiving set to handle a really high-class program; that he was inclined to think it better adapted to dispense cheap, tawdry, deteriorating programs, some of them even unfit for discussion on the air. I do not myself think that the makers of Philco would limit the efficiency of their receiving set. Be that as it may, their news commentator, Mr. Boake Carter, puts himself on record, and presumably puts the company that employs him on record, as asserting that only those in charge of commercial stations know how to serve up to the American people a fitting radio entertainment program. In many cases the gentlemen in charge of such stations, particularly the gentlemen in charge of the Columbia Broadcasting System have shown themselves seriously disqualified in this connection. I have been told that they have been featuring for many months a program known as the "Voice of Experience", a program which delights in dealing with matters that no decent man would present for public discussion; a program that deals with moral diseases and ailments which should be confined to a moral clinic just as serious and nasty physical ailments are kept within the walls of a medical clinic.

STATEMENT OF HON. STEPHEN A. RUDD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. RUDD. Mr. Chairman, just for the purpose of making an announcement of appearances of Congressmen here today, I have been asked by the following Congressmen to note their appearance here in favor of this resolution. Naturally I endorse everything that Father Harney has said.

Congressman Goss, of Connecticut; Congressman McGrath, of California; Congressman Condon; Congressman McCormack; Congressman Jacobsen; Congressman Hart; Congressman Brunner; Congressman Fitzpatrick; Congressman Connery; Congressman Brennan, of Illinois; Congressman Lindsay; Congressman Keller; Congressman Healy; Congressman Rogers of New Hampshire; Congressman McFarlane; Congressman Peyser; Congressman Boylan; Congressman Douglas; Congressman Granfield; Congressman Hartley; Congressman Norton; and Congressman McCarthy.

The CHAIRMAN. They have all been here?

Mr. RUDD. Either been here or sent their secretaries to have their appearances noted.

Now, the only thing that I desire to say is this, this question, I think resolves itself properly into this, Shall the educational, religious, agricultural, cooperative, and similar nonprofit associations have, as a matter of right and law, that which they are obtaining in part from these two broadcast companies as matters of grace, and may I suggest that in this amendment, after the word "cooperative" the word "fraternity" be inserted.

STATEMENT OF HON. WILLIAM P. CONNERY, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. CONNERY. Mr. Chairman, I would like to say that we had a meeting a few weeks ago at the request of different Members, and heard Father Harney on this subject and I have been asked to come here by different Members of the House and say that they are members of committees which are meeting and cannot be here. And, we did not know that he was going to be called until last night and several have said that they wanted to be here, but are members of the Military Affairs Committee, or different other committees, and cannot attend, and so the names that the Congressman gave, Congressman Rudd gave you, are not all of the names of Members who have called me and said that they would like to be here, but there are many other Members of Congress who at the last minute found that they could not be here and have called me to tell me that.

The CHAIRMAN. We will have to have an executive session.

(Thereupon, the committee proceeded to the consideration of other business, after which, at 12:15 p.m., an adjournment was taken until tomorrow, Thursday, May 10, 1934.

COMMUNICATIONS—H.R. 8301

THURSDAY, MAY 10, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m. in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Mr. Gifford.

STATEMENT OF WALTER S. GIFFORD, PRESIDENT AMERICAN TELEPHONE & TELEGRAPH CO., NEW YORK, N.Y.

Mr. GIFFORD. Mr. Chairman, my name is Walter S. Gifford. I am president of the American Telephone & Telegraph Co. The American Telephone & Telegraph Co. and its associated companies, comprising the Bell System, own and operate about 85 percent of the telephone service of the country. It is responsible for giving dependable, accurate, and speedy telephone service, constantly improved and extended in scope by science and invention, at a cost to the users as low as efficient operation can make it, consistent with fair treatment of employees and the financial safety of the business.

The general plan of organization for this undertaking has been developed during a period of over 50 years. There are regional operating companies largely owned by the American Telephone & Telegraph Co.; long-distance lines, interconnecting the territories of these regional operating companies, also owned and operated by the American Co.; a manufacturing company, the Western Electric Co., a subsidiary for over 50 years of the American Co., to insure standardized equipment of high quality at reasonable cost; an adequate research laboratory and a headquarters organization composed of experts in operating methods, accounting methods, and so forth, which have insured continued progress in the telephone art. The American Telephone & Telegraph Co. coordinates the service on a national basis and assures its constant improvement. These long-standing organization relationships have been responsible for the present high development and efficiency of telephone communication in the United States.

Nearly $5,000,000,000 of investment and 270,000 employees are devoted to the furnishing of this telephone service. The Bell System is practically a publicly owned institution, there being 681,000 stockholders of the American Telephone & Telegraph Company.

Of these stockholders 381,000 are women, and no individual owns as much as one fifth of 1 percent of the stock outstanding, the average holding per stockholder being 27 shares.

There are interconnected in the United States approximately 16,600,000 telephones, of which 13,163,000 are Bell telephones, the balance being owned by over 6,000 connecting telephone companies and 25,000 connecting rural telephone lines. Telephone service is available to subscribers and nonsubscribers through public telephones so that today practically anyone anywhere can speak with anyone else anywhere else any time of the day or night.

By the use of the radiotelephone developed in our laboratory, overseas telephone service furnishes connection to other countries throughout the world and with ships at sea, with the result that 92 percent of the world's telephones can be reached from practically any telephone in the United States.

We believe the people of this country are entitled in good times and bad to the best possible telephone service at the lowest possible cost. That is our own measure of our own success. There have never been any "telephone fortunes." The company did not even in boom times pay extra or stock dividends, nor did it split up its stock. The company has no watered stock, but, on the contrary, has received an average of $114 per share ($100 par) for the 18,662,275 shares of stock outstanding. In 1933 the system as a whole earned 3.8 percent on the stockholder's equity, that is, his investment in the business, including his interest in the surplus.

In my remarks about the bill before this committee, I am speaking as the representative of this enterprise, in which I have worked for 30 years, and have in mind the interest of the telephone users as well as the employees and the stockholders.

Regulation is not new to us. From the beginning we have welcomed it. We are now regulated by 45 State commissions, many municipalities, and by the Interstate Commerce Commisison. I suppose, however, that we all agree that there can be such a thing as too much regulation to permit management to function efficiently and with the rapidity constantly needed in a business of this character. Within the past year we have become further regulated through the National Industrial Recovery Act and the Securities Act. We have also recently furnished voluminous reports to this committee in answer to their questionnaire no. 5, covering a period of 10 years and going into practically every phase of our business.

The Bell System is one organic whole—research, engineering, manufacture, supply, and operation. It is a highly developed relationship in which all functions serve operations to make a universal, Nation-wide, interconnected service. In the conduct of the business responsibility is decentralized so that the man on the spot can act rapidly and effectively. At the same time, from company or system headquarters, he is within instant reach of skillful advice and assistance, as well as material and supplies. The injection of a commission with a veto power between these functions, as this bill does, will disorganize the telephone business, for I am certain that no power on earth can insure effective management and good service if it is necessary that the ordinary transactions of this Nation-wide enterprise shall wait upon hearings before a commission in Washington.

There are six times as many telephones in relation to population in this country as there are in Europe. Moreover, long-distance calls in this country can be made in nearly all cases without even hanging up the telephone. This high development and almost instantaneous service did not just happen; it is the result of initiative and ability, fostered and given free rein in a privately owned and privately managed enterprise.

By giving the commission power over all transactions the present decentralized and adaptable operation will be transformed into a rigid, centralized, bureaucratic operation. This will devitalize the very principles of management which have been mainly responsible for the progress of telephony in this country.

This bill proposes to so largely place the power to manage in the commission as to set up a regime of public management of private property.

The CHAIRMAN. What is the reason for that statement?

Mr. GIFFORD. I beg your pardon.

The CHAIRMAN. What specific provision in this bill are you referring to?

Mr. GIFFORD. The provisions referring to management and the provision with reference to contracts. I am coming to that in detail later, and specifically, if agreeable.

The CHAIRMAN. Proceed.

Mr. GIFFORD. Of the 681,000 stockholders who own this property, the overwhelming majority are women and men of small means who have invested their savings in this business. To most of them this investment is vital. As trustee responsible for good telephone service to the Nation and responsible for the safety of the investment of these hundreds of thousands of people, we must oppose to the full extent of our ability the passage of this measure.

The telephone business is now, in our opinion, adequately regulated. There has been no evidence that any change is necessary. A representative of the Interstate Commerce Commission testified 4 years ago and again this year before the Senate committee that complaints to that body of rates, charges, or service of communication companies, were infrequent. As a matter of fact, we cannot find that there have been any so far as we are concerned in the last few years. Under that regulation the most rapid strides have been made in improvement in quality, speed, scope and economy of operation of long-distance service. These economies were promptly passed on to the users of this service by reductions in rates, resulting in savings of many millions of dollars a year to the public. The rates for the longer distances have been substantially cut in two since 1926.

But if there is need to transfer our regulation from one body to another, I earnestly urge that such action be limited to what the President asked be done. His recommendations were as follows:

> I recommend that the Congress create a new agency to be known as the Federal Communications Commission, such agency to be vested with the authority now lying in the Federal Radio Commission and with such authority over communications as now lies with the Interstate Commerce Commission—the services affected to be all of those which rely on wires, cables, or radio as a medium of transmission.
>
> It is my thought that a new commission such as I suggest might well be organized this year by transferring the present authority for the control of

communications of the Radio Commission and the Interstate Commerce Commission. The new body should, in addition, be given full power to investigate and study the business of existing companies and make recommendations to the Congress for additional legislation at the next session.

In support of this position, I briefly outline our major objections to the bill H.R. 8301, which we shall be very glad to go into as fully as the committee desires.

Section 214: This section is entitled, "Extension of lines and circuits" and comprises five paragraphs (a) to (e) inclusive, pages 28 to 30.

Mr. MERRITT. Page 28? I must have another copy.

Mr. GIFFORD. I think it is pages 28 to 30 in your copy. It requires the companies to obtain a certificate of convenience and necessity, before they may extend, construct, acquire, or operate any line or circuit. It provides for notice to and service upon the Governor of any State in which the line or circuit is to be constructed or operated, and publication of notice for 3 weeks in a newspaper of general circulation in each county. The Commission is given full authority to grant or deny the application as made, or to attach whatever terms and conditions it may consider proper.

The word of this section follow substantially the text of the Interstate Commerce Act, section 1, paragraph 18 to 22, except that the draftsman has substituted the words "line or circuit" for the words "line of railroad." That is to say, this bill proposes to take provisions of the present law that are applicable only to railroads and apply them to telephone companies. The final paragraph of this section reads as follows:

(e) The authority conferred upon the Commission by this section shall not extend to the construction, operation, or extension of lines or circuits within a single State.

The corresponding provision of the present law is limited expressly to "spur, industrial, team, switching, or side tracks." No one should be surprised if it appears from an examination of these provisions that they become unworkable when the attempt is made to apply them to an entirely different business from that for which they were originally enacted.

These provisions deal with "lines" and "circuits." As these terms are not defined in the act, when applied to the telephone companies they will be given the meaning they have in the telephone business. Telephone lines and telephone circuits are quite different things and the act applies to both. The telephone company cannot extend a line or a circuit, or construct a new line or circuit, or acquire any line or circuit, or operate any line or circuit, or either acquire or operate any extension of any line or circuit, or use any additional or extended line or circuit for any transmission, without applying to the commission for a certificate, notice to one or more Governors, 3 weeks' published notice in an indefinite number of counties, and so forth. Then at the end of the section comes paragraph (e) quoted above. It is necessary to determine what this paragraph means.

Mr. PETTENGILL. Mr. Gifford, may I interrupt you to ask you to tell us the distinction between a telephone line and a telephone circuit?

Mr. GIFFORD. Well, a telephone line is a physical line on poles, for instance, and a circuit may be a so-called "phantom" circuit, or it may be a carrier circuit, which is superimposed on that line; and a circuit may be a connecting up of several lines at the same time, separate lines and through several sections or States, for instance, from New York to Washington, or New York to Chicago. There it may be made up, sometimes made up of circuits going from New York to Newark, and then the operator connects it up and makes a new circuit through a series of lines, which may physically be there all of the time.

Mr. PETTENGILL. A circuit then would be the electric energy in action.

Mr. GIFFORD. A circuit is what we use generally and we are constantly setting up circuits and taking them down.

Mr. PETTENGILL. Would it be correct to say every time a connection is made that it establishes a new circuit, every time you call up somebody?

Mr. GIFFORD. Yes; I think it would be perfectly correct.

I have already pointed out that in the corresponding railroad provision the lines of railroad excepted were spur, industrial, team, switching or side tracks. These are definite and well-understood railroad terms. The Interstate Commerce Commission has jurisdiction over all new lines of railroad, extensions of existing lines of railroad, and so forth, except only the five kinds of tracks enumerated. But I have already pointed out, when I referred to the fact that every telephone in the United States can reach 92 percent of the telephones in the world, that every telephone, and hence every telephone circuit, is an interstate telephone and circuit, to which the Federal power reaches because they are instrumentalities of interstate commerce.

When a new telephone with its attendant circuit is installed, an additional interstate line or circuit to that telephone is opened up. The limitation of paragraph (e) is to "the construction, operation, or extension of lines or circuits within a single State." The construction incident to the installation of a telephone takes place within a single State. But what of the operation or extension of lines or circuits? Our telephone engineers tell me that this circuit, when used in an interstate call, as it may be at any time, is operated in every State through or into which it extends, and that this installation of the telephone and attendant circuit constitutes an extension of an interstate line. Then, there are also superimposed phantom circuits or carrier circuits, that is, additional circuits superimposed upon existing pairs of wires. When such circuits are provided they may and ordinarily do extend over long distances and are likely to be used chiefly for interstate business. They are actual communication channels; they are the railroad tracks of the telephone carrier of communications. They add to the existing facilities of communication. As we understand it all these cases I have referred to are subject to the requirements of these provisions.

But even if a much narrower interpretation than this be taken, that is, if you do not consider that each telephone is an instrumentality of interstate commerce and the local connecting up of the telephone does not make it interstate commerce, although the cir-

cuits may necessarily go through, or across the borders, between States, and across the border of the States; but even if a much narrower interpretation be taken, the following facts have been given to me by our operating officials as illustrative of some of the difficulties the commission and the companies would encounter under the provisions of this section.

1. These provisions would prevent the placing of a new circuit on an existing pole line, although sudden changes in the demands for service frequently make it necessary to do such work, which could be done in a few days, if necessary, except for the securing of the permit. It would also prevent the connecting up of additional spare circuits even though they were standing idle at the moment in the cables or on the pole lines. In 1933 over 8,000 such cases occurred in the operation of plant subject to this act; and the service requirements in many of these cases compelled the completion of such work on a few hours' notice. Under the present act sometimes additional circuits are provided by the placing of what are known as carrier circuits on existing wires. This could not be done without permission under the law as proposed.

2. The adaptation of the working plant to the current changes in traffic volumes and to other conditions requires the frequent rearrangement of circuits and the connecting of one circuit with another. Over 6,000 such changes in plant subject to this act were handled in 1933, on each of which a permit would have been required. Many of these changes were made on a few hours' notice, some of them on a few minutes' notice.

3. The act would prevent providing, for the service needs of the Government, the press, the broadcasting companies, and other industries, new circuits which are often hurriedly connected up, many times to meet a temporary situation. Often we are not advised of the requirements more than a week or two before the need for the circuits; sometimes we have only a few hours' notice. More than 7,000 such cases arose in 1933. Such cases could not be met under the provisions of the act. Similar cases, of course, arise in connection with storm damage and other catastrophes.

4. All communications within the District of Columbia are defined as interstate. The proposed law as now worded would prohibit even connecting up a new subscriber station without authorization from the commission. Over 47,000 telephones were connected up in 1933.

Mr. PETTENGILL. Mr. Gifford, referring to section 214: You have been speaking almost entirely of the word "circuit." Would it meet your principal objection to section 214 if the words "or circuit" were omitted and confined entirely to the physical property represented by what is called a line?

Mr. GIFFORD. It would be better, a good deal. Of course, I think the provision for the notification of the Governor and the provision for publication for 3 weeks—this is not a railroad track, you know. This is just putting another pair of wires on a line, usually. I think that is an unnecessary, expensive, cumbersome, slow process to apply to a telephone line, but it would very much change the picture of this section, of course, if it referred purely to physical property.

The CHAIRMAN. Had you finished, Mr. Pettengill?

Mr. PETTENGILL. Yes; I am through.

The CHAIRMAN. Do you think the interpretation of that section would be such if you wanted to put another wire on a pole, that that would be regarded as the extension of a line?

Mr. GIFFORD. That is the way our lawyers tell me that would be interpreted. What I really think, Mr. Chairman, is that it is a very complicated thing. I think it might be worked out and, of course, the whole point of my argument here this morning before this committee, or my statement is that we have not had time to sit down and work it out as it should be, and I think the proper scheme is to let the new commission really sit down with the companies and work out something they think is proper, or practical.

The CHAIRMAN. This principle as applied to carriers is 14 years old.

Mr. GIFFORD. I beg your pardon, Mr. Chairman.

The CHAIRMAN. This principle for carriers is 14 years old, however. It is not something new. It was put into the Transportation Act of 1920.

Mr. GIFFORD. But it has never been applied to telephone companies.

The CHAIRMAN. Oh, no.

Mr. GIFFORD. And my point is that there is a big difference between a railroad track and a right-of-way, as a matter of fact, and the stringing of a couple of wires, or additional wires on a telephone pole.

The CHAIRMAN. Mr. Gifford, one of the very great reasons for that is just because nobody had control of the building of new lines, and a lot of improvident lines were built. Industries were built up along them, and now they are nothing but two streaks of rust, and the whole community has gone to the bad.

Mr. GIFFORD. I am not opposing some kind of control of this situation. What I am talking about now is——

The CHAIRMAN. I wanted to know what objection you have to authority being lodged in some administrative commission or power, to see to or approve the extension of lines, or new lines, in a field that is already served.

Mr. GIFFORD. I do not think that I have any objection, if it were worked out on a practical basis. This particular bill does not. I can see that it is not an easy thing to do.

The CHAIRMAN. What we are doing in this section is to give the power to approve, or veto, applications for extensions of new lines, or the building of new lines.

Mr. GIFFORD. But, we would have to submit every case to the commission, as I understand.

The CHAIRMAN. Yes; that is correct.

Mr. GIFFORD. And it runs into thousands almost every day.

The CHAIRMAN. You mean extensions of lines?

Mr. GIFFORD. Circuits, extension of circuits.

The CHAIRMAN. I am limiting myself to the extensions of existing lines, or building of new lines. Do you think that that would be very serious?

Mr. GIFFORD. I do not think that that would be impossible.

The CHAIRMAN. Do you not think that there are a great many cases where it would have been a very fine thing and in the public

interest to have had proper supervision as to the construction of some telephone lines? Do you not think that there have been a lot of improvident systems built that have cost some people a lot of money which they are going to lose?

Mr. GIFFORD. I do not think that there are in the telephone business, Mr. Chairman.

The CHAIRMAN. You do not?

Mr. GIFFORD. No, sir.

The CHAIRMAN. Well, you do not hear them all cry like I do.

Mr. GIFFORD. I beg your pardon.

The CHAIRMAN. I say, you do not hear them all cry like I do.

Mr. GIFFORD. I have heard no complaint.

The CHAIRMAN. I do not mean that all of them cry. I mean that those who do cry, come around here and tell their stories.

Mr. GIFFORD. I have not heard of any instances in the telephone business where lines, interstate, long-distance, have been built that should not have been built.

We believe there are other valid objections to this section but I think enough has been said to show that this would react most seriously upon telephone service, making it impossible to meet the changing conditions of traffic volumes and other service requirements. In short, it would interfere seriously with the day-to-day function of management in operating the property.

Of course, I am making that statement on the basis that it does include the interpretation requiring the reporting of circuits as well as lines.

Mr. PETTENGILL. Where did you get the definition?

Mr. GIFFORD. There is not any definition I think.

Mr. PETTENGILL. It does not have a technical meaning?

Mr. GIFFORD. It has a meaning in the telephone business, which is the communication channel.

Mr. PETTENGILL. Yes.

Mr. GIFFORD. As against the physical property.

Mr. PETTENGILL. If within the technical meaning of the word it has the meaning you say it does, it seems to me your point as developed on page 10 of your statement is pretty well taken.

The CHAIRMAN. The telephone business is developing to a point where you will not have to put in so many extra wires, is it not?

Mr. GIFFORD. The development is running that way?

The CHAIRMAN. Yes; very much so.

Mr. GIFFORD. Yes.

The CHAIRMAN. I think that it would be interesting to the committee, Mr. Gifford, as long as you are going into that matter, to know about that development.

Mr. GIFFORD. Well, the development is proceeding along the line of putting more carrier current or phantom circuits, on a single pair of wires, so that theoretically you can, for instance, put 5 telephone, so-called, "circuits" on a pair of wires, and then, on each of those 5, 5 more circuits, and then 5 on those 5. I am not an expert in that, but I think that that will illustrate to a layman. On each of those 5, you can put 5 more, and on each of those 5, 5 more, pyramiding up. There are, in the present development of the art, limitations as to how far you can go; but that is the way that the art is developing.

The CHAIRMAN. It is developing in that direction very fast, is it not?

Mr. GIFFORD. It is developing very fast, but, of course, on very short hauls—I mean, short hauls under 100 miles or something like that—these gadgets you put on to do this work are more expensive perhaps than extra wires, but when you get a long haul, as across the country, then they are not.

Mr. MONAGHAN. Mr. Chairman-

The CHAIRMAN. Mr. Monaghan.

Mr. MONAGHAN. Mr. Gifford, do you consider that the installation of the dial system was of any benefit, financially, to your corporation?

Mr. GIFFORD. I do not think that I could say that it is. I think if we get back to the normal volume of traffic, it ought to be. That is, we have got such an unusual situation of losses for the first time in the history of the telephone business, two and one half million stations, but again, with the dial system, you have got a capacity for more telephone business.

Mr. MONAGHAN. Did that not dispense with the necessity for thousands of young ladies throughout the country that were employed as operators?

Mr. GIFFORD. Well, it dispensed with a good many. The principal thing that it would have done, if we had not had the depression, would have meant the need for new operators much decreased.

The real reason for the dial, one of the real reasons, is that it really gives better service.

Mr. MONAGHAN. You do not believe that your concern would have introduced it, do you, if it had not been for the fact you believed it would have been profitable to the concern to do so?

Mr. GIFFORD. Why, I think we would have introduced it if we had thought that it would have given better service. That is what we try to do. Of course, if it cost too much more, we could not have done so.

Mr. MONAGHAN. You think, then, or believe, if we return to normal, it will profit your concern to have introduced the dial system?

Mr. GIFFORD. Yes; but that is not a big factor. I mean it should prove a good thing to have it anyway as against the extension of the manual system.

Mr. MONAGHAN. Well, after the cost of installation and cost of the dial system was taken up, would it not then prove profitable? It seems to me that the only logical conclusion to draw as a result of putting these girls out of work, as it did, would have meant that the money went back into the treasury, so to speak, of the telephone company.

Mr. GIFFORD. No. The system costs very much more than the manual system; much heavier investment in it, and much heavier fixed charges on that investment and, of course, employs a considerable number of men who would not otherwise be employed because it requires high skilled maintenance men to keep it working and maintained.

It is not a large number of them in any single office but a large number in the whole country; but I do not mean it is large in comparison to the number of operators.

Mr. MONAGHAN. I notice later on, Mr. Gifford, in your statement, that there are only three States that do not have commissions that regulate the telephone industry.

Mr. GIFFORD. Yes.

Mr. MONAGHAN. Does Montana have such a commission, do you know?

Mr. GIFFORD. Yes; it does.

Mr. MONAGHAN. Does it do much regulating?

Mr. GIFFORD. I am sure it does.

Mr. MONAGHAN. Well now, how is it, Mr. Gifford, that in the State of Utah, in Salt Lake City, the rates are aproximately a third or a half less than they are in Montana, in Butte, Mont., as compared with Salt Lake City?

Mr. GIFFORD. I am afraid I do not have the facts on that. I cannot answer that. But I am pretty sure your commission knows about that, knows what our corporation is earning in Montana, as well as that the Utah commission knows what they are earning in Utah; but there are a great many cities in the country. I could not carry that in my mind. I am sorry.

Mr. MONAGHAN. I realize that.

Mr. MAPES. Mr. Chairman

The CHAIRMAN. Mr. Mapes.

Mr. MAPES. I would like to ask one question for information.

Mr. GIFFORD. Yes.

Mr. MAPES. You, in answer to one of the questions, said that you had lost 250,000 stations.

Mr. GIFFORD. Two million five hundred thousand.

Mr. MAPES. What is a station?

Mr. GIFFORD. A telephone.

Mr. MAPES. What?

Mr. GIFFORD. A telephone.

Mr. MAPES. Two and a half millions lost?

Mr. GIFFORD. Two and a half million less telephones.

Mr. MAPES. I notice from the paper this morning that you are getting some of them back.

Mr. GIFFORD. I beg your pardon.

Mr. MAPES. I notice in the morning papers that you are getting some of them back.

Mr. GIFFORD. Yes; we are.

Mr. MAPES. More in March than at any time since 1930.

Mr. GIFFORD. It is very encouraging. We have been getting a net increase in the number of telephones each month, beginning with September of last year.

Mr. MAPES. I did not know just what you meant by stations.

Mr. GIFFORD. I am sorry. That means a telephone. I am sorry I used the term.

Section 215: Section 215—

Mr. HOLMES. Mr. Chairman-

The CHAIRMAN. Mr. Holmes.

Mr. HOLMES. Mr. Gifford, may I ask one question before you leave section 214?

Mr. GIFFORD. Yes.

Mr. HOLMES. Quite frequently, in the installation of new telephones or new telephone lines, I know that there are disputes along

that line. The telephone company comes into the commission for a new pole line, or an extension of wires, and they usually have to have a hearing before the board of aldermen in a city. Now, before that board of aldermen acts on your petition, in a city, where you have filed an application for a new line, do you have to get permission from the commission here in Washington to make that extension?

Mr. GIFFORD. Not unless it is an interstate line, we probably would not have to, unless, as I say, this is so interpreted.

Mr. HOLMES. I thought your statement was that it would refer to every telephone.

Mr. GIFFORD. I was going to say that seems to me to be an absurd interpretation, but that is a possible interpretation our lawyers tell us, as every telephone in a town can be used for interstate conversation, you see, and theoretically that could be construed as being in interstate commerce and it might be that we would have to put that up to the Interstate Commerce Commission to get it approved, or get the approval of the new commission.

Mr. HOLMES. That is, you think that that could be the commission's interpretation of that section?

Mr. GIFFORD. That is right. The figures I gave as to the difficulty of operating under section 214 did not include that type of thing. They simply included interstate circuits that are set up and taken down at various times throughout the day, thousands of them, that I have referred to.

Mr. KENNEY. Mr. Chairman

The CHAIRMAN. Mr. Kenney.

Mr. KENNEY. Mr. Gifford, the volume of your business is a good barometer, is it not, for the business generally throughout the country?

Mr. GIFFORD. It used to be, and I think, perhaps, still is.

Mr. KENNEY. And I understand you to say, in answer to a question by Mr. Mapes, that you had found that the volume of your business is increasing.

Mr. GIFFORD. Yes.

Mr. KENNEY. Do you know to what extent over this same time last year, approximately?

Mr. GIFFORD. Well, of course, we are still very considerably behind. We still have considerably fewer telephones in use at this time now than we had last year, because we lost a lot of telephones during the first part of last year, up to September. We have not made up even last year's losses.

Mr. KENNEY. I realize that.

Mr. GIFFORD. But, talking about long distance, toll business

Mr. KENNEY. I am talking about the general view. Have you any idea what the rate has been within the last 6 months in the restoration of stations?

Mr. PETTENGILL. Net gain of stations.

Mr. KENNEY. Net gain.

Mr. PETTENGILL. Yes.

Mr. GIFFORD. The net gain of stations is running at the rate of about 500,000 a year on 13,000,000 stations, which is about 4 percent. I should think that we are making a net gain in business of some-

where in that neighborhood. It might be 3 or it might be 5 percent. It is not 15 or 20 percent.

Mr. KENNEY. But that would indicate that business is getting much better?

Mr. GIFFORD. Yes; and the interesting thing is that it is occurring all over the country. It started, if that is of any interest to the committee, it started in the South and the Southwest back in December and January and in the early part of February, but since then there has been a showing of improvement in New England and in every section of the country, and now for the last month or month and a half or 2 months it is general all over the country.

Mr. PETTENGILL. Congress may have started in at the right place.

Mr. WOLVERTON. Some of it may be due to the talk for and against the "new deal."

Mr. PETTENGILL. The tide turned, you say, in September?

Mr. GIFFORD. Yes.

Mr. PETTENGILL. When your net gain exceeded your net losses?

Mr. GIFFORD. Yes.

Mr. PETTENGILL. And has continued each month?

Mr. GIFFORD. Each month; yes.

Mr. PETTENGILL. Previous to that you had a net loss each month for more than 2 years, did you not?

Mr. GIFFORD. That is right.

This next section, Mr. Chairman, is one you asked me about at the opening when you asked what interference there was in management.

Section 215: Section 215 (pp. 30, 31), entitled "Transactions Relating to Services, Equipment, etc", establishes and defines the commission's authority over such transactions. This section is one of the most far-reaching proposals for the usurpation of the functions of management by public authority that has come to my attention.

By paragraph (a) of the section the Commission is given authority over the following transactions:

> Transactions heretofore or hereafter entered into by any common carrier which relate to the furnishing of equipment, supplies, research, services, finances, credit, or personnel to such carrier and/or which may affect the charges made or to be made and/or the service rendered or to be rendered by such carrier in wire or radio communication subject to this act.

The use of the word "transactions", which in this connection is the broadest word in the dictionary, and the enumeration of everything the company requires with which to carry on its business, have the effect of giving the Commission jurisdiction over practically every activity and every act of the management. This is true even if the expression "and/or" be taken to mean "and", since obviously every such transaction not only may affect the charges and the service but inevitably must do so, in the nature of the case. If the words "and/or" be read disjunctively as meaning simply "or", then I take it that the jurisdiction of the Commission is extended to all transactions of whatever nature which may affect the charges or the services, whether they relate to any of the enumerated categories or not. That interpretation, however, would not seem to broaden the authority materially, if at all.

Paragraph (a) then goes on to provide, in substance and effect, that if the Commission disapproves of any transaction, even though

completed, it may substitute its judgment for that of the management and may set the transaction aside altogether or authorize such alternative transaction as the Commission thinks proper and desirable.

It is the duty of a telephone company at all times to render adequate service at fair and reasonable rates. The management of the company is charged with the responsibility of performing this duty, and the determination of the ways and means of doing this should be a function of management. The function of regulation by public authority, on the other hand, is to hold the company to the performance of these legal obligations. If the service is inadequate the regulatory authority may demand that it be made adequate. If the rates for service are excessive the regulatory authority may demand that they be reduced. But the methods, the ways and means, the "transactions" by which these results are to be obtained, should rest with the management. This is, or at least has been, the American sysem of private ownership and operation of business subject to public regulation. It has worked, on the whole, successfully; notably so in the field of electrical communication to which this bill relates, with the result that the American people receive the best communication service in the world.

This section of the bill goes very far toward substituting public management in place of public regulation.

The CHAIRMAN. Right on that point, has there been very much trouble in the common-carrier field with reference to the law we have now on that?

Mr. GIFFORD. I do not know of any law like that in the common-carrier field. That is new.

The CHAIRMAN. Is there not such a law as that where the Commission is authorized to examine into transactions of common carriers where they find that they are likely to affect adversely public interest?

Mr. GIFFORD. Is that in this copy, Mr. Chairman?

The CHAIRMAN. No.

Mr. GIFFORD. Oh, I am sorry.

The CHAIRMAN. Is not that what it would mean?

Mr. GIFFORD. Well, I do not know, Mr. Chairman. That is not what it says, as I read the section.

The CHAIRMAN. If it is found that a transaction adversely affects the public interest it is declared void, and that would have to be an affirmative finding, it seems to me.

Mr. GIFFORD. Transactions which relate to the furnishing of equipment. Now, as we interpret it, for instance, we buy under normal times, we buy 50,000 items a day, we will say, in the whole Bell Telephone System, and that is the purchasing of material.

Then we transfer personnel from one company to another, or hire personnel, and that relates to personnel, and it says that if the commission does not like it they can set it aside after the fact. It seems to me——

The CHAIRMAN. Pardon me. If they do not like it?

Mr. GIFFORD. Yes.

The CHAIRMAN. It is hardly that; if they do not like it.

Mr. GIFFORD. If they do not think that it is proper and desirable.

The CHAIRMAN. But that is based upon whether there is a finding of adverse effect to the public interest.

Mr. GIFFORD. Does not that substitute the commission, really, for management? Properly, is not that a job for the management to decide, whether something is desired?

The CHAIRMAN. Desirable for the company; yes.

Mr. GIFFORD. Well, but the commission, it seems to me, should be interested in whether we are giving good service and adequate service at reasonable rates.

The CHAIRMAN. And not adversely affecting the public interests.

Mr. GIFFORD. I do not happen to know just what that means.

The CHAIRMAN. In the field of public-service corporations, Mr. Gifford, why, we have been legislating along those lines for a long time.

Now, the railroads came here and said they were very much opposed to putting into effect a uniform system of accounting and that it would be running their business. We simply wanted some reports that examiners of the Interstate Commerce Commission could reasonably understand, and the railroads say now that we did them a great service because they know what kind of books they have to keep.

Mr. GIFFORD. Well, may I go on with two more paragraphs here, because I think this is one of the points that is brought out further on?

The CHAIRMAN. Yes.

Mr. GIFFORD. Paragraph (b) relates to the same transactions as those above described, when the transactions are between affiliated companies. In such cases the transactions cannot be entered into at all until after the Commission has given its approval. And here again the Commission is authorized to substitute its judgment for that of the companies and to veto the transaction altogether or to lay down the terms upon which it may be entered into.

In other words, under that section we could not buy, the New York Telephone Co., for instance, could not buy anything from the Western Electric Co. without the Commission first approving just what it was going to buy and what it was going to pay for it and what use it was going to make of it.

The CHAIRMAN. What is that (b)?

Mr. GIFFORD. (b).

The CHAIRMAN (reading):

Where the person furnishing or seeking to furnish the equipment, supplies, research, services, finances, credit-

Mr. GIFFORD. That is right.

The CHAIRMAN (continuing):

or personnel is a parent or subsidiary of or person affiliated with such carrier.

Mr. GIFFORD. We buy most of our equipment from the Western Electric. That is an affiliate.

The CHAIRMAN. Yes.

Mr. GIFFORD. When this is passed we cannot buy a piece of anything, apparently, without first going to the Commission. We cannot transfer, in the case of emergency situations, personnel from the New England Telephone Co. across the border into New York State, to the New York Telephone Co., without getting the permission of the Commission.

The CHAIRMAN. Those laws need to tbe applied pretty generally. They do not apply to a telephone receiving set or anything like that. Go ahead.

Mr. MERRITT. Mr. Chairman-

The CHAIRMAN. Mr. Merritt.

Mr. MERRITT. I notice that the corresponding provisions in the Senate bill are quite different from what they are in our bill. Are you familiar with the Senate bill I am talking about?

Mr. GIFFORD. In the first Senate bill they were not.

Mr. MERRITT. How is that?

Mr. GIFFORD. In the first Senate bill they were not.

Mr. MERRITT. Not different?

Mr. GIFFORD. Not different.

Mr. MAPES. In the first Senate bill.

Mr. MERRITT. The bill that I am talking about is S. 3285.

Mr. GIFFORD. That is a later bill.

Mr. MERRITT. Yes.

Mr. GIFFORD. That is right.

Mr. MERRITT. All that bill does is to allow the Commission to examine into these things and report later whether they think any change should be necessary.

Mr. GIFFORD. I have no objection to that.

Mr. MERRITT. That, I take it, is more in accordance with the President's recommendation?

Mr. GIFFORD. I have no objection to that whatever, and we have no objection to finding out what ought to be done about this, if anything, and whatever ought to be done, ought to be done. I cannot argue that. My point is, the way this bill reads it might, I think, have that unfortunate effect, and I do not think that it is intended to do the thing that I think it will do.

Mr. MERRITT. Your idea is that a concern that has been familiar with its business for 30 years knows more about handling it than a commission that has not been doing business at all?

Mr. GIFFORD. And my idea is that in drafting a provision that would be satisfactory and protect the public interest, if you like, it could be done better by a commission or a body sitting down and studying it over a period of months, and going into it with the companies concerned, and see if we could come to something that is mutually workable and yet protect the public and does what Congress would like to have really done.

Mr. MERRITT. What you are concerned about is results, and not methods.

Mr. GIFFORD. That is right.

Mr. WOLVERTON. Mr. Chairman-

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. Mr. Gifford, is there any kind of transactions which, in your opinion, should be subjected to supervision by a Federal authority?

Mr. GIFFORD. Oh, yes, sir; accounting, and reports, and rates, practices, discriminatory practices, service. That is, adequate service, or seeing that service is available and in the whole question of finances. All of those things, I think, properly should be regulated.

Mr. WOLVERTON. When you speak of finances, what do you mean?

Mr. GIFFORD. I had in mind either the question of rates and the question of the issuance of securities, for instance.

Now, whether we need something, on the issuance of securities, in the communications business, where we have not now got it, which is interstate in character, for instance, I think it is a question to determine in the light of what the security is.

I think that the Securities Act very largely does away with any improper methods; the whole thing is spread out on the record and all of the material facts presented, and everything is available for the public's information.

Mr. WOLVERTON. On page 26 of the preliminary report on communications companies, submitted to us by Dr. Splawn, he calls attention to the fact that:

> An entire issue of $100,000,000 principal amount, 20-year sinking-fund 5½-percent gold debenture bonds dated November 1, 1923, and due November 1, 1943, was sold at a price of 94.75 percent, or $94,750,000, to J. P. Morgan & Co. and associates.

And, he sets forth subsequently, that in the same month the same bonds were sold by J. P. Morgan & Co. at 98.50.

He also refers to an issue of January 1, 1925, in the sum of $125,000,000 sold to Morgan & Co. for 91.50, and subsequently sold at 95 by them in the same month.

Another issue of 35-year bonds dated February 1, 1930, for the sum of $150,000,000 sold at 96.50 to Morgan & Co. And, the same month, or approximately so, they were sold by Morgan & Co. at 99.50.

Do you think that transactions such as that should be subject to the regulations by a Federal authority?

Mr. GIFFORD. I do not think, in view of the Securities Act, it is particularly necessary today. I do not think there is any objection to it, if you can work it out. That, again, is something I think should be studied over a period of time. The difference between the State authorities and the Federal authority——

Mr. WOLVERTON. I am asking your opinion on the fundamental question as to whether there should be any Federal regulatory or supervising authority over financial transactions such as I have mentioned, regardless of whether it is in this communications bill, or whether it is in the securities bill. We are constantly meeting with the objection expressed on the part of business that the securities act has interfered with the issuing of securities and this bill evidently would have some bearing on that same subject. What I am seeking to learn is whether transactions of that kind, in your opinion, should properly come before a Federal authority for regulation.

Mr. GIFFORD. I think it should be either through the securities act or somewhere else. Yes; I think they should; but may I just defend my own position. So far as we are concerned, of course, that information there was all reported in those years, in the public documents, to the Interstate Commerce Commission, which gave the price, and all of that was available.

We are so large, in effect, we have been subject to public scrutiny all through this period, without any authority on the part of the Government.

Mr. WOLVERTON. Were you restricted in any way in the selection of J. P. Morgan & Co. as underwriters for those bonds?

Mr. GIFFORD. No; except by the fact they are very large issues and you practically have to get a syndicate up, or whatever they call them, that will cover practically the whole field of underwriting houses to take them.

Mr. WOLVERTON. You say it was all made known to the Interstate Commerce Commission, but was there existing authority or power upon the part of that Commission to object to Morgan & Co. receiving the issue?

Mr. GIFFORD. No, sir.

Mr. WOLVERTON. In other words, your right to select Morgan & Co. was a matter that was entirely within your own discretion?

Mr. GIFFORD. That is correct; and I do not want to indicate that that report was made to the Interstate Commerce Commission in advance. It was not. The facts were stated in this report that we had sold these bonds at these prices and that was made known to the Interstate Commerce Commission and reported.

Mr. WOLVERTON. Was there any prerequisite as to the price at which you could sell to Morgan & Co.?

Mr. GIFFORD. I got the highest price I could get. I did the selling. The figures in here, incidentally, are very much the same as you will find in that same period of time as approved by the Interstate Commerce Commission for the sale of bonds. They are not different. These so-called "spreads" between the price they pay and the price sold to the public usually that is the same day, not within the same month. They are the usual figures.

Mr. WOLVERTON. I am not at this time going into the subject of why bonds would be sold at 91.50 by your company to Morgan & Co. and then within a month be sold by them at 94.50. I assume that you would justify it in some way, even if I could not see the justification.

Mr. GIFFORD. The Interstate Commerce Commission approves that sort of spread.

Mr. WOLVERTON. What I am concerned about is this: If the stockholders, numbering 681,000 in your company, are affected by that transaction, and if the rates you charge the public for service are affected by that, then it seems to me it would be a transaction that properly should come under the supervision of a Federal authority.

Mr. GIFFORD. I have said I think it is a proper transaction to come under some kind of supervision, and I understand that is what the Securities Act is going to try to do for holding companies and everybody.

Mr. WOLVERTON. Then you do not think in that sort of regulation that the Securities Act had gone too far?

Mr. GIFFORD. No; not at all. My objection to the securities act is the penalties. It seems to me that they are rather high.

Mr. WOLVERTON. May I direct your attention——

The CHAIRMAN. Now, just a moment on that point, Mr. Wolverton, if I may.

Mr. WOLVERTON. Surely.

The CHAIRMAN. The securities act calls only for publicity with reference to the issuance.

Mr. GIFFORD. I think the publicity is pretty good regulation.

The CHAIRMAN. That is what it requires.

Mr. GIFFORD. I think it is a pretty good regulator.

The CHAIRMAN. It gives the public, the investors, information in order that they may know more about what they are buying, and the penalty, of course, applies only to the man who makes a false or misleading statement.

Mr. GIFFORD. Well, do you want me to diccuss the securities act, Mr. Chairman?

The CHAIRMAN. No; I do not, but I just did not want it to be misinterpreted.

Mr. WOLVERTON. It is refreshing to know that you are not violently opposed to its provisions?

Mr. GIFFORD. I would like to say that I am for most everything in the securities act, the principles of it, certainly.

Mr. MAPES. I would like to have you discuss it for just a minute. I was going to wait until you got through your statement before asking you any question about it, however.

Mr. WOLVERTON. May I ask another question following the same thought with respect to supplies?

Mr. Gifford, I thought I detected in your statement an objection upon your part to supervision by any Federal authority of transactions involving the purchase of supplies. At the present time, is there any restriction whatsoever on the management of the company respecting with whom it shall do business or what particular price should be paid for supplies?

Mr. GIFFORD. There is no supervision over that, and I do not see how you could have private management if you do not let the management of a property handle that.

Mr. WOLVERTON. I am just trying to ascertain how far your objection to transactions being submitted to a Federal authority extends. For instance, municipal, State, and Federal officials, when purchasing supplies, subject to laws compelling competitive bidding, with a further requirement that the contract for such shall be given to the lowest responsible bidder.

Now, that requirement does not prevail with industry, and, of course, you would object to being hampered in that respect.

Mr. GIFFORD. I think I would say this about it: I do not think that you could have the telephone business we have today had that been in effect for the last 50 years, because we must have certain types of apparatus and we have to have a manufacturer who can build just that type of apparatus.

Mr. WOLVERTON. You could not get them?

Mr. GIFFORD. You could not get them.

Mr. WOLVERTON. The underlying thought that restricts Government and State and municipal officials to purchase supplies from the lowest responsible bidder is that the taxpayers' interests shall thereby be served.

Now, if the price paid for supplies enters into the cost of the rate to be paid by users of the telephone, would not the same reason apply in their behalf as now applies in behalf of taxpayers?

Mr. GIFFORD. Well, this is what the Commission can do. It can, and they do investigate what you have bought and what the manufacturing cost was if the manufacturing company is owned, but whether we own it or not makes no difference, we will say.

Mr. WOLVERTON. Yes.

Mr. GIFFORD. And then if they think that we have paid too much and the price is too high, they cut it out as an item in connection with the rates. What they are aiming at is to get at the cost of the telephone service rendered to the public, and if they believe that we have paid excessive prices for the things, they will not allow those expenditures.

Mr. WOLVERTON. You mean when a rate case is under consideration?

Mr. GIFFORD. Yes, sir.

Mr. WOLVERTON. But, if the rate charged is not before a regulatory body for consideration, then the question would not be raised?

Mr. GIFFORD. No; the question is not raised. That is right.

Mr. MONAGHAN. Mr. Chairman.

The CHAIRMAN. Mr. Monaghan.

Mr. MONAGHAN. Mr. Gifford, are you opposed to this body having the power to regulate the salaries of officers and officials?

If I may ask you a sort of a personal question, which I should like to ask every officer of every corporation if I had the opportunity to do so (I say that because I do not want you to feel that it is personal), what are your net earnings, that is, salary and bonuses, per year?

Mr. GIFFORD. Well, my net, after paying my income taxes is $103,000. Before I pay my income taxes, my gross—there is no bonus—my salary is $206,000.

Mr. MONAGHAN. $206,000?

Mr. GIFFORD. Yes.

Mr. MONAGHAN. Well, now, Mr. Gifford, do you think that there is any semblance of reasonableness about the payment of $76,000 a year to the President of the United States and the payment of $206,000 to the head of a corporation that has not, may I say, the burdens and responsibilities that the President has?

Mr. GIFFORD. May I answer that by reading a short resolution which was adopted by our board of directors in order to answer several letters we had of the same character, same question in them? I think it will give you the philosophy at least the point of view of a board of directors that has to be responsible for handling a business. [Reading:]

The board of directors have fixed the salaries of the executive officers of the American Telephone & Telegraph Co. on the basis that it is necessary for the Bell System with its essential service to maintain itself as an institution of opportunity for the best brains and ability in the land.

The directors feel that the salaries paid are in no way disproportionate to the size and importance of the company and that they were not before they were reduced. No bonuses have been or are paid. Moreover, the individuals concerned pay anywhere up to one half of their salaries in State and Federal income taxes.

The company has to compete with opportunities for talent in all other fields. It is necessary, therefore, to pay management adequately for, unless this is done, the business will not retain or draw to it in the future the ability it needs. If we could get better men by paying more money it would be wise to do so. On the other hand, to have it understood that first-class talent can hope for but relatively poor reward in the Bell System would be the most certain way to breed decay in this great enterprise.

The board feels that the results which may be achieved by successful and competent management justify its policy and it believes that such management earns and saves many times over the money involved. The record of this business both before and during the depression is proof that the public,

employees, and stockholders have had great benefit from the abilities of the management, and it is the considered opinion of the board that their salaries have been and are reasonable, considering the results and the magnitude of the responsibilities.

Mr. MONAGHAN. Well, now, Mr. Gifford, on that basis, would you say that a salary of $76,000 a year is designed to attract the best brains and talent to the presidency?

Mr. GIFFORD. You do not want me to argue-

Mr. MONAGHAN. Or would you say that he is underpaid?

Mr. GIFFORD. You do not want me to argue for my own salary? I do not fix it.

Mr. MONAGHAN. No. Well, the point that I am making is that it would seem the system is totally unjust wherein those who have less burdens than the president are paid a greater salary than the president.

Mr. PETTENGILL. Well, in England the telephone business is run by the Government; it is a part of the postal service, is it not?

Mr. GIFFORD. That is right.

Mr. PETTENGILL. And much poorer service than we have in the United States?

Mr. GIFFORD. We have the best service here.

Paragraph (c) provides that no such transaction, whether between affiliates or otherwise, may take place without competitive bidding if the commission decides that there ought to be competitive bidding, and this without any provision for a hearing.

This entire section is new matter and is revolutionary. Nothing I can think of could be more opposed to both the letter and the spirit of the President's special message than these provisions. Nothing so drastic and far-reaching in the matter of regulation has even been suggested heretofore, so far as I am aware. We have witnessed extraordinary legislation designed to cope with the present emergency. The President sought and the Congress granted that legislation for that purpose. Here there is no emergency whatever, and the President has not only not asked for legislation of this character but has expressly and definitely sought nothing more, for the present, than the transfer of existing powers and duties to a single new commission.

Section 218. This section, page 32 of the bill, is entitled "Inquiries into management." I wish to read the section. It will be understood as I read that I have inserted brackets to indicate the part that is new, and that the rest of the section is the same as the present provisions of the Interstate Commerce Act and is applicable to telephone companies.

SEC. 218. The Commission may inquire into the management of the business of all carriers subject to this act, and shall keep itself informed as to the manner and method in which the same is conducted (and as to technical developments and improvements in electrical communications to the end that the benefits of new inventions and developments shall be made available to the people of the United States). The Commission may obtain from such carriers (and from parents and subsidiaries of, and persons affiliated with, such carriers) full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created.

My comments are directed to the new matter. There is no objection to the part that is old.

The new matter in this section relates to technical developments and improvements and to new inventions. These go to the heart of

the telephone business. The art of telephony, both radio and wire, is one of the least static and most rapidly changing of all the arts. This has been true from the very beginning of the telephone. I doubt whether any other field of business exhibits this characteristic in a greater degree. Electrical science as a whole is young and might almost be said to be still in the pioneering stage. There is no doubt that untold possibilities lie ahead of it, to the great benefit of mankind. The same thing may be said of the particular application of electricity in the field of communication.

We have in the Bell System, as you all know, a large laboratory manned by able scientists and a large technical engineering and research organization. Our research and development work frequently leads to patents. The Bell System now has patents and rights under patents in its field to the number of 15,000 and 1,300 applications for patents pending. These patents and rights under patents are obtained for the protection of our business and in order to give us a clear field. They are not capitalized; neither their cost nor their much greater value is capitalized; not a dollar is carried on the books as a capital item. This means that we do not claim a value for them upon which to earn a return. But we require the patents for our protection, so that, for example, someone else will not claim what we have in fact produced and attempt to exact tribute from us for such inventions.

Apparently this section means that the Commission is authorized to keep itself informed as to everything the companies are doing looking toward technical developments, improvements, and new inventions, and that it may require from the companies full and complete information concerning these activities. We may be required to report to the Commission upon demand a particular project that we are about to undertake; report what our objective is; what we know now and what we hope to discover; what sum of money we think it will cost. Is that whole project and the expenditure to be subject to the scrutiny of the Commission and to its determination as to whether we may go ahead or not, how far we may go, along what lines, how much money we may spend, under this section and the provisions of section 215 that I have already discussed? Such reports are public documents, I suppose, but even if they are thought to be confidential we cannot feel secure.

The CHAIRMAN. Mr. Gifford, just there, do you know of any department of the Government that has violated the provisions as to confidential information with reference to trade secrets or patents?

Mr. GIFFORD. No, sir; certainly not. On the other hand, it does not seem to me a wise thing to do. I think it is an entirely different question to talk about completed development, and making sure that nothing is put on the shelf to prevent it from being used for the benefit of the public.

The CHAIRMAN. That has been done, has it not; things that have been useful have been bought and suppressed?

Mr. GIFFORD. No; I do not think that it has been.

The CHAIRMAN. I say, it has been done. I am not talking about it being done by the telephone companies.

Mr. GIFFORD. I think probably a regulatory body should look into that, but as I read this section it is a question as to whether we shall

undertake the research and development at all, and so forth, and that is a thing that I was going against.

The CHAIRMAN. This simply says that they are authorized to go into it.

Mr. GIFFORD. I beg your pardon.

The CHAIRMAN. This says that they may inquire into it.

Mr. GIFFORD. Yes.

The CHAIRMAN. They simply keep themselves informed.

Mr. GIFFORD. And the preceding sections say that if they do not like any transaction they can stop it. That is in section 215. Between the two sections it looks to me as if it might be doubtful as to whether we should go ahead or not.

The CHAIRMAN. Well, if they found out how far you were going and found out that you were doing something affecting the public interest adversely, yes; but otherwise not. I do not see any objection to it, and I can see many reasons why, if the Commission is going to try to intelligently enforce the provisions such as we have in this act, it should have information of that sort. I do not see how it could be hurtful. It is not a question in my mind, Mr. Gifford, of the tribunal trying to regiment the business; but if we are going to give a regulatory authority power, and if it is going to be a regulatory authority, it must have power to make the act effective.

Mr. GIFFORD. My point is as to whether you can regiment the business under the terms of the law depends upon the character of the personnel of the Commission and how it is operated.

Now, I think

The CHAIRMAN. That is always a hazard you have to consider when you go to elect a man to office or to appoint him, either.

Mr. GIFFORD. I think, before we do that, we ought to have more time and work out some agreement, as I said before, that will give the Commission full information, authority, and so on.

The CHAIRMAN. I think that there is a great deal in that, too, but I think it applies to this section. I do not see any reason why if we are going to get this information from the carriers, we should not get it partially from the subsidiaries, do you? I cannot see any reason for not doing so, if it is going to be information furnished to the Commission.

Mr. GIFFORD. If they get it.

The CHAIRMAN. Those words are not new.

Mr. GIFFORD. I do not object to them getting it from the subsidiaries, as compared with the parent company.

The CHAIRMAN. What?

Mr. GIFFORD. I do not object to them getting it from the subsidiaries, as compared with the parent company.

The CHAIRMAN. Why.

Mr. GIFFORD. I say, I do not think that that makes any difference.

The CHAIRMAN. Well, that is all it asks for, is it not? That is the practice now?

Mr. GIFFORD. It seems to me, though, it might be what you might call a "fishing expedition", and I read the testimony of the Interstate Commerce commissioner. He objected to this provision unless, he said, it meant completed technical developments; that he thought it was very unwise to have a "fishing expedition" going into the laboratories of these companies.

That is in a letter I think that he wrote to Senator Dill and filed in part of the record in this hearing yesterday, or day before yesterday when he appeared here.

I think I have said enough to show, at least, that the new matter in this section is of great importance and might prove a serious handicap to the companies and an equally serious detriment to the public interest. We regard this section as an unwarranted invasion of the rights of management.

The CHAIRMAN. Mr. Gifford, may I make this statement. For the past year, in the consideration of the securities and stock-exchange bill, we have had so many witnesses come here—and I was hoping you would not appear in that group—and say they are for regulation, and yet scatter the fire all over the place about the regulatory body, what it is going to do, and so forth.

Now, we have got to assume that the regulatory body would be composed of reasonable men. Of course, sometimes that may be a violent assumption; but that must be presumed that the President, whoever he is, will appoint reasonable men to administer laws, and one of the reasons why in these acts we leave so much to the discretion of the Commission is that the people who appear before us in the first place try to pick flaws in the act. They say we are not expert enough to do that. And I think usually they are correct. And they say that we should give these broad powers to the administrative bodies, and then when we strike out the particular sections referred to and give the power to the regulatory authority, they say that we are going too far with the regulation.

We have got to do one or the other to have effective regulation.

Mr. GIFFORD. Well, I think, Mr. Chairman, I am not objecting to regulation. Perhaps you and I differ as to what regulation means. I think regulation of a public utility, our business, should mean the regulation of our rates and services and charges. Now, anything that is necessary to regulate our charges and our rates, I think a commission should certainly have.

The CHAIRMAN. Yes; and the Commission must have a great deal of information about your company in order to fix a reasonable and a sane rate.

Mr. GIFFORD. Well, the old phrasing I read on this says they may look into—may inquire into—the management of business of all carriers subject to this act, keep itself informed on all matters and manner in which same is conducted. I have no objection to that.

The next is section 219.

If the chairman does not object, I do not think it is necessary to take up the time to read this. I could just go through it hurriedly.

The CHAIRMAN. Yes.

Mr. GIFFORD. Really what I have in mind

The CHAIRMAN. Your statement may go into the record, or any part of your statement that you have not read.

Mr. GIFFORD. I will put it in the record.

(The matter referred to is as follows:)

SEC. 219. The subject of this section, pages 30–32, is "Annual and other reports." This section authorizes the Commission to require annual and special reports, indicates the kind of information they shall contain, provides penalties for failure to comply, etc. The text is for the most part the same as that of the Interstate Commerce Act, section 20, paragraphs 1 and 2, which are applicable to telephone companies. There is, of course, no objection to these provisions.

Among the new provisions that have been incorporated into this section are the following:

1. Reports may be required "from any parent or subsidiary of, or person affiliated with, any such carrier."

2. The names of all holders of 5 percent or more of any class of stock may be required.

3. The names of all officers and directors, and the amount of salary, bonus, and all other compensation paid to each, may be required.

My comments will be confined to the first of the above amendments, namely, the requirement of reports from any parent, subsidiary, or person affiliated with the telephone company. In reading this provision it is necessary to turn back to pages 4 and 5 of the bill, paragraphs (j) and (k) of section 3, for certain definitions. The word "parent" is there defined to mean any person or group of persons controlling one or more corporations, etc., but that is not all. It is further provided that the ownership or control of 15 percent or more of the stock of any corporation shall be prima-facie evidence of the control of the corporation, and each member of any such group is defined as a "parent." There are nearly 700,000 stockholders of the American Telephone & Telegraph Co. Under this definition any group from among this number whose aggregate holdings of stock are 15 percent of the total stock are prima facie in control of the corporation. Whether each member of such a group is a "parent" by this definition, or is only prima facie a "parent" may not be entirely clear. It is entirely clear, however, that every stockholder, even if owning only one share, is a member of a group of stockholders who together own 15 percent or more. Hence, apparently every stockholder is at least prima facie a "parent" as here defined. I will not take time to comment upon the definition of "subsidiary" or upon the very curious wording of paragraph (k) of section 3, which reads as follows:

"(k) Two or more persons shall be deemed to be affiliated if they are members of a group composed of a parent and its subsidiary or subsidiaries, or of a parent, its subsidiary or subsidiaries, and other corporations, of which each member except the parent is a subsidiary of some other member."

Returning now to section 219, and reading the words "parent", "subsidiary", and "affiliate", in the sense defined in section 3, the meaning and effect of the section is certainly not clear. The provisions near the end of paragraph (a) and the provisions of paragraph (b) contemplate reports from carriers only, whether parent or subsidiary companies. A further difficulty in ascertaining the meaning of the section arises from the insertion near the beginning of the section of the new matter relating to parents and subsidiaries, while the latter part of the paragraph deals only with carriers. If the section is to be taken to mean only that annual and other reports can be required from carriers, that is, from companies engaged in a public calling, and not their subsidiaries, which are not public utilities at all, it is then unobjectionable in this respect. I am advised that it is impossible to foresee how it would be construed.

Mr. GIFFORD. That is simply definitions of parents and affiliates, and so forth, which is really very confused, and says that the ownership or control of 15 percent or more of the stock of any corporation shall be prima-facie evidence of the control of the corporation, and each member of any such group is defined as a "parent."

There are nearly 700,000 stockholders of the American Telephone & Telegraph Co. Under this definition any group from among this number whose aggregate holdings of stock are 15 percent of the total stock are prima facie in control of the corporation. Whether each member of such a group is a "parent" by this definition, or is only prima facie a "parent" may not be entirely clear. It is entirely clear, however, that every stockholder, even if owning only one share, is a member of a group of stockholders who together own 15 percent or more of the American Telephone & Telegraph Co.

It is just a statement of confusion, that is all. I do not think it is worth while taking time to read all of that.

The CHAIRMAN. All right, if we strike out the confusion, you would have no objection to it?

Mr. GIFFORD. Oh, no. It is just pointed out that the thing is confused.

Section 220: Section 220 (pp. 35–39) defines the authority of the commission with respect to the matters indicated by its title, namely, "Accounts, Records, and Memoranda; Depreciation Charges." It covers all accounting, including specific provisions with respect to the important matter of depreciation accounting.

This section is one of the most harmful sections of the bill and in that respect is to be classed with section 215, which I have already discussed.

Since 1906 the Interstate Commerce Commission has had full authority to regulate and prescribe uniform accounts and accounting methods and procedure of the companies subject to its jurisdiction. Originally these were only the railroads, but in 1910 the act was amended to include telephone companies. One of the early acts of the Interstate Commerce Commission was to prescribe uniform accounting for the railroads, and its action in this respect marked one of the greatest advances ever made in public regulation in this country, and is universally recognized as one of the most salutary achievements of the Interstate Commerce Commission.

In 1912 the Interstate Commerce Commission promulgated a uniform system of accounts for telephone companies, classifying them as A, B, and C companies according to their size, and making appropriate differences in the accounting systems for the respective classes. This system became effective for A and B companies on January 1, 1913, and has remained in effect ever since, with such minor changes as experience proved to be desirable.

The system has been recently revised by the Commission after careful investigation, in the course of which the companies and the State commissions were given full opportunity to be heard. The revised system was made effective January 1, 1933, and contains the provision that the accounts therein prescribed may be subdivided to the extent necessary to secure the information required by any State commission having jurisdiction. The fundamental features of the original system of accounts and reports are not disturbed, since experience has shown them to be sound and suitable for the telephone business, to which they apply. In this way the continuity of the history of the telephone business as recorded in its accounts and other records during the past 20 years will remain unbroken and its value unimpaired. As in the case of the railroads, this scientific and uniform treatment of the accounts and accounting practices of the telephone companies of the country is of the highest importance and of inestimable advantage, both to the companies and the public. Surely no one will question the desirability of uniformity in the accounting system, methods, and practices of the telephone companies throughout the country.

The text of section 220 is, in the main, a reprint of the existing provisions of the Interstate Commerce Act, and therefore by these provisions the new Federal Commission seems to be given full and exclusive control over the entire matter of accounting. Complete and appropriate visitorial powers are vested in the Commission, as now they are in the Interstate Commerce Commission. The Commission's orders are made mandatory under heavy penalties for vio-

lation. It is provided that after the Commission has prescribed the forms and manner of keeping accounts it shall be unlawful to keep any other accounts or to keep the accounts in any other manner than that prescribed or approved by the Commission, as under the present law. The Commission is given authority to make changes from time to time as it may be advised, and provision is made for notifying the State commissions of any proposed revision and giving them an opportunity to present their views. All the foregoing provisions are sound and should be continued.

With reference to depreciation accounting and charges, the Interstate Commerce Commission's system of accounts covers the subject, as any complete system must do, and for the past 20 years the telephone companies have complied with these provisions as required by law. In the act of Congress known as the "Transportation Act of 1920" the Interstate Commerce Commission is directed to prescribe the depreciation rates and charges of telephone companies. The Commission has conducted an exhaustive investigation into the matter and has by final order laid down the principles and prescribed the rules by which the depreciation charges are to be determined. The present status of this matter is that the telephone companies are ordered to file depreciation rates and supporting data with the State commissions on August 1 of this year, and the State commissions are to make their recommendations to the Interstate Commerce Commission. Such rates as the Interstate Commerce Commission finds to be proper it will prescribe, to be put into effect on January 1 of next year. In the matter of depreciation accounting, therefore, as in other respects, uniformity of methods and principles of accounting has been maintained, and the public interest is fully safeguarded by the Federal regulations described.

Now, we find a most astonishing situation. We have seen that paragraphs (a) to (g), inclusive, of this section would in terms transfer to the new commission all of the existing authority of the Interstate Commerce Commission in all matters pertaining to accounting, including depreciation, and would therefore do exactly what the President has recommended, if it were not for paragraphs (h) and (j). These two paragraphs undo and strike down practically everything that has gone before.

These paragraphs are as follows:

(h) The commission may classify carriers subject to this act and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

(j) Nothing in this section shall (1) limit the power of a State commission to prescribe, for the purposes of the exercise of its jurisdiction with respect to any carrier, the percentage rate of depreciation to be charged to any class of property of such carrier, or the composite depreciation rate, for the purpose of determining charges, accounts, records, or practices; or (2) relieve any carrier from keeping any accounts, records, or memoranda which may be required to be kept by any State commission in pursuance of authority granted under State law.

Referring to paragraph (h), the first clause is unobjectionable. The second clause would authorize the commission to abdicate entirely and surrender its jurisdiction to the State commissions, if the

commission believed that this would be "consistent with the public interest." The commission might, for example, under this clause, permit the State commission in any State to take sole and exclusive control of the depreciation charges and all accounting of telephone companies. This sacrifice of uniformity is bad enough, but paragraph (j) is still worse.

Paragraph (j) deals first, in clause (1), with depreciation accounting and charges, and in clause (2) with the entire field of accounting and records. With respect to depreciation it provides that nothing in this section shall limit the power of the State commission to prescribe the depreciation rates and charges. In like manner with respect to the entire matter of accounting, it provides that nothing in this section shall relieve the carrier from keeping any accounts, and so forth, which may be required by any State commission acting under the provisions of the State law. It must be kept in mind that practically all State statutes confer upon the State commissions very broad authority over the accounts of utilities subject to their jurisdiction, including telephone companies.

Comment upon this wholly anomalous situation seems to be unnecessary. This section makes an orderly advance and then beats a disorderly retreat. Paragraph (j) and the last part of paragraph (h) strike down practically all the sound and salutary provisions of the preceding paragraphs, and introduce chaos in place of the present orderly, sound, tried, and tested accounting. This would create an impossible situation even for a company operating in only one State. As applied to companies whose property and business cover 2 or more States, and even as many as 9 States in the case of one of our companies, it is clearly out of the question.

Uniform accounting and reporting in the telephone industry, as well as in other lines of business activity, is being more and more recognized as of great value to investors, to the public and to management, and it is obviously essential for the proper presentation of consolidated financial statements now rapidly becoming a public requirement.

I cannot believe that the Congress would enact anything so reactionary as this.

This throws the whole uniform accounting of the telephone industry out of line too, as I see it. It would make it necessary to keep two sets of accounts, one for the Federal Commission and one for the State commission, because each State may provide for a different system of accounting. The States will require one system of accounting, and we will also have to keep accounts for the Federal system of accounting. I do not think it is workable.

Mr. MAPES. Mr. Chairman.

The CHAIRMAN. Mr. Mapes.

Mr. MAPES. Your statement in that respect is subject to the declaration that the commission might not require that to be done, is it not?

Mr. GIFFORD. Might not require, in the first part of it to be done, but the second says that nothing in this section shall prevent our being required to keep accounts the way the State laws say, which means that we would be required to keep accounts in a given State according to that State's laws, and then also be required to keep

accounts according to the Interstate Commerce Commission, or the new commission, and if the two do not agree, we have got to set up two sets of accounts.

Mr. MAPES. Do the States now require you to keep accounts of any kind?

Mr. GIFFORD. No. The present law, the interstate commerce law, calls for accounts and that controls, as against the State laws.

Mr. MAPES. Exclusively.

Mr. GIFFORD. Exclusively, and has since 1913, I think, when the act was passed. I think the matter ought to be given very serious consideration before we go into that.

Mr. MAPES. Have you completed your statement?

Mr. GIFFORD. Yes, sir.

Mr. MAPES. I would like to ask you a question about a matter a little aside from this particular bill, but about something that we have before us all of the time. In the forepart of your statement, in speaking of the restriction of Government on business, you refer to the Securities Act and you have referred to it once or twice in answer to questions that have been asked you by members of the committee.

I assume that the telephone company is continually doing new financing and has done some since the passage of the Securities Act.

Mr. GIFFORD. We have done none.

Mr. MAPES. You have done none?

Mr. GIFFORD. No, sir.

Mr. MAPES. I also understood you to say in answer to one question, your principal objection to the act was the liability features, is that correct?

Mr. GIFFORD. That is correct. I think there are other technical objections from the standpoint of issuing securities that I am not particularly qualified to answer about.

Mr. MAPES. Have you refrained from doing any new financing during the last year, since the passage of the act, because of the law?

Mr. GIFFORD. No; except one thing. We have stopped doing that, very largely, I think, principally because of the law. We have always looked upon telephone stock as an investment security, for many years, and it has been regarded in that category. We needed such very large sums of money, and we prefer to raise our money ourselves without going to bankers, if we could, by issuing stock and so forth that way, and back 15 years ago, we started to broaden the market for our securities by permitting orders to be taken at telephone offices in say Oklahoma, or anywhere, by the clerks, to purchase a limited number of shares of telephone stock which were transmitted to us, to buy in the market. There was no way for a person in those places to purchase the stock. There was no office where they could buy. We executed the order, and we made nothing, lost nothing, except the expense of handling the business, and by that way we increased the base support of our financial structure very much. It helped get these 681,000 stockholders.

Now, it is not clear to us under the Securities Act yet, just what the responsibility might be to an individual cashier in a small telephone office who took that order, if she or he happened to say some-

thing about the security, and we do not want to embarrass that employee.

Mr. MAPES. Have you ceased that practice?

Mr. GIFFORD. I beg your pardon?

Mr. MAPES. Have you ceased that practice?

Mr. GIFFORD. We have ceased that.

Mr. MAPES. You think that the clerk in a telephone office would have any liability under this Securities Act?

Mr. GIFFORD. They might; at least, they might have a suit brought against them. I do not know that such would be the case, but this was just a gratuitous act on the part of the cashier and that is the reason we stopped, and perhaps we did not——

Mr. MAPES (interposing). There is some question in your mind as to whether the clerk would be liable or not, is there not?

Mr. GIFFORD. I think that there is some question; yes.

Mr. MAPES. You are not able to answer the question which I had in mind, if you have not done any new financing, but I was rather curious to have your judgment as to whether or not you, for example, would be handicapped in making a report and assuming the liability that the Securities Act requires companies to make before issuing new securities.

Mr. GIFFORD. It would be very difficult, particularly in an institution of this size. I think we would have to make a report that would be almost thousands of pages long and if there were any error anywhere in it, intentional or otherwise, I think we would be in trouble.

Mr. MAPES. That is a broad statement.

The CHAIRMAN. No; that is not correct.

Mr. MAPES. That is a pretty broad statement, is it not?

Mr. GIFFORD. Well, I do not mean error, but if we omitted to state any material fact. Out of 15,000 patents, who is going to pick out what is a material patent? That would be pretty difficult. A patent that does not seem material today, might be 5 years from now, might be very material, and so forth.

I did not come down here prepared to discuss the Securities Act.

Mr. MAPES. You have not made any particular study of the act with a view of financing your own business, I take it?

Mr. GIFFORD. No; we have not had any financing for several years and have no maturities in the immediate future, so I have not had occasion to take it up.

Mr. MAPES. You would not be able to go into any discussion of any feature of it in detail, I take it?

Mr. GIFFORD. Not without some preparation.

Mr. CROSSER. Mr. Chairman.

The CHAIRMAN. Mr. Crosser.

Mr. CROSSER. I do not know whether this is a proper subject to take up at this time or not, but since you have mentioned patents, I am interested to know how you arrive at the charge upon these new French telephones. For instance, I understand that that charge is put at about 50 cents a month.

Mr. GIFFORD. That is, in some cases, and I think in some it is 25 cents. In some places it is 50.

Mr. CROSSER. Why that difference?

Mr. GIFFORD. Well, I will tell you, the difficulty is about this: We, some years ago, started using this new phone. I like it better than the ordinary desk phone. It is more expensive. But, we did not want to stop putting them in because they were more expensive. We thought they were better. Not that they give any better service, but are more convenient; and one of the questions was how to go about introducing them. If we announced that this new telephone was available and we would install it without any extra cost, with 15,000,000 telephones in operation, all of the subscribers would be telephoning in the next day, "Please, I would like to have your latest telephone." Now, we did not have a sufficient number of them manufactured. The result would have been that some people would have to wait for several years; and as a straight business proposition, you would have to start charging on those things in order while getting your production up, to keep the people satisfied. Now, we have come into a situation where, as I said, the whole business last year only made 3.8 percent on the investment. Now, we are not in a position to make a reduction in charges today until our business picks up, unless we are going to say that we can operate practically without earning anything, as we are earning a very small amount.

So, the fact they cost more is only in part the basis for these larger charges.

Mr. CROSSER. Has that charge any definite relation to the cost of production?

Mr. GIFFORD. Yes; it has.

Mr. CROSSER. Is it determined by the commission?

Mr. GIFFORD. Oh, yes, sir; the commissions passed upon it. That is why it varies in different places. Some of the commissions studied the whole question and decided one thing and some another.

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. Mr. Gifford, I want to make a personal observation with reference to the subject just mentioned by Mr. Crosser, namely, the service charge made by your company for the use of the so-called "cradle" or "French" phones.

I have heard many times the explanation that you have just given. I have one in my home. I was required to pay 25 cents per month for many months. I have bought the machine over several times. I offered to pay the cost of the machine and thus eliminate the monthly service charge, but that was not satisfactory. So, the additional cost to which you refer does not exactly answer the situation.

Mr. GIFFORD. No; I agree with that. The point that I wanted to make is that the telephone revenues, the same as railroad revenues, or any others, are made up by the different charges for different kinds of service. The business telephone one charge, and residence another.

Now, if we are not making anything like a return over all, we are not apt to voluntarily say that we will reduce any one rate.

Mr. WOLVERTON. Well, I have understood that the "French" type of telephone cost about $3.75, and paying 25 cents per month for the use of it indicated to me that it was a mighty fine revenue producer.

Mr. GIFFORD. In the long run I agree with you.

Mr. WOLVERTON. And I think that most people will agree that it is.

Now, it might seem like stepping from the ridiculous to the sublime, so far as the amount involved is concerned, but will you state what is the total amount outstanding stock of your company at the present time?

Mr. GIFFORD. In par value one billion eight hundred and eighty some million.

Mr. WOLVERTON. You spoke of your investment value as being five billion. What makes up the difference between the par value of the capital stock outstanding and the five billion investment value?

Mr. GIFFORD. I will give you that in a minute.

The $1,866,000,000 is the par value of the stock of the American Telephone & Telegraph Co.

Mr. WOLVERTON. When was it increased to that amount?

Mr. GIFFORD. Oh, it has been growing ever since the business began. It did not increase suddenly to that amount.

Mr. WOLVERTON. What was it in 1917? Do you happen to have those figures?

Mr. GIFFORD. I do not know that I have those particular figures.

Mr. WOLVERTON. The figures I have may or may not be accurate, but they are as follows: In 1917 the capital stock was increased from $20,000,000 to $50,000,000; in 1920 it was increased from $50,000,000 to $200,000,000; in 1927 it was increased from $200,000,000 to $300,000,000; and the year following, that is, in 1928, it was increased from $300,000,000 to $1,320,000,000.

Mr. GIFFORD. They are wrong. I will be glad to give you a statement of that, if you like, unless you want it right now.

Mr. WOLVERTON. What I am interested in knowing is whether the stock now outstanding was actually sold to the public and represented dollars and cents paid into the company, or whether it was issued to holding companies.

Mr. GIFFORD. It was sold directly to the public, that is, the stockholders, and they have paid in for each share $114.

Now, that $114 represents $14 more than $100 par value.

Mr. WOLVERTON. So the $1,600,000,000 outstanding now represents money actually paid in to the corporation?

Mr. GIFFORD. It represents $1,866,000,000 paid in to the company for par value of stock, plus premium paid for above par $268,333,000. There is no watered stock whatever.

Mr. WOLVERTON. What I am seeking to ascertain is whether it represents money which was paid into the treasury of the company or whether there was an arrangement between your company and some holding company by which the latter received it or any part of it by mere bookkeeping entries.

Mr. GIFFORD. No; it is money which actually came into the company.

Mr. WOLVERTON. The investment value of the company, as I understand your statement made this morning, is $5,000,000,000.

Mr. GIFFORD. Yes.

Mr. WOLVERTON. And the paid-in stock, including premiums paid, is something over $2,000,000,000.

Mr. GIFFORD. That is right.

Mr. WOLVERTON. Does the investment value between $2,000,000,000 and $5,000,000,000 represent the surplus that has been made by the corporation during a period of years?

Mr. GIFFORD. Some of it does. A billion of it represents long-term debts. You have mentioned the bonds we sold, and so forth. That is, we borrowed money.

Mr. WOLVERTON. Then you have a funded debt in addition to the $2,000,000,000 and more you referred to?

Mr. GIFFORD. Yes.

Mr. WOLVERTON. What does that amount to?

Mr. GIFFORD. A billion dollars.

Mr. WOLVERTON. Then, the outstanding stock and funded indebtedness amounts to about $3,000,000,000 and your investment value of $5,000,000,000.

Mr. GIFFORD. Yes.

Mr. WOLVERTON. Does that difference of $2,000,000,000, represent a surplus accumulated over a period of years?

Mr. GIFFORD. No. It represents surplus and reserves. Reserves for depreciation, amounting to $890,000,000, surplus $345,000,000, and reserve for contingencies $89,000,000.

Mr. WOLVERTON. What is the surplus, approximately?

Mr. GIFFORD. Reserves are $890,000,000. The reserves are about 20 percent of the plant value.

Mr. WOLVERTON. Does the depreciation you charge off approximately equal the amount you find is such as each year, or is your charged depreciation a depreciation that will enable you to put away a part of it as a surplus?

Mr. GIFFORD. We cannot put it away as surplus under the law. It is in that reserve.

Mr. WOLVERTON. I am not speaking technically.

Mr. GIFFORD. Well, the depreciation rates are based on estimates of the service life of a piece of property.

Mr. WOLVERTON. What are your estimates?

Mr. GIFFORD. Of course, each price varies. I think that the average depreciation rate is something like 4.4 percent a year on property.

Mr. WOLVERTON. What is it actually?

Mr. GIFFORD. Because of lack of growth, the actual yearly charge against the reserve is low, but in times like 1927 and 1928 the actual is high.

Mr. WOLVERTON. When rates are fixed, are they charged on the basis of the issued stock and funded indebtedness outstanding, or do you take this investment value of $5,000,000,000 as the base?

Mr. GIFFORD. Well, you are asking me two different things there. So far as I am concerned, in managing the business, I am concerned with the amount required to continue to pay a fair rate of return on the stock and the indebtedness.

Mr. WOLVERTON. And that is about 9 percent?

Mr. GIFFORD. No. It is $9 per share, but on $114 cash paid in per share that makes it a little less than 8 percent.

Mr. WOLVERTON. Even that sounds good.

Mr. GIFFORD. It sounds pretty high, perhaps, under present conditions, but the history of this business—I have been in it for 30 years—is that we could not finance it as a sound business on any less.

That is, you have a record over a period of years at what price the stock sold on the market and what people will buy it for, and when we want to issue new stock to be paid for by stockholders at an average of $114, we have got to pay whatever they need to have them want to buy it.

Mr. WOLVERTON. In your statement today your figures show a return on your investment value of——

Mr. GIFFORD. Three and eight tenths percent.

Mr. WOLVERTON. Now, the return to your stockholders is, as you say, $9 a share, and the average purchase price was $114, which is approximately 8 percent. But what I am inquiring about is how far does the investment value of $5,000,000,000 control or affect the rates.

Mr. GIFFORD. Well, let me go back a second to this rate, to what we are paying to the investors. We earned 3.8 percent on the stockholders' equity, which includes $14 cash he paid and the surplus.

Now, when you include the surplus, the $9 rate is only 6½ percent on the stockholders' equity, so we are paying the stockholders today 6½ and earning 3.8 percent, the difference being paid out of surplus which we accumulated over the period of 50 years, and 2 years ago 2½ years ago, is the first time that we have ever paid anything out of that surplus.

Mr. WOLVERTON. I was going to say last year.

Mr. GIFFORD. Just over 2 years. I think we paid $6.66 a share out of our surplus up to the first of this year.

Mr. WOLVERTON. That surplus has been built up on the basis of revenue from rates charged during the previous years, has it not?

Mr. GIFFORD. That is right; but it is a relatively narrow margin above what was paid out. We never paid out anything, out of that surplus, over a period of a great many years, and not paying out anything from what you get in, even though you get in a small amount, you build up something.

Mr. WOLVERTON. That is all.

The CHAIRMAN. We are very much obliged to you, Mr. Gifford.

We will resume tomorrow morning at 10 o'clock.

Mr. GIFFORD. Mr. Chairman, I have some other comments, and if you are willing I would like to put them in the record. I do not care about reading them, particularly, but I noticed that the Splawn report was before this committee, through Mr. Stewart, and I would like very much to make a few comments on that.

The CHAIRMAN. You may insert that in the record.

(The statement referred to is as follows:)

So far as detailed comments upon the specific provisions of the bill are concerned, that is all I have to say. I desire, however, to make some further observations of a more general nature, which seem to me pertinent and important in connection with this whole problem. I will be as brief as I can.

This committee has recently undertaken an investigation of the communications industry for the declared purpose, as stated in the resolution of the House, "of obtaining information necessary as a basis for legislation." Pursuant to that resolution, a searching inquiry into the affairs of the companies comprising the industry has been made and a report to the committee entitled "Preliminary Report on Communication Companies", comprising a printed book of more than 300 pages, has been submitted by Dr. Walter M. W. Splawn, special counsel. Whether the report is formally a part of the record of these hearings or not I do not know, but the salient points of the report and the gist of it are in evidence in the testimony given before the committee at these

hearings on April 10 by Dr. Irvin Stewart, of the Department of State. Dr. Stewart, in his testimony, describes the report as a "monumental study prepared by Dr. Splawn upon holding companies in the communication field." He states that he appears before the committee at the request of Dr. Splawn, relayed to him through the chairman of the committee, Mr. Rayburn.

I wish to comment upon certain points in this report, principally those that have been referred to in the testimony of Dr. Stewart.

First, the report seems to intend to focus attention upon the great size of the Bell system.

I have already referred to the size of our business in my opening remarks, and it is not necessary for me to give any more statistics. This size is determined by the needs and demands of the country for telephone service. A universal and interconnected service must, from its very nature, be unified. It is a single service for the whole country, every telephone connected with every other telephone. The Bell system assumed its present form almost at the very inception to telephony, and it has remained unchanged in all essential respects for more than 50 years. I believe that even those members of the committee who have had no occasion to reflect upon the matter will readily perceive that this unity of ownership of companies in the Bell system establishing a Nation-wide system has been indispensable, if the United States was to have the telephone service it has had in the past and has today.

The report does not criticize the service in any respect. The fact is well known and recognized, and Captain Hooper testified here for the Government on April 11 that, "The service rendered by this company (the American Telephone & Telegraph Co. and its associated companies) is technically the best in the world" (transcript, p. 99).

Second. The report makes the charge (p. 30) that, "Moreover, American Telephone & Telegraph Co., which is both a holding and an operating company is more powerful and skilled than any State government with which it has to deal."

I refer to this statement as a charge made against the Bell system. It was so interpreted by the press of the country, when, upon publication of the report, it was headlined across the front pages of leading and influential newspapers.

There is no specification in the report of any misconduct, either on the part of the companies or the State officials. It is not alleged that the State officials are lax or remiss in the performance of their sworn duty to administer and enforce the laws, or that the laws are themselves deficient in any way, or that the companies are not law-abiding citizens, or that they seek to evade or circumvent any law. True, it is stated in the very next paragraph of the report (p. XXXI) that the new Federal commission now to be created should investigate "to what extent communications companies contribute to campaign expenses or otherwise participate in political activities." Some people have connected these two statements, but I assume there was no such intention. I must assume that without even a scintilla of evidence to show that these companies contribute to campaign expenses, which I believe is everywhere a violation of crimnal statutes, or have engaged in any way in political activities, no such insinuation was made or intended. It is hardly necessary to state that Bell system companies do not contribute to campaign expenses, nor do they participate in political activities.

The truth of the matter is, as everyone who is at all conversant with the facts knows, that our business is effectively regulated in every State in the Union. In all the States but three there are State commissions charged with the duty of regulating our business, insofar as it is intrastate in character. As you are already advised by the testimony that has been given here before you, approximately 98½ percent of the traffic and, in that sense, of the service rendered to the public, is of that character, subject to State authority and not subject to Federal authority. That business, I repeat, is effectively and continuously regulated by the States. We have no power or skill either to hinder or thwart the States in this, and we have no wish or thought to do so.

Third. The report makes the statement (p. XVI) that there is now little, if any, Federal regulation of the rates, practices, and charges of these companies.

The report gives some specifications and I wish to read from a paragraph of the report in this connection:

"At the present time there is little, if any, Federal regulation of the rates, practices, and charges of the several branches of communication industry. This is, however, not due to any lack of interest or sense of responsibility of

the Interstate Commerce Commission; rather it has been due to the absence of an effective mandate from the Congress. Congress has not had enough interest in, or information about, the communication companies to respond in a mandate to make inquiries coupled with appropriations sufficient to carry on an investigation."

With respect to the statement that there is little or no Federal regulation of the rates, practices, and charges, so far as the telephone industry is concerned, I make the preliminary observation that the statement is to be understood as having reference only to interstate traffic, and we so interpret it. The 98½ percent of the telephone traffic which is intrastate is not subject to Federal regulation. But I do not mean to intimate that because the interstate service is only 1½ percent of the total it should, for that reason, go unregulated. As a matter of fact it has been regulated for the past 20 years and is now regulated. The statement in the report to the contrary is based upon a fundamentally wrong conception of what constitutes regulation.

So far as the statute goes, that is, the provisions of the Interstate Commerce Act, I think it will not be disputed that they are now sufficient. Those provisions give the Interstate Commerce Commission full authority to regulate the interstate rates, practices, and charges. The fact is that ever since the Interstate Commerce Act was amended to include telephone companies, which was in 1910, the Interstate Commerce Commission has had full and complete jurisdiction over these matters, and having the authority it has been charged with the duty of seeing that the public interest was properly safeguarded. The report expressly exonerates the Interstate Commerce Commission of any failure of duty. It blames Congress, as I understand it, in that Congress has failed to provide the Commission with funds for the purpose.

Taking up the last point first, it is my understanding that it has been the practice, whether or not required by law I am not sure, for the Interstate Commerce Commission to submit an annual budget of the sums it requires for the performance of its proper functions and duties under the law. I do not understand that Congress has ever refused to make an appropriation requested by the Interstate Commerce Commission for this purpose. My information is that no such item has been included in any budget submitted by the Commission, and no such appropriation has been asked for. An item for the purpose of making a valuation of the telephone properties was included at least once in the budget submitted by the Commission to the Bureau of the Budget, but that is not now in point.

The question then arises as to why the Interstate Commerce Commission has not requested Congress to make appropriations for this purpose and whether it should have done so or not.

There should be a strong presumption that the Interstate Commerce Commission has not been negligent or derelict in this matter, in view of the well-known diligence and devotion to duty of that body.

There is no claim in the report that the rates are higher than just and reasonable rates. The most that is claimed is that an investigation might show that to be the case.

The Commission, moreover, was not admonished by any complaints (except in a few minor cases, which the Commission did investigate) that the rates were excessive or were thought to be so by the users of the service. While it is true that this is negative evidence, it is nevertheless convincing though not conclusive proof of the fairness of the rates.

In the period of 10 years from 1922 to 1932 four substantial reductions in the interstate toll rates were made by the American Telephone & Telegraph Co. I read from the Splawn report (p. XII):

"During the period 1922 to 1932, inclusive, American Telephone & Telegraph Co. made only four voluntary rate reductions in toll rates which resulted in percentage reductions of revenues, namely, October 1, 1926, 5.16 percent; December 1, 1927, 2.41 percent; February 1, 1929, 4.27 percent; and January 1, 1930, 3.21 percent. The factors used in the computation of these percentages were not obtained; therefore the monetary reduction, if any, in revenues was not determinable." The author of the report seems to have been at pains here to point out that there were only these four reductions. Each of these resulted in a substantial saving to telephone users, and the aggregate is large, amounting, in fact, to some $15,000,000 annually.

The report states that these reductions were voluntary, and that is true. But it is also true that the rates were regulated by law. The Interstate Commerce Commission might at any time, even though no user of service

was dissatisfied either with the service or the rates, initiate an investigation upon its own complaint. We were well aware of that. The committee can readily undertsand that it has been a matter of great satisfaction to us that our long-distance service has met with practically no criticism, either from the public or the public authorities, either with respect to the quality of the service or the rates. But this has come to pass under a system of regulation and under the compulsion of that system.

The best-governed community is not the one where the police are the most active, make the most arrests, and interfere most with the freedom of action of the people. The police should have full knowledge of what is taking place with respect to obedience to law and should be efficient, but law-abiding citizens should be subjected to the minimum of police control and interference. The principles are no different in the matter of governmental regulation of public utilities.

The company was enlarging and extending the long-distance plant with a large outlay of new capital, the service was undergoing a truly remarkable improvement, and all the while the rates were being reduced. To say that there was an absence of needed regulation because in these circumstances the Interstate Commerce Commission did not actively intervene is to fail to comprehend the meaning and purpose of public regulation.

Fourth. The Splawn report pronounces the Bell system a monopoly.

For the year 1932 the report states that the Bell system originated approximately 90 percent of the local exchange messages. Speaking of the extent to which there is actual or potential competition between telephone companies, the report states (XII) that there are "12 States and the District of Columbia in which the Bell system meets absolutely no competition from any other telephone company, unless it be such small companies as do not report to the Interstate Commerce Commission, and rural or farm lines, for which no data were available."

Mr. F. B. MacKinnon, president of the United States Independent Telephone Association, which is a national association of telephone companies entirely outside the Bell system and independent of it, testified before the Senate committee on the companion bill in the Senate for a Federal Communication Commission, and I assume that he will testify here. But because the statistics are pertinent at this point I wish to inform the committee that his testimony shows there are 6,000 companies represented by his association, operating the telephone exchanges in 14,000 communities, serving 4,500,000 telephones, having an investment of $600,000,000, and annual revenues of $125,000,000 in normal times. These Bell and Independent companies comprise the telephone industry of the United States.

It has long been recognized that telephone service is a natural monopoly. Today it is a monopoly in every community in the country, with possibly a few exceptions so minor that I can call to mind only one at the moment. There was a period of a few years immediately after the basic telephone patents of Alexander Graham Bell expired, which was in 1896, when a considerable amount of competition between the Bell and Independent interests developed, and when two telephone companies competed in many communities. I have no doubt some members of this committee have some recollection of that. It very soon became clear that this situation was uneconomic and inefficient, was, in fact, a nuisance to everyone, and it soon became intolerable to the communities in which that condition prevailed. Today it is the public policy of practically all the States, in many of them declared by statutes and the decisions of their courts, I am informed, that the telephone is a monopoly and competition against the public interest.

Here in Washington, for example, it is a Bell monopoly; in Lincoln, Nebr., for example, it is an Independent monopoly. These companies, whether Bell or Independent, serve separate communities. They do not compete. Their rates are regulated in separate communities.

The important point for the committee to understand in this connection is that there is no competition involving duplication of facilities in the telephone industry. Economic law as well as governmental laws have taken care of that, and there is no problem in that regard.

Perhaps I should remind the committee of the fact that Congress has also recognized that the telephone is a proper monopoly. By the Transportation Act of 1920, the Interstate Commerce Act was amended so as to permit one telephone company to acquire another, upon obtaining a certificate from the Interstate Commerce Commission that such acquisition is in the public in-

terest. When such a certificate is granted, the transaction is removed from the operation of the antitrust laws. There are substantially similar or equivalent provisions in the statutes of a large number, and, I think, in most of the States, and in those States the matter must also be passed upon and approved by the State commissions.

Except for a period of a few years in the late nineties and early nineteen hundreds, therefore, when the competitive experiment was tried, found wanting, and abandoned, the telephone has always been a monopoly. This has not increased the difficulties of regulation, rather the contrary. While monopoly is a reason for regulation, and makes regulation necessary and inevitable, it is also natural and desirable in this business, and is nothing new.

Fifth. I think it is correct to say that this study made by the committee's representatives, who spent 6 months thereon, and had available a great volume of data covering a 10-year period, has not disclosed any abuses in the communications industry, with the single exception of the affairs of Associated Telephone Utilities Co., which is not a part of the Bell system, and in which we have had no interest whatever, generally referred to in the report as A.T.U.

With respect to the investigation of that company the report states that many of the conclusions to be drawn from the investigation (I quote) "are similar to those that may be made from investigations of holding companies in other fields of activity", that is, fields other than the communications industry. It is not necessary, and I would not be justified in taking the time of the committee, to make a recital of the facts regarding the Associated Telephone Utilities Co. or to enter upon any discussion of them in detail. I wish to point out, however, that A.T.U. was incorporated in 1926 by the Insull interests and some associates. Out of nearly 17,000,000 telephones in the United States A.T.U. acquired control of 400,000. The Insull management was superseded at the end of March 1932. A new management was installed and there seems to be only commendation of the policies of the new management, as I read the report. But the company was not able to avoid receivership, which occurred on April 1, 1933, and apparently a sound plan of reorganization is contemplated or proceeding.

I respectfully submit that the career of A.T.U. during the years 1926–32 should not be allowed to create any prejudice in your minds against the industry. Moreover, Congress has already passed the securities act, designed to give full protection to the public in connection with the flotation of securities issues. That act undoubtedly prevents a repetition of such abuses as the report found in A.T.U.

My final comment upon the Splawn report is that although purporting to favor the pending bill, H.R. 8301, it does not in fact support the bill, but on the contrary definitely supports the recommendation of President Roosevelt. This is perfectly clear from Dr. Splawn's statement of what the bill would accomplish. He says at page XXIX:

> The bill would accomplish three purposes: (*a*) A codification of existing Federal legislation regulating communications; (*b*) a transfer of jurisdictions from several departments, boards, and commissions to a new communications commission; and (*c*) a postponement for future action after further study and observation of some of the more difficult and controversial subjects.

There is nothing about enlarging the Commission's powers at this time; only a transfer of existing powers is contemplated by the Splawn report.

Finally, the report says at page XXXI: "There is no difficulty about obtaining further capital for necessary expansion."

The forces of recovery have been stirring and are already beginning to show substantial improvement. What is most needed now is the revival of long-time investment of private capital in industry. It is in that field that unemployment continues to retard recovery. Many people have been mistakenly taught to think of "capital" as consisting of great aggregations of wealth and of capitalists as men of great wealth. The fact is that the capitalists I have the honor to represent here today are the stockholders and bondholders of the Bell system. The stockholders, nearly 700,000 of them, have each invested on

the average about $3,000 in this huge enterprise. Of bondholders there are perhaps a quarter of a million. To a great extent the bondholders are large institutions—insurance companies, savings banks, educational and charitable institutions, which have made their investments as trustees for millions of people. These owners of the Bell system have invested their savings in the business of furnishing a useful and necessary service to all the people of the country. They made these investments with the full knowledge, as they had a right to believe, of two things: First, that they could not expect large or speculative profits, but only a moderate and reasonable return, upon their investment and that the law would see to this by means of public regulation of the business; and second, that they would be given an opportunity to receive a fair return, if the business economically and efficiently managed could earn it, and that a management appointed by them would be permitted to manage the business. The history of the telephone in this country has been one of continuous and rapid expansion largely financed by people of small means. In this way they have contributed to the prosperity of the country in the past. There should not be any difficulty about obtaining from them further capital if and when needed for necessary expansion, as Dr. Splawn says, but only on condition—that their confidence is not shaken by unsound legislation and the threat of undue interference in the management of the business on the part of the Government.

(Thereupon, at 11: 47 a.m., an adjournment was taken until 10 a.m. the following morning, Friday, May 11, 1934.)

COMMUNICATIONS—H.R. 8301

FRIDAY, MAY 11, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We will hear Mr. White.

STATEMENT OF R. B. WHITE, PRESIDENT THE WESTERN UNION TELEGRAPH CO., NEW YORK, N.Y.

Mr. WHITE. Mr. Chairman, my name is R. B. White, president of the Western Union Telegraph Co.

The Western Union have carefully considered the proposed bill and find we can adjust our practices to conform with its requirements without much difficulty and without many changes. However, we are glad to have this opportunity to present a few questions concerning which there is some doubt, submit a few suggestions which we believe will clarify some of its provisions, and also bring to your attention a situation which if not clearly covered may not only embarrass the new Commission but limit its effectiveness to a marked degree.

We would like to submit one question with reference to the companies subject to the act: The act will apply, according to its language, to all interstate and foreign communications by wire, and to all persons engaged within the United States in such communication, which is defined very broadly as "the transmission of writing, signs, signals, pictures, and sounds of all kinds by the aid of wire, cable," and so forth.

Most of the bill, however, refers to common carriers engaged in interstate or foreign communication by wire or radio. The term "common carrier" or "carrier" is defined as a person engaged in communication by wire or radio as a common carrier for hire. There is some question as to whether this language would or would not include certain types of communication not now subject to regulation. It would seem it was the intention to have that portion of the act which covers the leasing of lines to business requiring this service, prevent such concerns, groups, or associations of such concerns from entering the commercial telegraph business in a small way for special or selected users. It is not clear that the bill does cover such an arrangement. This practice has been indulged in to

some extent in the past and of late there has been some extension of the service. The effect is to create small telegraph systems unfettered in their actions since their service is unregulated.

Western Union feels the act should be strengthened in this respect and the doubt removed, and this could be done by the addition of the following words after the word "cable", line 8, page 12—

and of all facilities used for the transmission of public or private messages regardless of ownership of such facilities.

The addition of lines 4 and 5 to the present law in section 201 (b), page 15, we think is not sufficiently clear as to the manner in which it would apply to contracts between telegraph companies and railroads.

Since the Western Union has far and away the preponderance of contracts with other common carriers, we are greatly interested in knowing what is intended by the addition of these lines to the present Interstate Commerce Commission law. We suppose it was the intention to further safeguard public interest by the addition of these lines, but it suggests that a competitor might use this provision in filing objections to a contract and urge that the terms were against public interest. Surely the control of railroad practices under the Interstate Commerce Commission and the control of communication under the new commission would safeguard public interest without adding to the present Interstate Commerce Commission law. We feel these additional lines should be omitted.

In connection with "certificates of necessity and convenience", we think the provisions of section 214, page 26, for requiring such certificates are in substance wise and salutary provisions. The language of the bill, however, is perhaps broader than is or should be intended. We suggest one change in section 214 (a) and one in section 214 (e), as follows, by adding after the first word "circuit", line 6, the words "into territory or to points or places not already served by such carrier with service of the same class"; and after the word "any", line 6, the word "such", so it would then read:

SEC. 214. (a) No carrier shall undertake the extension of its line or circuits, or the construction of a new line or circuit, into territory or to points or places not already served by such carrier with service of the same class, or shall acquire or operate any such line or circuit, or extension thereof, or shall engage in transmission over or by means of such additional or extended line or circuit, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line or circuit.

SEC. 214. (e) The authority conferred upon the Commission by this section shall not extend to the construction, operation, or extension of lines or circuits within a single State or to local branch or terminal lines or circuits not exceeding 10 miles in length.

We feel it was not the intention to require a company to obtain such a certificate for additions of lines or circuits between points where it then has a line or circuits in use. No good can come from such a requirement and it will operate to the detriment of good service. Even with these suggested changes there might be some small extensions which would not be of sufficient importance to require notice to be given to Governors of the States or published for 3 consecutive weeks. We think it might be well to leave to the discretion of the Commission, on receipt of application for such certificate,

the question of how and to whom notice of application shall be given. The Commission might be authorized to deal with this matter specifically in connection with any particular application.

The Commission should have authority to require any reports or information from the companies which it may find necessary or useful in the discharge of its duties. Under existing law the Interstate Commerce Commission has full power in that respect. We do not see the necessity for making it mandatory, in the bill, by section 219 (a), page 30, line 19, that the reports shall show all the details which are expressly enumerated. We think it would be not unreasonable to leave to the Commission the task of prescribing the form and contents of such reports as it requires.

There is another question in connection with the regulation of communications which has been raised since we appeared before the Senate committee, which is creating confusion, and to which your attention has no doubt been directed. Sometimes there are disputes between carriers as to the reasonableness of operating practices, or whether particular practices are unjustly discriminatory. Sometimes the dispute is whether a particular service ought to be given as a part or incident to another service for which a charge is made, or whether a separate charge should be set up for the particular service. A number of these disputes in the past have been submitted to and decided by the Interstate Commerce Commission. There have been some other differences of opinion between the companies, which no one doubts the Interstate Commerce Commission would have power to decide if any company involved considered them of sufficient importance to make a formal complaint, but no complaint has been made. If the new Commission is created, we assume of course that it would have power to decide all these questions, and to decide them finally and authoritatively, subject to review by the courts in a proper case. A very unusual situation has developed recently, however, by reason of the insistence of the companies comprising the International Telephone & Telegraph group that questions of this sort may be summarily decided and disposed of by the National Recovery Administration. The National Recovery Administration has now publicly announced that it may undertake to decide such questions, and it has been hearing testimony with regard to them and accepting briefs on the question of its jurisdiction, and on the merits of these controversies, and the resulting situation is, to say the least, puzzling to the communication companies and to their customers, and to the public. To give a single illustration, one of many, the International group is insisting that printing telegraph instruments, when placed in the premises of a customer by a telegraph company, should be specifically charged for, whereas at present no separate charge is made for them. Not only does the International group contend that a separate charge should be made for these printers but they insist and urge that the National Recovery Administration should fix the amount of that charge, which obviously is a pure question of rate making.

They insist that the National Recovery Administration should prescribe, in the case of a leased wire, not only how many persons should be allowed to use the wire but also whether more than one firm should be permitted to use it, although obviously that also is a question of rates.

The new commission might conclude that one rate would be proper for a single user of a wire and a higher rate where a wire is used jointly by two or more persons. Our company believes in regulation and is not particularly concerned with the precise name or the precise organization of the commission which regulates us, but we do believe if we are to be regulated it is essential that such regulation be administered by a commission which is specally organized and equipped and alone authorized to deal with communication companies, and which would be familiar by training and experience with our specialized problems. In any event, it is inconceivable, as it seems to us, that we should be subject to regulation at the same time, with respect to the same matters, by two or more separate governmental bodies.

Personally, I had no idea that the National Recovery Administration would conclude it had any power at all to deal with these disputes, but on Tuesday of this week we received notice that a code, prepared by the Administration, a copy of which was enclosed, had been proposed for the approval of the President and might be prescribed and approved by him in that form or with modifications. If these matters are to be regulated by the Recovery Administration there is surely no need of a communications commission while that condition lasts. If there is to be a communications commission we thing it should be made plain in the law that its jurisdiction to deal with such matters is exclusive. There is no question of any emergency at all as far as this point is concerned. The controversies of which I am speaking have existed for years, and if they have not been important or urgent enough to bring to the attention of the Interstate Commerce Commission in all that time, or if the Interstate Commerce Commission has not seen fit to investigate these matters on their own motion, as they have the right to do, they have not suddenly acquired an urgency that justifies summary action by the Recovery Administration.

Western Union has nothing further to add concerning the bill at this time, but inasmuch as other testimony will follow, we should like the privilege of submitting any additional views which may occur to us should we consider it desirable to do so.

The CHAIRMAN. I understood you to say, when you began your statement, Mr. White, that you thought your company could operate under this law without being very much hurt by it?

Mr. WHITE. Yes, sir.

The CHAIRMAN. We are very much obliged to you, Mr. White.

Mr. WHITE. Thank you.

STATEMENT OF SOSTHENES BEHN, PRESIDENT INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION, APPEARING ON BEHALF OF INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION, POSTAL TELEGRAPH & CABLE CORPORATION, THE COMMERCIAL CABLE CO., ALL AMERICA CABLES, INC., COMMERCIAL PACIFIC CABLE CO., AND MACKAY RADIO & TELEGRAPH CO.

Mr. BEHN. I am appearing before your committee on behalf of the International Telephone & Telegraph Corporation and its associated companies, known as the "International system", comprising the Postal Telegraph Co., which operates a land-line telegraph sys-

tem throughout the United States; the Commercial Cable Co., operating telegraph cables across the Atlantic Ocean; the All-America Cables, operating telegraph cables extending from this country to Central and South America and the West Indies; and the Mackay Radio & Telegraph Co., which operates a point-to-point radiotelegraph system for domestic telegraph business between various of the principal cities of the United States, as well as radiotelegraph across the Pacific Ocean, across the Atlantic Ocean, to South America, and with ships at sea.

The companies which I represent are in favor of the enactment of legislation providing for the transfer to a new commission of the existing powers of the Government over communications and a mandate to that new commission to make a complete study of the problems involved upon which to base recommendations to the next session of Congress for additional legislation.

If the committee will bear with me for a few moments, I will endeavor to make plain why, before the Senate committee, I opposed the enactment of the bill, and why I still feel that the enactment at this time, in advance of such study, of the new and additional regulatory provisions of the bill would be a mistaken policy.

All types of communications necessarily compete to some extent one with the other. There are three types which are in very keen competition, namely, the telephone, the telegraph, and the mail, with special emphasis on the air mail. The air mail is a Government monopoly, and as it is operated at a loss, it may be said to enjoy a subsidy. The telephone, insofar as interstate and foreign communications are concerned, is likewise a monopoly, favored by the Federal law—the Graham Act of 1921—which allows the consolidation of telephone companies. The telephone is further favored by the Government itself in that, while the Government pays the regular commercial rates to the telephone company for its telephone service, it pays only 40 percent of the commercial rates to the telegraph companies for Government telegraph service. The telegraph services are prohibited by law from consolidation; and, therefore, in addition to having to compete against the telephone monopoly and the air-mail monopoly, the two telegraph companies are in active competition with each other.

From the standpoint of public policy it would seem, therefore, to be self-evident that any new legisaltion on the subject of communications should either permit the consolidation of telegraph services so that their competition with the other types of communication may be made more efficient, or that the legislation should deal with the abuses to which competition itself has led in the telegraph field so that this competition may be effectively maintained and that services which are essential to the public may not be progressively impaired for the benefit of the stronger services.

The bill as written, however, adopts neither the one course nor the other. It applies to the competing telegraph services forms of regulation which are designed primarily for the telephone, a monopoly, and which are an undue burden on competing services. At the same time, the bill shows a want of appreciation of, or intention to remedy, the abuses of competition itself.

In order to explain what I have in mind when I refer to the " abuses of competition ", I propose to give to the committee certain

illustrations and, at the same time, to suggest what seem to me certain essential and fundamental additions to be made to the bill in case the committee should deem it necessary to do more than transfer existing power to the new Commission at the present time.

The telephone company itself, which, as I have shown, enjoys the special favor of the law, is to an ever-increasing degree absorbing a larger and larger proportion of the profitable telegraph business of the country. The development of the art of electrical communications, which has greatly increased the amount and variety of communications which can be made available over metallic conductors, has made of the telephone company a great potential telegraph company. Accordingly, the telephone company has turned its attention to the intensive and progressive exploitation of this byproduct facility. This it has done in two ways.

(*a*) By the development of the business of leasing private telephone circuits. This business has multiplied from a gross revenue of, roughly, $2,000,000 in 1914, the year in which the Interstate Commerce Commission began its examination into the question of leased telegraph facilities, to a business in the neighborhood of $20,000,000 in 1929, or 10 times; while during the same period, the number of telephones in service by the telephone company and its associated companies increased roughly from 5,500,000 to 15,000,000, or less than 3 times.

(*b*) By the more recent establishment by the telephone company of the telegraph printer exchange (referred to by the telephone company as its "teletypewriter exchange"), an instrumentality for the switching of telegrams similar in operation to a telephone exchange, by means of which and by means of the connected instruments installed in customers' offices, any customer is furnished with direct telegraph service to or from any other customer of the exchange anywhere in the country.

Both types of telegraph service have a special attractiveness to larger telegraph users, since the ordinary telegraph user cannot afford to lease a circuit and has not sufficient business to warrant the installation of a telegraph printer. The result has been that the telephone company, which is not under the burden of furnishing a general commercial telegraph business, which involves the performance of many unremunerative services, is progressively securing for itself much of the profitable telegraphic business at the expense of the competing telegraph companies which, as general commercial telegraph companies, have to carry the nonprofitable load.

Moreover, as the amount of available byproduct telegraph facilities of the telephone company has increased, the resulting pressure to sell these facilities has accentuated other abuses, so that, at present, the lessee of lines from the telephone company is often not one concern which utilizes the leased line or lines in its own business, but groups of concerns, among whom sometimes the only common interest is the division of the so-called "rental." Such concerns operate over the leased lines what are, in effect, private telegraph companies at rates far below the regular commercial rates, and at rates which we understand are filed nowhere and subject to no regulation whatever.

I will turn now to the second facility, the printer exchange, through which the telephone company has more recently entered the

telegraph field. This service, at the rates at which it is offered, which are far lower than the ordinary commercial telegraph rates and which have already been materially reduced since the inception of the service, favors the larger users of the telegraph as against the smaller users. At the same time the introduction of this service has forced the telegraph companies, in an effort to protect themselves, to introduce certain new classes of service which similarly favor the larger telegraph users as against the ordinary users.

We believe it would be sound public policy for the law to provide in general that in dealings with the public the telephone company and the telegraph companies should each keep to its own side of the road and that neither should offer to the public any single service or group of services in the other's field unless it is prepared to go the entire distance and provide a general commercial service in that field in all its branches, which would include the unprofitable along with the profitable services. An exception might be made of the leasing of lines to single concerns for use in the individual business of those concerns, for the reason that that type of service has long been engaged in by the telephone company. Limited as I suggest, the leased-wire service would be stripped of its abuses and could no longer be availed of for the establishment of what are, in effect, private telegraph companies operating free from regulation to the detriment of the public and the commercial telegraph companies.

There would remain a proper outlet for the byproduct telegraph facilities of the telephone company through the leasing of those facilities to the commercial telegraph companies, while those companies, obliged as they are to furnish a public telegraph service in all its branches, could better be depended on not to allow either the leasing of wires or the telegraph printer exchange service to grow into the kind of abuses which would threaten the very existence of their general business as well as the sound principle that rates charged to the public must be fair and must not unduly prefer any one class of users as against others.

We therefore suggest the addition to section 202 of the bill of a new paragraph to be known as "paragraph (c)"—I refer to the bill as introduced, not the committee print—which would read somewhat as follows:

> From and after January 1, 1935, it shall be unlawful for any person, directly or indirectly, to operate or offer to the public any special or limited class or classes of telegraph service without at the same time operating or offering to the public as a whole throughout the territory covered by said operations, a general commercial telegraph service; and from and after January 1, 1935, it shall be unlawful for any person, directly or indirectly, to operate or offer to the public any special or limited class or classes of telephone service without at the same time operating in or offering to the public as a whole throughout the territory covered by said operations, a general commercial telephone service: *Provided, however,* That the foregoing provisions do not apply to the leasing by any common carrier of wires, circuits, or other facilities to other common carriers subject to this act, to the Government, to the press, or to a single lessee for his sole use or for use of companies under a common ownership.

In this connection, the committee may well wish to consider whether it was not the intention of the Graham Act of 1921 to permit the consolidation of telephone companies for telephone business only and whether, in view of the refusal of Congress to permit

the consolidation of telegraph companies, it may not be right, proper, and reasonable to prevent the furnishing of telegraph facilities altogether by companies which have taken advantage of the terms of the Graham Act to consolidate their facilities as telephone companies.

I wish now to discuss certain other provisions of the bill and at the same time to call attention to certain abuses which have grown up as between the competing telegraph companies themselves.

A number of the provisions in the bill are taken over bodily from similar provisions of the interstate commerce laws which, however, apply only to railroad companies. In an accompanying memorandum, which I shall ask leave of the committee to file, I am endeavoring to show as to certain of these provisions that they are quite inappropriate when applied to the communications business.

There is one respect, however, in which the operation of a public-service telegraph company is very similar to the operation of a railroad company. Each must absorb a certain amount of lean along with the fat. An important part of the telegraph business is lean and costs more to handle than is returned in the charges made for it. The larger files are more profitable for the simple reason that they produce a steady volume of traffic which can be relied on and which will carry a proper proportion of the expense of operation. A certain amount of large-file business is thus necessary if a telegraph company is to survive and carry its nonprofitable business. It follows, therefore, that competition becomes keenest to secure and hold the business of large customers and that such customers have it in their hands to secure special advantages from either telegraph company under the implied menace that otherwise their business will be transferred to the competitor.

Just as was the case with railroad operation prior to the enactment of the Interstate Commerce laws in 1887, a number of wasteful, extravagant, and discriminatory practices have been established as between the competing telegraph companies with the view to attracting and endeavoring to hold business of large customers.

In this country, telegraph printers, call boxes, and other types of special facilities, are furnished free to the more substantial users of the telegraph at a very heavy annual cost to the telegraph companies. In other countries where competition does not exist, such facilities, if furnished at all, are paid for by the particular customer and thus in those countries there is no discrimination against the small telegraph user.

I therefore suggest the addition to section 202 of the bill of a new paragraph to be known as "paragraph (d)" along the following lines:

It shall be unlawful for any person to establish rates, services, or practices which unduly prefer the larger users and unjustly discriminates against small users, and the commission shall make an investigation and make such orders as may be appropriate to terminate such practices; *Provided, however,* That this provision does not apply to the interchange of wire facilities by common carriers or to wires or circuits furnished to the Government or to the press.

The business of furnishing a public telegraph service differs from any other competing business of which I am aware, in that a company entering the general commercial telegraph business must equip

itself to give service to all and sundry to any point throughout the country. It would, therefore, seem to be peculiarly true of this business that any exclusive contracts through which one or the other of the competing companies undertakes to exclude its competitor from giving service at important public points within the country should not only be condemned as a matter of law, but that adequate machinery should be provided for the review and modification of such contracts. Exclusive contracts, however, have been a perennial vice in the telegraph business, the most prominent example being a whole series of exclusive contracts with the railroad companies through which the Western Union Telegraph Co. has succeeded for many years in excluding the Postal Telegraph Co. from many of the most important railroad terminal centers in the country. While contracts of this type are undoubtedly illegal, the cost of the necessary litigation in the courts is excessive and the remedy offered by such litigation is often illusive, while the existing Interstate Commerce laws provide no specific remedy before the Commission itself.

We suggest, therefore, that if the bill under consideration is to be adopted, an additional paragraph to be known as "paragraph (e)", should be added to section 202, reading somewhat as follows:

> No common carrier subject to this act shall enter into any contract which shall prevent the other party thereto from dealing with another common carrier subject to the act. The Commission is hereby authorized and directed to examine all exclusive contracts of common carriers subject to this act, and to issue the necessary orders to compel waivers of improper exclusive provisions and to provide competing carriers the opportunity to obtain equal privileges.

It would seem to be obvious that if the principle of competition in the telegraph services is to be continued as it is in the bill under consideration, no such obstacles should be placed in the way of competition as would enable one company, whether it operate by wire, radio, or cable, to subvert the purposes of the act by suppressing the free competition of its competitor. And yet, doubtless, because of want of full appreciation by the draftsmen of the salient differences between conditions in the railroad and the telegraph business, the bill contains certain provisions, taken over from the interstate commerce laws, where they apply solely to railroads, which could only be advantageous to the larger telegraph company in weakening competition by the smaller company.

Noteworthy among such provisions are section 201 (a) giving the Commission authority to establish through routes and physical connections, and section 214, which would delay, hamper, and obstruct the making of line extensions by the smaller company.

To compel the Postal Co. to turn over to the Western Union traffic for points not directly reached by the Postal's own lines would be to require the Postal to cooperate in its own elimination by furnishing its competitor with the information needed to solicit for this business itself. The establishment of railroad connections and through routes presents no similar problem, since there is no competition between the roads connected. Nor would any such problem be presented if the provisions of section 201 (a) were applied only to the telephone, since there is no competition whatever in that field, even where the Bell system connects its long lines with the local system of an independent.

Similarly, section 214 would tend to prevent the Postal solving the deficiencies of its wire network by extending its own lines into

territory previously reached only over telephone connections, railroad, or public-service company wires, or otherwise.

It may well be that the unification of the wire network of the two telegraph companies is in the public interest; but if it is, then that end should be reached by providing for consolidation under adequate legal safeguards. That end should not be furthered by the adoption of provisions in a bill which stands on the principle of competition, which hand weapons to the larger of two competing companies with which to eliminate competition for its own benefit.

Before closing I should like to take the opportunity to call to your attention one statement in Dr. Splawn's preliminary report to this committee regarding one of our companies—the Postal Telegraph—which was made, I feel certain, under a misconception of the facts. I refer to the statement that the urge for consolidation of telegraph companies on the part of the International Telephone & Telegraph Corporation is largely due to the desire of that corporation to get rid of the financial burden of the Postal Telegraph. We have urged the desirability of allowing consolidation of the telegraph companies in this country for the last 6 years. It only exists in this country, and in Canada they are now making a valuation of the Canadian National Railway system and the Canadian Pacific system preliminary to the consolidation of those services. There is no other country in the world where there is competing telegraph companies.

We believed in consolidation as by far the most constructive solution of the problem 5 years ago when the Postal Co. was on a profitable basis. We believed in it during the depths of the depression, and we still believe in it now that business is showing improvement. We believe the consolidation of the telegraph communications service of the United States is in the interest of the public, is in the interests of the companies themselves, and if such consolidation is properly regulated and carried out, is in the interest of labor. Furthermore, I should like to go on record as stating that no consolidation of any kind would be accepted by the International Telephone and Telegraph Corporation or by the Postal Telegraph which involved the discharge of employees because of the consolidation.

The CHAIRMAN. How would you do that?

Mr. BEHN. I beg your pardon?

The CHAIRMAN. How would you guard against that?

Mr. BEHN. Mr. Chairman, from the study we made 2 years ago we are of the opinion that if the telegraph companies would consolidate we could still maintain the entire members of both companies. We suggested that the Western Union comptroller check these figures, but this was never done. With the normal turnover, and over the period of the next 2 years, there would be a saving of better than $15,000,000 with benefit to the public, as at that time, it would be possible to reduce the telegraph rates. They are, roughly speaking——

The CHAIRMAN. I am talking about these 15,000 employees—that is about the number?

Mr. BEHN. We have about 15,000; yes, sir; and I believe the Western Union has between 40,000 and 45,000.

Well, with the extension of the service and economies of administration, the overhead, our figures show that better than $15,000,000—

it came nearly to $20,000,000—that could be saved by the consolidation of those services without the necessity of the elimination of employees.

I believe I have said enough to show how far the bill falls short of providing a constructive solution of our communications problems.

(*a*) It fails to provide for consolidation of competing telegraph services.

The telephone companies were allowed to consolidate.

(*b*) It fails equally to correct the abuses to which competition in this business has led.

(*c*) It goes even farther in that in sections 201 (a) and 214 it actually proposes to impose restrictions on the competition of the company having the smaller network, which could be advantageous only to the stronger telegraph company in impairing for its own benefit the competition of the weaker.

I am taking the liberty of submitting herewith a detailed memorandum of suggested changes in the bill, stating the reasons therefor, which I should appreciate having incorporated in the record. I wish to thank the committee for the time it has given me to present our position.

The CHAIRMAN. Are there any questions?

Mr. PETTENGILL. Mr. Chairman.

The CHAIRMAN. Mr. Pettengill.

Mr. PETTENGILL. Do I understand, Mr. Behn, that from your statement, on the first page, that the International Telephone & Telegraph Co. is the parent company of the other five companies, namely, the Postal Telegraph & Cable Corporation, the Commercial Cable Co., All-America Cables, Inc., Commercial Pacific Cable Co., and Mackay Radio & Telegraph Co.?

Mr. BEHN. I did not hear you.

Mr. PETTENGILL. You have the control of all of those companies?

Mr. BEHN. Except the Commercial Pacific Cable Co.

The Commercial Pacific, we have a 25-percent interest in. That is the cable running from San Francisco to China, Hawaii, and the Philippines, but we are managing their properties.

Mr. PETTENGILL. And the other companies you have——

Mr. BEHN. The other companies we have practically a 100-percent interest in. I think there are about 200 shares out in All-America Cables. So, it is practically all 100-percent operation.

Mr. PETTENGILL. The Mackay?

Mr. BEHN. The Mackay Radio & Telegraph Co. is 100-percent owned.

Mr. PETTENGILL. One hundred-percent owned?

Mr. BEHN. Exactly.

Mr. PETTENGILL. That holds a license from the Federal Government?

Mr. BEHN. It holds a license from the Federal Government to operate a commercial telegraph system throughout the United States and operates along the Pacific coast, Chicago, and New Orleans, extending its lines to Washington and to Boston.

We have building permits in Washington, Kansas City, and Atlanta, and we are building radio stations. There will be a chain of 12 radio stations under the present plans, for domestic radio.

In addition, we have transoceanic business to Denmark, to Hungary, to other countries in Europe; in practically all countries in South America, where we own the stations 100 percent.

They are American-owned; in Argentina, Chile, Peru, Colombia, Brazil, and we have connections with Hawaii, the Philippines, Shanghai, and we have just recently signed a contract with the Japanese Government to open up service to Tokyo.

Mr. PETTENGILL. The International Telephone & Telegraph Corporation, I take it, then, is not an American-owned Company?

Mr. BEHN. Absolutely an American-owned company, sir; practically 91 percent. There is about 9.35 percent of the shares, we know, held outside the United States, and that undoubtedly includes a lot of Americans living outside of the United States. It is a 91-percent American-owned company, and I doubt there are many companies that show a better record than that. Its management is American, and the Mackay Radio Telegraph Co. is 100 percent American.

Mr. PETTENGILL. And you say that it is American managed, too?

Mr. BEHN. Absolutely. All of the officers and directors of Mackay Radio are Americans. There are exactly two directors on our other communication companies who are Canadians.

Mr. PETTENGILL. Do you have a house organ or periodical called "The International News System"?

Mr. BEHN. That is the International News. That has been discontinued, sir, but it has been circulating for a number of years for the employees.

Mr. PETTENGILL. In your number, June–July 1931, page 8, of that periodical, you had this to say, in quotations:

> The International Corporation, both in spirit and policy is truly international. In confirmation of this spirit and policy, our headquarters and field staffs are open to all without prejudice or creed. Several of our senior officers and a very large majority of our junior officials are of nationality other than Americans.

Is that correct?

Mr. BEHN. That statement was exactly true at the time it was written with this exception, none of the senior officers of the International are foreigners. They are all Americans. But we have a number of subsidiary companies that form the International System, where the senior officers of those companies are Americans and a large number of the junior officers are foreigners.

May I just say this——

Mr. PETTENGILL. You say that at the present time a very large majority of your junior officers are of nationality other than American?

Mr. BEHN. Of the subsidiaries of the International operating in foreign countries, but not of the International Telephone & Telegraph Corporation, and not of the Mackay Radio & Telegraph Co., or our other American communication companies.

The International System, as I say, is composed of three branches: The manufacturing branch. We have important manufacturing plants throughout the world; 2 factories in England, 2 factories in France, 2 factories in Germany, a large factory in Belgium. We have assembly plants in Denmark, factories in Hungary, Italy,

Austria, and Spain. Those are national companies, controlled by the International, in most cases, 100 percent.

And, we have usually American officers in those companies, with a large number of junior officers and sometimes junior officers who are foreigners of those countries, at least, I should say, nationals of those countries.

And then, the second branch of our business is the operating of the telephone systems in the various countries. We operate the telephone system in Spain. The senior officer of that company is an ex-officer of the American Army, Captain Rock, and we have a number of Americans, about 10 Americans, and then we have a large number of Spaniards, of course.

Then, in the Argentine——

Mr. PETTENGILL. How about South America and Panama?

Mr. BEHN. Well, in Panama, we do not operate telephone properties in Panama. We only have connections with the All-American Cable in Panama.

Mr. PETTENGILL. Well, you have a 100-percent ownership of the All-American?

Mr. BEHN. Yes.

Mr. PETTENGILL. Why do you say that you do not operate it?

Mr. BEHN. I mean we do not operate the telephones. We have this cable line, All-American Cable, and as a matter of fact, in that All-American Cable there have been a number of English-operating employees.

Mr. PETTENGILL. They are there now?

Mr. BEHN. There are undoubtedly some there now. We had some and we have had some throughout. They are not officers of the All-American Cable, and there is no provision in the law——

Mr. PETTENGILL. In Panama your personnel is largely foreign; is that not correct?

Mr. BEHN. The personnel in Panama has been largely, I think it has changed; changes have been made recently.

Mr. PETTENGILL. Well, is it not still largely foreign?

Mr. BEHN. Well, I cannot answer that. We sent down a few men from New York at the suggestions made that we should have some American operators at Fisherman's Point, in Cuba, where we had a number of English employees. They were operators.

By and large——

Mr. PETTENGILL. You probably know, Mr. Behn, the position of the Navy Department and the War Department, that all broadcasting facilities in Panama should be exclusively under American ownership and personnel, as a matter of national defense?

Mr. BEHN. You mean the radio in Panama?

Mr. PETTENGILL. Yes.

Mr. BEHN. Well, if we had established the radio in Panama—we have a permit for that—we have not started operations in Panama, that would be.

Mr. PETTENGILL. You say you have a permit?

Mr. BEHN. Yes.

Mr. PETTENGILL. You secured that from the president of the Panama Republic about December 1930, did you not?

Mr. BEHN. I am not quite sure of the dates.

Mr. PETTENGILL. Is it not a fact, Mr. Behn, that during the negotiations for the purchase of or the acquisition of the Panama Canal Zone, during Theodore Roosevelt's administration, and shortly afterward, that the Government of Panama gave the United States Government exclusive, sole, and permanent control over radio broadcasting facilities in Panama, not only on the Zone but in the entire Republic?

Mr. BEHN. I have no personal knowledge of it.

Mr. PETTENGILL. You do not know about that?

Mr. BEHN. No.

Mr. PETTENGILL. And that the All-American Cable, which is 100-percent owned by your company, in December 1930, without the knowledge of the United States Government, secured from the then President of the Republic of Panama a license to build and operate broadcasting facilities in the name of the All-American Cable; is that correct?

Mr. BEHN. Well, I cannot say that it is correct, because I know, as a matter of fact, the State and War and Navy Departments were fully acquainted with the subject and passed on it.

Mr. PETTENGILL. And that that was done; you secured this license without the prior knowledge of any official of the United States Government?

Mr. BEHN. Well, when we did obtain that concession—I am not aware that it was without knowledge of any official of the United States Government—we then came to Washington. I am not acquainted with the details, but All-American Cable took it up with the Government authorities and, as my recollection goes, the Navy Department opposed it. The opinion of the War Department and the State Department ultimately prevailed.

Mr. PETTENGILL. Is it not a fact that at the time you got the secret permit from the President of Panama, which was in contradiction of a prior treaty or decree of 1914, that from that date in 1930, down to 1933, the War Department and the Navy Department both protested vigorously against the action that had been taken; that the Cabinet officers in charge of the Army and Navy, including Admiral Pratt, General MacArthur, Admiral Stanley, and others, protested vigorously to the State Department against acquiescing in what the President of Panama had done with reference to giving you this license in December 1930.

Mr. BEHN. I am afraid I cannot answer the statement. You seem to have the information, which I have not got at the moment. I should be glad to send a statement of the facts in as we know it; to our knowledge and information, present our side of the picture.

I must admit I cannot answer that.

Mr. PETTENGILL. You had a conference with the State Department, did you not?

Mr. BEHN. I touch on those things, you see. I do not handle all of the negotiations of the company.

Mr. PETTENGILL. No; I suppose not.

Mr. BEHN. I know it was obtained.

Mr. PETTENGILL. Who was the gentleman in the State Department that you negotiated with?

Mr. BEHN. Well, that was handled by the All-American Co., the officials of the All-American, did the negotiating.

Mr. PETTENGILL. And who was the gentleman in the State Department who did the negotiating?

Mr. BEHN. I cannot give you the facts. I would be glad to present them in a statement.

Mr. PETTENGILL. You personally did not carry on those negotiations?

Mr. BEHN. I personally did not carry on those negotiations. I dropped into the State Department, I think, once on that subject just in a general way, not on the subject but on other matters, because I am often in the State Department on questions connected with South America, Spain, and other countries.

Mr. PETTENGILL. With whom did you talk on that occasion?

Mr. BEHN. On that occasion I talked with Mr. Francis White.

Mr. PETTENGILL. Mr. Francis White, then Assistant Secretary of State?

Mr. BEHN. Mr. Francis White, then Assistant Secretary of State.

Mr. PETTENGILL. And now in your employ?

Mr. BEHN. He is now in our employ.

Mr. PETTENGILL. And finally license to the All-American Cables was granted on February 10, 1933, 21 days before the last administration went out of office.

Mr. BEHN. I cannot even answer that.

Mr. PETTENGILL. After the Army, War Department, and the Navy, for 2 years had tried to prevent the thing from being done.

You said a moment ago that the Navy protested against it?

Mr. BEHN. My understanding is—I must ask the privilege of refreshing my memory from the records, and looking up the records.

Mr. PETTENGILL. You will be given that privilege.

Mr. BEHN. My understanding is that the Army did not disapprove. If I am wrong, I am sorry.

Mr. PETTENGILL. That is your memory?

Mr. BEHN. That is my memory. I believe the Navy has protested against any of our operations on the basis we are tainted with foreign domination or control. I had the privilege of going before the war-planning committee, the joint board of the Army and Navy, to explain our position, and I hope to disprove that.

Mr. PETTENGILL. Did the Navy Department submit to your company an outline of a policy to be adopted in which, in their judgment, better preserved the interest of national defense?

Mr. BEHN. Yes.

Mr. PETTENGILL. And that your company did not agree to it?

Mr. BEHN. That is not exactly so. Captain Hooper sent a statement to me personally. He sent it in his official capacity, giving me the enunciated principles of the joint board of the Army and Navy, and we took exceptions to some of the enunciated principles, because generally, Captain Hooper had created the impression that our company was foreign dominated and should not be favored with a radio license and the development of a radio system.

He seemed to think that the only radio company that should receive any consideration by the Government was the Radio Broadcasting Co. of America.

I asked the Secretary of the Navy and the Secretary of War and the senior officer of the joint Army and Navy Board for the privilege of appearing before the board. I was told by Admiral Stanley that

I should appear before the planning committee—Captain Myers is the senior officer of that board—and I talked with General Gibbs, who is president of the postal.

I think that 4 officers of the Army and 4 officers of the Navy composed that board. We submitted our case. We have had no answer from them. We submitted a brief showing that certain of the enunciated principles can be properly changed without weakening in any way the national defense and should be changed, as international trade and good will should not be stifled and throttled by a bugaboo of national defense, an exaggerated bugaboo of national defense, and I say that, not of the planning committee, but of Captain Hooper, and I charged Captain Hooper of that before the committee. He was there present when I made my statements.

The International is the one large international American communications system. We are the second largest international communications system in the world, the British Merger being the first. We have 60,000 miles of cable. Our radio facilities in this country are as great as any radio corporation, and we are about to make our radio in the rest of the world as great, if not greater, than any other country.

If, as Captain Hooper has suggested, that anyone who has any contact whatsoever with a foreigner is tainted, then I think that we ought to abolish our embassies and all legations throughout the world, and the State Department included, since friendliness with foreigners makes one a suspicious American.

Mr. PETTENGILL. Well, I appreciate your views, which you, of course, are at perfect liberty to express, as an American citizen; but the facts remain that the captain was not alone in his position of the statements made by him, but that he is supported by his superiors, clear up to the Secretary of the Navy, and also the Secretary of War; the Joint Army and Navy Board.

Mr. BEHN. That is now being reconsidered, sir, on certain points.

Mr. PETTENGILL. That is all.

STATEMENT OF CAPT. S. C. HOOPER, UNITED STATES NAVY, DIRECTOR COMMUNICATIONS DIVISION, OFFICE OF NAVAL OPERATIONS, NAVY DEPARTMENT, WASHINGTON, D.C.—Resumed

Captain HOOPER. There has been no change in that. I am authorized by the head of the Planning Board to say that they have made no change in those principles which were adopted.

Mr. PETTENGILL. Let that go into the record, please. That is Captain Hooper.

INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION,
New York, May 15, 1934.

Hon. S. RAYBURN,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. RAYBURN: When I appeared before the Committee on Interstate and Foreign Commerce on May 11, Representative Pettengill asked for certain information which I stated I would send the committee and I take pleasure in doing so herewith.

With respect to the authorization granted by the Republic of Panama to establish a radio station in the Republic of Panama, the proposed contract was

submitted by the representative of All America Cables, Inc., in Panama to the Panamanian authorities the latter part of May 1930. On the same day that the contract was submitted to the Government a representative of All America Cables delivered a copy to the American Minister in Panama. The All America Cables radio concession from Panama was signed on July 8, 1930, was approved by the Panamanian Congress on December 29, 1930, and was published in the "Diario Oficial" on January 1, 1931. On August 17, 1930, the American minister in Panama requested an English translation of the contract and a copy was supplied to him shortly thereafter, as soon as the translation could be made. A copy of the concession was filed with the State Department on July 15, 1931. Application was made to the State Department to establish the radio station on September 14, 1931, in a letter dated September 11, 1931, and on the same day a supporting argument to the application was delivered to the State Department in a letter dated September 12, 1931, and further information with regard to the proposed station as requested by the State Department, was given in a letter dated September 22, 1931.

With regard to Representative Pettengill's reference to the treaty of 1903 it may be said that while radio is mentioned nowhere in that treaty, the United States was given certain rights in the Republic of Panama in connection with the construction, operation, maintenance, sanitation, and protection of the Canal, and a decree (no. 130) was issued by Panama on August 29, 1914, giving the United States control over radio in Panama, and it was by virtue of the provisions of that treaty and the decree that this corporation submitted a request to the State Department for the permission of the United States Government to operate a station in Panama. It was always the understanding of this corporation that permission would have to be obtained first from the Panamanian Government to erect a radio station in the territory of that sovereign Republic, but that before such permission could be exercised the company would have to obtain the consent and approval of the Government of the United States, and that is precisely the action which was taken by All America Cables, Inc. In other words, the "control" granted the United States by Decree No. 130, of August 29, 1914, was to permit the United States to control radio stations in the Republic of Panama, but the permission to erect the stations would have to be obtained from the Government of Panama. The action taken by the All America Cables, Inc., was not, so far as it or the International Telephone & Telegraph Corporation have been informed, contrary to the provisions of the treaty of 1903 or of the decree of 1914.

The above facts will show that All America Cables did not secure its radio concession in Panama, which does not cover broadcasting facilities as mentioned by Mr. Pettengill, without the knowledge of the United States Government, nor was it in any sense a "secret permit", as Mr. Pettengill had apparently been misled to believe. The American minister was informed the very day that the concession was proposed to the Panamanian Government and, furthermore, the press in Panama, in the summer of 1930, published the fact that the concession had been granted, and the New York Times of December 26, 1930, also published information in regard thereto.

With reference to Representative Pettengill's query as to whether the War and Navy Departments and various naval and military officers "protested vigorously" to the State Department against the acquiescence in what the President of Panama had done with reference to giving this concession in December 1930 to the All America Cables, I may say that no protest was submitted by the War or Navy Departments to either the All America Cables, Inc., or to the International Telephone & Telegraph Corporation. With reference to a protest to the Department of State I have been advised by Mr. Francis White, who was Assistant Secretary of State at the time this matter was up, on the basis of his personal knowledge and memory and without opportunity to refresh his memory from the official correspondence on file in the Department of State, that when the request of the All America Cables, Inc., for permission to construct and operate this station in Panama was received at the State Department, copies thereof were sent to the War and Navy Departments and that the War Department replied in favor of granting the permission and took the position that these additional communications facilities would be a distinct military asset to the United States in time of war. The Navy Department opposed the proposal and urged that there should be but one radio-telephone station in Panama and that the Tropical Radio, which was applying at the same time for permission, should be granted permission and All America Cables should not. When this reply was received the

State Department called for a series of interdepartmental conferences with the War and Navy Departments and represented its views in the sense that these stations were to be erected not in the Canal Zone, where the United States by article III of the treaty of 1903 is given sovereign rights, but in the Republic of Panama, and that the Republic of Panama having given permission to both companies to establish radio stations in its territory, the United States should object thereto only on the grounds of the protection of the Panama Canal. The Department of State at that time took the position that the United States had rights in the Republic of Panama only insofar as they related to the "construction, operation, maintenance, sanitation, and protection" of the Canal, these restrictive words being used in various articles of the Treaty of 1903 in relation to the grant of rights by Panama to the United States outside of the Canal Zone and in the Republic of Panama.

I am further informed that Captain Hooper at that time took the position that it would not be possible to protect the Canal should there be two radio stations in the Republic of Panama, but that it could be protected if there were but one. The Department of State pointed out to Captain Hooper and the other representatives of the Navy Department, that the military authorities of the United States themselves could write all the conditions in the license to be issued by the United States, to protect all military matters, such as closing down or taking over control and operation of the stations not only in time of war but in case of threatened hostilities, and that the same provisions would apply to both companies and both stations could be taken over or closed down at exactly the same time, which would be the moment the military authorities felt such action was necessary for the protection of the Canal.

Captain Hooper then advanced a technical argument that there would be interference with the radio operations of the Navy Department, especially during the fortnight every 2 years when the fleet had maneuvers in the vicinity of the Canal. The Department of State then invited the Radio Commission to send their chief engineer to testify on this point and he stated and showed in a memorandum which he prepared that there is daily far greater radio traffic in the vicinity of New York than there could possibly be in Panama even when the fleet was in operation. Notwithstanding this the State Department offered to put in the license a provision that the Navy Department could oblige the radio stations to close down during the period of maneuvers. Although many restrictions, drawn up by the War and Navy Departments, were placed in the license as finally granted, this provision was not included by the Navy Department.

Captain Hooper then took the position that there was a commercial necessity in Panama for but one radio-telephone station and that permission should therefore be granted for but one station. The State Department took the position that the United States Government had no right to tell the sovereign Government of Panama what its commercial necessities were and to veto the establishing of a radio station authorized by the government of Panama because certain officials of the United States Government might feel that there was no commercial necessity thereof. The State Department took the position that the only locus standi of the United States in a matter of this sort in the sovereign Republic of Panama was as the protection of the Canal might be affected. Captain Hooper was asked whether, should the commercial necessities of Panama require at a later date a second radio-telephone station, he and the Navy Department would be willing to give permission for such other station. The representatives of the Navy Department stated that in that case they would withdraw their objections and permit a second station to be established. The Department of State took the position that in view of this statement of the representatives of the Navy Department they could not defend a statement which the Navy Department wished the Department of State to make to Panama at that time—that the Panama Canal could be defended should there be but one station for which there was then a commercial necessity, but that protection of the Canal required the denial of a permit for a second station as the Canal could not be defended should there be such second station at that time, although admitting that should there be at a later day a commercial necessity for a second station no objection would then be raised.

Captain Hooper's final position was one of opposition to the International Telephone & Telegraph Corporation specifically. The Department of State took the position that if the Navy Department would give reasons why the International Telephone & Telegraph Corporation was unworthy of the confidence of the United States Government and should be refused permission on that basis,

the Department of State would advise the corporation and the Republic of Panama that permission was denied because the Navy Department gave such and such reasons why that specific company should not be allowed to have a station in Panama. Such valid reasons for this action were not produced by the Navy Department.

In order to make the picture complete, it may be stated that after the War Department's first letter of approval the Navy Department succeeded in having the War Department change its view and support the Navy Department's contention; but, after the matter was discussed in the interdepartmental conferences, as above set forth, and the "military" objections of the Navy Department based on the commercial necessities of the Republic of Panama were carefully analyzed by the interdepartmental committee, as reported above, the War Department no longer supported the Navy's contention and concurred with the State Department that there was no valid reason of a military nature for the protection of the Canal which would justify the Government of the United States in interfering with a sovereign function of the independent Republic of Panama.

The Navy Department never changed its position and also never produced any valid reason to substantiate its view. Accordingly, after studying the matter, the Secretary of State called a final meeting in his office at which the Secretary of the Navy, Admiral Pratt, and Mr. White were present. There were no representatives of the War Department present at that meeting, that Department having already again given its concurrence in writing with the granting of the permission to the All America Cables, Inc. Captain Hooper and Commander Lammers, of the Navy Department, were brought to the State Department, but were left by the Secretary of the Navy in an adjoining room. Mr. White saw them and advised the Secretary of State that they were there and the latter invited the Secretary of the Navy to bring them in, if he so desired, or anyone else. The Secretary of the Navy replied that he and Admiral Pratt were familiar with the matter and brought these officials over in case any technical advice was needed, but did not think it necessary to bring them in at the time. The question of policy was again gone over in all its details. Neither the Secretary of the Navy nor Admiral Pratt adduced any new reasons or arguments why the permission should not be given and they were informed by the Secretary of State that, as he was charged by law (Radio Act of 1927) with responsibility of giving the permission, and also was responsible for the conduct of our foreign relations, and as no valid reason involving the protection of the Panama Canal had been given why he should interfere with the sovereign function of the Republic of Panama in granting permission to the All America Cables to establish a radio station in Panama, he would at once give permission to both the All America Cable and the Tropical Radio to establish their stations in the Republic of Panama. The license was finally given by the United States Government on February 7, 1933, and not on February 10, as Mr. Pettengill was erroneously informed.

In answer to Mr. Pettengill's query regarding personnel of the All America Cables in Panama, it may be said that the manager of the All America Cables there is an American citizen and measures were instituted some weeks ago to have all operators in the Canal Zone American citizens also.

Mr. Pettengill inquired whether the Navy Department submitted to my company an outline of a policy to be adopted which in their judgment would better preserve the interest of national defense. In order that there may be no misunderstanding regarding this matter and that it may not be thought that this was submitted in connecion with the radio concession in Panama, I may say that Captain Hooper's letter to me on this matter was dated February 26, 1934, over a year after the United States Government had granted All America Cables, Inc., a license to erect and operate a radio station in Panama. On that date Captain Hooper sent me what he stated were the recommendations of the Joint Board of the Army and the Navy. When he finally placed the recommendations of the Joint Board of the Army and the Navy in the record of the hearings before the Senate Committee on Interstate Commerce, it was seen that the recommendations contained in his letter to me were incomplete and in one respect inaccurate.

Representative Pettengill made inquiries regarding a statement published in the International System News. Captain Hooper, in his testimony before the Committee on Interstate Commerce of the United State Senate, of March 15, 1934, published much misleading information and endeavored in many ways to discredit the International Telephone & Telegraph Corporation. He in-

cluded the quotation which he evidently gave to Representative Pettengill and he then referred to the Bulletin of the Radio Corporation of America of 1934, which corporation he constantly seeks to defend, stating that "The charter of the Radio Corporation of America requires that its directors and officers shall be American citizens. It requires that at least 80 percent of its outstanding stock, entitled to vote, shall at all times be in the hands of loyal citizens of the United States. The company is free from foreign influence, control, or domination."

He then quoted also a statement of the president of the Western Union Telegraph Co., dated March 13, 1934—both of these statements, it should be noted, were issued while this matter was under consideration—stating, "Communications are an essential arm in commerce, indispensible from the standpoint of national defense, and a service upon which the public is generally dependent." Captain Hooper appears to have omitted to inform Representative Pettengill, as he omitted to inform the Senate committee, while implying that the International Telephone & Telegraph Corporation is unworthy of being intrusted with certain information, that the annual report of the directors of the Radio Corporation of America for the year ended December 31, 1922, made the following statement:

"During the past year radio engineers from the principal governments and wireless companies of the world have visited your corporation's stations for the purpose of studying the equipment in use and with the object of improving their own communication services in accord with the latest American scientific and engineering practices. Among your corporation's guests your officers were pleased and honored to welcome Senatore Guglielmo Marconi. His great contribution to the wireless art, his sympathy for and appreciation of the work of the American engineers, his great modesty and restraint, but confident enthusiasm, was an inspiration to the radio engineers of America and particularly to the officers and employees of your corporation."

Captain Hooper also omitted this quotation from the annual report of the Radio Corporation of America for the year 1921, which reads:

"So rapid has been the progress made by your organization that several of our expert radio operators have been loaned to European administrations, and foreign representatives have been sent to us for training."

Furthermore, the report for the year ended December 31, 1923, stated:

"Swedish operating personnel is already in America for training at our central radio office in New York and will assist in teaching a staff now being organized in Sweden. * * * An exchange of operating personnel has been effected with Great Britain, Norway, Germany, and Japan. This policy is bound to result in improved cooperation and efficiency and consequently with increased service and traffic."

The annual report of the Radio Corporation of America for the year ended December 31, 1925, stated:

"Standard American operating and engineering practices were demonstrated by your engineers to several associated foreign companies and administrations, notably the Italian and Japanese, with mutually beneficial results."

It will be noted that the Radio Corporation of America exchanges information not only with foreign companies but with foreign government administrations. Yet Captain Hooper apparently will be willing to intrust his secret information to this corporation rather than to the International Telephone & Telegraph Corporation, which is building up a communications system abroad owned by it.

Furthermore, Captain Hooper chooses not to mention the arrangements, agreements, and contracts made by the Radio Corporation of America with foreign governments and foreign companies in the following countries:

Great Britain,[1] Japan, Norway, Germany,[1] France,[1] Italy, Poland, Sweden, Argentina,[1] Dutch East Indies, Brazil,[1] French Indo-China,[1] Holland, Dutch West Indies, Dutch Guiana, Venezuela, Colombia,[1] Belgium, Turkey, Canada, Portugal, Liberia, Fiji Islands, Spain, Syria, Siam, Chile,[1] Russia, Czechoslovakia, China, Santo Domingo, Mukden, Mexico, Switzerland, and Haiti.

In giving a clean bill of health to the Western Union Telegraph Co., Captain Hooper overlooks to mention the fact that in 1921 the United States Navy was called upon to prevent the landing of a cable being laid by that company connecting Barbados with a British cable company having a monopoly in Brazil, excluding a fully owned American cable from landing in that country. In

[1] Indicates some of the more important countries with which these contracts call for an exchange of patents and other technical information.

other words, the Western Union Telegraph Co. threw all the weight of its pick-up and delivery system in the United States in assisting this British cable company that was waging a bitter fight against the American cable company with a view to dominating the cable situation in South America. It is only through the system of the International Telephone & Telegraph Corporation that messages between the United States and South American countries can be received and sent without going through the hands of European-owned communications companies. Furthermore, the same annual report of the Western Union from which Captain Hooper quoted lists a British admiral—Rear Admiral C. P. R. Coode, C.B., D.S.O.—as one of its vice presidents.

This is not the first time that Captain Hooper has endeavored to disparage and discredit the International Telephone & Telegraph Corporation. There were many erroneous statements in his testimony before the Senate committee; and I earnestly recommend, in order that justice may be done, that all statements made by him in this connection be very carefully checked and investigated.

Respectfully yours,

SOSTHÈNES BEHN.

STATEMENT OF SOSTHÈNES BEHN, PRESIDENT INTERNATIONAL TELEPHONE & TELEGRAPH CO.—Resumed

The CHAIRMAN. Any other questions? Does anyone have any further questions?

Then, we are very much obliged to you, Mr. Behn.

(The paper above referred to is as follows:)

SUPPLEMENTARY MEMORANDUM BEFORE THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, ON H.R. 8301, ON BEHALF OF INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION, POSTAL TELEGRAPH & CABLE CORPORATION, THE COMMERCIAL CABLE CO., ALL-AMERICAN CABLES, INC., COMMERCIAL PACIFIC CABLE CO., MACKAY RADIO & TELEGRAPH CO.

This memorandum supplements the oral statement made in behalf of the companies above-named on H.R. 8301, Communications Act of 1934.

At the outset we wish very respectfully to reiterate our opinion as expressed in that statement—namely, that in view of the many unsolved complexities and difficulties in the way of devising a bill which will deal adequately and realistically with the problems of controlling communications as such, as well as the brief time which the members of this committee at this session have to give to the proper solution of those complex problems, by far the best thing to do would be to provide for the simple transfer to the new Commission of existing powers to regulate communications and to instruct that Commission to study the problem thoroughly and recommend additional legislation for adoption at the next session of Congress.

The purpose of this supplementary memorandum, however, is in all sincerity to suggest to the committee, in greater detail than was feasible in the oral statement, defects in the bill under consideration, together with certain ways of possibly correcting some of those defects, in the hope that the committee may find the material useful in case for any reason it decides to recommend for adoption at this time a bill containing new regulatory provisions.

We make no claim that the suggestions we are presenting are complete, and where we offer alternative wording of our own, we do so by way of suggestion only, since notwithstanding the fact that we have spent a number of weeks since the bill appeared in an intensive study of its provisions and of the entire subject matter, we do not yet feel competent to make complete and definite recommendations for the regulation of this branch of the public service.

In a general way this supplementary memorandum deals with additional matters not covered by the oral statement in two classifications: (1) Matter contained in S. 3285, the revised Senate bill (Calendar No. 830) reported by Senator Dill on April 19, which is not in the House bill, but which in the opinion of the representatives of the companies above named could advantageously be incorporated therein; (2) additional particulars not mentioned in the oral statement in which, in the opinion of the representatives of the companies above named, the House bill should be amended. In order that all of these

suggestions may appear in one document, the changes suggested in the oral statement are here repeated with a minimum of comment.

All suggested changes are mentioned in the order in which the section to which they refer appear in the House bill. Section, page, and line references will be to the February 27, 1934, print of H.R. 8301 unless otherwise specifically stated. Where reference is made to the Senate bill, it will be to the revision above mentioned.

(1)

The revised Senate bill works an improvement on the House bill in that in the revision the matter which was carried in the House bill in paragraphs (j) and (k) of section 3 is eliminated. The elimination removes the uncertainty created by the attempt in these two paragraphs to define the term "parent", to provide for the percentage of stock which should be prima facie evidence of control, and to state the circumstances under which persons shall be deemed to be affiliated.

We believe the House bill should be amended to conform to the Senate revision by eliminating paragraphs (j) and (k) of section 3.

(2)

Section 5 of the Senate bill appears to us to be constructed and worded better than the corresponding section in the House bill to express clearly and directly the intention. Moreover, the Senate revision corrects an obvious misplacement in the House bill in the matter of jurisdiction over mobile service.

We, of course, take no position as to the number of commissioners or the number of divisions into which the Commission should be organized.

(3)

Section 201 (a) of the bill, as well as the corresponding section of the Senate revision, is one of those provisions which was taken over into the bill from a corresponding provision of the Interstate Commerce Act, as amended (section 1, paragraph (4)), which provision relates only to railroads. Its inclusion in practically the same form in the communications bill shows a lack of appreciation on the part of the draftsmen that railroad problems and communications problems are distinct and often require very different treatment. Under this provision the Commission is given power to establish "through routes and "physical connections" (see Senate revision). The telegraph business of the country, unlike railroad transportation, is carried on on a Nation-wide basis. The law precludes the consolidation of telegraph companies. Each of the two competing telegraph companies must, therefore, prepare itself to serve the public adequately throughout the country. Insofar as it fails to do so, its service will be progressively impaired for the benefit of its competitor.

This paragraph of the bill, however, would tend to crystalize the existing competitive situation in the telegraph field through checking the proper competitive development of the smaller company. This could be advantageous only to the larger of the two competing telegraph companies and correspondingly harmful to the weaker. The smaller telegraph company would be forced to establish connections and through routes with its larger competitor in order to serve certain points of the country which it does not reach over its own lines but which at present it serves in a variety of other ways. This would provide the larger telegraph company with the information on the basis of which to solicit the customers of the smaller company who send telegrams into that territory to turn over their business direct to the larger company—an advantage which that company would not be slow to avail itself of.

It is obvious that in attempting to apply this railroad provision to the telegraph business, the striking differences between the telegraph business and the railroad business were not understood. No railroad operates or is permitted to operate throughout the country; and where its lines terminate, connections must be set up with carriers serving territory beyond the scope of the railroads' own lines. Since the first railroad does not and cannot compete in such territory, there is no injustice or hardship involved in compelling it to make the connection.

The provision in question is perhaps not inapplicable to telephone regulation, since there is no competition whatever in the telephone field, even as

between the American company and the independent telephone companies with which it connects; and, therefore, connections between the lines of the American and any independent compay is bound to be beneficial to both. Such is not the case in the telegraph business, and to compel such connections between the two telegraph companies which compete and must compete with each other throughout their entire scope and all over the country would, as we have stated, undoubtedly condemn the smaller of the two to progressive elimination.

This provision should, therefore, be limited in its application to the telephone business and be taken up and studied further in connection with the telegraph business only at such times as Congress is prepared to consider adequately whether to permit the consolidation of the telegraph services as in the public interest. If it is decided to establish monopoly in the telegraph business, then let monopoly be established through proper provision for the consolidation of the telegraph services under adequate safeguards. But let us not, in a bill which continues the policy of preventing consolidation, insert provisions under which the larger of the two competing telegraph services is furnished with the weapons necessary to establish monopoly in fact by eliminating its competitor. If we are to have monopoly, let us have it intentionally and pursuant to adequate legal safeguards. Let us not have monopoly by indirection and misadventure.

The above remarks are equally applicable in connection with paragraph 214 (a) of the bill which is considered more in detail below.

(4)

It is suggested that the last proviso in section 201 (b) be amended to read as follows:

Provided further, That nothing in this act or in any provision of law shall be construed to prevent a common carrier subject to this act from entering into or operating under a contract with any common carrier not subject to this act for the exchange of their services, if the Commission, after investigation, finds that such contract is not contrary to the public interest and does not unjustly discriminate against any other common carrier subject to this act.

The material change proposed is the addition of the concluding clause, following the last comma, requiring a finding by the Commission that the contract for exchange of services does not discriminate unjustly against another common carrier.

It is desirable to bring home specifically to the Commission the proposition that a contract for exchange of services which seeks to confine such exchange to one communication company and to exclude another communication company from its benefit is contrary to the public interest, and does not fall within the provisions of the act permitting exchange of services. This is in line with principles discussed at some length in the oral statement to which this memorandum is a supplement.

If it is desired that the telegraph business of the country be continued on a competitive basis, then it should be freely competitive in all of its aspects. The railroad companies have a large volume of paid telegraph business. They also control a number of important terminal stations, which are used by great numbers of the telegraphing public. One telegraph company should not be permitted to monopolize that business through some contractual arrangement. Furthermore, the telegraph companies move large quantities of material over the railroads and one company should not be treated on a preferential basis. (See further on this point our remarks under paragraph 8 infra.)

(5)

In section 201 (b), line 21, there is an enumeration of certain classifications of messages. The enumeration omits "urgent" messages, a well-recognized classification of long standing. We suggest the insertion of the word "urgent" after the word "night" in line 21, page 14.

(6)

In the oral statement, in the course of the discussion of the destructive effect of permitting the telephone company, a monopoly in its own field under sanction of law, as a byproduct of its telephone service, to invade a part of the field of business of the telegraph companies and deprive those companies of what should constitute their most remunerative business, it was suggested that an additional

paragraph be added to section 202, to be known as paragraph (c), which could read as follows:

"From and after January 1, 1935, it shall be unlawful for any person, directly or indirectly, to operate or offer to the public any special or limited class or classes of telegraph service without at the same time operating or offering to the public as a whole throughout the territory covered by said operations, a general commercial telegraph service; and from and after January 1, 1935, it shall be unlawful for any person, directly or indirectly, to operate or offer to the public any special or limited class or classes of telephone service without at the same time operating in or offering to the public as a whole throughout the territory covered by said operations, a general commercial telephone service: *Provided, however*, that the foregoing provisons do not apply to the leasing by any common carrier of wires, circuits, or other facilities to other common carriers subject to this act, to the Government, to the press, or to a single lessee for his sole use or for use of companies under a common ownership."

(7)

In the oral statement, in connection with the discussion of wasteful and extravagant practices, usually discriminating in favor of large users, which unrestrained competition in the telegraph business had produced, it was suggested that a new paragraph, to be designated paragraph (d), be added to section 202, to read somewhat as follows:

"It shall be unlawful for any person to establish rates, services, or practices which unduly prefer the larger users and unjustly discriminate against small users, and the Commission shall make an investigation and make such orders as may be appropriate to terminate such practices: *Provided, however*, that this provision does not apply to the interchange of wire facilities by common carriers or to wires or circuits furnished to the Government or to the press."

(8)

In the oral statement, attention was called to the fact that the public interest in obtaining access to the service of the communications system which it may desire to patronize is being impaired by exclusive contracts through which one of the telegraph companies prevents its competitor from providing service at important public places. We there suggested that paragraph (e) be added to section 202, along the following lines:

"No common carrier subject to this act shall enter into any contract which shall prevent the other party thereto from dealing with another common carrier subject to the act. The Commission is hereby authorized and directed to examine all exclusive contracts of common carriers subject to this act, and to issue the necessary orders to compel waivers of improper exclusive provisions and to provide competing carriers the opportunity to obtain equal privileges."

(Compare suggestion made under par. 4, p. 6.)

(9)

Section 203 (a) provides that a common carrier must file all of its charges for its services showing the classifications, practices, and regulations affecting such charges. Similar reference to practices is contained in section 203 (b). The word "practices" is indefinite. Section 6 of the Interstate Commerce Act, which section 302 follows closely, makes no reference to practices. The requirement as to filing should be specific and definite. It is suggested that the word "practices" be eliminated from lines 3 and 10 of page 16.

(10)

The House bill contains no express authority for franks and passes. Franks and passes have come to be recognized as a necessary incident of the operation of communications companies. Their proper use facilitates the transaction of company business and avoids much accounting. The propriety of their use has long been recognized in the Interstate Commerce Act. The omission in the House bill of express authority for franks and passes is cured in section 210 of the Senate revision. We suggest that a like provision be added to the House bill by adding at the end of section 203 (c) a proviso containing the language of section 210 of the Senate revision.

(11)

Subsection (d) of section 203 in the House bill would permit the Commission to reject any schedule offered for filing for failure to comply with any one of the multitudinous detailed and technical provisions relating to the form and filing of tariffs which doubtless will be established. The subsection so numbered in the Senate revision improves upon the original by limiting the failure which will justify the Commission in rejecting a tariff to the single important one of failure to give proper notice of effective date. We suggest that subsection (d) as it appears in the Senate revision be substituted for the like numbered provision in the House bill.

(12)

Penalties are provided for in various provisions of the proposed bill which as now drafted appear unduly harsh. For instance, section 203 (e) provides that in the case of failure to comply with any of the provisions relating to the posting of tariffs or with other regulations of the Commission, the carrier "shall forfeit" the sum of $500 for each offense. The language indicates that the carrier is to forfeit the penalty even though failure to comply may be through inadvertence of some employee, and even though the order of the Commission may relate to some minor detail in connection with a particular rate. In other words, the forfeiture seems mandatory with no power in the Commission to consider extenuating circumstances and exercise discretion. In this regard the bill departs radically from the penalty provisions of the Interstate Commerce Act, which provide that for violations the carriers "shall be liable to pay" a penalty to the United States in the amount specified.

Commission orders will frequently require interpretation, and frequently Commission orders will cover literally hundreds and even thousands of rates. The Commission should be given discretion as to when penalties are to be imposed. It is suggested that the specific penalty provisions, where they appear in the various sections of the act, be revised to provide in substance that the carrier "shall be liable to a penalty to the United States" rather than the apparent mandatory requirement that the carrier "shall forfeit" in the event of failure to comply with the regulation or order of the Commission. Places where the change should be made include line 3, page 28, line 8, page 32, line 22, page 34, and at such other places and sections where the word "forfeit" may be used.

(13)

The House bill does not include in its requirements as to the filing of copies of contracts (section 211) contracts with common carriers not subject to the provisions of the act. Such contracts frequently contain provisions inimical to the public interest and to the just claims by other communications companies to equality of treatment, and full disclosure of their terms should be required. This is accomplished in the Senate revision at lines 23 and 24 of page 23. We suggest that the House bill be similarly changed by adding in line 12 of page 22 after the word "carriers" the following:

"Or with common carriers not subject to the provisions of this act."

(14)

In the ordinary course of business a communications company will enter into innumerable minor contracts, agreements, and arrangements with other carriers which relate to matters of such small moment as to render it undesirable to cumber the Commission's records with copies or to burden the company by requiring them. Subsection (b) of section 211 in the Senate revision empowers the Commission to exempt minor contracts from the requirements as to filing.

A like provision should be added to the House bill as subsection (b).

(15)

Section 211 requires that contracts affecting traffic be filed with the Commission. This section should be broadened to give the Commission power to modify or disapprove such contracts where found to be illegal or against public interest. Where there is some particular contract which needs correction in

the public interest the Commission should not be powerless to require the modification of the contract. The Interstate Commerce Commission has found itself handicapped because of its lack of specific power to disapprove leases of carrier facilities to shippers on the carrier's line where such arrangements were obviously improper. Consequently, any contract or arrangement relating to traffic with anyone, common carrier or otherwise, unless exempted by the Commission under section 211 (b), should be filed with the Commission and subject to Commission's scrutiny and approval.

It is suggested that there be added at the end of section 211 a new paragraph to be known as "subsection (c)", which might read as follows:

"The Commission shall have the power to suspend the carrying out of any contract or any part of any contract which it finds is contrary to law or to public policy."

(16)

The first part of section 212, taken directly from section 20 (a) 12 of the Interstate Commerce Act, prohibits interlocking directors between companies subject to the act, except under Commission authority. The obvious intent, of course, is to eliminate common directors from competing companies, an arrangement which tends to restrain competition. In its present form, however, the bill requires authorization of common directors for subsidiary companies. It is suggested that the word "competing" be added to line 19, page 22, so that the phrase will read:

"Officer or director of more than one competing carrier subject to this act."

(17)

Section 213 (a), dealing with the valuation of carrier property, makes no provision for a hearing by the Commission, recognized to be proper in the Senate revision. We suggest that the provision for hearing be included in the House bill, by adding in line 10 of page 23, after "Act" the words "and after opportunity for hearing", followed by a comma.

(18)

The revised Senate bill, section 213, contains subsection (e) which is not a part of the House bill. This subsection requires that the Commission shall keep itself informed of all new construction, extensions, improvements, retirements, and other changes in condition in carrier property. This section would apparently make it mandatory upon the Commission to require voluminous reports imposing a great burden upon the carriers and inevitably requiring a large Commission force to verify and test-check these reports. This subsection is not needed since the Commission has ample authority under the present subsection (e) of the House bill, but if the committee should consider incorporating the new subsection it should at least eliminate the mandatory requirement by changing "shall" to "may" so that the Commission may have some discretion in the matter. The burdensome nature of these mandatory provisions with relation to valuation have been stressed so frequently before the committee that it is unnecessary to mention it further.

(19)

The revised Senate bill also contains another new subsection to section 213 known as subsection (g), which provides that the Interstate Commerce Commission may, upon the request of the Commission, complete its valuation of property of the carrier subject to the act. The Interstate Commerce Commission has made no attempt to value the carriers other than the 2 major telegraph lines, and the valuation of these 2 companies is still incomplete. There would seem to be no justification for a perpetuation of methods and theories of valuation adopted by the Interstate Commerce Commission which will probably differ in essential details from the methods and theories which will be developed by the new Commission for property of essentially different character from the railroad property with which the Interstate Commerce Commission has dealt principally. Valuations of the carriers subject to this act should be on a comparable basis, and there is no assurance that this would result if the Interstate Commerce Commission should value separately the two telegraph lines, leaving to the new Commission the task of valuing the property

of other common carriers subject to the act. To leave the task of completing the valuations to the Commission does not mean that the underlying investigations made by the Interstate Commerce Commission and the data and information accumulated by its staff are to be lost. They will still be available and capable of being utilized by the new Commission with no loss.

(20)

Section 214 of the bill is another section incorporating provisions of the interstate commerce laws which relate only to railroads without proper consideration of the differences requiring different treatment between the regulation of railroads and the regulation of communications services. The provisions of section 214, like the provisions of section 201 (a) commented on above, are totally inappropriate in a bill which perpetuates, as this one does, the principle of competition between the telegraph companies, since these provisions could only result in weakening the competition of the smaller of the two competing telegraph companies.

In order that competition in this field may be continued in a healthy state, it is essential that each of the competing telegraph companies should be left in a position in which it is able to extend its lines and services freely and quickly, either by construction, by contract with the telephone company, with the independent telephone companies, with railroads or public utility companies, or by any other means. The proper conduct of a competing telegraph service frequently demands that the service be extended practically overnight into some new territory; and competition should not be hampered by the enactment of provisions such as those contained in section 214, unless it is determined to do away with competition between the two telegraph companies by permitting their consolidation subject to adequate safeguards.

There is no such public interest in limiting the extension of telegraph facilities as there is in limiting the extenson of railroad tracks. Such extensions create no additional problems of highway transportation or additional dangers to the public, as in the case of railroad extensions.

In any bill which perpetuates the principle of competition in the telegraph field, the provisions of section 214 should be wholly eliminated.

Further specific comment on the section follows:

(1) The section makes reference throughout, as did the original Senate bill, to "new line or circuit." In the revised Senate bill the word "circuit" has been eliminated. This elimination at least makes the Senate revision somewhat less undesirable than the House bill because the word "circuit" in telegraph phraseology means an additional channel and not of necessity the use of new additional physical facilities. The use of the word "circuit" would seemingly require a certificate in the event an additional circuit or channel is desired to be utilized over existing lines, clearly not the intent even of the draftsmen of the section. The change, however, should be even broader. The term "now line" is inappropriate. The literal language of the bill would require a certificate if an additional new line is strung on an existing pole line. It must have been the intent only to require Commission approval of the installation of new telegraph facilities only where none previously existed, and not to hinder a company from enlarging its facilities if needed to serve the public properly. If the section is to remain at all, as it should not, the term "new pole line" should be used instead of "new line or circuit", wherever these words appear.

(2) The concluding proviso in paragraph (a) of this section as it appears in the revised Senate bill is at least an improvement on the House bill, since it allows for a less delayed dealing with disaster or other public emergency.

(3) The procedure provided for in paragraph (b) is excessively burdensome in that it requires notice to the Governor of each State traversed by the new line and public notice in a newspaper in each county which the new line will serve. In the case of railroads this does not cause the same hardship, because ordinarily a railroad extension is comparatively short. But in the case of a telegraph extension a great number of counties will often be traversed; and the provision will be burdensome and expensive to an excessive degree.

If the section is to remain at all, we suggest that section (b) be eliminated entirely and that instead there be inserted some such clause as the following:

"The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe."

(4) Paragraph (c) is not clear as to the meaning to be ascribed to the "partial exercise" of the certificates. This term is taken from the Interstate Commerce Act, where it has particular reference to trackage rights over lines of other carriers. The telegraph situation is completely different. Frequently short stretches of telephone wires or wires of other telegraph companies are leased and the pole line used jointly with the owning carrier. The term "partial exercise" might be construed to include arrangements of that kind. This would mean a greatly increased burden on the Commission and on the carrier with no benefit to the public.

(21)

The revised Senate bill contains a completely rewritten section 215, corresponding to the same numbered section of the House bill, dealing with transactions relating to services, equipment, etc. The drastic and far-reaching provisions of the present section 216 of the House bill should clearly not be enacted until the Commission has had an opportunity to make an investigation and recommend the character of legislation which should be adopted. The provisions of the revised Senate bill are somewhat less objectionable in this regard, but it is suggested in all sincerity that their enactment at this time will impose an undue, excessive, and unnecessary burden on a new commission and tend to hamper that commission in the performance of its major immediate duty of studying the problems of communication and recommending scientifically devised new legislation.

(22)

Section 218 is full of ambiguities, as well as objectionable matter. Why should the Commission inquire into management? If it is by way of preparation for some future taking over of the communications business by the Government, it hardly seems like the appropriate way to provide for it. If the inquiry is in connection with the Commission's power to control rates, then provision is unnecessary, for the Commission has all the incidental authority needed to make that power effective.

Just what it is expected the Commission will do to make new inventions "available to the people of the United States" is equally far from clear. Is it intended to amend the patent law so as to make patent protection unavailable for the exclusion of another from the use of a patented invention? If so, in all fairness, it would seem that the provision should be clarified in this respect.

(23)

Section 220 (f) is similar to a section of the Interstate Commerce Act (sec. 20, par. 8), except that in the present bill an employee of the Commission is not liable to any fine or penalty for a disclosure of information. It is suggested that consideration be given to adding a penalty provision. Examiners and other employees of the Commission will have access to all books and records of carriers subject to the act and consequently may obtain during their investigations trade secrets and information which, under no circumstances, should be disclosed to the public.

(24)

Section 220 (g), beginning at the foot of page 35, makes unlawful the keeping of any accounts, records, or memoranda other than those prescribed or approved by the Commission. The provision is closely similar to one in section 20 (5) of the Interstate Commerce Act. We understand that in practical construction and application the prohibition as contained in the Interstate Commerce Act has been greatly restricted in scope. It is difficult to believe that it is the intention to prohibit carriers from keeping varied detailed records and memoranda bearing upon and frequently contributing to the efficiency of their operations, and representing the view of the management as to the proper method of ascertaining and recording facts of operation. To apply the restriction so as to prohibit the keeping of such records or memoranda would seem to be an unreasonable invasion of the function of management. The requirement in section 220 (c) that all accounts, records, and memoranda made by the carrier shall be open to examination by the Com-

mission seems to be adequate recognition of the possible public interest in records and memoranda such as are above mentioned.

The change suggested may be effected by striking from line 2, on page 36, the first comma and the words "records, or memoranda."

(25)

Section 315 (b) provides that complaints for the recovery of damages not based on departure from the provisions of a tariff may be filed within 2 years from the time of delivery or tender of delivery of the message. This adopts the limitation provision now appearing in the Interstate Commerce Act. It has come to be generally accepted, however, that the Interstate Commerce Act provides too long a time. The 2-year provision has resulted in numerous abuses, such as the practice of certain persons with some experience or technical information regarding tariff matters of asking large users of the common-carrier service for permission to examine all their bills, with the view of persuading such users to bring complaints against the carrier, and in other ways has created unsatisfactory conditions and worked unfairly to the disadvantage of the carrier. In recognition of these matters, both the Interstate Commerce Commission and the Coordinator of Transportation have recommended that the period for bringing complaints in cases of this character be shortened to 3 months. This would provide an adequate opportunity for one who has paid an excessive charge to institute proceedings. It is recommended that H.R. 8301 be amended to provide a limitation of 3 months for the filing of complaints for the recovery of such damages.

Subsection (c) of the same section provides a limitation of 3 years for the filing of actions or complaints against carriers for overcharges; that is, charges in excess of those applicable under the lawful tariffs. This, also, is adopted from a like provision in the Interstate Commerce Act, and here again both the Interstate Commerce Commission and the coordinator have recommended a shortening, in this instance to 6 months, of the time for the institution of such proceedings. We suggest that that change be made in section 315 (c).

(26)

The bill contains rather drastic provisions with reference to accounting and reports which extend not only to operating companies but to holding companies. The observance of these provisions will tend to increase the operating cost of communications companies during this period of unfavorable conditions. It is also possible that it will be impracticable to comply immediately with some of the other provisions of the bill. The Commission should be given power to exercise its discretion in extending the time for the performance of any of the provisions in proper cases or to waive requirements or penalties provided in the statute for failure to comply with them, when it is satisfied of the good faith of the company and the public advantage is not sacrificed thereby.

To accomplish this result it is suggested that a general provision be added at the end of section 402, line 6, which could read as follows:

"*Provided*, That the Commission shall have the right to grant a reasonable extension of time for any act required to be performed pursuant to the terms of this act or pursuant to a rule or regulation of the Commission, and shall have the power to waive or reduce any penalties prescribed herein if in its opinion such extension, waiver, or reduction is in the public interest."

The CHAIRMAN. I think that we will have to have an executive session on Monday at 10:30, and this hearing will go over until Tuesday. We will have an executive session now.

(Thereupon, at 11 a.m., the committee proceeded to the consideration of other business, after which it adjourned to meet at 10 a.m., Tuesday, May 15, 1934.)

COMMUNICATIONS—H.R. 8301

TUESDAY, MAY 15, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order. Mr. MacKinnon, you may proceed.

STATEMENT OF F. B. MacKINNON, PRESIDENT OF THE UNITED STATES INDEPENDENT TELEPHONE ASSOCIATION, CHICAGO, ILL.

Mr. MACKINNON. Mr. Chairman and gentlemen of the committee, my name is F. B. MacKinnon, president of the United States Independent Telephone Association, 19 South La Salle Street, Chicago, Ill.

The United States Independent Telephone Association is the national organization of those telephone companies that are not owned or controlled by the American Telephone & Telegraph Co., or any of its subsidiaries. They are known as the "independent telephone group" because they are "independent" of the Bell group. There are, in addition, 30 State associations, membership in these State associations automatically entitling the company to membership in the national association. The national association was organized in Detroit in 1897, and has functioned continuously since that time, for the last 18 years under the name of the United States Independent Telephone Association.

This association has appeared before your committee four times—in 1910, to ask for the enactment of a law to include telephone companies under the Interstate Commerce Commission Act; in 1919, to ask for the continuance for 6 months of the Federal rates established in 1918 by the Postmaster General while the telephone properties were under Federal control; in 1920, in connection with the Transportation Act of 1920, in which the Interstate Commerce Commission asked for definite inclusion of all telephone companies under the act; and in 1921, when we requested the passage of the Graham Act authorizing the Interstate Commerce Commission to pass upon the mergers of telephone companies. This act now appears as paragraph 9 of section 3 of the Interstate Commerce Commission Act. We now come again, after the lapse of 13 years, to

ask you, in considering the bill proposing the organization of a communications commission, to remember the independent telephone companies.

There are 6,000 companies in the independent group. They operate the only telephone exchanges in over 14,000 communities and serve in normal times 4,500,000 telephones. They own hundreds of thousands of miles of toll wires; they connect with the toll lines of the Bell group, either through connection with their own toll lines or directly with the Bell toll lines at their exchanges. Outside of cities of over 50,000 population, the independent group serves approximately as many subscribers as the Bell group.

These independent companies have an investment in their plants of $500,000,000 and in normal times have annual operating revenues of $125,000,000. Due to the depression of the last 4 years, the group has lost 1,000,000 telephones and its gross revenue has dropped to approximately 100 million dollars. In order that you may have a more detailed picture of this group, I desire to submit herewith a schedule showing the number of independent telephone companies and exchanges in each of the States.

Mr. Chairman, with your permission, I will not read that schedule, but submit it in the record. I will just call your attention to this fact, that in Illinois there are 384 companies serving 848 communities; in Indiana, 352 companies, serving 685 communities; and in Iowa, 466 companies, serving 734 communities.

This illustrates the nature of the group, and in this way we also indicate to you that many of our exchanges are small, operating in rural territories, and covering what we call the farmer connections.

(The schedule above referred to is as follows:)

State	Number of companies	Number of exchanges	State	Number of companies	Number of exchanges
Alabama	91	139	Nevada	11	18
Arizona	5	12	New Hampshire	31	39
Arkansas	83	170	New Jersey	5	29
California	90	168	New Mexico	13	19
Colorado	57	68	New York	222	370
Connecticut	4	4	North Carolina	90	262
Florida	26	97	North Dakota	254	361
Georgia	93	194	Ohio	270	654
Idaho	33	66	Oklahoma	224	412
Illinois	384	848	Oregon	110	175
Indiana	352	685	Pennsylvania	239	564
Iowa	466	734	Rhode Island	1	2
Kansas	390	641	South Carolina	65	102
Kentucky	96	191	South Dakota	201	273
Louisiana	18	41	Tennessee	115	162
Maine	84	143	Texas	389	953
Maryland	4	4	Utah	17	28
Massachusetts	5	9	Vermont	34	72
Michigan	147	322	Virginia	130	191
Minnesota	302	386	Washington	102	205
Mississippi	8	38	West Virginia	85	161
Missouri	300	698	Wisconsin	536	653
Montana	57	70	Wyoming	42	53
Nebraska	160	404			

In considering the telephone situation, therefore, it is necessary that the committee have in mind this widespread service rendered by these 6,000 independent companies and remember that they furnish the facilities for calls originating and terminating in 14,000 of the 20,000 communities in the United States.

In this connection, it seems desirable to call attention to certain errors in the general statistics of the telephone industry included in the first two pages of the Splawn Preliminary Report on Communication Companies laid before your committee on the first day of these hearings and discussed in detail by Dr. Stewart of the Department of State. The report is an analysis of the holding-company situation and not of an investigation of the telephone industry as a whole.

I understand, and have seen a copy of the public print in which some of the statements are corrected, but inasmuch as the committee print has been given to the committee, and was distributed to the committee, in which it was described in detail, it has seemed to me well to call attention to some of the errors which I think crept in the first committee report due to the hurry in which it was prepared.

Mr. PETTENGILL. You say 14,000 out of 20,000 communities?

Mr. MACKINNON. Yes, sir.

Mr. PETTENGILL. Do I understand that in those 14,000 you do not compete with the Bell?

Mr. MACKINNON. We have one large competitive situation in Philadelphia—but outside of that, there are not more than 12 or 15 towns in the United States where there are two exchanges.

The Bell group has been described for you by Dr. Splawn, but he has touched but little upon the composition of the independent group, since he has confined his statistics to those companies that make annual reports to the Interstate Commerce Commission, as you will note in checking on the public print, which is being distributed, I understand, now.

Only those companies that have annual operating revenues of over $50,000 report to the Interstate Commerce Commission. There were 242 independent companies and 54 Bell companies that reported for 1932. According to our records, in 1932 there were 6,246 independent companies in the United States, so that the statistics do not include the figures of 6,000 companies. The statements made in the Splawn report are corrected in a way by a footnote; but one of these footnotes states that in the 13,793,229 telephones reported for the Bell group were included the telephones of the 6,800 companies of the independent group. This is incorrect as the figures given in that paragraph are for the Bell companies only. This statement also has been corrected in the public print. Other paragraphs contain corrected figures.

A brief correct statement of the telephone industry as a whole is that on December 31, 1932—as announced by the Census Bureau—there were 17,424,396 telephones in operation in the United States; that of these, 13,793,229 were owned by Bell companies, and 3,631,167 by independent companies; that of the total investment in telephone plant of $4,791,280,000, the independent group owned $506,792,023; and that of the 334,000 employees in the industry, 68,000 were engaged in the operation of the independent properties. We hope the description of the industry in the Splawn report in its final form will correct some of the statements in the preliminary report so as to give this committee and the public an accurate picture of the telephone industry.

The use of the word "independent" in the Splawn report, to describe a company not owned by or owning another company, makes the report state that there are but 69 independent companies, when as a matter of record there are 6,000 such organizations. It is unfortunate that the report does not make use of the terms used in the industry by which a company not affiliated with another company is called an "individual" and all companies not owned by the Bell group are called "independent". As a consequence of this different use of terms, the tabulations on page 2 of the report give a decidedly misleading picture of the independent group and consequently of the telephone industry as a whole.

Dr. Splawn has divided the independent companies into two sections, "integrated" companies and "independent" companies, but in addition he has taken some 40 of the independent companies and put them in the Bell group, because some one of the Bell subsidiaries owns a minority interest in one of these 40 companies. The assumption apparently is that if a Bell company owns a minority interest in the independent company, the Bell company controls that independent company.

The CHAIRMAN. Well, is that not usually true?

Mr. MACKINNON. I will answer you in the next two clauses of my statement, Mr. Chairman, if I may. If I do not, I will be very glad to go into that.

To those of us who have been in active touch with and participated in telephone developments of the last 30 years, this is a very unfair thing to do. Many of these companies in which the Bell companies now own a minority interest came out of the severe competitive contest that took place prior to 1914 victorious over the Bell companies operating in their territory. An agreement by the Bell to sell to the independent company meant that the victorious independent organization had to issue its securities to the Bell organization in order to pay for the Bell property. Financing of independent telephone properties at that time was a serious problem. The general public would not buy independent securities. To effect mergers, the owners of the independent properties very reluctantly in some instances paid for the Bell property by their securities. These transactions took place 15 to 20 years ago, but never has the Bell company in any way controlled these properties, the majority of the ownership remaining in the hands, in many cases, of the organizer and manager of the properties.

Among such companies are the Athens Home Telephone Co., of Athens, Ohio, the Intra-State Telephone Co., of Galesburg, Ill., and the Jamestown Telephone Corporation of Jamestown, N.Y. Similar examples can be pointed out for others of these companies placed by the Splawn report in the Bell column. Out of the 6,246 independent companies, there are 40 on which the mark of Bell control has thus been arbitrarily placed in the Splawn report. These companies should be classed in the independent column.

I think, Mr. Chairman, that is the explanation or answer to the question you asked.

The CHAIRMAN. Well, what percentage does the Bell own in these companies?

Mr. MACKINNON. It varies in various companies.

The CHAIRMAN. How much do you think that the Bell would have to own in concentrated ownership to be in control of the independent company?

Mr. MACKINNON. I do not think that you can put any definite percentage. It will depend upon the character and the financial ability of the majority holder.

Now, some of these men to whom I have referred, owning for years as high a percentage as 50 or 60 percent of the stock and property, have asked me since this report came out to explain how their company can be classed as controlled by the Bell when they themselves have controlled it ever since it was built. They are substantial citizens in their communities.

Now, if the stock were well scattered and in the hands of weak organizations, or not in the hands of any one strong organization, we might say the Bell, by owning a minor interest, could control that property; but we feel that it is very unfair to say that.

The CHAIRMAN. Is not a 20 or 30 percent concentrated ownership sufficient to constitute control in most instances?

Mr. MACKINNON. Well, but suppose the other 80 percent, or 75 percent, is concentrated in strong hands.

The CHAIRMAN. Well, it is not usually concentrated in as strong hands as the Bell.

Mr. MACKINNON. As we have attempted to say, in some cases it is in strong individual hands, and in the hands of the man who built that plant and is the majority stock owner and has always owned that property, and he still owns it, and he still operates it, and it has never been controlled by anybody else.

The CHAIRMAN. It is rather usual among these large companies, as soon as a substantial interest is acquired in another company it owns it for the purpose of control. Is that not so?

Mr. MACKINNON. Not in the cases I have illustrated, Mr. Chairman.

In 1914 and 1915, when we ended what we regarded as one of the severest competitive fights that has ever taken place in this country, we wound up with an agreement under what was called the "Kingsbury commitment to the Department of Justice", wherein an arrangement was entered into that the Bell acquire no more competitive properties. From that time on we began straightening out this question of dual exchanges.

As an illustration, there were 600 towns in the State of Pennsylvania where there were 2 exchanges. In many of those towns the Bell had just a small exchange. They had not been able to do much more than to get a foothold. The owner of the independent property had won his fight, but he could not sell any additional securities and buy out the Bell. He issued securities to the Bell for the purpose of taking over their plant. Now, did they take that interest for the purpose of gaining control?

The CHAIRMAN. In a situation like that——

Mr. MACKINNON (interposing). That is what I mean. It is not a rule that could be laid down that would work in every case.

The CHAIRMAN. Well, we have found that to be pretty generally the situation in the investigation of large ownerships made by this committee, not only as to this group, but others.

Mr. MacKinnon. Of course, we realize that the Splawn report is a report on holding companies and must be read with that understanding; therefore, we cannot direct much criticism at the separation of the other independent companies that report to the Interstate Commerce Commission into "integrated" and "independent." By "integrated", as we understand the use of the phrase in the Splawn report, is meant a company that owns another company or is owned by another company. Had the report used the term "integrated independent companies" and instead of the word "independent" in the third column used "individual independent companies" what is intended would be much clearer.

Reference is made, on page 39 of the Splawn report, to competitive situations. There are few situations where two exchanges are in operation. As I have said, the only one of any size is that in Philadelphia, where the Keystone Telephone Co. competes with the Bell of Pennsylvania. Outside of this situation, there are probably not over a dozen points in the United States where there is competition and in some of those the exchanges are very small. The competition we have in the telephone business is competition as to service rendered and methods and equipment used; and in that sort of competition the independent companies are very effective.

Reference is made in the Splawn report to the fact that some of the holding companies issued securities that had not been approved by any regulatory body. The real picture would have been much clearer were the report to have said that the reason that those securities had not been approved was because no regulatory body had been provided to approve them. The statements in the report carry the inference that there had been an evasion of control, which is not the case, as the issues of our companies have been passed upon by regulatory bodies wherever those bodies had the right to pass upon them.

The report, we understand, is a preliminary report and will be followed by a larger detailed report which will probably amplify some of the statements and give a much clearer picture of the operations of the independent group.

The independent group is also composed of a number of large manufacturing companies which, from the beginning of the industry, have supplied the independent companies with their equipment and in whose laboratories their engineers have constantly devised improvements in telephone equipment and to which must be given credit for many of the developments in telephony that are in use by both independent and Bell companies. Among these manufacturing companies are the Kellogg Switchboard & Supply Co. of Chicago, and the Stromberg-Carlson Telephone Manufacturing Co. of Rochester, N.Y., makers of manual equipment, and the Automatic Electric Co. of Chicago, and the North Electric Co. of Galion, Ohio, makers of automatic equipment. In addition, there are smaller organizations building specialties needed by the operating companies. This manufacturing division is essential to the independent group. The competition between the manufacturers for the independent business has been a great incentive to development and the competition of these factories and independent engineers with the engineers and factories of the Bell group has been one of the reasons for the

great growth and development of the telephone industry. It is necessary, therefore, that in considering this problem, the regulation of the operating companies, your committee have in mind this great manufacturing division and should have also in mind that the 6,000 operating companies are individually owned and only in rare instances does a factory have an interest in an operating company, nor are the factories owed by the operating companies.

From this statement of the independent group your committee will realize that the independent companies have a vital interest in any legislation that may be proposed that will affect the telephone industry. The first provision giving the Interstate Commerce Commission jurisdiction over telephones was enacted into law and became a part of the Interstate Commerce Commission Act in 1910 at the request of the independent companies through this national association. Immediately after the insertion in the Interstate Commerce Commission Act of the provision relating to telephone companies, laws were passed in a number of States providing for the organization of State regulatory commissions and since then one State after the other has followed with similar legislation until now there are only three States—Delaware, Iowa, and Texas—that do not have a State commission having some control or jurisdiction over telephone companies. In 16 of the States this control or jurisdiction covers practically every part of the field of regulation as to rates, charges, practices, etc. We, therefore, have been in very close contact with the State Commissions, and, by reason of our contacts, have learned their difficulties due to overlapping of Federal and State authority.

As we see it, the real problem presented to this committee is that of the dividing line between Federal and State regulation of telephone companies and the setting up of a reasonable, efficient, and economical system of coordinated regulation by Federal and State commissions of those matters that require coordinated action.

In our statement made to the Senate committee during the hearings of that committee on this Communications Commission bill, we said that in our opinion the problem to be solved is that of arriving at a dividing line between interstate and intrastate business. We now realize that in that statement we did not present the problem as we intended to state it. The question of the separation of interstate and intrastate business is very involved. Under the Interstate Commerce Commission Act a company that handles an interstate message is engaged in interstate business. But as a practical matter just because that company handles a few interstate calls the Federal regulatory body should not be burdened with its regulation, nor should the company be burdened by Federal regulation. Such regulation would be an unnecessary expense to the public and the companies.

To set up an efficient and economical system of regulation it seems to us necessary to consider the Federal and State commissions as parts of a coordinated body and assign to each the duties and jurisdiction that each can handle most efficiently and economically. Were this committee to be called upon to create a commission to take the place of the Interstate Commerce Commission and the State commissions and regulate all the telephone companies, this committee would provide for a general organization and State or district

organizations. To the general organization would be assigned the duty of regulation of those practice and activities that are of a strictly interstate nature—that could not be looked after by one of the State organizations. This would bring under the immediate supervision of the general body those companies whose property extends beyond State lines or are part of an organization operating in more than one State and therefore requiring the same rule as to accounting, financing, depreciation, practices, and rates. And to the State organization would be assigned the supervision of all of the activities of those companies whose property does not extend beyond a State line and who are not a part of a group operating in more than one State. Why should not this present problem be approached in the same way—because the State organizations are State commissions does not change the problem—only the method of procedure.

There are six matters over which the bill provides there is to be regulation—rates, accounting, depreciation procedure, valuation, financing, and practices in connection with extensions, purchases of equipment and management.

As to rates: As has been stated by previous witnesses, 98 percent of the telephone calls are intrastate. We submit that whoever regulates 98 percent of a company's business must necessarily regulate the other 2 percent. As a practical matter, the interstate telephone rates are governed by the intrastate rates—it cannot be otherwise. Those who suggest that the Interstate Commerce Commission has failed to function on account of the pressure of railroad regulatory demands, or dereliction on the part of the Commission itself, are wrong. We know this from our intimate knowledge of the telephone industry and contacts with the Interstate Commission during the past 25 years the Commission has had supervision of telephones. The rates fixed by States have controlled the interstate rate. There has been no action by the Interstate Commission on account of complaints because there have been no complaints; as the interstate rates are in tune with the State rates.

As to accounting: We have experienced this difficulty in connection with the accounting systems and the fixing of depreciation rates. Many of our smaller companies in the rural communities are not concerned particularly in accounting, nor in rate cases. Almost any evening the village fathers who gather at their regular rendezvous can calculate how much is the revenue of the "telephone man" as he is called, and how much are his expenses. They know the wages of the lineman and each of the operators. Such a condition exists until the municipality where the companies are operating reaches such a size that this intimate knowledge of the owner of the plant and his employees does not exist. When that point is reached, the company must go into accounting; must keep records to be able to prove its expenses, its revenues, and its investment. And right then the manager of the company realizes that his accounting system must be uniform with that of other companies similarly situated. In the larger centers, this necessity for uniformity increases on account of the need for making the same statement to bankers in connection with financing operations.

The telephone companies of the independent group need uniformity in their accounting practices. This uniformity of accounting

they have been securing through the Interstate Commerce Commission. The present bill allows the State commissions to prescribe such accounts as they think best, but at the same time allows the Federal Commission to prescribe such accounts as it thinks best.

There cannot be adequate regulation unless there be a uniform system of accounts, simplified, of course, for the smaller companies. This uniform system should be the result of agreement by the regulatory bodies.

As to depreciation and valuation: The same argument applies to depreciation and valuation procedures. It is impractical to have two methods of handling depreciation and valuation. There must be coordination.

As to control of financing: Here, again, there must be coordination with clearly defined limits of jurisdiction. The question arises now whether, in view of the Securities Act, these commissions should have the responsibility of passing upon securities issues or whether this responsibility should be taken from the Federal Trade Commission and rest entirely with the regulatory commissions.

As to practices: As practices involved in interstate control are the same as those involved in intrastate control, and because the intrastate rules will prevail, because of the domination by intrastate business, here, too, there should be coordination.

We desire to object most vigorously to any provision that turns over to a regulatory body the management of our companies. Could the growth of our 6,000 companies have taken place had the companies been obliged to obtain permission from a commission before extending their lines or financing or purchasing equipment? Surely, any one who is familiar with this development will agree that only by the freedom of individual action and with the least of regulation could this development have taken place.

We now want to make a few suggestions, Mr. Chairman, as to what we think should be done toward this line of producing coordination between the Federal and State corporation commissions, which, we have thought, is the essential part of this proposed legislation.

We would like to make a few specific suggestions as to changes in the wording of certain paragraphs of the bill:

(1) Add to section 2, a paragraph (b), to read as follows:

> Nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to charges, clasifications, practices, or regulations for or in connection with intrastate communication service of any carrier or to any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect control with, such other carrier.

This provision, we think, will provide the definite dividing line between Federal and State commissions' jurisdiction over our small individual companies whose interstate business is such a small part of its business as to be only incidental and which cannot be supervised by the Federal body.

(2) We suggest the elimination of paragraphs (j) and (k) of section 3. These paragraphs are confusing and will lead to unnecessary complications and misunderstandings. There might be several groups of "parents" in one corporation under this definition.

Ownership of 15 percent of the stock of a corporation might be prima facie evidence of control. But it is not conclusive evidence; as witnessed by the Splawn report inclusion under Bell controlled companies some that are over 50 percent owned by one individual.

(3) Eliminate section 210 because it is replaced by the new paragraph we have suggested for section 2. The last clause in section 210 is unnecessary, even if our suggestion be not followed, as, of course, no company "engaged exclusively in intrastate commerce" can be under Federal regulation.

(4) In section 214 eliminate the words "or circuits" appearing in all paragraphs of the section and insert before the word "line" wherever it is used the word "pole" so that the extensions or new constructions referred to shall be of "pole lines". The "pole line" is what is involved in the extension of telephone service to new territory which the Commission is to control rather than the stringing of wires on existing pole lines or the setting up of circuits by means of existing wires.

I think Mr. Gifford, in his statement, went somewhat into detail as to the setting up of circuits. A circuit may be made up of this group of wires today; it may be another group of wires tomorrow. So we regard, as Mr. Gifford regards, the use of the word "circuit" as not proper in this connection.

As to the word "line", if you should construe that to mean what we have in mind, or what we think the committee had in mind, this is not the proper term, because the stringing of an additional pair of wires on a pole line already in existence, to take care of additional business, is a good deal like a railroad putting on another train on a track that is already in existence, for the purpose of taking care of additional business.

But if there is to be any control exercised over an extension, the essential thing to control is the construction of new "pole lines", as we call them, in new territory or down a road to develop that territory, and so we make the suggestion that, in the language of the industry, what you should put in here is the words "pole line" and cut out the word "line" and the word "circuit".

As we say, the pole line is what is involved in connection with an extension.

In that connection, I have noticed the comments of the Interstate Commerce Commission's representative before the Senate hearing at page 207 of the hearing, before the Senate committee, in which their representative, in a detailed report, recommends changes in connection with the bill, said:

> The words "line" and "circuit" are not defined. Perhaps they are self-sufficient, but any necessary definition should not be overlooked. Definition of "extension" also would seem desirable, so that the provisons would not hinder or preclude such necessary operating changes or rearrangements of existing lines or circuits for the purpose of meeting changes in the flow of traffic, which otherwise might technically be regarded as extensions of the prior separate lines or circuits.

And that is our point.

Thus, the shifting of the use of that pair of wires in connection with the building up of the circuit is a necessary part in taking care of the flow of traffic, and the stringing of new wires on pole lines already existing is just necessary development of a part of

the plant to take care of additional traffic; but the extension of pole lines which might be a duplication of somebody's else pole line or an invasion of the territory of some other organization is what evidently the committee had in mind, and we therefore make the suggestion, as we have said, that the word "pole" be put in before "lines" so as to make it definite.

Our further suggestion is:

(5) In paragraph (h) of section 220, omit all of the words after the word "carriers" in line 1, page 39 (committee print), and omit paragraphs (i) and (j) of section 220.

That section refers to allowing the State commissions to require the setting up of their own accounting systems, to set up their own depreciation rates, and so forth. As we have said, we think that regulation, to be efficient and economical, should be a coordinated regulation in which the Federal Commission and the State commission shall work jointly. We think that such a suggestion as is made in section 220 will only lead to confusion; will not enable either body to work efficiently. We have had experience in that line over the past years, and we think we know that only by a stricter coordinated system will we get results.

Our reason for these suggestions is that there should be no possibility of conflicting orders of Federal and State commissions, and all accounting and depreciation regulations should be adopted by agreement of those bodies.

(6) The last clause of paragraph (b) of section 221 should be omitted as impractical and confusing, because where exchange service is given in two States by one exchange there may be two State commissions involved; or there may be a State commission in one State and no commission in the other; or there may be a commission in neither State.

We are speaking there of the point which under certain conditions the Federal Commission is to exercise no authority if there be a State commission, inferring where there is no State commission the Federal authorities will exercise jurisdiction.

On this particular point Mr. Deering, secretary of the Iowa Independent Telephone Association, is going to ask for time to explain just how this section will work in the telephone business.

We also suggest that this paragraph should be transferred and made paragraph (c) of section 2.

(7) Section 7, on joint boards and cooperation wtih the Commission, is a wise provision and should be further strengthened so that the Federal Commission shall be required to submit any general regulations such as accounting, depreciation, or valuation to such joint boards. Joint hearings and close cooperation with the State commissions have been found necessary to the effectual administration of its duties by the Interstate Commerce Commission in connection with railroad regulation. In that regulation interstate business is predominant. Such coordination is much more needed in the regulation of the telephone industry where intrastate business is dominant.

This provision is the real central point of effective and economical regulation of the telephone industry.

With the insertion of our paragraph (b) in section 2 and the strengthening of this section 310, we believe you will have the basis

for a system of telephone regulation which will be suited to the needs of the industry and the public.

We further suggest that the provisions of section 310 be transferred to section 2 or made a new section at the beginning of the act.

The foregoing are our suggestions to help provide effective reasonable regulation of the telephone industry. However, we do not want to be understood as favoring other of the provisions of the bill on which we have not commented, because we have at this time been concentrating on what we think is essential before other provisions are considered—a procedure that will provide the means of close coordination between Federal and State commissions.

We have gone over the bill carefully and have reached the conclusion, without regard to the fact that that conclusion may have been reached by others, that no new regulatory provisions should be enacted into law at this time. We think that if a Communications Commission be provided which will utilize only the present existing Interstate Commerce Commission law as it applies to telephone companies and that Commission proceed to hold conferences with the State commissions where the State commissions, instead of sitting to one side waiting for something to be apportioned to them shall sit up at the table and help decide where the dividing line shall be, and if to such conferences or hearings representatives of the industry are called, through these hearings and investigations there should be formulated a procedure that will produce a practical working method of State and Federal regulation with clearly defined lines as to territory and, in connection with some matters, joint control.

Not only cannot some of the new requirements be applied to our companies from the very nature of the companies, but this question of State and Federal overlapping will present itself in connection with every one of them.

Statements have been made and given considerable publicity that there should be monopolies in the communication field. Some such arguments were presented here in connection with the discussion of the report of the committee on communications, headed by the Secretary of Commerce. The Independent group cannot let such statements remain in the record without submitting its own opinion. The proposals were in effect that the Independent telephone companies should be turned over to the Bell, as well as the use of voice radio, and that record communication by wire, radio, or cable should be turned over to some other corporation as a monopoly. We submit that the two groups in the telephone industry under separate ownerships have been and are essential to the public service, and we submit that radio, in which some of our manufacturing companies are deeply interested, and in which every one of our owners of property is interested as an individual, should not be hindered in its development by any such proposed monopoly. There are yearly changes in the telephone art, but there are hourly changes in the radio art, and the opportunity for the development of the use of radio should remain unhindered.

In connection with this discussion of competition, we are going to present some remarks by Dr. Friday on the essential value of competition.

That, Mr. Chairman, is our statement.

Mr. COLE. Mr. Chairman, may I ask one question?

The CHAIRMAN. Mr. Cole.

Mr. COLE. I understood you to say that 98 percent of the business is intrastate.

Mr. MACKINNON. Yes.

Mr. COLE. My recollection is that in my own State, where we just met with a reversal in a rate case a 3-judge court set aside as confiscatory a decision of our commission—I believe it happened yesterday—in which they said about 85 percent was intrastate.

Mr. MACKINNON. It depends upon what you are using as your unit of measurement. In speaking of this, we are speaking of the number of calls.

Mr. COLE. Well, in our rate cases, is there just an arbitrary decision among counsel as to what percentage shall be classed as intrastate and what is interstate; how do you arrive at that?

Mr. MACKINNON. Well, there have been different methods of arriving at it, but it is generally figured upon calls. If you go into the statistics you will find that, as we have stated, an average of 2 percent of the calls are interstate; but in the Illinois Bell case, which is the case that has just been decided by the supreme court, it was found that only one half of 1 percent were interstate calls.

Now, when you go into the volume of business by dollars and cents, you will find that about between 90 and 92 or 93 percent of the volume of business is intrastate, and from 7 to 8 percent is interstate.

In that connection, the Illinois Bell case, which is the case on which most of us that have been following regulation are now concentrating on, went up from the Illinois commission to the supreme court some 2 or 3 years ago—3 years ago, I think—and it was sent back for a decision as to this question of how much was interstate and how much intrastate business and for some practical method of establishing the dividing line, the judge, or the three judges, made use of the basis, and that was accepted by the supreme court when it came up to them on the second appeal, and they found about 2½ percent of the use of the property went to interstate and 97½ percent to intrastate business in that case.

Mr. PETTENGILL. Mr. Chairman.

Mr. HUDDLESTON. Mr. Pettengill.

Mr. PETTENGILL. As I recall in your statement, you said that the act of 1910 was passed largely at the instance of the independent companies.

Mr. MACKINNON. Yes, sir.

Mr. PETTENGILL. Has your experience under that law been clearly satisfactory to your companies?

Mr. MACKINNON. Yes. May I go into detail as to what we asked for and why we asked for that?

Mr. PETTENGILL. Yes. That is what I want.

Mr. MACKINNON. Those of you who were active in business at that time will remember that the height of competition was reached in 1910. The Bell companies and the independents had built exchanges in practically all of the towns in the central part of the county as well as in the east and west. The Bell companies were attempting to eliminate those competing companies by reductions

in rates. Where the independent was getting the better of them, they were making very low rates in one town, and holding the rates up in another town. There were no State commissions—I think there were one or two—and so our people came to Congress to get an act which would put the control of this discrimination somewhere. At that time also we were beginning to construct and thinking a great deal about constructing long distance lines, and so we came to Congress, and before this committee, and asked for the inclusion of telephone companies in the act to regulate commerce. But we practically made no use of that provision because immediately the State commissions began to spring up and our problem became intrastate rather than an interstate problem.

The Interstate Commerce Commission has been very valuable to us. And as we have attempted to point out, the Interstate Commerce Commission has given us a uniform system of accounting. We could not have had it otherwise, and we do not think there can be uniformity of those general practices which must be applicable to the large companies, to enable them to function properly, unless there is some governing body with power to order them into effect, and it could not be done if this commission or that commission has the right to set it aside.

And that applies also to such matters as determining methods of arriving at depreciation—all general matters. We have found the Interstate Commerce Commission and Federal control of great advantage although practically all of our regulation goes to the State commissions.

Mr. PETTENGILL. Would you care to make a statement, sir, as to whether the independents, say, for the last several years, have been holding their own or are they gradually being absorbed?

Mr. MACKINNON. We consider that we have been holding our own.

About 1914, which was the end of the time of what we call the end of active fighting competition between the independents and the Bell in the construction and operation of exchanges, we began to work out all over the country the solution of that competitive situation.

With the establishing of the State commissions and regulation, we all came under the same rules and therefore the public instead of turning to a competitive exchange as their relief from what they might consider high rates and arbitrary action of the other company, turned to the State commission with their complaints and asked for control, so when State commission control came in, this fighting and destruction of the two exchanges was practically at an end. We then began to work out the handling of these competitive situations, and we did so by a tacit arrangement with the Bell Co. by which where we had the strength and the larger exchange, we took over the Bell exchange. Where our company was weak, not able to take over the Bell exchange, and where they had the ascendancy to such an extent that it might be regarded as a Bell point, they took over our exchange.

An amicable arrangement of that kind providing for a merger was worked out through the Department of Justice which passed upon those transfers to the Bell companies.

We then found that that procedure was not entirely satisfactory to the Department of Justice so we came to this committee, as I stated, and asked for the enactment of the Graham Act, which gave the authority to the Interstate Commerce Commission of the granting of a certificate to permit consolidation of two telephone companies. It was at our specific request.

So we worked out many competitive situations.

Mr. PETTENGILL. In your statement you said:

> The competition we have in the telephone business is competition as to service rendered and methods and equipment used; and in that sort of competition the independent companies are very effective.

And it occurs to me, sir, that you must have afforded some competition in the amount charged to customers.

Mr. MACKINNON. Well, we did in the beginning. As I have stated, competition in the beginning was a great deal of competition as regards rates. Perhaps some of you will remember, a competitive exchange was organized very many times by the business men who were opposed to the rates that were being charged, and they started the independent exchange on a low rate.

Now, to meet that situation the Bell lowered their rates lower than the initial rate of the independent company. That procedure changed, the whole situation was changed, by the establishment of State commissions which fixed the rates that a company was entitled to charge.

In many States we still have a lower schedule of rates than the Bell company.

Mr. PETTENGILL. And in some instances higher?

Mr. MACKINNON. In many instances we have a lower scale for the same size exchange, where there is no competition.

Mr. PETTENGILL. Would that statement be generally true, or would it be true that in some cases that exists, and in other cases you might be higher?

Mr. MACKINNON. No. It is based upon the fact that rates under regulation are based upon your investment and your expenses, as you submit them to your State commission.

Our companies will not, in a good many instances, have an installation of as expensive equipment, or will use a different type of equipment, which the State commission does not think requires as high a rate as is required for equipment installed by the Bell companies, or in connection with the Bell case, there may be certain supervisory expenses which we do not have in our case, and so it works out, in the large number of cases, that our companies are operating for less than the Bell rate; but we also are willing to make this assertion, that we are operating on too low rates in a great many instances. That is, they are not compensatory rates. But, these independent companies are, as I think you gentlemen all know, community affairs as a rule, and with the smaller ones the manager and owner gets a living out of it. The Bell company must not only get their interest and salaries out of that, but they must get a return on the investment.

Some of the companies which acquired independent properties during the boom period discovered that the man who had been operating the property had been getting nothing but a living out of

it, and when they tried to make a salary for the manager and a return on their investment, they could not succeed.

Mr. COOPER. Mr. Chairman.

Mr. HUDDLESTON (presiding). Mr. Cooper.

Mr. COOPER. What percentage of your independent service is intrastate?

Mr. MACKINNON. I have stated here that, generally speaking, 98 percent of the calls are intrastate.

We are taking the position, as I hope we have stated definitely to the committee, that the fact that a company does do some interstate business, handles some interstate calls, ought not, by that very fact, put it under the Federal commission for detailed control, but that sort of company should remain under the State commission.

There should be a dividing line based upon that sort of a separation, not on the basis of a legal exception, whether they are handling interstate calls or not.

Mr. COOPER. Would there not be this danger, that if you gave some of that control to the Federal commission, there would be a conflict between the State and Federal commission there?

Mr. MACKINNON. I am not a lawyer. We have assumed that the committee in framing this bill has considered that it is legally proper, to turn over to the State commission the handling of certain interstate business.

We have assumed that if that is the case, which can be illustrated in your provisions where you say State commissions shall have control of exchange business, even though the lines used in that exchange business run over State lines. If that be proper, we assume it would be a perfectly proper procedure for the Congress in passing a law to permit State commissions to control companies whose lines do not go outside of the State, even though they do a small amount of interstate business.

Mr. COOPER. I do not believe that I made myself clear. I think that I should concur in what you say yourself. I do not think that the Federal commission ought to have jurisdiction over telephone service that is purely intrastate, because there we might just as well do away with your State commission, if the Federal commission is going to regulate that business.

Mr. MACKINNON. We agree with you thoroughly there, and we think the Federal commission, the extending of the jurisdiction of the State commission, should go a bit further to this extent, that the Federal commission would not have the supervision of the regulating of a company, because of the fact that it might handle an interstate call once a day, or once a week, or twice a week.

Mr. COLE. Mr. Chairman.

Mr. HUDDLESTON. Mr. Cole.

Mr. COLE. I would like to ask a question along that line. Do you believe that the enactment of this bill would result eventually in the physical valuation of all of the telephone systems of this country? Before you answer I would like to know how you are going to establish proper rates without getting a physical valuation of the company, and in doing so the intrastate business is so interrelated to the interstate business that it is impossible to ignore the valuation of all holdings in the several States. Am I right in that?

Mr. MACKINNON. Well, we agree with that. But we also have inserted in here in answer to the last part of what you have said, that where a company operates in more than one State it shall be under Federal control. We would not relieve the Federal commission of the control of that company, nor a company that is a part of the group operating interstate lines.

There will, eventually, no doubt, be a complete valuation of the telephone plants. There have been valuations in those States where the commissions control rates. There is practically a valuation of all lines in those States now.

Now, as use goes, as we said a while ago, as use goes 2 percent of that property may be used 2 percent of the time in interstate business, 98 percent is in intrastate business.

In the valuation set-up the intrastate cases no doubt should prevail, and will prevail, but you have got to have some sort of a coordinating procedure in connection with that and our plea is that there be set up some sort of a coordinating procedure as to accounting and other matters, so as to have no conflict, so that there will not be a different system prevailing in this State, and that State, and in interstate business, and that the Interstate Commerce Commission shall be required to bring into consultation with the State boards and agree upon a system of regulation.

Mr. HUDDLESTON. Mr. MacKinnon, you have two other witnesses.

Mr. MACKINNON. Yes; I will quit very shortly.

Mr. HUDDLESTON. You have three quarters of an hour.

Mr. MACKINNON. If the committee has no other questions, I have finished.

Mr. HUDDLESTON. Are there any other questions to this witness?

Mr. HOLMES. Mr. Chairman, I would like to ask a question.

Mr. HUDDLESTON. Mr. Holmes.

Mr. HOLMES. I note in your statement, you called attention to the fact that the independent group also comprises a large number of manufacturing companies. Are these independent companies which you specify in your statement also interested in, financially, in the independent telephone group?

Mr. MACKINNON. Practically not. In a few instances they are in a very small way.

Mr. HOLMES. Another question: Are these independent-telephone companies interested financially in any manufacturing concern?

Mr. MACKINNON. No. We stated that.

Mr. HOLMES. That is in your statement?

Mr. MACKINNON. That was in my statement. As time has gone along, it may be that the factory may have acquired a little stock in this company, or that company, but that was only here and there.

Mr. HOLMES. To what extent would this new legislation proposed and the Federal commission, if it may be established, control those independent manufacturers that have no interest in the telephone companies?

Mr. MACKINNON. You mean control the manufacturers?

Mr. HOLMES. The manufacture of equipment.

Mr. MACKINNON. I would say that they, the commission, would have no control at all over the manufacturing companies under the bill as proposed. They can go into the question of purchases of

equipment by the operating companies from the manufacturing company.

Mr. HOLMES. Merely as to an investment proposition, and as to costs.

Mr. MACKINNON. As to the expenditures and their necessity.

Mr. HOLMES. You may have gone into that while I was, unfortunately, called from the room.

Mr. MACKINNON. I do not think that I did. I am very glad to make that statement, that that would be the only cases. We bring out that a part of our group is this great manufacturing group.

Mr. MACKINNON. Mr. Chairman, I would like next, if you please, to have Mr. Charles C. Deering, of the Iowa Independent Telephone Association, speak for a few minutes on this question of overlapping.

Mr. HUDDLESTON. We will be glad to hear Mr. Deering.

STATEMENT OF CHARLES C. DEERING, DES MOINES, IOWA, SECRETARY IOWA INDEPENDENT TELEPHONE ASSOCIATION

Mr. DEERING. My name is Charles C. Deering, Des Moines, Iowa. I am secretary of the Iowa Independent Telephone Association. This association is one of the State telephone associations to which Mr. MacKinnon referred.

There are in Iowa a little less than 500 independent telephone companies, operating approximately 800 telephone exchanges.

We do not have commission regulation of the telephone business in Iowa. We do have a very high development of the use of the telephone. The Federal Census Bureau takes a telephone census once in 5 years. It took such a census in 1912, in 1917, in 1922, in 1927, and the last in 1932. In three of those five reports they showed that there was the highest development of the use of the telephone in Iowa of any State in the Union. More telephones per thousand of population, 3 of those years. One year Iowa was second, and in the other it was third.

We feel that the innovations proposed in this measure and the greatly extended powers that are proposed are unwise at this time.

We very particularly call your attention to the singular treatment given to telephone companies in States where there is no commission regulation. I refer particularly to section 220, subsection (h).

Mr. MERRITT. What page is that on—what page of the bill?

Mr. DEERING. That is on page 38 of the committee print of the bill. It reads:

> (h) The Commission may classify carriers subject to this act and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

Mr. MERRITT. I do not seem to have the same copy of the bill that you have. You are reading from the Senate bill?

Mr. DEERING. This is subsection (h) of section 220, H.R. 8301. I am reading from page 38 of the committee print.

If a sovereign State decides that it does not choose to regulate its telephone companies by State commission, we can see no good reason why a Federal legislation should treat such companies any differently than it treats companies in any other State.

For example, the Interstate Commerce Commission has classified telephone companies according to their revenues. It has prescribed different systems of accounts for companies of different sizes and it has exempted from uniform accounting the small companies. The new Commission might decide it wanted to do the same thing and it might want to make similar classifications in other directions.

We suggest that the words "in any State", which appear in the third line, page 39, of the committee print, be stricken out and that in succeeding two lines the words "in cases where such carriers are subject to State commission regulation" be stricken, so that companies in a State like Iowa, where there is no commission regulation, would be treated identically as the companies in other States.

Again, in subsection (b), section 221, which reads:

> Nothing in this act shall be construed to apply, or to give the Commission jurisdiction, with respect to charges, classifications, practices, or regulations for or in connection with wire telephone-exchange service, even though a portion of such exchange service constitutes interstate or foreign communication, in any cases where such matters are subject to regulation by a State commission.

If the State of Iowa decides that it does not want commission regulation, should it not have the right to decide what kind of regulation it should have? To what extent and what character? We suggest this amendment, in line 3, page 41, of the committee print, place a period in place of the comma, following the word "communications" and strike out the balance of the sentence.

Unless that is done, it would seem to me that this new Commission would have the right to regulate exchange rates in Iowa, local exchange rates. It seems to me that is clearly the wording of this section, unless this amendment is provided for.

Now, other matters, in section 214, subsection (a)—this section is entitled "Extension of Lines and Circuits." It provides for a certificate of convenience and necessity in the case of lines that cross a State border.

There are a number of exchanges, I suppose three or four dozen of them, in Iowa, that are located near the State lines of South Dakota, Minnesota, and Missouri. These exchanges have rural lines, serve farmers, and have lines that cross the State line into the bordering States. That is not true on our east and west borders, because of the large rivers which furnish a natural barrier.

Now, similarly, the exchanges in these States I have mentioned, have lines extending into Iowa. They are farmers' lines, rural lines. This same condition prevails pretty generally over the country.

Is it necessary for those exchange owners to come to the Federal commission in Washington to secure authority to build a line to provide local telephone evchange service? We submit that that is entirely unnecessary and beside the case.

Mr. COOPER. Mr. Chairman——

Mr. HUDDLESTON. Mr. Cooper.

Mr. COOPER. You are speaking primarily of intrastate business?

Mr. BULWINKLE. That is interstate.

Mr. DEERING. These rural lines would extend across a State border and strictly speaking they would be interstate lines.

Mr. COOPER. Have you many of the Bell system exchanges in Iowa?

Mr. DEERING. The Northwestern Bell Co. operates 158 exchanges in Iowa.

Mr. COOPER. May I ask you this question: I see you have 466 companies and 734 exchanges. How do you go about it in fixing your rates, where you have no State commission?

Mr. DEERING. In Iowa, the rates are fixed by the companies in a businesslike way and frequently as the result of negotiations with the subscribers.

Mr. BULWINKLE. How do your rates compare with the rates in adjoining States?

Mr. DEERING. The rates in Iowa, for exchange services, are, in general, slightly lower than they are in neighboring States and in all of our neighboring States they have commission regulation.

Mr. COOPER. Do the rates vary with the different companies, or do you have just about a uniform rate?

Mr. DEERING. They vary somewhat with different companies, more particularly with the size of the exchange.

Mr. COOPER. Would you have two different companies in one community?

Mr. DEERING. You mean more than one company or exchange in one town?

Mr. COOPER. Well, yes.

Mr. DEERING. There are 7 or 8 small towns in the State in which a competitive situation exists; dual exchanges. In two or three of those situations, the Bell Co. owns one exchange and the independent company, either a commercial or a farmers' mutual, owns the other, and in the balance of the situations, one exchange is owned by the commercial company and the other by the Farmers' Mutual Co.

Mr. COLE. Mr. Chairman——

Mr. HUDDLESTON. Mr. Cole.

Mr. COLE. Can you operate an independent telephone company without buying maybe a part of your appliances from the Bell-controlled patents?

Mr. DEERING. I did not understand the question.

Mr. COLE. Can you operate an independent telephone company without buying your principal appliances from the Bell-controlled patents?

Mr. DEERING. Yes, sir. There are several independent telephone manufacturers who make very good equipment from whom we buy.

Mr. COOPER. Those are the companies that you made reference to in your statement?

Mr. DEERING. Yes, sir.

To cure the situation of which I have spoken, these rural lines across the State borders, we suggest the addition of this sentence at the end of subsection (a) of section 214:

"No certificate shall be required for lines to be used for telephone exchange services", and this term "telephone exchange services", is defined in the act.

Now, these matters are matters of very real importance to the companies that I represent, and they seem to suggest that the President's recommendation should be carried out, that this new commission be vested with the authority that is now placed elsewhere, and that serious, careful, and painstaking investigation be had before further legislation is enacted.

Mr. COOPER. May I say this, while I do not believe the Federal Commission ought to have control over your intrastate business, but

you are taking the position that you ought to be permitted to go further than that, into interstate business, too, do you not?

Mr. DEERING. The Interstate Commerce Commission now has a certain measure of authority over this interstate business and——

Mr. COOPER. That is, over your independent telephone companies?

Mr. DEERING. Yes; so far as they handle interstate business.

Now, the majority of these independent companies do not have their own facilities to do any interstate business, but practically all of them connect up with the Bell or other telephone lines, so that they do furnish in connection with other lines, interstate service, the Interstate Commerce Commission has decided that they are thus engaged in interstate commerce.

Mr. MERRITT. Mr. Chairman——

Mr. HUDDLESTON. Mr. Merritt.

Mr. MERRITT. I am going to suggest to the witness that it would be well for him to correct his references as to the sections in his testimony, so that they will apply to the committee print. It has not been possible for me to follow your references as to sections, because they do not correspond to the print that we have.

Mr. DEERING. Well, I have not had a copy of the committee print, unfortunately. I will be very glad, if an opportunity is offered, to see the committee print, and submit this.

Mr. HUDDLESTON. I think that you had better have it apply to something that we know about.

Mr. DEERING. Well, the section numbers, and the subsection numbers are identical, I presume.

Mr. MERRITT. They do not seem to me to be.

Mr. CHAPMAN. I could not find a reference that he made, by line or section.

Mr. PETTENGILL. That could be done later, Mr. Chairman.

Mr. HUDDLESTON. Are there any further questions?

Mr. DEERING. I will submit that in writing.

Mr. MACKINNON. I want at this time, Mr. Chairman, permission to put into the record a statement by Mr. Robert W. Hedreck, secretary of the Missouri Telephone Association, on behalf of that association.

Mr. Hedreck was here last week and hoped to be able to appear before the committee. He would like to put this statement in the record.

Mr. HUDDLESTON. You may leave it with the clerk of the committee and we will decide later whether it will go into the record.

(The statement referred to is as follows:)

STATEMENT ON BEHALF OF THE MISSOURI TELEPHONE ASSOCIATION BY ROBERT W. HEDRECK, SECRETARY, JEFFERSON CITY, MO.

The Missouri Telephone Association is a voluntary association whose membership is composed of telephone companies operating in the State of Missouri and our desire and the purpose for our appearance before this committee is to lay before the committee certain facts concerning the effect of the Rayburn bill to create a Communications Commission would have upon a large number of small independent telephone companies in our State. We are presenting these facts to the committee for the reason that we feel that the condition prevailing in Missouri is one that your committee will be glad to have before it in your deliberations on the provisions of the proposed act.

We wish, at the outset, to make it definitely clear to your committee that these telephone companies are not opposing regulation of the telephone business. They are all, as this committee well knows, now regulated by the Public Service Commission of Missouri, which commission has since its creation by our legislature in 1913 had jurisdiction over all telephone companies in our State with specific power delegated to the commission to regulate rates, capitalization, service and practices of the companies,

It is also well known to this committee that the larger independent telephone companies in Missouri have, for a number of years, been under the jurisdiction of the Interstate Commerce Commission in Washington and have complied and are complying with all of the requirements of that Commission as to accounting and other matters properly falling under the jurisdiction of that Commission under the Interstate Commerce Act.

I have prepared and will file with your committee a list of 648 communities in the State of Missouri in which the independent telephone companies for whom I am speaking, render the telephone service.

Most of these independent telephone companies are very small businesses, operating in small towns, villages, and rural communities in my State. Many of them are owned by individuals or families and their business is wholly confined, with rare exceptions, to the small local territory in which they are located. I believe that I may truthfully say to this committee that they are of no interstate importance.

As we read the Rayburn bill, the commission to be created thereby for the purpose presumably of regulating only interstate business is authorized by the bill to have certain jurisdiction over local telephone companies and among other things to inquire thoroughly into the business of a local telephone company for the purpose of determining how much of its business is interstate in order that this commission can then regulate that part of it which is interstate.

With very negligible exceptions these independent telephone companies in Missouri do not do any interstate business over their own lines. In some cases these exchanges own short toll lines connecting their town with some other nearby town, and in a very few cases some of them near the State line have a line running across it to another town nearby, but none of them own what are actually long-distance lines. They have connections with the long-distance lines of the Bell system and their long distance is sent over those lines. With the few exceptions mentioned, they cannot do interstate business over their own lines; and, while we do not have data showing exactly the percentage of the business of the average small telephone company in Missouri that could be considered as interstate business, we feel sure that it is not more than a very small percentage of the total business of those companies.

We feel that in the endeavor to be certain that interstate business of importance is thoroughly regulated, this bill has, perhaps inadvertently, given the proposed commission jurisdiction in certain matters over many independent telephone companies that are of no importance whatever from a national or interstate standpoint. We think that any bill passed for this purpose should so clearly define in te bill what is interstate and what is intrastate telephone business that it will not give the Federal Commission authority over, or require that Commission to give any attention whatsoever to, the business of these small companies (which business is practically all local business), and which are already under the regulation of a State public service commission.

To make it clear what we have in mind in speaking of small telephone companies we are attaching a list of the towns in Missouri where the telephone service is rendered by independent telephone companies. Anyone who is familiar with the State of Missouri will recognize that these are for the most part small towns and villages and that practically all of the business conducted by these small telephone exchanges is local and intrastate business.

The companies' names on the attached list are independent telephone companies. There are 648 towns in the State of Missouri, as shown by the attached list, where these independent telephone companies operate.

These companies have not, so far as we know, any complaint against regulation by the Public Service Commission of Missouri, and there are comparatively few cases of controversy between these independent telephone companies and the commission. Most of these companies have lost a large number of their subscribers during the depression, as most of them operate in rural territory and many of them are having a hard time making both ends meet now. If

additional expense is imposed upon them by regulation by a new Federal Commission in Washington the consequence will be serious to a number of them.

We feel that there is no intention on the part of this bill or any member of your committee or of Congress to impose any unnecessary burden of regulation upon these companies; and our reason for appearing before you at this time is primarily to point out the fact that in our opinion the bill as now drawn does bring these little companies under Federal regulation even though that has not been the intention; and I hope that this committee, in its deliberations on this bill, will give serious consideration to the situation of these companies, to the end that the bill may be so modified that these small companies are excluded from any kind of regulation in Washington, as we think your study of the matter will show such regulations unnecessary, either from the standpoint of the Federal Government or the public, and unless the bill is so modified it will impose an unnecessary burden of expense and time on all concerned.

TOWNS IN MISSOURI SERVED BY INDEPENDENT TELEPHONE EXCHANGES

Adrain
Advance
Agency
Alanthus
Albany
Aldrich
Allendale
Alma
Altamont
Altenburg
Alton
Amazonia
Amity
Amoret
Amsterdam
Anderson
Annapolis
Anthonies
Appleton City
Archie
Argyle
Arkoe
Arrow Rock
Ash Grove
Ashland
Atlanta
Augusta
Auxvasse
Ava
Avalon
Avilla
Avenue City
Bagnell
Bakersfield
Ballwin
Baring
Barnard
Barnett
Beaufort
Bedford
Belgrade
Belle
Belleview
Belton
Benton
Benton City
Berger
Bernie
Bertrand
Bethany
Bethel
Bevier
Billings
Birch Tree
Blackburn
Blackwater
Blockow
Bloomsdale
Bloomfield
Blythedale
Bogard
Bolivar
Bonne Terre
Bosworth
Bounds
Bourbon
Branson
Brashear
Braymer
Brazeau
Breckenridge
Brighton
Brimson
Bronaugh
Brookfield
Brooklyn
Browning
Brownington
Brunswick
Bucklin
Buckner
Buffalo
Bunceton
Bunker
Burksville
Burlington Junction
Butler
Bynumville
Cabool
Cainsville
Caledonia
Calhoun
California
Callao
Camden Point
Camdenton
Cameron
Campbell
Canton
Cape Girardeau
Cardwell
Carlow
Caruthersville
Cassville
Center
Centerview
Centerville
Centralia
Chadwick
Chaffee
Chamois
Charleston
Cherry Box
Cherryville
Chesterfield
Chilhowee
Chula
Civil Bend
Clarence
Clark
Clarksburg
Clarksdale
Clarkton
Cleveland
Clever
Clifton City
Clifton Hill
Clinton
Clyde
Coffey
Clodwater
Cole Camp
Collins
Columbia
Conception Junction
Concordia
Converse
Conway
Cooter
Corder
Corning
Cottleville
Cowgill
Craig
Crane
Creighton
Crosby

Crocker
Cross Timbers
Crosstown
Crystal City
Cuba
Curryville
Dalrington
Dalton
Darksville
Dawn
Dearborn
Deepwater
De Kalb
Denver
Des Arc
De Soto
DeWitt
Dexter
Diamond
Dixon
Doniphan
Dover
Downing
Drexel
Dudenville
Duncans Bridge
Dunlap
Dunnegan
Durham
Eagelville
East Lynn
Easton
East Prairie
Economy
Edgerton
Edina
Eldon
Eldorado Springs
Ellington
Ellis
Elmer
Elmira
Ely
Emden
Eminence
Emma
Essex
Ethel
Eugene
Eversonville
Everton
Ewing
Exeter
Exline
Fairfax
Fairplay
Fairport
Fairview
Farber
Farley
Farmington
Farrar
Festus
Fillmore
Fisk
Flagg Springs
Flat River
Flemington
Florence
Florida
Fordland
Forest City
Forest Green
Fornfelt
Forsyth
Fortuna
Foster
Frankford
Fredericktown
Freeburg
Freeman
Freistatt
Fremont
Frohna
Gainesville
Galena
Gallatin
Galt
Gant
Garden City
Gentry
Gerald
Gifford
Gilliam
Gilman City
Glensted
Golden City
Goodman
Gordonville
Gorin
Gower
Graham
Granby
Grandin
Granger
Grant City
Gray Summit
Greenfield
Green Ridge
Greenville
Guilford
Hale
Hallsville
Hamilton
Hardin
Harrisburg
Harrisonville
Hartford
Hartsburg
Hartville
Harwood
Hawk Point
Hayti
Helena
Henrietta
Hermann
Hermitage
High Point
Higginsville
Hillsboro
Hiram
Holden
Holland
Hollister
Holt
Hopkins
Hornersville
Houston
Houstonia
Humansville
Hume
Humphreys
Hunnewell
Huntsville
Hurdland
Hurley
Iberia
Imperial
Indian Grove
Ionia
Irondale
Ironton
Jackson
Jameson
Jamesport
Jamestown
Jasper
Jefferson City
Jerico Springs
Johnson City
Johnstown
Jonesburg
Kahoka
Kearny
Kennett
Kenwood
Keytesville
Kidder
King City
Kingston
Kingsville
Knobnoster
Knox City
Knoxville
Koeltztown
Koshkonong
Labaddie
La Belle
Laclede
Laddonia
La Due
Lagrange
Lakenan
Lamonte
Lanagan
La Platta
Laredo
Larussell
Lathrop
Latour
Lawson
Leadwood
Leasburg
Lebanon
Leeton
Lentner
Leonard
Leora

Leslie
Levasey
Lewiston
Lexington
Liberal
Licking
Lilbourn
Lilly
Lincoln
Linden
Linn
Linn Creek
Linneus
Livonia
Lock Springs
Lockwood
Locust Hill
Lone Jack
Lone Star
Longtown
Longwood
Lowry City
Ludlow
Luray
McFall
Mabel
Macon
Macks Creek
Madison
Maitland
Malta Bend
Malden
Mansfield
Marble Hill
Marceline
Marshall Junction
Marshfield
Marston
Marthasville
Martinsburg
Martinsville
Maryville
Matkins
Maysville
Mayview
Maywood
Meadville
Memphis
Mendon
Mendota
Mercer
Merwin
Meta
Metz
Miami
Mike
Milan
Mill Creek
Miller
Millersville
Mindenmines
Mirabile
Missouri City
Mokane
Montgomery City
Monticello
Montrose
Morehouse
Morrison
Mooresville
Morrisville
Moscow Mills
Mound City
Moundville
Mountain Grove
Mount Moriah
Mountain View
Mount Vernon
Mount Zion
Musselfork
Napoleon
Nashville
Naylor
Neeleyville
Nelson
Newark
New Bloomfield
Newburg
New Cambria
New Florence
New Hampton
New London
New Madrid
New Wells
Niangua
Nixa
Noel
Norborne
Norwood
Novelty
Novinger
Oak Grove
Oak Ridge
Oakwood
Odessa
O'Fallon
Old Appleton
Olean
Olney
Oran
Orchardfarm
Oregon
Orrick
Osage
Osborn
Osceola
Osgood
Otterville
Ozark
Pacific
Palmyra
Pappinsville
Parkville
Parma
Parnell
Patterson
Pattonsburg
Pawnee
Peculiar
Perry
Perryville
Pershing
Pevely
Pickering
Piedmont
Pilot Grove
Pineville
Platte City
Plattsburg
Pleasant Green
Pleasant Hill
Pleasant Hope
Pocahontas
Polo
Pomona
Pond
Poplar Bluff
Portage Des Sioux
Portageville
Potosi
Preston
Princeton
Purdin
Purdy
Puxico
Queen City
Qulin
Ravanna
Ravenswood
Raymore
Rayville
Rea
Reeds
Revere
Richards
Rich Hill
Richland
Ridgeway
Roads
Robins
Rocheport
Rochester
Rockport
Rockville
Rogersville
Rolla
Roscoe
Rosebud
Rosendale
Rothville
Rover
Rush Hill
Rushville
Russellville
St. Elizabeth
Ste. Genevieve
St. James
St. Marys
Salem
Salisbury
Sampsel
San Antonio
Santa Fe
Santa Rosa
Sarcoxie
Savannah
Schell City
Sedgewickville

Seligman
Senath
Seneca
Seymour
Shelbina
Shelby
Shelbyville
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Sweet Springs
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Thomasville
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Turney
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Union
Union Star
Union Town
Unionville
Urbana
Urich
Utica
Van Buren
Vandalia
Verona
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Willow Springs
Winfield
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Winston
Wittenberg
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Worth
Wright City
Wyaconda

Mr. MacKinnon. We now would like to have an opportunity for a statement from Dr. David Friday on the competitive situation.

Dr. Friday was the analyst employed by the Post Office Department when that Department was administering the telephone and telegraph companies during the war and became very familiar with the entire situation, the Independent companies, and the financing of the industry.

Since that time he has acted as adviser and economic consultant to us from time to time. We have asked him to appear at this time, and we will give him the remainder of our time.

STATEMENT OF DAVID FRIDAY, WASHINGTON, D.C.

Dr. Friday. My name is David Friday. I reside at Washington, D.C.

The Independent Telephone Association felt that in view of the various comments and suggestions that have been made, both before the Senate committee and before this committee, on monopoly and the general tendency that has been manifested throughout to insist that mergers, resulting in monopoly, were a desirable element to be incorporated into our communications system, the United States Independent Association asked me to make a study of that question and to submit a report. I have the report here in writing, and it is too long to read in the time we have at our command this morning. I would, however, like to make comment on several points

which are covered by the study and express my opinion, and that of the association, on this question of the role of competition as against monopoly in the communications policy of the United States.

First and foremost, it should be recognized that our communications system in the United States has been built up primarily through a process of competition. It is universally conceded that it is the best communications system in the world. Our people use our communications of every sort, the telephone, telegraph, radio, much more widely than any other country. Our service is better. It is interesting that in almost all other countries of the world, as you have been repeatedly told, they are monopolies, sometimes under government ownership; in fact, usually.

We here in this country have never subscribed to monopoly in the communications industry, and the industry has provided our people, under competition, with the most highly developed and best system in the world.

We have had experience in this country with both competition and monopoly, particularly in the telephone field. I want to say a word about that this morning, because in the Splawn report, and in the record submitted before the so-called "Roper communications committee", and presented to this committee, there seems to be very little about that phase of our experience. If I may, I should like to review how competition affected telephone communications of this country, and their attainment to the high state of efficiency which they have reached.

The industry started in the United States with a very brief period of competition. In 1876, when the telephone was invented the only branch of electric communications in existence was the telegraph. At that time the Western Union was already the dominant company in the field. This company was offered the telephone by Alexander Graham Bell for $100,000, and they did not think that they wanted it. Next year they changed their minds and went into competition with the Bell Co., which had been organized, and for 2 years there was drastic competition; but in 1879 the Bell Co. and the Western Union composed their differences, the Western Union withdrew, and from that time on to 1894 the telephone industry was carried on as a monopoly. This was based on the Bell patents, which expired in 1894. During that period of 15 years there was no competition in the field. The result of those 15 years of operations can be very briefly stated. In 1894, when the patents expired, there were less than 300,000 telephones in use. That was about one phone to every 240 people.

There was a vast difference of opinion as to what the public demand would be for the telephone under different rates and different types of service. The telephone company under its then president, Mr. Hudson, evidently thought that there was not much of any demand worth developing.

After 1894 a period of very active competition began, as Mr. MacKinnon said. I consider that it was one of the most violent competitive periods any industry ever had in the United States. If any of you want to spend a pleasant evening, get a little book from the Congressional Library entitled "A Flight with an Octopus", by Paul Latzke. You will find how bitter that competition

was and how high the feeling ran. When competition had been in progress for 8 years—that is, from 1895 to 1902—we took our first census of the electrical industry in the United States. The results, when published, showed that during that 8 years, the independent telephone companies installed almost 1,000,000 telephones in the United States, and the Bell Telephone Co., to meet that competition, installed another million, so that the first census of the telephone industry, in 1902, showed that there were in this country some 2,300,000 telephones. From 1902 to 1907 the growth was more active than ever before. The independents installed 2,000,000 telephones, and the Bell Co., to match that, installed almost 2,000,000 more; so that by 1907, when the second census was taken, there were 6,100,000 telephones in use. And by 1912 there were 8,700,000 telephones in use, of which the independents had 3,600,000; that is, for every single telephone in existence in 1894, at the end of 15 years of monopoly, the independent companies had installed 12 telephones and the Bell Co. had installed more than 16.

Several questions have been asked about rates here this morning. The rates throughout that period fell rapidly. In the annual report of the American Telephone & Telegraph Co. for 1909, Mr. Vail set forth at some length the story of what happened to rates under competition. In 1895 the average rates for exchange service amounted to $71.17; and for 1909, according to this annual report, they were down to $31.32. That was the result of this competitive era upon rates. There was some difference in the service, of course. Those were the rates for cities in which both the Bell and independent companies were operating.

That difference in growth is the contrast between competition and monopoly. The whole industry of the United States grew to almost 20,000,000 telephones in 1920. The telephone is in almost universal use by our people, and this very high development of use of the telephone system is dominated and determined largely by what happened during those years of active competition.

I want to call your attention in passing to the fact that by 1912, after this competitive struggle, we had in the United States 1 telephone for every 11 people. That is more telephones per capita than any European country has today, with the exception of Denmark and Sweden. We had gotten as far under competition by 1912 as the European countries have gotten up to this time. They are almost exclusively monopolistic.

Mr. HUDDLESTON. May I ask what has transpired along that line since 1912?

Dr. FRIDAY. What has transpired since 1912?

Mr. HUDDLESTON. Yes.

Dr. FRIDAY. Since 1912 the violence of competition has abated. The country as a whole had been covered, so to speak. The industry had reached pretty much every village and hamlet with a telephone exchange and telephone service.

Mr. Theodore N. Vail, who had come to the presidency of the Bell Telephone System in 1907, had been studying this competitive movement for some time previous. He did not like the way it was conducted by his predecessors. Very violent means had been resorted to by the Bell system in attempting to hold the monopolistic posi-

tion. When an independent company got into trouble it was sometimes bought up, and the equipment which had been purchased from independent telephone companies was torn out and piled in the streets and burned.

All of that sort of thing was now stopped after Mr. Vail's incumbency. He did not believe in that kind of competition. He felt that the Bell system should not go on with that plan, that it was not doing anybody any good, and he proceeded to treat the independents much more fairly. He made a uniform contract, for long-distance service, so that any independent might get to and use the long-distance lines of his company. From that time on the independent companies grew more slowly than the Bell. Most of the growth since that time occurred in the Bell system. They had the large cities and the small companies had the rural and village lines. As you know, Mr. Chairman, there has been no increase in population whatever in this country on the farms since 1900. In fact, we had fewer people on farms in 1930 than we had in 1900. So there has been a slow growth in the independent territory. But from 1912 on the competitive activities moved on a plane that was very much higher than during the preceding 18 years. In these recent years of depression the independent companies have lost some telephones.

Mr. HUDDLESTON. What effect has the abatement of competition had on rates?

Dr. FRIDAY. In these more recent years?

Mr. HUDDLESTON. Since 1912.

Dr. FRIDAY. Well, for some years rates remained practically on the level that existed in 1912. That was true pretty much up until 1918. During the period of the control of telephone and telegraph companies by the Government, it became necessary to raise the wages, and the cost of material for construction and maintenance went up a great deal. All prices rose considerably during that period, and rates were finally raised to offset in some degree that rise in prices. The Postmaster General raised practically all of the telephone rates, as he did the telegraph rates.

Since that time they have been largely maintained on the levels which were established then.

Mr. HUDDLESTON. You stated a few moments ago that the rates descended to an average of $31 in 1912.

Dr. FRIDAY. In 1909.

Mr. HUDDLESTON. What are they now?

Dr. FRIDAY. The rates now are—well, now, for the Bell system, just offhand, I should say, that they must be between $40 and $45. They had some six-hundred-odd million dollars of revenue in 1932, and the company had almost 14,000,000 telephones. That would give them about $45 per telephone.

Mr. HUDDLESTON. How do the rates for the independent companies compare with the Bell?

Dr. FRIDAY. That I cannot answer. I do not know whether Mr. MacKinnon can answer that or not.

Mr. MACKINNON. The average rates for telephone-exchange rates, which is the main revenue of the independents over the country give about $27 now.

Dr. FRIDAY. That picture of the competitive era is one that must be borne in mind in trying to come to any sound conclusions as to

the functions which competition has performed in the development of our telephone system, and I believe it has a bearing on the place which competition should occupy in our communication system in the future.

In the field of the telegraph, essentially the same thing is true. There you have had competition coming up and asserting itself over and over again. The Western Union first got a national system together and consolidated. By 1867 it was the dominant company. Then it looked as though it was securely entrenched in a monopolistic position. But a new company, the Atlantic & Pacific, as it was known, was developing ambitious plans, and very violent competition resulted from about 1874 to 1877. The Western Union finally made peace with and later absorbed that company, but not before rates had declined from 65 cents per message in 1872 to 38 cents in 1878.

In the early eighties the Western Union was supposed to be in the position of a monopoly. There was a general opinion, very widespread, among economists, public men, and other people too, that you could never have any competition in the telegraph business. From the very nature of the industry, it was supposed to be monopolistic. All of this is set forth in my report for those of you who are interested. But in the eighties the Postal system came into being. That system, curiously enough, was started in order to exploit what was supposed to be a very remarkable invention which was expected to enable its owners to send a much larger number of words for a lower cost. They put in rates that were extremely low. A gentleman named George R. Roberts, who had known Mr. John D. Mackay in California, interested him. Mr. Mackay put several million dollars into that project. But the experiment with the new device did not work out. Like so many other things that have been tried out in the field of industry it did not work out in practice and the thing disappeared. But, Mr. Mackay was not moved to abandon his investment by that. He secured a very able manager, Mr. Chandler, and by 1888 to 1890 he began to make headway.

Sometime in the 1890's he was able to compete successfully with the Western Union by limiting his telegraph business primarily to the large cities. As you know, the Mackay company today has some 2,800 or 3,000 offices as against 25,000 for the Western Union. They have always competed for the cream of the business. But, it was real competition. And it proved wrong these people who were saying that we could never have competition. Competition was growing and it got more vigorous along the latter part of the nineties.

I suppose the time when we came nearest having a monopoly in this country in the telegraph business is from, say, 1888 on to 1894.

The Postal got about 20 percent of the total business. They never got much further than that. After 1900, the competition which the Western Union met became more serious. The Postal got more ambitious. The long-distance lines of the Bell Telephone Co. were extended, and by about 1907 the Western Union was in trouble because of competition. In that year the company had to cut its dividends and earned only about $3,000,000, as against $7,000,000 which they had been making previously.

It was then that new blood and new money came into the Western Union. These people saw the possibility of improving the situ-

ation by introducing new methods and new policies. They bought control and proceeded to rejuvenate the company. The new management was most aggressive, and from then on we had very active competition, in which the property was rebuilt, the service gradually improved. The volume of business doubled between 1911 and 1920, and trebled by 1927.

During all that period, as we know, there was vigorous competition, and it still persists today.

I happened to attend the hearings on the telegraph code, and the companies almost come to blows at every session, the feeling is so intense between the Western Union and the Postal, the teletype service of the American Telephone & Telegraph Co., and the radio.

So that part of our industry, as well as the telephone, has been developed under competition.

In passing, Mr. Chairman, let me say that, while the violent competition in the matter of rates and in attempting to establish two exchanges in one city have passed away, as between the independents and the Bell, I consider the independents still performing a very important competitive service.

Most people think of competition as a mere fight between various people who are struggling for the business. That is only one aspect of it. If one would understand its functions, he must realize that it is the mechanism that makes for social change. It is the principle which governs the selection of new methods.

People talk much about the wastefulness of competition, and this committee has heard that complaint presented here. That complaint is very old in discussions of a sound communications policy. It always seems wasteful that there should be two telegraph boys standing at the station, both soliciting telegrams. If we could get rid of those duplicate services, we are told we could save 10 or 15 million dollars. From that people jumped to the conclusion that competition is wasteful. This is a very short-sighted view. Competition is only wasteful if you assume that every improvement that has been made in the past would have been made without competition. You ignore entirely the years during which someone thought he had a new and a better method and was willing to risk his capital in the development of it. It is true that 2 times out of 3 the experiment was a failure—but the third time it did work out and the result is that we have developed the telegraph service as we have the telephone service, much more rapidly and of a much better quality that we would have done if it had not been for competition.

By this process of competition we select that which is good; and what is not good, what does not prove practicable, passes away.

Now, the independent telephone companies today furnish, as Mr. MacKinnon said, a basis of comparison with the Bell system for the quality of service and for rates. The manager of every Bell exchange who has an independent company in the same State has a set of rates and a standard of service with which he is constantly being compared by the public. Furthermore, and I think more important, is the fact that we have in this country a large group of independent equipment manufacturers.

Not by any means have all of the improvements in the art of telephony or the art of telegraphy been the products of the large manufacturing companies. The research organization of the Bell

Telephone Co. is magnificent, perhaps the greatest in the world, but it has not by any means developed all of the improvements in the art of telephony. One outstanding development is the automatic dial telephone. That was invented not by an engineer of the Bell system but by an outsider. He was not a telephone engineer at all. He was an undertaker in Kansas City. The Bell Co. refused to buy that patent in 1889, despite the fact that they were acquiring hundreds of new inventions. For a number of years the Bell engineers were opposed to the invention, and it was not until 1920, when Mr. Vail insisted upon it, that the Bell Co. proceeded to install this type of equipment on a large scale.

The point that I want to make is this: That if you have just one large monopoly in the field, then we simply have one group of technical experts, engineers, and managers; and if that large company turns down any new device, that is the end of it. There is nothing for the inventor man to do. But, you have got 6,000 companies, with 240 of them large enough so that they report to the Interstate Commerce Commission to which a man with a new device can go, and it is hard to imagine any sound device that will not get a chance at a fair trial in the telephone field. That is one aspect in which the independent telephone companies are most important. I consider one of the most phases of competition today in the communications industry, is just in this field of the development of methods of operation and especially new technical devices.

As for the future, let me say this: I think we are at this moment at a point where there are important changes impending in the communications field. The radio (of course, is the moving element in the situation. For example, the Radio Corporation has just made an arrangement with the Western Union by which they are able to use the latter company's offices as to delivery and pick-up system, to establish a radio, telegraph service between certain cities in this country. You can send 15 words to any of those cities at the same price at which you now send 10 words on the Western Union. The Postal is installing a similar service. What will come out of that, we do not know. But the possibilities are impressive.

Then, there is this whole field of facsimile transmission. It is not at all impossible that the great mass of the telegraph business will undergo revolutionary changes in 5 or 10 years. The Radio Corporation have an actual set-up from New York to Philadelphia today where they are experimenting with the sending of facsimile letters. They have made some important new inventions even in the last year. Radio telephony is a field in which the independent telephone companies are particularly interested, especially for long-distance work.

We believe there are enormous things impending. No man can tell today how far each of these devices will be developed. In the meantime, we do not want to become immobile. We want to keep alive and make certain that all possibilities be explored. There is no way of doing that that is half as effective as competition. And, competition costs the public nothing. Monopoly is bound to cost it a great deal.

So at this moment, we have a situation where competition is particularly desirable, and particularly necessary. Monopoly should be avoided.

The fact that other countries have monopoly in this field of communications, and that Great Britain has organized its cables and radio into a great monopolistic merger is often cited in support of monopoly. The fact that Europe does a thing is no reason why we should do it. I think that any study of the British radio-cable merger will convince anyone that that merger should be a warning to us to avoid any such experiment.

I should like, with your permission, to file this more detailed study that I have made of this whole subject of the matter of competition in the communications policy.

Mr. HUDDLESTON. Are there any questions?

Mr. COLE. I would like to ask just one question.

Mr. HUDDLESTON. Mr. Cole.

Mr. COLE. Do you agree with the previous witness, Mr. MacKinnon, that there are about 6,000 independent companies?

Dr. FRIDAY. Yes; That is a matter of record.

Mr. COLE. Although Dr. Splawn's report to us is that there are but 69 independent companies not controlled by other companies?

Dr. FRIDAY. Well, I followed Mr. MacKinnon's explanation as he read that, and I think that is entirely sound. I think that when Dr. Splawn gets to rewriting the report he will modify that.

Mr. COLE. He places independent competition, that is, competition of the independents very, very low.

Dr. FRIDAY. Yes. Well, it is just exactly the fact of the prevalence of that idea, Mr. Cole, that has moved the United States Independent Telephone Association to make this statement and this study.

Mr. HUDDLESTON. Anything else?

Mr. HOLMES. I would like to ask one question.

Mr. HUDDLESTON. Mr. Holmes.

Mr. HOLMES. In reading over this bill, we find that we have taken the present Radio Act and the present Interstate Commerce Act, under which this development you have just spoken of has taken place, and, in addition to that, of course, they have suggested many new paragraphs, extending to this commission far greater powers. In view of your long years of experience, do you think that was a proper thing to do under this particular commission at this time; would it be your feeling that this commission should have power to take over and enforce the present law and then after study as years go along, time goes along, make such suggestions to Congress to control the various communications systems by further legislation?

Dr. FRIDAY. My opinion on that matter is it would be much better to transfer only the present powers to them. What I have said here this morning, if it has any bearing upon the situation at all, indicates this is an extremely complex problem.

I think that nothing but a thoroughgoing study of this condition in its present situation and its historical development is going to enable anyone to define the powers which this commission should have and the policy it should pursue. I think that the commission should be created, after that, for a year and probably several years; it should be largely a commission to study and investigation. It should take up just such question as what is fair and what is unfair competition in the communications field. That is an easy question

to pose but the answer to that one question alone would require long and careful study.

Mr. HOLMES. I say, in view of your many years' study of this problem, again.

Dr. FRIDAY. That would be my opinion.

Mr. HUDDLESTON. We want to thank you, Dr. Friday. May I say myself, personally, that I am mighty glad to hear somebody speak who still believes in competition.

Dr. FRIDAY. Thank you.

(The study above referred to by Dr. Friday is as follows:)

THE PLACE OF COMPETITION IN A COMMUNICATION POLICY FOR THE UNITED STATES

The United States Independent Telephone Association desires at this time to submit a statement embodying the facts as to the role which competition has played in our communications system in the past and the place it should occupy in a sound communications policy at this time. It feels that it is important that it should do this because of the insistence with which monopoly is being urged. Repeated proposals have been made during the past year, and before this committee, suggesting that all of the communications services should be combined into a few gigantic mergers. One suggestion is that all voice communication, whether by wire or by radio telephony, should form one of these groups. The other group would consist of all record communications. Each of these groups would handle all business originating or terminating in the United States, whether that business was purely domestic or international.

A second suggestion differs from this first only to the extent that it would split the record communication services as between domestic business on the one hand and business which went to noncontiguous territory and foreign countries on the other. It would still leave the telephone services to be rendered by one great telephone monopoly, embracing all technical devices for rendering the service.

Never in the history of our economic legislation has anyone issued a more direct challenge to the doctrine of competition than is presented in these plans for the future conduct of our communications services. This association believes that competition has proven itself the more desirable policy in the past and that it should be retained as a basic principle underlying our communications policy in the future.

We are not without experience with monopoly in the communications services of this country. There is nothing in that experience which commends its adoption in the future. The United States has today the most efficient communications system in the whole world. In the field of telephony we are far in the lead, and in both telegraphy and radio, the oldest and youngest members, respectively, of the communications family, we are well ahead of all other countries. This is true both as to the stage of the development which the art has attained on the technological side and as to the extent and use which our people make of these facilities.

The system as it stands today is the product of competition, and competition still prevails in every one of the three branches of the service. The excellencies of the system, which are universally recognized today, are largely due to the constant competitive process which has characterized the history of our communications, with only temporary interruptions. It has been the great organizing principle for this industry, and the results which have flowed from the application of the principle are so favorable that the principle should not be abandoned without the most thoroughgoing investigation of the function which competition performs and of the part which it has played in the history of our communications system.

The chief criticism of competition and the argument most often advanced for its abandonment in its alleged wastefulness. This aspect of the competitive process is one which easily impresses business men with its importance. Some philosopher has said that routine is the seventh heaven of business. Competition disrupts routine; it forces change and the necessity for readjustment. But readjustment is an annoying process to those who are forced to make it, and it appears wasteful to them. So they are sympathetic to suggestions for its abolition.

In the field of telegraph communications the duplication of facilities and personnel is often the subject of comment on this matter of waste. Several years ago, when this same subject of mergers was before Congress, a national figure in the business field came to Washington to testify before the Senate committee upon this matter of communications policy As he stepped off the train in Washington two telegraph boys stood there, one with the Western Union blank, the other with the Postal At the hearings the next day he commented upon this illustration of the waste of competition. His whole description of the implications of that situation put the case in opposition to competition in a few lucid words.

Who was paying for these boys, he asked the committee. Obviously, the expense was ultimately paid by the people who used the telegraph service. Competition was an excellent thing, he admitted, and some things about it are very good, "but the cost of competition in public service is so great that we cannot afford it." The duplication of poles, wires, and cables; of offices, equipment, and personnel, from messenger boys to president; resulted both in a capital cost and a labor cost which is vastly more than it would be if such duplication were avoided. His conclusion was that "under the competitive system our bill for communications viewed from the standpoint of society is bound to be disastrously large." In his opinion, a single telegraph company, under adequate regulation, could do our record communication service better and more cheaply than a competitive system.

It was his opinion further that if, now, we are to add the duplicate services of several radio firms to the wire services which exist in telegraphy, the competition will inevitably become ruinous. All of this will be to the disadvantage of the people who really want the best communications at the lowest cost.

This is the popular putting of the case against competition. It has been presented before congressional committees and investigating bodies again and again. Every argument that is being advanced against competition today will be found in the Hearings of the Industrial Commission, of 1901, (vol. 9). It always appears to the casual observer that one telegraph system could render the service cheaper than two. To these people the wastes of competition seem as obvious as the flatness of the earth. You need only to look at it to see that it is flat. But that is not the shape of the earth, despite the fact that it appears so. It is round; but that fact is not obvious. It took the world a long time to discover its true shape.

Just so, competition is not a wasteful process in the final analysis. It only looks wasteful because we take the industrial process at a particular moment of time, without inquiring into all the experiments which have brought the industry to its present state of efficiency If all the technical methods employed at this moment are accepted as in being and in actual operation; and all the efficiencies of operation and management are presumed to be already attained, then a combination of two or more companies might be able to operate somewhat more cheaply than they do as competing concerns, for the moment

But when the situation is looked at from the standpoint of continuing process, forever changing and selecting new and improved methods by a process of trial and error, the picture is quite different. First of all, every industial institution has a past; and its organization and methods of operation would not be what they are now were it not for the changes which have been wrought by the competition of the past.

No branch of the communications business is being conducted today with the machinery and the methods of 25 years ago. Enormous improvements have been made since that day, especially in this very field of the telegraph. New types of machinery for the transmission of messages have been tried out. Some of them were discarded, and the most efficient of them have been retained and installed. This whole process was carried on under competition, and the final improvement was the effect of competitive selection. For competition is the mechanism for social selection. It selects the right man for the right place; and it singles out the best methods and machines to be used in doing a job. It does not do this perfectly, but it does it far better than any other process which has ever been devised by man.

Whenever we are face to face with excellent organization, we must not forget that competition was the process that necessarily came before organization. Every branch of our communications system has been organized through competition. There is every reason for believing that the cost of service in the future will not be as low under combination and monopoly as it will be under

competition, even with its wastes. We all desire progress for the future, but progress involves change; and it is fundamental that competition is the principle of change in the industrial framework. If society were stationary, and if there were no progress of any sort, no invention; and if men neither gained nor lost in ability, there would be no need of competitive selection. But as things are, the competitive process is not wasteful when business is regarded as a living, changing, progressive organism, rather than as a static mechanism.

It has been practically the universal experience with monopolies that they fail to make these adjustments incident to progress and growth with any high degree of efficiency. Mr. Justice Brandeis, of the United States Supreme Court, put this weakness of monopoly excellently in an article entitled "Monopoly and Efficiency." (American Legal News XXIV, 1913, pp. 8–12.) "Lack of efficiency is ordinarily manifested * * * in failure to make positive advances in processes and methods. In this respect monopoly works like poison which infects the system for a long time before it is discovered, and yet a poison so potent that the best of managements can devise no antidote." Never was the function of competition better expressed. It is the only element which can be at all depended upon to cast this poison out of the industrial system. No living organism can dispense with it as long as it desires healthy progress and growth.

It is possible for an organization of living beings to exist without competition and the change which it stimulates. Professor Whitehead has observed in his essay On Foresight that we have countless examples of societies dominated by routine. The elaborate social organizations of insects appear to be thoroughgoing examples of this. These insect societies have been astoundingly successful so far as concerns survival power. They seem to have a past extending over tens of thousands of years. But they have one great characteristic in common. They are not progressive. It is exactly this that discriminates communities of mankind from communities of insects.

Our communications system could doubtless survive for a long time without competition. But its progress would be slow. If it is to progress, there must be changes; and the industry will be continually beset by the problem of which changes are best. This is one of the most difficult problems that besets an aggressive industrial society. "The world is full of judgment days." Competition is the mechanism by which these judgments are made. It is the constructive principle of our industrial society in the past; and everything worth the name of organization had at some time or other a competitive origin.

In fact, the telephone industry, which is often cited (though erroneously) as a virtual monopoly, and so as the model for our future communications policy, is a perfect example of how competition produces perfection in organization.

The system which has become the American Telephone & Telegraph Co. did not have its origin, as has sometimes been asserted, "in a great number of isolated units competing with each other, which were later consolidated into a single system." The telephone business, after a few years of vigorous competition with the Western Union, established itself as a monopoly based upon its patents; and it was operated as such until 1894, when its basic patents expired. The growth and development of the telephone industry in this country in the period prior to 1894 furnishes an excellent object lesson for the study of the effect of monopoly. When the patents expired, the company had been operating 16 years; and at the end of that period there were less than 300,000 telephones in use. This was 1 telephone for every 240 persons in the country.

With the expiration of the patents came a period of competition marked by a degree of violence which has seldom been equaled in this country. The story of that episode was told in a most colorful fashion in a book entitled "A Fight with an Octopus" by Paul Latzke. After 8 years of promotional effort on the part of independent telephone companies, the first census of electrical industries was taken and published. It showed that during this short space of years these independents had installed 1,000,000 telephones. To meet this competition the Bell system had put in another million. Under the stimulus of competition, the number of telephones in the United States had grown to 2,315,000, or 1 for every 30 people.

This remarkable expansion continued. When the next census was taken for the industry in 1907, it revealed an even greater growth in the intervening 5 years. The independents had installed 2 million additional telephones in this half decade; and the Bell company had installed almost exactly the same number.

This brought the total number of telephones in use in 1907 to 6,118,000. By 1912 this number had grown to 8,730,000; or one telephone for every 11 persons. In the 18 years which had elapsed since the expiration of the basic Bell patents in 1894, the independents had installed 12 times as many telephones as the Bell had put in during all its previous existence. And the latter company itself, under the stimulus of competition, had installed an even greater number than the independents.

By 1912 competition had done its work; and its most violent phase came to a close. Undoubtedly there had been some waste of money and some loss of investment. But the progress which it engendered is demonstrated by the fact that the number of telephones per 100 of population had, by 1912, reached a level which most of the countries of Europe have not attained even today with their state-owned monopolistic systems. Only Denmark and Sweden have as many telephones per capita at present as we had in 1912. It was competition which first supplied the American people as a whole with something approaching universal telephone service; and it was the independent telephone development which forced that competition.

Not only did the number of telephones expand greatly, but the rates for the service were reduced by more than half. The annual report of the American Telephone & Telegraph to its stockholders for the year ended December 31, 1909, contains a chart showing graphically the changes in the average exchange revenue of the Bell system in a group of cities where competition prevailed. According to this report, these rates stood at $71.17 in 1894. By 1899 they had dropped to $57.02; and by 1909 to $31.32.

From this time forth there was an abatement in the violence of competition, and a change in its methods. Mr. Theodore N. Vail, who had come to the presidency of the Bell system in 1907, had watched the bitter fight, and had become convinced of the futility of trying to obtain a telephone monopoly. During the regime of his predecessors this attempt had gone so far as to buy up companies which were in financial difficulty and then tear out all their instruments and equipment, pile them in the street and burn them as a horrible example to future would-be competitors. All these tactics were completely abandoned. Instead of attempting to destroy competition, the management proceeded to raise the plane of competitive effort. The destructive competition of former years was replaced with a competition of service. The Bell company gave the independents access to its long-distance lines, which they had been denied in the past.

The end result of this policy has been to give America a telephone system which is a model for all the world. In the intelligence and aggressiveness of its research, in the quality of its service, and in its financial standing and management, it holds a premier position among industrial enterprises. But we must never forget that competition preceded this magnificent example of organization and is primarily responsible for it.

Nor has competition ceased with this new policy. One kind of competition was, indeed, eliminated. The experience of previous years had shown that two telephone systems in the same community are neither economical nor convenient; and the elimination of such dual systems proceeded rapidly. In some cases the Bell withdrew from the territory; in others the independents retired; and in still others a third company was formed in which both groups had interests, but which were usually operated by an independent organization.

But competition still remains in at least two of its important forms. It still influences rates, and tends to keep them at the lowest desirable level consistent with adequate service. Six thousand independent companies, which are operating today, furnish a basis of comparison as to the quality of the service rendered, as to cost of operation, and as to the rates which are necessary to sustain the service for the smaller communities, and even for some of the larger ones. There is still one independent company with more than 100,000 telephones in a single city. There are six companies which, combined, have more telephones in service today than the whole Bell system had in 1894, when its monopoly came to an end. Every one of these organizations, large and small, sets a standard which the managers of Bell company exchanges of similar size must meet if they are to satisfy their customers.

There is a second and more important field in which the independents perform an important function. The new inventions and improvements in telephony are often made by investigators who are in the employ of the independent equipment firms, and are developed by these manufacturers. By no means all

of them are the products of the research division of the American Telephone & Telegraph Co. A diversity of opinion is always apt to arise over the value of these new devices. If we really had a telephone monopoly, an unfavorable report from its engineering staff would practically kill the invention. The presence of several thousand independent companies assures that these new devices shall have a fair test. Here competition performs its important function of selection.

That important developments are sometimes cast aside as undesirable, even by experts of high reputation, is evidenced by the example of the automatic telephone. Despite the fact that the Bell Co. bought great numbers of patents in the old monopolistic days, there was one, offered it about 1889, which it did not purchase. It was the automatic system invented by Strowger. He was an undertaker, not an engineer, and his device failed to gain the favor of the chief engineers of the Bell system for three decades. The independent companies experimented with it from the 1890's on, and established exchanges in 1903 in Grand Rapids, Mich., Dayton, Ohio, and in Los Angeles. But it made little progress with the technical staff of the Bell company. Yet today it is being installed practically everywhere.

By furnishing these independent opportunities for experimentation, the independent system is an important contributor to that progress in the art of telephony which leads to improved service and lower cost. It prevents the "poison" of monopoly from paralyzing the vitality of the system. It is one of the factors in the situation which keeps our telephone communications system alive and vital.

The telegraph industry is the oldest branch of our electrical communications system. Its history is illuminating on this question of monopoly and competition. The Western Union has been the dominant company in that field since 1867. It has repeatedly approached a dominance in which it appeared that monopoly was inevitable; and it seemed to many people that this would be the unavoidable outcome. A careful study of the history of the telegraph industry shows, however, that decade after decade has seen independent companies break into the field. Usually they did so with new devices which gave promise because of their superiority in the transmission of messages. In every case one of the forms which competition took was the lowering of rates. In the seventies the Atlantic & Pacific Telegraph Co. entered the field. This was finally absorbed into the Western Union. But not before the average toll per message had been reduced from 66 cents, in 1872, to 39 cents in 1878. Its absorption seemed to establish the hold of the Western Union Telegraph Co. over the situation. But it did not lost long.

In 1881, the Postal Telegraph Co. was organized in order to exploit some new patents for rapid and cheap transmission. In 1883, John W. Mackey became interested in the venture. This company established an extremely low rate, but the new methods of transmission upon which such high hopes had been set proved unsatisfactory, and were later abandoned. But not before Mackey had invested a large amount of money in the venture, for those days. By the middle of the decade its future still seemed very dubious, and its rates were described as "perniciously low." But by dint of his native shrewdness and persistence, Mr. Mackey made the venture succeed through the selection of capable managers. By 1886 the average toll per message had fallen to 31 cents; and the rates remained on that level for more than 20 years.

Throughout the decade of the eighties various people were demonstrating, to their own satisfaction at least, that competition could not prevail in the telegraph industry. No less an authority than Prof. Richard T. Ely, writing in the North American Review, in July 1889, had the following to say on this subject:

"It is of the first importance in the discussion of the telegraph question, to grasp the fact that monopoly is inevitable. While telegraph lines extend over the entire globe, and while this industry is 40 years old, the world has yet to see one single example of permanent, successful, competition. Telegraph companies always consolidate, because one company can do all the business much more cheaply than two or more. Consequently, all derive a profit from combination."

Yet at that very moment the Postal Telegraph Co. was establishing itself successfully as a competitor of the Western Union. That competition continues down to the present date, and is probably more vigorous at the present time than it ever was before.

After 1900 the long distance operations of the Bell system assumed formidable proportions. When this competition was added to that of the Postal Co., the Western Union saw its profits gradually declining. By 1908 the Western Union had been so weakened through competition that its profits fell to half their customary level. Dividends were seriously curtailed, and the ability of the company to secure new capital was seriously impaired.

But this competition did not ultimately ruin this leading telegraph company. Instead, it had the important effect of shifting the management of the property to new hands which saw the possibility of greatly increased volume of business and of profits through the introduction of new technical methods and improved organization. The new owners greatly improved the quality of the service, poured some new capital into improvements, and increased the business 50 percent in 5 years. They devoted the greater proportion of their profits to the building up of this business. By 1920 the volume of business carried on the Western Union lines was fully three times as large as it had been in 1909. It was once more a profitable, thriving venture.

At the present moment we are at a stage in the history of our communications development which makes the maintenance of competition especially desirable. There are all sorts of new experiments being tried out by different companies. The teletype is one of these. Its introduction by the American Telephone & Telegraph Co. has precipitated a renewal of the keenest sort of competition in the field of record communication. Telegraph code hearings evidence the fact that that phase of the industry is in the midst of a contest which will decide shortly the place which this new device is to occupy in the communications structure.

But much more important than this is the fact that the entire communications industry, not only of the United States but of the world, is at present in a state of intense development. The "new yeast" which is working in the situation is the development of radio in all its aspects. All the experts are agreed that it is utterly impossible to visualize at present the technical developments of even the near future in the communications field. As an example of this, it is sufficient to call the attention of the committee to the fact that even since this bill was written the Radio Corporation of America, through Radio Corporation of America Communications, Inc., has inaugurated a new intercity radio telegraph service, between Boston, New York, Washington, and San Francisco. Before June 1, Chicago and New Orleans will be added. Applications for construction permits have been filed for authorization to join Seattle, Los Angeles, and Detroit to the network. The president of the company has announced that other important cities will be added later.

This company also announced recently, through its chairman, General Harbord, its plans for multiplex transmission by radio and also high-speed facsimile transmission by the use of extremely short waves. General Harbord's description of these developments is the best illustration of the revolutionary changes which confront us.

"Multiplex transmission makes possible the simultaneous sending of three different radiograms on one wave length. By means of an arrangement of commutators, the 3 distinct sets of Morse signals are interlaced and again separated into 3 radiograms at the receiving station.

"The second and perhaps more important development is the practical use of ultra high frequencies or very short waves.

"In this portion of the radio spectrum, Radio Corporation of America proposes to introduce the first domestic facsimile radio communication service between New York and Philadelphia. This is made possible by the use of two automatic radio relay stations to be erected at New Brunswick and Trenton, N.J. Over this new circuit, when it is completed and its commercial use authorized, it is confidently expected that photograms will be transmitted at higher speed and at lower tariffs than is possible with the dot-and-dash system of the Morse Code.

"Applications for permission to construct these ultra-modern radio stations at New York, New Brunswick, Trenton, and Philadelphia, and additional radio stations at Chicago, New Orleans, Washington, and Boston have been approved by the Federal Radio Commission, and construction activities are under way."

It is certain that, despite fears which have been expressed to the contrary, the field of research in radio is being prosecuted vigorously and that there is no lack of initiative in putting the results of the research to practical use.

Anyone who contemplates these new and revolutionary methods which are striving for a place in the communications system must be convinced that here

is a case where competition is indispensable. Some of these new devices will prove impracticable and will finally be discarded, as others have been before. No one can tell in advance which of them will fall in this category and which will succeed. But one thing is certain. The number of selections and decisions which must be made is so great that the competitive process is the only one upon which we can depend for speed and economy.

The suggestion that all record communication facilities—both wire and radio—should be combined into one monopoly would seriously interfere with this process of selection. Radio technique differs in a great many respects from that of transmission by wires. It should not be put under the administrative and managerial control of men who have grown up and formulated their ideas in the wire communications. It should be left, rather, to the initiative of that army of men, some of them mere youths, who have developed radio at the amazing pace which that industry has maintained during the past decade. Certainly their accomplishments thus far entitle them to be left alone, free and unmolested, to pursue their researches. They should be left to strive for the prize of a share of the communications business of this country. All told, that amounts to well over $1,000,000,000 annually.

The improvements which radio makes during the next decade may well double the volume of communications business. A share in this increased business is worth striving for. Those who are successful in their efforts will reap the reward; and competition will decide who is successful. The restriction of competition between the wires and the radio will certainly retard the development of one or the other, and will prevent a part of the growth which would normally occur under active competition. The development of a new channel of communication which calls for a greatly reduced investment is a startling event in our communications history, which promises much. Under no condition should the heavy, restraining hand of tradition and of monopoly be laid upon this industry.

One final argument often urged against competition is that other countries have abandoned it in their communications systems. The implication in such statements is that the United States is somehow a laggard in the march of progress. The fact that other nations have done a thing is hardly an overpowering argument any longer. Every American who has had any experience with European industrial progress, and especially with the communications systems of that continent, realizes instantly how far the United States has outstripped that continent in communications development. The British merger of cable and radio facilities, which is so often cited in this connection, is so far anything but a successful venture. The very secrecy which the company observes in its reports of operation is sufficient to raise suspicion.

The operating company "Imperial and International Communications, Ltd.", has carefully refrained from publishing any statistics showing the comparative number of messages transmitted by cable and by radio service. The financial results of the company have been unsuccessful and generally unsatisfactory.

The British merger was formed to save the cable companies from losing a large part of their investment because of obsolescence occasioned by radio competition. The management of the holding and operating companies is strongly procable, because the cable companies elect the majority of the court of directors.

It has been suggested lately that the radio services should have been merged, and the cable companies should have been subsidized by the Government, instead of amalgamating both to the great detriment of the radio. This recognizes the great importance of competition. It is better to subsidize the obsolete property than to make it a brake upon the rate of progress by stifling competition.

We respectfully suggest to the committee that the principal value which a study of the British merger has for American communications is that it enables us to observe the deleterious effects of monopolistic consolidations in the communications field. Thus we would be able to avoid the pitfall on the road of progress, without incurring any of the risks and costs of the experiment ourselves.

DAVID FRIDAY.

Mr. HUDDLESTON. Mr. Crosser has a statement from the Ohio Independent Telephone Association that he wishes incorporated in the record. Without objection it will go into the record.

(The statement referred to is as follows:)

OHIO INDEPENDENT TELEPHONE ASSOCIATION,
Columbus, Ohio, May 12, 1934.

HON. SAM RAYBURN,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. RAYBURN: The Ohio Independent Telephone Association thanks you for the opportunity of expressing its views with regard to House bill 8301.

This association comes to you as a friend of the principal of State regulation of utilities companies, to represent that its member companies are already so regulated by State authority that any system of dual regulation such as is possible under House bill 8301, involving both State and Federal control over local telephone properties, will have the immediate effect of lowering the quality of telephone service and increasing the cost of such services to consumers.

The companies represented by this association are not wealthy corporations. At present in Ohio we have 292 independent and mutual companies that are serving approximately 240,000 subscribers living in almost 1,000 of the smaller cities, towns, villages, and rural districts. Almost all of these companies originally came into existence to provide a necessary service to a local public, rather than to earn substantial profits for those who organized them. Their rates and charges have always been low, so much so that caught in the present depression, with drastically reduced incomes and constantly increasing expenses, some 70 percent of all of the companies in the State were unable during 1933 to pay a single dollar in dividends to the men and women in their communities, who by the investment of their savings have made telephone service available to the public. The remaining companies that are still listed as paying something in the way of dividends have, for the most part, so sharply reduced their payments that the present return to owners in most cases is no more than the prevailing bank interest.

It is the profound conviction of this association and of its member companies that the regulation of local telephone firms and corporations should be left exclusively in the hands of the several States.

All of our own Ohio companies are now, and for many years past, have been subject to the most complete regulation of their affairs by a public utilities commission that exercises the fullest possible control over the issuance of securities, as well as over the rates, charges, tolls, rentals, schedules, and services furnished by the companies.

The rates that are now being collected by Ohio independent telephone companies were established by the authority and order of the Public Utilities Commission of Ohio, which makes its own investigations and appraisals and fixes its own valuations, rates of depreciation, and so forth. No new or additional rate can be filed and no change in an existing rate or schedule is possible without a definite order by the State commission.

Furthermore, the Public Utilities Commission of Ohio exercises a continuing care over the operations and affairs of the companies coming under its jurisdiction, detailed reports of income and expense, additions, and replacements, and covering the entire operating and financial field, being required at regular intervals, in addition to such special and extraordinary data and information as the commission requires from time to time for its own purposes.

During recent years the cost of meeting the exacting requirements of regulatory bodies has been mounting higher, placing a particularly heavy burden upon the smaller companies that are without extensive organizations to handle the gathering and compilation of information needed for the reports, statistics, and various studies that have been required of them by various governmental divisions and subdivisions. The efficiency of telephone service in many localities has already suffered by reason of small and moderate-sized companies being compelled to spend funds that were badly needed for physical operations in the employment of costly legal, accounting, engineering, and other experts.

Recognizing the fairness and necessity for proper supervision over the operations of all utilities companies, and being convinced that the State governments can best carry on the work of supervising the operations, financial structures and businesses of companies operating wholly within their borders, this association asks that its member companies be spared the necessity of finding ways and means of raising additional funds from their subscribers, in order to defray the cost of Federal as well as State regulation.

We attach a list of the independent and mutual telephone companies now serving the Ohio public, and subject to the orders of the Public Utilities Commission of Ohio.

Yours very truly,

THE OHIO INDEPENDENT TELEPHONE ASSOCIATION,
By FRANK L. MCKINNEY, *Secretary-Treasurer.*

Independent telephone companies reporting to the Public Utilities Commission of Ohio

Class A, B, and C:	*Number of subscribers*
Ada Telephone Exchange Co	970
Archbold Telephone Co	749
Ashtabula Telephone Co	3,599
Athens Home Telephone Co	2,546
Buckeye Lake Home Telephone Co	731
Bucyrus Telephone Co	2,249
Bluffton Telephone Co	697
Champaign Telephone Co	1,658
Camden Rural Telephone Co	106
Carey Electric Telephone Co	600
Cambridge Home Telephone Co	3,194
Citizens Telephone Co., Circleville	2,188
Clinton Telephone Co	2,409
Conneaut Telephone Co	1,690
College Corner Telephone Co	461
Chardon Telephone Co	650
Columbus Grove Telephone Co	400
Convoy Telephone Co	169
Chillicothe Telephone Co	5,250
Community Telephone Co., Leipsic	510
Crooksville Telephone Co	331
Delta Home Telephone Co	614
Delphos Home Telephone Co	1,241
Eaton Telephone Co	850
Elyria Telephone Co	4,876
Eldorado & West Manchester Telephone Co	425
Farmers Telephone Co., Perrysville	629
Fayette Telephone Co	400
Frayzeysburg Telephone Co	411
Geneva Telephone Co	1,201
Greenfield Telephone Co	1,040
Greenspring Telephone & Electric Co	287
Harrison Telephone Co	567
Highland County Telephone Co	1,394
Huron Telephone Co	352
Interstate Telephone Co., Union City	255
Kelly Island & Sandusky Cable Co	256
Kenton Telephone Co	2,024
Lima Telephone & Telegraph Co	7,388
Logan Home Telegraph Co	1,643
LeMoyne Telephone Co	459
Lorain Telephone Co	6,289
Mansfield Telephone Co	8,112
Mount Vernon Telephone Co	4,766
Morenci Telephone Co	574
Minster Telephone Co	362
Metamora-Richfield Telephone Co	235
McComb Telephone Co	454
Napoleon Telephone Co	1,236
Newark Telephone Co	7,053
Northwestern Telephone Co., Defiance	1,491
Northwestern Ohio Telephone Co., Wauseon	1,275
Northern Ohio Telephone Co	19,396
North East Ohio Telephone Co	1,474
New Bremen Telephone Co	464
New Concord Telephone Co	274

Independent telephone companies reporting to the Public Utilities Commission of Ohio—Continued

Class A, B, and C—Continued	*Number of subscribers*
New Wilmington Telephone Co	7
Ohio Central Telephone Co	11,089
Ohio Associated Telephone Co	18,741
Ohio Telephone Service Co., Greenville	6,337
Oil Belt Telephone Co	441
Ohio Community Telephone Co., Cadiz	1,737
Ohio Standard Telephone Co	16,562
Paulding Telephone Co	428
Portsmouth Home Telephone Co	6,599
Peoples Telephone Co., Chesterhill	672
Riverside Telephone Co	723
Spencerville Telephone Co	310
St. Mary's Telephone Co	849
Shelby Telephone Co	1,363
Star Telephone Co., Ashland	7,140
Stillwater Telephone & Telegraph Co	500
Swanton Home Telephone Co	395
Sycamore Telephone Co	368
Summit Telephone Co	624
Tipp Telephone Co	497
Troy Telephone Co	2,130
Telephone Service Co., Wapakoneta	1,370
Union Telephone Co., Glouster	314
United Telephone Co., Bellefontaine	6,492
Van Wert Home Telephone Co	1,714
Waynesfield Telephone & Telegraph Co	312
Warren Telephone Co	6,648
Wellington Telephone Co	860
Weston Home Telephone Co	407
Western Reserve Telephone Co	1,462
Class D:	
Adamsville Telephone Co	163
Alvada Mutual Telephone Co	97
Arcadia Mutual Telephone Co	225
Arthur Mutual Telephone Co	132
Austinburg Telephone Co	111
Ayersville Telephone Co	300
Bascom Farmers Mutual Telephone Co	120
Beaverdam Telephone Co	120
Benwood Telephone Co	97
Berlin Center Telephone Co	98
Boughtonville Telephone Co	100
Bremen Telephone Co	511
Buckland Mutual Telephone Co	286
Cairo Mutual Telephone Co	133
Camden Telephone Co	313
Cannellville Telephone Co	24
Cavett Telephone Co	53
Carroll Telephone Co	185
Cecil Mutual Telephone Co	151
Chatham Farmers Mutual Telephone Co	130
Citizens Telephone Co., Waterville	204
Citizens Telephone Co., Beaville	192
Citizens Telephone Co., Coolville	432
Citizens Telephone Co., Rock Creek	175
Citizens Mutual Telephone Co., McClure	276
Citizens Exchange Telephone Co., Hamler	339
Claridon Telephone Co	65
Clarksfield Telephone Co	84
Clinton Air Line Telephone Co	80
Cloverdale Mutual Telephone Co	87
Colebrook Telephone Co	55
Colerain Telephone Co	127

Independent telephone companies reporting to the Public Utilities Commission of Ohio—Continued

Class D—Continued	*Number of subscribers*
Columbia Mutual Telephone Co	133
Concord Bell Telephone Co., Sugartree Ridge	50
Continental Farmers Mutual Telephone Co	338
Country Home Telephone Co	238
Chesapeake & Lawrence County Telephone Co	160
Cridersville Telephone Co	89
Cumberland Telephone Co	213
Crescent Telephone Co	229
Constitution & Dunham Telephone Co	38
Dalzell Farmers Telephone Co	74
Damascus Telephone Co	334
Darrtown Telephone Co	81
Deal & Hunt Telephone Co	139
Deshler Farmers Mutual Telephone Co	199
Dorset Telephone Co	180
Doylestown Telephone Co	116
Elida Mutual Telephone Co	111
Elyria Southern Telephone & Toll Co	107
Fairview & Morristown Telephone Co	140
Farmers Telephone Co., Kunkle	55
Farmers Telephone Co., Quaker City	403
Farmers Mutual Telephone Co., Liberty Center	230
Farmers Mutual Telephone Co., Okolona	206
Farmers Mutual Telephone Co., Pattersonville	55
Farmers Mutual Telephone Co., Sardis	50
Farmers & Merchants Telephone Co., St. Paris	384
Fayetteville Telephone Co	116
Fiat Telephone Co	44
Flat Rock Telephone Co	89
Ft. Jennings Mutual Telephone Co	233
Gaysport Mutual Telephone Co	39
Germantown Independent Telephone Co	405
Gilboa Farmers Mutual Telephone Co	119
Glandorf Mutual Telephone Co	194
Gorby-Cady Telephone Co	26
Grafton Mutual Telephone Co	142
Grand Rapids Mutual Telephone Co	241
Greenwich Farmers Mutual Telephone Co	219
Guysville Telephone Co	225
Hackney Switchboard Co	95
Harriettsville Telephone Co	122
Hannibal & Round Bottom Telephone Co	99
Harlan Telephone Co	58
Harpersfield Telephone Co	95
Hartsgrove Citizens Telephone Co	75
Hastings Telephone Co	36
Haverhill Telephone Co	21
Heslop Telephone Co	140
Higginsport Independent Telephone Co	129
Hollandsburg Home Telephone Co	125
Home Telephone Co., Plattsburg	107
Home Telephone Co., Middlefield	104
Home Telephone Co., Killbuck	118
Hopedale Telephone Co	78
Huntsburg Telephone Co	71
Indian Camp Telephone Co	47
Interurban Telephone Exchange Co	80
Island Mutual Telephone Co	57
Jerseyville Telephone Co	90
Jennings Telephone Co	181
Jewell Mutual Telephone Co	140
Johnston Mutual Telephone Association	26
Kalida Telephone Co	220

Independent telephone companies reporting to the Public Utilities Commission of Ohio—Continued

Class D—Continued	*Number of subscribers*
Kidron Telephone Co	121
Kingsville Telephone Co	200
Knoxville Rural Telephone Co	100
Kinsman Mutual Telephone Co	33
Layman Farmers Telephone Co	170
Lebanon Telephone Co	120
LeRoy Telephone Co	57
Longley Mutual Telephone Co	16
Lowell, Highland & While Telephone Co	57
Lower Salem Farmers Telephone Co	138
Lynchburg Telephone Co	190
Lyons Mutual Telephone Co	207
Lucasville Telephone Co	70
Lykens Telephone Co	110
Malinta Mutual Telephone Co	147
Marietta Western Telephone Co	55
Marion Telephone Co., Maria Stein	169
Marsfield Telephone Co	160
Matamoras & Brownsville Telephone Co	22
Maxville Telephone Co	51
Mellott Ridge Telephone Co	35
Mercer County Mutual Telephone Co	280
Mesopotomia Telephone Co	68
Mifflin & Widowville Telephone Co	220
Monroe Telephone Co	120
Montville Citizens Telephone Co	68
Moorfield & Cassville Telephone Co	67
Morning Sun Telephone Co	83
Mount Orab Telephone Co	320
Muskingum County Farmers Telephone Co	60
Meigs United Telephone Co	1,562
Mayberry Telephone Co	42
Middlepoint Home Telephone Co	218
Means Telephone Co	222
Neapolis Telephone Co	37
New Bavaria Farmers Mutual Telephone Co	210
New Burlington Telephone Co	183
New Knoxville Telephone Co	400
New Lebanon Telephone Co	308
New Lyma Telephone Co	87
New Paris Home Telephone Co	245
New Riegel Mutual Telephone Co	151
North Bloomfield Telephone Co	73
North Eaton Telephone Co	106
North Lewisburg Telephone Co	175
North Star Telephone Co	111
Nova Telephone Co	95
Oakwood Farmers Mutual Telephone Co	280
Old Fort Mutual Telephone Co	119
Olena Telephone Co	115
Orwell Telephone Co	162
Ottawa Farmers Mutual Telephone Co	485
Ottoville Telephone Co	309
Ogden Mutual Telephone Co	157
Palmyra Telephone Co	110
Pandora Mutual Telephone Co	333
Paris Telephone Co	59
Parkman Telephone Co	101
Patton Telephone Co	17
Peoples Telephone Co., Belmont	110
Perry Telephone Co., Perry	147
Perry Township Switchboard Co., Lamartine	40
Petersburg Telephone Co	33

Independent telephone companies reporting to the Public Utilities Commission of Ohio—Continued

Class D—Continued	*Number of subscribers*
Pierpont Telephone Co	130
Plain View Mutual Telephone Co	55
Plum Run Valley Telephone Co	15
Polk Rural Telephone Co	158
Putnam County Telephone Co	140
Philo Telephone Co	60
Powhattan Telephone Co	88
Ragersville Telephone Co	42
Resaca Farmers Telephone Co	159
Ridgeville Mutual Telephone Co	285
Rising Bell Telephone Co., Rising Sun	85
Rockford Mutual Telephone Co	385
Rome Telephone Co	47
Ruggles Telephone Co	50
Rush Creek Telephone Co	198
Rushville Bell Telephone Co., Rushville	202
Scott Home Telephone Co	120
Sherwood General Mutual Telephone Association	359
South Bloomingville & Citizens Telephone Co	40
South Webster Mutual Federated Telephone Co	26
Spencer Telephone Co	195
Stillwater Telephone Co., Uhrichsville	55
Stryker Telephone Co	282
Sugar Grove Telephone Co	157
Sullivan Telephone Co	---
Thompson Telephone Co	102
Townsend Telephone Co	124
Triadelphia-Sayre Telephone Co	65
Trumbull Telephone Co	58
Trail Run Telephone Co	190
Valley Telephone Co	157
Van Buren Mutual Telephone Co	120
Van Lue Mutual Telephone Co	247
Vaughansville Mutual Telephone Co	100
Vincent & Western Telephone Co	33
Wabash Mutual Telephone Co	238
Wayne Telephone Co	73
Webster Telephone Co	300
West Hope Telephone Co	35
West Richfield Telephone Co	244
Williamsfield Telephone Co	32
Windham Telephone Co	110
Windsor Telephone Co	67
W. & O. Telephone Co	171
Webber Telephone Service	60
Yellow Creek Telephone Co	28
Yoker Valley Telephone Co	42
Yorkshire Telephone Co	175

Mr. MacKinnon. Mr. Chairman, we want to thank the committee for this opportunity of expressing our views.

Mr. Huddleston. The committee will stand adjourned until 10 o'clock tomorrow morning.

(Thereupon, at 11:47 a.m., the committee proceeded to the consideration of other business, after which an adjournment was taken until the following day, Wednesday, May 16, 1934, at 10 a.m.)

COMMUNICATIONS—H.R. 8301

WEDNESDAY, MAY 16, 1934

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m., in the committee room, New House Office Building, Hon. Sam Rayburn (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Mr. Alexander, if you want some time, you had better take it now.

STATEMENT OF GROSS W. ALEXANDER, EXECUTIVE MANAGER AND SECRETARY OF THE BOARD, PACIFIC-WESTERN BROADCASTING FEDERATION, LTD., LOS ANGELES, CALIF.

Mr. ALEXANDER. My name is Gross W. Alexander, executive manager and secretary of the board, Pacific-Western Broadcasting Federation, Ltd., Los Angeles, Calif., and representing unofficially, and informally, today, several groups, such as the Federal Council of Churches of Christ in America; National Committee on Education by Radio, and perhaps one or two others, as well friends and officials of the Pacific-Western Federation.

Let the record show that we believe the passage of this bill is not merely opportune, but imperative. The powers of the proposed Communications Commission should be as great as are warranted by the Constitution.

We are in the possession of information which, we believe, should materially aid the committee. We are convinced that certain amendments which have been suggested are not as desirable as certain others, and that some modifications should be made in the bill.

Before going into some aspects of the proposed legislation, we ask the privilege of making a statement of theory, of principle underlying what we recommend. For unless the basic presuppositions, or foundations, are laid, the superstructure is likely to be inadequate and irrational. In our feverish haste to look after and perform our immediate tasks we have sometimes overlooked the things most important of all. We have lost sight of the forest in our mad attention to the trees. Please, therefore, pause long enough in your considerations of the details of this bill to look into the foundations that must support them, if they are to stand the test of time.

Democracy is not doing well. I was informed by the Congressional Librarian sometime ago that there are dictatorships—despotisms, if you please—in 25 countries or more. Since then the number

has increased almost 50 percent. The highest achievement of the human race has been profaned, abrogated, annulled; and, if democracy fails in America, as in so many other countries, it will be because of the nonuse, the misuse, the abuse of the instruments of communication; more particularly of the media of mass communication. We must pause long enough to discover the direction in which we are moving, redefine our objectives, plan our course, and provide the equipment by which we may attain our worthy goal, or else America, too, will deteriorate into a political despotism.

Not only is man in interaction with material existence but he lives and moves in an environment of ideas and personalities. It is by means of these social contacts, and the resulting exchage of concepts, sentiments, emotions, that cumulative racial experience is developed into a body of knowledge.

Prevention of interaction between individuals and groups, or subversion of its normal operation, must inevitably give rise to confused and chaotic relations such as would result from interference with operation of the laws of chemistry or physics, were such a thing possible.

That is, artificial, arbitrary checks, hindrances, distortions, applied to laws and forces normally affecting the relation between man and his fellows, constitute a problem of society—the main problem behind all others. It is the failure to recognize this problem which has given rise to such world-wide unrest, and such unparalleled movement in the direction of social revolution.

Orderly, nonviolent change is conditioned upon the free use of the tools of culture. Cataclysmic change usually follows the stoppage of cultural processes. Physical means are resorted to, when social and psychological highways are blocked.

Human society reduces to interaction. Social organization reduces to intercommunication. History could by no means begin until language, the instrument of communication, had been developed. The media and techniques of communication establish the conditions of social evolution; and social progress can only be understood in relation to free interaction and normal intercourse.

The most fundamental of all social institutions is language. Even the most primitive society would be unthinkable without speech and language, without words, spoken and written. There could be no industry, no education, no public opinion, no State, without language. In short, the arts, sciences, humanities, could have no being apart from communication. One thing makes possible social organization—intercommunication.

Words are more than mere vehicles of communication of ideas from mind to mind. They are dynamic with powers of producing phenomena. They carry emotional content, stimulate action. Need for their unhindered flow is not a mere academic contention. And any plan for a rational economic, social, or political reconstruction which does not face present realities with respect to the state of communication is naive, futile, unsound, absurd.

Now, going a step further, words are subject to, and dependent upon, material carriers of one kind or another. The copper wire, the air or ether, the sound wave, the radio frequency, the light vibration, wood pulp and ink, the vacuum tube, the sensitive film

and silver screen, the painter's canvas, the sculptor's marble, and other agencies play vital parts in the vast drama of interaction and intercommunication. For, just as there can be no communication without language, there can be no language without sound and light, ear and eye, and without the common physical ground between them.

No social situation can be rightly understood which does not take into account the manner in which scientific inventions in the field of communication have made a new world for us, and are continuously modifying every feature of life. Modern civilization relates to these inventions, these mechanical devices, these machines of communication so fundamentally that whoever controls them is virtually in a position to control human society.

Up to the point where physical circumstances does not interfere, ownership of these machines is tantamount to complete domination. While there are, of course, limitations to any private control of language, it does not have to be argued that he who has the power to manipulate what the eye sees, what the ear hears, what shall be the voice and expression of the people, has well nigh absolute power. He who commands the traffic in seeing, hearing, thinking, speaking, commands destiny.

It is in this setting that we find placed the rapidly accelerating concentration of economic control of machines of production and distribution. Together with the other tools, the instruments of speech and language are privately owned and privately operated for private advantage. In spite of the fact, that, above all other equipment known to man, they should be a public possession, a racial utility, a human protectorate, these machines of communication are actually manipulated by the few masters of industry to serve their own ends. It is as though the public-school system in America were legally owned and run by the meat-packers, or the distillers, or the electric-power utilities with one primary purpose—the increase in consumption of the product manufactured by them.

It is this situation which your honorable committee is called upon to confront for the millions of your compatriots. This problem of problems is left to you for solution. Not only is there a conspiracy to suck into the vortex of commercialism and commercial expediency the telegraph, the telephone, cable, the vacuum tube, radio, radio broadcasting, television, and such services as you propose to regulate, but one and the same small but powerful group of financial giants are largely in control of the motion picture, talkie, phonograph, music publication, vaudeville, concert, drama, and other potent instruments of culture. I believe the Federal Trade Commission revealed that this industrial ring, sometimes called our electrical oligarchy, had purchased some 60 newspapers throughout the country. Therefore, I am free to say that without the most intelligent and rigid regulation, America will be in a mesh of "chains" which will not yield to any civil action.

When John Milton shouted his famous appeal into the Parliament of England, "Give me the liberty to know, to utter, and to argue freely, according to conscience, above all liberties," he gave expression to life's most fundamental need, the element devoid of which man would revert to beast.

Here then, most honorable Congressmen, is the hypothesis upon which the Nation looks to you to build. The most priceless of traditions and achievements, bought with rivers of blood and tears, is in your charge for protection and fulfillment.

The CHAIRMAN. Mr. Alexander, I suggest if you have any specific suggestions to make on this bill or with reference to any section in it, that you had better do it now. You just have 5 more minutes.

Mr. ALEXANDER. Last week, here in Washington, a conference was held under the auspices of the National Committee on Education by Radio on "The Use of Radio as a Cultural Agency in a Democracy." It was attended by one hundred or more leaders in education, government, and civic affairs, including many of the outstanding men and women of the United States. It was agreed upon two proposals which I have the honor to present to you unofficially for your consideration as possible amendments to this bill.

In the report of the committee on fundamental principles which should underlie American radio policy, there appears the following recommendation:

> Thorough, adequate, and impartial studies by Federal agency should be made of the cultural implications of the broadcasting structure to the end that specific recommendations can be made for the control of that medium to conserve the greatest social welfare values. These studies should also include: An appraisal of the actual and potential cultural values of broadcasting; the effective means for the protection of the rights of children, of minority groups, of amateur radio activities, and of the soverignty of individual States; the public services rendered by broadcasting systems of other nations; international relationships in broadcasting.

A committee was authorized appointed to wait upon the President and urge that he appoint a commission to make such a survey.

In recent years, there have been many challenges to the present set-up. To those who know its weaknesses on the one hand, and can visualize its possibilities of human service on the other hand, present conditions are intolerable. A committee in New York issued a statement a few weeks ago indicating that while we enjoy first-class program service on a commercial basis on a few channels, the most valuable facilities have been appropriated by a few electrical manufacturers, newspapers, and commercial establishments.

It pointed out that the best talent is controlled by the two chains; that on regional and local channels, there is unsatisfactory service, with interference and poor programs; that many stations serve no substantial public interest; that there prevails a vast amount of quackery—talk, advertising, and entertainment; and that eleemosynary stations, including to a large extent educational institutions, have been discriminated against by the assignment of undesirable channels, short hours, and low power.

The Federal Council of the Churches of Christ in America is also making an investigation of broadcasting in the United States, and will probably join with the National Committee on Education by Radio, and others, in petitioning the President to initiate a thorough-going investigation by a commission appointed by and responsible to him.

It is observed that the Senate bill relating to creation of a communications commission incorporates the similar proposal in paragraph (c), of section 307, under title III. But the committee of the Senate commits to the commission the making of the survey. We

doubt very seriously that the commission will be free and disinterested—competent—to undertake this responsibility.

Therefore we venture to hope that your honorable committee will, first, make provision for a comprehensive investigation of the broadcasting status quo; and second, that this investigation shall be conducted by a nonpolitical, disinterested, responsible commission. Whether the work be done by an agency of the Congress, or representatives of the President, it is extremely desirable that it be done.

The second amendment we venture to propose to the bill relates to the reservation of broadcasting facilities for the people through their Government, State or National. While we advocate the survey, we do not think it at all inconsistent to request also immediate action in this particular.

As in the case of the request for the investigation, the appeal for broadcasting stations to be operated by the State issues from the conference of leaders held here last week and from other groups. The action of the conference is given herewith:

> In the issuance of licenses there should be reserved and made available at such time as the States or regional areas wish to take them, adequate broadcasting facilities for full time in each State or group of States cooperating.
>
> Federal aid for these stations should be provided, in return for which the Federal Government would be given the privilege of using not to exceed a stated proportion of the time on the State or regional broadcasting stations, for national programs.

Attention is called by the civic, social, educational leaders to the fact that a program of this kind is not out of keeping with old American tradition, because for many years, the educational and social agencies and services have been promoted and maintained by public authority.

I am glad to inform you that officials of the Federal Council of Churches concur in this policy, as will doubtless appear in the report of their investigation and recommendations. Members of the Federal Council disbelieve that the answer to our acute problem of cultural radio is to be found by reservation of a percentage of facilities for religious institutions, and educational and other stations operated without profit. It would be out of its realm of interest and action for the Federal Council as at present conceived to set up its own broadcasting agency.

Moreover, it is said that it is likely that the more aggressive, independent, and sometimes irresponsible minority groups in the religious field would probably be able to seize the facilities set apart for religion before the larger bodies could possibly get their cumbersome ecclesiastical machinery in action, in case they were interested in broadcasting as denominations. Moreover, this would mean competitive religion on the air, from any more of which, may God save us. Furthermore, it is extremely difficult to obtain financial support for the established institutions of religion and it would be out of the question for most groups to avail themselves of the opportunities afforded. And in addition, the limitations of channels would become occasion for discrimination and strife.

Similar situations would prevail in the educational field if this method of solution of the problem were attempted by the Congress, and in the political field, and in other fields of broadcasting by special-interest groups.

I therefore very earnestly petition your committee to provide an amendment whereby not less than 33⅓ percent of facilities for broadcasting shall be made available to the public through its State and National Governments. This will put into official hands the control of a part of the Nation's broadcasting structure. It will commit to public authorities the control of education by radio, and it is they who should control it. It will tend to raise the standards of all performances, for it will put the State in competition with private enterprise and such special-interest groups as possess and can operate their own facilities.

Please do not understand that I favor deleting educational broadcasting agencies such, as WSUI, or labor-group stations like WCFL, or any other noncommercial enterprise operating in the public interest. On the contrary, let these facilities be increased in number and granted maximum time and power. By this means there would be thus provided three general classes of stations: (1) Governmental, (2) eleemosynary and educational, (3) commercial. And out of the competition between them there would unquestionably issue a much higher program standard and far less discrimination against vast sections of the public who now are substantially excluded from genuine enjoyment of radio.

It goes without saying that commercial enterprise would frown upon anything of this nature. As is declared by the group who met here in Washington last week, "It is probable that such a plan will meet with opposition from those who are jealous of the prerogatives of private business."

It appears that there is only one course for your petitioner to take, namely, to anticipate the objections which would be raised, and answer them in advance.

Also, in an analysis of the situation, I deem it to be my duty to advise your honorable committee of certain amazing incidents which in themselves convey the opinion that the Congress must legislate by rigid enactment for the protection of the public and the promotion of its well-being. For example, I intend to tell how the American Telephone & Telegraph Co., in its conspiracies to exploit the people of this country, granted one subsidy of $3,000,000 to one private institution of learning. While I have hesitated a long time before divulging this information, I think it my patriotic duty to tell several things which the Congress should know as it deliberated upon this important legislation.

The CHAIRMAN. I think that we will have to close your statement at this time. We have given you 18 minutes now, and we have made arrangements for other witnesses to appear this morning.

Mr. ALEXANDER. Mr. Chairman, may I reply by saying that there are a group of people on the west coast who sent me here, who are intensely interested in having certain information in the hands of this committee, and in the hands of Congress. I would imagine that that statement that has just been made relative to the American Telephone & Telegraph Co. having subsidized a private institution to the extent of $3,000,000 would be something if the committee would be interested in it.

The CHAIRMAN. It might be if we had the time. But, there is just so much time in the morning, you know. You may submit your statement, and after we look at it, it may go into the record.

Mr. ALEXANDER. I must, of course, yield to the desires of the committee and——

The CHAIRMAN. You were allotted time for yesterday morning. You were not here, and you had a good excuse, because you were not well; but this morning I told you you could go on and we would hear you, if we had the time. Now, we have given you about 20 minutes already.

Mr. ALEXANDER. I do not understand, Mr. Chairman. I understood that you were going to allow me 40 minutes.

The CHAIRMAN. I did not tell you that I would allow you any specific time. I am certain of that.

Mr. ALEXANDER. Well, may it be understood that the rest of this will go into the record?

The CHAIRMAN. Yes. We will look them over first, before we put them in the record. We may want to discuss it a little in the committee.

(The remainder of the statement above referred to is as follows:)

At the outset, I ventured to remark that I might be able to represent the point of view of certain organizations or their officials such as the Federal Council of the Churches of Christ in America, the National Committee on Education by Radio, and others perhaps, as I have heard or seen their points of view expressed. In the narration of the facts and events I am about to give, just now, I desire it to be known that I am speaking as an individual and participant, and not as the representative, in any way, of the organizations just mentioned. It should be very plain that they are in no possible way implicated in my statement.

For purposes of the record, let it be shown that there should be a clear distinction between the fundamental alternatives in the control of broadcasting. The question as to control of the new giant of mass communication resolves into a question of Who is going to pay the bills? Who is going to own the physical equipment? Who is going to support the program?

Bishop Francis J. McConnell says: "The machine age offers several instrumentalities of mass communication among which are the press, the motion picture, and the radio. Each faces three theoretical alternatives, exploitation by governments on behalf of national or political groups; exploitation by commercial enterprise on behalf of private advantage or commercial expediency; exploitation by altruists and philanthropists on behalf of the common good."

Here are the three fundamental, theoretic possibilities; and there are no others, except by combinations of them, for example, the Government may compete with commercial stations. But the question remains, Will financial support come from philanthropy? Will it come from the State? Will it come from the industry?

In the time that remains, permit me to take these up one by one for purposes of analysis. Effective discrimination will doubtless foster adequate legislation.

First, the support of broadcasting on any large scale will not come from philanthropy. The best way to explain how this is so, and give the reasons why this is so is to tell you the concrete experience of an organization which had every warrant to expect philanthropic aid, but was refused. And, along with the refusal, let it be observed how subservient philanthropy is to commercial enterprise.

I will tell you briefly the experience of the Pacific-Western Broadcasting Federation, Ltd., the corporation of which I have been executive manager since its organization. This institution was set up by four college presidents, by a superior court judge by the executive director of the Federation of Jewish Welfare Organizations, by a prominent Catholic social worker, by a former State superintendent of public instruction, and by certain other eminent citizens who were leaders in the social, educational, civic, and religious life of California.

These directors formed an autonomous, self-perpetuating board. In the membership were persons elected by the California Congress of Parents and

Teachers, various colleges and universities, nine religious bodies covering the States of California, Arizona and Nevada, the California State Federation of Women's Clubs, and various other organizations. The institution was incorporated as nonpartisan, nonsectarian, nonprofit making and nonpropagandic. It offered nothing to sell. It proposed to broadcast high-class performances, popular and technical, for general reception by the total public and for special groups representing special interests. Its stated intention included regular courses in literature, history, citizenship, and liberal arts, generally, for elementary and secondary schools and institutions of higher learning, also for other cultural groups not organized into schools. The discussion of controversial issues was one of its definite plans. It contemplated the cultivation of the arts, the sciences, the humanities. It planned to minister to the public health, raise the level of intelligence, and foster the highest type of citizenry.

On the basis of this platform it procured from the Federal Radio Commission a 50,000-watt radio station construction permit with 180° directional antenna which would have increased its power as a mirror behind a lamp on a wall. It was allowed unlimited hours of operation by the Commission.

With a second construction permit, it received assignments of 3 of the 34 international high frequencies for international relay broadcasting, with maximum power then available for high-frequency transmission. The outstanding achievement of the Federal Radio Commission thus far, in the opinion of many, was these grants.

The Pacific-Western proposed to make these facilities available to the cultural interests and agencies in its territory and to accept and broadcast programs of merit which might be brought to it from any part of the United States.

It proceeded on the theory that the rigid physical limitations of radio forbade the granting of facilities for broadcasting to each class, creed, school, and group. We had in mind a powerful clearing house which all groups might use that had interesting and valuable material to disseminate in the public interest.

This, we felt sure, was a solution, perhaps the most rational and practical solution, to the problem of the higher cultural uses of radio in our democracy.

Not less than 800,000 citizens were represented in the organizations affiliating with the Pacific-Western Broadcasting Federation.

So, with these construction permits, which the industry told us were extremely valuable, perhaps worth $5,000,000, we approached the philanthropic foundations. We were certain that philanthropy would cooperate. On the contrary, we were turned down cold by the General Education Board, by the Carnegie Corporation of New York, by the Julius Rosenwald Fund, the Commonwealth Fund, by the Twentieth Century Foundation, and by the philanthropists themselves: Mr. John D. Rockefeller, Jr., Mr. J. C. Penney; in short, by all the larger foundations and philanthropists.

The significance of this remains to be seen. It is by no means all of the story. The most interesting chapter now opens. In California one of the great banks, with branches in many communities, informed their depositors that if they contributed to the Pacific-Western Broadcasting Federation, Ltd., such contributions would affect their bank credit. One woman, in making her check to our enterprise, told me that she did not dare to write in the name of the corporation and so drew her check in favor of our attorney, who turned the funds over to us. Another depositor told me that the manager of the branch in his city had warned him, threateningly, to cease his financial aid. A wealthy orange-grower, who said under oath at one of our public hearings here in Washington that he could contribute $500,000 to the undertaking and that he intended to see it through, was dominated by the banker in his city, who discouraged, dissuaded him cooperation with the Pacific-Western Federation, and fostered internal strife in the board.

I feel quite certain, honorable gentlemen, you will be interested to know that the widely known head of this chain bank is one of the members of the national advisory council of the National Broadcasting Co. Of course, this may have been the merest accident but I think not.

When it had been learned by certain reactionary business and commercial interests of Los Angeles that the Pacific-Western proposed to establish what would then have been, without question, the most complete and powerful radio broadcasting station in the world, they took immediate steps to oppose it. One would have thought that the promoters of Los Angeles real estate and of southern California generally would have been extremely glad to have had located in that section something (as well as Hollywood) which would have

advertised and popularized the section throughout the world. But not so, if by this means the people were to have privileges of a genuine university of the air.

I have not only been told by a member of the Federal Radio Commission that the manager of the chamber of commerce came in person to Washington to state the position of the chamber of commerce, but I have a copy of one of the hostile telegrams he sent here.

Local representatives of the Radio Corporation of America, or its allied interests in Los Angeles, employed spies to endeavor to discover, if they could, damaging information about our personnel and operations.

The American Telephone & Telegraph Co. was, of course, concerned about our Federation. They did not desire such an undertaking to succeed. The fact that we were planning to purchase Western Electric equipment was of little consequence. You see, we would have set a precedent in broadcasting for the United States, in adidtion to taking away listeners from the commercial stations. So when we were under terrific pressure from the Federal Radio Commission to complete construction of the broadcasting station within a specified time, we were at the mercy of the American Telephone & Telegraph Co., who delayed us for weeks and months in technical matters necessary to the prosecution of our work.

I noticed in the New York Times last Friday that Mr. Walter S. Gifford, president of the American Telephone & Telegraph Co., said to your honorable committee "that the A. T. & T. is regulated by all but three State governments, that it has never paid money into a political fund, and that there have been no specific charges made against it of excessive rates." However, it contributed $3,000,000 to the California Institute of Technology, a nice subsidy by the great utility to a private institution of learning, and then they made Dr. Robert A. Millikan the head of an educational broadcasting organization, initiated by Owen D. Young and others.

It should be said at this point that the California Institute of Technology is governed by an executive committee, a principal member of which is the banker whose bank was so hostile to us, threatening its depositors if they contributed to us.

The eminent scientist, who is head of the California Institute, was persuaded to withdraw his support of the Pacific-Western Broadcasting Federation and become president of the National Advisory Council on Radio in Education.

Perhaps you should know that this organization was formed through the activity and interests of Mr. Owen D. Young, Mr. Walter S. Gifford, and others representing the powerful Radio Trust; that it was specifically designed and organized for the purpose of precluding the support of philanthrophy for any large plan of independent educational broadcasting; and for the purpose of obviating legislation looking toward establishment of noncommercial stations in the hands of informed, disinterested, and responsible leaders; and that it aimed to offset and eventually take the place of such of these facilities as now exist.

In a letter to Bishop W. Bertrand Stevens, at that time president of the Pacific-Western Broadcasting Federation, under date of January 27, 1930, the eminent physicist, who is president of the National Advisory Council on Radio in Education, indicated that Mr. Owen D. Young was the leading spirit in the creation of and the promotion of the National Advisory Council. In writing about a conference held shortly before in New York, he said: "The most concrete and important facts brought to light were presented by Mr. Owen D. Young, who informed us that it was possible for any educational group which the council might set up to obtain all the facilities for Nation-wide broadcasting that it could possibly use without any expense whatever, the sole conditions being that the audience must be large and that the commercial companies which furnished the facilities are to have nothing to do in any way, shape, or manner with the broadcasting program. Mr. Young stated that their motives would be questioned if they were connected with it in any way whatever, and consequently, the only safe way was to turn over this whole matter to an educational group whose motives would not be questioned."

You see how clever was the set-up, and how conscious and deliberate was the part played by the master hand in industry.

The other day in New York a former counsel of the Radio Commission told me that an official of the British Broadcasting Corporation recently observed in his presence that the National Broadcasting Co., or those who

owned it, "surely did a clever thing when they organized the National Advisory Council on Radio in Education." And he might have added, "and made such a notable and influential personage as Dr. Millikan its president."

You see, he had been enthusiastic in his support of the undertaking I have described to you. On August 27, 1928, he wrote me as follows: "The Pacific-Western Broadcasting Federation * * * if it can even partially obtain its goal will become one of the most important social agencies which this country possesses. It numbers among its incorporators some of the finest men of the West." He sent me to Santa Barbara on one occasion to see Dr. Henry S. Pritchett, former president of the Carnegie Corporation, about obtaining the cooperation of philanthropy. In November 1928 he wrote me from the Waldorf-Astoria, New York City, that he had arranged for my appearance before a group of officials of the Carnegie Corporation through Dr. Frederick Keppel. He used his influence with the Federal Radio Commission to obtain for us the concessions we sought.

Not only so, but he made numerous speeches criticizing and ridiculing the commercialized American broadcasting structure. In the Atlantic Monthly for April 1928 is to be found an article entitled "Science in Modern Life", in which Dr. Millikan declares: "The program that is on the air in England is incomparably superior to anything that is to be heard here for the English Government has taken over completely the control of radio."

I do not believe that the president and other officials or members of the National Advisory Council on Radio in Education were or are conscious that they have been used—manipulated, if you please—by the powerful financial interests that control not only radio but other instruments of communication. It is unbelievable to me that any considerations of pecuniary advantage would have consciously influenced a man like Dr. Millikan, although I know that information as to the designs and operations of the commercial exploiters of radio were made known to members of the National Advisory Council.

However, here are the facts. He received $3,000,000 from the American Telephone & Telegraph Co. for the California Institute of Technology. Less than 2 weeks ago I was advised by the Institute that he is a consulting physicist of the Western Electric, a subsidiary owned 98½ percent, I believe, by the American Telephone & Telegraph Co. It had been suggested to me before that Dr. Millikan was or is receiving an honorarium from Western Electric. Valuable equipment from General Electric and Westinghouse companies has been donated to the Institute.

So, when the first radio address, in the first series arranged by the National Advisory Council on Radio in Education, was given by the president of the council, Dr. Millikan, he broadcast to the country that: "Any talk about the danger of the monopolistic control of the ether * * * is not well considered." Dr. Millikan's address, as printed, does not contain the word "grotesque," which, however, was the word he used in his actual speech, referring to allegations respecting the machinations of the vast power trust and radio interests. Speaking of commercial monopoly, he indicated that there was not "the slightest danger of its being created," in spite of numerous revelations of this actual condition which have since been confirmed by the courts. This was all "grotesque."

Not only so, but he went on to say that the only exception to his contention of "no monopoly" that he could see "would be in the case of a government monopoly, maintained essentially by bullets." "Government monopoly"—"maintained essentially by bullets," which reminds one of the Atlantic Monthly article in which he spoke of "The program that is on the air in England" being "incomparably superior to anything to be heard here, for the English Government has taken over completely the control of the radio." At a time when the public policy toward control of broadcasting was being formulated Dr. Millikan was persuaded to shift his position completely. Certainly he had the right to change his mind. But it is just here where we are made aware of the invisible hand of the economic oligarchy in the field of philanthropy.

Dr. Millikan said the reason he withdrew support of the Pacific-Western was because he had learned there would be no financial support of it. It should be stated emphatically that no one could hope to gain financial support for a great educational broadcasting agency in southern California without the endorsement and approval of Dr. Millikan, whether this support came from the east coast or the west.

So what he was influenced to do was to make the support of philanthropy impossible.

The National Advisory Council of Radio in Education, through its director, ridicules the idea of monopoly: "There is vociferous campaigning against 'commercial monopoly of the air'", they say. "There are frequent fulminations against the 'power trust' and the 'radio monopoly'." Then it is observed: "It really doesn't make much difference where the ultimate control is vested, just so the open-forum idea on the air is preserved" (which, of course, every informed, disinterested person knows is impossible where the control is vested in industry). The literature declares there are only a relatively few instances of censorship, and repeats emphatically that they are "extremely rare."

The key to the book, Education Tunes In, speaking for this enterprise, is to be found in the following sentences: "It seems reasonable to hope that industry will recognize the advisability of putting such programs on the air, will readily see that it is good business to do so, and will provide the funds necessary to engage talent." For "the industry to provide facilities for educational broadcasting without charge", the author holds to be "the greatest hope for educational broadcasting."

On the next page you have the plain, unvarnished motive behind the Radio Trust, and, incidentally, the chief problem of America and the world today—the unsatiable lust for power, the craving to dominate one's fellow man—an industrial fascism in a political democracy.

Cannot the honorable committee therefore see what a clever device was invented by Mr. Young and Mr. Gifford and others when they enlisted Dr. Millikan and the other educators and other national leaders to organize the National Advisory Council? They may not have contributed to political campaign chests or corrupted members of the Cabinet, but by crushing America's outstanding noncommercial agency which proposed to compete with them in the most fundamental of all ways; by their persistent and destructive antagonism to the principle operating behind it; and by their subtle influences brought to bear upon persons who were or would have been champions of the disinterestedness, the integrity, the inviolability of education by radio, obtaining the transfer of their loyalty and leadership to commercial enterprise, they have laid themselves open to very serious indictment, and the obvious necessity of rigid legislative control by Congress, if there is to be freedom of the air.

The technique utilized is not new to the Radio Trust group. When the National Broadcasting Co. was organized by Mr. Young and Mr. Gifford, they selected Mr. Merlin H. Aylesworth to become president, he being at that time director of public relations of the National Electric Light Association. During Mr. Aylesworth's employment by the National Electric Light Association that organization engaged in an astounding campaign to influence the clergy, chambers of commerce, the press, all kinds of civic organizations, local politicians, college professors, superintendents of schools, and textbook publishers. As revealed by the Federal Trade Commission, it engaged in a "conspiracy" to corrupt the public intelligence through unreliable statistics and one-sided propaganda on behalf of unregulated, privately owned utilities. A sample of Mr. Aylesworth's policy is given in the following:

"I would advise the manager who lives in a community where there is a college to get the professor of economics interested in your problems. Have him lecture on your subject to his classes. Once in a while it would pay you to take such men, getting $500 or $600 a year, or $1,000 perhaps, and give them a retainer of $100 or $200 a year for the privilege of letting you study and consult with them. For how, in heaven's name, can we do anything in the schools of the country, with the young people growing up, if we have not first sold the idea of education to the college professor?"

At a convention at Birmingham he said: "Don't be afraid of the expense. The public pays the expense." Now, "since its formation", admits Mr. Aylesworth, "the National Broadcasting Co. has done everything in its power to awaken the educators of this country to the possibilities of radio broadcasting in conjunction with the work of schools and colleges."

I believe it was Dr. E. A. Ross who said that this sort of corruption was worse than the Teapot Dome scandals, for it is corruption at the source of public action, corruption of the public mind.

As one begins to get the whole picture in its whole setting, it is very, very disheartening, and not the least discouraging factor is the stupidity of some

of our educators who would resent it highly if these facts were definitely brought to their attention.

Not only is education to be superseded by propaganda, but business decrees there is to be a limit to education where it is really free. Hon. Samuel Shortridge, ex-Senator from California, said to me one day at the Capitol, "I do not believe in too much education for the people. Were they not ordained of God to be 'hewers of wood and drawers of water?'" This conspiracy of ignorance and the manipulation of the unsuspecting educators arises from causes which are operating to dominate philanthropy and its cooperation with the extension of a genuine culture going down to the roots of our civilization. Education by radio will never be adequately maintained by philanthropy. We must look elsewhere for someone to pay the bills.

I will not take the time to discuss the second alternative mentioned, complete monopoly of broadcasting by the Government. We are not ready at this time for nationalization of radio. Moreover, it would be impossible to achieve.

The third alternative is support of the higher values in broadcasting by the industry, by business. In America the radio industry is endeavoring to unite services altogether different—the dissemination of entertainment, propaganda, news, and opinions with the sale of publicity in the form of advertising. The former is inseparably related to national culture. The latter is merely the marketing of a ware. In the United States broadcasting "is trying to live on advertising and being poisoned by it." Instead of operating on the principle that broadcasting was made for the people, the industry operates on the principle that the people were made for the broadcaster. So we make of culture a shop for sales and profits.

In the field of radio the world figure is, of course, the Radio Corporation of America. But R.C.A. is also interested in motion-picture production, distribution, and exhibition; in the phonograph industry; in vaudeville; in music production; in television; in manufacturing and selling vacuum tubes; in producing and marketing equipment for broadcasting and receiving; in various other allied arts and industries, as well as in telegraphic and cable communications; and in radio broadcasting. This committee would, of course, know very well that it is organized under separate national and State laws, as for example: The Marconi Telegraph Cable Co. of New Jersey; Radio Corporation of America of Argentine, Inc.; Canadian Marconi Co.

It has absorbed the 700 Keith-Albee theaters; the Orpheum chain of theaters; the Pantages chain of theaters, in addition to chains of vaudeville and motion-picture theaters outside the United States. It has purchased the majority of stock in the Film Booking Offices of America, Inc., the Victor Talking Machine Co., and threatens to enter the newspaper business.

Some time ago, after a joint announcement made by Adolph Zukor, of Paramount-Famous-Lasky Corporation, and William Paley, of Columbia Broadcasting System, that Paramount had acquired half interest in Columbia, the announcement was made that the Radio Corporation had acquired the Pantages circuit, and, failing in immediate negotiations to absorb the Fox and Zukor film interests, the Radio Corporation agent was quoted in the press as saying:

"We are going ahead without competitive program more competitively than ever. We are going to buy and build theaters, and what competition we can't swallow into our organization we'll dynamite out of the field."

Honorable Congressmen, I appeal to you. Is this the type of Americanism that is to determine our national psychology and conduct? Is not this "power economy", this legalized force, coercion, might, our present weakness and our shame? But it is not more power over industry, it is power over human lives; it is power, in the realm of communication, to compel conformity, standardization, regimentation of thought. Is this what we are going to exalt as characteristic of America? It is well known that the movies have corrupted public morals. Here are the gentlemen who are responsible. And now radio has become almost completely a theater man's game. The same gentlemen are at work.

When the president of the N.B.C. was testifying before a congressional committee in connection with this matter of a communications commission some years ago, he admitted that the company was even then organizing music publishing houses, or purchasing them. He said:

"It is necessary for us to be in the music business * * *. We hold that this new music company will develop American music, American composers, for both educational music and for popular music. Nothing of that sort has ever been accomplished in this country. We think radio is the medium that can

do it. All right; if radio is the medium that can do it, we have to control the music situation. It is a simple business proposition * * *."

Is there some saying about a man who writes the Nation's songs exerting more influence than the man who makes its laws?

When it is contended that the industry should be allowed to continue its domination of American culture by radio, let there be no question as to what its motives are. An indication of the one purpose underlying the "public service" programs of the N.B.C. which are furnished to associated stations is given herewith. Being asked if such programs as those sponsored by the Foreign Policy Association, the Federal Council of Churches, the National League of Women Voters, and the other leading organizations were for the purpose of benefiting the people generally or for popularizing the system, the head of the N.B.C. replied that they were "good advertising." In a different form the question was bluntly put, apparently to preclude any misunderstanding:

"And those public-service programs are a part of the business game of popularizing your own company?" he was asked.

"Yes", was the reply of Mr. Aylesworth.

This conforms to previous official declarations that there is "no altruism" in the policies of N.B.C. When we think of the education of American childhood, by radio, we should keep this in mind.

While there are many aspects of this question of control of broadcasting by the industry (and I could go on for hours giving your committee data), I would venture to mention specifically only one other trait of our master in the field.

Maj. Gen. James G. Harbord has been or is chairman of the board of the Radio Corporation and is one of its principals. In a stirring public speech on war the General is quoted:

"War represents a permanent factor in human life and a very noble one. It is the school of heroism from which a nation's noblest sons graduate into highest manhood * * *. Individual preparation for national defense is necessary for the peace-time benefits that come to the people who prepare themselves, for the efficiency that will come when your streets will again echo the tread of marching soldiers, your railways and your waterways again teem with men and implements of war assembling to protect the flat * * *."

In addressing the American Legion sometime afterward the press quoted him further as saying:

"In truth, there is in war itself something beyond mere logic and above cold reason. There is still something in war which in the last analysis man values above social comforts, above ease, and even above religion. It is the mysterious power that war gives to life, of rising above mere life."

At a time when the whole world is hovering beside the abyss, and our best statesmen are pleading for the will to peace and the conditions for peace and the organization for peace, we have placed on the throne of our national thinking, through movie, radio, and other media of communication, a bloodthirsty sadist. I submit to you, Is it anything short of insanity, or suicide, to permit such an industry as is represented by the Radio Corporation of America to so completely control the traffic in seeing, hearing, thinking, speaking? R.C.A. is an "organization whose every important official and technician is a reserve officer of the Army or Navy."

If there were only 90 printing presses in the United States for all uses, the problem of public policy toward their control would certainly be acute. Yet this situation actually prevails in radio broadcasting. There are only 90 broadcastings channels, and these have to be divided with other countries on this continent. America has allowed broadcasting to fall into the hands of one special interest and one powerful combine, and to be administered for private benefit and to render the people their servitors.

At its best, this stupendous carrier of ideas, ideals, and culture has come into the hands of commercialism and is going to waste. At its worst, radio is being exploited with a view to the most reprehensible of all purposes—corruption of the public mind. For the industry, therefore, to perpetuate its domination of educational services would be unthinkable as a solution.

The exclusiveness in broadcasting makes monopoly easier and more natural than it has ever been in all human intercourse. The most persuasive method of communication known to man is strangely the most exclusive. Before the molds have set we must create some new agency to utilize it intelligently.

In no realm of social life is private control more menacing to the common interests of mankind and more manifest in our own country than in this new

agency of mass appeal. It is simply unbelievable that one powerful group in the business field should totally control the radio traffic in thought and emotion.

Looked at through the eyes of common sense, broadcasting is no more a "business" than is the public-school system or a vital religion. For a medium like radio, at once so powerful and so peculiarly subject to exclusive operation and monopoly, to be devoted wholly to moneymaking is little short of madness. Under no circumstances should we willingly commit to business the mechanical instruments and radio machines by which nations and their citizens converse and laugh and weep—en masse.

In conclusion I would like to quote an observation made by Aristotle more than 2,000 years ago, which was called to our attention at the conference of leaders last week by Hon. John Dickinson, Assistant Secretary of Commerce. Aristotle said a state could not be governed by the public opinion of its people if its citizens are too numerous to be reached by the voice of the same speaker. Mr. Dickinson went on to comment:

"Because of the truth of that observation popular government was condemned for hundreds of years to the narrow boundaries of towns and small cities. * * * It was the invention of printing * * * that in the long run made possible popular government, as we know it, on a Nation-wide scale. * * * The coming of the radio has completed the process, and by an undreamed-of miracle of science has restored popular government in Aristotle's sense to a modern nation of continental expanse."

But what are we going to do with it? That is your problem. The effect of converting the world into a vast auditorium, of bringing the arts within reach of every home, of enabling the key personalities of the Nation's collective life to relate themselves to their fellow citizens for the opening of minds and hearts to ideals of which the majority is scarcely aware cannot but be far-reaching. There seems to inhere in this remarkable instrument of communication incomparable opportunity for influencing not only contemporary psychology and culture but destiny. And America must share in the process of this universal education.

Let me put the question to you squarely: Shall her enlightenment be a sales talk, a song, and a band of jazz; or shall it be a releasing of latent human skills, a dispelling of ignorance, prejudice, passion, a cultivating of the art of understanding, a developing of a better appreciation of the common humanity of earth's races, and an ushering in of the era of peace?

It is certain the radio will not be redeemed by philanthropy. It is out of the question to hope for early nationalization of the art. It would be madness to permit the control of broadcasting to continue under the domination of the industry generally, and the Radio Corporation of America in particular. We must ask you to aid with all your power to put the agencies of government into the field. That is the only answer of which we know. The people can best act through their Government. It has the money. Our great educators, social engineers, clergymen, statesmen, can give us hope. Who commands the air commands all.

STATEMENT OF DAVID SARNOFF, PRESIDENT RADIO CORPORATION OF AMERICA, NEW YORK, N.Y.

The CHAIRMAN. Mr. Sarnoff, we will hear you.

Mr. SARNOFF. My name is David Sarnoff. I am president of the Radio Corporation of America and reside in New York City.

We are heartily in accord with the principle of unified Federal regulation of the communications industry.

We have always believed in the necessity for effective regulation of communications by a single governmental agency, and we pledge our complete support to the President's views as expressed to Congress in his message of February 26, in which he urged the creation of a single Federal agency to be vested with the authority now lying in the Federal Radio Commission, together with that authority over communications now vested in the Interstate Commerce Commission.

To make this authority complete, I would suggest that the present authority of the Postmaster General over communications, covered in the Post Roads Act, which includes the power to fix rates for governmental telegrams, be also transferred to the new Commission. Similarly, the power of the executive department, covering the granting and regulation of cable landing licenses, should likewise be transferred to the new Commission. Only in this manner can the United States develop a unified and progressive communications policy, both national and international.

Foreign nations give much thought to the control and effective planning of their international communication services. The creation of a single Federal regulatory body in this country will mark a most constructive step in the communications history of the United States. We therefore hope that the Communications Act of 1934 will become a law and that under that law the Federal Communications Commission will be promptly established.

R.C.A. unreservedly places its facilities and its personnel at the service of the Government in carrying out this program.

The communication services of the R.C.A. are, at the present time, mainly with foreign countries and with ships at sea. Our domestic radio communication system is still small, but we hope to extend it as rapidly as the art will permit.

R.C.A.'s overseas radio communication services now reach 41 foreign countries directly from the United States and 11 from the Philippines. This world-wide system, which makes the United States entirely independent of submarine cable communication, has been created by the Radio Corporation during the past 14 years and has placed this country in the forefront of the world's wireless development.

As I understand it, the theory of the bill you are now considering is to leave the existing radio law substantially unchanged and to transfer to the new Commission the present powers of the Federal Radio Commission. The suggestions which I shall make are based on this understanding.

On page 4 of the Rayburn bill, in the definition of "foreign communication" contained in section 3 (f), we would suggest that your committee insert, at the end of line 6, the words "insofar as such communication or transmission takes place within the United States." These words are taken from section (1) of the Interstate Commerce Commission Act and have been accepted by the Senate in the communications bill which it passed yesterday.

This suggestion is based on the fact that the two ends of an international radio circuit are seldom owned and operated by the same organization; that the other ends of international radio-communication circuits are under foreign ownership and control, and that the governments at the two ends of each circuit claim equal power to regulate its operation and the charges for services over it.

On page 26, section 214 seems needlessly severe. It provides that no new circuit may be established until after hearings, publication in newspapers, and approval by the new Commission. The language is obviously taken from the Interstate Commerce Commission Act, where it applies to new railroad construction.

The construction of a new railroad, or its extension, is a major enterprise, involving vast quantities of capital, labor, material, and

rights-of-way. The creation of a new communication circuit is now a simple matter. The rules governing new railroad construction obviously do not fit communications.

The practical authority of the new Commission will not be lessened if, in section 214, you substitute for the words "lines or circuits" the words "pole lines over new rights-of-way." While this would not cover new radio stations, no new law is necessary on this point, as under both House and Senate bills a construction permit is first required from the Commission before any new radio station can be erected.

Mr. MERRITT. May I interrupt?

Mr. SARNOFF. Yes, sir.

Mr. MERRITT. You speak about the number of radio circuits being erected. What does that mean?

Mr. SARNOFF. A new radio circuit means the establishment of a new radio station, generally, or a new circuit to another country which can be used from existing stations without the erection of additional facilities.

Mr. MERRITT. Well, I am asking this for information. Radio is always a mystery to me, as to many other people. Does a new circuit have to do with a particular frequency that is used on that circuit?

Mr. SARNOFF. Generally speaking, yes, sir; it generally requires a new frequency, if the volume of traffic over the new circuit is sufficient to take up a substantial portion of the time. Where that is the case, a new station has to be built; and in that event, under the existing law, a construction permit must be first obtained from the Commission, and frequencies are allotted to that station.

Mr. MERRITT. Practically, then, what it means in your case is a new station?

Mr. SARNOFF. Practically speaking; yes, sir.

Mr. MERRITT. Thank you.

Mr. SARNOFF. Section 215 (b), on page 29, requires that before a communications company can buy any apparatus, any equipment, or any supplies from a parent, subsidiary, or affiliated company, the Commission, after full opportunity for hearing, must approve such purchases. Radio is a new art. Its equipment cannot yet be bought in the open market—I refer to communications equipment—it must still develop and build the equipment required for its service. Its parents, subsidiaries, and affiliated companies must all help. And while the art is changing and development is in progress, I am sure you do not desire to insist that the research laboratories be opened to inspection. It cannot be intended that the purchase of tubes, or the hundreds of small items of equipment incident to the normal operation of a communications circuit, be the subject of petition to, and order by, the New Commission. Research, its associated patent work and expert personnel, cannot be the subject of competitive bids.

The power of the new Commission in this section should be made permissive and not mandatory, as has already been done in section 218, which deals with investigations by the new Commission into technical developments and improvements in electrical communication.

And now please pass to section 219 (a), on page 30, which calls for annual and other reports. Here the new Commission is authorized

to require annual reports under oath from all carriers subject to the act and, in addition, from all parents, subsidiaries, and affiliated companies.

I would have no objection at all to the section if it referred to communication carriers only. The Interstate Commerce Commission Act (sec. 20, pars. (1) and (2), on which this section is based) would indicate that it was intended to apply to affiliated companies which were public carriers. The bill now before you goes much further and requires reports from organizations affiliated with communication companies although in no manner engaged in communications.

The rates, practices, salaries, and so forth, of communication companies are proper subjects for scrutiny by the new Commission, but the same rule should not apply to an affiliated company engaged in a wholly different business. For example, the fact that R.C.A. owns 100 percent of R.C.A. Communications, a wireless telegraph company, and a substantial interest in R.K.O., an amusement company, should not result in putting the amusement company under the jurisdiction of the new Communications Commission.

I agree that any contract between the communications company and the amusement company might be subject to the jurisdiction of the Commission. But to demand, under the proposed law, highly detailed statements from the amusement company would subject it to Federal regulation and publicity from which its competitors would be free. In this situation there would be no benefit whatever to communications and needless injury to the amusement company. If this section is retained, I would urge that it be expressly limited to carriers.

Section 211 requires that "every carrier subject to this act shall file with the Commission copies of all contracts, agreements, or arrangements with other carriers in relation to any traffic affected by the provisions of this act to which it may be a party." If this is intended to include all contracts, whether relating to foreign or domestic communications, so as to include contracts with foreign governments and companies, it is important that these be kept confidential.

Publication of traffic contracts of one American carrier may enable its competitor to take advantage of his knowledge of such contracts to attempt to supplant the existing contracts with similar ones in his own favor. Where there is only one organization at the foreign end, bidding by competing Americans for the favor of such foreign organization would likely result in a contract more favorable to the foreigner. Americans cutting each other's throats, to the advantage of foreigners, is not in the public interest.

I would urge, therefore, that the proviso on line 18, on page 53, at the end of section 312, be changed to read:

Provided, That the Commission shall keep confidential any contract, agreement, or arrangement relating to wire or radio communication in foreign commerce, unless in the opinion of the Commission the publication thereof is required by the public interest.

Gentlemen, this concludes my statement. I appreciate the opportunity you have afforded me to appear before you and your courtesy in hearing me.

Mr. HUDDLESTON (presiding). Are there any questions?

Mr. HOLMES. Yes, Mr. Chairman.

Mr. HUDDLESTON. Mr. Holmes.

Mr. HOLMES. This language appears in the House bill that is before us:

Provided, That the Commission may, if the public interest will be served thereby, keep confidential any contract, agreement, or arrangement relating to wire or radio communications in foreign commerce if the publication of such contract, agreement, or arrangement would place American communication companies at a disadvantage in meeting the competition of foreign communication companies.

Mr. SARNOFF. That is in the House bill?

Mr. HOLMES. That language is in the House bill. That is similar to what you just referred to. Does that cover your suggestion?

Mr. SARNOFF. I do not thing so, sir. I think that there is another provision there, too.

Mr. MERRITT. I think that the witness was not using the same copy of the bill that we have before us. I noticed that some of his references do not fit my copy. Do you have the committee print there, Mr. Sarnoff, H.R. 8301, which contains some provisions in italics; some roman type and some in italics, dated February 27?

Mr. SARNOFF. That is the one I have before me.

Mr. MERRITT. That is the one you have?

Mr. SARNOFF. Yes, sir.

Mr. MERRITT. I thought that there was some references that did not seem to fit my copy.

Mr. HOLMES. Have you got that provision before you on page 57, H.R. 8301, section 312? The proviso in italics there is the proviso that I have reference to.

Mr. PETTENGILL. Will the clerk give him a copy of the committee print?

Mr. SARNOFF. May I respond to your question?

Mr. HOLMES. Yes.

Mr. SARNOFF. On page 53——

Mr. HOLMES. I am talking about page 57, section 312.

Mr. PETTENGILL. He does not have the same bill.

Mr. HOLMES. Page 57 on this bill. It is under section 312. That begins on page 56. I am referring to the proviso at the top of page 57.

Mr. SARNOFF. If a later draft of the bill has taken care of that proviso I referred to, of course, I have nothing to add; but it had seemed to me from a reading of the copy that I have that it did not fully do so, because on page 53 of the copy I have, under section 312, at the bottom, line 21, it says:

when the publication of such contract, agreement, or arrangement would place American communication companies at a disadvantage in meeting the competition of foreign communication companies.

Well, it might place them at a disadvantage with respect to each other.

Mr. HOLMES. Section 310, page 53, of the draft I have before me——

Mr. SARNOFF. Well, I guess we have different prints.

Mr. HOLMES. There is another section that you refer to, I think, section 219, on page 33, "Annual and other reports."

Mr. SARNOFF. Yes, sir.

Mr. HOLMES. Is that not the exact language of the present section 20 (1) and 20 (2) of the Interstate Commerce Act?

Mr. SARNOFF. It may be, sir, but the Interstate Commerce Act, as I understand, relates to carriers.

Mr. HOLMES. That is true.

Mr. SARNOFF. And this bill goes further, and the provisions of this act might refer to affiliated organizations, not carriers, and to that point my observations were addressed.

Mr. HOLMES. If we strike out the word "parent", you have reference to in that section, that will meet your objection?

Mr. SARNOFF. That is right.

The CHAIRMAN. Are there any further questions?

Mr. HOLMES. Yes, Mr. Chairman. I have another question with relation to the extensions and so forth in circuits. You made reference to that, extensions of circuits?

Mr. SARNOFF. Yes, sir.

Mr. HOLMES. This clause here does not have anything to do with intrastate service?

Mr. SARNOFF. No, sir; but in the case of interstate communications, where radio is concerned, I have attempted in my statement to differentiate between the character of operations there and those existing in normal wire operations.

Mr. HOLMES. What I am trying to get, regardless of what the language may be in this bill, is, in the city of Worcester, which is my city, if they want to make an extension and so forth, they are authorized to by the proper authorities there. It may be poles, or conduits, for additional circuits. I cannot see where this bill prohibits the municipality from making the extensions as they may authorize for the local communities.

Mr. SARNOFF. It might not do that; but if your State wishes to set up a radio circuit, or already has a radio circuit, and which is to extend its operation——

Mr. HOLMES. Or change its location?

Mr. SARNOFF. Well, primarily, I had in mind extending its operations, one station may be able to communicate with a half dozen different countries through the same station. All that it requires is just the changing of a switch. You do not want that kind of a thing to be the subject of an order of the commission, because there are frequent occasions in international communications where one circuit may go out of business and you may have to establish another frequency, and unless you are free to engage in that, it will go to a foreign company, because it is always possible to reroute a radiogram from another country. I felt that it was not the intention of the draftsman or this committee to so restrict the operation of these circuits, but I have called attention to the language.

Mr. HUDDLESTON. Are there any further questions, gentlemen?

We thank you, Mr. Sarnoff.

Mr. SARNOFF. Thank you, Mr. Chairman.

STATEMENT OF HON. LOUIS T. McFADDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. HUDDLESTON. Mr. McFadden, we will hear you.

Mr. MCFADDEN. Mr. Chairman, I have been out of town and just this moment got in and heard of this call.

I am interested in this measure. That is because of the fact that I introduced in the House H.R. 7986 dealing with the question of censorship of the radio. I would like to call the attention of the committee to the fact that there is censorship of radio by both of the major companies. I mean by that, the Columbia and the National Broadcasting Co.

And, the purpose of this bill that I introduced was to attempt to secure a liberalization of that deliberate censorship which has been built up by both of these companies.

I am not prepared, I regret to say, to make a complete statement and give the evidence at this moment, but if it is agreeable to the committee, not wanting to take up your time, as I understand that you desire to close these hearings, I would like to file my statement and the evidence as to these facts.

Mr. HUDDLESTON. Being no objection, you will be accorded that privilege.

(The statement referred to is as follows:)

STATEMENT BY L. T. MCFADDEN, MAY 16, 1934, TO THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. Chairman and members of the committee, as to the provisions of my bill no. 7986, to amend the Radio Act of 1927, I am now renewing my former request presented on the floor of the House March 1, 1934, that pending the putting into operation fully of the President's plan as represented by the Rayburn-Dill bill establishing a new commission of communications, consideration be given to the urgent need to include timely safeguards to prevent further encroachment of selfish interests relative to radio broadcasting.

The two bills that have been introduced at the instance of the President do not deal clearly with the question of censorship.

Much evidence has been presented in hearings held by the radio committee of the House on H.R. 7986, which shows that the two major chain broadcasting systems have a self-established censorship policy affecting politics, education, and religion. In this they are wrongfully attempting to tell the people what they shall hear and what they shall not hear.

At the same time, those chain systems are carrying forward their private income-producing program without any semblance of governmental control.

By way of example, I notice that the president of the National Broadcasting Co., testifying recently before the House radio committee, stated that his company made profits during the past several years. On the other hand it has been suggested that the Federal Radio Commission might inform this committee that statements filed by that company for several years past are to the effect that the company has made no profit; that on the contrary, it had presented its parent organization, Radio Corporation of America, every year with deficits which had to be made up by Radio Corporation of America income from sources other than broadcasting.

It is well known that the National Broadcasting Co. is a wholly-owned subsidiary of the Radio Corporation of America. The Columbia Broadcasting System is practically owned and controlled by one man's family.

Furthermore, the Columbia Broadcasting System and the National Broadcasting Co., by their officers, have undertaken to select what the American people may or may not hear with reference to what the Bible contains. They have arbitrarily limited the use of their facilities to certain religious organizations. They have unjustly discriminated and do unjustly discriminate against all others, to the detriment of and against the expressed wishes of millions

of American citizens, as represented in the huge petition recently presented to Congress relative to discrimination and interference.

More evidence will be presented to this committee, as I understand, by a representative of these millions of petitioners, to show that in addition to the harmful practices of the broadcasting chain systems certain members of the Federal Radio Commission have misused their office in furthering attempts made by a leading religious organization to advance its own interests even to the forced exclusion of others.

In my humble judgment, a serious condition is indicated by the action of 2½ million people crying out in protest to this Congress that undue discrimination and interference exist and ought to be abolished. Those broadcasting systems, by their officers, have presumed to judge and rule upon the fitness of subject matter of which they admittedly are not qualified to judge.

Additionally, there is a mass of evidence which has been accumulating during the past year, showing the outrages that have been and are being practiced against owners of broadcasting stations. As a result, stations are being deprived of legitimate income which they may derive through broadcasting worthwhile programs of wide public interest.

I submit that an obligation rests upon this Congress to see that provisions is made to safeguard the steady and proper development of this marvelous means of disseminating information of public interest and value. While the Government has obligations to provide for the entertainment and amusement of the people who desire such by use of radio, it has an equal, if not a greater obligation to provide for enlightenment of that growing class of people who desire to know about weightier matters.

The glaring abuses of the broadcasting facilities clearly show the need for a remedy to restrain the selfish interests. Such a remedy is needed now. It ought to be embodied in the pending legislation to provide for adequate safeguards. H.R. 7986 furnishes a means of protection and the proper use of such facilities that the people may hear what they desire and are entitled to hear, and that station owners may conduct their legitimate business without interference.

STATEMENT OF ANTON KOERBER, WASHINGTON REPRESENTATIVE, THE WATCH TOWER BIBLE AND TRACT SOCIETY

Mr. KOERBER. My name is Anton Koerber, Washington representative, the Watch Tower Bible and Tract Society which sponsored a petition, which was signed by 2½ million constituents in the United States, to the Congress recently, respecting the discrimination in radio by the chain corporations, and coercion by certain other organizations throughout the country, including the Catholic heirarchy.

In the field of radio broadcasting there is urgent need for regulation. Amendment of H.R. 8301 to insure an equitable use of existing facilities is essential. The American people have a right to hear what they desire to hear without anyone's acting as their censor or guardian. The whole public body, which more and more depends upon radio as an agency of general usefulness, expects congressional action to eliminate the possibility of further unjust discrimination by entrenched selfish interests, and interference with the rights of individual broadcasting stations as well as the rights of listeners.

Recently extensive hearings were held by the House Committee on the Merchant Marine, Radio, and Fisheries with reference to H.R. 7986. The hearings revealed certain startling abuses in regard to broadcasting, particularly as affecting the use of broadcasting facilities by Jehovah's witnesses.

It is publicly claimed that in that hearing an organized effort was successfully projected by a combination of powerful commercial, political, and religious leaders to " effectively squelch " congressional

action to safeguard the rights of the people relative to the radio and its use for the public welfare. Such organized effort, a direct affront to at least the 2½ million persons who have protested to their representatives in Congress, justly claims the notice of the House Commerce Committee and other Members of Congress.

The abuses brought to light in the former hearing ought to be immediately remedied by suitably amending H.R. 8301.

Briefly summarized, the following facts appear:

As to the Federal Radio Commission: While section 29 of the Radio Act of 1927 provides no censorship, yet there is operating in the United States an effective censorship of broadcasting. The Commission has indirectly done what it cannot do legally in a direct manner.

For example, one organization, The Watch Tower, that has sponsored programs broadcast for hire by numerous radio stations, was required to furnish the Federal Radio Commission with copy of certain of its programs, together with a list of stations hired that had broadcast the same.

More than 3 months after such programs had been broadcast by hundreds of stations—and after the Commission had received the aforementioned information from The Watch Tower—the Commission directed to such stations letters requesting immediate report as to whether the programs had been in fact broadcast. The manifest purpose thereof was to support a campaign of intimidation then launched and being carried on by certain religious interests.

By the Commission's omitting to state to the stations its reason for this most unusual procedure, the effect upon the stations was intimidation. By such written communications and also oral communications by the Commission respecting the Watch Tower programs, many station managers were moved to fear loss of their license. They concluded it would be unsafe to broadcast more Watch Tower programs and have declined to broadcast until the matter should be settled.

Many stations have been deprived of legitimate income.

Millions of listeners have been deprived of programs.

According to testimony offered on March 20 before the House Radio Committee, the Commission's only purpose for requesting copies of those programs, and for asking the stations to certify their action in broadcasting those programs, was that the Commission might file such information for use if, as, and when application should be submitted by such stations for renewal of their license.

In reality, according to the same testimony, the Commission has taken no action, although nearly a year has passed, during which time they have renewed the licenses of those stations several times. This is persuasive evidence that the real purpose of the Commission in obtaining this evidence from the stations was to intimidate them, and was in support of the campaign being carried forward by certain religious organizations.

The Federal Radio Commission has sought to justify its official inquest relative to Watch Tower programs, which inquest has in fact resulted in cancelation by many stations of lawful contracts to broadcast those programs. The proof shows that such action by the

Commission has been taken and is still being taken in furtherance of a concerted attempt to prevent the people from hearing certain programs of Bible instruction.

Within the past 60 days letters purporting to have come from the Federal Radio Commission have been received by numerous radio stations, in which letters inquiry is made as to whether specified Watch Tower programs were broadcast. The effect of such inquiry, as coming from the Commission, has been to perplex and unduly disturb the stations.

Many similar cases are cited in the record of hearings on H.R. 7986.

Statements made to me and two associates by Judge Sykes, of the Federal Radio Commission, and by the Commission's acting general counsel, George Porter, show that Commissioner Hanley, who is biased by reason of his religious convictions, sent out letters of inquiry recently to radio stations regarding Watch Tower programs, and that Commissioner Hanley did so without the knowledge of any other members of the Commission and without the knowledge of the Commission's acting general counsel.

We submit that any member of the Federal Radio Commission is privileged to hold religious views and practice any religion that may please him, but he has no right to use his public official power to further his own religious views, or to support the interests of any particular religious organization. A public officer is a public servant, and his public office cannot be rightfully used for a private interest.

On March 20 last, when testifying before the House Radio Committee, the chairman of the Radio Commission either overlooked or was not aware of the fact that Henry Caravati, an executive agent of a leading religious organization, had conferences with some of the radio commissioners relative to steps that might be taken to have the broadcasting of Rutherford programs stopped. Or else Judge Sykes proceeded on the theory that Caravati is not a clergyman, technically speaking; whereas Caravati is in fact an official executive agent for the whole United States of that certain religious organization.

In proof of this point we offer in evidence photostatic copy of a chart, authoritatively showing the arrangement of the organization in which Caravati acts, and which also shows the position of Caravati as an executive agent whose official acts are authorized and approved by "the administrative committee", composed of seven archbishops and bishops, who are answerable to the supreme head of the organization at Vatican City.

In support of my statement that there is a concerted effort by a leading religious organization in America to prevent the people from hearing programs of wide public interest, I ask to file and to make a part of the record the following:

(1) Photostatic copy of letter dated February 20, 1934, by Emanuel Sternheim, rabbi of Butte, Mont., transmitting to radio station KGIR resolutions signed by 22 clergymen, including 10 Roman Catholic priests; (2) original letter dated February 28, 1934, by E. B. Craney, manager of the Butte radio station, replying to each of the signers of the resolutions; and (3) correspondence between a member of the Watch Tower organization and George B. Porter, acting general counsel of the Radio Commission.

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For information of the committee, copies of the complete text of recent speeches broadcast by Judge Rutherford entitled "World Control" and "Flee Now", and also the speech "Why World Powers Are Tottering", are offered herewith for the record, so that their value to the people may be ascertained, and that the committee may determine whether the aforementioned acts of the Federal Radio Commission can be justified as serving public convenience, interest, and necessity when the effect of those acts of the Commission is indirect censorship preventing millions of listeners from hearing what they desire to hear.

Now, as to the Roman Catholic hierarchy: The "leading religious organization" previously referred to in this statement is the hierarchy or ruling body of the Roman Catholic Church. Let it be emphasized here that the ruling group, and not the rank and file of the so-called "lay membership" of that organization, are under consideration.

On January 24, 1934, approximately 2½ million petitions were filed with Congress by those who desire to hear the message of Jehovah God's Kingdom as expressed in the Watch Tower programs, including the speeches of Judge Rutherford.

Those petitioners protested vigorously against the unjust practices of the Catholic hierarchy's agents in preventing radio stations from broadcasting that message.

For information of the committee, irrefutable evidence on these points is ready for presentation by an associate of mine. In fairness to the millions of persons who signed the petitions, this committee is entitled to hear that evidence.

The proof already filed with the House Radio Committee shows that agents of the Roman Catholic hierarchy used threats and coercion expressed through various newspapers and other publications and various organized groups of their sympathizers, including the National Catholic Welfare Conference, the National Council of Catholic Men, the Knights of Columbus, and others, to force many station owners and managers to discontinue broadcasting Watch Tower programs.

That their official representatives, acting by authority and with approval of several archibishops and bishops of the hierarchy, directly conferred on the subject with a member of the Federal Radio Commission, James H. Hanley, a Roman Catholic.

That thereafter for many weeks agents of the Catholic hierarchy openly led readers of their publications in all parts of the country to believe that their action in forcing stations to discontinue broadcasting Watch Tower programs was approved by and according to counsel received from the Federal Radio Commission.

Copies of such publications containing threats of boycott by agents of the Catholic hierarchy were freely used in many parts of the country to coerce owners and managers of broadcasting stations. Such action was taken to enforce pressure upon those stations by means of organized letter writing and personal visits of individuals and groups acting under direction of the Roman Catholic clergy.

Evidence is offered herewith to show that the official representative of the National Council of Catholic Men, Henry Caravati, conferred with James H. Hanley, radio commissioner, regarding the manner in which the purpose of the hierarchy's agents to have stations discontinue Watch Tower programs might be accomplished. That conference was publicly announced as having taken place in the spring of 1933. As a result of that action and the subsequent action of the Federal Radio Commission in writing officially to hundreds of radio stations regarding the speeches of Judge Rutherford, the effect upon many stations was to cause them to break their contracts and to decline to further broadcast those programs until the matter should be settled.

Opponents of H.R. 7986 have cited excerpts from speeches of Judge Rutherford as evidence that he and his associates are "attacking" various religious organizations wrongfully. It has always been the American policy to expose error and to uncover wrongful practices in politics and religious. That policy is still pursued. Even if a statement is libelous per se, the truth is pleaded as justification and is a complete defense.

All statements made in Judge Rutherford's lectures that have been placed in the records for Congress are true, exposing errors and falsehoods that are detrimental to the welfare of the people. The question is whether one shall be prevented from telling the truth and be castigated for telling the truth, or whether the people shall be permitted to hear the truth and then to determine for themselves whether they wish to be governed by truth or error.

As to the provisions of the proposed amendment to assign one fourth of the time and broadcasting facilties for religious and educational purposes, we are not asking that such provision be made.

We will be content to have an equal show with others and the undisturbed opportunity to rent time on radio stations without interference from others by means of threats, coercion, or otherwise. If, however, Coongress enacts a law which provides for one-fourth of the time and air facilities to be assigned to religious and educational purposes, then we shall ask the privilege of building up radio station WBBR to 25,000 watts or more, and a reasonable channel for broadcasting our message with that power, and the additional right of buying time from other stations for broadcasting, and to be treated equally and fairly with any other organization that wants to broadcast and to pay for the time and facilities for broadcasting. We are not to asking something for nothing. We are willing to pay for what we get.

The probabilities are that if the bill allotting one fourth of the time to educational, religious, and other like organizations is passed, the Catholic hierarchy will attempt to grab the whole thing and they ought to be required to pay for their facilities like other people.

As to chain broadcasting systems: The National Broadcasting System have a virtual monopoly of effective large-scale broadcasting in the United States. This is accomplished, first, by outright ownership of certain powerful broadcasting stations, and, secondly, by

what is known as preferential time contracts with independently owned stations. These contracts provide that whenever demanded by either chain such independently owned stations are required to yield time to the chain. Such contracts are generally made in writing but with the N.B.C. this monopolistic control is effected by means of a "general understanding" as between the respective independently owned stations and N.B.C. This agreement is said by N.B.C. to be not in writing in most cases.

For example, during the past 6 years the Watch Tower has been compelled to expend large sums of money for wire connections for chain broadcasting. This organization has spent over $250,000 more than it would have been necessary to spend had the facilities of the established chain systems been used by it. Additionally, use of its privately organized chain of many low-power stations at that much greater cost provided only a partial service to listeners in the same territory that could have been served adequately and satisfactorily had the established chain system been available.

Mr. MONAGHAN. May I interrupt there?

Mr. KOERBER. Yes, sir.

Mr. MONAGHAN. These photostats that you have introduced are from Butte, Mont., and I am therefore especially interested, not only because that is in my district, but it is my native city.

I should like to know about them. You seem to be directing most of your remarks to the Catholic religion. On these, I notice that the petition was really submitted by Rabbi Emanuel Sternheim, whom I know, and is a very good friend of mine, and there are numerous Protestant ministers, whom I also know and like very much, who have signed this. Now, are they not protesting? The only reason that I am asking this is that I want to make it clear before this goes into the record that the protest is not just purely sectarian, made by one particular religion.

Mr. KOERBER. The answer to that, Mr. Monaghan, is as I just referred to, this was a result of a campaign that was conducted all over the country, after the secretary of the Council of Catholic Men had published reports of his conferences, with Mr. Hanley, inducing the public to believe that they were justified in taking steps to have these programs cut off, because he had the consent of a member of the Federal Radio Commission, and the result of that was, that that petition from Butte was filed, and it was admitted out there by the one who filed this reply, the station owner, that the signers were acting in accord with this propaganda that was going all over the country, published in 310 newspapers, Catholic publications, in an attempt to get the Watch Tower programs off of the air, because it had been represented as so decreed by the Catholic heirarchy and they had conferred with the Federal Radio Commissioners securing their consent to so act.

So, that affidavit was filed in support of that action, as were also others. If you will permit me to go ahead here just to the next page, it will bring that out more distinctly.

The CHAIRMAN. We are going to have to terminate your statement in about 2 minutes.

Mr. KOERBER. May I then just continue with my statement?

The CHAIRMAN. If you have answered Mr. Monaghan's questions; yes. Are there any further questions, Mr. Monaghan?

Mr. MONAGHAN. Well, I just wanted that point made clear. I see that it is signed by Rabbi Emanuel Sternheim, Congregation B'Nai Israel; Reverend Asworth, pastor of St. John's Episcopal Church; Reverend Caton, pastor of Mountain View M. E. Church; Reverend Jones, pastor of Emanuel Luthern; Reverend Smith, pastor of Grace Methodist Episcopal; Reverend Spencer, pastor of Trinity Methodist Episcopal; Reverend Anderson, pastor of Lowell Avenue Methodist Church; Reverend Bristow, pastor of Christian (Disciples of Christ); Reverend Stewart, pastor of A.M.E. Church; Reverend Tweatt, pastor of First Baptist Church; Reverend Lovera, pastor Volunteers of America; and Reverend Gweneveld, pastor of First Presbyterian Church; and it is submitted by Rabbi Emanuel Sternheim, the Jewish rabbi there.

I just do not want it to appear in the record that it is only the Catholic clergy of Butte, Mont., that have submitted this.

Mr. KOERBER. You just happened to pick up that one, of course; but we have numerous files to show that is only a part of the movement that was conducted all at the same time. The point that we are making is that the Federal Radio Commission had sent out letters to all of the stations asking whether or not they broadcast this program, when in fact they knew that they had. Further, at the same time that this Catholic organization was calling upon the stations, demanding that they cut off these Watch Tower broadcasts, they were leading the stations to believe that these letters which were coming from the Radio Commission, and their own action, was all in accord with the action that the Federal Radio Commission desired taken, whereas, in fact, the Federal Radio Commission did not have any censorship powers and openly disclaimed that they did.

Mr. MONAGHAN. Has Judge Rutherford ever broadcast over Station KGIR, if you know?

Mr. KOERBER. Many times.

If I may go on, Mr. Chairman.

The CHAIRMAN. I think that we are going to have to close with your statement. We are going to have an executive session.

Mr. KOERBER. May I have the privilege, then, of putting the remainder of my statement, together with these papers referred to, in the record?

The CHAIRMAN. I do not know. You may file them with the committee. Whether they will go into the record is another matter. Your statement will go into the record, but as to documents filed, that is a matter that the committee will have to determine in executive session, as to whether or not they will go into the record.

(The remainder of Mr. Koerber's statement is as follows:)

Furthermore, N.B.C. arbitrarily refuses to accept certain programs of Bible instruction, particularly from an organization like the Watch Tower, including more than 15 million people in the United States, although that organization is willing to pay the regular commercial rates for time used.

On its own authority, N.B.C. has turned over the selection of so-called "religious programs" entirely to a committee of its own appointment. That committee is composed of one representative of each of three faiths—Catholic, Jewish, and Protestant. When objection is offered to any program of Bible instruction, that committee is the final arbiter as to what shall be used on the N.B.C. networks.

Under the self-established policy of selection and censorship as enforced through that committee by N.B.C., and under a similar policy adopted and enforced by C.B.S. officials, programs of Bible instruction of an organization

such as The Watch Tower are definitely barred on both of the two major broadcasting chains and have been barred at all times except during 1 hour on N.B.C. in 1927.

At the hearing before the House Radio Committee on H.R. 7986, Mr. Terry of that committee, propounded to Mr. Aylesworth (N.B.C. president) the following question:

"What would you say, Mr. Aylesworth, if Judge Rutherford's adherents filed a petition here of two million four hundred and some thousand names? That is rather an indication, certainly, that a portion of the public would like to hear the judge, is it not?"

In answer thereto Mr. Aylesworth said:

"It may be, or may not; I do not know. I have had a great deal of experience in filing petitions and getting them signed. I would like to know what the heading was. If the heading was 'Do you want to hear the Watch Tower programs?' and the people who signed knew what they are, I think that is an intelligent expression of sentiment. If you have at the top of the petition, 'Do you believe in free religious discussion, free religious programs', I believe everybody would sign this for fear we might take off free religious programs today."

We call attention to the fact that the petition referred to specifically set forth the desire of the people to hear this message. A quotation from that petition is as follows:

"The message of the true God, Jehovah, as expressed by Him in the prophecies of His Word (the Bible) and as now being given to the people of this Nation by Judge Rutherford and others of Jehovah's Witnesses, is of interest to us. When broadcast, it is convenient for us to hear it in our homes and is necessary for our welfare. We are entitled to hear and desire to hear that message."

As to the Columbia Broadcasting System, unjust discrimination and interference by that organization is unique for an agency claiming to serve the public.

A vice president of C.B.S., Henry Bellows, testified, March 20, 1934, before the House Radio Committee that substantially all C.B.S. stock is owned and controlled by the Paley family. Like the N.B.C., C.B.S. also maintains a self-established censorship, admittedly dictated by Henry Bellows.

In addition to stations owned by C.B.S. and its subsidiaries, it controls absolutely by contract most of the time of many independently owned stations. While its representative who testified before the House Radio Committee denied the existence of such control, the following excerpts from two contracts made by C.B.S. with a certain station are offered as evidence that such absolute control in fact exists:

"Agreement entered into by and between Columbia Broadcasting System, Inc., a corporation organized under the laws of the State of New York (hereinafter called 'Columbia') and * * *.

"* * * It is agreed that during the term of this contract the station will not permit the use of its facilities by any other broadcasting chain or network; and that it will not receive programs from or forward programs to any other station, group of stations, chain or network without the specific consent in writing of Columbia.

"* * * It is agreed that during the term of this contract the station will not, without the specific consent in writing of Columbia, permit the use of its facilities by any other broadcasting chain or network; that without such consent it will not receive programs from or forward programs to any other station, group of stations, chain or network; and that without such consent it will not, directly or indirectly, through an agency, representative, or otherwise, sell its facilities for use along with the facilities of any other station or stations as a group."

For consideration of the chairman of the committee, it is respectfully suggested that C.B.S. be required to file for information of the committee a copy of its contract with stations.

A typical instance of the exercise of this absolute control by C.B.S. over independently owned broadcasting stations is cited. A Watch Tower program of wide public interest, featuring the speech of Judge Rutherford scheduled to be broadcast throughout the world on March 25 last, was offered to the chief officer of station WCAU (Philadelphia), and to each of several other stations. Those officials expressed willingness to broadcast that program, provided arrangements could be made to have previously scheduled programs of C.B.S. network suspended.

Consent of the sponsors of those other programs was freely given. Additionally, on suggestion offered by C.B.S., the Watch Tower offered to reimburse C.B.S. for loss sustained by C.B.S. through suspension of the previously scheduled programs for that one date. Finally, without stating any reason other than that "C.B.S. does not consider the Watch Tower program of national interest or importance", C.B.S. arbitrarily interfered and refused to allow the independently owned stations mentioned to broadcast the Watch Tower program, at the last day; and this even after Members of Congress had been invited to listen to one of those stations. Affidavits in proof are offered herewith for the record.

The Watch Tower programs, and particularly the speeches by Judge Rutherford, have never made any attack upon any individual. These programs have merely set forth the truth as contained in God's word. If God's word of truth offends the sensibilities or "religious susceptibilities" of some individuals, that is their misfortune. It may be expected, of course, that a few will be offended when the truth is widely broadcast. On the other hand, it can be confidently anticipated that every honest person, even though temporarily offended, will happily acknowledge the truth when he learns and considers all the facts

The question is, Shall the truth be suppressed in order to avoid offending some who may hold a contrary view?

In conclusion, in order to get the matter here considered clearly before Congress, I strongly urge that the present bill, H.R. 8301, be amended by embodying H.R. 7986, known as the "McFadden bill."

Congressmen as public servants owe a high duty to the people. The highest duty of every man, whether in public or private life, is to his Maker, Jehovah God. The faithful performance of these duties toward God and man are always consistent. God commands that the people shall study and be instructed in His word, the Bible, particularly with reference to His Kingdom which is the only hope of the nations. The free exercise of that right and the performance of that duty was the moving cause for founding of the American Government. The fundamental law of this Nation, in harmony with God's law, guarantees to all persons freedom of thought in the examination of God's word, freedom of speech in proclaiming His word, and freedom in the practice of what each man conceives to be taught by Jehovah's word.

The question now before Congress is, Shall the people be permitted to hear freely discussed and to learn of and concerning the will of Jehovah God as set forth in the Bible, or shall certain organizations of men prevent the people from exercising these God-given rights?

Shall the fundamental law of the Nation be upheld, or shall it be nullified at the behest of selfish organizations of men?

The solemn duty and obligation is lain upon this Congress to settle this question in the right way, and that obligation to God and man cannot be sidestepped or ignored. Every man upon whom that obligation is laid must render an account to Almighty God his Maker. The 2½ million people signing this petition are not here asking any favor at the hands of this Congress, but they are here demanding that all the people be permitted to freely exercise their just rights.

Exhibits offered by Anton Koerber with statement read before House Committee on Interstate and Foreign Commerce May 16, 1934:

FOR THE RECORD

"Photostatic copy of a chart" mentioned at (ms.) page 5 of statement, paragraph beginning at bottom of page.

Following pieces left with clerk of committee (at time of reading statement), mentioned at page 6, lower half of page:

(1) Photostatic copy * * * Emanuel Sternheim * * *.
(2) Original letter * * * E. B. Craney * * *.
(3) Correspondence * * * George B. Porter * * *.
(4) Typewritten copies of speeches by Judge Rutherford entitled (*a*) "World Control" (*b*) "Flee Now", (*c*) "Why World Powers Are Tottering."

"Irrefutable evidence" mentioned in statement at (ms.) page 7, paragraph beginning at bottom of page, and also at page 9, paragraph 1, lines 1 and 2, is mimeographed statement of six pages entitled "As to use of boycott

methods to intimidate radio stations", with which are included the following pieces:

(5) The Catholic Register (marked), June 22, 1933.
(6) Affidavit of 82 of Jehovah's Witnesses of Cleveland.
(7) Affidavit of 12 of Jehovah's Witnesses of Woonsocket.
(8) Affidavit of 20 of Jehovah's Witnesses of Pawtucket.
(9) Affidavit of 18 of Jehovah's Witnesses of Providence.
(10) Affidavit of 6 of Jehovah's Witnesses of Providence.
(11) Affidavit of Edward Vincent Powers, of Buffalo.
(12) Affidavit of John W. Wryn, of Great Falls.
(13) Affidavit of Mildred J. Felker, of Pueblo.
(14) Affidavit of R. H. Peck, of Spokane.
(15) Affidavit of G. R. Hughart, of Portland, Oreg.
(16) Affidavits (two) of Hermon G. Babcock, of Seattle.
(17) Affidavit of August L. Hussel, of Cincinnati.
(18) Affidavit of Joseph L. Gundermann, of New Orleans.

Following affidavits mentioned in statement at page 15, line 6 from bottom of page.

(19) Affidavit of Frank M. Finken, of Brooklyn.
(20) Affidavit of Don B. Shultz, of Youngstown.

Original printed blank petition form mentioned in statement at page 13, paragraph 2, line 1.

Copy of letter to Congressman Joseph P. Monaghan by Anton Koerber, dated May 17, 1934.

(All of the above filed May 16, 1934, with clerk, House Committee on Interstate and Foreign Commerce, except last-mentioned letter to Congressman Monaghan, filed May 17, 1934.

CATHOLIC ACTION—VOL. XVI, NO. 5—MAY 1934

A NATIONAL MONTHLY—OFFICIAL ORGAN OF THE NATIONAL CATHOLIC WELFARE CONFERENCE

National Council of Catholic Men—(Department of Lay Organizations. National Catholic Welfare Conference)—Most Rev. Joseph Schrembs, D.D., Episcopal Chairman; Henry L. Caravati, executive secretary[1]—National headquarters, 1314 Massachusetts Avenue, Washington, D.C.

OFFICERS

Dr. Thomas E. Purcell, LL.D., K.S.G., Kansas City, Mo., president.
Joseph M. Tally, Providence, R.I., vice president.
Benjamin H. Swint, Charleston, W.Va., secretary.
Francis R. Lowther, St. Louis, Mo., Treasurer.

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Bernard J. Rothwell, Boston, Mass.

Sponsoring the Catholic Hour, a Naion-wide broadcast every Sunday evening from 6 to 6:30 o'clock, New York time, in cooperation with the National Broadcasting Co. and its associated stations.

FACTS ABOUT THE NATIONAL CATHOLIC WELFARE CONFERENCE

The National Catholic Welfare Conference was organized in September 1919.

The N.C.W.C. is a common agency acting under the authority of the bishops to promote the welfare of the Catholics of the country.

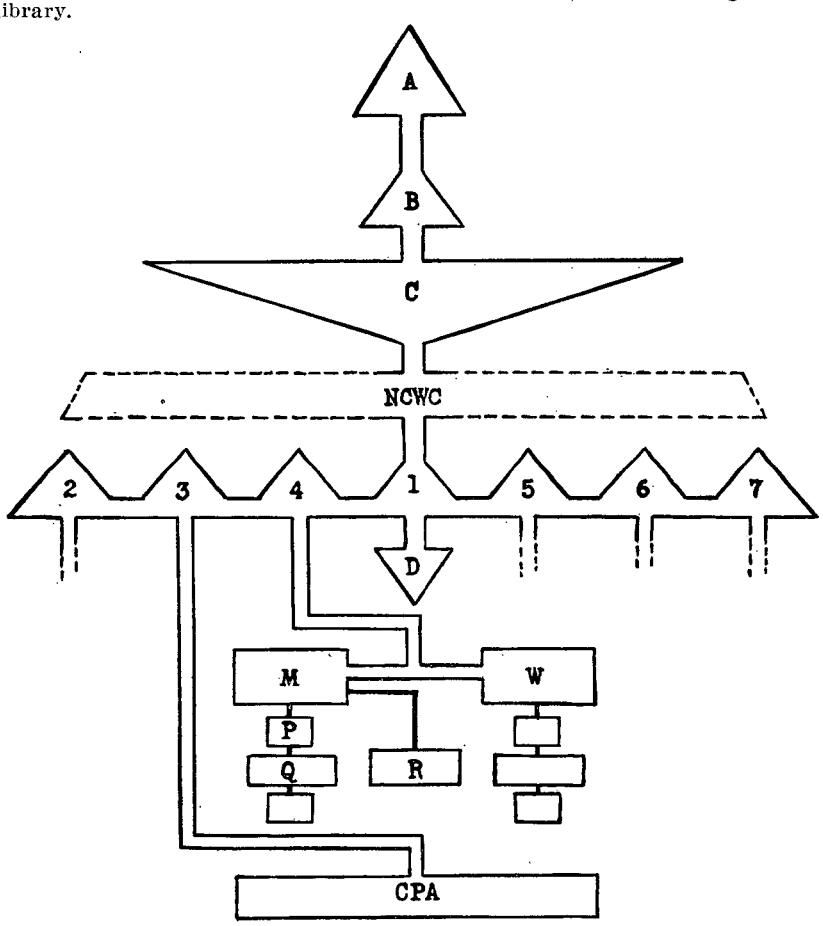
It has for its incorporated purposes "unifying, coordinating, and organizing the Catholic people of the United States in works of education, social welfare, immigrant aid, and other activities."

[1] As of February 1934—Now (May 1934) "business secretary."

It comprises the following departments and bureaus:

Executive—Bureaus maintained: Immigration, publicity and information, historical records, publications, business and auditing, and Latin-American.

Education—Divisions: Statistics and information, teachers' registration, library.



EXPLANATORY KEY TO ORGANIZATION DIAGRAM

A. Achille Ratti . . . "now gloriously reigning" as the supreme pontiff of the Roman Catholic hierarchy at Vatican City. B. Amleto Giovanni Cicognani (archbishop) at Washington, D.C., personal representative in the United States of the supreme pontiff. C. Administrative committee composed of seven archbishops and bishops who direct Nation-wide activities of N.C.W.C., National Catholic Welfare Conference, incorporated, November 29, 1920, in District of Columbia by late James Gibbons (cardinal) of Baltimore; John J. Burke, and George E. Hamilton, as National Catholic Welfare Council; name changed September 29, 1925, to National Catholic Welfare Conference; national headquarters 1312 Massachusetts Avenue NW., Washington, D.C.

Administrative committee: 1. Edward J. Hanna (archbishop), San Francisco, chairman of the committee and of the executive department. 2. John T. McNicholas (archbishop), Cincinnati, chairman department of education. 3. Hugh C. Boyle (bishop), Pittsburgh, chairman, press department. 4. Joseph Schrembs (bishop), Cleveland, chairman, department of lay organizations. 5. John F. Noll (bishop), Fort Wayne, secretary of the committee and chairman department of Catholic action. 6. Thomas F. Lillis (bishop), Kansas City, vice chairman of the committee and chairman department of social action. 7. John G. Murray (archbishop), St. Paul, treasurer of the committee and chairman legal department.

D. John J. Burke (priest), general secretary and chief executive officer. M. National Council of Catholic Men. P. President, N.C.C.M., Dr. Thomas E. Purcell. Q. Executive committee, N.C.C.M., composed of 10 laymen. S. Executive secretary N.C.C.M., Henry L. Caravati. R. "Catholic hour", Nation-wide chain broadcast each week by courtesy of National Broadcasting Co. C.P.A. Catholic Press Association, 310 publications in the United States. W. National Council of Catholic Women.

Press—Serves the Catholic press in the United States and abroad with regular news, feature, editorial, and pictorial services.

Social Action—Covers the fields of industrial relations, international affairs, civic education, social welfare, family life, and rural life.

Legal—Serves as a clearing house of information on Federal, State and local legislation.

Lay Organizations—Includes the National Council of Catholic Men and the National Council of Catholic Women, which maintain at N.C.W.C. headquarters permanent representations in the interests of the Catholic laity. These councils function through some 3,000 affiliated societies—National, State, diocesan, district, local, and parish; also through units of the councils in many of the dioceses.

The N.C.C.M. maintains at its national headquarters a Catholic evidence bureau and sponsors a weekly Nation-wide radio Catholic hour over the network of the National Broadcasting Co.

The N.C.C.W. maintains in Washington, D.C., the National Catholic School of Social Service.

The conference is conducted by an administrative committee composed of 7 archbishops and bishops aided by 7 assistant bishops.

Each department of the N.C.W.C. is administered by an episcopal chairman.

Through the general secretary, chief executive officer of the conference, the reports of the departments and information on the general work of the headquarter's staff are sent regularly to the members of the admnistrative committee.

The administrative bishops of the conference report annually upon their work to the Holy See.

Annually at the general meeting of the bishops, detailed reports are submitted by the administrative bishops of the conference and authorization secured for the work of the coming year.

No official action is taken by any N.C.W.C. department without authorization of its episcopal chairman.

No official action is taken in the name of the whole conference without authorization and approval of the administrative committee.

WATCH TOWER BIBLE AND TRACT SOCIETY, GENERAL OFFICES 117 ADAMS STREET, BROOKLYN, N.Y.

AS TO USE OF BOYCOTT METHODS TO INTIMIDATE RADIO STATIONS

Jehovah's message of His kingdom, as expressed by Him in the prophecies of His word (the sacred scriptures) and as now being given to the people of this Nation by Judge Rutherford and others of Jehovah's witnesses, is being heard and enjoyed by millions of God-fearing men and women. For many years that message has been broadcast by radio.

During the past year, and even to the present time, persistent effort has been made by certain religious leaders to prevent radio stations from broadcasting this message.

In fairness to the millions of persons who have already been deprived of hearing such broadcasts, and as a service to this Congress that bears responsibility for creating an agency to properly regulate broadcasting for the people, it is due the members of this committee to be informed specifically respecting certain unfair practices. These specific occurrences are taken from a mass of material descriptive of the arrogant and heinous conduct of agents, both clergy and laity, who act by direction of the Roman Catholic hierarchy.

COLLUSION BETWEEN HIERARCHY AND FEDERAL RADIO COMMISSION

The Catholic Register (Kansas City, Mo.) for June 22, 1933, contained the following: "A formal protest is to be made soon to the Federal Radio Commission requesting that Rutherford be denied the privilege of broadcasting his attacks on the clergy. The petition to the Commission is to be filed through the National Council of Catholic Men. * * * Henry L. Caravati, executive secretary of the National Council of Catholic Men, has already had an informal discussion on this subject with Mr. Hanley, of the Commission, in Washington, D.C."

Virtually every Catholic publication, of which there are many issued each week in various parts of the United States, had this dispatch in some form. It went out marked N.C.W.C., which means National Catholic Welfare Conference News Service. This news service is the publicity agency of the corporation of the District of Columbia designated National Catholic Welfare Council, of which the late Cardinal Gibbons was the principal incorporator. That corporation directs the activities of the National Council of Catholic Men, of which Henry Caravati is executive secretary, sometimes called business secretary.

It could not be possible that Henry Caravati did not know of this dispatch which in some form went out to Catholic papers all over the United States, boasting of his illicit connections with the Federal Radio Commission's Roman Catholic member, James H. Hanley, yet as a witness March 20, 1934, before the House Committee on Mercrant Marine, Radio, and Fisheries both Mr. Caravati and Judge Sykes, of the Radio Commission, denied that these boasted illicit conferences had taken place. Both these gentlemen at least concealed the truth if they did not commit perjury.

TRUTH ABOUT SIGNATURES TO THE PETITION

On January 24, 1934, Jehovah's witnesses presented Congress with the largest protest and petition in history, signed by nearly two and a half million persons. For several weeks, in Catholic papers published throughout the Nation, it was repeatedly emphasized that at Cleveland, Ohio, and Providence, R.I., these petitions, addressed to the Representatives of the people at Washington, were investigated by agents of the Roman Catholic hierarchy, as represented by the Catholic press.

On March 20, 1934, before the House Committee on Radio, Henry Caravati, as spokesman for the Catholic organization, claimed that at various places such signatures were obtained by fraud, repeating the frequently published statements that the petition was represented as intended to keep a certain radio priest on the air. That priest's name was not mentioned on the petitions or otherwise, but Judge Rutherford's name was mentioned.

Herewith are affidavits of 82 of Jehovah's witnesses of Cleveland, Ohio; 12 of Jehovah's witnesses of Woonsocket, R.I.; 20 of Jehovah's witnesses of Pawtucket, R.I.; 18 of Jehovah's witnesses (English) of Providence, R.I., and 6 of Jehovah's witnesses (Polish), of Providence, R.I., who obtained the signatures to the petitions in the areas mentioned; and which affidavits are offered for the record in proof that the statements of the Catholic press and Henry Caravati are glaring falsehoods and that none of the persons accused employed such methods.

JAILED FOR CIRCULATING THE PETITION

At Buffalo, N.Y., the Catholic Union and Times repeated the tales of fraud in obtaining petition signers. Herewith affidavit of Edward Vincent Powers, of that city, that when circulating this petition to Congress for preservation of his rights, he was arrested by one Lieutenant Maloney and without cause was thrown into prison, his petitions taken from him and these papers submitted to the Catholic Union and Times, which "investigated." The court dismissed Powers unconditionally and rebuked the arresting officer, a Roman Catholic, for meddling and bringing a baseless charge against Powers.

Since when did it become illegal in the United States to circulate a petition to Congress, and since when did it become necessary that Congressmen or policemen should surrender or submit such petitions to the Roman Catholic hierarchy's agents?

AFFIDAVITS OF BOYCOTTING OPERATIONS

A fit subject for congressional notice is the operation of the Roman Catholic boycott as applied to radio stations. Jehovah's witnesses desire to file with this committee the affidavit of John W. Wryn, of Great Falls, Mont., as to the threat of the Knights of Columbus of the loss of at least 1,000 Catholic accounts to the Buttery department store, Havre, Mont., associated with the radio station KFBB of Great Falls, Mont., unless that radio station would exclude Judge Rutherford programs. Affidavits of similar coercion and intimidation are herewith presented from Pueblo, Colo.; Spokane, Wash.; Portland, Oreg.; and Seattle, Wash.

On behalf of the millions of people whose interests have been vitally affected, it is respectfully submitted that this documentary evidence of atrocious practices by agents of the Roman Catholic hierarchy deserve to be noticed and investigated by the people's representatives in Congress.

At the hearings before the House Committee on Radio last month Jehovah's witnesses filed affidavits of two business men of Kansas City, Mo., showing that, to save its paint business, the Cook Paint & Varnish Co., owner of radio station WHB, abruptly canceled the contract to broadcast Judge Rutherford's lectures, making void much valuable advertising of such lectures that had been done. Affidavits of similar coercion and intimidation were also filed at the same time, with the same committee, from business men in Houston, Tex., Pueblo, Colo., Abilene, Topeka, Kans., South Portland, Maine, Detroit, Mich., Duluth, Minn., Albany and Rochester, N.Y., Youngstown, Ohio, Pittsburgh, Pa., Charleston, S.C., Union Grove, Wis.

According to admissions made by at least one prominent Catholic-press publisher, as set forth in another affidavit already filed with the House Committee on Radio, the Catholic press of the United States exists for the purpose of bringing pressure to bear upon persons or concerns that stand in the way of Roman Catholic domination of the people and Government of the United States. The pressure, at present, is exerted mainly in a financial way, but is rapidly spreading out into other methods.

COERCIVE PRACTICES OF CATHOLIC NEWSPAPER OF ST. LOUIS, MO.

At St. Louis, Mo., the Sunday Watchman for July 30, 1933, page 1, column 1, fourth paragraph from bottom, said:

"The Midland Chemical Laboratories, of Dubuque, Iowa, whose president acknowledges on business stationery an interest in Judge Rutherford's broadcasts, manufactures soaps and other cleaning compounds. These laboratories reserve space for exhibits of their products at the conventions of the Catholic Hospital Association of the United States and Canada. They solicit Catholic patronage and use money thus obtained from Catholics to finance anti-Catholic movements. We ought not long submit to this arrangement. That's all, except for the word it may not be necessary to look beyond our own city for other such proofs of so-called 'broad-minded' gentlemen seeking Catholic business and using the profits from that business to disseminate anti-Catholic propaganda."

This is called "Catholic action." It has the approval of the Pope. The same paper, on its editorial page, contains the following statement accredited to the present head of the Roman Catholic hierarchy:

"The power and influence of the Catholic press are so great that even the seemingly most insignificant activity in favor of the good press is always of great importance, because great results may come therefrom. Anything which you will do for the good press I will consider as having been done for me personally. The Catholic press is very close to my heart and I expect much, very much, from it."

In the same St. Louis publication, August 6, 1933, page 1, column 1, third paragraph from bottom, boycott of the advertisers of radio station KMOX was advocated in the following language:

"Mr. Van Volkenburg, of KMOX, has acted in a boorish manner since Catholic individuals and organizations have registered protests against Rutherford's broadcasts. Let it be said that there has been enough of his temporizing. Let our Catholics in this trade area resolve that not one penny of their money will be spent with those firms which make Rutherford's broadcasts possible."

The Roman Catholic hierarchy is strong for free speech of just that kind, but not of the American kind. The same issue of the same journal, page 1, column 7, under the subhead "Advertisers to be notified", has the following:

"Griffin urged Catholic laymen to do their part in fighting these anti-Catholic attacks. A resolution made by him and passed at the meeting directs that the Archdiocean Union have copies of the Watchman containing editorials and news articles in reference to broadcasting of the Watch Tower programs sent to each advertiser of KMOX, and that each parish president be notified of the action being taken and advised to request at a special meeting that the members write letters of protest to KMOX and to the parent Catholic offices at New York."

EXECUTION OF JUDGMENTS OF JEHOVAH GOD

Just so surely as any man in this room breathes the breath of life, just so surely all the hopes of the enemies of Jehovah God will be dashed to pieces and all His enemies destroyed, not by human hands but by the invisible hosts of the King of kings, the executive officer of Almighty God.

Very probably it may have been by the judgment of Jehovah God that the paper in St. Louis, the Sunday Watchman, which made publication of these acts of coercion and boycott, went to the wall in December last. And in March of this year the man responsible for these boycott editorials died. He had performed other acts of boycott, even threatening an honest and faithful postal employee with loss of his job because a Roman Catholic, James A. Farley, is the present Postmaster General. In full proof of these statements the affidavit of that postal employee, W. L. Mittendorf, supporting also other assertions, was filed with the House Committee on Radio at the hearings on bill H.R. 7986.

Continuing this matter of God's judgments in the earth, it was on March 12, 1934, that Rev. P. J. Petri, Ventnor, N.J., instrumental in bringing pressure to bear on radio station WPG, Atlantic City, N.J., to exclude Jehovah's witnesses from using that station, dropped dead with a heart attack. Another remarkably similar instance is the sudden death of the Bishop of Providence, R.I., last October. The activities of that bishop, William Hickey, resulted in two Providence stations, WEAN and WPRO, being closed to the Judge Rutherford programs. The Providence Visitor, Catholic weekly, was the organ used by Bishop Hickey to work his will. That paper continues, but the bishop, in sound health, was cut off without human hand.

In proof of the coercion practiced against these two stations of Providence, R.I., the affidavit of William B. Fowler was filed last month with the House Committee on Radio. On July 28, 1933, the Providence Visitor, page 4, column 2, second paragraph from top—also last paragraph of same editorial—said:

"The defiant attitude that is implied in the acceptance of 'Judge' Joseph F. Rutherford's radio talks by the Cherry & Webb Broadcasting Co. after its contemporary station, WEAN, had banned them cannot be permitted to pass unnoticed. * * * There is no more effective means for public opinion to express itself than by cards or letters. However good petitions are, it is individual communications that carry the heavier weight. And in this case—even more so than in the previous controversy—we cannot too strongly urge our readers to make known their protests to station WPRO, the Cherry & Webb Broadcasting Co., as quickly as possible."

Bishops have made it their business to see to it that trade was turned away from department stores that had radio stations attached and that did a general broadcasting business, including the broadcasting of the addresses of Judge Rutherford, which millions of people desire to hear. Such conduct marks the record of the late Bishop of Providence. The Shepard Department Store and the Cherry & Webb Department Store desired to retain their business, so they dropped Judge Rutherford's programs.

BOYCOTTING OPERATIONS IN MINNESOTA

At St. Paul, Minn., radio station WRHM was addressed by the Catholic Bulletin, June 24, 1933, page 1, column 1, fourth and fifth paragraphs from bottom, in the following words:

"Leaving aside consideration of your station's duty as a semipublic agency to promote peace and concord and the general welfare of the community, I wish to point out that there are some 515,000 Catholic people in the State of Minnesota, and I suggest that it would be most unwise for a business depending wholly upon public good will to incur deliberately the resentment of such a large and highly respected body of opinion. I need not tell you what steps the Catholic people can take at once for their own protection from unwarranted abuse and insult against your station and against advertisers that support your station."

In the same paper, at the top of its editorial page, appears the following statement accredited to the Pope Pius X:

"In vain will you found missions and build schools if you are not able to wield the offensive and defensive weapon of a loyal Catholic press."

In proof of corecion practiced against radio stations KSTP and WRHM, of St. Paul, affidavits of Walter J. Granfield, of Minneapolis, and Henry B. Morrison, of St. Paul, were filed with the House Committee on Radio last month.

OPERATION OF THE CATHOLIC BOYCOTT IN OHIO

At Cincinnati, Ohio, the weekly Catholic Telegraph was used most vigorously to close radio station WKRC to the Judge Rutherford programs. On August 10, 1933, page 4, column 6, fifth and ninth paragraphs from the top, that paper said:

"Additional protests will be made to WKRC this week, as Cincinnati Council and Archbishop Elder Council of the Knights of Columbus have directed their officers to notify WKRC that the broadcasts of Rutherford are an insult to all Catholics. The Bellarmine Society will also make protest to the station, and copies of the protests will be filed with the Federal Radio Commission. * * * WKRC professes to be unable to break a contract with Rutherford. But at least one advertiser of WKRC was able to break away from the station without trouble on account of the Rutherford broadcasts. Mr. Mittendorf, manager of WKRC, may obtain details by inquiring at the Telegraph office."

As further evidence of the coercion practiced by agents of the Catholic hierarchy against the Cincinnati station, Jehovah's Witnesses offer for the record of this committee the affidavit of August L. Hussel, of Cincinnati.

COERCION BY TELEGRAPH IN LOUISIANA

At New Orleans, radio station WDSU felt the heavy pressure of the Roman Catholic machine. The local organ of the hierarchy is called "Catholic Action of the South." On January 4, 1934, page 5, column 4, the editor, Very Rev. Peter M. H. Wynhoven, stated that on the previous Sunday night he sent to Joseph H. Uhalt, president of WDSU, Uhalt Broadcasting Co., the following telegram:

"Many requests today to take up Rutherford broadcast. Will do so unless discontinued at once. Kindly advise immediately. No use discussing this matter further as to correctness of your stand. Judging by reaction of your audience, you made bad investment by accepting Rutherford contract for 6 months."

In that same paper the Very Rev. Wynhoven said to Mr. Uhalt:

"We do not think that you want to continue your defiance of the united sentiment of many prominent Catholic organizations, with over 100,000 membership."

A week later, in the same Catholic paper, page 1, column 3, and page 5, column 4, appeared a letter from Mr. Uhalt to the Very Rev. Wynhoven, in which Mr. Uhalt says:

"Indeed you have painted a picture for your readers wherein WDSU is depicted as not bowing to your beck and call as another station here has apparently done. I use this expression advisedly, because in our correspondence and verbal discussion you have led me to believe that you didn't care whether or not WDSU's policy was to allow freedom of speech to any and all persons, but that there was no argument to it. You wanted the speeches discontinued at once, contract or no contract. The speaker was personally obnoxious to you, although at that time we had received no such protests or criticisms, and, according to you, he was obnoxious to others. Another station had yielded to your request and that, therefore, must have established a precedent, and WDSU should do likewise. I told you sometime ago that I would make a full investigation of the matter and see what could be done. It was certainly not my desire to have anything to go out over WDSU that was harmful to any group of persons, and yet while making this investigation and taking the matter up with the Federal Radio Commission to ascertain if we had the right to deny the use of our facilities to anyone, you send me an ultimatum in the form of a telegram saying, among other things, that 'it is no use discussing the matter any further,' but what you want to know is are we or are we not going to discontinue Rutherford's talks. This was followed by another glaring word picture of WDSU in Catholic Action and comparing it with another station here. Very naturally, I am displeased. Frankly, I do not like the method you have followed, and I consider it intentionally harmful. And from other things I have heard I can see only an intent on your part to do this station harm if you couldn't have your way."

In this connection Jehovah's Witnesses offer for file with this committee the affidavit of Joseph L. Gundermann, of New Orleans.

A HUGE, CONSCIENCELESS, RELIGIOUS RACKET

The foregoing facts are only a few of the proofs available that the Roman Catholic hierarchy is a racketeering organization. This statement is made with due regard for the millions of honest persons who have been enmeshed from infancy in the coils of that system. Completely entrapped by the devil, the Roman Church operating organization is a man-made institution that hates and defiles the pure and holy name of the Most High God, Jehovah, and His Son Christ Jesus, the King of kings. That system uses its press to club into subjection any person or group of persons that dare to tell the truth about its oppressive practices. It has most of the politicians of this and other countries cowed and whipped until they dare not lift a voice or a vote. The Catholic press is the whip. The method of operation is as follows:

Through the press the Catholic population are induced to believe that the Pope has been insulted by certain broadcasts of speech and, therefore, that serious wrong has been done to all Catholic persons. Further, that it is the solemn duty of every Catholic to cooperate in having the offender suppressed and silenced. The Catholic publications send forth articles concerning the method to be used by their readers and advertisers in ostracizing the undesirable person or group. The bishop or priest demands in behalf of the Catholic community that the radio-station owner shall break his contract with the offender and exclude him from the station. When such request is refused, as is often the case, then the station owner is threatened that he may lose business, and immediately word is given to different Catholic societies and orders, such as the Knights of Columbus, to bring pressure on that particular station. This is done in a variety of ways, including systematic telephoning day after day and personal calls by so-called "vigilant committees."

THE PEOPLE ARE HELD AS PRISONERS BY THE CLERGY

The common people, whether Hebrew, Catholic, or Protestant, are not protesting against the broadcasting of Watch Tower programs. It is the editors of Catholic publications (mainly priests, bishops, and other clergy) that have incited these acts of lawlessness. The principal reason given by the Catholic hierarchy that Judge Rutherford shall be banned from the air is to the effect that he mentioned the doctrines of purgatory, hell-fire torment, trinity, and prayers for the dead as being entirely unscriptural. Thus it is seen that we have turned back to the days of the Inquisition, when no man might safely utter anything publicly against the iniquities of the most diabolical system of oppression.

In the light of the foregoing, it is respectfully submitted:

IMMEDIATE INVESTIGATION BY CONGRESS RECOMMENDED

That these subversive activities, freely projected for a long time, have brought untold disappointment, injury, and loss to a large number of American citizens.

Furthermore, it is submitted that such activities directly violate the principles of the form of government as guaranteed by the Federal Constitution. Therefor, the machine and the methods employed at the direction of the foreign sovereign who heads the Roman Catholic hierarchy to accomplish intolerant and selfish objectives are proper subjects for immediate Congressional investigation as authorized by House Resolution 198, adopted March 20, 1934.

Furthermore, that in fairness to many, it is respectfully urged that legislation be enacted immediately to prohibit the use of boycott and coercive methods to intimidate broadcasting stations.

WATCH TOWER BIBLE AND TRACT SOCIETY,
Washington D.C., May 17, 1934.

JOSEPH P. MONAGHAN,
House Office Building, Washington, D.C.

DEAR SIR: That you may have before you some facts as to the seriousness and reality of the misguided attempt of certain selfish interests to wrongfully interfere with the rights of the American people relative to the radio, and in amplification of the very brief answer I was permitted to give you in the course of

yesterday's hearing before the House Commerce Committee, let me add, for your earnest consideration:

Agents of the Roman Catholic hierarchy are directly responsible for the Nation-wide attempt to suppress broadcasting of Watch Tower programs. They have induced representatives of Hebrew and Protestant groups to act with them and as their spokesmen in numerous instances. This is the case at Butte, where the rabbi, Sternheim, was overreached and induced to present the resolutions signed also by 10 Protestant clergymen after the 10 Catholic priests had signed and induced the Episcopalian rector and the rabbi to sign those resolutions that were sent to the manager of KGIR who responded so forcefully and reasonably in his letter to each of the signers, all of which papers will, as I understand, be reproduced in the record of yesterday's hearing.

There is other evidence, voluminous, that similar tactics were used at Pueblo, Denver, and many other places. Some of this evidence appears in the record of hearings held on H.R. 7986, now in print. More appears in exhibits offered for the record at yesterday's hearing.

This is stated advisedly, so that no one will hastily conclude that the facts presented in the very brief synopsis entitled "As to Use of Boycott Methods to Intimidate Radio Stations" (copy enclosed) is born out of prejudice or ill will to the Catholic people.

Additionally, I offer for your unbiased consideration the brief review of the campaign of the Catholic hierarchy as set forth in the open letter of Judge Rutherford to the Catholic Press of America, dated July 26, 1933. An authentic reproduction of that letter appears in the Golden Age, issue of February 14, 1934, herewith.

Furthermore, I invite your attention to a few of hundreds of original newspapers in our possession which were issued by direction of the Catholic heirarchy, and which publications were used in the past year in the campaign of slander and vituperation to accomplish suppression of Watch Tower broadcasting in America.

These newspapers constitute some of the mass of evidence which the congressional committees have not been able to allow us time to present. This latter statement is made not disparagingly or complainingly but in full consideration of the many and urgent claims upon the attention of Members of Congress during this session.

I also cite, for your consideration, that since the first of this year a bill (designated "assembly no. 272") was introduced by a member of the Knights of Columbus, John Rafferty, in the Legislature of New Jersey, purporting to be an anti-Nazi measure prepared and introduced "at the instance of and for the protection of prominent Jews"; but which is in fact a part of the campaign of the Catholic hierarchy to suppress the activities of Jehovah's witnesses and the broadcasting of Watch Tower programs in the State of New Jersey. The bill was unanimously passed by the Assembly and awaits action in the Senate at Trenton on June 4 when that body reconvenes.

This letter is yours to use as you deem fitting, even to publishing it in the record of yesterday's hearing. For your convenience, I enclose an extra copy; also a copy of the statement which was read in part during yesterday's hearing.

That your colleagues on the Commerce Committee may have the benefit of the information contained in this letter, I am filing a copy of the letter with the clerk of the committee.

Let me add, in conclusion, this word of genuine appreciation of the sincerity of the inquiries made on yesterday by the Congressman from Montana, and also of the fair and workmanlike manner in which he questioned the radio priest, John Harney, when that agent of the Catholic hierarchy appeared on May 9 before the House Commerce Committee.

Sincerely and respectfully,

ANTON KOERBER.

CONGREGATION B'NAI ISRAEL,
BUTTE, MONT., *February 20, 1934.*

ED. B. CRANEY,
KGIR, Butte.

DEAR SIR: On behalf of the signatories to appended resolutions, I am forwarding same to you.

Faithfully,

EMANUEL STERNHEIM.

RESOLUTIONS RE JUDGE RTHERFORD'S ADDRESSES

Resolved by the Catholic, Protestant, and Jewish ministers of the city of Butte, Mont., at their respective meetings, That a joint protest be made by the undersigned representatives of these three religious groups against the radio addresses of one Judge Rutherford, now being broadcast over station KGIR, Butte, and other radio stations.

Resolved further, That in the opinion of the undersigned these addresses are inimical to the right relations between religious groups, the outstanding desiderata of this day and age, and that furthermore the attacks made, with complete lack of discrimination, against all these groups tends to bring religion into disrepute.

Your signatories therefore respectfully urge the discontinuance of these broadcasts in the interest of religious fraternity and good will, and in order to prevent serious religious disturbance as a result of the provocation engendered by these talks.

J. Unbeems, St. Patrick's Church; Mr. McCormack, St. Joseph's Church; H. P. Joyce, Sacred Heart Church; M. Leonard, St. John's Church; A. L. Lutham, St. Paul's Church, Anaconda; P. F. MacDonald, St. Lawrence Church; Edmund C. Hanna, St. Helena Church; N. M. Erghust, St. Ann's Church; John B. Prinnert, St. Peter's Church, Anaconda; J. C. Willging, Immaculate Conception Church; Emanuel Sternheim, rabbi, Congregation B'Nai Israel; N. Arhworth, St. John's Episcopal Church; A. C. Caton, Mountain View M. E. Church; L. E. Jones, Emanuel Lutheran; Edward Smith, Grace Methodist Episcopal; Frederick T. Spencer, Trinity Methodist Episcopal; E. Anderson, Lowell Avenue Methodist Church; A. B. Bristow, Christian (Disciples of Christ); Lewis B. Stewart, A. M. E. Church; S. A. Thweatt, First Baptist Church; S. N. Lovera, Volunteers of America; E. J. Groemeneld, First Presbyterian Church.

KGIR,
BUTTE, MONT., *February 28, 1934.*

(Copy of KGIR answer, sent to each of 22 signers)

I have received through Rabbi Emanuel Sternheim a copy of a resolution containing 22 signatures protesting the broadcasts of talks by Judge Rutherford over KGIR and other radio stations. I find that your signature is one of the 22, so I am presenting my side of the story as a broadcaster before you and respectfully ask that you tell me what you would do if you were in my position. Of course, you realize that I am responsible only for the scheduling of the talks on KGIR and no other radio stations. Resolutions such as you signed and had sent to me and letters containing like protests, and telephone calls also of protests, not only on the Judge Rutherford broadcasts, but on broadcasts of other religious organizations, are received not only at KGIR, but also at other radio stations. I could sit down, as many station managers have done, and write you a letter telling you that I appreciate receiving your resolution and that in the future I will demand advance script on the Rutherford broadcasts and read it carefully to see that nothing is contained in it that might be objectionable to you. A letter such as this would probably satisfy you, and you would think that your resolution had done its work and that I was a fine fellow. I have seen copies of such letters from broadcast-station managers that have appeared in church publications. First, how am I to know the objections of each and every one of the 22 signers on this particular resolution that I am writing you about[Second, who is there who has the authority to say that this or that religious view is right and all others are wrong? Certainly the views of the 22 signers of the resolution in question do not agree on this question, or we would have but one church, so why should I be asked to exert this authority that no one actually has?

The frequencies on which radio broadcasting stations operate are the property of the people and do not belong to any individual. For this reason all broadcasting stations should be operated for the benefit of all of the people all of the time. At the time the Radio Act of 1927, which we now operate

under, became law, it was actually written into the law that if a station should allow any legally qualified candidate to use its facilities, that equal opportunity should be given all other such candidates for that office. However it is not obligatory that a station accept such broadcasts from any candidate if it wished to bar all of them. This section of the act was not only written in for the protection of the candidates but also to point out to broadcasters that free speech must be maintained on the ether waves. All station managers have evidently not heeded this warning that was written into the 1927 Radio Act, because today there is a bill before the House, worded in very specific language, that makes it obligatory for any station to put on all sides of any subject discussed over its microphone, whether that subject be political, religious, charitable, educational, etc. The new bill would also make it punishable by fine and imprisonment for any person, persons, company, association, society, or corporation to attempt to interfere with or prevent the broadcasting of any radio program from any radio station just because that program might promulgate ideas that were not at that time being accepted by that particular person, persons, company, association, society, or corporation. I, personally, am very much in favor of this new bill, as it definitely states what is expected of broadcasters, and will make it much easier to maintain free speech on the radio in this country.

I do not believe that you would want me to censor any talk you might wish to give over KGIR just because your theories and ideas do not agree with mine. If I did this KGIR would become as narrow-minded as I and could never rise above my own intelligence. Many thoughts are presented daily from KGIR that I certainly do not agree with, but is it not better that ideas of many people be brought to the attention of KGIR listeners than just my own personal limited thoughts?

I can see that no other Rutherford programs are broadcast over KGIR, but if I barred these, in fairness to our listeners I would have to bar all religious programs at the same time. We have had very few Rutherford talks in the past and have only one scheduled in the future. It would seem too bad to deprive our listeners of all religious programs because of this. In all fairness, not only to the listeners who do enjoy certain religious programs, but also to the person whose ideas go into such programs, I must continue to accept them. And, of course, you realize that I do this at a cost to my own company, because a broadcasting station does not "just operate itself." In the case of the national religious program, I am not only paying the cost of operating KGIR to bring our listeners these programs, but am also paying my share of the line cost from New York to Butte to make these programs available.

I sincerely appreciate the efforts and courtesy of the 22 signers of the resolution in bringing to my attention their views as they have done. These are views far more mature than mine, views of those who actually shape the religious sense of our community, and there are 22 of them against the 1 of mine. It is, indeed, an honor to be accorded such courtesy by these gentlemen. For this reason and for the good of our listeners I would like to leave it to this group of gentlemen to form a meeting of all religious groups and organizations in Silver Bow County and allow each faith or belief represented one vote to determine whether KGIR should continue broadcasting religious programs or should bar them entirely from the air. I only insist on all groups being represented and that I may be present and have an opportunity to be heard at such a meeting.

Your further thought and reply on this matter will be deeply appreciated.

Respectfully yours,

KGIR, INC.
By E. B. CRANEY.

FEDERAL RADIO COMMISSION,
Washington, D.C., May 3, 1934.

Mr. E. J. COWARD,
Vice President Peoples Pulpit Association,
Brooklyn, N.Y.

DEAR SIR: Your letter under date of April 27, forwarding copies of correspondence regarding Watch Tower programs on radio station KGIR, is at hand.

You address two questions to me. First, "At the same time would you be a party to an attempt to prevent any station from sending out such lawful

programs?" The answer is, "No." Any attempt on my part to prevent a station from sending out any kind of program, lawful or unlawful, is clearly censorship and prohibited by section 29 of the Radio Act. On the other hand, if there comes to my attention any program of any station which is unlawful per se or repugnant to the public interest, and so expressed in complaints received, I shall recommend an investigation of said programs, and if investigation be ordered I shall obtain copies of the programs and thereafter furnish the Commission my views as to whether said programs are violative of the law or repugnant to the public interest. (See KFKB Broadcasting Association, Inc., 47 F. (2d) 670; 60 App.D.C. 79), and *Trinity Methodist Church South* v. *Federal Radio Commission* (64 F. (2d) 550).

Of course, it is apparent that a radio station may choose without restriction its programs and it not only has the right but the duty so to do.

Your second question is, "Do you thing you can pursue such a course successfully?" The question seems to assume that I am pursuing a course. When you were in my office I explained to you that as the result of thousands of complaints on investigation was made during the summer of 1933 of two programs of the Watch Tower Society which had been broadcast by a number of stations. I have received, as the result of the investigation, copies of these programs. An analysis of them was made and submitted to the Commission with recommendation. No further action was taken by the Commission or by me. Therefore, since I am pursuing no "course", it is apparent that the answer to your second question is likewise "No."

In answering your first question I have pointed out what authority the Commission has with respect to an unlawful program or one which may be repugnant to the public interest. If there ever comes to my attention any program which is violative of the law or which may be repugnant to the public interest as expressed by complaint received, I shall continue as I have in the past to report the same to the Commission.

Yours very truly,

GEORGE B. PORTER,
Acting General Counsel.

PEOPLE'S PULPIT ASSOCIATION,
124 Columbia Heights, Brooklyn, N.Y., April 27, 1934.

SIR: While awaiting the promised report as to your investigation of the KUMA case, discussed April 23 in your office with our representatives, the enclosed copies of correspondence regarding Watch Tower programs on KGIR have come to my attention.

The soundness of that station manager's position is exemplary.

Taking his viewpoint, it seems to me hardly probable that you seriously believe any listeners ought rightfully to be deprived of opportunity to hear over the radio the wholesome though cutting truths of God's Word (Hebrews 4:12) as expressed in the speeches of Judge Rutherford.

Admittedly, publication of such truths exposes, justly, the hypocritical conduct of the clergy who still cunningly seek to coerce even some in high political positions. At the same time, would you be a party to an attempt to prevent any station from sending out such lawful programs? Do you think you can pursue such a course successfully?

Sincerely,

E. J. COWARD, *Vice President.*

GEORGE PORTER,
Care Federal Radio Commission, Washington, D.C.

WORLD CONTROL

CHAIN BROADCAST FROM LOS ANGELES, MARCH 25, 1934, BY JUDGE J. F. RUTHERFORD, PRESIDENT THE WATCH TOWER BIBLE AND TRACT SOCIETY

For several years past it has been my privilege to tell the people God's message of truth as it is set forth in the Bible and to use the radio for that purpose. The truth is not popular, and hence provokes much opposition. Nineteen centuries ago God sent Jesus to earth to deliver His message of truth. Jesus faithfully performed His commission and was crucified for telling the truth. The truth will never be popular until there is a complete change of world

control. I beg you to carefully follow my speech now, that you may more fully appreciate why there is such great opposition to the truth and what is the only safe and proper course for the people to take. The people of good will must now hear, because this message is for their special aid and comfort in this day of great world distress. It is not the message of any man but the message from God's Word delivered according to His will.

First I give the Scriptural definition of "world", and then show you who controls the world and why a change of world control must shortly come to pass. "World" means the peoples of the earth organized into forms of government under the supervision of an invisible power or overlord. In the Bible the word "heaven" is used to represent the invisible part of that rule, while "earth", as there used, means the visible power that rules; and it is "heaven" and "earth" together which constitute the world. The people of good will are those who have an honest and sincere desire to see justice and righteousness control everything, and hence that the will of God may be done on earth and in heaven.

God, "whose name alone is Jehovah", is the Supreme Being and the source of righteousness and life. Jesus Christ is the Son of God, the chief executive officer of Jehovah, the Redeemer of man, and the world's rightful ruler. Satan, the devil, is the wicked one, the opposer of God, and man's greatest enemy. For centuries Satan has been the invisible overlord or controller of the world. There must be a change from Satan's rule to that by Jesus Christ. That change is impending and will take place within this generation. Now, I give you the proof showing how the devil became the ruler of the world.

Jehovah God created the earth and put perfect man upon it and made the spirit creature Lucifer the invisible overlord of the earth. Associated with Lucifer were many spirit creatures or angels forming a part of his immediate organization. Lucifer rebelled against Jehovah God, in which rebellion his host of angels joined, and man was led into lawlessness and sentenced to death. Since the entire human race sprang from that one man after he had sinned and was sentenced to death, all mankind have been born imperfect (Romans 5:12). God changed the name of Lucifer to that of Devil, Satan, Serpent, and Dragon, and since then Satan and his host of wicked angels have controlled the world.

Satan defied Jehovah God to put on earth men that would be faithful and true to God. That challenge God accepted. Although sentenced to death, Satan and his wicked angels have been permitted to continue for a definite period of time unhindered in the prosecution of their wicked work, God abiding His own due time to take action against them. As the human race increased on the earth, other angels which had been wholly devoted to God materialized in human form and were induced by Satan and his wicked angels to mingle with humankind and marry the daughters of men, and from that union there came forth an unusual offspring. There followed a period of great wickedness in the earth, and God announced His purpose to destroy the "world that then was" by a flood. That time in the Scriptures is called "Noah's Day", because Noah was a righteous man and remained true to God.

Jehovah God then told Noah to build an ark in which he would find refuge for himself and the immediate members of his household. Noah did as commanded, and then there came upon the world the deluge or great flood which destroyed all flesh. That destructions of all flesh was a type foreshadowing the destruction of the present wicked world. The saving of a few persons who found refuge in the ark pictured or foreshadowed the millions of people of good will who will be carried through the battle of the great day of God Almighty soon to be fought. A knowledge of the truth of and concerning these things is now of most vital importance to all persons of good will; hence that message is now declared as a notice and warning to all such people.

In the flood God destroyed all flesh, but He did not destroy the devil and the other wicked spirits, but permitted them to continue to exercise power and influence over humankind until God's due time to take action. Why did not God then destroy the devil? Jehovah's answer to that question is found in the Bible, at Exodus 9:16, in these words: "But for this cause have I allowed thee to remain, in order to show thee My power; and in order that they (My witnesses) may proclaim My name throughout all the earth (Exodus 9:16, Leeser). But the day of final reckoning must come, and in that day Satan and his power will be completely destroyed and there will be a complete change in the rulership of the world.

After the flood, the human race multiplied in the earth and then men began to organize themselves into governments, the first organization being under the leadership of Nimrod. In that government and in every government from then till now three elements have constituted the visible ruling power, to wit, religion, politics, and commerce. During all that time Satan, the devil, has exercised his subtle power over the men of the nations, defrauded and deceived them, and led them away from the true God. But in all the centuries past God has had a few men on earth who have remained true and faithful to Him and such men He has caused to be His witnesses in the earth.

Then Jehovah organized the people of Israel into a nation for Himself and used that nation to foreshadow and foretell His purpose toward the human race. For some time that nation was faithful to God, but in the course of time the rulers and people fell under the wily influence of the devil, turning away from God, and then that nation was completely destroyed. Israel was a type foreshadowing "Christendom." The nations of earth, now called "Christendom", began to serve Jehovah, but in the course of time those nations fell away from the true worship of God, yielded to the seductive influence of Satan, and became corrupt, and God's decree is that they shall be completely destroyed at Armageddon, even as Israel was destroyed.

Satan, the wily and subtle foe, in order to deceive man, has caused the people to be kept in ignorance of himself and his work, his agents even denying that Satan exists at all. The question which you must determine now is whether you will believe and accept the word of man or believe and accept the truth of the Bible, which is God's Word. This message is addressed to those who believe that the Bible is the Word of God, and it will be a comfort to them, but not to others.

Now, the world is in great distress; the rulers in every nation under the sun are in very great perplexity. They sense disaster ahead, but do not know the reason why, nor will they give heed to the Bible truth of and concerning the same. Many religious leaders have told you that the present trouble upon the world is a punishment from God, whereas the Scriptures plainly state that Satan, the devil, is the one causing the great distress and woe now upon the people. Therefore it is written: "Woe to the inhabiters of the earth and of the sea, for the devil is come down unto you, having great wrath, because he knoweth that he hath but a short time" (Revelation, 12:12). Now, I tell you why Satan has brought this great woe upon the nations of earth.

At the beginning of Satan's rebellion Jehovah God promised that He would produce a "Seed" that would in due time rule the world in righteousness, destroy Satan and his organization, and bring blessings of peace, prosperity, and life to all the peoples and nations of the earth that would do justice and righteousness. That promised "Seed" or Ruler is Christ Jesus the beloved Son of God. Concerning Him it is written: "The government shall be upon His shoulder; and His name shall be called Wonderful Counsellor, the Mighty (Ruler), the everlasting Father, the Prince of Peace. Of the increase of His government and peace there shall be no end, * * *. The zeal of (Jehovah) of hosts will perform this" (Isaiah, 9:6, 7). Thus Christ Jesus is identified as earth's rightful ruler, by and through whom the human race must receive the desired blessings.

In A.D. 33, the man Jesus, after having delivered God's message of truth to Israel, was killed by Satan's agents. God then raised Jesus out of death and gave Him life divine and made Him the most exalted One in the universe and appointed Him to the office of King or Ruler of the world. Jesus was required to wait, however, until God's due time for Him to assume His rulership (Psalm, 110:1). When on the earth Jesus declared that He must go away and receive the Kingdom and that He would then come again and set up the Kingdom; and for that reason He taught Christians to pray: "Thy kingdom come; thy will be done on earth."

In answer to the question as to what would be the proof of His coming and His kingdom, Jesus stated that the World War would mark the beginning of His operations concerning the world. That World War came in 1914 in fulfillment of the prophecy uttered by Jesus. It was in that year that Jehovah God installed Jesus and commissioned Him to rule the world (Psalm, 2:6–12). Christ Jesus is a spirit now and cannot be seen by human eyes. As Satan has long been the invisible ruler over the world, hence unseen by men, so now his rule must cease and Christ Jesus becomes the invisible ruler and controller of the world.

Jehovah God has for centuries suffered or permitted Satan to be the invisible ruler; but now that time limit is up and the end of Satan's world has come, and the time for Christ Jesus to take over the affairs of the world, and just before He begins the administration of blessings He will destroy the wicked ruler of this world and all who support that wicked ruler.

Satan knows that it is only a short time until Armageddon, which will be the final fight by Satan and his angels on one side and Christ Jesus and His angels on the other side, and, knowing this, Satan brings great woe upon the world, his purpose being to turn the people away from the true God and cause their destruction. This is further supported by the words of Jesus, who said that at the end of the world there would be great distress upon earth, with perplexity, and men's hearts failing them because of things they sense coming upon the world. This is exactly the condition that we see today. The great change from unrighteous to righteous rule or control of the world is impending.

Seeing the great danger of world collapse, earthly rulers organized the League of Nations as a substitute for God's kingdom, and the religious element of the world hails that League of Nations as "the political expression of God's kingdom on earth"; which claim is wholly false. Today an organization in America, known as "The League of Nations Association, Inc.", by its president, has issued an appeal to the people to support the League of Nations, and which appeal, among other things, says: "In a world as dark as this, why blow out the only light there is?" meaning that the League of Nations is the only hope of the world. I warn the people that the League of Nations is the product of Satan, brought forth to deceive the people and blind them to the truth concerning God's kingdom. The League of Nations is absolutely certain to go down with the other parts of Satan's organization.

God foreknew and foretold this confederacy of nations, and concerning it by His prophet He said: "Associate yourselves together, O ye people, and ye shall be broken in pieces * * *. Bind yourselves together, and ye shall be broken in pieces. Take counsel together, and it shall come to nought." (Isaiah 8:9, 10.)

In giving His answer concerning the evidence proving the end of the world, Jesus referred to the League of Nations as that "abomination that maketh desolate," because it assumes to take the place of God's kingdom. He said to His followers: "When ye shall see the abomination of desolation (which is the League of Nations) stand in the holy place, then flee to God's kingdom" (Matthew 24:15, 16). Jesus gives this warning because the League of Nations is Satan's scheme to blind the people to the truth. All who seek refuge in the League of Nations will come to disaster. God's kingdom under Christ is the only hope of the human race, and refuge will be found only in God's organization.

For more than 1,800 years the Israelites were God's typical people, and it is expressly stated in the Bible that what came to pass in connection with that nation foreshadowed what shall come to pass at the end of the world, where we now are. The nation of Israel began to function while domociled in Egypt, and there the people of Israel pictured or represented the peoples now on earth who are on the side of God and Christ and who desire to see righteousness control and oppression end. Pharaoh, the king of Egypt, represented or stood for Satan, the god or invisible ruler of the wicked world. Pharaoh and the officers of his government heaped great oppression upon the Israelites. Jehovah God sent Moses and Aaron to Egypt to be witnesses to His name and power. Moses was a type of Christ Jesus, while Aaron was a type of Jehovah's witnesses working under the direction of Christ Jesus.

God commanded Moses and Aaron to go before Pharaoh and demand that His people Israel be permitted to serve and worship God in the way that Jehovah had appointed for them. Pharaoh refused to grant that request. Then God commanded Moses to bring plagues upon Egypt, that the rulers and the people might be informed and warned that Jehovah is the Almighty God and that His Commandments must be obeyed. In all there were 10 plagues that befell Egypt. The ninth plague was that of great darkness over all the land of Egypt except that part where God's chosen people were, and there the Israelites had complete light, which was a special favor from Jehovah.

Now at the end of the world Jehovah has sent Christ Jesus the Greater Moses and has sent forth His witnesses, pictured by Aaron, and commanded that His testimony must be given to the rulers of the world and to the people that Jehovah is the Supreme One and that His people shall be permitted without interference to worship and serve God in the way He has appointed for

them. In the year 1919 the religious, political, and commercial elements of "Christendom" set up the League of Nations in opposition to God's kingdom under Christ, and since then all these visible rulers have vigorously opposed Jehovah's witnesses. At the command of the Lord His witnesses have served notice and warning upon the rulers that the world has ended, and that the Kingdom of God is at hand, and have demanded of the rulers that God's people be permitted without interference to serve and worship Him in the manner Jehovah has appointed for them. The serving of such notice and warning constitutes the fulfillment of the nine plagues of Egypt; which nine prophetic plagues have been fulfilled upon the rules of the world. As the ninth plague on Egypt was great darkness, just so now the rulers of the world are in great darkness as to God's purpose, because they refuse to heed God's truth. This is particularly shown by the fact that the League of Nations is openly claimed to be the only light that now shines on earth. The only exception to this great darkness is that those persons who have taken their stand on the side of God and His kingdom are now enjoying the light of the Word of God and by it are directed in the right course. At the conclusion of the ninth plague upon Egypt Pharaoh said to Moses and Aaron: "Be gone and see me no more." Even so now after the ninth antitypical plague has been served upon the rulers of the world, they have in effect said to Jehovah's witnesses: "Be gone and let us have no more to do with you." Pharaoh defied Jehovah God. The rulers of the world are now doing the same thing. They oppose Jehovah's witnesses and spurn God's warning, and they reject God and His kingdom.

After this, and in harmony with the will of God as He has commanded, Jehovah's witnesses will give no further notice and warning to the rulers of the world, but must now bring to the attention of the people of good will the message of notice and warning concerning Armageddon and God's kingdom, even as Moses and Aaron gave special instruction to the Israelites, just before the tenth plague came upon Egypt.

The first-born of Egypt under their law constituted a specially favored class; and hence in the prophetic picture the first-born represented the present visible ruling element of the earth. The tenth and last plague which God sent upon Egypt was this: He sent His angel throughout the land of Egypt and slew every one of the first-born of the Egyptians, but gave protection to the first-born of the Israelites because they obeyed His commandment, showing faith in man's Redeemer. The Israelites immediately left Egypt and were pursued by Pharaoh and his official organization, all of which were destroyed in the sea. That foreshadowed or pictured Armageddon, which will mean the complete destruction of Satan's rule of this world, both visible and invisible.

The Scriptures reveal that God never takes advantage of the ignorance of anyone but always gives notice and warning before taking action to vindicate His name. Mark this: That He caused Noah to testify to men and angels of His purpose to destroy the world before He brought the flood which destroyed the world. He caused Moses and Aaron to give full notice and warning to Egypt, and then came the destruction of that world power. He caused Jesus to give fair notice and warning to the rebellious nation of Israel, and then followed the destruction of that nation. Now, Jehovah has caused His witnesses to give full and fair nothing and warning to the rulers of this world; and when this witness work is completed there shall quickly follow the complete destruction of the world. The flood, the destruction of Egypt, and the fall of Jerusalem brought great trouble upon the people, but Jesus declares that Armageddon shall bring upon the world the greatest tribulation ever known and that it will be the last (Matthew, 24: 14, 21, 22). Hence we may know that the impending Battle of Armageddon will be the final and complete execution of Jehovah's judgment against the wicked, both invisible and visible.

Armageddon will not be fought between men of the nations of earth. Armageddon is the "battle of the great day of God Almighty", in which Christ Jesus and His angels will fight against Satan and his wicked host, and Christ will be completely victorious. Mark now the words of the record in 2 Peter 3, to wit: "In the last days shall come those who will deny and scoff at the kingdom of God, and for this they willingly are ignorant of the truth, that by the word of God the heavens and earth that were of old, constituting the world that then was, being overflowed with water, perished; but the heavens and the earth which are now, by the same word are kept in store, reserved unto (destruction) against the day of judgment and perdition of ungodly men * * * Looking for and hasting unto the coming of the day of God, wherein the heavens, being on fire,

shall be dissolved, and the elements (visible ruling powers) shall melt with fervent heat" (2 Peter 3: 3–7, 12).

Those inspired words recorded in the Bible tell what shall shortly come upon the world, making a complete end of Satan's rule, thus clearing the way for the righteous rule of Christ Jesus. Continuing the apostle says: "Nevertheless we, according to His promise, look for new heavens and a new earth, wherein dwelleth righteousness" (2 Peter 3:13). This marks the complete change of world control, the "new heavens" being the Christ or invisible rule, and the "new earth" meaning those faithful men of old from Abel to John the Baptist, who being resurrected as perfect men shall become the visible rulers in the earth; and that rule shall be one of righteousness (Psalm 45:16; Isaiah 32:1).

In Revelation 21 the new rule of the world is symbolically called "the holy city" or organization, and is described as coming down from God out of heaven, which holy and righteous rule under Christ shall bring the greatest blessings to the people. Exercising His supreme power by and through Christ Jesus, Jehovah the great God of the universe will then bless all the people who obey His righteous law. "And God shall wipe away all tears from their eyes; and there shall be no more death, neither sorrow, nor crying, neither shall there be any more pain: for the former things are passed away. And He that sat upon the throne said, Behold, I make all things new: * * * for these words are true and faithful" (Revelation 21:4, 5).

Again I bring to your attention that the so-called "holy year" has failed to bring the promised peace and prosperity, and that failure of itself should convince the people of good will that God did not authorize the year 1933 to be called a holy year, nor will He answer the prayers of men who try to make it a holy year. Upon earth there is now no peace, and poverty continues to stalk hideously through the land. As Jehovah's witnesses we have no controversy with men. Our only purpose is to be obedient to God's commandment to tell the message of truth. As He has commanded this message to be delivered, by His grace we will do it, regardless of opposition; and when we have thus done, our responsibility ends and yours begins. I must tell you that all human schemes to recover the world are certain to fail. The world is sick unto death, and it is going to die. There may be a temporary period of prosperity, but it will be very brief. Jehovah's decree is that there shall be a complete change of world control, and for this reason the old world must perish.

In the terrible disaster that shall soon come upon the present world all who oppose God will die and will find no possible way of escape (Jeremiah 25:33–36). Money, property, and worldly influence will not avail anyone to buy protection or relief in that time of great trouble. Concerning the same, it is written in God's Word: "The land shall be utterly emptied, and utterly spoiled; for the Lord hath spoken this word. The earth also is defiled under the inhabitants thereof, because they have transgressed the laws, changed the ordinance, broken the everlasting covenant (Isaiah 24:3, 5). The everlasting covenant here mentioned is God's covenant concerning the sanctity of life (Genesis 9:1–11). Every nation on earth has grossly violated and willfully broken that covenant by causing the unnecessary and untimely death of human creatures. Examples of such needless bloodstains upon the record of America are the cruel treatment to which the Indians have been subjected, and the wanton slaughter of animals; and which was done chiefly because of greed for gain. The commercial and political elements of the earth have unjustly oppressed and killed millions of human creatures, and the religious element has connived and condoned such wrongful deeds. God will balance the books at Armageddon.

I warn the people of a wicked conspiracy formed by Satan, and in which conspiracy there are joined the international bankers, the unfaithful clergy, and the conscienceless politicians, among the purposes of which conspiracy are these: To put America in the League of Nations, control the money and all other property, rule the people by the hand of their one-man dictator, destroy the freedom of speech and press, and stop the true worship of God and Christ.

But be of good courage. The hand of Almighty God at Armageddon will smite all these enemies to the dust.

What, then, is the hope of the nations of the earth? Jehovah God points to Christ Jesus, the new ruler of the world, and says: "Behold My servant, in whom my soul is pleased. He shall show righteous judgment to the nations, and in His name shall the nations hope" (Matthew 12:18–21). Having been

warned, men are at liberty to join whatsoever organization they may wish; but let the people of good will who desire to see righteousness, peace, prosperity, and life everlasting on the earth take their stand wholly on the side of God and His Kingdom. There is no place of safety anywhere else. To take your stand on Jehovah's side you do not need to join any human organization, but in the privacy of your home devote yourself to God and His Kingdom under Christ. Be diligent to study the word of truth and learn the way of righteousness. Avoid all controversies and strifes. If riots and revolutions come, keep away from them. Deal honestly and justly with your fellow man, and worship and obey the Almighty God. There are on earth today millions of people of good will who desire to know and to do what is right, and those who follow the instructions given to them in the Word of God may be hid in the time of the great tribulation, and be carried through it safely, and then live forever on the earth and never die. Hence it can be truly said, "Millions now living will never die."

Opposers of God's truth may soon make it impossible for a time for you to hear the message of God's kingdom by radio, but Jehovah has provided other means. This speech, and others containing His message electrically transcribed, will be delivered to the people in every part of the land. Look for notice of such coming meetings and then assemble yourselves together and hear the truth and learn the way of righteousness. The change of world control just at hand not only will bring relief to suffering humanity but will bring boundless blessings and endless joy to those who obey God.

All who desire the righteous kingdom of Jehovah under Christ, and who are seeking safety, must take their stand now on the side of Jehovah. I propose that this audience, visible and invisible, adopt the following resolution, to wit:

Resolved, that we do now take our stand on the side of Jehovah God and His kingdom; and that we will obey, serve, and worship Jehovah God and His beloved Son, Christ Jesus, who is the rightful Ruler of the world, and we will thus participate in the vindication of Jehovah's name.

FLEE NOW

BROADCAST OVER CHAIN WBBR MAY 6, 1934, BY JUDGE RUTHERFORD

The information contained in this speech is given for the benefit of all persons of good will regardless of creed, denomination, race, or color. The world is in a most critical state and all information obtainable from the Scriptures, concerning the same, should be diligently sought by those who hope to see peace and righteousness prevail. The enemy being unable to meet truth with truth, resorts to means of preventing the truth from being made known. There is no desire on the part of Jehovah's witnesses to do injury to any creature on earth but there is every desire to be obedient to God's will and do good to mankind by telling them the truth.

Jehovah God is entirely unselfish and for that reason it is written in the Scriptures: "God is love." He does not have any pleasure in the wicked. The wicked are an abomination unto Jehovah and for the good of all creation he will in due time destroy all the wicked. His time to destroy the wicked is near (Proverbs 15:18; Psalms 145:20). He does not take advantage of the wicked but gives such fair notice and warning before destroying them. God has permitted Satan to go on for centuries unhindered in his wickedness but now the end is come for "This is the day of vengeance of Jehovah" against all wickedness. In these last days Jehovah has caused full notice and warning to be given to the workers of lawlessness and such notice and warning the powers that control the world have spurned and the day of their destruction draws nigh. Before the greatest tribulation of all time falls upon the world Jehovah causes notice and warning to be given also to the common people to the end that all who will may flee to the only place of safety.

The greatest teacher given to man is Jesus Christ. Clothed with all power and authority in Heaven and earth, and into Whose hand is committed all righteous judgment and the execution thereof. Jesus Christ speaks with absolute authority. When the world receives information from an ordinary man upon a question of importance heed is given thereto. With stronger reasoning should all men give strict attention to the words of authority spoken by the great and righteous Ruler of the world. More than 19 centuries ago, and just

before He left earth, Jesus spoke a message of warning to the peoples of good will who should be on earth at the end of the world, and that message particularly applies to the peoples now on earth because it is the time of its fulfillment. We are enabled to understand prophecy only after its fulfillment has begun and now having clearly before our eyes the physical facts showing a fulfillment of the prophecy of warning uttered by Jesus it is high time that we give heed to such warning.

That great prophecy uttered by Christ, and recorded in the twenty-fourth chapter of Matthew, fixes the specific time when the warning must be made known to the common people and the time when they must flee if they would find a place of refuge. Jehovah's witnesses are now given the command to "preach this gospel of the kingdom to the world for a witness and then the final end is certain to come" (Matt. 24:14). For sometime in obedience to this prophetic commandment there has been given in the world a wide proclamation of this good news, the people being told that the Kingdom of Heaven is here and that it is the only hope of the world. To those who have looked for the rule of righteousness on the earth Jesus further says: "When ye therefore, shall see the abomination of desolation, spoken of by Daniel, the prophet, stand in the holy place (whoso readeth, let him understand). Then let them which be in Judea flee into the mountains" (Matt. 24:15, 16).

This message is addressed to those who are in Judea and they are the ones who are directed to flee. The message of warning must be delivered by them who are of Judea because such are the ones commissioned to speak as the witnesses of the Lord. A Judean is one who is devoted to the praise and service of Jehovah God and who is diligent in giving obedience to God's commandments (Hebrews 13:15).

These Judeans are designated as the witnesses of Jehovah to whom is committed the testimony of Jesus Christ, and who in obedience to his commandments must deliver that testimony to those of the world who will hear (Revelations 12:17; Isaiah 43:12). They are commissioned by the Lord to declare that this is the day of the vengeance of Jehovah (Isaiah 61:1, 2). They are commanded as the witnesses of Jehovah to speak this message of warning in the hearing of and for the benefit of the prisoners and those peoples of good will now on earth called "Jonadabs." These two classes last named are the ones who are in Judea, that is to say, who are in heart sympathy with righteousness and who desire to see God's will done on earth. This message of warning is delivered to them in due time according to the Lord's commandment in order to afford them an opportunity to flee to the place of refuge and find protection during the great time of tribulation that is impending and about to fall. The clear distinction between those who are in Judea and those who are of Judea enables us to have a better understanding of the prophecy uttered by Jesus and which is now in course of fulfilment. To be sure no good could result from the abuse of men and there is no desire on the part of Jehovah's witnesses to hold up men to ridicule. The truth of God's word, however, must be declared and it is God's truth that gives hurt to those who are opposed to it. Let us determine from the word of God then who are these prisoners and who are Jonadabs in order that we may appreciate the application of this great prophecy uttered by Jesus Christ.

PRISONERS

There is a great multitude of persons on earth who have made a consecration to do the will of God and hence have agreed to folow in the footsteps of Jesus Chirst, but who because of fear of man or selfishness have not faithfully fulfilled their agreement with the Lord. Such are held in restraint or in prison by those who are against God and His Kingdom. Satan is the great enemy of God and he makes every possible effort to keep persons away from Jehovah. Satan, the devil, is the great deceiver of man and one of his chief means of deception is that of religion. He has used religion from the time of Nimrod till now to deceive the people. The present day organized church systems are called "organized Christianity" or "Christendom." They pretend to serve God and Christ but instead they serve the devil who has overreached them and caused them to become a part of the world organization.

In the church organizations are many persons who have a desire to serve God. They see that the church leaders in particular are guilty of many wrongful deeds and that they are entirely out of harmony with God and His

Kingdom and that the church organization has become a selfish, political thing, and that in the organization the ultra-rich and the professional politicians are the chief ones. Seeing the many unrighteous things practiced in these religious organizations, and that the clergy do not teach the truth of the Bible, those in the churches who love God sigh and cry because of the many abominations there practiced. Why do not those sincere persons leave the church systems? The answer is that the clergy have made those sincere persons believe that it is their duty to remain in the church organizations in order to uplift the world. The leaders have frightened the sincere ones into believing that if they leave the church organizations it will be disastrous for them. Therefore the timid ones stay in the churches because of fear induced by what the clergy tell them. They are virtually prisoners, and the Scriptures designate them as prisoners.

Who causes these prisoners to fear to leave the church organizations? The Scriptures answer "Their fear is taught by the precepts of men" (Isaiah 29:13). By his prophet Jehovah foretold this unhappy condition of the conscientious church members who are held as prisoners in the prison houses but who long to be free to serve God. The Scriptures tell of them as sighing and crying unto God because of these abominations and praying this prayer: "Help us, O God of our salvation, for the glory of Thy name; and deliver us, and purge away our sins, for Thy name's sake. Wherefore should the nations say, Where is their God? let them be known among the nations in our sight, by the revenging of the blood of thy servants which is shed. Let the sighing of the prisoner come before Thee; according to the greatness of Thy power preserve Thou those that are appointed to die" (Psalms 79:9-11).

When the humble and timid ones in the church organizations obtain a book explaining the truth of the Bible and the clergymen learns this fact he urges that the book be destroyed and thus he takes away much comfort from the hungry soul in the church prison house. When the clergymen learn that those in the prison house are hearing the message of truth by radio they set about to prevent the use of the radio by those who proclaim the message of the truth. Such clergymen are not only prison keepers but they are persecutors of the members of their congregation who seek to learn the truth and who attempt to tell others about it. Jehovah by his prophet identifies these prisoners, and shows that the sincere prisoner prays this prayer, to wit: "Attend unto my cry: for I am brought very low: deliver me from my persecutors; for they are stronger than I. Bring my soul out of prison, that I may praise Thy name; the righteous shall compass me about; for Thou shalt deal bountifully with me" (Psalms 142:6, 7). When will the Lord hear these prayers and answer them? The prophecy in Psalm 102 answers: "When the Lord shall build up Zion, he shall appear in his glory. He will regard the prayer of the destitute, and not despise their prayer. This shall be written for the generation to come; and the people which shall be created shall praise the Lord. For he hath looked down from the height of his sanctuary; from heaven did the Lord behold the earth; to hear the groaning of the prisoner, to loose those that are appointed to die" (Psalms 102:16-20).

Zion, which is God's organization, is now building up. Christ Jesus the Head thereof is at God's temple and is sending forth faithful witnesses to give testimony to the prisoners that they may hear and learn the way of escape, and God's anointed ones are commissioned by Him, "To open the blind eyes, to bring out the prisoners from the prison, and them that sit in darkness out of the prison house" (Isaiah 42:7). The kingdom of God and His Christ is here and these prisoners must hear the message of the kingdom and those who do hear and obey God He sets free, as it is written: "The Lord looseth the prisoners: the Lord openeth the eyes of the blind: the Lord raiseth them that are bowed down: the Lord loveth the righteous" (Psalms 146:7, 8).

For this reason Jehovah's witnesses in obedience to God's commandment now go throughout the land and to all those who love righteousness and regardless of creed or color endeavor to help them to understand the truth, as it is written: "And the Lord said unto him (His witnesses), go through the midst of the city, through the midst of Jerusalem, and set a mark upon the foreheads of the men that sigh, and that cry, for all the abominations that be done in the midst thereof" (Ezekial 9:4). The message of warning from Christ Jesus to those prisoners now is: "When ye see the abominations that maketh desolate stand in the holy place, then flee to the mountains."

JONADABS

There is another class of people on earth who are called by the Scriptures "Jonadabs" for the reason that they love righteousness and have a desire to do what is right. They have never been connected with any of the church organizations because they have seen practiced there so much hypocrisy that they have kept away from such organizations. This class of people was foreshadowed by a man living in the time of Israel but who was not an Israelite and whose name was Jonadab. He and his descendants faithfully tried to do what they understood to be the right thing. God took notice of their desire for righteousness and although they were not Israelites He showed them His favor. Jehu, a faithful Israelite and servant of God, was sent to execute God's judgment against the hypocritical Israelites who had turned to the worship of Baal, that is, to the practice of the devil religion. The Baal worshipers of the Israelites, as the Scriptures show, foreshadowed Christendom which today indulges in hypocritical devil worship. Jonadab and his descendants hated hypocrisy just as many men and women outside of the church systems today hate hypocrisy. Jehu met Jonadab and said to him: "Are you on my side or not?" and Jonadab immediately replied that he was with Jehu (2d Kings 10:15, 16). Jehu then took Jonadab by the hand and invited him to ride with him in his chariot. By getting into the chariot with Jehu, Jonadab there prophetically pictured the class of people of good will who today take their stand with God's organization, having a sincere desire to serve righteousness and who refuse to cooperate with any part of Satan's organization.

These people of good will must now be informed as to Jehovah's purposes and therefore Jehovah sends forth his witnesses to give them information and to tell them in the language of the Scriptures when to flee and to what place they must flee. It is therefore made clearly to appear from the Scriptures that the words of Jesus commanding certain ones to flee are addressed to the prisoner or great multitude class and to those people on earth of good will otherwise called "Jonadabs" and that it is Jehovah's witnesses who in obedience to the commandment of the Lord must impart this information. Otherwise stated, Jehovah's witnesses must be the instructors of these two classes of people who desire to know Jehovah and his righteous organization.

TIME

When must they flee? The words of Jesus show that this fleeing must take place just before the battle of the great day of God Almighty. The words of Jesus were spoken in part answer to the question propounded to Him concerning His coming, the end of the world, and His Kingdom. That period of time began in 1914. Then followed after 1918 a world-wide proclamation of the message of the vengeance of our God and which notice of warning was given to the rulers. Manifestly it is near the end of that period of time when "This gospel of the kingdom is preached as a witness", that the special message of warning must be given to the prisoners and to the Jonadab class. These are properly said to be "in Judea" for the reason that their love is for God and His righteous kingdom and not for the devil nor for any part of his organization. Their heart's desire is to praise and serve Jehovah God. Therefore Jesus says to them: "When you see the abomination of desolation mentioned by Daniel, the prophet, stand in the holy place then flee to the mountains." This same divine record appearing in Mark 13:14 reads: "But when ye shall see the abomination of desolation, spoken of by Daniel, the prophet, standing where it ought not (let him that readeth understand), then let them that be in Judea flee to the mountains." When the great multitude and the Jonadabs have received this information and see or discern what is the Holy Place, and what is the abomination that maketh desolate, then if they would escape to the place of refuge they must flee immediately.

HOLY PLACE

The Holy Place is the sanctuary of Jehovah God. It is his capital organization of which Christ Jesus is the head. It is the place of His habitation. "For the Lord hath chosen Zion; He hath desired it for His habitation. This is my rest forever; here will I dwell; for I have desired it" (Psalms 132:13,

14). It is the kingdom of God with Christ Jesus as head and king and associated with Him are all the members of His royal house who also are made kings and priests unto God (Revelation 1:6).

When Lucifer, because of his wicked rebellion against God, became Satan, the devil, God announced His purpose to raise up a seed from His organization symbolized by His woman, which seed would vindicate God's name and would destroy Satan and his organization (Genesis 31:5). That promised seed is Christ Jesus, and throughout all the prophecies of the Scriptures that seed of promise or kingdom is made prominently to appear. With the nation of Israel God set up His typical kingdom by which He made pictures foreshadowing His real kingdom on earth, which kingdom would completely vindicate His holy name. The primary purpose of sending Jesus to earth was that He might be a faithful and true witness for Jehovah, prove His own integrity, and qualify Himself as the vindicator of Jehovah's name. When Jesus had proven His faithfulness unto God even unto the most ignominious death, God raised Him out of death and exalted Him above every creature in the universe and commanded that to Him every knee shall bow and every tongue shall confess that He is the Christ to the glory of Jehovah (Philippians 2:9–11). God made Jesus Christ the ruler of the world, and in due time His rule must begin. The secondary purpose of the coming of Jesus to earth and His sacrificial death was that He might redeem the human race and receive authority from Jehovah to give life to all men who obey Him.

When the nation of Israel proved unfaithful to God and was cast away, God then declared that the typical kingdom should end and He there announced his purpose to give the kingdom to "Him whose right it is", meaning Christ Jesus (Ezekiel 21:27). When Christ Jesus became a man and reached the age of His majority He was anointed to be King of the world and immediately began to announce the "kingdom of heaven is at hand." In all his teachings he emphasized the kingdom. Jesus declared that He must go away and receive the kingdom, return, and set up His kingdom and destroy the wicked and vindicate Jehovah's name, and that such He would do at the end of Satan's world.

For that reason the disciples propounded the question to Jesus, to wit: "What shall be the sign of Thy coming and the end of the world?" Jesus had told His disciples that Jehovah had covenanted with Him for the kingdom, and He invited His faithful followers to share with Him in that kingdom (Luke 22:28). For that reason the true followers of Christ have hoped for the coming of the kingdom.

The kingdom of Christ must be and is wholly devoted to righteousness, and it is therefore the holy place or place of divine authority for the rule of the world. Only those begotten of God's spirit and completely devoted to God and to His cause of righteousness can ever stand properly in that holy place, as it is written: "Who shall ascend into the hill of the Lord? or who shall stand in his holy place? He that hath clean hands and a pure heart; who hath not lifted up his soul unto vanity, nor sworn deceitfully" (Psalms 24:3, 4).

The royal family or kingdom of God is composed of Christ Jesus and those who are His faithful followers even unto death. The Scriptures describe this holy organization as "the mystery of God." The prophets and the holy angels tried to learn the meaning thereof but were not permitted to do so because it was not then God's due time (I Peter 1:10–12). From Pentecost forward God began to make known His mystery, hence Jesus said to his faithful disciples: "Unto you is given to know the mystery of the kingdom of God" (Malachi 4:11). The mystery of God is therefore Christ and the 144,000 members of His royal house, concerning which it is written: "Even the mystery which hath been hid from ages and from generations, but now is made manifest to His saints; to whom God would make known what is the riches of the glory of this mystery among the nations; which is Christ in you, the hope of glory" (Colossians 1:26, 27). The Holy Place is therefore Jehovah's royal house, the Christ, set up and clothed with authority to rule the world. In 1914 Jehovah God installed Christ Jesus as King, as it is written: "Yet have I set My Kingdom upon My holy hill of Zion (Psalms 2:6). This marks the time of the "birth of the man-child", who shall rule the world (Revelation 12:5). Immediately there followed a war in heaven, which resulted in the casting of Satan and his wicked angels out of heaven and down to the earth (Revelation 12:8, 9).

ABOMINATION OF DESOLATION

Since the Scriptures make it clearly to appear that the kingdom of God under Christ is the highest part of Jehovah's organization and is wholly fertile, and the means of giving life to man, then it is certain that the "abomination that maketh desolate" spoken by God's prophet is the very opposite of God's royal house and hence is an abomination, and that it must emanate from Satan, the devil. It brings reproach upon the name of Jehovah God, and turns mankind away from God. The devil is the chief one of wickedness and all his organization is wicked (Ephesians 6:10, 12; 1 John 5:19). It is written in God's Word: "The way of the wicked is an abomination unto the Lord" (Psalms 15:9). It therefore follows for a certainty that the "abomination of desolation" is the product of the devil, the purpose of which is to oppose Jehovah and to pollute His sanctuary, which is Jehovah's capital organization or kingdom class (Psalms 114:2; Ezekial 25:3; Psalms 93:6).

Shortly after the "mystery of God" was revealed and announced by the Lord's apostles, Satan, the devil, began to develop a fraudulent and hypocritical thing in opposition therto and which fraudulent thing is designated in the Scriptures as the "mystery of iniquity or lawlessness", which not only opposes God but "exalteth itself above that which is called God" (2d Thessalonians 2:4–8). Satan, the devil, is the chief of the lawless ones and the "mystery of iniquity" is the devil's fraudulent and hypocritical substitute for the kingdom of God under whatever name it appears. From the day of the apostles of Jesus until the coming of the Lord and His Kingdom, God has been taking out from the world a people for His name, who are His witnesses and are to be associated with Christ Jesus. During that same period of time Satan has been developing his fraudulent substitute. In 1918 Christ Jesus came to the temple of Jehovah and gathered the temple class unto himself and shortly thereafter Satan set up his substitute for the kingdom, which substitute is the combination or "League of Nations" of "Christendom" and which is "the abomination of desolation."

Mark how subtly the devil has carried out his purpose. Some time after the death of the apostles the Roman Catholic organization came into existence. Doubtless that organization then contained many conscientious men, but soon the devil overreached the Catholic Church and made of it a political-religious-commercial organization, and it has so operated since. Today it is one of the most powerful and subtle organizations on earth. That Roman Catholic hierarchy claims the sole right and authority to interpret the Scriptures and that its head, the Pope, rules as the vice gerent of Christ. There are millions of good Catholic people who are prisoners, within the meaning of the Scriptures. Later the Protestant system was organized and it also soon became a religious, political, and commercial organization, and claim is made by that organization that the kings of earth rule by divine right. Money or the love of gain has been the binding tie that has held the religious, political, and commercial elements together. In these organizations there are doubtless some clergymen and many others who, being ignorant of Jehovah's purposes, are by reason thereof held in these worldly organizations as prisoners but who may yet escape if they act promptly upon discerning the truth. The Jews have always been opposed to Christ Jesus, the King. About the end of the World War in 1918 Satan overreached and caused men to make an effort to join together all religions of the earth in one compact body. It was understood by all such that they would avoid public mention or discussion of any question that might provoke a controversy or that might offend. Today the Catholics, Protestants, and Jewish leaders, and other religions, are by mutual consent bound together and all are against God's Kingdom; all of them spurn the Holy Scriptures, which declare that God has made Christ Jesus the King of the world and the only hope of the world. All of them oppose any proclamation that calls in question the truthfulness of the doctrines held by any of the church organizations. In the place and stead of God's Kingdom under Christ, Satan has caused these religious organizations to join together and to cause to stand up the League of Nations, which is the abomination that maketh desolate. The people must determine now who these organizations serve in order that they may themselves take the right course. It is written in the Scriptures: "Know ye not, that to whom ye yield yourselves servants to obey, his servants ye are to whom ye obey; whether of sin unto death, or of obedience unto righteousness?" (Romans 6:16). All persons therefore are either for Satan's organization or for God's Kingdom under Christ. There is now no middle ground.

THE LEAGUE OF NATIONS

Jesus specifically referred to the abomination that maketh desolate as mentioned by the Prophet Daniel in these words, "And arms shall stand on his part, and they shall pollute the sanctuary of strength, and shall take away the continual sacrifice, and they shall place the abominations that maketh desolate" (Daniel 11:31). Mark the indisputable facts supporting the conclusion that the League of Nations is "the abomination of desolation." The British Empire is the seventh world power, and hence the dominating power of all Christendom, and Satan is the "god of this world" (II Corinthians 4:4). The sacrifice mentioned by the Prophet Daniel is the continual sacrifice of praise and service to Jehovah performed by his faithful witnesses who are true followers of Christ Jesus (Hebrews 13:15.) During the World War the Anglo-American empire system—that is, the seventh world power, or Christendom, took away the continual sacrifice or service of Jehovah's witnesses by stopping their work, and many of those witnesses were thrown into prison and some of them were killed. At that time the devil had been cast out of heaven, and knowing that the time was short until Armageddon, when he must fight, he began to gather all the nations of Christendom together for action at that great battle, as stated in Revelation 12:12, 16:13–15.

The devil has always used religion to give an outward attractive appearance to his nefarious schemes. And in doing so he has deceived millions of sincere people. In the year 1918 and before the war ended the "National Committee of Churches" issued a booklet entitled "League of Nations Outlined for Discussion." From that booklet the following words are quoted:

"The cooperation of the Allies has been the world's most successful experiment in brotherhood. In England the powerful British Labor Party, the Anglican and free churches, business, and other organizations have declared in favor of the program. In England Premier Lloyd George, former Premier Asquith, Viscount Bryce, Viscount Grey, Arthur J. Balfour, the Archbishop of Canterbury, and hundreds of other prominent men and women in all walks of life are ardent advocates of a league of nations."

The "League of Nations" compact was written by the British General Smuts. President Wilson was its chief spokesman and the big religionists draped the thing with man-made "holy garments." The London Daily Express of April 30, 1931, said, "Britain is the League of Nations. We are its great strength." The international bankers are backing the League of Nations with their money. Many of the strong men in that financial power are called Jews, but they are not Jews in fact. It is true that they are descendants of Hebrew stock, but the word Jew or Judean properly means one who serves and praises Jehovah God, which the international bankers do not. They have made gold their god. The New York American of March 8, 1934, published the following, to wit: "The most comprehensive propaganda machine ever set up in America is now engaged in an effort to force the United States into the League of Nations and its World Court, a survey discloses. Backed by funds of approximately $15,000,000, it is reaching out in an effort to control public opinion through schools, libraries, colleges, churches, and civic and professional organizations on the subject of American participation in international affairs."

RELIGIONISTS

The clergy claim to serve God and Christ, and probably there are some among them who sincerely desire to do so, but as the Scriptures declare they are servants of the one whom they in fact serve, either God or the devil (Romans 6:16). The facts show that the clergy, Catholic and Protestant, and Jews are supporting and serving the League of Nations, which is the devil's scheme, and that they are opposed to God's kingdom under Christ and have entered into a conspiracy against it (Psalms 2:2, 3; 83:2–5). The League of Nations has been placed by these organizations "in the holy place"—that is, where it ought not to be—and there it stands as the substitute for God's kingdom, and it is an abomination unto Jehovah. Note some further proof in support of this statement. In January 1919 the Federation of Churches issued the following statement, to wit: "The time has come to organize the world for truth, right, justice, and humanity. To this end as Christians we urge the establishment of a League of Free Nations at the coming Peace Conference. Such a League is not merely a peace expedient; it is rather the political expression of the kingdom of God on earth."

The following quotations are from the published reports of the "Federal Council of Churches of Christ", to wit: "The supreme hope for the future is in the League of Nations. This is the one worthwhile definite thing that has come out of the war. The peace of the world and the hope for humanity rest upon the proper strengthening and functioning of the League." Catholics, Protestants and Jewish clergymen join in this effort as is proven by the following, quoted from said reports: "Before the Paris Covenant was published this committee had edited and published a series of six lessons on the League of Nations, which were distributed to the churches and about 100,000 copies were used. The entire work cost about $100,000, and through the commission on international justice and good-will all the leading Protestant denominations were enlisted, and through the church peace union and the world alliance the Roman Catholics and Jews were brought in so that the national committee on the churches and the moral aims of the war may be said to be probably the most representative committee that has ever attempted to speak in America for the total religious life of our people. When the war came to a victorious end, we were at once faced with the necessity of setting to work to help build a new world order in which the repetition of such a disaster to civilization would be made forever impossible" (Report for 1920, p. 160). These organizations are estopped from now denying their own words which show that they adopt the League as a substitute for God's kingdom.

The report further says: "Immediately following the conference on limitation of armaments came the question of informing the public with regard to its achievements and their significance and of securing public sentiment to bring about the ratification of the treaties. This was carried on by our usual procedure, a special letter sent to all local churches in the constituency of the Federal Council. This letter was sent out by the church peace union together with similar communications from the National Catholic Welfare Council and the national organizations of Jewish Rabbis" (Report for 1922).

The Federation of Churches or religionists have recently formed a new corporation to carry forward the League of Nations propaganda and they call it the League of Nations, Incorporated. Its president is one Raymond B. Fosdick. In February 1934, it issued a letter, signed by its president, calling upon the American people to enter the League of Nations, and among other things that letter uses these significant words: "The cause of the League of Nations today is more vital than at any time since its founding. * * * In a world as dark as this, why blow out the only light there is."

The Scriptures declare that Christ Jesus and His kingdom is the light of the world and is the only hope of the world (John 8:12; Matthew 12:18–31). Thus the proof is conclusive that the proponents of the League of Nations have caused it to stand in the holy place where it ought not to stand, claiming for it the great virtue of the light and the hope of the world. The Divine Record declares that it is an abomination in God's sight and it is the abomination that maketh desolate because it is made the substitute for God's kingdom. These facts are now published, by the grace of God, that the prisoners and the people of good will, the Jonadabs, may receive warning as declared by the Word of God, and that they may immediately seek the only place of refuge.

OSTENSIBLE PURPOSE

The League of Nations is claimed to be the light of the world and the ostensible purpose thereof is to guarantee the world peace and good will amongst men, hence Catholics, Protestants, Jews, Christian-Scientists, and other religionists join together and solemnly agree to say nothing about each other that might cause discord or offense and therefore they oppose and they attack anyone who dares tell the truth about the matter. In other words, they are willing to sacrifice the truth in an effort to have peace at any price. Clearly this is a scheme of Satan, whether these men know it or not. For the purpose of carrying out this scheme the great broadcasting corporations attempt to say what the people shall or shall not hear about the Scriptures, and they announce their purpose to permit nothing to be broadcast to the people that might cause offense to some church organization.

Such is a political movement hiding behind a religious cloak and by reason of which many are deceived. This is further proof that this scheme does not originate with man, but that the devil is the father of it, and that he is

attempting to lull the people to sleep and keep them in ignorance of the truth while he carries forward his nefarious scheme.

As a sample of the methods employed to prevent the people hearing the truth, there is now pending before the legislative body of the State of New Jersey a bill which, if enacted into law, would make it impossible for one to tell the people the plain truth of God's Word concerning the present time of great peril. It is claimed that this proposed libel law is for the protection of religious organizations and to guarantee the freedom of speech. The very opposite appears to be the purpose thereof. A similar bill was introduced into the New York Assembly, and a like proposed law is now pending before the legislative bodies of the Provinces of Canada. This is proof in itself that the proposed new law of libel concerning religions did not originate in New Jersey, but that it emanates from a far more powerful source. The real purpose of that proposed law is to compel silence by all proponents of the truth concerning God's kingdom, while a mighty organization, under the cloak of religion, moves forward to grab all the power now in the hands of the people. Satan's scheme is to prevent the people from hearing the truth of God's Word and to do this by putting a gag in the mouth of every one who would testify as a witness to the name of Jehovah God and to the blessings that the kingdom will bring to mankind. Again I warn the people that the great battle of Armageddon is but a short distance in the future, and that now Satan is using every means within his power to prevent the people from learning the cause of that battle, what will be the result thereof, and what is the only means of safety for the people. There could not exist any reason to safeguard by law true religion from slander or libel, because that which is true is open to the most searching criticism and is certain to emerge from such criticism entirely unscathed. Only error seeks a place of hiding from the searchlight of truth. We confidently trust in Jehovah and His King that the truth shall now be exalted and that everyone who takes his stand wholly for righteousness and truth will be guided into the safe way.

WARNING

Let the prisoner class now in the church denominations and all the people of good will on earth take heed to the warning words of Jesus, who said: "Whoso readeth let him understand." The kingdom of God under Christ is here, and the devil and his instruments have caused the League of Nations, a subterfuge and fraudulent substitute for God's kingdom, to stand up where it ought not to stand, and this is the abomination of desolation spoken of by Daniel the Prophet. The fact that religious organizations support the League of Nations is proof conclusive that such religious organizations are against Jehovah God and His kingdom.

If you have agreed to serve God and Christ, and if you desire to have the favor of the kingdom of God and serve it, then you are "in Judea"—that is, you are in that heart condition that is on God's side. Do you see the truth: and do you discern the abomination standing where it ought not to stand? "Then", says Jesus the King, "flee to the mountains." Do not delay, but flee now, because within a very short time the great tribulation of Armageddon will be upon the world and it will then be too late to flee. How can you flee? By taking your stand boldly and unequivocally on the side of God and His kingdom under Christ and by refusing to compromise with Satan's organizations. If you are in any of the political church denominations, get out and refuse to have anything in common with those unrighteous organizations. If you are in the world and of good will toward God, let it be known that you are on the side of Jehovah God and His kingdom, and be diligent to tell others about it (Revelations 22:17).

There are doubtless some honest and conscientious preachers in these church denominations who have not yet seen that Satan's substitute for the Kingdom of God is the wicked combine above mentioned. Also, there must be those sincere persons in these organizations that hold high positions therein, which organizations are symbolized by a house. Those being in high places are figuratively mentioned as being on the "housetops", and to them Jesus says: "Let him which is on the housetop not come down to take anything out of his house" (Matthew 24:17). In other words, completely separate yourself from the unholy organizations and do not take anything of it with you. When you see the truth do not come down to take something you may desire out of the

organization, but flee at once to God's kingdom and call the attention of others to join you in that flight.

You may be a welfare field worker, conscientiously doing service under the supervision of some church organization, and by your clothing you are identified as such. To you Jesus says: "When you see the abomination that maketh desolate stand in the holy place where it ought not to stand, then flee, and let him that is in the field not return back to take his cloak." Do not try to take your identification as a church welfare worker with you, because that organization is a part of the world, and the Lord says to you: "Keep yourselves unspotted from the world, for the world is God's enemy" (James 1:27; 4:4). There can be nothing in common between the organization of which Satan is the god, and the kingdom under Christ, hence it is written in the Scriptures: "And what concord hath Christ with Belial, or what part hath he that believeth with an infidel? * * * Wherefore come out from among them, and be ye separate, saith the Lord, and touch not the unclean thing; and I will receive you" (2 Corinthians 6:15, 17).

In the church organizations there must be some whom you have taught and who look to you for aid and therefore you speak of them as your children, and it may be said to you that you must remain in the church organization and thus give comfort and aid to those who are your children. In answer thereto, Jesus says to you: "And woe unto them that are with child, and to them that give suck in those days" (Matthew 24:19).

The "winter time" is the hard time, and the time when the great fight is on. It symbolizes the time of Armageddon. The Sabbath Day is the time when all work of telling others of the truth concerning the kingdom is done, hence these times are too late to flee, therefore says Jesus: "But pray ye that your flight be not in the winter, neither on the Sabbath Day: for then shall be great tribulation, such as was not since the beginning of the world to this time; no, nor ever shall be" (Matthew 24:20, 21). When you see these truths do not wait. Flee now!

MOUNTAINS

What is the meaning of the words of Jesus as addressed to the prisoners in the church and to the peoples of good will, to wit: "Flee unto the mountains." The word "mountains" is in the plural. In the Scriptures "mountain" is a symbolic word representing God's organization. By His prophet, Daniel, in chapter 2, God gives the solution of this matter. Jehovah's universal organization is likened unto a "great mountain" and Christ Jesus His anointed King is likened unto a stone. Jehova declared His purpose to bring forth a seed to perform His will, and to set up a kingdom to rule the world, which promised seed is Christ the King. Among the symbols used in the Scriptures and describing the kingdom under Christ, this statement is made: "The stone which the builders refused is become the headstone of the corner. This is the Lord's doing; it is marvelous in our eyes" (Psalms 118:22, 23). Christ the King is the foundation stone, the precious corner stone of Jehovah's capital organization (Isaiah 28:16). In Daniel's prophecy it is written: "The Stone was cut out of the mountain without hands", meaning that Jehovah brings forth out of His universal organization this Stone, His anointed King, and that He does without the use of human hands. It is done by the power of God. The prophecy then says: "The Stone became a great mountain and filled the whole earth" (Daniel 2:34, 35). This Stone is the King of the capital organization of Jehovah, the head of which kingdom is Christ Jesus, and it is called "Mount Zion", the habitation of Jehovah. Thus is identified the great mountain or Jehovah's universal organization, and His kingdom under Christ is also called a great mountain.

In that prophecy by Daniel, Satan's organization is pictured by a terrible metallic image, which "The Stone" just described destroys. The kings or rulers of the earth join together in opposition to God and His kingdom of Christ, as stated in Psalm 2:2, 3: "The kings of earth set themselves, and the rulers take counsel together against the Lord, and against His anointed, saying: Let us break their bands asunder, and cast away their cords from us." That is the time the destruction takes place, and the prophecy of Daniel which identifies the Stone and the opposing rulers shows that Christ's kingdom becomes a great mountain and destroys the world rulers, as it is written: "And in the days of these kings shall the God of heaven set up a kingdom which shall

never be destroyed; and the kingdom shall not be left to other people, but it shall break in pieces and consume all these kingdoms, and it shall stand for ever" (Daniel 2:44). The destruction here mentioned takes place at Armageddon.

The great multitude class called "prisoners" in the church organizations must get life if at all as spirit creatures and will serve before the throne of Christ in Heaven and thereby be attached to God's invisible organization or mountain (Revelation 7:13, 14). The people of good will known as Jonadabs must get life on earth as human creatures and must look to Jehovah's organization for life which comes to them through Christ Jesus, and therefore these classes must look to and find refuge in both mountains (Romans 6:23). Those who now see "the abomination of desolation", the devil's substitute for the kingdom, stand where it ought not are commanded by Jesus to flee to the mountains, that is, to Jehovah and to Christ, because in the organization of Jehovah under Christ is the only place of refuge. They must hasten to put themselves entirely on God's side. And why? Jesus answers: "For then shall be great tribulation, such as was not since the beginning of the world to this time, no, nor ever shall be (Matthew 24:21). That is the final trouble and never again will affliction rise up (Nemiah 1:9).

GREAT TRIBULATION

The great tribulation is the battle of Armageddon. The Scriptures indicate that the following will be the way in which the battle will proceed: The organization of Satan surrounds Jerusalem, which symbolically means God's organization, that is, those who are on the side of Jehovah. Then Jehovah goes forth to fight in behalf of his people and it is Christ Jesus who leads the army of Jehovah in that fight. The first part of the battle will result in the destruction of the beastly rule of the earth; then will follow the destruction of the "land of Magog", which means he wicked spirits associated with the devil, and then after the devil has beheld his organization crushed, he meets his own fate as it is written: "Jesus Christ lays hold on the dragon, that is, that old serpent, which is the devil and Satan, and binds him with a chain and casts him into the pit." This matter is explained in detail in the book preparation, which everyone now who loves God should carefully study, together with the Bible.

The words of Christ Jesus, to-wit: "Let them which be in Judea flee into the mountains" are not addressed to Jehovah's witnesses, the anointed remnant, for the reason these are already entirely separate from Satan's organization. The obligation is laid upon the remnant to diligently go forth and preach the good news concerning the kingdom and to give the warning to those who have an ear to hear. Satan and his representatives on the earth now bitterly oppose Jehovah's witnesses for the very reason that they are telling the truth and for no other reason.

Regardless of all opposition, and even at the cost of their own lives, Jehovah's witnesses must continue to tell the truth. Everyone who has a true desire to be on the side of Jehovah must now signify his intention by taking a position on the side of God's organization. This knowledge of information the Lord provides for all those who desire aid in deciding what course to take because this is the time for the dividing of the people (Matthew 25:31–46). If therefore you see or discern that the devil has caused his subterfuge, the "League of Nations", to stand up in the place of God's Kingdom under Christ, then the warning to you is that you flee to Jehovah's organization and that you do it immediately.

In brief you have the picture: Christ Jesus, the world's rightful Ruler, sends the message of warning; he commands his faithful witnesses on earth to declare that message that it may be made known to the prisoners that are in the church organizations, and to the Jonadabs who are the peoples of good will on earth outside of all church organizations; the abomination which makes desolate is the "League of Nations", because it is that which is brought forth by Satan and made to stand up in the place and stead of God's kingdom under Christ; this marks the time when those who desire to see the kingdom of God and live under it must hear the message of warning and must flee to that kingdom as the only place of refuge. Jesus therefore says: "Flee now" and in doing so you are fleeing for your life. If now you prove your faithulness to God and his kingdom you shall live and have a part in the vindication of Jehovah's holy name.

WHY WORLD POWERS ARE TOTTERING—THE REMEDY

TEXT OF AN ADDRESS BY JUDGE RUTHERFORD AT ROYAL ALBERT HALL, LONDON, ENGLAND, SUNDAY, MAY 30, 1926

In the councils of the learned rulers of the world the burning questions are: "Why do the nations continue in distress and perplexity? What remedy can be applied that will stabilize the world?"

More than 7 years have passed since the signing of the armistic which marked the end of the World War, and yet there are today more tangible evidences of the disruption and dissolution of the nations than ever before. There is good reason for this. There is a sure and certain remedy. The rulers of the world are respectfully requested to give candid consideration to the argument here submitted in support of the assigned reasons and the announced remedy. The seriousness of the situation warrants such candid consideration.

The governing factors of the present world powers claim that their rule of the peoples is by divine right and authority, and therefore they have committed themselves to the divine law; and by this they should be governed and judged. This being true, then I need make no excuse for using the Bible as a basis for my argument.

I propose to now prove that the trouble of this world has resulted because: (1) The law of Jehovah God has been disregarded and ignored; (2) and that throughout the ages world powers have been organized and succeeded each other, and have now reached a climax in the British Empire; (3) that in all of these world powers fraud has been freely practiced in the name of religion and in the name of the Almighty God, and that the clergy have been chiefly used in the practicing of such fraud; (4) that the time has come when Almighty God will make Himself known to the people and will express his indignation against all hypocrisy; (5) that to this end Jehovah God has set His anointed King upon His throne of authority and judgment; (6) that the kingdom of God is the complete remedy for all human ills and that there is none other; and (7) that the rules of the earth should now hear and heed these facts. In the consideration of these important questions a brief reference to the history of man, in the light of divine prophecy, is essential.

JEHOVAH IS GOD

Jehovah, the Eternal One, the Creator of heaven and earth, is the only true and living God. In Him reside all rightful power and authority. He created man perfect and clothed him with authority to inhabit and rule the earth (Genesis 1:26, 27; Isaiah 45:12, 18). He assigned his son Lucifer as man's overlord, thereby establishing a confidential relationship between Lucifer and Jehovah, and charged Lucifer with a sacred duty toward man. Becoming ambitious to be like the Most High God, Lucifer betrayed his sacred trust and induced man to violate God's law. By this means man was alienated from Jehovah (Genesis 3:1–5, 15–24). Thereupon Jehovah changed the name of Lucifer to that of Dragon, Satan, Serpent, and Devil, which names bespeak his evil disposition (Revelation 20:12–15).

God expelled man from Eden and permitted him to work out his own devices in an attempt to establish self-government. He did not deprive Satan of the authority as man's overlord, nor did he interfere with Satan's influencing of man. Jehovah placed before man his way of truth and righteousness and left man free to exercise his own will either to obey the true God or to take the wrong way and yield to the influence of Satan, the evil god.

Early in their experiences men began to organize into bodies politic. Satan easily overreached men by introducing fraud and deceit. In mockery of Jehovah the adversary early induced men to call themselves by the name of the Lord, while at the same time, in truth and in fact, they were the instruments and subjects of the devil. Thus hypocrisy was first introduced (Genesis 4:26, margin). It is easy to see that hypocrisy has been practiced during the entire period of man's history.

GOD FORGOTTEN

The first great world power organized by man was ancient Egypt. Its invisible ruler, or god, was Satan the devil. In that land were domiciled the Israelites, whom God chose for His own people and whom he used to fore-

shadow His future purposes. He organized His people into a nation and commanded that they should have him as their God, and none other (Exodus 20:4). The Israelites were oppressed by the governing factors of Egypt. God sent Moses to deliver His people from the oppressive hand of the tryrannical ruler of that world power.

At that time Jehovah made a great demonstration of His power by overthrowing the Egyptian world power; and He declared that He did so that the people might not forget; to their own hurt, that Jehovah is the true God (2 Samuel 7:23). Moses foreshadowed the great Messiah, the anointed King of Jehovah. In the overthrow of the Egyptians and the deliverance of the Israelites, God foreshadowed the ultimate deliverance of the oppressed peoples of earth from the wicked hand of Satan and his world powers, by which the people have long been held in subjection.

In the course of time the Israelites yielded to the wicked influence of Satan the Devil, and their nation fell. With the fall of Israel Satan became the god, or invisible ruler, of all the nations of the earth, and is therefore designated in the Word of Jehovah as "the god of this world (2 Corinthians 4:3, 4). But with the overthrow of Israel God declared that He would, in His own due time, send His anointed King with full power and authority to act, and that He then would rule the world in righteousness (Ezekiel 21:24–27).

Experience alone can teach man lasting lessons. For centuries man has been passing through fiery experience, being buffeted, misled, and defrauded by Satan. At all times God has placed before man the evidence that He is the true and righteous God, but few of mankind have heeded this testimony. Man has readily yielded to the seductive influence of Satan, and has suffered therefor and continues to suffer. In due season, by reason of these trying experiences, man will learn that his true friend and benefactor is the great Jehovah God, that His way is the right way, and that to know Jehovah God and obey Him leads to life and happiness. This lesson, dearly bought, will be lasting and beneficial. Mankind is now at a period of the greatest crisis in their experiences. Their deliverance from despotic and unrighteous power is near at hand.

WORLD POWERS

World powers have been organized by men, with Satan as invisible ruler or overlord. To accomplish his purpose in keeping man under his control Satan has always resorted to deceit; and by this means he has overreached and controlled the world powers that have existed in all the ages, past and present.

A world power is an organization, formed and operated for the purpose of ruling the peoples. Seven great world powers have existed, in the order named, to wit: Egypt, Assyria, Babylon, Medo-Persia, Greece, Rome, and the British Empire. The governing factors of each and every one of these world powers have been three, to wit: The commercial, political, and religious elements. The god or invisible ruler of each has been Satan the Devil, even as the Scriptures declare (2 Corinthians 4:3, 4; John 12:31). When Rome adopted Christianity as her religion she was there hypocritically calling herself by the name of the Lord; but in truth and in fact she continued to be the representative of the Devil, even as was done in the day of Enos (Genesis 4:26, margin).

BEASTS

All of these world powers are indicated by Jehovah in his Word, and each one of them is designated by the Lord God under the symbol of "beast" (Daniel 7:3). The evident reason for this is that all of these world powers have been harsh, ferocious, and oppressive. The commercial element is cold, calculating, military, and harsh. The political element is suave, diplomatic, and faithless. The religious element is, and always has been, sanctimonious, hypocritical, fraudulent, and seductive. All of these reflect the disposition of their invisible ruler, Satan the Devil. In keeping with Divine prophecy, these world powers have even designated themselves under the symbol of "beasts." The British Empire has adopted the lion as its symbol.

GREATEST OF ALL

Without question the greatest world power that has ever existed is the British Empire. The boast is truly made that "the sun never sets on her domains." During the period of her existence, education, science, and inven-

tion have surpassed that of all other times. In finance she leads. In military strength she is at the head. In the exercise of political diplomacy she has no equal. Her clergymen are the acknowledged leaders of the ecclesiastical world.

The claim is made for the British Empire, as has been done for other world powers, that she rules by Divine right and authority. The British Empire, together with other nations, claims to form "Christendom" or Christ's kingdom on earth. Therefore, these call themselves by the name of the Lord. But the law of Jehovah God is ignored and His name brought into disrepute.

Because Britain is the greatest of all world powers, because she, together with her allies, claims to be "Christendom" and to be ruling by Divine right and authority, there rests upon the British Empire a grave responsibility which cannot be evaded. Because the British world power is the very center and bulwark of the world's civilization, and which the Lord symbolizes as a "beast", and because London is its seat of government, and these governing factors claim to rule by Divine right, here, then, is the very "seat of the beast."

The fall of the British Empire means the breaking up of the world's civilization. Her learned rulers must see that her very pillars are now tottering to the fall. All the other nations of earth, moved by dread of impending disaster, are, together with the British Empire, arming for another and a more terrible conflict than has ever before been fought. For this reason the attention of the rulers is here earnestly directed to the Divine prophecy relating to the powers of this world and to the Kingdom of God, now in course of fulfillment.

And now I charge that the British world power, the head of so-called "Christendom", while claiming to rule by Divine right and authority, has openly repudiated the great Jehovah God and has rejected His anointed King, and that her clergy are chiefly responsible for this great wrong. Because of the rejection of God's duly anointed King, the world's greatest trouble is impending and about to fall.

EVERLASTING KINGDOM

Prominently set forth in the Word of Jehovah is his purpose to set up His Kingdom of Righteousness, with his anointed Son, the Messiah, as the King. By the mouth of His holy prophet Jehovah describes the beastly world powers or kingdoms, of which the British world power is the seventh; foretells their warring with each other; and then declares: "And in the days of these kings shall the God of Heaven set up a kingdom, which shall never be destroyed: and the kingdom shall not be left to other people, but it shall break in pieces and consume all these kingdoms, and it shall stand forever" (Daniel 2:44).

This prophecy relates to the kingdom foretold by all the holy prophets of Jehovah. This is the kingdom for which Jesus taught His followers to pray, "Thy kingdom come; thy will be done on earth as in Heaven." This is the kingdom which the clergy of all denominations, in all times past, have declared would come at some future time. Now God Himself has given conclusive proof, which proof is available for all mankind, and particularly for the rulers, that His due time has come; and He now calls upon the rulers of earth to recognize and render allegiance and obedience to His anointed King, whom He has set upon His throne (Psalm 2:2–12).

THE PROOF

Jesus taught that He would return and set up the kingdom of Jehovah. For 19 centuries His faithful followers have anxiously waited for that time to come. Before Jesus departed from the earth the question was propounded to Him by His faithful disciples: "When shall these things come to pass, and what shall the proof of Thy presence be, and of the end of the world?" (Matthew 24:3.) The Lord Jesus, as the mouthpiece of Jehovah God, speaking prophetically and with authority, answered that the time would be marked by the fact that the nations and kingdoms of the earth would become angry; and that then there would be a great world war, followed shortly by famines, pestilences, earthquakes, and revolutions; and that these things would be the beginning of sorrows upon the nations and kingdoms of the earth (Matthew 24:7–18; Revelations 11:17, 18).

In 1914, exactly the due time as foretold by the Prophet of God, this great trouble began upon the nations and kingdoms of Christendom. The Lord

God there furnished, particularly to the governing powers of the earth, the clear evidence that the world had ended and that the time for the beginning of His kingdom of righteousness had arrived. The ecclesiastical element of the world powers were duty-bound to take notice of this evidence and to call it to the attention of their allies, the commercial and political elements.

As a further proof that the time had arrived for God's anointed King to take possession, the Lord foretold that the Jews would begin to return to and inhabit the land of Palestine. The British empire recognized this, by its conduct at least, and was the first of all the nations of earth to make it possible for the Jews to return to their homeland; and now all see the fulfillment of this prophecy (Luke 21:24).

As a further evidence of the time above mentioned, the Lord declared that the nations would then be in perplexity and distress, and that men's hearts would be failing them for fear; and surely there is not one amongst all of the governing factors of earth today but that recognizes the fulfillment of this prophecy (Luke 21:25). The British in the trades strike not yet settled, is having much distress and perplexity.

The second coming of the Lord Jesus Christ, and the establishment of His kingdom under God's anointed King, has been the hope of Christians for nineteen hundred years. This great truth has not been hid under a bushel. It has proclaimed from the housetops throughout the earth.

For the purpose of establishing the fact that the clergy of the greatest world power, to wit, the British Empire, have reorganized the divinely provided evidence as proof of the Lord's second coming and of the establishment of His kingdom, I now read into the record a statement published by the London press in the latter part of 1917, and which was republished by other papers throughout the Empire and throughout the entire world. The following manifesto was recently issued by a number of England's most noted ministers:

"First. That the present crisis points toward the close of the times of the Gentiles.

"Second. That the revelation of the Lord may be expected at any moment, when He will be manifested as evidently as to His disciples on the evening of His resurrection.

"Third. That the completed church will be translated, to be forever with the Lord.

"Fourth. That Israel will be restored to its own land in unbelief, and be afterward converted by the appearance of Christ on its behalf.

"Fifth. That all human schemes of reconstruction must be subsidiary to the second coming of our Lord, because all nations will be subject to His rule.

"Sixth. That under the reign of Christ there will be a further great effusion of the holy spirit on all flesh.

"Seventh. That the truths embodied in this statement are of the utmost practical value in determining Christian character and action with reference to the pressing problems of the hour."

This remarkable statement was signed by A. C. Dixon and F. B. Meyer, Baptists; George Campbell Morgan and Alfred Byrd, Congregationalists; William Fuller Gouch, Presbyterians; H. Webb Peploe, J. Stuart Holden, Episcopalians; Dinsdale T. Young, Methodist.

These are well-known names, and are among the world's greatest preachers. That these eminent men, of different denominations, should feel called upon to issue such a statement is of itself exceedingly significant.

In this manifesto the divinely provided proof was brought home to the greatest world power by her own ministers, that divine prophecy has been fulfilled as to the end of the world and the second presence of the Lord. But has due heed been given to this divine proof? It has not been heeded. On the contrary, these very distinguished men who signed this manifesto have since vehemently spoken against present truth and the Lord's kingdom. Furthermore, the rulers of the world have ignored the divinely provided testimony, as is shown by what has followed.

THE LEAGUE OF NATIONS

With propriety these questions may here be asked: If these governments of earth are operated by divine right and authority, then why should God permit the devastating World War to come upon them? If the British world power, together with other nations, constitutes Christ's kingdom, which claim is made by reason of their calling themselves "Christendom", then why should the Lord

permit the destruction of His own kingdom? It is obvious from the correct answer to these questions that the claim that these world powers rule by divine right and authority is false, fraudulent, and blasphemous.

Satan, the god of this evil world, seeing that his governing factors on earth were weakening each other, sought means to cement the people and the rulers in a closer compact. During the World War he caused an appeal to be made to the patriotism of the common people by having them adopt the slogan: "The war will make the world safe for democracy." The purpose was to gain for the military the support of the democratic element of the people. God, through His prophet, had foretold that this very thing would transpire (Daniel, 2:41).

When the war ceased the grave and wise men of the world powers assembled at Paris for conference. There the rulers took counsel together, which counsel resulted in bringing forth a compact against Jehovah and his anointed King. Necessarily Satan, the god of this world, would know the purpose of Jehovah in establishing his kingdom; and, therefore, Satan set about to produce something to offset that kingdom, whereby the turn the minds of the rulers away from it and away from God. To do this he must again resort to fraud and deceit.

The commercial and political elements, constituting the military of the world powers, in substance said: "To stabilize the world we must have a compact of nations, in which all nations shall agree that our council shall govern and control them." The result was the formation of the League of Nations. Notwithstanding the claim that these world powers rule by divine right and authority, neither the name of Jehovah God nor His annointed Son were even mentioned in the League of Nations compact. But, in order to lend a sacred tinge thereto, and that the people might be further deceived, Satan, through the clergy element of the world powers, in sanctimonious phrase declared the League of Nations to be "the political expression of God's kingdom on earth." Notwithstanding that the clear proof had been given to them by the Lord that the world had ended and that the second presence of Christ had begun, and that special attention had been directed thereto by leading clergymen of the world, the Federal Council of Churches of the World endersod the League of Nations as a substitute for the kingdom of God. This august body of ecclesiastics in January 1919 issued the following blasphemous proclamation:

"The time has come to organize the world for truth, right, justice, and humanity. To this end as Christians we urge the establishment of a League of Free Nations at the coming Peace Conference. Such a league is not merely a peace expedient; it is rather the political expression of the kingdom of God on earth. The League of Nations is rooted in the Gospel. Like the Gospel, its objective is 'Peace on earth, good will toward men.' Like the Gospel, its appeal is universal.

"The heroic dead will have died in vain unless out of victory shall come a new heaven and a new earth, wherein dwelleth righteousness (II Peter 3:13).

"The church (nominal) can give a spirit of good will, without which no League of Nations can endure.

These distinguished ecclesiastics, contrary to the teachings of the Prince of Peace whom they claim to represent, and in direct violation of His law, preached men into the trenches and hailed the World War as a means of making the world safe for democracy. Thereby they deceived the young men and sent them to untimely graves (Jeremiah 2:34). And then after the war they completely repudiated the Lord God by openly allying themselves with and endorsing the Devil's substitute for God's kingdom.

The League of Nations is against God and His anointed. In it is nothing but darkness. Its approval by the clergymen, as a substitute for Messiah's kingdom, has caused gross darkness to settle down upon the peoples of the world (Isaiah 60:2). No longer can the people look to the clergymen as safe leaders. Their leadership is done (Psalm 82:1-5).

LEAGUE FORETOLD

God foretold the seven world powers, to wit, Egypt, Assyria, Babylon, Medo-Persia, Greece, Rome, and the British Empire, and also foretold that out of the seven would grow the eighth. The latter is also symbolized as a "beast", because its purpose is to rule and control the peoples of the earth. The Lord foretold its birth, its short existence, and its everlasting end (Revelation 17:10, 11: Isaiah 8:9, 10).

The governing factors of the world powers, particularly the ecclesiastical element, by reason of claiming that these world powers rule by divine right

and authority, thereby admit that the Word of God is true. Therefore, they must be judged by the Word and are estopped from denying the Scriptural proofs which disclose their wrongful acts. No one will attempt to deny that the British world power is the early agency that was responsible for the formation of the League of Nations compact. The British Empire is the very bulwark thereof. Let Britain withdraw and there will be no League of Nations.

But who is primarily responsible for the League of Nations compact? Is it formed and does it exist by divine right and authority? I answer, No. The Devil is its father, the British Empire is its mother, and the other nations which support it are its wet nurses. At this time the advocates of the League of Nations are desperately striving to unite its belligerent members. With fear and trembling they see that unholy offspring of Satan headed for perdition, even as the Lord foretold (Revelation 17:8).

The Devil caused the governing factors of so-called "Christendom" to enter into this compact against Jehovah and his anointed King and thereby, in fulfillment of prophecy, to say in effect: "Let us refuse to give our allegiance and support to Jehovah and His King, but rather let us cast them away from us and hold to our present evil organization."

Hear now, if you please, the inspired words of God's holy prophet, which were written 3,000 years ago, written to apply at this very time, and which do apply at this hour:

"Wherefore have *nations consented together*? Or should peoples keep muttering an empty thing? The kings of earth take their stand, and grave men have sat in conclave together, against Jehovah and against his Anointed One, saying, 'Let us tear apart their bands, and cast away from us their cords!' One enthroned in the heavens will laugh, my Sovereign Lord will mock at them; then will He speak to them in His anger, and in His wrath will dismay them: 'Yet I have installed by King on Zion, My holy mountain; let Him tell My decree!' Jehovah said to me: 'My son art thou, I today have begotten thee: Ask of me, and let me give nations for thine inheritance, and as thy possession the ends of the earth: Thou shalt shepherd them with a sceptre of iron, as a potter's vessel shalt thou dash them in pieces.'" (Psalm 2:1-9, Rotherham.)

But in order that those who have been inveigled into the devil's trap might see their mistake and repent and escape, God further says to them through his prophet: "Now therefore ye kings, show your prudence, be admonished, ye judges of earth: Serve ye Jehovah with reverence, and exult with trembling: Kiss the Son, lest he be angry, and ye perish on the way; for soon might be kindled his anger. How happy are all who take refuge in Him!" (Psalm 2:10-12, Rotherham.)

The clergy are the most reprehensible of all the elements that go to make up the governing powers of the world. Claiming to be teachers of the Word of God, their duty was to ascertain the truth and explain it to the others. But instead, they have caused the rulers of earth to commite fornication with an apostate church system, and have made the people drunk with their false doctrines (Revelation 18:3). The commercial and political rulers admit the ecclesiastics to their councils, with the evident thought that their piety and sanctimoniousness will remove the curse from their own skirts; but now they see that these ecclesiastics have practiced a fraud upon them, because they are not in truth and in fact the representatives of God as they have claimed. Even now the ecclesiastics are hated by the other rulers, and soon this hatred will be manifested in a more tangible manner (Revelation 17:16, 17).

THE CAUSE

The real reason for earth's trouble is, because the rulers have rejected God's duly anointed King and refused His kingdom. And since they persist in this course of defiance against God, He has declared that He will dash them to pieces as a potter's vessel (Psalm 2:9).

In corroboration of this, God's prophet further says: "Thus saith the Lord of hosts, behold, evil shall go forth from nation to nation, and a great whirlwind shall be raised up from the coasts of the earth. And the slain of the Lord shall be at that day from one end of the earth even unto the other end of the earth: they shall not be lamented, neither gathered, nor buried: they shall be dung upon the ground. Howl, ye shepherds, and cry; and wallow yourselves in the ashes, ye principal of the flock: for the days of your slaughter and of your dispersions are accomplished: and ye shall fall like a pleasant vessel.

And the shepherds shall have no way to flee, nor the principal of the flock to escape. A voice of the cry of the shepherds, and an howling of the principal of the flock shall be heard: for the Lord hath spoiled their pasture. And the peaceable habitations are cut down because of the fierce anger of the Lord" (Jeremiah 25:32–37).

No ruler can give a satisfactory answer as to why the World War suddenly stopped in 1918. But God's Word explains that the reason it ceased at that time was that an opportunity might be given to the rulers, as well as to the people, to hear the testimony concerning the Lord and His kingdom. Failing to take heed to this, the Lord Jesus declares there shall follow a time of trouble such as the world has never known, and that this shall be the last trouble of earth (Matthew 24:21, 22).

All the nations and kingdoms of earth are rapidly marching to the great battle of God Almighty. This will convince the peoples, as well as the rulers, that Jehovah is God and that Jesus Christ is the King of kings and Lord of lords.

THE REMEDY

What men desire is a righteous government, one that will guarantee to them peace, prosperity, health, life, liberty, and happiness. From the beginning it was God's purpose that man should enjoy these blessings everlastingly. Because of sin man lost the right to all of them. God then began to work out His plan of redemption and deliverance for man. He promised to redeem man from death and from the power of the grave (Hosea 13:14).

In due time He sent His beloved Son Jesus into the world, to redeem the world (John 2:16; 10:10; Matthew 20:28). The death and resurrection of Jesus provided redemption for all, and in God's due time all mankind shall have the benefit thereof (Herbrews 2:9; 1 Timothy 2:3–6).

God promised that Jesus Christ, His beloved Son, should come again and restore to men all things that had been lost. (Acts 3:19, 20). Now the time has arrived. Christ has come as God's anointed King, Jehovah has set Him upon His holy throne to rule, and now He commands all to give allegiance to His king and kingdom (Psalm 2:1–11). Let the rulers of the earth now take heed to Jehovah's Word, accept His anointed King, and lend their power and influence to turning the minds of the people away from the devil and to Jehovah God and to earth's rightful King. Thus doing, they will employ their powers and faculties in the interest of peace and righteousness. Messiah's kingdom now at hand will bring the desire of every honest heart.

PEACE

There can be no lasting peace without a righteous government. God promised that His King shall reign in righteousness and His representatives with justice (Isaiah 32:1). Upon the righteous shoulder of the Prince shall that government rest, and the peace thereof shall never end (Isaiah 9:6, 7). No more shall the people be afflicted with war, nor be burdened with taxation for the preparation for war; nor shall they even have fear of such (Isaiah 2:2–4).

PROSPERITY

Under the present world powers a few people have an abundance, many must skimp in order to eat and be clothed, while many others are objects of charity. Such will not be the conditions under God's anointed King, whom He has now placed upon His throne. In this kingdom "shall the Lord of Hosts make unto all people a feast of fat things" (Isaiah 25:6). Every man then will enjoy the fruits of his labor and dwell in happiness with those whom he loves.

HEALTH

All the efforts put forth by the world powers cannot bring health to the people. No one now has perfect health. But be of good courage! Under the righteous reign of Jehovah's anointed King all who are obedient to His reign will be made well. God has promised to cure them and bring them health, to the end that no more shall the inhabitant say: "I am sick" (Jeremiah 33:6; Isaiah 33:24).

LIFE

The first lie told by Satan was: "There is no death." Long experience has proven to man how great was that falsehood. God gave man life. God took away the right to life, because of man's disobedience. Jehovah God alone can provide life for the human race. He has made provision for the obedient ones to have life through Christ Jesus, and therefore it is written: "This is life eternal, that they might know Thee, the only true God, and Jesus Christ whom Thou hast sent" (John 17:3).

All the world powers are the offspring of Satan. These can never bring life to man. God's kingdom through Christ Jesus is now at hand, and those who render themselves in obedience to this kingdom shall live and shall not die. God's Word declares that Christ Jesus comes to judge the living and the dead (2 Timothy 4:1). The living shall first be given an opportunity, then all who are in their graves shall come forth; and those who keep the law of God shall never see death (John 5:29, 8:51; 11:26). God's kingdom is here; therefore with confidence it can be announced that millions now living will never die! The presumption is that when restoration blessings begin, millions will gladly avail themselves of the opportunity for life.

God made the earth for man's habitation (Isaiah 45:12, 18). The earth shall be the eternal home of restored man. The reign of Christ will destroy all of man's enemies, the chiefest amongst which is death (I Corinthinans xv:25, 26). Satan himself shall eventually be destroyed, and there shall be no more death (Hebrews 2:14; Revelation 21:1-6).

HAPPINESS

With a righteous government functioning for man's good; with lasting peace on earth and good will toward men; with all the people enjoying health, and with no fear of sickness and death; with all families being united together and dwelling in peace, the human race will enjoy eternal happiness.

Let the kings and rulers of the earth now give their allegiance and devotion to the Lord. Let them acknowledge Jehovah as God and Christ Jesus as his anointed King; and thus doing, they will render a real service to the people and put themselves in line for the eternal blessings of Jehovah.

The CHAIRMAN. With the exception of an explanatory report which will be called for on account of some statement that Mr. McKinnon made yesterday, that will conclude the hearings on this bill.

We are very much obliged to you gentlemen. We will now have a short executive session.

(The explanatory report referred to is as follows:)

Mr. F. B. MacKinnon, president of the United States Independent Telephone Association, was quite cooperative in bringing the questionnaires of the committee to the attention of companies having membership in his association. Moreover, he was able to furnish from his own office much information which was of great assistance, particularly in the early stages of the inquiry.

It was very surprising that in his appearance before the committee in connection with H.R. 8301 that he should attack the Preliminary Report on Communication Companies as he did, for answers to practically all of his objections to the report are to be found in the report itself.

Mr. MacKinnon said: "The report, we understand, is a preliminary report and will be followed by a larger detailed report which will probably amplify some of the statements and give a much clearer picture of the operations of the independent group."

Specifically he alleged: "The statements made in the Splawn report are corrected in a way by a footnote; but one of these footnotes states that in the 13,793,229 telephones reported for the Bell group were included the telephones of the 6,800 companies of the Independent group. This is incorrect, as the figures given in that paragraph are for the Bell companies only."

Mr. MacKinnon's statement is incorrect. Page VI of the Preliminary Report on Communication Companies shows that "the Bell system operated, directly, 13,793,229 telephones." [4]

[4] The total number of telephones in the United States which may be interconnected is approximately 17,500,000 and includes telephones of 6,800 connecting companies and 26,200 connecting rural lines.

The figures are correct and the authority for this statement is contained in American Telephone & Telegraph Co's annual report to stockholders for the year 1932, which report was submitted in response to questionnaire no. 5.

On page V of the Preliminary Report on Communication Companies, there is a reference to appendix B, at page 194. This appendix discloses that there were 44,825 telephone companies, systems, and lines operating in the United States on December 31, 1932.

Again Mr. MacKinnon says: "The use of the word 'independent' in the Splawn report to describe a company not owned by or owning another company makes the report state that there are but 69 independent companies, when, as a matter of record, there are 6,000 such organizations."

The language to which Mr. MacKinnon refers is found on page 69 of the Preliminary Report on Communication Companies. That language is exact and correct because it adds to the phrase "69 independent telephone companies" the conjunction "and", and the phrase "reporting as December 31, 1932, to the Interstate Commerce Commission." There were no "6,000" companies which were independent and also reporting to the Interstate Commerce Commission. The 69 companies referred to and their names are given on page 70 of the Preliminary Report on Communication Companies.

Again Mr. MacKinnon says:

"Dr. Splawn has divided the independent companies into two sections, 'integrated' companies and 'independent' companies, but in addition he has taken some 40 of the independent companies and put them in the Bell group, because some one of the Bell subsidiaries owns a minority interest in one of these 40 companies. The assumption apparently is that if a Bell company owns a minority interest in the independent company, the Bell company controls that independent company. * * *

"Among such companies are the Athens Home Telephone Co., of Athens, Ohio, the Intra-state Telephone Co., of Galesburg, Ill., and the Jamestown Telephone Corporation, of Jamestown, N.Y. Similar examples can be pointed out for others of these companies placed by the Splawn report in the Bell column. Out of the 6,246 independent companies, there are 40 on which the mark of Bell control has thus been arbitrarily placed in the Splawn report. These companies should be classed in the independent column."

In this statement Mr. MacKinnon seems to take issue with the tabulation of some 40 companies which he insists are wholly independent. Since the Bell system owns a minority of the stock of these companies it was convenient to list them in the table with the Bell group merely for the purpose of showing the stock of each such company which was held by the Bell system. That percentage is given in each case opposite page 5 of the Preliminary Report on Communication Companies. It is to observed that the Bell system owns at least 10 percent of the voting stock of every one of these companies.

Mr. MacKinnon states: "Reference is made in the Splawn report to the fact that some of the holding companies issued securities that had not been approved by any regulatory body. The real picture would have been much clearer were the report to have said that the reason that those securities had not been approved was because no regulatory body had been provided to approve them. The statements in the report carry the inference that there had been an evasion of control, which is not the case, as the issues of our companies have been passed upon by regulatory bodies wherever those bodies had the right to pass upon them."

This report makes clear the magnitude of an industry which by its very nature is monopolistic. Competition cannot and should not be relied upon to regulate this industry. The incident to which Mr. MacKinnon refers merely illustrates the enormous activities of a monopolistic public utility which have not been brought under the supervision of the Government.

(Thereupon, at 11:08 a.m., the committee proceeded to the consideration of other business, after which it adjourned.)

Mr. Chairman and members of the Committee on Interstate Commerce of the House of Representatives, on May 10, 1934, I received the following telegram, which proves to be one of a considerable number of identical or similar messages sent by the National Association of Broadcasters to radio stations throughout the country in an effort to produce an outpouring of protest against the amendment which you are now considering:

"LD563 NZ (WC1016) 39 NL,
"*Washington, D.C., May 9, 1934.*

"RADIO STATION WCFL, CHICAGO, ILL.:

"Strong demand made today before House Interstate Commerce Committee to adopt amendment identical with Wagner-Hatfield proposal which would cancel your license in 90 days. Imperative you contact directly Congressman Kelly, your State, who is member House committee.

"NATIONAL ASSOCIATION OF BROADCASTERS.
"848P."

I immediately telegraphed Hon. Edward A. Kelly, a Member of Congress from Illinois and a member of your committee, as follows:

"CHICAGO, ILL., *May 10, 1934.*

"HON. EDWARD A. KELLY,
"*House Office Building, Washington, D.C.*

"Just received a telegram from the National Association of Broadcasters stating that the amendment before the House Interstate Commerce Committee would cancel our radio license in 90 days and requesting that we contact directly with you as a member of House committee. It is quite evident that this National Association of Broadcasters are similarly wiring all of the 600 broadcasters in United States to wire the committee protesting the passage of the amendment, hoping to hoodwink the committee into believing that this amendment will be the cause of canceling the small broadcasters' licenses. The truth of the matter is that the National Association of Broadcasters is controlled by the radio monopoly who own the 40 national cleared channels as represented in the National Broadcasting Co. and the Columbia Broadcasting System. These 40 national broadcasting channels with unlimited time and with superpower were secured under very suspicious circumstances when the Federal Radio Commission was first instituted, and the swag of 40 national cleared channels was divided amongst the closely allied interests of the Radio Trust in order to assure themselves that the free air would be controlled and monopolized. Labor's own station, WCFL, "the voice of labor" is in most hearty accord with the amendment which will prevent the radio control and monopoly from becoming the dictators of what shall constitute free speech on the air, and therefore in the name of the labor movement of this country we most respectfully petition your vote and the vote of your colleagues on the committee for the amendment, and may we further ask that you read this telegram to the members of the House Interstate Commerce Committee.

"CHICAGO FEDERATION OF LABOR,
"E. N. NOCKELS,
"*Secretary and general manager, radio broadcasting station WCFL 'the voice of labor'.*"

These telegrams really tell the story in themselves, but there are certain facts which the members of your committee should know, or on which your minds should be refreshed, concerning the history of the assignments heretofore made of the some 90 available broadcasting channels in this country and the avaricious struggle which has been waged by the vested interests of special privilege over what is generally recognized as the last of the public domain, and it is in this connection I crave your indulgence.

From the very inception of the Federal Radio Commission—from the date of its creation by the Radio Act of 1927—there has been a continuous and highly successful effort brazenly put forth by corporate interests to obtain and hold for their own selfish and gainful purposes a complete monopoly of these air channels.

So evident was this campaign, so relentlessly was it waged, so obvious were its dangers and so far-reaching in character, that organized labor, in behalf of the general public, immediately began to voice its protests.

As early as January 14, 1929, the late Honorable Hope Thompson, of Chicago, an eminent member of the Illinois bar, presented, in behalf of the American Federation of Labor and Radio Station WCFL of Chicago, a masterful protest against the impending monopolization of the air. This was at a hearing on radio before the Merchant Marine and Fisheries Committee of the House of Representatives and it is interesting to note from a perusal of the record that, while favoring the proposed continuance of the Federal Radio Commission for another year in order that it might complete the substantial part of its duties as enumerated in section 4 of the act, he recommended that,

at the proper time, Congress should create a permanent commission in charge of communications.

On January 7, 1929, Hon. C. C. Dill, United States Senator from the State of Washington, is quoted in the Congressional Record of that date as saying:

"I want to call attention to the fact that the great Radio Trust, composed of certain large organizations that have made agreements in control of radio—the General Electric Co., the Westinghouse Co., the American Telephone & Telegraph Co., the United Fruit Corporation, and the Radio Corporation of America—have six clear channels, to say nothing of the chain-station rights which they have, to extend their programs all over the country; and they are granted those channels for unlimited use, with tremendous power of from 25,000 to 50,000 watts."

On May 19, 1930, Hon. Frank R. Reid, a Member of Congress from Illinois proposed by resolution the assignment of three cleared channel broadcasting frequencies to the Departments of Agriculture, Labor, and Interior, to be licensed to the radio stations recommended by the heads of those Government departments as being most representative of the labor, agricultural, and educational interests of the United States, and he, too, called the attention of the Congress to the rapidly advancing monopolizaion of the air by special interests. Congressman Reid pointed out that up to that time the 40 cleared channels established by the Federal Radio Commission had been allocated as follows:

"(1) To corporations formed for the specific purpose of operating a broadcasting station, 12 channels.

"(2) To corporations manufacturing radio equipment and supplies, 7 channels.

"(3) To corporations dealing in merchandise of various kinds, 10 channels.

"(4) To corporations publishing newspapers, 11 channels.

"(5) To public-utility corporations, 3 channels.

"(6) To insurance corporations, 5 channels.

"(7) To a fraternal corporation, 1 channel (limited time).

"(8) To a municipal corporation, 1 channel."

Congressman Reid at that time further stated and he is quoted from the Congressional Record of that date:

"Whereas it is charged that this great radio monopoly is now seeking to perfect its complete control of the air in the following ways:

"(1) By obtaining through chain stations the lion's share of the cleared channels from which the Federal Radio Commission has removed the less-favored stations, and which are looked upon as the choicest gifts of the Commission.

"(2) By obtaining as complete a monopoly of all commercial and experimental wave lengths, in the low-wave-length zone as well as in the channels above the present broadcasting field. (So far, the Radio Commission has already given the trust and its subsidiaries a vast preponderance of these wave lengths, both in number and in the power which these stations are permitted to use, namely, 4,000,000 watts out of a total of 5,000,000).

"(3) The monopoly of all wireless-telephone development in the United States. (This particular monopoly was allotted to the American & Telegraph Co. as a chief constituent of the radio trust in the cross-licensing agreements among the corporations comprising the trust.)

"(4) The monopoly of all wire hookups between stations. (This monopoly is now exercised by the American Telephone & Telegraph Co., which is thus the deciding factor in all chain-station developments.)"

Similarly emphatic warnings have been voiced by many members of both Houses of Congress who viewed with well-founded alarm the rapidity with which the great broadcasting chains, newspapers, and newspaper organizations, radio equipment manufacturers, and other corporate and vested interests were perfecting their monopoly of the air channels. Such advocates of the public interest as former Senator Otis Glenn of Illinois, Senator Hatfield of West Virginia, and Senators Robert M. La Follette of Wisconsin—both senior and junior—have unhesitatingly protested against this campaign of avarice and greed on the part of a favored few—a protest in which have joined many other distinguished Members of both Houses of the Congress.

So it may surely be said this is no new question now before you for consideration. Time passes, years roll by, but the ruthless and high-handed tactics of the monopolists of the air continue to astound sober-minded righteous-thinking men and women and it is not surprising therefore to find another proposal for a reallocation of broadcasting channels—this time a little more

comprehensive than before permitted—more complete and far reaching and thus productive of an even greater consternation among the closely allied interests which make up the radio trust and among all those individuals and organizations whom the trust controls including the National Association of Broadcasters.

This is not the first time the National Association of Broadcasters has fronted for the trust in matters of legislation. In fact that is the principal business of this association which despite its claim that its membership is representative of a large portion of the radio-broadcasting industry, is actually controlled and operated in the interest of the great broadcasting chains and their trust allies. Reference to the United States Daily of March 17, 1932, will show how one Harry Shaw, then president of this National Association of Broadcasters appeared on the day previous before a subcommittee of the Senate Committee on Interstate Commerce to oppose Senate bill 3047 introduced by Senator Hatfield of West Virginia authorizing the Federal Radio Commission to grant a cleared channel to organized labor. Mr. Shaw based his objection to the bill on the ground that "the principle of granting a cleared channel to any organization is not in the interest of broadcasting." This might be regarded as a bit of smug complacency on the part of Mr. Shaw after all the organizations he and his associates abjectly serve have gobbled up all the cleared channels there are.

And so now you find this same crowd opposing this proposed reallocation on about the same grounds. All their argument, relieved of superfluous verbiage, comes down to the same general conclusion—that only the trust controlled and favored few shall share the freedom of the air.

It might be well to observe the carefully studied effort on the part of the National Association of Broadcasters to throw a scare into the radio stations of the country by asserting to each station included in this broadside of telegrams, to which your attention has been called, that they, the 650 or more stations thus addressed, were sure to lose their licenses in 90 days if this amendment should prevail. These telegrams failed to point out that the object of this amendment is in reality a reallocation of the air channels in the interest of the great majority of stations and affecting adversely only those trust-owned and trust-controlled stations who have been enjoying the best of the channels on full time and with high power while all the others have had to be content with their meager share of the "leavings." These telegrams also failed to point out the certainty that every station that deserves it will be granted a new license to operate under conditions greatly improved for the vast majority.

It is difficult to see how this amendment could work out to the great disadvantage of any small independent station or how any small independent station could find itself in a much worse condition than it is at present having to meet the competition of the chains and the chain-owned stations who, because of an organized system of underpayment to their employees, and for many other reasons, known only to those on the inside of the vicious circle in which they operate, are able to engage in cutthroat and wolflike methods while disguised in the lamb's clothing of so-called "ethical practice."

The trust-owned and trust-managed stations through their various agencies and stool-pigeons never fail to hide behind the skirts of the small stations and to make it appear that it is the interest of the little fellow they are seeking to serve. It has always been so, not only in the radio industry but in every industry; the small units are used by the monopolistic elements to bolster up their own case in this matter, in the wage question, and every issue that arises.

It is an amusing coincidence that just at the time this matter is being discussed the Chicago Tribune has been publishing daily a series of articles by Arthur Sears Henning whom they designate as the dean of Washington correspondents. This series of articles is under the guise of an exposé of the manner in which political and other influence is used with the Radio Commission but is, in reality, the Tribune's own indirect method of opposing the President's plan for control of communications as the crux of the argument will be that if a quasi-judicial body is susceptible to the influence related in this series of articles, then a much larger commission or bureau to whom may be intrusted the control of all communications might also fall victims to these evil influences. This series of articles in the Tribune commences with the issue of May 6, 1934, and continues to the present time and is amusing because it reminds us of the old sayings which refer to the "pot calling the kettle black" and to

conditions which exist when "knaves fall out." The Tribune has no difficulty in securing for Mr. Henning the material for these articles. It surely is available in the files and notes of Mr. Louis G. Caldwell, erstwhile member of the Tribune's own law firm formerly headed by Colonel McCormick, principal owner of that newspaper. Mr. Caldwell was subsequently general counsel for the Radio Commission, following which activity he again returned to the law firm which looks after the interests of the Chicago Tribune and radio station WGN at Washington. Since the Tribune, through the ingenuity and resourcefulness of Mr. Caldwell, has succeeded in getting everything it wants or can possibly use for sometime from the Radio Commission, including 1 of those 40 priceless cleared channels with unlimited time and authority to use 50,000 watts, the Tribune can now afford to fall out with its old associates and display some of the soiled laundry resulting from radio controversies of other days. The interesting thing about it all is that truth will out and this exposé is calling attention, among other things, to the important fact that from the very formation of the Radio Commission, men prominently identified with it as members or officials have gradually been taken over by one or another of the principal chains. The Tribune points out this fact and refers, among others, to Henry A. Bellows and Sam Picard, who were advanced from their connection with the Radio Commission into vice presidents of the Columbia Broadcasting System at high salaries and on long-term contracts. The Tribune also points out that gentlemen like Sam Picard were able to manipulate and improve the interests of certain stations before the Commission in which stations they after acquired ownership. The gentlemen of this committee should know that these cases are only specimens of many which might be cited in which individuals have followed perhaps a natural evolution through the Radio Commission into seats of power in the big chains or in connection with other branches of the Radio Trust.

Mr. Henning charges in one of the articles in this series on May 13, 1934, the following:

"During the Hoover administration it was the National Broadcasting Co., with 15 broadcasting stations, itself a subsidiary of the Radio Corporation of America with several thousand licenses at stake, that enjoyed preferential favor at the White House.

"For the last year, under the Roosevelt administration, the Columbia Broadcasting System, with eight broadcasting licenses at stake, has been closer to the throne than its rival has been. Columbia has had little difficulty in getting anything it wanted from the White House and the Commission, while N.B.C. has encountered a lot of rough going."

This looks like fifty-fifty.

The main consideration in connection with the entire plan as recommended by the President for the control of the various systems of communication, including radio, is that these systems which constitute what has been referred to as "the last of the public domain" shall be operated and administered with the idea of rendering the greatest possible service to the greatest number of people. It is not strange that every agency of the monopolistic group which now controls these facilities is rushing frantically about endeavoring to place obstacles in the way of the President's plan for the regulation of these facilities.

The Wagner-Hatfield amendment seems to have caused particular consternation when it only proposes to take back from the trust 25 percent of the swag which was wrested from the people to whom it belonged and give it back to its rightful owners in the form of available service through independent radio stations representing agricultural, religious, educational, and labor organizations. This plan merely calls for a reallocation of broadcasting channels which have heretofore been distributed too completely in accordance with the desires of the Radio Trust and broadcast chains.

The two great chains and the trust-owned stations have just about perfected their monopoly of the air—first, by securing for themselves the assignment of the 40 cleared channels and, more recently, by numerous grants to various stations owned by the chains and monopolistic groups of the maximum amount of power. On chain systems there is no need for 40 cleared channels with unlimited time and power of 50,000 watts or more. The chain could be efficiently conducted with only one station so favored. The obvious purpose of the monopolists in acquiring these special privileges, including maximum power, for their radio stations, is that they may be able to drown out the less-

powered independent stations about whose licenses they now profess to be so much concerned. These high-powered stations enable their owners to monopolize the air, to freeze out the small independent station, and to make it impossible for the independent station to exist. With all of these cleared channels and unlimited time assigned to the trust-owned stations no opportunity is left for smaller stations to voice the expression of the various interests referred to in the Wagner-Hatfield amendment.

In the proposed new allocation, consideration and recognition should be given to more stations centrally located where these cleared channel facilities with unlimited time and maximum power could be utilized to a greater benefit to the greatest number of people than is now the case where stations now enjoying these privileges are flanked on one side by a vast uninhabited ocean expanse.

The foregoing are some of the many reasons why your committee should pay no heed to telegrams or messages of protest which have been secured in the manner herein indicated in many cases from broadcasting stations who have been hoodwinked into believing that their interests will be jeopardized under the proposed reallocation. Instead, it is respectfully submitted that your committee should be guided by the unanswerable evidence on every hand of the present monopoly of control of radio broadcasting in this country; a monopoly advanced to such a state of perfection that unless the plan advocated in this amendment or remedial legislation along similar lines is adopted the millions of radio listeners throughout the length and breadth of America will only be able to obtain such programs as are permited to be broadcast by the consent of the monopolists who will have obtained a stranglehold on the facilities of the air far more serious in its influence and consequences than it has been possible to exercise through the well-known medium of the "kept press."

EDWARD N. NOCKELS.

FEDERAL RADIO COMMISSION,
Washington, D.C., May 18, 1934.

Hon. SAM RAYBURN,
Chairman Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: Due to a hearing en banc before the Commission on May 16, it was impossible for me to be present and listen to the testimony before your committee. I understand, however, that Mr. Anton Koerber testified on that day relating to certain broadcasts of Judge Rutherford.

This letter is to call your attention to my testimony on the McFadden bill, which begins on page 188 of the hearings before the Committee on Merchant Marine, Radio, and Fisheries on H.R. 7986.

Very truly yours,

E. O. SYKES, *Chairman.*

STATEMENT OF HON. E. O. SYKES, CHAIRMAN FEDERAL RADIO COMMISSION

Commissioner SYKES. Mr. Chairman, I would like to say, first, that the provisions of this bill would make broadcasting stations in the United States to that extent public-service companies of programs of that character. That is directly contrary to broadcasting as it has grown up in the United States prior to the act of 1927 and is directly contrary to the theory of broadcasting under the act under which we operate, of 1927, as amended.

I thoroughly believe in the wisdom of the Radio Act of 1927. I believe that you gentlemen builded more wisely than any of us at that time knew. Radio was then young and is still young, but the evidences of it, the development of broadcasting in the United States, has to my mind shown the wisdom of the lawmakers in passing that act.

The CHAIRMAN. It was in a chaotic condition when the act was passed, was it not?

Commissioner SYKES. In a very, very chaotic condition. That act puts upon the individual licensee of a broadcast station the private initiative to see that those programs that he broadcasts are in the public interest, bearing in mind that many broadcasting stations are located in different parts of the United States and what might be in the public interest in one part of the United States might not be of interest to other listeners in an entirely different community, where their business is different, and things of that kind. Now this particular bill, as I say, would do away with that.

Then that act makes those individual licensees responsible to the licensing authority to see that their operations are in the public interest. If you pass a bill of that kind, then, if the Commission should think that their programs are not in the public interest, the reply would be, "We are now made public-service companies; we have to take programs that are offered to us, if we have the time to take those programs." The private initiative would be abolished; all diversification of programs, which, by comparison with the programs of other countries are very much more diversified here than they are there, would be abolished.

This sort of legislation, to my mind, would be an opening wedge to making eventually the broadcasting stations merely common carriers, and I think it would be a calamity for that time to come. So I would be very much opposed to seeing any kind of legislation of that character which would be, so to speak, an opening wedge in breaking down the present system of the United States.

Now I feel called upon, gentlemen, to say just a little about the investigation of the Radio Commission with reference to the programs complained of. During about 3 months, I believe it was, the Commission received a great many protests relating particularly to two programs of Judge Rutherford, both electrical transcriptions. The names of those two programs were—and I will have to refer to my papers to be sure—one The Way of Escape, and the other The Holy Year.

Mr. SIROVICH. When were they given; when were those sermons delivered?

Commissioner SYKES. Some time the first part of this year, Doctor; the exact date I do not know.

Mr. SIROVICH. And was that over the independent hook-up?

Commissioner SYKES. They were broadcast by approximately 169 stations. We brought these protests up. I do not imagine the committee wants to see them, but we have them here if you do desire to see them.

Mr. SIROVICH. How many protests did you get?

Commissioner SYKES. There were several hundred protests.

Mr. SIROVICH. From all over the country?

Commissioner SYKES. Some signed petitions with over several thousand names, if you count the individual signers of the petitions, from all parts of the country.

The Commission, as is our rule, referred them to the legal division for consideration of the complaints. It made a report to the Commission about these complaints. The Commission ordered the legal division to prepare a letter to Judge Rutherford asking for copies of these programs, with the names of the stations that broad-

cast these programs. We received that information from him and then we had the legal division of the Commission, in order to verify that information, write to these stations and ask them if they broadcast these particular programs.

They were sent to us on disks. The radio we had could not transcribe these disks for us, and we had to send them down and have them transcribed. We had our legal division to study those transscriptions and make a report to the Federal Radio Commission as to what they were. That report was made to the Commission and after careful examination the Commission decided at that time to take no further action.

I want to say that that investigation was made in the usual way that we make investigations.

Mr. SIROVICH. Did you find any material in that sermon that you think would personally be objectionable, or that the Radio Commission thought was objectionable?

Commissioner SYKES. Yes; there was some matter that we thought was rather objectionable.

Mr. SIROVICH. Would you be good enough to insert that later, as a part of the record, so that we can read that?

Commissioner SYKES. I will be very glad to put that in, Doctor. I have our report of the legal division and I will make that a part of the record.

Mr. RAMSPECK. Judge Sykes, you say the purpose in sending out the inquiry to these stations as to whether or not in fact they did broadcast these talks was simply to verify the statement by Judge Rutherford?

Commissioner SYKES. As a double check, of course. In other words——

Mr. RAMSPECK. It was not for the purpose of intimidating the stations?

Commissioner SYKES. Not at all.

Mr. RAMSPECK. Is that the usual procedure in complaints of that sort?

Commissioner SYKES. Oh, yes. We first consider a complaint. If we think that complaint is serious, we take it up with the broadcasting stations, ask them for a copy of this program, and that is the way this was done.

The CHAIRMAN. That is the best evidence?

Commissioner SYKES. Absolutely.

Mr. SIROVICH. And the only legal way you could go about it?

Commissioner SYKES. That is the way we decided, Doctor, was the best way to make these investigations, and I think it is a good way to do it.

Mr. SIROVICH. You have to get the exhibit in order to study just exactly what went over the broadcasting chain?

Mr. BROWN. But these were electrical transcriptions; you did not need much evidence to check that, did you?

Commissioner SYKES. We had the broadcasts, but we had to find out what stations put on those electrical transcriptions. Judge Rutherford first sent us a list of those.

Mr. BROWN. And you checked the list that he sent?

Commissioner SYKES. Then we wrote to the stations and asked them if they did broadcast this particular transcription at that particular time. I have the copies of those letters that we wrote to the stations and to Judge Rutherford. I would be glad to file those, too.

The CHAIRMAN. They may be filed.

Mr. BROWN. Now you have no authority to pass on the subject matter in any of these programs, have you?

Commissioner SYKES. We have no power of censorship under section 29 of the Radio Act, which is a very wise provision, indeed. Our licenses to broadcasting stations last for 6 months. The law says that they must operate in the public interest, convenience, and necessity. When the time for a renewal of those station licenses comes up, it is the duty of the Commission, in passing on whether or not that station should be relicensed for another licensing period, to say whether or not their past performance during the last license period has been in the public interest.

Mr. SIROVICH. How many stations have you altogether that are under your supervisions, small, medium size, and large size?

Commissioner SYKES. There are about 600 now in the United States.

Mr. SIROVICH. How many licenses did you take away during the year 1933 for violating the provision of public interest, necessity, and convenience concerning those interests?

Commissioner SYKES. Might I ask the general counsel?

Mr. SIROVICH. Yes.

Commissioner SYKES (after consultation). I do not believe there were any in 1933; there were a few in 1932.

Mr. SIROVICH. Would you be kind enough to furnish for the record of the committee and let us know how many stations have lost licenses during the years 1927 to 1933 and the reasons assigned therefor?

Commissioner SYKES. I will be very glad to do that.

Mr. BROWN. Would you consider, under the authority granted by this act, you could refuse a station a renewal of their license because they had broadcast Judge Rutherford's program?

Commissioner SYKES. Well, in discussing this matter, we came to the conclusion this was a very small part of the time of the 169 stations that broadcast it and while it appeared to us, in conversation—there was no formal action taken on this—while it appeared to us that certain parts of these programs were objectionable, at the same time, since they were such a small part of the broadcasting of these stations, we did not consider, after our study, it was of such moment that we should set for hearing before the Commission the applications for renewal of licenses of these 169 stations.

Mr. BROWN. Suppose it had been worse than it was, would you have considered under any circumstances you would have a right to refuse the station because you did not agree with the subject matter of the broadcast?

Commissioner SYKES. Under the law, of course, we cannot refuse a renewal until there is a hearing before the Commission. We would have to have a hearing before the Commission, to go thoroughly into the nature of all of the broadcasts of those stations, consider all of those broadcasts, and then say whether or not it was operating in the public interest.

The CHAIRMAN. May they then go into the court?

Commissioner SYKES. Yes, sir; oh, yes; that can be appealed.

Mr. BROWN. Now, under this law, would you under any circumstances have a right to set yourselves up as a board of censors here to pass on the quality of the programs that are broadcast?

Commissioner SYKES. The courts have decided it is not censorship. We do not pretend to tell the stations at all what they can or cannot broadcast. It is only after those broadcasts have taken place, when we come to pass on the question of public interest, convenience, and necessity. Then we are permitted, under the decisions of the court, to take into consideration the public service, in other words, of that particular station.

Mr. SIROVICH. On what basis was Dr. Brinkley's license taken away?

Commissioner SYKES. Along that line—because it was decided that his broadcasts were not in the public interest.

Mr. SIROVICH. And the courts upheld you?

Commissioner SYKES. And the courts upheld us.

Mr. SIROVICH. Does not the licensee of a broadcasting station have the right of appeal to a court of competent jurisdiction?

Commissioner SYKES. Oh, yes—the Court of Appeals of the District of Columbia.

Mr. BROWN. Does not that give you the authority to establish a monopoly in the radio field? Cannot you just autocratically say that "everybody who believes different from the way I happen to believe after this I am not going to renew your license"?

Commissioner SYKES. I do not think any individual commissioner would hold that way, to begin with.

Mr. BROWN. I do not say they would; I am just jumping ahead to see, if they did, would not you then have a monopoly in the radio field which would be worse than you could establish by newspapers or moving pictures?

Commissioner SYKES. If they should do that, I feel sure the Court of Appeals of the District of Columbia, which has jurisdiction of that appeal, would reverse them right away.

The CHAIRMAN. That is the point I was going to bring out. They have their right of trial in court?

Commissioner SYKES. Absolutely.

Mr. BROWN. Do you know how far the courts allow a review of your opinions? For instance, under the laws of our State (Kentucky) you have a review of the decision of the Workmen's Compensation Commission, but you have a review only regarding the law; you cannot reverse a finding of fact in that court. Now, if they cannot reverse a finding of fact in your court, then you have complete authority to establish a monopoly and to rule off of the air anything you do not agree with.

Commissioner SYKES. I believe the law reads where it is arbitrary, or something like that; but it is principally a review of questions of law.

Mr. BROWN. But can they review any findings of fact you have made?

Commissioner SYKES. If the facts do not justify the findings, they can.

The CHAIRMAN. You must certify the facts on which you made your findings?

Commissioner SYKES. Oh, yes. We write opinions in every hearing we hold before the Commission, and the record and the opinion of the Commission always goes to the court of appeals.

Mr. SIROVICH. What my friend meant was, if some intolerant or bigoted fanatics were on the Federal Radio Commission, they could do the very thing he is talking about and find facts to justify their conclusions.

Mr. BROWN. Suppose, now, I was opposed to all organized churches and wanted to get rid of them and get them off of the air, and I was the head of your Radio Commission and sent out word to every one of those stations "You cut every one of those fellows off the air, or you will not get your license renewed"?

Commissioner SYKES. You would only have 1 vote and there are 4 others.

Mr. BROWN. But suppose I got four other of my brothers on there with me.

Mr. SIROVICH. You would have everybody on the floor of the House fighting it.

Mr. BROWN. I know, but they don't pay much attention to Congress.

Commissioner SYKES. I do not think the member would last very long.

Mr. WILLFORD. If they were taken off out in my district, I would pay attention to it.

Mr. RAMSPECK. You were one of the original members of this Commission, were you not?

Commissioner SYKES. Yes, sir.

Mr. RAMSPECK. How many years have you served on the Commission?

Commissioner SYKES. Since the Commission was established in 1927.

Mr. RAMSPECK. Has the Commission ever denied a renewal of license for an isolated broadcast that might be objectionable?

Commissioner SYKES. No, sir.

Mr. RAMSPECK. Is it not true, in every case where it denied it, it has been the use of a station by an individual to continuously broadcast along some objectionable line?

Commissioner SYKES. Yes; that is true.

Mr. RAMSPECK. Of these 169 stations listed by Judge Rutherford, have any of those licenses been renewed since this occasion?

Commissioner SYKES. I do not recall right now; but if they came up for renewal, they have. I am told they all have been.

Mr. RAMSPECK. Then the action of the Commission in sending out this letter did not result in a denial of any license to any of these stations?

Commissioner SYKES. No; that was merely to investigate.

The CHAIRMAN. Judge, the hearing is under section 16 of the act, is it not, by the court?

Commissioner SYKES. Yes; that is the section.

The CHAIRMAN. By which it is specifically provided, after determining the procedural operation of how they shall be called into court, that—

At the earliest convenient time, the court shall hear, review, and determine the appeal upon said record and evidence, and then alter or revise the decision appealed from and enter such judgment as to it may seem just.

Commissioner SYKES. Has not that been amended? Read the amendment at the end of that section. It is rather limited in the questions that the court passes on.

Mr. SIROVICH. Is it limited to facts or the law?

Commissioner SYKES. Principally to the law and decisions that are arbitrary.

Mr. SIROVICH. It was put in about 2 years ago, was it not?

Commissioner SYKES. That is the one I am referring to.

The CHAIRMAN. The law as it now stands is that—

At the earliest convenient time the court shall hear and determine the appeal upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision of the Commission, and, in event the court shall render a decision and enter an order reversing the decision of the Commission, it shall remand the case to the Commission to carry out the judgment of the court: *Provided, however*, That the review by the court shall be limited to questions of law and that findings of fact by the Commission, if supported by substantial evidence, shall be conclusive unless it shall appear that the findings of the Commission are arbitrary or capricious. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under section 347 of title 28 of the Judicial Code by appellant, by the Commission, or by any interested party intervening in the appeal.

Mr. BROWN. When was that additional proviso written into the law?

Commissioner SYKES. About 2 years ago.

Mr. BROWN. What was the decision for not allowing the court to review findings of fact? I mean what difficulties did you run into that caused that proviso to be written in the law?

Commissioner SYKES. There were some difficulties of allocation and it was thought better to limit the court as it was limited there; otherwise, they would really be a superior radio commission. That was the object.

Mr. BROWN. I know, but who asked for it? Did the court want to be limited, or did the Radio Commission want to reserve this authority for themselves and prevent the right of the court to look into the facts?

Commissioner SYKES. I think the court was very glad to have that limitation. The Commission thought it was a good thing, also. I do not recall the details of how it originated, sir.

Mr. BROWN. Do you not think that unless a court, some court, has jurisdiction to review findings of fact, that that in itself will lead to the possibility of the protection of monopolies in the hands of the radio authorities? Suppose there should come a time when, for instance, we will take some obnoxious force in America and suppose that the Republican Party should again get into power [laughter], and they should appoint a Radio Commission that would answer absolutely to their will and, having written in the law that the courts

could not review findings of fact, then they appointed their Radio Commission and sent out word to the radio stations all over the country that—

If you want your radio licenses renewed 6 months from now, you must not let any Democratic speaker put out any Democratic philosophy over your radio station, and must open it to the ones we tell you, to expound the Republican philosophy.

What do you think would be the effect here? Of course we know it would destroy the people of the United States [laughter]; but, as creating public sentiment, what do you think would be its effect?

Commissioner SYKES. I will tell you the administration of the broadcasting part of the Radio Act has been very controversial. It is a great deal better now than it was in the early days, when we were building up the rules and regulations and the modus operandi of the Radio Commission, and a man who at least does not do the best he can do on this Commission, with the facts before him, would not last much longer than a snowball in the lower regions.

Mr. BROWN. I know that is under your present set-up; but I am just propounding to you the hypothetical case of absolute control being vested in the hands of this Commission and then an administration getting in power that wanted to perpetuate itself: Is there any more powerful monopoly than the restricted right to yourselves of using this voice of the air to go out here and tell all of these people "My administration is the only administration and no one else can talk on this subject?"

Mr. EDMONDS. I wish you would cut out the Democrats now; it would be a great relief to all parties. [Laughter.]

Commissioner SYKES. I can hardly follow that philosophy, having served on this Commission.

Mr. SIROVICH. I think I can help you a little on the reason for that. I think when the debate took place on the floor of the House, it was the consensus of opinion of most of the Members that many of the members of the Radio Commission are not lawyers, but there was some technicians and some mechanically inclined, and one or two lawyers, and you could always depend upon the majority of the Federal Radio Commission to decide upon the facts, but many of the members who were on the Federal Radio Commission might be ignorant about the law; so they gave the court of appeals the right to pass upon the law and to pass upon the facts only if it was autocratic or arbitrary, and gave the right of appeal to the Supreme Court on a writ of certiorari.

Commissioner SYKES. I think so. In other words, I think this, Congressman, that the licensing authority who have to deal daily with this, and to study it every day, are much better qualified on the facts than the court which deals with other matters and only has to deal with those appeals infrequently. We are passing on hundreds of those matters all of the time, while the court only passes on those that are appealed.

Mr. BROWN. Granting, Judge, that possibly there have been no abuses of this power, I do not even agree with my own workmen's compensation law, that the compensation board set up by the politicians in my native State should have the final say so as to whether a man is damaged who happens to be insured by an insurance com-

pany that makes a campaign contribution that helps to put the political party in control of the State. It is my contention it would be better to have the findings of fact subject to review as well as the findings of law. I think that is true under the laws of our State. I do not think it accidentally got to be the law of my State that the Workmen's Compensation Board can deprive the insured of workmen's compensation. I do not think that accidentally happened. and you cannot review the findings of fact. I think somebody who wrote that law thought there would come a time when they could save their companies money by having final the findings of fact made by the Workmen's Compensation Board. I do not know how this happened to get in this law, but I do not think that ought to be the law—that any commission appointed by a source that is subject to political pressure ought to have the final say so on a finding of fact. That is the reason we have juries in this country. The judge is elected by the people or appointed by the political authorities, but on a jury of 12 men you have challenges there to knock out the ones that are not friendly toward you, and you present your case to that jury and they make the finding of fact.

Mr. SIROVICH. Well, the Federal judge has got the right to give his opinion on the guilt or innocence of a man.

Mr. BROWN. I do not think that is right, either. It is just my contention that the law ought to be that your findings of fact are subject to review, as well as findings of law.

Commissioner SYKES. Well, it has worked out very nicely.

Mr. BROWN. I hope it will continue to work that way, and I am sure, as long as they have men of your type, it will do that; but should the time come when some Hitler or Mussolini or some dictator in this country wanted to use the radio to control the American people, there might be an entirely different situation. And radio is just beginning now; it will grow year after year and be more powerful; and, as the gentleman testified this morning, if you can teach the people in this country to like classical music, why what couldn't you do with your radio if you just pounded out your philosophy all of the time at them? It would be an instrument that was more powerful than the press, moving pictures, or anything else.

Mr. WALTER. Is not that just exactly the situation in Europe today?

Mr. BROWN. We tried to go into that about their national control of broadcasting but were not able to get very much.

Mr. SIROVICH. What was it that Abraham Lincoln said about fooling all of the people all of the time?

The CHAIRMAN. Well, gentlemen, let us get back to the bill. Is there anything else, Judge?

Commissioner SYKES. Just one other thing. There was a mighty long letter read into the record from Judge Rutherford to me. I would like to place a very short reply in the record that I made to that letter. There is just one paragraph of that letter that I want to call the committee's attention to. In that letter Judge Rutherford said this—I quote now from his letter:

You could have told the Congressman in your letter that clergymen, and particularly Catholic priests, had a conference with members of the Federal Radio Commission, their purpose being to take Rutherford off the air and to

refuse to renew the license of stations that continued to broadcast his speeches. Such facts would support the petition and are quite valuable to the American people.

I knew that I had not attended any meeting of the Commission where any clergymen or anybody had appeared before the Commission and asked us to take Judge Rutherford off of the air. I was away during part of the summer, however, so I asked in Commission meeting if such a thing had happened, and I was informed that it had not. I also knew that no clergyman of any denomination had talked to me about taking Judge Rutherford off of the air. I asked the other members of the Commission if any clergyman had talked to them, and I was informed that they had not. So I said this in that letter:

No clergymen, either Protestant or Catholic, have appeared before the Commission and made complaint about these broadcasts. By inquiring of other members of the Commission, I also understand from them that they have had no verbal complaints of this character.

I would just like to have that letter go in the record.

Mr. RAMSPECK. As a matter of fact, Judge Sykes, the Commission has not taken them off of the air, have they?

Commissioner SYKES. No, sir.

Mr. SIROVICH. And you did not do anything directly or indirectly that would influence any independent stations from broadcasting Judge Rutherford's sermons, if they so wish?

Commissioner SYKES. Not at all. All we did was to write those letters, following the making of those speeches.

Mr. SIROVICH. And that was done in good faith, to have a legal certificate that these stations had broadcast the sermons in question?

Commissioner SYKES. Exactly.

The CHAIRMAN. Is there anyone else from the Radio Commission?

Commissioner SYKES. I believe that covers it.

The CHAIRMAN. Is there anything else?

Mr. SIROVICH. I would like to ask: Do you think any legislation ought to be recommended that could improve radio facilities of broadcasting stations and be of benefit to the consuming public, or do you think the law should be left alone as is for the present?

Commissioner SYKES. There are some little subjects in the law, but I think they are not of such a nature as to require immediate legislation.

Mr. SIROVICH. They are not on the fundamentals, but only on the nonessentials?

Commissioner SYKES. Yes, sir. The only immediate legislation we thought was needed was what we recommended about the international situation, that you gentlemen thought ought to be considered. We can get along very nicely as the law stands——

Mr. SIROVICH. Are any members of the Radio Commission subsidized or in the employ of international bankers or banking associations?

Commissioner SYKES. As far as I know, sir, about the only intercourse they have with bankers at all is to deposit their little checks and occasionally when they have to borrow any money. Emphatically, they have not; no, sir.

Mr. SIROVICH. You have not received any complaints from any radio stations that you people have been autocratic, or arbitrary, or haughty to them in any way, outside of Dr. Brinkley?

Commissioner SYKES. We sometimes get some complaints from them. I would hate to say we have not.

Mr. SIROVICH. What is the nature of these complaints?

Commissioner SYKES. I do not recall any right off the reel, right now, sir.

Mr. SIROVICH. But when you have had any complaints, they complained about the power, is not that so, or they would like to have more time?

Commissioner SYKES. The usual thing along that line is they would probably like to have more time, or a change of the frequency, or more power. We have applications of that kind all the time.

Mr. SIROVICH. Have you received any complaints from Democrats or Republicans that justice is not being given to them on the broadcasting stations?

Commissioner SYKES. I do not think so, sir. I do not recall any.

Mr. SIROVICH. Have you received any complaints from any minority parties that they have been discriminated against?

Commissioner SYKES. No, sir.

Mr. SIROVICH. Have you received any complaints from any educational organizations that they cannot receive time they want to broadcast educational programs?

Commissioner SYKES. I do not recall of any now.

Mr. SIROVICH. Have you received any complaints from any charitable institutions?

Commissioner SYKES. No, sir.

Mr. SIROVICH. In other words, you have received no complaints from educational, charitable, social, or religious organizations, outside of the Witnesses of Jehovah?

Commissioner SYKES. That is all I have heard of.

Mr. SIROVICH. And the Witnesses of Jehovah could have facilitated receiving opportunities of broadcasting if they would conform to the rules and regulations that every other religious organization has complied with?

Commissioner SYKES. Well, I think now they are broadcasting over certain stations—between 100 and 150 stations.

Mr. SIROVICH. Irrespective of the attitude of the two large broadcasting chains?

Commissioner SYKES. Yes.

Mr. BROWN. Have you read the list of the stations that they are to broadcast over on March 25?

Commissioner SYKES. That is over 100, I imagine.

Mr. BROWN. It looks to be over a hundred.

Commissioner SYKES. I would imagine so.

The CHAIRMAN. Is there anything else? If there is nothing else, we will adjourn. Is there anyone else in opposition who wants to be heard? [There was no response.] I think we have covered both sides.

Mr. SIROVICH. Mr. Chairman, I suggest, if there are any representatives who have not appeared before the committee, or any groups who have not who desire to put in any brief or memorandum on this subject, that they be given permission to submit the same

within the time which the Chair may allow, and to be incorporated in the record.

Mr. BROWN. Subject to the approval of the chairman.

Mr. SIROVICH. Yes; subject to the approval of the chairman.

The CHAIRMAN. The chairman does not like to have the responsibility put on him of excluding briefs that may be submitted, and if they are filed they will be submitted to the committee.

Mr. WALTER. I believe the gentleman who appeared for the Witnesses of Jehovah wants to submit a brief.

The CHAIRMAN. Yes; I understand so. I have already told Mr. Koerber he could do that. Mr. Koerber told me, in the course of interrogatories, there were some questions that were propounded at times that were not answered, and I believe he wanted to submit answers to them.

Mr. KOERBER. Just briefly.

Commissioner SYKES. Judge Bland, my attention was just called to it—I knew there was some reason for that amendment to the law, and one of the gentlemen has just called my attention to it.

The Supreme Court of the United States denied a petition for a writ of certiorari to that Court because they said it was rather administrative, what the Commission was doing, and what the court of appeals did under the old appeals section; and, in order to get it into the Supreme Court of the United States, that amendment was worked out so that they could get it up on appeal, by a writ of certiorari, into the Supreme Court of the United States. And since that amendment was drawn, cases have gone to the Supreme Court of the United States, and the Court did take jurisdiction by virtue of that amendment. That was the answer I should have made before.

The CHAIRMAN. The Court was acting in an administrative capacity under the old law?

Commissioner SYKES. Yes. In other words, the Court of Appeals of the District of Columbia can have administrative powers, but the Supreme Court cannot. That was the principal reason for that amendment.

Mr. BROWN. I will say this to you, that whenever the Court decides it wants to reverse the finding of fact, the judges always find some way to do it, anyway. So that I have no great fear, with this section being in there, that if the Court, when it was appealed to, wanted to reverse a finding of fact, they would not find some way to do it.

Commissioner SYKES. Having been a member of the Supreme Court of Mississippi for 9 years, I know that is true.

(The committee thereupon adjourned until tomorrow, Wednesday, March 21, 1934, at 10 a.m.)

The following papers were submitted by Commissioner Sykes.

MARCH 12, 1934.

Judge J. F. RUTHERFORD,
San Diego, Calif.

DEAR SIR: Please pardon my delay in replying to your favor of February 8, but the reason was I have been somewhat laid up, which necessitated a slight operation.

I note that you think that my letter to Congressman Sinclair should have gone further into details. I have reviewed both his letter to me and my reply,

and I must differ with you. I think the letter was responsive to the questions asked.

On page 2 of your letter I note that you say that—

"You could have told the Congressman in your letter that clergymen, and particularly Catholic priests, had a conference with members of the Federal Radio Commission, their purpose being to induce the Commission to take Rutherford off the air and to refuse to renew the license of stations that continue to broadcast his speeches. Such facts would support the petition and are quite valuable to the American people."

No clergyman, either Protestant or Catholic, have appeared before the Commission and made complaints about these broadcasts. By inquiring of other members of the Commission, I also understand from them that they have had no verbal complaints of this character.

The investigation made by the Commission, referred to by you, was based on written complaints.

Very truly yours,

E. O. SYKES, *Chairman.*

EXCERPTS OF FEDERAL RADIO COMMISSION FROM JUDGE RUTHERFORD PROGRAMS

AUGUST 10, 1933.

PART 1—HOLY YEAR

It is those who name this a holy year who are trying to keep the people ignorant of God's law.

The act of entitling this holy year is a presumptuous sin before God.

The League of Nations is a product of the Devil.

You can't make a holy year by calling it a holy year.

The Catholic clergymen have no weapon of defense except a gag and a bludgeon.

It is true that the spirit of Christ is love, but that does not mean that He loved wickedness and that He stood by and saw pious-faced hypocrites proceed to deceive the people and remained silent because He might offend the sensibilities of the clergy or some of their children.

Holy year—the real purpose is an effort to keep the people quiet for a while by causing them to hope for better times to come.

NOTE.—He calls the Catholics, the Protestants, and the Jews, as led by their leaders, "an unholy alliance." He also uses a large number of Biblical quotations and his constructions thereof.

PART 2—HOLY YEAR

All prayers made during this so-called "holy year" will go unanswered because of God's will.

Holy year and going through such forms of worship is contrary to the law of God. Let everyone be free to take his own course.

The fact that a man occupies the office of Pope of the Catholic organization is no evidence that he speaks with divine authority or that he has the approval of God and of Christ.

No man, Pope or otherwise, has any authority from God and Christ to declare any year a holy year. Neither Jehovah God nor Christ Jesus ever created the office of Pope, and nowhere in the Bible does any such title appear. Neither God nor Christ Jesus ever appointed any man to the position of Pope of the Catholic organization, and I call upon you to publish one word from the Holy Scriptures that even tends to prove to the contrary.

The Catholics have no faith in the Protestants or the Jews; the Protestants have no confidence in the Catholics or the Jews; and the Jews have no faith in either the Catholics or Protestants.

Since neither Jehovah, God nor Jehovah God, nor Christ created the office of Pope and no mention is made thereof in the Word of God, and since God's word does not authorize any man or the officer of any organization to declare this a holy year, then I ask by what authority any official in any organization can declare this a holy year?

PART 3—HOLY YEAR

The clergy of the church rejected Christ. Jerusalem and Christendom have parallel experiences.

People would be foolish to expect a confederacy of men to bring peace and prosperity.

Satan is the master mind.

You prisoners must now take your choice against Satan's organization or God's kingdom.

There are many honest persons in the ranks of the Catholic organization who have been held there because they had no opportunity to hear and to learn the truth. But they are learning it now. For keeping the people in ignorance in this manner the pastors and clergymen and priests and their allies are held liable, and God gives His word and He will punish them for their wrongdoing.

PART 4—WAY OF ESCAPE

The clergy partakes in the political affairs of this world—the Catholics, Protestants, and the Jews.

The great war is now approaching—Christendom will suffer the greatest calamity and losses.

God's judgment is written against the pastors and the shepherds and the clergymen who have taught and misled the people and, who together with the principal of their flocks, have coerced radio stations and others to refrain from proclaiming the truth of God's kingdom. His judgment written shows that such opposers will find no way of escape at the execution of His judgment.

The clergy serves the Devil and not Christ Jesus.

In Canada, which is a part of Christendom, men who hold high official positions have prevented the people of the land hearing God's message over the radio.

Men in public office may speak Jehovah's name and call upon Him to sustain them, but they will call in vain.

Jehovah God has written His judgment against Satan and every part of his organization, both visible and invisible; and at the battle of the great day of God Almighty, led by Jesus Christ, that judgment will be executed, and every part of the wicked organization shall go down to destruction. Then the Catholic organization, as such, will be no more, and only those honest Catholics who turn their ears away from man worship and who turn them wholly to the worship and service of Jehovah God and Christ will survive.

They shall find no way of escape unless they separate themselves from hypocritical religion.

NAVY DEPARTMENT,
OFFICE OF CHIEF OF NAVAL OPERATIONS,
Washington, May 19, 1934.

MY DEAR MR. RAYBURN: In order to clarify the records of your committee with respect to the letter from Col. Sosthenes Behn of the International Telephone & Telegraph Corporation, dated May 15, 1934, inserted in the record of the proceedings, the following information is submitted:

Decree No. 130 of August 29, 1914, issued by the President of Panama reads as follows:

"From this day the radiotelegraphic stations, fixed and movable, and everything relating to wireless communications in the territory and territorial waters of Panama shall be under the complete and permanent control of the United States of America; and to attain that end said Government will take the measures which it deems necessary."

This decree, a public document of 6 years standing, was in force when All America Cables, Inc., without consulting the Navy Department, undertook to procure directly from Panama, a license not only to erect a radio station, as Colonel Behn has stated in his testimony, but permission to maintain and operate radiotelephone, radiotelegraph, radiovision, facsimile, or any other combinations of these.

On December 29, 1930, the Panamanian Congress approved the contract with All America Cables and, on the same same day, without warning, the President of Panama abrogated the Decree of 1914.

The Navy Department's interest in radio in Panama is indicated by the following:

In 1911 the Joint Board of the Army and Navy recommended that the Navy Department conduct all radio communication in Panama and the Canal Zone to the exclusion of private communication installations. Its recommendation was approved by the Secretaries of War and Navy and by the President of the United States. The Panama Canal Act of August 24, 1912, incorporated within it to a great extent the recommendations of the joint board.

On June 16, 1931, the General Board reviewed the subject and recommended that the Navy continue to handle all mobile traffic in the Canal Zone and the Republic of Panama. Again in 1933, the Secretaries of War and Navy approved the recommendations of the General Board, which were the same as those of 1931, and in addition recommended that the United States should supervise, regulate, and control all radio stations in the Republic of Panama.

The State Department has been kept informed at all times of these recommendations, and the Navy Department repeatedly protested to it against the issuance of the license to All America Cables. Prior to the granting of this license by the State Department on February 7, 1933, the Chief of Staff of the Army (on Feb. 3, 1933) notified the Secretary of State of the Army's final position. This position was in full support of the Navy Department in its demand that the aforesaid license be not granted and not, as Colonel Behn's testimony would indicate, in opposition to the Navy Department. Since then, neither the Navy Department nor the War Department have ever changed their position in this matter. In fact, immediately after the Chief of Staff had made known to the Secretary of State the Army's opposition to the granting of a radio license in Panama to All America Cables, the Secretaries of War and Navy transmitted a joint letter to the State Department restating in formal terms their opinion that the granting of the license in question would be inimical to the interests of national defense. The States Department granted the license on February 7, 1933.

In connection with efforts of the Navy Department to arrive at a policy desirable for mutual cooperation between the Navy and the International Telephone & Telegraph Corporation, and to preserve the interests of national defense, I first endeavored to enlist the cooperation of this company in June 1932 but to date have met with no success. My letter of February 26, 1934, to Colonel Behn was to acquant him with the policy adopted by the Army and Navy concerning American commercial communication systems in their relation to national defense, and to determine Colonel Behn's attitude on the subject.

The position I have taken and the efforts I have made have been in accordance with the policies and with the full knowledge of the Navy Department. I shall continue to support them in the future as I have in the past.

Sincerely yours,

S. C. HOOPER,
Captain, U.S. Navy,
Director of Naval Communications.

Hon. S. RAYBURN,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.