

N.A.E.B. NEWS LETTER

Office of Executive Secretary
University of Illinois
Urbana, Illinois
March 1, 1938

THIS COPYRIGHT SITUATION

In this issue of the News Letter will be found two articles which should be of interest to every NAEB member. H. B. McCarty of WHA has secured an opinion from the Wisconsin Attorney General regarding the use of phonograph records. Read it, then let us know what legal advice you have secured. Have you secured one, or will you secure one, that we can pass along to other NAEB members?

The other article on the copyright question relates to reading of novels over educational stations. This is the first of a series of such articles which Dr. Fredrick S. Siebert of the University of Illinois School of Journalism will contribute to the News Letter. Siebert has studied in the United States and in England and is a recognized authority on law of the press. Those who attended the NAEB convention last September will be glad to see some of his opinions in print, so save your News Letters for your future reference.

OPINION ON USE OF PHONOGRAPH RECORDS

After receiving from RCA-Victor Mfg. Company a letter restricting the use of phonograph records on the air, WHA asked the Wisconsin Attorney General for an opinion on the matter. Here are excerpts from the official report:

February 24, 1938

Attention: H. B. McCarty, Program Director, WHA

Dear Sir:

You have inquired as to the rights of phonograph record manufacturers, recording artists, and copyright owners in phonograph records used for broadcasting after such records have been sold and are on the market.

This question arises by virtue of a notice printed on each record which reads: "not licensed for Radio Broadcast."

The common law rule is that the manufacturer of an article cannot impose restrictions on its use in the hands of a purchaser. ***

We are therefore of the opinion that the phonograph record manufacturer has no interest in its phonograph records which will enable it by the device of restricted use notice to control its use in the hands of the ultimate purchasers. ***

In view of the requirement that the restriction serve a useful commercial purpose it is clear that, although the restricted use notice will bind a purchaser to refrain from a commercial use of the record, the principles laid down have no application to non-commercial broadcasting stations whether publicly or privately owned. *****

We conclude therefore that as such a restriction applied to a non-commercial station serves no apparent useful commercial purpose it is ineffective and inapplicable and that the attempt to bind such a station by notice is invalid under the common law rule. *****

While a copyright proprietor can reserve to himself any right granted by the copyright laws, an attempt to go beyond the act and reserve to himself rights merely incidental to ownership is void, and if this is attempted by means of contract and notice, the contract is ineffective. *****

Therefore we conclude that insofar as the notice given purports to reserve the exclusive right to perform publicly for profit, it is binding on all commercial broadcasters, but insofar as it attempts to go beyond the statutes and reserve all right of public performance, irrespective of profit, it is ineffective as to non-commercial broadcasters.

We believe that this discussion disposes of the several questions raised in your request.

Very truly yours,

(Signed) Orland S. Loomis
ORLAND S. LOOMIS
Attorney General.

WHR:AG

- CAPTION: 1. Phonograph record manufacturer has no interest in its records which would enable it by the device of a restricted use notice to control such use in the hands of the ultimate purchasers;
2. Recording artist may not, through a restricted use notice legally prevent non-commercial broadcast of the record; same is true of copyright owner.

USE OF COPYRIGHTED NOVELS

By F. S. Siebert
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Although copyright protection has been on the statute books of the United States ever since the opening of the nineteenth century and amendments and revisions have been added periodically, it has been impossible for legislation to keep up with the tremendous developments in the field of communication which have taken place during the last 20 years. Being a right created by statute, changes in the methods of communication are generally far in advance of changes in the act itself. The present act was passed in 1909 and amended several times, but none of these amendments is particularly directed toward the solution of the innumerable problems in copyright which have grown out of

the development of radio communication.

The right to reproduce copyrighted dramatic and musical compositions through radio transmission is fairly well settled, but the right to reproduce literary material through the new medium is still confused. At the present time it would seem that the copyright act does not prohibit the reading of copyrighted novels over the air.

The present act guarantees to the owner of the copyright the right to "print, reprint, publish, copy and vend the copyrighted work." The only phrase in this series which might be applied to radio dissemination is "publish" which may mean either "print and publish" or merely "offered for sale." Reading a novel over the radio, at least over stations of an educational character would come under neither phrase. The act definitely prohibits the reading over the radio of copyrighted lectures, sermons, addresses, or similar productions, but nothing is said of other types of literary work in this connection.

The act prohibits the dramatization of a novel but it is difficult to see that a mere reading could be interpreted as a dramatization. For most broadcasters the best method in most cases would be to seek the permission of the copyright owner in order to avoid any friction which may arise. The act, however, directly prohibits dramatization of a non-dramatic work or the conversion of a drama into a story over the air.

HOW MUCH WILL YOUR STATION PAY?

Educational stations must be on the alert. Now is the time to write your congressman. Why? Congressman Thompson, Democrat, Illinois has announced that a House subcommittee will hold hearings in March on a bill introduced by Congressman Boylan, Democrat of New York, to tax radio stations. As introduced the measure calls for an assessment of \$1 per watt on stations under 1,000 watts; \$2 per watt on those up to 10,000 watts, and \$3 on those in excess of 10,000. If you think educational stations should be exempted from this tax, you'd better say so now. NAEB officers are acting, but here is something for every member to do.

GRAVEN POINTS OUT EDUCATION RESPONSIBILITY.

Commissioner T. A. M. Craven told the NAEB Convention recently that the allocation of high frequencies for use of public and private educational systems "does not relieve broadcasters from their continuing responsibility to use their facilities for educational purposes. Because of the propagation characteristics of these frequencies statewide coverage cannot be expected from an individual station. Licensees of regular broadcast stations still have the duty to their communities and to the country at large to continue the efforts that already are under way to develop suitable programs that will contribute to the cultural advancement of our people."

TWO NEW FREQUENCIES FOR WIXAL

The FCC has held that the proposed programs of the World Wide Broadcasting Corp. are suited to meet the needs and taste of Pan

American countries and granted WIXAL the frequencies of 11,730 and 15,130 with 20,000 watts power. These frequencies, along with two others assigned General Electric by the Commission, are to be used in the interests of Inter-American affairs, in accordance with an agreement made at the Montevideo Pan American Conference in 1933. But let Loring Andrews tell the story. He says,

"For some few years the Government had been in possession of four short wave frequencies which it had been reserving for projected use by a government operated station. Such a use had not come to pass so it was decided to assign them to other broadcasting institutions for their use. They have been known as Pan-American frequencies. Two of them, 15.13 megacycles (19.8m.) and 11.73 megacycles (25.6m.) were assigned to the World Wide Broadcasting Corporation which operates the transmitter through which our programs are broadcast. These two frequencies we're going to use for transmitting special programs in Spanish, Portuguese and French to South and Central America and the outlying islands. Later they may also be used to relay some of our regular broadcasts in English in the same direction. The use of these frequencies for Pan-American transmissions is in a rather close way a continuation of President Roosevelt's good neighbor policy, so well set forth at the conference in South America a year and a half ago. So far as we are concerned the use of these frequencies means only an extension of our Pan-American service, since we have regularly on Friday evenings since last November been broadcasting special programs to Latin-America in cooperation with the Pan-American Union, and since January 1 on Monday evenings as well."

The present operating schedule of WIXAL is:

Freq.	Mondays thru Fridays	Saturdays	Sundays
15.25 Mc.	1:30 to 3:00 pm. E.S.T.		11:00-12 M.
15.13 Mc.	3:15 to 3:45 pm. E.S.T.		
11.79 Mc.	4:45 to 6:30 pm. E.S.T.	6:00-6:30 pm.	1:00-6:30 pm.
6.04 Mc.	7:00 to 8:45 pm. E.S.T.		8:00-9:00 pm.
11.73 Mc.	9:00 to 10:00 pm. E.S.T.		

PICKUPS, February, 1938, published by Western Electric, quotes Harold Hough, general manager of WBAP, Fort Worth, as saying radio stations need more personality.

If there is anything wrong with radio today, according to Hough, it is the lack of individuality in programs and stations.

"We are too imitative today", he says. "The people we like best are those who have distinct individual personalities. Radio stations should have personalities, too, and be different from other stations. No two areas are the same. People in any one area have a distinct group personality. They have their own customs and traditions. The radio stations that serve them should reflect this personality.

"Instead of this, stations are too apt to copy others. We have vogues which sweep broadcasting. Once it was sopranos, and we had sopranos until listeners were sick of them. Then we had hill billies, next amateurs, and now we have Hollywood!

"There is much material and talent right at home if stations would just go to the trouble to develop it, Hough thinks. "Why, we have kid

right here in our Fort Worth High Schools and colleges who can do more than many of the people in Hollywood. You should hear the talent on our school program every Saturday morning.'

"WBAP is particularly proud of this WBAP-City High School half-hour feature and so are its listeners. The series has been on the air every Saturday morning at 9:30 for about 20 weeks now and is fast becoming one of the station's most popular programs. The show is broadcast from the auditorium of the William P. McLean Junior High School, and a different school puts on the program each week. The students handle everything, selecting their own personnel and performers. A Collegiate program, similar in nature, and composed of college students is likewise broadcast each Saturday, just prior to the high school series. It, too, is proving extremely popular."

Two members of NAEB find themselves recipients of publicity in the current issue of PICKUPS--Garland Powell, WRUF, Gainesville, Florida, and Luke Roberts, KOAC, Corvallis, Oregon, but read for yourself:

"A program similar in its state-wide appeal is the Florida Industrial and Agricultural Series presented by WRUF (Gainesville, Florida). 'The idea came to me,' explains Garland Powell, Director, 'after traveling around Florida and finding to my surprise that Florida people know very little about the diversified industries and agricultural advantages of their state.' The series started with the Wilson Cypress Company, largest tide-water cypress company in the world. By remote control the station gave an eye description of lumber floating down the river, being picked up at the mill, passing through the mill and loaded on cars. Another broadcast came from the Hav-A-Tampa Cigar Company and followed the manufacturing process from bales to boxes. 'Response has been tremendous,' Powell says. 'Public schools and libraries in the State want WRUF to transcribe the programs into a sort of textbook for the use of students and the general public.'

"Florida Farm Hour and Florida Facts are other WRUF outstanding hits. The former, composed of daily talks, music and dramatic sketches is broadcast in cooperation with the College of Agriculture and the Agricultural Extension Division. On the air for the past eight years, the program, Powell claims, has saved millions of dollars for Florida farmers and growers. Florida Facts is a daily broadcast to inform natives as well as tourists of what is going on in the State.

"Utilizing a wealth of little known stories concerning forest service adventures in the Pacific Northwest, KOAC (Corvallis, Oregon) in 1936 inaugurated a weekly series known as Foresters in Action. The first few programs consisted of straight talks describing the Fernhoppers. Members of the Oregon State College forestry club, who were furnishing story material for the features, soon became interested in active participation in the program. Style of presentation was changed to include a cast of characters to relate true stories through dialogue and dramatized flashbacks. While most of the tales have definitely constructive themes, they are occasionally interspersed with amusing "whoppers" of the Paul Bunyan type. KOAC finds that this method of presenting educational material on forest conservation has a distinct advantage over the conventional radio lecture."

PLAN NOW TO ATTEND THE CONVENTION

It may be a long time until the next annual convention, but it isn't too early to start thinking about it. H. W. Harmon, Acting Director of WSAJ, Grove City College, got the jump on other NAEB members when he wrote in a recent letter: "I hope to be able to attend the next radio convention which is held in Madison." Mr. Harmon reports that considerable progress has been made at Grove City College in last year or two in the presentation of program material over WSAJ. The second semester program indicates as much.

HOW'S THE WEATHER IN YOUR TOWN?

When you get this perhaps I won't care what the weather is in your town, but you may wish to know a bit about the new weather service given over WHA, Madison, Wisconsin. Harold Engel sent along a WHA Memorandum, which I'll condense. Weather reports are now given over WHA at 8:15 and 9:50 a.m. and 12:30, 12:59, and 4:30 p.m. Also during extreme hot and cold spells the temperature is given every hour on the hour. Information is furnished by the United States Weather Bureau in Madison and two broadcasts each day come direct from the Bureau.

CLEVELAND SCHOOLS FIRST TO ACT

The Cleveland City Board of Education filed the first application with the FCC for use of one of the new frequencies assigned for educational purposes. The application requests use of the 41,500 kc. frequency, 500 watts power, and unlimited time.

DUES COMING IN

NAEB Treasurer, W. I. Griffith, Director of WOI, Ames, Iowa, reports these additional stations have paid: WHAZ, Rensselaer Polytechnic Institute of Troy New York; WCAL, St. Olaf's College, North Field, Minnesota, and KFJM, University of North Dakota, Grand Fork, N. D. Word has been received from Oklahoma, Kentucky, and State College of Washington that dues are being forwarded. Now if you haven't started your payment, please don't overlook it. The April 1 issue of the News Letter will carry a complete report of members, paid and unpaid, as of March 25.

WHAT DO YOU WANT IN THE NEWS LETTER?

The News Letter is the service bulletin of NAEB. What subject would you like to have discussed? What other services can NAEB give you? The only way we'll know is to hear from you.

Remember, too, that the NAEB Executive Secretary is Frank E. Schooley, University of Illinois, Urbana, Illinois. If you send mail direct time can be saved.

Also, packets will be mailed to members only with News Letter issued first of each month, hereafter. News Letter will be forwarded first and fifteenth of each month, same as usual.

Don't bury the secretary with an avalanche of material. Or better still, try it and see.

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