

RUTHLESS CRITICISM

New Perspectives
in U.S. Communication
History

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To our parents

Leonard and Gertrude Solomon
Meg and Parker McChesney

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Conflict, Not Consensus: The Debate over Broadcast Communication Policy, 1930-1935

Robert W. McChesney

In the decades that followed the emergence of radio broadcasting in the United States in the 1920s and 1930s, much of the scholarship on the origins of the U.S. broadcasting setup was congratulatory. It assumed that the United States had adopted the best broadcast system imaginable and that the laws that had permitted and encouraged the development of a regulated commercial system had been the products of well-intentioned public servants. Sometimes the U.S. broadcasting system was characterized as being the result of a painstaking study and debate of a variety of alternatives; at other times, the notion that any debate or study had even been necessary was dismissed categorically, as the existing system was the sole conceivable system appropriate for U.S. democracy. In either case this perspective, which had been encouraged strongly by the commercial broadcasting industry, remained prominent in mass communication circles well into the 1970s.¹

With the emergence of the work of Erik Barnouw, Philip Rosen, and others, this congratulatory perspective collapsed. When historians abandoned the presupposition that a network-dominated, advertising-supported broadcasting system was the only rational choice for a freedom-loving and democratic society, and then scrutinized radio's early years, a different picture emerged. Rather than being the result of public debate and conscientious public servants, the emerging system tended to be seen as the consequence of business, government, and military elites successfully installing a system to suit their self-interests, with minimal public participation.² Some, such as Mary Mander, replaced the consensus notion with a deterministic argument that it was "unavoidable" that broadcasting would become a commercial enterprise, given the domination of U.S. society by "the habits of industrial capitalism."³ Others, such as Susan

Douglas, looked to broadcasting's "prehistory," the era preceding the emergence of broadcasting in 1919 and 1920, as the decisive era in which the radio corporations established their irrevocable hold on the medium. By 1922, she argues, the U.S. broadcasting system was in place "technically, economically, legislatively, and ideologically." There would be "no major break in this ideological frame," that private corporations should dominate broadcasting thereafter.⁴

Whereas the congratulatory school regarded the public as enthusiastic about the emergence of a commercial broadcasting setup, the more critical historians tend to see the public as ignorant if not apathetic in this regard. Insofar as both schools have concentrated on the period preceding 1927, these conclusions are understandable; this is precisely what most scholars do when assessing the origins and consolidation of the U.S. broadcasting system. However, if one extends one's gaze to the era from 1927 to the early 1930s, a very different picture emerges. For it was only in this period that network-dominated, advertising-supported broadcasting came to exist, let alone to dominate the ether. And it was during this key period that many Americans expressed extreme displeasure with the nature of commercial broadcasting fare and more than a few of them attempted to recast U.S. broadcasting radically to establish a viable nonprofit and noncommercial sector.

This chapter will review this overlooked episode in U.S. broadcasting history and suggest that a recognition of it requires that the existing critical school be reformulated accordingly. While the economic, cultural, and regulatory roots of commercial broadcasting may be traced to the early 1920s and points earlier, the economic, political, and ideological consolidation of the commercial broadcasting setup would not be completed until various points in the 1930s. Further, the path to consolidation for the commercial broadcasters was fraught with opposition, conflict, and, for a brief glimmer of historical time, the slight possibility of radically transcending the status quo.

Key Developments in U.S. Broadcasting, 1927-29⁵

U.S. broadcasting in the middle 1920s was far different from the system that would be entrenched only a few years later. Several hundred nonprofit broadcasters had commenced operations in the first half of the decade, the majority of which were affiliated with colleges and universities, and well over 200 of these, or approximately two-fifths of all stations, remained on the air in 1925.⁶ Although still largely

overlooked in the mass communications literature, these nonprofit broadcasters are now recognized as the "true pioneers" of U.S. broadcasting, who were, as one of the leading radio engineers of the period observed, "at the start of things distinctly on the ground floor."⁷ The for-profit broadcasters were hardly professional broadcasters in the modern sense of the term. The majority were owned and operated by newspapers, department stores, electric power companies, and other private concerns, and their *raison d'être* was to generate favorable publicity for the owner's primary enterprise, not to generate profits in their own right.⁸ As late as 1929 it was commonly posited by broadcasters, the Federal Radio Commission, and analysts that few if any private broadcasters were earning profits from the business of broadcasting, and there was little sense, in public discourse at least, that they ever would.⁹

Almost all of the scholarship on this subject has emphasized the establishment of the American Telephone & Telegraph Company's WEAF in 1922, with its formal commitment to time sales as the basis of support, as the first step in the inexorable march toward network-dominated, advertising-supported broadcasting. This was certainly not how the matter was perceived throughout the 1920s. Radio Corporation of America executive David Sarnoff made statements in 1922 and 1924 calling for the creation of a nonprofit and noncommercial broadcasting network to be subsidized by "those who derive profits" from the manufacture of radio receivers and related industries.¹⁰ Commercial advertising, the other pillar of the emerging status quo, did not begin its stampede to the ether in earnest until 1928.¹¹ As late as 1927, the radio committee of the American Newspaper Publishers Association reassured its membership that "fortunately, direct advertising by radio is well-nigh an impossibility."¹² As has been amply documented in the major studies of the period, the very notion of commercial advertising was very controversial and more than a little unpopular throughout the 1920s. Even Secretary of Commerce Herbert Hoover, who was a pronounced advocate of advertising *per se*, was opposed to having it play more than a marginal role in radio broadcasting.¹³

Moreover, the two major networks, the National Broadcasting Company and the Columbia Broadcasting System, established in 1926 and 1927, respectively, did not have much impact until after the passage of the Radio Act of 1927. Throughout the late 1920s, NBC presented itself as a public service corporation rather than a traditional

for-profit corporation, which would sell only the advertising that was necessary to subsidize high-quality noncommercial fare, "the finer things which are not sponsored commercially," as NBC President Merlín Aylesworth put it.¹⁴ Few, if any, observers at the time projected the eventual role that NBC, CBS, and commercial advertising soon would assume within the U.S. broadcasting system. In all public discourse on the matter prior to 1927, there was general agreement that nonprofit broadcasting should play a significant role in the U.S. system, and that commercial advertising should be regarded with great skepticism as to its potential contributions to the field.¹⁵

Hence, there is little reason, on the surface, to regard the passage of the Radio Act of 1927 as some sort of mandate for network-dominated, advertising-supported broadcasting. That system barely existed at the time, and absolutely no one was discussing the issue in those terms. The Radio Act of 1927 was emergency legislation, hurriedly passed in February after a federal judge in 1926 had ruled the Department of Commerce's licensing of stations unconstitutional. Without regulation, the ether became chaotic; 200 new broadcasters immediately commenced operations, the total wattage increased by nearly 75 percent, and few stations respected the frequencies occupied by other broadcasters.¹⁶ The committee deliberations and floor debate concerning the Radio Act of 1927 were what one might expect for emergency legislation; there was almost no discussion of the legislation's meaning for the type of broadcast system to be created.¹⁷

The Radio Act of 1927 established the FRC on a one-year basis, to allocate broadcast licenses and to bring order to the airwaves by reducing the total number of stations. The only directive that the law gave the FRC, in determining which applicants would get preference for the scarce channels, was that the FRC should favor those station applicants that best served the "public interest, convenience or necessity." The primary reason that even this many criteria were put into the statute was to ensure the bill's constitutionality; otherwise the bill's sponsors argued that it was essential to give the FRC complete latitude to operate as it saw fit.¹⁸ The commercial broadcasters were vocal in their support of having the FRC, rather than Congress, determine licensing criteria.¹⁹ During the FRC's first year, budgetary problems and the deaths of two members prevented it from taking any significant action to reduce the number of stations.²⁰ Congress renewed the FRC in 1928 for a year and then in 1929 indefinitely. There was no sense during this period that the Radio Act of 1927 and

the FRC were anything more than temporary measures. The topic of broadcast regulation was before Congress at each and every session, right up until the passage of the Communications Act of 1934.

When Congress conducted committee hearings on whether to extend the FRC in early 1928 and again in early 1929, the FRC members were questioned about the unchecked and stunningly rapid emergence of network broadcasting over the previous two years, as well as the noticeable decrease in the number of nonprofit broadcasters. "The great feeling about radio in this country," commented Senator C. C. Dill, Democrat of Washington and one of the authors of the Radio Act of 1927, "is that it will be monopolized by the few wealthy interests."²¹ FRC members were admonished repeatedly to protect the nonprofit broadcasters and to be certain to prevent all the choice frequencies from falling into the hands of NBC or CBS.²² "It seems the chains are being the object of attack," a commercial broadcasting executive wrote an FRC member in 1928, "by all of Congress."²³ In this spirit, in 1928 Congress passed the Davis Amendment, which required the FRC to make a general reallocation of the entire spectrum, in order to provide more stations to the underrepresented southern and western regions of the nation.²⁴

The resulting reallocation, mandated by the FRC in late 1928 in the form of General Order 40 and a number of follow-up directives, established the framework for modern U.S. broadcasting. Three of the five FRC members were appointed to an "allocating committee" that was responsible for determining the plan for the general reallocation. One member, Harold Lafount, had served as a director for several radio manufacturing firms in his native Utah and was a proponent of the capitalist development of the ether. "What has education contributed to radio?" Lafount asked in 1931. "Not one thing. What has commercialism contributed? Everything—the lifeblood of the industry." Commending the "wonderful programs" of the two chains, Lafount noted in 1931 that "experts everywhere now agree" that U.S. broadcasting "is as perfect as it could be made."²⁵ The other two members of the allocating committee included a McGraw-Hill utility trade publication editor who was on loan to the FRC for a year, and a broadcaster who would leave the FRC in 1929 to spearhead the expansion of the CBS network from forty-seven affiliated stations in 1929 to ninety-one affiliates four years later.²⁶

The allocating committee held a number of meetings with radio engineers and representatives of the networks and the commercial broadcasters' trade association, the National Association of Broad-

casters. These conferences and sessions were not publicized; nonprofit broadcasters and concerned nonbroadcasters did not have an opportunity to present their opinions. The resulting reallocation clearly had the look of one that would favor the fledgling commercial broadcasting industry. In short, the FRC would recognize and crystallize the dominant trends within broadcasting over the previous two years and make no effort to counteract these trends through public policy.²⁷

In August 1928 the FRC announced its reallocation plan under General Order 40. Forty of the ninety available channels were set aside to be 50,000 watt clear channels that would have only one occupant nationally. The other fifty channels would house the remaining 600 or so broadcasters, who could operate simultaneously on the same channels at much lower power levels. Broadcasters in the same region would share the same frequency by using it at different times of day. To lower the number of stations, the FRC utilized a process whereby anybody could challenge an existing broadcaster for a frequency assignment at the end of a three-month term. In general, the FRC would have the various applicants for a particular frequency share its usage, allocating the majority of the hours to the station it deemed most worthy. In the long run, the station accorded the fewest hours on a shared channel often found it very difficult to stay on the air. This direct head-to-head competition for the scarce broadcast channels created great antipathy between the contending applicants, particularly, as was often the case, when commercial broadcasters successfully challenged nonprofit broadcasters.²⁸ Without the FRC having to turn down the license renewal applications of very many broadcasters, there were 100 fewer stations on the air by the autumn of 1929.²⁹

With General Order 40 all stations, with the exception of a handful of network-affiliated clear-channel stations that had been established by the FRC the previous year, were assigned to new frequencies and new power levels.³⁰ The networks were the big winners. Whereas in 1927 NBC had twenty-eight affiliates and CBS had sixteen, for a combined 6.4 percent of the broadcast stations, within four years they combined to account for 30 percent of the stations. And this vastly understates their new role, as all but three of the forty clear-channel stations were owned by or affiliated with one of the two networks. Indeed, when the number of hours broadcast and the level of power are factored into the equation, NBC and CBS accounted for nearly 70 percent of U.S. broadcasting by 1931.³¹ By 1935, only four of the

sixty-two stations that broadcast at 5,000 watts power or greater did not have network affiliation.³² Moreover, commercial advertising revenues, which barely existed on a national level prior to 1928, grew by leaps and bounds to an annual total of \$72 million by 1934.³³ By 1931, surveys indicated that explicit sales talks occupied twelve to fifteen minutes of the broadcast hour, which alone understates the influence of advertisers, as they or their agencies usually also produced the programs that surrounded their advertisements. The growth of the networks and the emergence of commercial advertising, though distinct, were mutually reinforcing. One study has found that 80 percent of radio advertising revenues in 1929 went to 20 percent of the stations, all network owned or affiliated.³⁴ One commentator noted in 1930, "Nothing in American history has paralleled this mushroom growth." This point has become a staple insight among broadcast historians.³⁵

The other side of the coin was reflected in the equally dramatic decline in nonprofit and noncommercial broadcasting. Nonprofit broadcasters found themselves in a vicious cycle: the FRC, noting their lack of financial and technological prowess, lowered their hours and power to the advantage of well-capitalized private broadcasters, and thus made it that much more difficult for the nonprofit broadcasters to generate the funds they needed to become successful. "Now the Federal Radio Commission has come along and taken away all of the hours that are worth anything and has left us with hours that are absolutely no good for commercial programs or for educational programs," wrote the despondent director of the soon to be extinct University of Arkansas station. "The Commission may boast that it has never cut an educational station off the air. It merely cuts off our head, our arms, and our legs, and then allows us to die a natural death."³⁶ The number of stations affiliated with colleges and universities declined from ninety-five in 1927 to less than half that figure by 1930, while the total number of nonprofit broadcasters declined from some 200 in 1927 to less than a third that total in 1934. Moreover, almost all of these stations operated with low power on shared frequencies. By 1934, nonprofit broadcasting accounted for only 2 percent of total U.S. broadcast time.³⁷ For most Americans, it effectively did not exist.

The FRC defended the reallocation in its *Third Annual Report*. It equated capitalist broadcasters with "general public service" broadcasters, since, in their quest for profit, they would be motivated to provide whatever programming the market desired. In contrast,

those stations that did not operate for profit and that did not derive their revenues from the sale of advertising were termed "propaganda" stations, since, according to the FRC, these stations were more interested in spreading their particular viewpoints than in satisfying audience needs. Hence, the FRC argued that it had to favor the capitalist broadcasters because there were not enough stations to satisfy all the "propaganda" groups. These groups would have to learn to work through the auspices of the commercial broadcasters.³⁸

The Emergence and Contours of the Broadcast Reform Movement

In the aftermath of General Order 40 there developed, for the first time, a coherent and unrepentant opposition to the emerging capitalist domination of the airwaves. "The battle was begun in earnest," noted one of the leading opposition groups, "in the summer of 1928 soon after the enactment of the Commission's General Order 40."³⁹ The primary elements of what could be characterized as an opposition movement or broadcast reform movement came from the ranks of the displaced and harassed nonprofit broadcasters, particularly those affiliated with colleges and universities. To many educators, their stations were being left "unprotected" by the FRC, as they were "attacked constantly by commercial broadcasters."⁴⁰

In 1929 and 1930 educational broadcasters repeatedly protested to the U.S. Office of Education and the FRC that they were "being driven off the air at a rate that threatened their complete extinction."⁴¹ Secretary of the Interior Ray Lyman Wilbur, at the urging of the National Education Association in 1929, authorized a group of educators and commercial broadcasters to study the issue of how to promote educational broadcasting. But the group split along institutional lines, with the network representatives claiming that independent educational stations were unnecessary, as the networks were more than willing to accommodate the educators. The final report of the Wilbur Committee, issued in early 1930, presented both sides on the matter but refused to recommend the reservation of a fixed number of channels for educational broadcasting. It recommended, instead, that the educators learn to cooperate with the commercial broadcasters.⁴² The commercial broadcasters were delighted and thought the report settled the matter for all time; the educators, on the other hand, thought the report simply ignored the crisis of survival in which they were enmeshed.

Finally, in the summer of 1930, U.S. Commissioner of Education

William John Cooper, after repeated demands by educators, called a conference of educational and nonprofit broadcasters to organize a plan of attack before Congress for "new radio legislation" that would protect nonprofit broadcasters before the "commercial stations will have practically monopolized the channels open for radio broadcasting."⁴³ The October meeting in Chicago led to the creation of the National Committee on Education by Radio, which would be composed of representatives of nine leading national education organizations.⁴⁴ Although this would be a nongovernmental body, Cooper arranged for the NCEER to receive a five-year \$200,000 grant from the Payne Fund and appointed Joy Elmer Morgan, editor of the *NEA Journal*, to be the NCEER's director. The Payne Fund was a small foundation drawing from the wealth of a Cleveland industrialist family; it had a strong interest in both education and mass communication, which led it to radio in the middle 1920s. After being rebuffed by the networks in its efforts to produce and broadcast educational programming, however, the Payne Fund resolved that the only way to assure the use of the ether for education and culture would be to establish independent nonprofit and noncommercial stations.⁴⁵ The NCEER was established for the purpose of having Congress reserve 15 percent of the channels for educational use, assisting the educational stations in their seemingly endless hearings before the FRC, and conducting research to enhance education by radio.

For the next five years the NCEER would lead a relentless fight to arrest the capitalist domination of the ether. The NCEER had a full-time staff of at least three people, and it published a monthly newsletter, *Education by Radio*, with a controlled circulation that reached 11,000 by 1934. To the NCEER, it was axiomatic that cooperation between educators and commercial broadcasters was "not possible." "That practice has been tried for nearly a decade and has proved unworkable," Morgan stated in 1931. "It is no longer open to discussion." Although the educational community was not unanimous or necessarily vociferous in its support of the NCEER, the NCEER legislative agenda received the formal support of the majority of educational organizations. And at times, some educational groups, such as the National Congress of Parents and Teachers, which resolved for the complete nationalization and decommercialization of broadcasting in 1932, called for much more radical reform of broadcasting than that proposed by the NCEER.⁴⁶

Yet the NCEER was not some sort of trade organization that simply

was trying to cut the best deal it could for itself. Morgan, in particular, was a Midwest populist who had cut his teeth on the public utilities movement of the Progressive Era. "Private monopoly in industry is bad enough; monopoly in the agencies which control the distribution of ideas and the dissemination of information is infinitely worse," Morgan wrote to Congress in January 1933. "It strikes at the very roots of free democratic government."⁴⁷ He brought to the broadcast struggle a missionary's zeal for reform. Morgan's was a very broad and deeply political definition of education and educational broadcasting. "As a result of radio broadcasting," he informed one audience in 1931,

there will probably develop during the twentieth century either chaos or a world-order of civilization. Whether it shall be one or the other will depend largely upon whether broadcasting be used as a tool of education or as an instrument of selfish greed. So far, our American radio interests have thrown their major influence on the side of greed. . . . There has never been in the entire history of the United States an example of mismanagement and lack of vision so colossal and far-reaching in its consequences as our turning of the radio channels almost exclusively into commercial hands.⁴⁸

"I believe we are dealing here," Morgan told the national convention of the National University Extension Association in 1932, "with one of the most crucial issues that was ever presented to civilization at any time in its entire history."⁴⁹

The NCEER was not alone in its campaign to recast U.S. broadcasting. Several other nonprofit broadcasters that found little support from the FRC became active in the fight for broadcast reform. The two most active of these were the Chicago Federation of Labor, which maintained the only labor station in the nation, WCFL of Chicago, and the Paulist Fathers religious order of New York, which operated WLWL, the only Catholic station in the northeastern United States. Both of these stations began in the mid-1920s with tremendous aspirations for public service; by the end of the decade both were struggling for survival, as the FRC assigned most of the hours they previously had been occupying to affiliates of NBC and CBS, respectively. In the early 1930s both WCFL and WLWL, after continued frustration with the FRC, would lead efforts to enact reform legislation.⁵⁰ The director of WCFL, Edward Nockels, would also represent the American Federation of Labor on broadcast legislation on Capitol Hill in

the early 1930s. After General Order 40, Nockels stated that "all of the 90 channels for radio broadcasting" had been "given to capital and its friends and not even one channel to the millions that toil."⁵¹ Nockels brought the same sense of mission to the battle for broadcast reform as the NCER's Morgan. "With the exception of the right to organize," Nockels enthused in 1930,

there is no goal more important of attainment to the American labor movement than one radio wavelength with a nation-wide network over which it can broadcast Labor's message to all citizens of our country. This is the modern phase of the right of free speech. . . . whoever controls radio broadcasting in the future will eventually control the nation.⁵²

In addition to displaced nonprofit broadcasters, some elements of the newspaper industry agitated for restrictions on the commercialization of the ether, particularly since this was regarded as a prime reason for the economic woes of the print media in the depths of the Great Depression. In both Britain and Canada, for example, the daily newspapers played major roles in encouraging the noncommercial development of their respective national broadcasting systems.⁵³ And in the United States in the early 1930s, major newspaper trade unions frequently resolved for the complete or near-complete nationalization and decommmercialization of broadcasting on explicitly selfish grounds.⁵⁴ Among the newspaper publishers, there was considerable hostility to the increasing use of the ether as an advertising medium, especially in the late 1920s and at the beginning of the 1930s.⁵⁵ The most active daily newspaper publisher in the fight to reform broadcasting was H. O. Davis, owner of California's *Ventura Free Press*, who published two books critical of the status quo, promoted reform ideas before the ANPA, and even hired a full-time Washington, D.C., lobbyist to work on behalf of broadcast reform throughout the early 1930s.⁵⁶ Davis's broadcast reform activities, similar to those of the NCER, were subsidized by the Payne Fund, in this case surreptitiously, which provided him with more than \$50,000 between 1931 and 1933 to generate support for reform. The *Ventura Free Press* radio campaign was explicitly radical. "We are going to the very root of the evil," Davis wrote in one open letter to newspaper publishers. "In order to reconstruct we must first destroy the present structure," he wrote in another open letter.⁵⁷

An alarmed commercial broadcasting industry was able to defuse quickly any threat to their control of the ether that might be brought

by the newspaper industry. By 1932 or 1933 Davis had been effectively marginalized, and the major newspapers had become allies of the commercial broadcasters in their efforts to thwart the opposition movement. The commercial broadcasters approached the newspaper industry on two levels. First, they emphasized that government restrictions on commercial broadcasting could easily be extended to newspapers. As an NBC vice president told the San Francisco Advertising Club in 1932, he and William Randolph Hearst had discussed the reform efforts and had agreed that "any threat to commercial advertising on the radio is a threat to all forms of advertising."⁵⁸

Second, the commercial broadcasters strongly encouraged newspapers to either purchase their own stations or establish an affiliation with a local station in their community. By late 1931, 139 radio stations had newspaper owners or affiliations; another 100 stations would be added to this fold in the next twelve months.⁵⁹ The networks were especially aggressive in their efforts to establish newspaper affiliations, such that thirty-five of the ninety CBS network stations had newspaper owners or affiliations by 1932. "We only know here that newspaper-owned stations have increased their revenues through network broadcasting," CBS President William S. Paley commented, citing instances of newspapers tripling their broadcast advertising revenues in a single year. "Nor are these examples exceptions."⁶⁰ This strategy paid off quickly. In 1932 the chairman of the radio committee of the ANPA quit in disgust, noting that the newspapers that owned radio stations were stonewalling all of his efforts to develop a coherent broadcast anticommmercialism platform for the organization.⁶¹ "So long as a goodly array of journalists are close corporate allies of radio," the trade publication *Broadcasting* assured its readers, the broadcasting industry would be able to "pay no heed to the tempest in the teapot that certain press interests have been trying to create."⁶²

The opposition to the status quo also was joined by many civic groups that had no particular material stake in the outcome of the fight. The most important of these was the American Civil Liberties Union. Prior to 1932, the ACLU had stayed out of legislative efforts to recast U.S. broadcasting, not regarding it as a free expression issue. However, by early 1933 the ACLU had become overwhelmed with criticism of U.S. broadcasting for its censorship of radical and nonmainstream opinions and for its unwillingness to air controversial public affairs broadcasting. "Censorship at the stations by the

managers is constantly exercised in a most unenlightened fashion," ACLU director Roger Baldwin observed in a memo in 1933,

all this with an eye to protecting the status quo. Only a comparatively few small stations voice critical or radical views, and these are in constant danger of either going out of business or being closed up. Protests by the Civil Liberties Union when the larger stations censor programs have resulted in no relief. The Federal Radio Commission pays no attention to such complaints.⁶⁵

Shortly thereafter, the ACLU established its Radio Committee to deal with "the restrictions on broadcasting inherent in the American system."⁶⁴ The Committee was advised to study the "whole matter" of broadcasting, with the aim of developing a "practical plan" to reform the system and better meet the free expression requirements of a democratic society.⁶⁵ For the balance of the decade the ACLU would be active in the battle for broadcast reform.

The ACLU's response to the emergence of the status quo mirrored the broader response of the U.S. intelligentsia to network, commercial broadcasting: it was almost entirely negative. The NCEC's Morgan was not far from the truth when he stated in 1933 that it was impossible to find *any* intellectual in favor of the status quo, unless that intellectual was receiving money or airtime from a commercial broadcaster.⁶⁶ This is not to suggest that the subject of broadcasting was foremost on the minds of U.S. intellectuals during this period; given the economic and political crisis embracing the world, the subject of radio was well down the list of concerns. Yet more than a few prominent intellectuals, including John Dewey, Walter Hale Hamilton, Alexander Meiklejohn, Charles A. Beard, Norman Thomas, Jane Addams, Upton Sinclair, Frederick Lewis Allen, E. P. Herring, Bruce Bliven, and H. L. Mencken, published articles and gave speeches damning the status quo and arguing on behalf of major reform.⁶⁷ Others, such as William Orton of Amherst College, Jerome Davis of the Yale Divinity School, social critic James Rorty, and pioneer radio inventor Lee DeForest, published and spoke actively on behalf of the opposition movement, often coordinating their activities with the NCEC, the ACLU, and other opposition groups.⁶⁸

Among the various elements of the broadcast reform movement there were three themes that underscored virtually all of their criticism of the status quo. First, the opposition movement argued that the airwaves should be regarded as a public resource and broadcast-
ing as a public utility. By this reasoning, reformers argued that turn-

ing broadcasting over to a relative handful of private broadcasters so that they could satisfy selfish goals was a scandalous misuse of a public resource. Moreover, the policy by which the FRC had established the existing system had been entirely outside of public view; even Congress seemed largely oblivious to what had taken place. Hence the public had yet to exercise its right and duty to determine broadcast policy. Second, the broadcast reform movement argued that a network-dominated, for-profit, advertising-supported broadcast system would invariably shade its programming to defend the status quo and that it would never give fair play to unpopular or radical opinions. It would be difficult to overemphasize how much of the broadcast reform movement's critique revolved around this insight; the entire movement was propelled by a profound desire to create a broadcasting system that would better promote a democratic political culture, as the broadcast reformers defined it.

Third, the reformers criticized the nature of broadcast advertising and the limitations of advertising-subsidized programming, particularly in regard to the lack of cultural, educational, and public affairs programming that the system seemed capable of generating profitably. Some of this criticism had a distinctly elitist tone. *New Republic* editor Bruce Bliven, for example, wrote that "even the so-called entertainment aspects of programs are such that no civilized person can listen to them without nausea. This is often the result of a deliberate policy on the part of the advertiser, who finds people of low intelligence respond most readily to his commercial appeal, and therefore baits his trap with material intentionally designed to reach those who are not quite bright." Another writer stated that his "ideal broadcasting station" would make "no hypocritical pretense" of attempting "to present something for everyone." Rather, all the programming would "be aimed at and above a frankly upper-middle class" audience.⁶⁹ This bias reflected, to some extent, the class bias of the reform movement, but such sentiments were not held universally. The labor movement and some of the populists associated with the NCEC were unwilling to concede that entertainment programming was incompatible with nonprofit and noncommercial broadcasting. They also disputed the notion that commercial broadcasts were "giving the people what they want," as the networks claimed and as the elitists were willing to concede. To the extent that such elitism permeated the reform movement, however, it rendered the generation of popular support that much more improbable. Much of this entire range of criticism, which largely has been overlooked by subsequent media

critics, ages rather well and anticipates much of the best modern media criticism, from Herbert Gans, Gaye Tuchman, and Ben Bagdikian to Noam Chomsky and Edward S. Herman.⁷⁰

The broadcast reform movement was insistent in its belief that increased regulation of the existing system could not produce the desired social results. At best, noted the NCEER's Morgan, "this kind of arrangement would result in perpetual warfare."⁷¹ In addition, it was a perpetual warfare that the broadcast reform movement invariably would lose. In the words of one naval captain who was critical of the corporate domination of broadcasting, the "large companies" would invariably triumph in any regulatory scheme that left the ownership and support mechanisms of the industry unaltered: "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 the employees."⁷² Few among the broadcast reform movement were willing to concede the "unquestioned faithfulness" of FRC members and employees, many of whom went on to lucrative careers with the networks or the NAB, or as commercial broadcasting attorneys. "Practically all the engineers and commissioners of this first radio commission," Morgan reflected, "were absorbed by the corporations to whom they had voted privileges worth millions of dollars."⁷³ One trade publication even commented in 1934 that Washington, D.C., had become a "happy hunting ground" for "former members of the FRC legal staff" as they parlayed their government experience into lucrative retainers from commercial broadcasting interests.⁷⁴

The broadcast reform movement advocated any number of plans to re-create U.S. broadcasting, but three in particular received the most attention in the early 1930s. One plan was to have the government set aside a fixed percentage of the channels, generally either 15 percent or 25 percent, for the exclusive use of nonprofit broadcasters. The second plan was to have Congress authorize an extensive and independent study of broadcasting, with the aim of providing for an entirely new broadcast system. This plan was based on what had transpired in Britain and, particularly, Canada, which in 1932 announced that it was establishing a nonprofit and noncommercial broadcasting system, to no small extent due to distaste for what it saw taking place to the south.⁷⁵ To the reformers, it was axiomatic that any independent study of broadcasting would resolve to alter the status quo. The third plan was to have the government establish a

series of nonprofit and noncommercial stations on a local, regional, and national basis that would be subsidized through taxes and operated by a congressionally approved board of directors of prominent citizens. This plan, too, was inspired by the experiences in Britain and Canada, and, indeed, in most of the world. The government stations would supplement, not replace, the existing commercial networks.

One basic and overriding problem plagued the broadcast reform movement throughout its existence: how to subsidize high-quality nonprofit broadcasting. Clearly, the existing system of nonprofit stations, with dilapidated facilities, restricted hours, and low power, attempting to rely upon donations from listeners, handouts from philanthropists, and grants from nonprofit groups had proven unsatisfactory, particularly in a grim economy. To many members of the movement the answer was obvious: have the government subsidize nonprofit broadcasting through the establishment of a series of government stations à la Britain, to be bankrolled by annual license fees. "A charge of \$1.00 per set would provide America ten times the funds which we would need for a generous program of broadcasting," Morgan informed a convention of educators in 1932.⁷⁶ This was a touchy subject in U.S. politics, however: some elements of the broadcast reform movement, such as the ACLU, were more than a little skeptical about granting the government a larger role in communications. Even those elements of the reform movement, such as the NCEER, that did not share the ACLU's innate skepticism toward the state began lobbying for a state-subsidized system only years after most of their leaders, including Morgan, had gone on record in favor of a government network as the only viable alternative to the status quo.⁷⁷ There was a general belief among the reformers in the early 1930s that the public would not accept government-controlled broadcasting. "A government-controlled radio system," two reformers noted in 1931, "whether or not hypothetically desirable, is highly impracticable, almost impossible."⁷⁸

The only real alternative to having the government play a larger role was having advertising subsidize nonprofit broadcasting. This idea was anathema to the NCEER, the ACLU, and much of the broadcast reform movement, which regarded advertising as every bit as bad as network domination. Indeed, it was its revulsion with advertising that led the NCEER to disband its efforts to have a fixed percentage of the airwaves reserved for nonprofit broadcasters, since that measure would leave the issue of funding entirely unanswered. However, some elements of the reform movement, particularly nonprofit

stations such as WCFL and WLWL, repeatedly defended their right to sell advertising to subsidize their operations.⁷⁹ This became the basis of the fundamental tactical split in the broadcast reform movement, as the various elements never worked in unison for the same proposal. "Every son-of-a-gun and his brother has a definite idea about the way it should be handled," bemoaned one reformer.⁸⁰ As an indication of the reformers' general confusion on this matter, late as 1934, the NCCER's research director, Tracy Tyler, "confessed" that he still had no notion regarding "what would be the best proposal for a general reorganization."⁸¹

In addition to the division over tactics and programs, at least three other major barriers stood between the broadcast reform movement and success. First, the radio lobby—NBC, CBS, and the NAB—had quickly emerged "as one of the most effective trade associations in the United States."⁸² It was universally characterized as one of the very most powerful lobbies in Washington.⁸³ In addition to the usual political clout that accompanies wealth, the radio lobby had even greater leverage over publicity-conscious politicians because of its control of the airwaves. This point was not lost on either the commercial broadcasters or the opposition movement.⁸⁴ "I wanted to do something that would call attention to the inherent evils of our present commercialized form of broadcasting," wrote a freshman member of the House of Representatives in a "confidential" letter to the NCCER in 1932. After explaining why he was abandoning the reform campaign after the radio broadcasters in his district had condemned him "in the most uncertain terms for my stand," he observed that the NCCER "may not understand the complete control that the broadcasting stations have over the Members of Congress." He concluded that this was a problem the NCCER must "overcome if you are to get anywhere with your program."⁸⁵

The commercial broadcasters spared no expense in the early 1930s in a public relations campaign to establish the status quo as the only innately "American" and only truly "democratic" method for organizing broadcasting services.⁸⁶ With its abundant resources, the radio lobby was able to overwhelm the underfunded communications of the broadcast reform movement, which angered the reformers no end.⁸⁷ Also, the networks established "advisory councils" of prominent citizens to advise them on their public affairs programming and to reassure the public that the networks would be responsible and socially neutral in their broadcasting. Although even the most cursory examination of these "advisory groups" indicates that they had

little effect on network operations, they were given heavy emphasis by the commercial broadcasters before Congress and the public.⁸⁸ As one NBC internal memo observed regarding that network's advisory council, "a great deal of weight will be put to it in the public mind."⁸⁹

Second, given the clear contrast in the relative political strength and financial wherewithal of the radio lobby and the broadcast reform movement, the reformers had a great need for extensive and, they hoped, sympathetic coverage in the print news media. Unfortunately, the issue received very little coverage in the press, and what coverage it did receive was heavily oriented toward presenting the position of the commercial broadcasters. This point delighted the radio lobby, which placed great emphasis upon providing the press with a continual stream of press releases.⁹⁰ It angered and puzzled the reform movement for the most part, which could not understand why their cause seemed to be getting short shrift.⁹¹ As one reformer commented, "publicity . . . has been the weakest part of our whole setup."⁹²

Third, the legal community, with few exceptions, rallied to the defense of the status quo. The American Bar Association established a Standing Committee on Communications in the late 1920s, with "the duty of studying and making recommendations on proposed radio legislation."⁹³ This committee was chaired by Louis G. Caldwell, who had been the FRC's first general counsel during the implementation of General Order 40 and had emerged as one of the leading commercial broadcasting attorneys in the nation.⁹⁴ Staffed almost entirely by commercial broadcasting attorneys, the ABA committee turned out annual reports ranging from forty to a hundred pages that argued in no uncertain terms that any reform of the status quo would be disastrous. Although these reports were never voted upon by the ABA, they were relied upon by Congress and presented to Congress and the public as the expert, neutral opinion of the U.S. legal community. The broadcast reform movement was appalled by this apparent conflict of interest, but it had little success in challenging the ABA committee's legitimacy.⁹⁵ Curiously, during the period from 1928 to 1933 the ABA committee, like the commercial broadcasting industry, was opposed to Congress's concerning itself with broadcast policy whatsoever. The committee favored granting the FRC unconditional power to act as it pleased. "The radio administration within a nation," Caldwell wrote in 1930, "must have a life-and-death power over the radio conduct of its subjects such as it neither has nor desires over their conduct in other matters." Caldwell argued that "such

matters cannot safely be prescribed by statute" and are "unsuited for decision by a legislative body."⁹⁶ As for the seeming threat to free expression implicit in granting the FRC arbitrary power to license broadcasters, the legal community was not particularly concerned. "If all this be censorship," the ABA committee reported in 1929, "it seems unavoidable and in the best interests of the listening public."⁹⁷

The Battle for the Airwaves, 1930-35

The campaign to restructure U.S. broadcasting had two distinct phases. The first, from 1930 until President Herbert Hoover left office in the spring of 1933, clearly was the high-water mark for popular discontent with U.S. broadcasting. One reformer confided to another that 95 percent of the people were dissatisfied with commercial broadcasting and that "more than one-half [of them] are ready to support any kind of a movement for a drastic change."⁹⁸ Even the proponents of the status quo were constantly mapping their strategy to reflect the public distaste for commercial broadcast fare. And this dissatisfaction was being communicated repeatedly to members of Congress. "Many members on both sides of the Capitol are aroused by local conditions," *Broadcasting* informed its readers on the status of broadcasting legislation, and they "have heard protests from constituents" regarding the nature of the U.S. system.⁹⁹ WCFL's Edward Nockels estimated that 70 percent of the Senate and 80 percent of the House supported legislation that would have set aside channels for nonprofit broadcasters, whereas the NAB warned its membership that the broadcast reformers had received pledges of support from fully 90 percent of the members of Congress.¹⁰⁰

Nevertheless, reform legislation failed to get through Congress during this period, for two reasons. First, this was the trough of the Great Depression, and the preponderance of congressional activity was dedicated to legislation regarding economic recovery. "Were it not for the disturbing economic situation," *Broadcasting* observed in 1931, "Congress might blunder into the political radio morass camouflaged by these lobbying factions."¹⁰¹ Second, while there was considerable support for reform among the rank-and-file members of Congress, this support tended to wane the less theoretical the issue became and the more the commercial broadcasters directed their fire against it, as the above-quoted letter to the NCEC indicated. Moreover, the relevant committee leaders were nearly unanimous in their support for the status quo. "We have been lucky," observed NAB

President Harry Shaw, with perhaps too much modesty, in a speech to the NAB Board of Directors on the legislative situation in 1932. "We have been content to leave the protection of this industry to a few of our friends in certain places."¹⁰² "If it were not for a little group of reactionary leaders in both branches of Congress," an incensed Nockels observed in 1931, reform "legislation would have been passed by this time."¹⁰³ And, indeed, when the Senate eventually passed a rider to a bill in 1931 that would have established a national, nonprofit labor network, the congressional leaders were able to have the bill tabled at the end of the session.¹⁰⁴

The most important congressional leader in this regard was Senator C. C. Dill, who by the early 1930s had established himself as, in the words of *Broadcasting*, "unquestionably" having "the most influential voice in federal radio control of any figure in public life."¹⁰⁵ As ACLU counsel Morris Ernst stated emphatically in 1931, "There is no use in drafting material which will not be acceptable to him."¹⁰⁶ Behind a veneer of progressive rhetoric, Dill repeatedly stonewalled all efforts to get reform legislation through his Senate Committee on Interstate Commerce. An irate H. O. Davis noted in June 1932 that Dill constructed "a noisy radical front by going through the motions of attacking the broadcasting monopoly for home consumption, while behind the front he is working hand and glove with the broadcasters themselves."¹⁰⁷ In January 1932 Dill and another senator, responding to the public outcry for broadcast reform, had the Senate pass a measure authorizing the FRC to study the broadcast reform movement's criticisms of the status quo.¹⁰⁸ The FRC report, *Commercial Radio Advertising*, was based largely on the uncritical acceptance of commercial broadcasters' responses to a short questionnaire. The report, released that summer, praised the status quo and dismissed the broadcast reform movement's concerns as without merit.¹⁰⁹ The commercial broadcasters were elated, while the NCEC dismissed the FRC report as "not a fact-finding document but a defense of the present radio system."¹¹⁰ Davis termed the report "a joke."¹¹¹ Yet the report successfully defused the momentum for broadcast reform and left the movement in a sober state regarding its prospects. By 1933 the ACLU and the NCEC came to accept Davis's stance regarding Dill, Dill's rhetoric notwithstanding. Senator Dill was a "weak sister" who would provide no assistance to the reform movement, the NCEC's Tyler wrote the ACLU's Roger Baldwin.¹¹²

The second stage, from March 1933 until the Communications Act of 1934 was signed into law in June 1934, was the decisive period.

This was when Congress finally enacted permanent legislation on broadcasting. The reform movement initially was quite encouraged by the change in administrations and hoped that President Roosevelt would assist their cause. Indeed, there was considerable reason for optimism as many key proponents of the New Deal were outspoken critics of commercial broadcasting and advocates of sweeping reform of the status quo.¹¹³ Moreover, one of Roosevelt's closest political and personal friends, Ambassador to Mexico Josephus Daniels, was an unabashed proponent of completely nationalized broadcasting. "There is no more reason why other communications industries should be privately owned than the mails," he wrote the president in one of many letters on the subject.¹¹⁴ Nevertheless, Roosevelt elected not to take a public position on the broadcast debate, while his aides worked behind the scenes to assist the commercial broadcasters with their legislative agenda. Roosevelt was in no mood to take on an uphill fight against a powerful and entrenched communications industry, particularly when he enjoyed less-than-perfect relations with the nation's largely Republican newspaper industry. As even Daniels advised him, he had more important battles to fight.¹¹⁵

By 1933 the broadcasting industry largely had stabilized after the shake-up following General Order 40. The commercial broadcasters determined that the time was ripe for permanent legislation on broadcasting, which would eliminate the annual forum on Capitol Hill for "attacks by unfriendly groups" and "speed up the movement toward a more thoroughly stabilized broadcasting industry."¹¹⁶ The commercial broadcasters' ideal situation would be to have the Radio Act of 1927 reenacted verbatim and to have a body similar to the FRC established on a permanent basis; indeed, the commercial broadcasters were the only group uniform in its praise of this otherwise most controversial body.¹¹⁷ The fundamental problem was that the industry had no desire for Congress to debate or discuss how best to organize the U.S. broadcasting system, let alone have any public discussion of the issues involved. This would have been impossible in earlier sessions of Congress, but the commercial broadcasters were confident of their support among the key figures in Washington, most notably Senator Dill and the president.

In order to expedite the movement to pass permanent communications legislation, in the fall of 1933 President Roosevelt had Secretary of Commerce Daniel Roper appoint a committee of government

department representatives to prepare recommendations for the "construction of needed legislation" in the area of communications.¹¹⁸ This Roper Committee operated in secrecy, took no outside testimony, and recommended in January 1934 that the status quo be maintained but that all communications regulation be housed under one administrative agency. This was precisely what the commercial broadcasters had desired.¹¹⁹ The committee did not even discuss broadcasting in its deliberations, yet included it in the report's final recommendations. This point was brought to the president's attention by a committee member who filed a "minority report" to indicate his displeasure with the lack of attention broadcasting had received.¹²⁰

At the request of Secretary Roper, in January 1934 President Roosevelt authorized Roper to establish an independent Federal Committee to Study Radio Broadcasting under the Office of Education. This panel would take up the thorny issue of how best to structure and regulate U.S. broadcasting, which had been neglected by the Roper Committee.¹²¹ The broadcast reformers were elated, for once they would have a forum. The commercial broadcasters and Senator Dill, on the other hand, were confounded. They informed the president in no uncertain terms that such a study was unnecessary, due to the aforementioned FRC study of 1932, and that it would not be used in the drafting of legislation, as was its ostensible purpose.¹²² The president quietly canceled the FCSRB in late February. The NCER was informed that "this matter, for the time being, will be entirely handled by the Congress."¹²³

The congressional strategy of Dill and his counterpart in the House, Representative Sam Rayburn, Democrat of Texas, was to rush the proposed legislation through committee hearings and have it brought to the floors of the House and Senate for a vote as quickly as possible.¹²⁴ Their bills essentially reenacted the Radio Act of 1927 and created a Federal Communications Commission to regulate all the communications industries. In short, with minor qualifications, these bills were precisely what the commercial broadcasters had desired. Dill hoped to stem any potential opposition to the proposed legislation by having his bill authorize the FCC to make a thorough study of communications and report back with any suggestions for reform legislation the following year. "If we leave out the controversial matters," Dill stated, "the bill can be passed at this session."¹²⁵ Indeed, Dill announced that he was not even intending to permit broadcasting

to be discussed during the upcoming committee hearings on the legislation, since the unresolved broadcasting issues would now be taken up by the new FCC.¹²⁶ The commercial broadcasters announced their approval of this tactic; they had long felt more secure with their fate in the hands of regulators than in those of elected officials.¹²⁷

While some elements of the reform movement had become demoralized and had given up any hope for immediate attention from Congress, the Paulist Fathers' John B. Harney submitted an amendment to the Dill communications bill during the committee hearings that would have required the FCC to set aside fully 25 percent of the channels for the use of nonprofit broadcasters. While the committee voted against the Harney proposal, Senators Robert Wagner, Democrat of New York, and Henry Hatfield, Republican of West Virginia, agreed to introduce the amendment on the floor of the Senate. Father Harney and the Paulists engaged in a whirlwind campaign to generate support for the measure, particularly from Catholic organizations and parishes around the nation. Within a few weeks the Paulists had more than 60,000 signatures on petitions supporting the measure, and had the active support of Edward Nockels and a portion of the labor movement.¹²⁸ In April the trade publication *Variety* reported that the now-termed Wagner-Hatfield amendment stood "better than a 50-50 chance of being adopted."¹²⁹

The radio lobby attacked the Wagner-Hatfield amendment in late April and early May as if, as an NAB representative later explained, its passage "obviously would have destroyed the whole structure of broadcasting in America."¹³⁰ Both the White House and the FRC lobbied members of Congress against the legislation.¹³¹ When the amendment was defeated on the Senate floor on May 15 by a vote of forty-two to twenty-three, one factor was instrumental in undercutting the sentiment for reform. After it became apparent that Father Harney would have his amendment introduced in the Senate, Senator Dill had installed a clause in his communications bill, section 307(c), that would require the FCC to hold hearings concerning the idea of reserving 25 percent of the channels for nonprofit broadcasters and then report back to Congress with recommendations the following year. This was enough to convince wayward senators that the Wagner-Hatfield amendment was not necessary.¹³²

Immediately after voting down the Wagner-Hatfield amendment, the Senate approved Dill's communications bill with section 307(c) by a voice vote. In the House, Rayburn was able to keep the Harney

amendment from getting to the floor for a vote or even being discussed in the floor debate. After the House passed the Rayburn communications bill in early June, the bills went to conference. After the revisions, Senator Dill telephoned Henry Bellows, the NAB's chief lobbyist, and informed him, "We have been very generous to you fellows." Bellows later commented, "When we read it, we found that every major point we had asked for was there."¹³³

President Roosevelt signed the Communications Act of 1934 into law on June 18. The bill was lost in the media coverage of the stack of New Deal bills that had been passed at the end of the congressional session. When it was covered, it was characterized as a "New Deal in Radio Law" that was aimed at "curbing monopoly control in radio," and that boldly harnessed antagonistic private power and forced it to act in the public interest. Neither the Roosevelt administration nor Senator Dill did anything to discourage this interpretation, despite the patently bogus nature of the claim.¹³⁴ Indeed, some broadcasting historians assert this argument despite the fact that the Communications Act of 1934 restated the Radio Act of 1927 virtually verbatim and had been the conscious result of keeping the public and Congress itself as far removed as possible from any debate over broadcasting issues.¹³⁵

With the passage of the Communications Act of 1934, Congress effectively removed itself from substantive broadcast policy issues for the balance of the century. The only "legitimate" opportunity remaining for the broadcast reform movement to present its case was in the FCC hearings in October 1934, mandated by section 307(c), which required the FCC to evaluate the Wagner-Hatfield fixed-percentage concept. The outcome of the hearings was never in doubt: most elements of the broadcast reform movement regarded them as a "setup for the broadcasters," and, indeed, two of the three FCC members who would be at the hearings announced to the NAB convention in September that there was no way they would alter the status quo, regardless of what transpired at the upcoming hearings.¹³⁶ In January 1935, the FCC formally issued its report to Congress: there was no need to alter the status quo, efforts should be made to assist disenfranchised nonprofit groups so that they could utilize the commercial broadcasters' facilities.¹³⁷

Although this was no surprise, it was still a bitter blow for the reform movement; it constituted, in effect, the final nail in its coffin. The FCC made it clear that it would regard the status quo as the

officially authorized broadcasting system henceforth, until notified otherwise by congressional statute. At the same time, however, Congress showed no interest in reopening the political can of worms represented by broadcast regulation after the passage of the Communications Act of 1934.

The immediate legacy of the reform movement was that it had forced the delay of the full stabilization of the airwaves from 1929 or 1930 to 1935. What the FCC had in fact successfully recommended was the cooperation thesis advanced by the Wilbur Committee in 1930 and rejected at that time. All those who wished to continue to participate in the legitimate debate over broadcast policy had to accept the status quo as unalterable. Ironically, precisely as the window for reform was being slammed shut, the NCCER formally proposed the creation of a federal chain of noncommercial stations, in 1935.¹³⁸ The proposal fell on deaf ears; the broadcast reform movement quickly unraveled. The Paulist station WLWL simply sold its license to Arde Bulova in 1937 and went out of business. Labor station WCFL disbanded its efforts to be supported by membership contributions and became an advertising-supported NBC affiliate by the mid-1930s; despite its labor pedigree, it became largely indistinguishable from the capitalist broadcasters. After 1935 the NCCER's funding became contingent upon its willingness to accept the status quo; after attempting to improve relations between educators and commercial broadcasters and the FCC, it closed down in 1941. The ACLU Radio Committee remained active with a somewhat radical broadcast legislative platform well into the second half of the decade, when it finally discontinued these efforts in view of their complete lack of success. By the end of the decade the ACLU had formally accepted the capitalist and commercial basis of the industry as legitimate, as much for pragmatic reasons as for any philosophical change of heart, and it began to resume its traditional concern with government, rather than capitalist or commercial, censorship. The broadcast system now was deemed fundamentally sound rather than fundamentally flawed.¹³⁹

In the second half of the decade, the commercial broadcasters strove for ideological closure. They located commercial broadcasting next to the newspaper industry as an icon of American freedom and culture, and, with considerable historical revisionism if not outright fabrication, removed it from critical contemplation. The broadcast reform movement was written out of the dominant perspective on the development of U.S. broadcasting, and the conflict of the early 1930s was erased from historical memory. "Our American system of broad-

casting," Radio Corporation of America President David Sarnoff told a nationwide audience over NBC in 1938,

is what it is because it operates in the American democracy. It is a free system because this is a free country. It is privately owned because private ownership is one of our national doctrines. It is privately supported, through commercial sponsorship of a portion of its program hours, and at no cost to the listener, because ours is a free economic system. No special laws had to be passed to bring these things about. They were already implicit in the American system, ready and waiting for broadcasting when it came.¹⁴⁰

The implications of this logic were not always left unspoken. "He who attacks the fundamentals of the American system" of broadcasting, CBS President Paley told an audience in 1937, "attacks democracy itself."¹⁴¹

Also quickly forgotten was the position of the legal community and the commercial broadcasting industry prior to 1934 in favor of arbitrary and unchecked commission regulation of broadcasting. Now that the industry was entrenched and beyond political challenge, any further regulation was determined to have more negative than positive possibilities. Louis Caldwell led the campaign, beginning in late 1934, to recognize existing property rights in the ether and eliminate all government licensing and regulation of broadcasting, all in the name of the First Amendment. Caldwell compared the Communications Act of 1934 to "the ordinances of the Star Chamber" and argued that with the legal recognition of the government's right to regulate broadcasting, "the clock of liberty has been set back three hundred years."¹⁴² The campaign for deregulation was unsuccessful, but the resulting system by the late 1930s acknowledged the government's right to regulate broadcasting only after the marketplace and industry self-regulation had proven abject failures. In effect, there developed a de facto privatization of the airwaves and, with that, what broadcast historian Philip Rosen has termed the "myth of regulation."¹⁴³

By the end of the decade, and thereafter, the notion that the citizenry had a right to determine whatever broadcast system they deemed superior for society was effectively dead; the issue had become off-limits as a legitimate political issue. By 1945 Paul Lazarsfeld would conclude his study of broadcasting by observing that the American people seemed to approve of the private and commercial basis of the industry. "People have little information on the subject," he noted. "They have obviously given it little thought."¹⁴⁴

Conclusion

There was a debate over the private, for-profit, and commercial basis of the U.S. broadcasting system. This did not emerge as the result of a consensus, but as a result of conflict in which there were clear winners and losers. Because much of U.S. broadcasting history has underemphasized this opposition, it has had the earmarks of a "history written by its victors." Even the otherwise outstanding critical scholarship, with its emphasis on the period preceding 1927, seemingly has accepted the notion that the American people went along with the establishment of the status quo.

Yet the broadcast reform movement was unable to generate much popular momentum. Certainly, the might of the commercial broadcasters was such as to make any alternative system highly problematic. Nonetheless, it is an error to argue that the system was thoroughly consolidated by the middle 1920s or to assume that the American people were ignorant, apathetic, or even enthusiastic about commercial broadcasting. The commercial broadcasters and their allies did everything within their (substantial) powers to keep people and even Congress ignorant of their right and ability to determine broadcast policy throughout the period in question. And, in this sense, there has never really been a legitimate public debate over the issues the broadcast reform movement attempted to raise. Moreover, subsequent trends in the mass media industries suggest that some of the concerns of the broadcast reformers in the 1930s have not gone away; rather, they may indeed be more pressing today than at any other time in U.S. history. If this is the case, an understanding of this chapter in U.S. communication history may be all the more necessary.¹⁵

Notes

1. See, for example, Sydney Head, *Broadcasting in America* (Boston: Houghton Mifflin, 1956); Joseph P. McKerns, "Industry Skeptics and the Radio Act of 1927," *Journalism History* 3 (Winter 1976-77): 136; Frederick W. Ford, "The Meaning of the Public Interest, Convenience and Necessity," *Journal of Broadcasting* 8 (Winter 1964): 8.
2. The best treatment probably has been that by Philip T. Rosen, *The Modern Stentors: Radio Broadcasting and the Federal Government 1920-1934* (Westport, Conn.: Greenwood, 1980), 161-78. Because the Communications Act of 1934 largely restated the Radio Act of 1927 verbatim, the preponderance of the scholarship seems

ingly concludes that the "real debate" over broadcasting must have taken place prior to 1927. If one concentrates upon that period, one would be perfectly justified in arguing that the status quo emerged without significant opposition. See also Erik Barnouw, *A Tower in Babel* (New York: Oxford University Press, 1966).

3. Mary S. Mander, "The Public Debate about Broadcasting in the Twenties: An Interpretive History," *Journal of Broadcasting* 25 (Spring 1984): 185.

4. Susan J. Douglas, *Inventing American Broadcasting 1899-1922* (Baltimore: Johns Hopkins University Press, 1987), 317.

5. A more substantial treatment of the themes in this chapter is found in Robert W. McChesney, *Telecommunications, Mass Media, and Democracy: The Battle for the Control of U.S. Broadcasting, 1928-1935* (New York: Oxford University Press, 1993).

6. S. E. Frost, *Education's Own Stations* (Chicago: University of Chicago Press, 1937), 4; Federal Communications Commission, *Digest of Hearings, Federal Communications Commission Broadcast Division, under Sec. 307(C) of "The Communications Act of 1934" October 1-20, November 7-12, 1934* (Washington, D.C.: Federal Communications Commission, 1935), 180-249 (hereafter cited as *FCC Digest*).

7. C. M. Jansky, Jr., "The Problem of the Institutionally Owned Station," in *Radio and Education: Proceedings of the Second Annual Assembly of the National Advisory Council on Radio in Education, Inc.*, 1932, ed. Levering Tyson (Chicago: University of Chicago Press, 1932), 214 (hereafter cited as *Radio and Education 1932*); Werner J. Severin, "Commercial vs. Non-commercial Radio During Broadcasting's Early Years," *Journal of Broadcasting* 20 (Fall 1978): 491-504.

8. Jansky, "The Problem," 215; Henry A. Bellows, "The Right to Use Radio," *Public Utilities Fortnightly* 3 (June 27, 1929): 770-74.

9. "Federal Control of Radio Broadcasting," *Yale Law Journal* 32 (1929), 250; U.S. House of Representatives, 70th Cong., 1st Sess., *Hearings before the Committee on the Merchant Marine and Fisheries on H.R. 8825* (Washington, D.C.: U.S. Government Printing Office, 1928), January 31, 1928, 129 (hereafter cited as *House Hearings 1928*); Martin Codel, "Who Pays for Your Radio Program?" *Nation's Business* 17 (August 1929): 39ff.

10. See Wilbur Schramm, ed., *Mass Communications* (Urbana: University of Illinois Press, 1960), 43; David Sarnoff, "Address to Chicago Chamber of Commerce, April 1924," in Samuel L. Rothafel and Raymond Francis Yates, *Broadcasting: Its New Day* (New York: Arno, 1971), 171-84.

11. See John W. Spalding, "1928: Radio Becomes a Mass Advertising Medium," *Journal of Broadcasting* 8 (Winter 1963-64): 31-44.

12. "Report of the Committee on Radio," *American Newspaper Publishers Association Bulletin*, No. 5374, May 5, 1927, 285.

13. See Edward F. Sarno, "The National Radio Conferences," *Journal of Broadcasting* 13 (Spring 1969): 189-202; Carl J. Friedrich and Jeanette Sayre, *The Development of the Control of Advertising on the Air* (New York: Radiobroadcasting Research Project, 1940); "Opening Address by Herbert Hoover," in *Proceedings of the Fourth National Radio Conference and Recommendations for the Regulation of Radio* (Washington, D.C.: U.S. Government Printing Office, 1926), 5; Herbert Hoover to Harold G. Ingham, December 13, 1924, and Herbert Hoover to Col. Arthur Woods, December 10, 1924, Herbert Hoover Papers, Herbert Hoover Presidential Library, West Branch, Iowa, Commerce series, Box 490 (hereafter cited as Hoover Mss).

14. Merlin H. Aylesworth, "Radio's Accomplishment," *Century* 118 (June 1929): 214-21.
15. Jansky, "The Problem," 214-17; *Education by Radio*, February 12, 1931.
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Chapter 11

Seducing the Innocent: Childhood and Television in Postwar America

Lynn Spigel

In August 1991, Pee-wee Herman moved out of his kiddie playhouse into the pornhouse of the nightly news when a mug shot of the children's idol revealed him to be a fully grown man, a man arrested for exposing himself in an adult movie theater. In true Pee-wee style, the arrest sparked a series of nervous reactions. Psychologists appeared on local newscasts, advising parents on ways to tell children about their TV play-pal, offering tips on how to make youngsters understand the scandal of Pee-wee's adult desires. All grown up and seemingly all washed up, Pee-wee was axed from the CBS lineup, and Pee-wee dolls and paraphernalia were removed from the shelves of the local Toys 'R' Us.

Pee-wee is a perfect example of what Jacqueline Rose has called the "impossibility" of childhood. As Rose argues in her work on *Peter Pan*, the child is a cultural construct, a pleasing image that adults need in order to sustain their own identities. Childhood is the difference against which adults define themselves. It is a time of innocence, a time that refers back to a fantasy world where the painful realities and social constraints of adult culture no longer exist. Childhood has less to do with what children experience (since they too are subject to the evils of our social world) than with what adults want to believe.¹ In this regard, the problem with Pee-wee is not so much his indecent exposure, but the fact that he exposes the fantasy of childhood itself. Pee-wee, as a liminal figure somewhere between boy and man, is always on the verge of revealing the fact that children are not the pleasing projection of an adult imagination. He is always threatening to disrupt adult identities by deconstructing the myth of childhood innocence.

The Pee-wee panic is the most recent skirmish in an older battle to define and preserve childhood on television. Since the medium's rise