

March 29, 1929

AKRON, OHIO

April 2, 1929.

Mr. Allen T. Simmons,
Allen Theatre Broadcasting
Station W A D C,
Akron, Ohio.

Dear Sir:

We desire to acknowledge receipt of yours of the 26th ult., replying to ours of the 20th. In view of your statement that Station WADC is owned by you and operated by your employees, we are unable to escape the conclusion that, legally, you are responsible for the infringement of Miss Tarbell's copyrighted work. What our agents do in the course of their employment is, in the eyes of the law, done by us.

The situation is similar to that which arises in the case where a railroad, through the mistaken act of its employees, uses for its own purposes the cars belonging to another road; namely, it is liable for the use and occupation thereof. Similarly, in copyright cases, the Courts have frequently decided that the owners of broadcasting stations are responsible for the unauthorized use of copyright works thereon, notwithstanding that the owner has no personal knowledge of such usage. In the instant case, although there may have been no personal knowledge on your part of the infringement of Miss Tarbell's copyright, nevertheless, the use of her work was wrongful, and in breach of her pending arrangements, and she suffered thereby. Under the circumstances, we feel that you should want to make her reasonable reparation therefor.

Although, if you desire, you may write to Miss Tarbell, it will be unnecessary to do so as it is our duty to lay before her the entire correspondence between us in reference to the matter in controversy. Before we do this, we shall be glad to know if you have any suggestion to make to serve as a basis of a recommendation on our part to Miss Tarbell.

As considerable time has elapsed since the event, and correspondence has already attained substantial proportions, we will be glad to have your reply by return mail.

Yours very truly,

Sgd. Goldie J. Gunn

HHG:ES

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