Mrs. Copeland

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4 Mr. Philip Perlman, Solicitor General 4 April 13, 1948

4 Abraham J. Harris, Acting Assistant Solicitor General

4 Government control of telephone and telegraph service.

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At your request, I discussed the above matter with Harold Cohen, Assistant General Counsel, Federal Communications Commission. I asked him whether the Commission believes that it has the power or authority to control the uses to which telephone or telegraph service may be put by, for example, limiting the granting of service to operators of certain types of establishments such as book-making or gambling houses. Mr. Cohen advised me as follows:

The Commission and its legal staff have on several occasions in the past thoroughly looked into the question of what sorts of control the Commission may exercise in the foregoing respects, and had come to the conclusion that, except as noted below, they have no such authority. The exception relates to authority exercised by the Commission during the war by which essential users of telephone service were given a sort of priority over others in getting telephone service.

The Commission has no authority to impose restrictions on telephone use. If, however, a carrier (telephone company) should include in its tariffs a proscription against the use of its telephones for, say, gambling purposes, the Commission might be in a position to aid the carrier in upholding its tariff. The Commission believes that it would not be in such a position, however, unless the proscription contained in the tariff were in aid of the enforcement of some Federal law.

The Commission has no authority, even with respect to Federal laws, to require carriers to insert such provisions in their tariffs.