

HEINL RADIO BUSINESS LETTER

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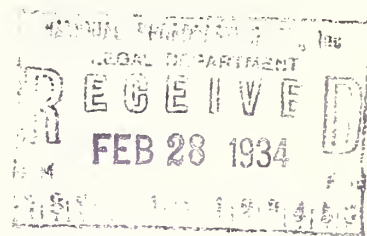
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No. 701



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February 27, 1934

NEW COMMUNICATIONS COMMISSION BILLS INTRODUCED INTO CONGRESS

Bills which would create a new Federal Communications Commission were introduced into the Senate and House last Tuesday by Senator C. C. Dill, of Washington, Chairman of the Interstate Commerce Committee, and Representative Sam Rayburn, of Texas, Chairman of the Interstate and Foreign Commerce Committee of the House.

"The House bill is almost identical with the one introduced by Senator Dill", said Representative Rayburn, "except that in the latter bill instead of transferring the functions of the Federal Radio Commission, it repeals the Radio Act of 1927, and includes within its own text provisions relating to radio broadcasting.

"The bill does not very substantially change or add to the existing law except in centralizing under a new Commission to be known as the Federal Communications Commission, the administration of those provisions of Federal law which relate to wire and radio communication, including broadcasting."

"The Senate bill omits several controversial subjects", Senator Dill explained. "It contains no reference to regulation of issuance of securities, creation of sinking funds or permission of mergers. The inclusion of these subjects would require such long hearings as to cause the bill to fail to pass this session.

"Under this bill the Commission will organize and set up rate regulation first. The hearings will be limited to the advisability of transferring the powers of the Radio Commission and the Interstate Commerce Commission, insofar as communications are concerned, to the new Federal Communications Commission.

"In the provisions of the existing radio law together with amendments passed in the 72nd Congress, which President Hoover failed to sign, there are some minor changes removing quota restrictions for stations not exceeding 250 watts and also limitation on the length of clear channels.

"The bill gives no power to regulate advertising rates by radio. Hearings will probably begin in about ten days or two weeks and I hope they will not consume more than four or five days."

Some of the provisions of the Senate bill are:

"The new Federal Communications Commission shall be composed of seven Commissioners, one of whom the President will designate as Chairman. They shall be appointed for the terms of one, two, three, four, five, six and seven years respectively,

but their successors will be appointed for seven year terms. The salary will be \$10,000. The Commission may appoint and fix the salaries of a secretary, a chief engineer and one or more assistants, a general counsel, assistants, experts, etc. The general counsel and chief engineer shall each receive \$9,000 and no assistant or expert shall receive more than \$7,500 per annum. Each division may appoint a director at \$8,000 per annum. Not more than four Commissioners, nor more than one member of a division, other than the Chairman, shall be members of the same political party.

"The Commission shall be organized into three divisions which shall exercise the jurisdiction of the Commission as follows: (1) The radio division shall have jurisdiction of all matters relating to or connected with broadcasting, with amateur stations, and the mobile service; (2) the telephone division shall have jurisdiction of all matters relating to or connection with common carriers engaged in voice communication by wire or radio other than broadcasting; and (3) the telegraph division shall have jurisdiction of all matters relating to or connected with common carriers engaged in record communication by wire, radio, or cable. The Chairman of the Commission shall be a member of all three divisions; two other Commissioners, one of whom for each division shall be chosen Vice Chairman of the Commission presiding over the division, shall be assigned by the Commission as members of each division. Except for the Chairman, no member of the Commission may be a member of more than one division."

Further provisions in the Senate bill are:

"Allocations shall be charged to the State or District wherein the studio of the station is located and not where the transmitter is located: Provided further, That no frequency used for broadcasting shall be reserved for the use of one station for a distance of more than two thousand two hundred miles, airline, if any person, firm, or corporation, capable of rendering radio service in the public interest, make application to operate broadcasting apparatus on any frequency so reserved, at a point beyond the distance of two thousand two hundred miles, airline, from the station or stations already licensed and operating on said frequency, and all applications and licenses considered and granted under this provision shall not be counted as a part of the quota of the zone in which said additional stations are located: Provided further, That the Commission may also grant applications for additional licenses for stations not exceeding two hundred and fifty watts of power if the Commission finds that such stations will serve the public convenience, interest, or necessity, and that their operation will not interfere with the fair and efficient radio service of stations licensed under the provisions of this section."

"No license granted for the operation of a broadcasting station shall be for a longer term than one year and no license so granted for any other class of station shall be for a longer term than three years, and any license granted may be revoked as hereinafter provided."

"Suits to enjoin, set aside, annul, or suspend any order of the Commission under this Act shall be brought in the several district courts of the United States, and the provisions of the District Court Jurisdiction Act are hereby made applicable to all such suits, and all references in said Act to the Interstate Commerce Commission shall apply to the Commission. The provisions of said Act as to venue of suits to enforce orders of the Interstate Commerce Commission are hereby made applicable to all suits to enforce orders of the Commission, made under the provisions of this Act."

"No person shall broadcast by means of any radio station for which a license is required by any law of the United States, and no person, firm, or corporation operating any such station shall knowingly permit the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes. Any person, firm, or corporation violating any provision of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both, for each and every day during which such offense occurs."

"Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communications. No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio communication."

"If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such station; and if any licensee shall permit any person to use a broadcasting station in support of or in opposition to any candidate for public office, or in the presentation of views on a public question to be voted upon at an election, he shall afford equal opportunity to an equal number of other persons to use such station in support of an opposing candidate for such public office, or to reply to a person who has used such broadcasting station in support of or in opposition to a candidate, or for the presentation of opposite views on such public questions. Furthermore, it shall be considered in the public interest for a licensee, so far as possible, to permit equal opportunity for the presentation of both sides of public questions."

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PRALL'S CONFIRMATION TO BE CONSIDERED THIS WEEK

The confirmation of Representative Anning S. Prall, Democrat of Staten Island, N. Y., nominated by President Roosevelt to be a member of the Federal Radio Commission will be considered by the Senate Interstate Commerce Committee Thursday (March 1).

Due to the fact that Representative Prall was a member of Congress when the Radio Act was passed, the question of his eligibility has been raised.

Paragraph 2 of Section 6 of the Constitution reads:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office."

On the face of this, Mr. Prall having been a member of Congress when the Radio Commission was created, would seem to be ineligible for appointment to the Commission. However, in the opinion of one observer, the clause "during the time for which he was elected" would probably save Mr. Prall. The Radio Act was passed 7 years ago and the time for which Mr. Prall was elected (that particular 2 year term of service) has long since passed.

However, if Mr. Prall did not assume his place on the Radio Commission and remained a member of Congress, when it passed the Federal Communications Commission Bill, if it does so this session, Mr. Prall would not be eligible to appointment on the new Commission until the time for which he was elected has expired, which will be the end of this year.

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BRINKLEY ACTION TAKEN WITH A PINCH OF SALT

While awaiting official confirmation that Station XER, at Villa Acuna, operated by remote control from Del Rio, Texas, by Dr. J. R. Brinkley, so-called "goat gland specialist", has been ordered closed by the Mexican Government, American officials were inclined to be skeptical.

Accepting the news at its face value, Judge E. O. Sykes, Chairman of the Federal Radio Commission, said:

"I am very gratified to hear of the Mexican government's action in closing this station", said E. O. Sykes, Chairman of the Federal Radio Commission. "I think it will go a long way to smoothing out radio difficulties between the two countries."

This expression was regarded as a friendly gesture but other officials said they would await further advices before accepting the fact that the Mexican Government meant business with Brinkley or intended a cleanup of the Mexican border which is lined with stations broadcasting medical and other objectionable programs into the United States.

"The Mexicans have a long way to go", a Federal official said. "However, if they keep up their crusade, fine!"

One of these is XENT at Neuva Laredo, a short distance from Laredo, Texas, operated by Norman Baker. Brinkley and Baker were both closed down in the United States, the former at Milford, Kans., and the latter at Muscatine, Ia.

According to advices from Mexico, Dr. Brinkley had obtained an injunction against the Mexican Government to prevent it from proceeding against him for broadcasting in English without first broadcasting in Spanish, as their rule requires. This injunction, it was reported, had been dismissed and the Brinkley station, guarded by soldiers, would be dismantled within 30 days.

If that is true, insofar as Brinkley is concerned, there will be no need for the bill now in Congress which would prohibit a station in a foreign country having a studio in this country in order to transmit programs to be broadcast back into the United States.

The Senate Committee has already approved this amendment and it seems assured that the House Committee will report the bill favorably following its meeting next Thursday (March 1).

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CLAIMS GOVERNMENT SQUELCHED RICKENBACKER BROADCAST

A charge is made that the Government prevented a broadcast in connection with the last commercial air mail flight.

"The private air lines' farewell gesture - Eddie Rickenbacker's 13-hour transcontinental flight with the mail - was scheduled to be dramatized over the air waves", James McMullin writes in the "National Whirligig", published by the McClure Newspaper Syndicate. "A special broadcast featuring Eddie had been arranged by a large radio station.

"At the last moment a government representative stepped in to cancel the broadcast on the ground that 'It would not be in the public interest.'

"Wall Street has plenty to say about free speech."

(More)

Mr. McMullin adds in the "Confidential Section (Not for publication):

"The radio station which the Government blocked from sending out the Rickenbacker report was WOR, Newark."

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ROOSEVELT SPECIAL MESSAGE URGES COMMUNICATIONS COMMISSION

All doubt as to whether or not President Roosevelt would press legislation for a Federal Communications Commission at this session was dispelled by a special message to Congress advocating its creation. This means the end at an early date of the Federal Radio Commission. No changes are advocated for the Radio Act which evidently is to stand intact. It is expected that the new Commission will be composed of seven members. The members of the present Radio Commission could be named to the new Commission but not necessarily will be. It is thought that Judge Sykes and Secretary Pettey had a chance of holding over.

The text of the President's message follows:

"I have long felt that for the sake of clarity and effectiveness the relationship of the Federal Government to certain services known as utilities should be divided into three fields - transportation, power and communications. The problems of transportation are vested in the Interstate Commerce Commission, and the problems of power, its development, transmission and distribution, in the Federal Power Commission.

"In the field of communications, however, there is today no single Government agency charged with broad authority.

"The Congress has vested certain authority over certain forms of communications in the Interstate Commerce Commission and there is in addition the agency known as the Federal Radio Commission.

"I recommend that the Congress create a new agency, to be known as the Federal Communications Commission, such agency to be vested with the authority now lying in the Federal Radio Commission and with such authority over communications as now lies with the Interstate Commerce Commission - the services affected to be all of those which rely on wires, cables or radio as mediums of transmission. It is my thought that a new commission such as I suggest might well be organized this year by transferring the present authority for the control of communications of the Radio Commission and the Interstate Commerce Commission. The new body should, in addition, be given full power to investigate and study the business of existing companies, and make recommendations to the Congress for additional legislation at the next session.

"Signed: FRANKLIN ROOSEVELT."

The Administration Communications Bill will be introduced by Senator Clarence C. Dill (Democrat), Washington, and Representative Sam Rayburn (Democrat), Texas, Chairmen of the Senate and House Interstate Commerce Committees. Mr. Rayburn said he expected to call hearings soon after his committee finishes its stock market sessions.

Notwithstanding that the Radio Commission would be abolished by the Administration, Representative Prall, of New York, who has just been appointed to the Radio Commission said that he expected to be confirmed and would resign from Congress as soon as necessary. This gave rise to the impression that he would be named to the new Commission or that the President had some other business in mind for him.

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RADIO WHOLESALING TRADE CODE WITHDRAWS DISPUTED SECTION

Last-minute withdrawal of a disputed section establishing discount schedules served to accord almost perfect harmony for a supplemental code of fair competition for the Radio Wholesaling Trade, presented at a public hearing.

Benjamin Gross, Chairman of the Code Committee of the Radio Wholesalers' Association, Inc., presented the Code and offered a number of minor amendments. Explaining his request to have the proposed discount schedules withdrawn at this time, Mr. Gross stated that the original intent was to have District Agencies determine fair schedules for various trading areas, and that the specific discounts set forth in the Code were merely "to test the proposed principle involved." However, he added, there had arisen "so much misunderstanding and misinterpretation of the constructive purposes underlying the plan" that the Committee felt early approval of the Code would be expedited only through eliminating this "major controversial issue."

Mr. Gross stated that his association of 294 firms represented 60% of membership in the trade and that these firms did 75% of the total annual volume of business, which had shrunk from \$425,000,000 in 1929, to some \$80,000,000 in 1933. Total employees in the trade, he testified, had decreased from 22,000 to 4,500 in the same period; and he estimated that the Code would increase employment between 30% and 50% this year.

James E. Aitken, President of the sponsoring association, stated that it was intended to have the Code cover sales of all apparatus for use in broadcast reception, but not to apply to sound equipment for theatres. It also was intended, he testified to prevent trade prices from becoming available to individuals or firms "who merely trade on a name", but to make them apply only to firms in a position to properly present and demonstrate a variety of radio instruments.

H. G. Erstrom, executive Vice-President of the Association, pointed out that the Divisional Code Authority would have its individual members chosen from zones representing various sections of the country, and that it would appoint each District Agency in such manner as to provide for administering the provisions of the Code "expeditiously, intelligently and economically."

Roscoe R. Howard, of the Zenith Radio Distributing Co., Chicago, spoke briefly in support of the proposed plan for protecting dealers; and David M. Trilling, of Philadelphia declared that the mandatory filing of price schedules with District Agencies would eliminate the "chiseling" now prevalent in the trade, and that consignment sales had been limited because they had been found "rarely, if ever" effective as a means of actually promoting trade. Mr. Trilling advocated the curtailment of "prize" campaigns.

Harold J. Wrape, Chairman of the Advisory Council of the proponent association, defended the proposed limit of 5% on contributions toward dealer advertising as designed to prevent wasteful expenditures "which must come out of the price of the product as paid by the consumer." Speaking to the proposed rules governing advertising, Mr. Wrape stated that these were sensible, and that "so much misleading advertising with respect to radio sets has appeared that the public has lost confidence in the honesty of radio merchandising."

Irving C. Fox, representing the National Retail Dry Goods' Association, declared that radio departments of large stores had suffered losses of 20% last year due to high service charges, and that the distributor should be "absolutely responsible" for the quality of radio merchandise he sold to the retailer.

Ernest F. Henderson and H. C. Smith, representing the World Radio Corporation of Boston, stated that curtailment of consignment sales would force out of business some 35 small dealers operating under a sales agency plan whereby their goods were consigned and their advertising paid for in consideration of their receiving a discount smaller than the customary dealer allowance. They asked that the Code be amended to provide protection for dealers of this type.

J. M. Skinner, President of the Philco Radio and Television Corp., Philadelphia, urged that sales promotion plans be continued without let-down throughout the year, and that wholesalers be permitted "to spend their money as they see fit" on legitimate sales promotion.

Thomas McGuire, representing the NRA Consumers' Advisory Board, stated that withdrawal of the discount schedule had overcome the greatest objection of his group to the proposed code. He insisted, however, that the Code was attempting to eliminate "cooperative organizations" in violation of a Presidential order prohibiting any such discrimination; and he objected to various proposed trade practice rules, including the prohibition of consignments.

Henry H. Collins, Jr., representing the NRA Labor Advisory Board, stated his Board would withhold approval of the Code until such time as the Research and Planning Division of the NRA had completed a study of wages and hours in the wholesale radio trade to determine whether the labor provisions of the approved General Wholesale Trade Code were satisfactory for application to this subdivision of the trade.

The Assistant Deputy Administrator requested the Code Committee to help expedite this survey, and the hearing was indefinitely recessed.

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GERMAN RADIO INDUSTRY MAKES PROGRESS DESPITE UNREST

Germany's radio industry made notable progress during 1933 regardless of the great political strife in that country, according to a report from the American consulage-general, Berlin.

At the end of the year, over 96 per cent of the available workmen's places in the industry were occupied, which represents an increase of 50 per cent over the preceding year. December, 1933, production was more than twice as large as during the corresponding month of 1932.

The turnover in the radio market showed continued progress as a result of the extensive promotion work of the Government, which above all brought about an increased demand for the standard low-priced model. During the last five months of 1933, the total turnover reached 1,100,000 receiving sets compared with 651,000 sets in the corresponding period of 1932.

The improvement in the domestic market during 1933, the report states, more than offset the continued drop in exports, which decline 33.6 per cent in value. The last year showed a change in the destinations for German radio sets sold abroad. Exports to Switzerland and France declined by about 50 per cent compared with 1932, while exports to the Netherlands and Belgium improved.

The number of subscribers to the federal radio broadcasting service has already passed the 5,000,000 mark. It is generally expected in Germany that this number will show a continued increase and reach 6,000,000 in the near future. The improvement in broadcasting brought about by the construction of the numerous new powerful stations, the report states, will no doubt favorably influence the radio market and both the German radio industry and the trade are looking for increased business in the current year.

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: BUSINESS LETTER NOTES :
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O.B. Hanson, manager of technical operations and engineering for the National Broadcasting Co., has just returned to Radio City after an inspection of NBC divisional headquarters in San Francisco, Denver and Chicago. During Hanson's two months' absence, NBC technical operations were in charge of George McElrath, operations engineer.

Leland S. Bisbee, of Jackson, Mich., who is also counsel for Sparks-Withington, addressed a group meeting held under the auspices of the NRA in Washington this week. Mr. Bisbee spoke in behalf of the Independent Aluminum Manufacturers as did Oswald F. Schuette, who is retained by that groups as well as by the National Association of Broadcasters.

"Western Union and Postal Telegraph have privately begun to fight the threat of Canadian Marconi to swipe a large slice of their American cable business", says a confidential (not for publication) note of James McMullin in the "National Whirligig" published by the McClure Newspaper Syndicate. "According to confidential sources they are willing to give up their contract with Canadian National and Canadian Pacific without a struggle provided the Canadians agree not to accept transatlantic business of American origin.

"American bankers and brokers who want cheaper Canadian rates may raise their own ante to counteract this move. Which-ever way the thing works out, Canada is sitting pretty. Lazard Freres - international bankers - are keenly interested in the situation."

Powel Crosley, Jr., now principal owner of Cincinnati's baseball team was an honorary pall-bearer at the funeral of the late John J. McGraw of the New York Giants.

The auditors who certified the accounts of Radio Corporation of America, state that although the audit of Radio-Keith-Orpheum Corp. and subsidiaries for 1933 has not been completed, they are advised by officers of the company that R-K-O will show a loss of \$3,341,714 for the year compared with loss of \$10,695,503 in 1932, according to the Associated Press.

Dun & Bradstreet, Inc., says the radio industry started 1934 "in the most favorable statistical position it has been able to achieve since 1930." It is "now on a more stable basis than at any time in its history, and fully capable of keeping pace with any other industry in the recovery movement." Inventories have been cut to nearly one-quarter their total of a year ago, distress merchandise has nearly disappeared and price cutting is less evident.

A financial report of the Ken-Rad Tube and Lamp Corp. and Subsidiaries follows: For 1933: Net profit after interest, Federal taxes and other charges, \$77,591, equal to 44 cents a share on 175,000 no-par shares of combined Class A and B stocks, against \$78,132, or 44 cents a share on combined Class A and B stocks, in 1932.

Sparks-Withington Co. - Six months ended Dec. 31: Net loss, after taxes and other charges, \$164,456, against \$200,996 loss in six months ended Dec. 31, 1932.

A revised edition of the Rules and Regulations of the Federal Radio Commission dated 1934, has been issued by the Government Printing Office, Washington, where it may be secured for 30 cents a copy. The contents of the edition are Part I, - General Rules and Regulations; Part II - Practice and Procedure; Part III - Broadcast Service; Part IV - Services other than Broadcast; Part V - Operator Licenses, and Part VI - The Radio Act of 1927, as amended, Annotated.

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RCA CUT LOSS BY \$551,492

The annual report of the Radio Corporation of America for 1933 shows a net loss of \$582,094 after all deductions, a decrease of \$551,492, from the net loss of \$1,133,586 in 1932. Surplus at the end of 1933 was \$9,269,091, against \$9,851,184 the year before and \$11,337,789 two years ago.

Gross income for 1933 was \$62,333,496, comparing with \$67,361,143 in 1932, a decrease of 7.5 per cent. The cost of doing business was reduced 8.1 per cent, however, and net earnings were \$3,655,285, against \$5,075,901.

The report refers to scientific progress made during the year, particularly with reference to the "iconoscope", through which outdoor and indoor scenes have been satisfactorily received and transmitted by television on an experimental and laboratory basis. The policy of refraining from definite prediction as to the time when television may be offered to the public on a commercial basis again was affirmed.

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