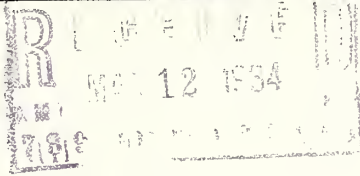


# HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.

**CONFIDENTIAL—Not for Publication**



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No. 705

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## RAYBURN LOOMS AS NEW HOUSE RADIO LEADER

It looks as if Representative Sam Rayburn of Texas, Chairman of the Interstate and Foreign Commerce Committee will be the dominating figure in the House in radio from now on. Since the election of Wallace White to the Senate, it has been Representative Bland, of Virginia, Chairman of the Merchant Marine Radio and Fisheries Committee.

Radio in the Senate has always been under the jurisdiction of the Interstate Commerce Committee but in the House it came under the Merchant Marine & Fisheries Committee due to the fact that wireless was first used in ships. As it developed into radio and broadcasting came into existence, the same group in the House continued to control but radio occupied so important a part of their work that the name was changed to Merchant Marine, Radio and Fisheries Committee.

Rayburn came into the picture with the introduction of the Communications Commission bill since telephone, telegraph and cable regulation has heretofore been lodged in the Interstate Commerce Commission and hence has been handled in the House by the Interstate Commerce Committee.

Representative Bland resented this invasion and moved that the Communications Commission bill be referred to his committee instead of Mr. Bland's. Finally the House was called upon to act in the matter. On a division demanded by the Virginian, the ayes were 108 and the noes 125. Whereupon Representative Bland demanded the yeas and nays but again lost, the yeas being 148 and the nays 213.

Considerable regret was expressed among the broadcasters at the prospect of Representative Bland losing radio jurisdiction.

"Representative Bland has made a thorough study of radio and acquitted himself with credit as a member of the American delegation to the North American Radio Conference in Mexico City", a broadcaster said. "It is a pity to lose him. Representative Rayburn, while very able and a fine chap, personally, knows nothing about radio and apparently is proud of it. He will have to learn from the ground up."

Representative Rayburn, a Democrat, was born in Tennessee in 1882. He was graduated from East Texas College and studied law at the University of Texas. Mr. Rayburn began law practice at Bonham, Texas. He served in the Texas House of Representatives for six years and was the Speaker the last two years. He has been a member of the 63rd to the 73rd Congresses (1913-1934) from the

4th Texas district and will be up for re-election next Fall.

The other members of the House Interstate and Foreign Commerce Committee now considering the Communications Commission bill are:

Democrats: Huddleston, of Alabama; Lea, of California; Crosser, of Ohio; Corning, of New York; Milligan, of Missouri; Bulwinkle, of North Carolina; Chapman, of Kentucky; Maloney, of Louisiana; Cole, of Maryland; Pettengill, of Indiana; Kelly, of Illinois; Marland, of Oklahoma; Kenney, of New Jersey; Sadowski, of Michigan; Monaghan, of Montana; Maloney, of Connecticut.

Republicans: Cooper, of Ohio, Mapes, of Michigan; Wolverton, of New Jersey; Wolfenden, of Pennsylvania; Holmes, of Massachusetts; Merritt, of Connecticut, Reece, of Tennessee, and Wadsworth, of New York.

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#### COMMUNICATIONS COMMISSION HELD PERIL TO PRESS

Senator Schall, Republican, of Minnesota, made another attack on the proposed Communications Commission as a menace to the freedom of the press. Also former Senator Reed, Democrat, of Missouri, held the same view.

Senator Schall said:

"I fear that the Senate bill to provide for the regulation of interstate and foreign communication by wire or radio, is in harmony with the purpose to centralize authority for control of all press dispatches, all press associations, all transmissions of news, and create another Federal bureau to place all interstate communication under the censorship and secrecy ban of a Federal autocracy.

"That is precisely what Mussolini did under his drastic press censorship edict that went into effect January 1, 1925. He quickly realized that his grip on the people of the self-governing communes could not be maintained under freedom of the press, the radio, and other instruments of public communication. Stalin had already done the same thing; and today Hitler and our own 'emergency' rule are doing likewise, despite the guaranty of our Constitution.

"What was the result of the Mussolini 'new deal' censorship? Even under a king, Italy, pursuant to her constitution, had 7,312 self-governing communes. Mussolini, under the secrecy ban of press censorship and control of communications, abolished every one of these 7,000 self-governing communes. By October, 1925, only 9 months after the press-censorship edict, even the municipality of Rome itself was deprived of self-government, and all Italy was directly subject to one man, Mussolini. The king



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and all his dukes had been placed on pensions provided by the loans of Wall Street. Every form of self-government had been abolished, because the people had no free press, no uncensored communication.

"In the radio censorship bill, even the utterances of a candidate for public office are subject to Federal license rules. Again the straw excuse is advanced that it is to protect the public from 'obscenity' and 'lewdness' in campaign speech. The reports of public investigations are subject to radio license. The contents of a referendum to voters are subject to license. All press despatches come under a Federal license law.

"A licensed press is not a free press. A licensed radio broadcast is not the freedom of speech guaranteed by article I of the Bill of Rights, drafted by the first Democrat, Thomas Jefferson.

"The existence of a daily newspaper or magazine depends upon its business office. The business of a newspaper depends upon its bank credit. Control of the banks means control of all business enterprises, including the newspaper business. This administration has already expended something like \$1,000,000,000 in the preferred stocks of over 5,000 banks. The other day the Chase National, formerly known as the 'Wiggins bank', issued \$50,000,000 of new preferred stock to be sold to the Treasury through the R.F.C.

"Thus the freedom of the American press under article I of the Bill of Rights is not only to be hog-tied by a press censorship code and hamstrung by a licensed radio and licensed control of interstate dispatches, but its financial existence is threatened by Federal ownership of the bank that has power to close down the newspaper."

Declaring that there is nothing so important in a democracy "as a free and fair dissemination of information", former Senator Reed, of Missouri, said that the freedom of the American press is endangered by the proposed Federal control of communications lines.

The extent to which the radio is controlled and influenced by the government was seen by Mr. Reed as an example of what would happen to the press if the government were to take control or possession of telegraph and telephone lines. He said that the plan would enable the administration to "influence and circumscribe the dissemination of news."

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## RADIO INDUSTRY PARTICIPATES IN PRESIDENTIAL CODE CONFERENCES

The radio industry was in the thick of it in participating in the Code conferences in Washington called by President Roosevelt and presided over by Gen. Hugh S. Johnson. There were preliminary sessions of the Broadcasting Code Authority Saturday and Sunday, advance arrangements for which were made by James W. Baldwin, Code Officer. The broadcasters later attended the group meetings and worked on a report having to do with broadcast technicians. Also a questionnaire was prepared which will be sent out seeking information with regard to radio artists and performers.

The Broadcasters' Code, according to Phil Loucks, of the National Association of Broadcasters, has been working exceptionally well and has been cited by the national Code Administration as an example to other industries. It is said that the Codes of the radio broadcasting and the oil industries have been two of the smoothest working Codes that have yet been devised.

Bond Geddes represented the radio manufacturers at their Presidential Code sessions. The manufacturers are under the Electrical Code which is now under revision and therefore were especially receptive to new policies and viewpoints. One thing they were interested in was whether or not the filing of prices by competitive manufacturers was to be continued. Mr. Geddes said this was still uncertain but that the practice might be continued in a modified form.

Another thing which the radio manufacturers were interested in was the possibility of resale price maintenance. It appeared that the NRA would not include this in the Code.

Also under consideration at the time of the Presidential conferences was the Code of the radio wholesalers which has yet to be submitted. The wholesalers were represented at the Conference by Ben Gross.

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## JUDGE RUTHERFORD PROTESTANTS AWAKEN SLEEPING RADIO BILL

A bill introduced by Representative McFadden, of Pennsylvania, to prevent discrimination of stations and networks in accepting political speeches or religious programs which doubtless would have slumbered peacefully throughout the session, has been revived to the extent that hearings will be held on it by the Merchant Marine and Radio Committee beginning next Thursday, (March 15). It is doubtful if the bill will reach a vote this session, maybe never, but the pressure brought by the Watchtower Society, Judge Rutherford's organization, has been so strong that Representative Bland, Chairman of the House Committee felt obliged to hold hearings on the bill.

Complaints that Judge Rutherford and his religious programs have been discriminated against have been pouring in on Senators and Representatives for the past month. It was estimated that petitions received in the House alone bore the names of no less than 2,400,000 signers.

The text of the McFadden Bill reads, in part, as follows:

"No person, persons, company, association, or corporation owning and operating a radio broadcasting station, and receiving and broadcasting radio programs for hire, shall discriminate in the use of such station in favor of a program of speech sponsored by any person who is a legally qualified candidate for any public office, and/or by any religious, charitable, or educational company, corporation, association, or society or any other like association or society, and against or to the exclusion of another person who is a legally qualified candidate for any public office, or of another religious, charitable, or educational company, corporation, association, or society chartered or licensed under the laws of the United States, because and for the reason that such person, religious, charitable, or educational company, corporation, association, or society holds and promulgates and advocates views contrary to those expressed in programs that have been broadcast.

"The owner, lessee, or operator of any broadcasting station contracting for or accepting and broadcasting radio programs for one legally qualified candidate for a public office, and for one class of religious, charitable, or educational company, corporation, association, or society, and refusing to contract for or to accept and broadcast for hire radio programs of speech offered for broadcast by another legally qualified candidate for a public office, or by any other religious, charitable, or educational company, corporation, association, or society within the provisions of this section, because or for the reason that such legally qualified candidate, or such religious, charitable, or educational company, corporation, association, or society holds or promulgates a contrary or different view from that which is expressed by the person or parties broadcasting programs, shall be deemed guilty of an unlawful discrimination. All persons, companies, corporations, or associations owning and operating a radio station who shall be guilty of a misdemeanor shall be punished by a fine of not less than \$500 nor more than \$5,000, and in addition thereto may be required to forfeit the license for operating such broadcasting station."

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#### BROADCASTERS SEE FOOD AND DRUGS BILL PASSAGE FADING

Odds seem to be growing each day against the passage of a food and drugs bill at this session. A new bill was introduced by Congressman Patrick J. Boland which was drawn by Arthur Kallett of the Consumers Research staff which contains the following reference to broadcasting:



An advertisement of a food, drug or cosmetic shall be deemed to be false if it shall include any claim or representation, directly or by ambiguity or inference concerning the effects, benefits, or uses of the food, drug or cosmetic, which has not been registered with and approved by the Board of Labeling, Packaging, and Advertising Control; Provided, That nothing in this sub-paragraph shall be deemed to apply to advertisements orally communicated through and from radio broadcasting stations if no claim or representation is made directly or by ambiguity or inference concerning the effects, benefits, or uses of the food, drug, or cosmetic.

A bill sponsored by Senator Patrick McCarran, of Nevada, and Representative Virginia Jenckes, of Indiana, provides that:

"No person acting in the capacity of publisher, advertising agency, radio broadcast licensee, or any commercial disseminator of advertisement for another is deemed in violation of the act because of his dissemination for another of a false advertisement by another. But if any such person willfully refuses or neglects to disclose the name and address of the party who caused him to disseminate any advertisement subject to investigation under the act, upon official request, he is guilty of a misdemeanor subject to a fine of not more than \$500 for each offense. This exception is not in the present act, because it does not apply to advertisements."

(McCarran-Jenckes Bill)

Faced with a seeming certainty that the bill/endorsed by drug and food manufacturers was definitely side-tracked in favor of Senator Copeland's latest measure, Charles Wesley Dunn, assailed Copeland and his bill with vigor.

"Senator Copeland has written into this bill a grossly unjust, unconstitutional and discriminatory exemption of three classes", Dunn charged. "It is not the publishers, but the advertisers who will be subject to this law. They have written in an exemption for themselves - the radio licensees, the publishers and the advertising agencies.

"Responsibility for violation remains with the billboard operators, street car and bus advertisers, and others. This provision could be taken to court and easily defeated. Exempt all or exempt none!"

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#### RADIO CONTINUES TO GAIN IN GREAT BRITAIN

Radio continues to gain in popularity in Great Britain, according to a report from the American Consulate-General, London.

During the month of January approximately 1,110,000 licenses were issued by the Post Office, representing an increase of 150,000 in the number of license holders after allowing for expired licenses and renewals.



The total number of radio licenses in force at the end of January, 1934, was 6,124,000 against 5,366,000 at the end of January, 1933, an increase during the year of 758,000.

The total number of radio sets in the United Kingdom, the report states, is now the highest in Europe. One person in every eight of the entire population of Great Britain and Northern Ireland is now a license holder. It is estimated that there are radios today in approximately 10 million homes, creating a potential radio audience of about 45 to 50 million people.

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### JUMBO COLUMBIA BROADSIDE OFFERS LARGER SUMMER AUDIENCES

A 16-page Jumbo "booklet", each page 1½ feet wide and 2 feet high (about the size of the New York Times) with boldface type sometimes as large as 1½ inches, is the medium chosen by the Columbia Broadcasting System to tell the world that Columbia "now offers to radio advertisers a larger Summer audience in 1934 than the largest Winter audience of 1931, 32, or 33."

"An 'Interesting Generality'?", the introduction to this huge "booklet", prepared by John J. Karol, Director of Market Research, of Columbia, interrogates and then answers. "Far more than that, when it is focused down to three specific points: Columbia offers advertisers a Summer 1934 radio audience - larger by 2,763,000 extra listeners than the peak Winter audience of 1932-33, larger by 5,940,000 extra listeners than the Winter of 1931-32 and larger by 10,119,000 extra listeners than the Winter audience of 1930-31.

"Those are positive statements. They rest on positive evidence. Some of this evidence is presented in the following pages. More of it (200 pages) is available upon request."

"Do you plan to be away from home on a vacation this year? How long a vacation? And when? Will you take a radio set with you? Or use one when you get there? - these were some of the question asked of 4,820 radio-owning families by 212 bonded investigators of the Ross Federal Research Service."

The remainder of the large "booklet" covers the following topics - "Typical Radio Family - Two Summer Portraits - Spanning Twelve Summer Months"; "Only 10 in Each 100 Radio Families Away on Summer Vacation"; "Your Summer 1934 Radio Advertising Dollars" (Showing how much more the 1934 dollar will buy than the Winter dollar of 1932 or 1930); "Summer Thrills for CBS Listeners" and "CBS Presents Radio Broadcasting Over the Columbia Network in Summer 1934 as the 'Best Advertising Buy' Dollar for Dollar, of any previous Summer or Winter Season."

Mr. Karol also sent a reprint of an article "The Eye versus the Ear" by Ken R. Dyke, Chairman of the Copy Testing Committee of the National Association of Advertisers, which

reviews a test made by Frank N. Stanton, Department of Psychology, of the Ohio State University. The experiment was conducted on 160 university students. The examinations were made 24 hours, 7 days, and 21 days after the presentation of the copy to each group.

The "Pure Recall" test consisted in writing as many as possible of the brand names remembered from the advertising copy that was heard and read.

For the "Aided Recall" test, lists were supplied of all the commodities advertised, with a blank space to be filled in with the correct brand name (i.e., \_\_\_\_\_ toothpaste, \_\_\_\_\_ coffee, etc.). In the "Recognition" test, similar lists were provided, except that following the name of each commodity, were four names from which the correct brand name (the one used in the experiment) was to be chosen.

Mr. Stanton summarized the tests in this manner:

Per Cent Auditory Superior to Visual

<u>Test</u>	<u>1 day</u>	<u>7 days</u>	<u>21 days</u>
Pure Recall	33%	118%	76%
Aided Recall	22%	87%	61%
Recognition	3%	8%	15%

Copies of the Dyke-Stanton article reprints may be had upon application to the Columbia Broadcasting System, 485 Madison Avenue, New York.

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HYGRADE SYLVANIA CHARGES RCA AND GE WITH MONOPOLY

The Radio Corporation of America and the General Electric Co. are charged with controlling radio patents in violation of anti-trust laws and court decrees in a 65-page answer to patent-infringement suits brought by these companies in Federal court in Trenton, N. J. against the Hygrade Sylvania Corporation of Massachusetts, manufacturers of radio tubes, the Associated Press reports, and continues:

"The answer, which amended a previous answer, was filed by former Federal Judge Hugh Morris of Delaware, representing the Hygrade concern.

"He cited agreements by which he asserted, General Electric, Westinghouse, American Telephone & Telegraph Radio Corp. and other domestic radio and communication patents were consolidated. By 1930 'the entire radio field, manufacturing, use and sale', was brought to a head in the Radio Corporation of America, he said.

(continued on page 12)

## SHARP OPPOSITION DEVELOPS TO DILL COMMUNICATIONS BILL

A broadside was fired at the Dill (Senate) Communications Commission bill by Henry A. Bellows, Chairman of the Legislative Committee of the National Association of Broadcasters at the Senate hearing Friday (March 9). Mr. Bellows said that the essential objection to the bill concerned itself "with just exactly ten words out of its total of 100 pages. These ten momentous words are "The Radio Act of 1927, as amended, is hereby repealed."

Mr. Bellows declared with emphasis:

"We submit that the intent of the President's message is perfectly clear; that the proposed commission is to take over the present authority of, the authority now lying with, the Radio and Interstate Commerce Commissions for the control of communications and that additional legislation on the subject is expressly advised to be reserved to the next session of Congress; after the Commission has had an opportunity for investigation and study.

"It is our contention that the Dill (Senate) bill does not conform to the terms of the President's message. By what we regard as in some instances fundamental changes in the present law relating to radio, it would vest in the new commission an authority quite different from the authority now lying with either of the existing commissions, and anticipate the action which the President has suggested for the next session of Congress, by materially modifying the law before the new commission has had any opportunity to make the investigation which the President recommends. It is on this basis, and on this basis alone that the broadcasters come before you in opposition to certain features of the Senate Bill."

E. O. Sykes, Chairman of the Federal Radio Commission advocated the repeal of the so-called "Davis Amendment" for the equalizing of radio facilities. Judge Sykes offered as a substitute the following:

"In considering applications for licenses, or modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such a distribution of licenses, frequencies, hours of operation, and of power among the several states and communities as to provide an equitable distribution of radio service to each of the same."

"With slight changes", the Chairman explained, "this is Section 9 of the Radio Act of 1927 prior to its amendment. Developments during the past few years have made it possible to accurately measure radio broadcast service.

"The provision of the Bill which contains the "Davis Amendment" is contrary to natural laws and results in concentra-



tion of the use of frequencies in centers of population and a restriction of facilities in sparsely populated states, even though interference would permit the operation of one or more additional stations. Because of the size of the zones this distribution results in providing ample broadcasting service in small zones and lack of service in large zones. Experience has proved that the section as proposed is very difficult of administration and cannot result in 'an equality of radio broadcasting service.' In the provision suggested, service is made an important criterion, making it possible to carry out the statutory provisions of public interest, convenience and necessity without artificial restrictions."

The only other witness at the Friday session was Frank McManamy, Chairman of the Legislative Committee of the Interstate Commerce Commission who testified that the Commission approved the consolidation of communications as proposed in the Senate bill. Mr. McManamy did not comment upon the radio provisions.

The hearing was continued until next Tuesday morning (March 13) at which time Messrs. Gifford, of the American Telephone Company, Sosthenes Behn, of the International Tel. & Tel., and White of the Western Union will be heard.

Because the hearings of the Senate bill will continue until that time, Representative Rayburn has cancelled the hearings on the House Communications Commission bill scheduled for Tuesday and they will be held at a later date.

Mr. Bellows objected to the provision in the Dill bill that no broadcasting channel shall be cleared for more than 2200 miles on the ground that it was technical question and one for the engineers rather than for Congress to pass upon.

"If Congress is going to change its entire policy with regard to radio by legislating on purely technical matters, why set up a Commission at all?" he asked.

Mr. Bellows protested against the provision of the Dill bill which would cut down the licensing period also revocation without hearing. The Legislative Chairman concluded with a strong argument against the elimination of the provisions for appeal to the courts from orders of the Commission.

"The new Commission is certain to have plenty of troubles without having to work out a new and untried course of legal procedure for dealing with radio problems", Mr. Bellows said. "We cannot believe that the President, in asking that such a Commission be set up, wanted it to come into being with such absolute authority as to deny in many cases the right of appeal to the courts. Such authority could be only a source of additional and wholly needless grief for the Commission itself. As for the broadcasting industry, this change in the law would apparently deny a right which is implicit in our whole system of government - the right to test administrative rulings in the courts."

: BUSINESS LETTER NOTES :

Because spots on the sun are returning in great numbers, stations on the Pacific Coast or halfway across the continent which have been coming in so clear all Winter, will shortly drop out of hearing, not to be heard again for seven or eight years with any such clarity as during the past Winter or two, declared Orestes H. Caldwell, former Federal Radio Commissioner speaking over WOR.

With the sun spots comes the outpouring of ultra-violet rays that break up the radio reflecting mirror, and make it a poor reflector of distant broadcasting stations. This means, Mr. Caldwell believes, that it will not be long before radio reception conditions return to the situation of "poor DX" which we had in 1928 and 1929, when long-distance broadcast reception was at a minimum.

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A new monthly fan magazine, RADIO, published in New York by the Tower group made its appearance March 1. Among the articles featured were "When President Roosevelt Broadcasts", by Herbert Corey; an interview with Mrs. Byrd, mother of Rear Admiral Richard E. Byrd, by Robert D. Heintz and program comments by Bing Crosby. The magazine is handsomely printed and illustrated and carries considerable advertising. Copies are on sale at all F. W. Woolworth stores for 10 cents.

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So successful have been the broadcasts of Elder Solomon Lightfoot Michaux, colored evangelist in Washington, over Station WJSV and the Columbia network, that he may soon hold a large revival meeting in Madison Square Garden.

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A favorable report may be expected soon from the House Merchant Marine and Radio Committee on the amendment to the Radio Act which would prevent programs originating here and sent to a foreign station being broadcast back into the United States. This was aimed at the Brinkly station, since closed down, but there are likewise other stations operating on the Mexican border which are sent across the Rio Grande from this country.

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Maj. Gen. James G. Harbord, Chairman of the Board of the Radio Corporation of America and Newcomb Carlton, Chairman of the Board of the Western Union Telegraph Co. have accepted membership on the Gallatin Memorial Fund Committee in New York. The fund will be used to erect a statue of Albert Gallatin, Secretary of the Treasury from 1801 to 1813, in Washington.

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Continuation of Hygrade-Sylvania story from page 9

"The Radio Corporation licenses 'third persons acceptable to it' by a standard form, which provides for a royalty of  $7\frac{1}{2}$  per cent on the gross selling price of the article, it was charged, and lowers the royalty if the licensee uses parts purchased from R.C.A. R.C.A. has collected \$7,000,000 annually from such royalties; each licensee must pay a minimum royalty of \$100,000 a year and licenses for manufacturing and sale of vacuum tubes is \$50,000 a year, the answer asserted.

Federal Court in Delaware restrained these companies in 1932 from making agreements to restrict the license freedom of any one of them, the answer said, and the Hygrade concern had been refused a patent license from G. E.