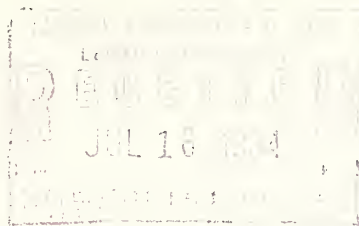


HEINL RADIO BUSINESS LETTER

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July 13, 1934.

COMMISSION BELIEVED BUCKLING ON SWORD FOR A. T. & T.

The appointment of a man the type of Paul D. P. Spearman as General Counsel by the new Federal Communications Commission, is believed to be the first step in what is predicted will be a very vigorous investigation of the American Telephone and Telegraph Company. It is freely prophesied that if and when the Commission's investigation of the Telephone Company gets under way, Mr. Spearman will play a leading part and the merciless cross-examining, for which he is known, may put his opponents sharply on the defensive.

There is a vast difference between Mr. Spearman's annual government salary of \$9,000, and that of the General Counsel of the A. T. & T. who receives something like \$60,000. It was said, however, the acceptance of the position of General Counsel of the Communications Commission by Spearman is a distinct sacrifice and that his private practice paid him several times the salary he will receive from the Commission.

Regardless of the size of his salary, Mr. Spearman is pointed to as one of the most brilliant trial lawyers in Washington, and according to a man well acquainted with his ability, "no one who has been cross-examined by Paul Spearman has yet asked for a return engagement. In my opinion, he is one of the best qualified men in the United States for his new position as General Counsel of the Commission."

Mr. Spearman is 36 years old, a native of Mississippi and came to Washington in January, 1929, to join the Legal Division of the Federal Radio Commission. He left his position with the Mississippi Railroad Commission to accept the position with the Radio Commission. He resigned as Senior Associate General Counsel of the Radio Commission in September, 1931, and reentered the private practice of law in Washington in partnership with Thomas P. Littlepage and John M. Littlepage.

While with the Radio Commission, Mr. Spearman acted as its chief trial counsel and was responsible for the handling of appeal cases. It is said he has tried more radio cases than almost any other man and that no case which he tried as ever been reversed by an appellate court.

While serving as counsel for the Radio Commission he was drafted by the United States Department of Justice to prosecute criminal violations of the Radio Act, having prosecuted the case of United States vs. Fellows at St. Louis, Missouri, in 1930. Fellows was charged with operating an unlicensed broadcast

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station, was indicted, convicted and sentenced to serve three years in Leavenworth Penitentiary, but was deported without being required to serve the sentence. This was the first indictment, trial and conviction under the Act. In every case prosecuted by Mr. Spearman, a conviction resulted, one who knows him said.

Mr. Spearman was active in Democratic politics in Mississippi before coming to Washington, having served as Chairman of his County Committee from 1920 to 1924 and as a member of the State Democratic Committee from 1924 to 1932. He actively supported President Roosevelt's nomination and rendered valuable assistance in this direction at the Chicago Convention. After the Convention he gave much of his time to furthering the election of the Democratic candidate for the Presidency.

Herbert L. Pettey, Secretary of the new Commission, a hold-over from the old Radio Commission, at the same time represents the Democratic National Committee in radio matters for which he has been widely criticized.

"Thus", one critic contended, "the ruling party's 'contact man' with the broadcasting companies is the Secretary of the Radio Commission which holds the power of life and death over every broadcasting station in the land.

"If the Secretary of the Interstate Commission were named by the Democratic National Committee to ask free passes for politicians on the railroads, the case would be analogous."

"By his selection of the personnel of the new Communications Commission, President Roosevelt makes it plain that he has no fault to find with the radio censorship that has existed, and wants the present political control continued and extended to telegraph and telephone", the New York Herald-Tribune writes editorially. "He retains the leading members of the old Radio Commission, as a clear indorsement of their policies. He adds no one of distinguished ability and in one of the Republicans named, Mr. George Henry Payne, he has chosen a politician unadorned. The President could scarcely have made his desire clearer to have Mr. Farley retain his supervision of the board through his Mr. Pettey."

Also Pettey, who is only 29 years old, is charged with being the middle man when allegedly at White House suggestion, the Commission changed its vote three times in the Shreveport case. When Louis Howe, Presidential secretary, got the Radio Commission job for Pettey, he is credited with having remarked that the White House thus would be able to keep track of what was going on in the Commission.

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Unless the Administration separates Pettey from the National Committee work, he will unquestionably continue to cause bricks to be heaved at the Commission. However, Pettey, who handled the radio arrangements in the Roosevelt campaign, is apparently so strongly entrenched with Farley that he can do no political wrong. Before the political good luck hit him, he was a salesman for RCA Phototone, Inc., later merged into RCA Victor. Pettey sold theatre talking picture outfits for the RCA in Kansas City, Detroit and Washington. Apparently now that he is in political life, this Radio Corporation part of his career has been stricken from the official record available at the Commission.

"Pettey probably doesn't want anyone to know he was ever connected with the trust", someone observed. He was also once a salesman for Metro-Goldwyn.

Mr. Pettey, a native of Kansas City, received his academic training at the University of Kansas. His office at the Commission is usually besieged by visitors political and otherwise and anyone who expects to wait to see Pettey is advised to take his lunch along.

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OLD COMMISSION SINGS QUOTA SWAN SONG

The last official act of the Federal Radio Commission was to give out a summary of broadcasting facilities assigned to zones and States so that the new Commission would know exactly where it stood. The summary follows:

	<u>State</u>	<u>Quota Units</u>		<u>Quota Units</u>
		<u>Due</u>	<u>Assigned</u>	<u>under or over</u>
ZONE 1	Connecticut	4.48	4.14	-0.34
	Delaware	0.67	0.53	-0.14
	D. C.	1.35	1.60	+0.25
	Maine	2.22	2.21	-0.01
	Maryland	4.55	5.55	+1.00
	Massachusetts	11.84	11.46	-0.38
	New Hampshire	1.29	0.93	-0.36
	New Jersey	11.26	9.36	-1.90
	New York	35.07	39.24	+4.17
	Rhode Island	1.91	1.40	-0.51
	Vermont	1.00	0.72	-0.28
	P. R.	4.30	1.10	-3.20
	V. I.	0.06	-	-0.06
	Total	80.00	78.24	-1.76

		Quota Units		Quota Units
State		Due	Assigned	under or over
ZONE 2	Kentucky	7.50	8.50	+ 1.00
	Michigan	13.89	11.02	- 2.87
	Ohio	19.07	20.94	+ 1.87
	Pennsylvania	27.63	27.41	- 0.22
	Virginia	6.95	10.55	+ 3.60
	West Virginia	4.96	5.83	+ 0.87
	Total	80.00	84.25	+ 4.25
ZONE 3	Alabama	7.37	7.02	- 0.35
	Arkansas	5.16	7.42	+ 2.26
	Florida	4.09	9.00	+ 4.91
	Georgia	8.10	9.11	+ 1.01
	Louisiana	5.85	10.90	+ 5.05
	Mississippi	5.60	3.40	- 2.20
	North Carolina	8.82	10.35	+ 1.53
	Oklahoma	6.67	8.54	+ 1.87
	South Carolina	4.83	3.05	- 1.78
	Tennessee	7.29	13.70	+ 6.41
	Texas	16.22	24.29	+ 8.07
	Total	80.00	106.78	+26.78
ZONE 4	Illinois	22.52	27.98	+ 5.46
	Indiana	9.56	8.97	- 0.59
	Iowa	7.30	12.93	+ 5.63
	Kansas	5.55	6.54	+ 0.99
	Minnesota	7.57	9.35	+ 1.78
	Missouri	10.71	12.79	+ 2.08
	Nebraska	4.06	7.83	+ 3.77
	North Dakota	2.01	3.30	+ 1.29
	South Dakota	2.05	2.89	+ 0.84
	Wisconsin	8.67	8.74	+ 0.07
	Total	80.00	101.32	+21.32
ZONE 5	Arizona	2.83	2.68	- 0.15
	California	36.86	40.87	+ 4.01
	Colorado	6.72	9.59	+ 2.87
	Idaho	2.89	3.25	+ 0.36
	Montana	3.49	4.05	+ 0.56
	Nevada	0.59	0.70	+ 0.11
	New Mexico	2.75	4.03	+ 1.28
	Oregon	6.19	9.91	+ 3.72
	Utah	3.30	6.60	+ 3.30
	Washington	10.15	15.76	+ 5.61
	Wyoming	1.46	0.80	- 0.66
	Alaska	0.38	0.48	+ 0.10
	Hawaii	2.39	1.94	- 0.45
	Total	80.00	100.66	+20.66

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DILL EXIT WOULD MEAN NEW COMMUNICATIONS CHAIRMAN

The announcement of Senator Dill at Spokane last week that he will retire at the end of his present term, January 1, 1935 (originally elected in 1922) will mean a new Chairman of the Senate Interstate Commerce Committee which has jurisdiction in the upper branch of Congress over communications.

Senator Dill, who was the co-author of both the Radio and Communications Acts, succeeded Senator Couzens as head of the Interstate Commerce Committee since the advent of the Roosevelt Administration. Ordinarily a change of chairmanship doesn't mean so much but in view of the fact that the Communications Commission is to submit a report to Congress in February and will probably initiate additional legislation, who the new Chairman of the Interstate Commerce Committee is to be will be of vital importance.

The next man in line to succeed Senator Dill is Senator Ellison D. Smith, veteran legislator from South Carolina. Senator Smith, now 70 years of age, is the second oldest Senator in point of service, being succeeded in length of service only by Senator Borah, of Idaho.

Inasmuch as Senator Smith previously has served as Chairman of the Interstate Commerce Committee and now is Chairman of the Senate Committee on Agriculture, coming from an agricultural state and agriculture being a subject very dear to his heart, the question is raised as to whether or not he would accept the Interstate Chairmanship.

In that case, the second person in line to succeed Senator Dill would be Senator Burton K. Wheeler, of Montana. However, Senator Wheeler is up for re-election this year with the usual chances of his face also being missing next session. If re-elected, and if accepting the Chairmanship, Senator Wheeler, a Progressive, would probably play even a more vigorous role, insofar as the Communications industry is concerned than did Senator Dill.

Senator Wheeler is Chairman of the Indian Affairs Committee, is ranking member of the Agriculture Committee, the chairmanship to which he would succeed if Senator Smith accepted the Interstate Commerce Committee, and is third in seniority on the Manufactures Committee.

In case Senator Smith declined the Chairmanship, and either Senator Wheeler declined it or was not re-elected, the third man in line would be Senator Rob Wagner, of New York.

Senator Wagner is Chairman of the Public Lands and Surveys Committee, third in line for the Banking and Currency Chairmanship, and fifth on the Foreign Relations Committee.

Senator Alben Barkley, of Kentucky, would be the fifth to succeed Senator Dill in the Interstate Commerce Chairmanship and Senator Neely, of West Virginia, the sixth.

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COMMISSION MEETS AGAIN TUESDAY

The Federal Communications Commission will hold its second meeting Tuesday morning, July 17th. The regular meeting days have not as yet been decided upon. In fact, little business was transacted at the first session on Wednesday, July 11th, which lasted only about thirty minutes.

The National Broadcasting Company and the Columbia Broadcasting System were given temporary authority to continue sending programs to Canada. The new law, aimed at Dr. Brinkley's station since closed down in Mexico, prohibits broadcasts originating in studios here being sent to foreign countries for the purpose of being rebroadcast in the United States. Brinkley maintained a studio just across the border in Texas where his broadcasts originated.

Judge E. O. Sykes, Chairman, said that for the time being the Commission was more or less studying the whole situation as a preliminary step towards organizing the different divisions in charge of the specific work set forth in the Communications Act. These groups will concern themselves with broadcasting, telephone and telegraph but Judge Sykes said he wasn't sure whether those would be two or three divisions and that the number would probably be decided at the next meeting.

The Commission, Judge Sykes said, had authority to regulate rates and he hoped if there were cases where they were too high, they would be lowered. However, such a thing could not be done immediately. As a preliminary step the Commission would first have to call for rates and charges now in vogue by the Communications companies and study them carefully to determine whether they are too high or too low. The matter of evaluations might take months, and maybe years. The opinion was expressed that the first six months' work of the Commission would be preliminary and more or less intangible, perhaps merely an assembling of facts.

Judge Sykes would not commit himself as to any proposed investigation of the American Telephone & Telegraph Company but said the law gave the Communications Commission the authority to investigate this company, as it did others, if the Commission chooses to do so.

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The first meeting of the Commission was cut short when an army of photographers and newspaper correspondents swooped down upon them. By the time the snapshotting and interviewing had been concluded, the luncheon hour had arrived and Judge Sykes called it a day by adjourning a week hence in order to give the new Commissioners a chance to "get their feet on the ground" and to accustom themselves to Washington's well known "summer resort" weather.

The Commission has taken over the Radio Commission quarters in the new Post Office Department Building at 12th and Pennsylvania Avenue. The telephone number, District 1654, remains unchanged, the switchboard operator when called responding "Communications".

The old seal of the Radio Commission has been brought up to date by adding telegraph poles and wires and has been adopted as the official Communications Commission seal. It also includes a carrier pigeon so that all forms of communication are taken care of.

All the personnel of the old Commission has been retained on a temporary basis for sixty days' at least.

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BROADCASTING CODE STILL UNDER ADVISEMENT

The NRA has not as yet been heard from with regard to the Broadcasters' Code on the labor and wage provisions.

While there is nothing tangible to base the opinion on, it is felt that there is a general let-down in the NRA during the present transitory state of its affairs.

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RAGUET BECOMES ASSISTANT NAVAL COMMUNICATIONS OFFICER

Commander E. C. Raguet has relieved Commander B. V. McCandlish as Assistant Director of Naval Communications of the Navy Department.

Commander McCandlish first served in the Office of the Superintendent of Naval Radio Service beginning in 1916, as District Communication Office, then again in charge of naval shore radio stations in 1927, and finally in 1932, as Assistant Director.

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Commander Raguet served as District Communication Officer, Fifteenth Naval District, beginning in 1915, and again in the Fourteenth Naval District in 1919; Communication and Radio Officer, Destroyer Squadrons, Battle Force in 1921; Communication Officer, Navy Department in 1924; Atlantic Coast Communication Officer in 1925, and as Head of Radio Division, Bureau of Engineering, in 1928.

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FEDERAL TRADE COMMISSION SUMMONS 12 RADIO ADVERTISERS

The Federal Trade Commission has summoned 12 national radio advertisers to appear in Washington next week to justify, if they can, what appears to be false and misleading claims in their advertising.

The names of the advertisers summoned have not been made public. They are the first radio advertisers to come under the provisions of an order recently issued by the Trade Commission.

Beginning July 1, all radio stations were requested to, and are now sending to the Trade Commission copies of all commercial broadcasts. These are being examined by the Special Board of Investigation, and all advertisers that appear to be making false or misleading statements over the air will be notified and proceeded against in the same manner as advertisers using newspapers and magazines to publish their advertisements.

"The spirit of the radio industry, so far expressed, discloses a sincere desire to cooperate with the Commission in eliminating false advertising, and they have every reason to give such cooperation", said E. J. Adams, Chief of the Special Investigation Board of the Trade Commission.

"The Commission thoroughly appreciates this fine understanding and cooperation on the part of the managers of radio broadcasting stations.

"For lack of information, the general public may not appreciate the work done, and being done by the Federal Trade Commission to maintain open channels of competition prevent fraudulent practices, and unfair methods, and protection of the buying public.

"Action by the Commission to put a stop to these offending advertisements over the air will be of great value to all radio station managers, and the industry as a whole.

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Unless this false advertising over radio facilities is ended, the value of radio advertising will be utterly destroyed, and the industry as a whole with a few rare exceptions, will suffer a great loss.

"The Federal Trade Commission has power to issue Cease and Desist orders against advertisers that are using unfair methods to induce the public to buy. Such orders are enforceable by the Federal courts.

"In recent years, over 600 radio stations have been organized, and are now in operation. Many advertisers that were refused space in magazines and newspapers have resorted to broadcasting their advertisements over the radio. If the buying public is to be protected, and listener confidence built up or maintained, false advertising on the air must be stopped.

"Thoughtful managers of radio stations realize the value of listener confidence, and only by having this are their facilities of value to advertisers. Competition between radio stations to secure advertising contracts is very keen. The stations need the revenue, and without it cannot survive. Therefore, it puts many managers 'on the spot' when advertising copy must be permitted to go on the air over his station, or refused, and the money he sorely needs, lost."

The Trade Commission hearings, such as the 12 radio advertisers will participate in, result in nearly every case in a stipulation that binds the advertiser to cease and desist making any false or misleading statement, and particularly to stop making the specific representations that are found to be misleading. Upon approval of such stipulations, the matter is closed without prejudice to the right of the Commission to reopen it at any time.

If the advertiser refuses to quit making the false representations found by the Commission to be false or misleading with the capacity and tendency to deceive the buying public, complaints are issued, and the matter is prosecuted in the formal way.

It was explained that less than three per cent of the cases handled by the Special Board of Investigation result in the issue of complaints. The rest are either closed without action, and the data filed for future reference or disposed of by stipulation.

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 ::BUSINESS LETTER NOTES::
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Former Gov. Norman S. Case, of Rhode Island, Republican, and personal friend of President Roosevelt, is one of the most distinguished of the new Communications Commissioners. Although of different height, he reminded one observer of John V. L. Hogan, noted radio engineer.

Fred Weber, Vice-President in Charge of Operations and Station Relations of the American Broadcasting System, has returned to his headquarters in the WMCA Building, New York, from a trip through the Middle West where he contacted stations and agencies on proposed extensions of the new network.

The application of Rev. C. C. Morris, of Ada, Okla., for a 100 watt station, to be operated on 1200 kilocycles, daytime hours, has been granted.

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SCHUETTE N.A.B. REPRESENTATIVE MUSIC CODE HEARING

The Music Publishers Code hearing has been set for Thursday, July 26th at the Washington Hotel, Washington, D. C. The broadcasters will file proposed amendments to the song plugging provisions of the Code and will be represented by Oswald F. Schuette.

Mr. Schuette also represented the independent aluminum interests in an action which resulted in the decision by which the United States Circuit Court of Appeals at New York reversed the acquittal of the Mellon aluminum monopoly at New Haven, Conn., last December, and ordered a new trial for the \$9,000,000 triple damage suit brought by the Baush Machine Tool Co., of Springfield, Mass.

"The aluminum decision marks a turning point in the enforcement of the anti-monopoly laws", said Mr. Schuette. "It does not only chart the route for the Government prosecution of this monopoly, as well as of all other violators of the anti-trust laws, but it makes plain and simple the rights which the victims of all trusts have to sue these monopolies for triple damages. No other decision in anti-trust history has swept away at one stroke so many of the technical barriers which monopoly lawyers have built in the lower courts to prevent private litigants from getting the protection which Congress gave them in the Sherman and Clayton laws."

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MACKAY RADIO GETS SITE OF 1,100 ACRES

An 1,100-acre tract, virtually the entire Arbuckle estate at Smithtown, L. I., has been leased by the Mackay Radio and Telegraph Company for the construction of a new and extensive short-wave wireless centre that eventually will become the "hub" of the organization's transmitting activities on the Atlantic seaboard, it was revealed by Ellery Stone, Vice-President.

It is expected that the new operating site will be "on the air" some time this Fall and gradually take over the operations of the Mackay plant at West Sayville, leased from the United States Navy Department.

"The plot at Smithtown will become the centre of all our transmitting activities on the Atlantic Coast, and will afford us adequate space to increase facilities in the expansion of short-wave domestic and international radio telegraph circuits", said Mr. Stone. "Extensive equipment will be installed. We will utilize high power and all the up-to-date apparatus, controlled by wire from the International Telephone and Telegraph Building, 67 Broad Street, thirty-eight miles from Smithtown.

"Tests are under way to examine the feasibility of installing an ultra-short-wave radio link between our New York operating room or central and the plant at Smithtown, to supplement or replace the wire lines."

The site is ten times as large as the present one at West Sayville.

"The transition from Sayville to Smithtown will require two or three years for completion", said Haraden Pratt, Vice-President and Chief Engineer, who will supervise the construction. "We will erect many short-wave aerials. Our receiving station will be continued at Southampton, L. I."

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