

# HEINL RADIO BUSINESS LETTER

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No. 757

*P. G. M. A. E. M.*

## COMPOSERS WELCOME COURT TEST, MILLS DECLARES

In an exclusive interview, E. C. Mills, General Manager of the American Society of Composers, Authors and Publishers, regarding the suit recently filed in behalf of the United States of America by the Attorney General under the Anti-Trust Laws, commented as follows:

"ASCAP welcomes this suit. It is quite as anxious as its opponents or the Government can possibly be to know whether it is operating illegally. For twenty years such a suit has been threatened, and during these same two decades, ASCAP has continued to function and in the interim has been investigated repeatedly by the Department of Justice, the Federal Trade Commission and other governmental agencies. It has also, during that time, been a litigant in the Federal Courts of nearly every jurisdiction and in the Supreme Court of the United States. It has had every right to believe, and it now believes, that it has functioned and is now functioning not only in a completely legal but as well, a decidedly laudable, manner. Naturally, we would feel so. And, just as naturally, our opponents no doubt feel otherwise.

"From the outset of broadcasting, ASCAP has continuously invited the broadcasting industry itself to establish a basic formula under which fees should be paid for the right to perform publicly copyrighted music. The broadcasters started out with a refusal to pay anything. When they were brought to book in the Federal Courts and it was held that a broadcast rendition was a 'public performance' and under certain circumstances 'for purposes of profit', they first began to threaten ASCAP with dissolution under anti-trust laws. The plain truth is that they did not want to pay anything and through the years have resisted every effort made by the composers and authors to collect a fair fee for the use of their works.

"It will serve no purpose for the copyright owners on the one side of this controversy, and the broadcasters on the other, to make faces and gnash their teeth at each other. Whether the copyright owners like it or not, or the broadcasters, the operation of broadcasting is going to continue and the copyright owners no less than the broadcasters will have to find some basis upon which they can deal with due regard to the just needs and activities of all parties.

"We were threatened with this suit as the alternative to making a rate for our license fee which would be agreeable to the National Association of Broadcasters. The NAB does not have authority to deal conclusively for one single broadcaster. Nor does it have any authority to approve a rate for one single broadcaster. It deals in generalities and the broadcasters themselves have not authorized the NAB or anyone else to speak for them in the final acceptance of a formula to govern the license fee rates, even if ASCAP were prepared to submit one. ASCAP has always been prepared to deal with dispatch and conclusively in behalf of all of its members and the many foreign societies with which it is affiliated.

"In April, 1932, ASCAP submitted to all of the broadcasters a basic formula. The NAB between April 11th and the middle of August fumbled around with the proposition and finally, apparently unable to reach any definite conclusion or to get its membership to agree as a unit upon some counter-proposition, reluctantly, did seem to sanction the three-year agreement which was then negotiated. It proceeded at once then to indulge in a campaign of vilification and to do everything it possibly could to estrange the copyright owners, to offend them, to make them feel that the broadcasters had their licenses under duress. As soon as this feeling became apparent, ASCAP invited the NAB and each and every of the broadcasters to name any station which was dissatisfied with its license and desired to cancel the same, and to this good day, no station has asked to have its license cancelled. Neither has any station ever asked that it be permitted to do business direct with individual copyright owners. However, ASCAP has not hesitated in every case where a station has indicated that it might possibly prefer so to do, to invite that station to cancel its license and to deal with the individual copyright owners.

"ASCAP has no need to worry about the outcome of this suit. It is perfectly prepared to abide the consequences, and as an individual who, in 1924, said 'Radio constitutes the greatest contribution that Science has made to Mankind; it will do more to give us a universal language; to make wars impossible; to bring about the true millennium more than anything that has happened in the World since the advent of the Christian Religion', I personally hope that the broadcasters have considered the situation that will result if the suit of the Government is successful, sufficiently careful not then to come crying for the organization of something to take its place. Its own so-called 'Radio Program Foundation' will never do it, or anything like it, because if ASCAP is found to be illegal, that Foundation will be found just as much so.

"The rights vested in the members of ASCAP under the Copyright Law are reasonable and in accord with the practice of civilized governments throughout the world. A great many broadcasters recognize these rights cheerfully, and not nearly so many broadcasters as professional propagandists would have us believe are discontented with the present arrangement. We know,



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because we have almost daily contact with them, and as individuals they often sing a different song from the tune called by those who assume to speak for them.

"I am glad to make this statement just prior to the forthcoming NAB Convention, that I think it would be healthy and useful if the true issues were frankly and openly discussed on the floor of the Convention. ASCAP has no wish to take part in the internal politics of the NAB but it knows a good deal about them and it would be sorry to see the rank and file of broadcasters subjected to the chaos and confusion that would result from a dissolution of ASCAP and a necessity for each broadcaster to deal individually with separate copyright owners. I know something of broadcasting, and of the 'headaches' that would be involved.

"Broadcasters this year will sell over one hundred million dollars worth of time to advertisers. They will sell this time only because of their use of music. Without using music for the bulk of their programs, they could not sell one-tenth as much time to sponsors. They might as well make up their minds that the copyright owners are going to be fairly paid for this use of their works - either through ASCAP or otherwise, make no mistake about that. These owners have no wish to be excessively paid - they want no more than it is right and fair that they should receive and they will not willingly accept anything less. Let the broadcasters not make the mistake of thinking that the individual copyright owners will not know their rights if ASCAP is dissolved or that there will not be some machinery set up to police the situation for them. Composers and authors are by no means powerless. They know their rights. Knowing them, they have no wish to assert them harshly or unfairly, and no purpose is served by threatening them or indulging in invective or vituperation.

"To the extent that he is interested in this music copyright situation, let every broadcaster take to heart this plain and simple statement - that the musical copyright owners realize that the broadcasters are amongst their best customers and they are anxious to deal with them fairly and equitably and with due regard for their situation no less than with a determination that the composers and authors shall be fairly paid for their contribution to this tremendous operation.

"And, without betraying confidences, it may be said that in informal conferences during the past few months had by representatives of ASCAP and NAB respectively, I personally feel that substantial progress has been made toward a solution of the problem. No solution whatever will derive from the outcome of the pending Federal suit, either one way or the other. If ASCAP wins, we are left precisely where we were. If ASCAP loses, 'Confusion twice confounded' will result.



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"I close this interview by expressing the hope that the so-called 'little fellow' amongst the broadcasters may have a real voice in the councils of the organization before it commits itself to other steps as foolish as I deem its pressure upon the Government to bring this suit to have been."

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### RECENT OLYMPIA, ENGLAND, RADIO SHOW SUCCESSFUL

The annual radio show held at Olympia, England, during August under the auspices of the Radio Manufacturers' Association was considered by the trade to have been most successful, Assistant Trade Commissioner Henry E. Stebbins, London, has reported.

Attendance during the nine days of the show totalled 240,143 compared with 202,000 last year, while sales concluded were valued at approximately £29,500,000 compared with £22,563,000 a year ago, the report stated.

Although there are but 124 manufacturers listed as members of the Radio Manufacturers' Association, 213 manufacturers exhibited their merchandise on 300 stands.

The chief features of the receiving sets exhibited at this year's show included noise suppressors, controls by which selectivity can be increased or reduced, all wave devices, twin loud speakers to increase the range of sound reproduced, tubes with clips instead of pins, and battery operated high-frequency pentodes, hitherto available for electric sets only, the Assistant Trade Commissioner reported.

The British Broadcasting Corporation and the General Post Office cooperated in the exhibition, the former providing a theatre in which visitors could witness actual radio broadcasting and the latter exhibiting a film display and a physical display.

The show was moved almost in entirety to Glasgow, Scotland, from which point it will later be transferred for exhibition at Manchester.

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## CENSORSHIP SEEN IF EDUCATIONAL AND RELIGIOUS PROGRAMS FAVORED

An argument to be made by the broadcasters when the Federal Communications Commission considers October 1st whether a certain percent of the radio facilities should be allocated to educational, religious and other non-profit making stations, is that if this is done, it will amount to censorship of programs.

"The minute the Government starts saying what sort of a program is to be broadcast, it opens the door wide open for censorship", a broadcaster observed. "It raises the question as to whether the Radio Act means to control the type of program broadcast or simply the mechanical facilities.

"The minute Congress starts allocating frequencies for religious, educational or any other type of program, there will be no stopping. It is not a question of whether 10%, 25% or 50% of the radio facilities are to be allocated. It is not a question of the amount because the principle is just as bad if it were only 1%."

Broadcasters are being urged to make a bitter fight at the October meeting because if the Communications Commission recommends in favor of additional frequencies for religious and educational stations, it may mean that commercial broadcasters will lose some of their choice frequencies.

"The broadcasters do not realize apparently, that from this general hearing, Congress may be expected to formulate future policies with respect to the American broadcasting system", said Henry A. Bellows, Chairman of the Legislative Committee of the National Association of Broadcasters, in an effort to arouse them to the seriousness of the situation.

"They do not realize that the Commission is required by law to report to Congress its recommendations for new legislation."

Mr. Bellows said that in addition to representatives of the networks telling their story in their own way, a number of individual broadcasters would testify.

It was said at the National Committee on Education by Radio, advocates of more time on the air for educational stations, that a meeting would be held September 24th to determine who will represent them. It is expected that this may be Joy Elmer Morgan, of the National Education Association, Armstrong Perry, or Dr. Tracy F. Tyler, the latter two being officials of the Committee on Education by Radio.

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Owing to the reported illness of Rev. J. B. Harney, Superior General of the Paulist Fathers, whose complaints were directly responsible for the hearing, it is doubtful if he will be present, but if not, the Paulist Fathers will unquestionably send a representative to take his place.

If the Communications Commission should recommend to Congress that a certain percentage of the radio facilities should be allocated to education and religious institutions, they will face the perplexing situation, according to the broadcasters, of having to define what "religious" and "educational" broadcasts really are.

"There would be enough differences of opinion as to what should constitute a religious broadcast, but they would be as nothing compared to the different views on educational broadcasts", Mr. Bellows said. "At least in the matter of religion you have certain well defined groups - you have the Roman Catholic Church, you have the Episcopal Church; you have groups you can define. But you cannot do that in education. There are just as many different views on education as there are educational institutions, and I am prepared to say, as many as there are individual teachers."

"What is meant by 'education' in the domain of radio?" Charles N. Lischka of the National Catholic Educational Association, a member of the National Committee on Education by Radio, asks and answers, "By education in the air we mean primarily the same that we mean by education in school - we mean the broadcasting of such material as is ordinarily presented in regular educational establishments, although the method of the studio necessarily differs from the method of the classroom. Moreover, we have in mind primarily the education of youth, and adult education only in a secondary sense. Those schoolmen who hold religion to be inseparable from education would logically, under proper conditions, put religion on the air in an educational rather than a commercial setting.

"For several years radio has been used successfully as a supplement to the school. The most notable example is the work of the Ohio School of the Air, under the direction of the State Department of Education. Another important venture is the American School of the Air in New York. A number of city school systems broadcast locally. About fifty colleges and universities maintain broadcasting stations. Five of these stations are Catholic, namely: WWL, Loyola University, New Orleans; WEW, St. Louis University; WHAD, Marquette University; WHBY, St. Norbert College, West De Pere, Wis.; and KGY, St. Martin's College, Lacey, Wash."

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## VAS YOU EFFER IN ZINZINNATI?

The National Association of Broadcasters will hold the most important convention in its history at Cincinnati beginning Monday, September 17th. The news broadcasts, the Broadcasters' Code, the government suit against the American Society of Composers, and the October 1st hearing of the Federal Communications Commission on religious and educational programs will be among the live topics discussed.

Cincinnati, noted for its hospitality and as the home of WLW, the world's most powerful broadcasting station, will run out the red carpet. Philip G. Loucks, Managing Director of the NAB, predicts a record-breaking attendance.

The Association meetings end Wednesday afternoon but it is hoped that enough broadcasters may be persuaded to remain over until Thursday morning to attend a session devoted entirely to a discussion of the Broadcasters' Code.

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## RADIO ADVISORY COUNCIL TO MEET IN CHICAGO

October 8 and 9 are announced as the dates for the forthcoming annual assembly of the National Advisory Council on Radio in Education which will be held in Chicago. Five sessions will be at the Drake Hotel and one in the Hall of Science at the Century of Progress Exposition.

"The Importance of Radio Broadcasting in a Changing Social Order" is to be the general subject of the conference. Among the speakers will be Secretary of the Interior, Harold L. Ickes; Dr. John H. Finley, Associate Editor of the New York Times; Walter Damrosch; John Erskine; President Robert M. Hutchins, University of Chicago; President Walter Dill Scott, Northwestern University; Dr. Frederick P. Keppel, President of the Carnegie Corporation of New York; President Robert M. Sproul, University of California; President Lotus D. Coffman, University of Minnesota; Colonel Frank Knox, publisher of the Chicago Daily News; Dr. Harry Woodburn Chase, Chancellor of New York University, and others.

Carl H. Milam, Secretary of the American Library Association, is Chairman of the Committee on program which includes Levering Tyson, Director of the N.A.C.R.E., President Hutchins and President Scott. Private versus government control of radio will be one of the live topics of discussion. Robert A. McMillan, President of the Council, will open the conference with greetings transmitted by short wave from London.

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## BROADCAST ADVERTISING SHOWS DECLINE

Broadcast advertising in July totaled \$4,375,463, a decrease of 19.2% as compared with June, the National Association of Broadcasters reports. National spot volume decreased 31.4% as compared with June, national network business 22.9%, regional network volume 9.0%, and local advertising 17.1%. Time sales in July were 37.6% below the March peak. It is probable that this decline is slightly greater than the usual seasonal one. National spot advertising showed the most pronounced seasonal decline, dropping to approximately one-half its March volume.

Total broadcast advertising volume during July was 11.6% greater than during the same month of 1933. National network advertising was 37.8% above last year. Regional network volume experienced a similar increase, while national spot volume rose by 4.4%. Local advertising declined 20.4% as compared with July, 1933. Lagging retail trade and the slow revival of many small businesses undoubtedly have been to blame.

The July seasonal decline in broadcast advertising was somewhat less than that experienced by other media. Magazine volume dropped approximately 30.0%, farm paper volume 27.0%, and newspaper advertising 22.0%. Magazine advertising volume in July was 25.1% greater than in 1933. National farm papers registered a 44.0% increase over the previous year and newspapers an increase of 6.2%.

Heaviest declines in non-network advertising during the month occurred in the over 5,000-watt station class. July revenues of these stations were 36.0% less than in June. Revenues of stations of the 250-1,000-watt class were 14.1% lower than in the preceding month, and those of 100-watt stations 9.0% less. Low-power regional stations and local stations were in a slightly better position than in July, 1933, while other classes of stations were somewhat below the level of the previous year.

The Mountain-Pacific Coast area alone recorded gains during the month, time sales in this section increasing 4.4% over June. Far Western revenues were 41.1% above last July, while those of the South Atlantic-South Central area showed an increase of 22.0%. Advertising in the New England-Middle Atlantic district was 11.6% above last year, and that of the North Central area 5.6%.

Electrical transcription volume declined 18.9% during the month, dues principally to a dropping off of local business. Live talent volume declined 16.5%, record volume 50.0%, and spot announcement volume 8.4%.

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## SALES AGREEMENT REPORTED AIDING GERMANY RADIO TRADE

The receiving set sales agreement arranged between the Radio Equipment Manufacturers' Organization and the various radio dealers associations of Germany in 1933, has now been renewed and will continue in force until December, 1935, according to a report by Vice Consul C. T. Zawadzki in Berlin.

The sales agreement has, in general, had a favorable effect on the conditions in the German radio industry and trade, having resulted in better ordered discount rates and the elimination of alleged unfair trade practices, the report stated.

One favorable effect of the sales agreement has been the reduction in the number of dealers in radio receiving equipment, it was stated. It has been estimated that there were approximately 60,000 retailers and 1,500 wholesalers of radio receiving sets in Germany at the beginning of 1933 among which were numbered many unemployed persons who retailed sets from house to house.

The registration policy for the retail trade contained in the agreement resulted in reducing the number of retailers to about 37,000 while wholesalers were reduced in number to approximately 750, the Vice Consul reported.

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## CALLS FORD LICENSE CANCELLATION CRACKDOWN

Among other things in his alleged proof of his censorship accusations against President Roosevelt, Senator Thomas D. Schall, of Minnesota, said:

"On the 'first day after the Communications Act was passed, the Radio Commission issued against the three radio stations of the Ford Motor Company - stations used for S.O.S. signals to ships on the Great Lakes in time of storm and as light beacons for airships of the Ford company and the general public - a report recommending cancellation of their charters. This is in revenge because Ford refuses to carry a Blue Eagle and subject his business to the dictatorship of 'Crackdown' Johnson."

Senator Schall reiterated the charge that the Communications Act gave the government control of the radio and wire communications.

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## HARRY A. WOODMAN NAMED KDKA GENERAL MANAGER

Harry A. Woodman, veteran broadcasting executive, has been made general manager of KDKA, Pittsburgh. Woodman, who for years has been traffic manager of the National Broadcasting Company, succeeds William S. Hedges, who some months ago was named manager of owned and operated stations of the NBC.

The new KDKA general manager, a native of Portland, Maine, was graduated from Bates College. He became interested in the possibilities of radio during the early days of broadcasting, and joined the staff of WEAJ, then owned by the A.T. & T. in 1925, as sales and station contact.

He assisted in the formation of the first experimental networks and when the NBC was formed in 1926, taking over WEAJ among other stations, Mr. Woodman joined the new organization as traffic manager, a post which he has held ever since.

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## ANOTHER LAWYER FOR FCC

A. L. Stein, of Chicago, has been appointed to serve in the Legal Division of the Federal Communications Commission. Mr. Stein was born in Eveleph, Minn., is a graduate of Harvard, and has been teaching in Chicago on the subject of public utilities.

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## APPLICATIONS RECEIVED BY BROADCAST DIVISION, FCC

September 12 - WMAL, National Broadcasting Co., Inc., Washington, D. C. modification of license to use present licensed main transmitter as auxiliary and present licensed auxiliary as the main transmitter; A. L. Chilton, Kilgore, Texas, C.P. to erect a new broadcast station to be operated on 1200 kilocycles, 100 watts, unlimited time; WAMC, Raymond C. Hammett, Anniston, Ala., modification of C.P. authorizing rebuilding of station requesting approval of transmitter site, installation of new equipment and extension of commencement and completion dates; Leo J. Blanchard, Fredericksburg, Texas, C.P. to erect a new broadcast station to be operation on 1220 kilocycles, 250 watts, sharing time with WTAJ; Clinton Broadcasting Corp., Clinton, S. C. C.P. to erect a new broadcast station to be operated on 1120 kilocycles, 500 watts, daytime amended to request 620 kilocycles, transmitter site to be determined; Maynard Dowell, San Diego, Cal., C.P. to erect a new broadcast station to be operated on 1150 kc., 100 watts, unlimited time.

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## EUROPEAN RADIO NOT SUITED TO U.S., ANNOUNCER FINDS

Americans would not be happy under any of the broadcasting systems now in vogue in Europe, John S. Young, National Broadcasting Company announcer, declared on arriving in New York recently after an extensive survey of broadcasting methods in Europe.

Mr. Young, only NBC announcer with a Doctor of Laws degree, has just returned from Oxford University, England, where he went at the invitation of the Warden of the King's English to deliver a series of lectures on American speech. He also engaged in research at Cambridge University and made an intensive study of British broadcasting.

From his observations abroad, Young concludes that "the test by which any national system of broadcasting must stand or fall is whether the nation caters to the needs of its own listeners and adequately fulfills their distinctly national characteristics of mind and enjoyment in terms of the national culture."

What is good for one country in radio broadcasting may not be good for another because of differences in social structure and traditions, the announcer pointed out.

German broadcasting, Mr. Young said, has changed from an aggregation of privately owned companies into a publicly-owned system which takes its instruction from the Minister of Propaganda.

Russian broadcasting, while furnishing excellent music, exists to inculcate Communist ideals among the people, he observed. As for France, there is a "mixture of elements, some analogous to England and some to America." Both direct government operation of broadcasting through the Post Office and operation by private companies are in force in France.

Mr. Young is of the opinion that "the people of this country would not be happy under any broadcasting system in vogue in Europe."

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## NEW APPLICATIONS GRANTED BY TELEGRAPH DIVISION

September 12 - Associated Press, Portable-Mobile, 2 C.P.s, frequencies 31100, 34600, 37600, 40600 kc., power 0.5 watts, also licenses covering same; City of Springfield, Ohio, Portable-Mobile (2 applications) C.P. frequencies 30100, 33100, 37100, 40100, 86000 to 400000, 401000 kc. and above, 9 watts; United Press Associations, Portable (2 applications), C.P. (Exp. Gen. Exp.) 27100, 31100, 34600, 37600 kc., power 0.5 watts, also licenses covering same; Bell Tel. Labs., Inc., Portable-Mobile used principally in State of N.J., license 30000 to 56000, 60000 to 86000 kc., 1 KW power.

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