

HEINL RADIO BUSINESS LETTER

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No. 830

STATE COURT HOLDS BROADCASTING INTRASTATE COMMERCE

In what was probably the most important decision of the year, so far as commercial broadcasting is concerned, the Supreme Court of the State of Washington reversed the lower court in the case of Fisher's Blend Station, Inc., KOMO, Seattle, versus the Washington State Tax Commission, holding that broadcasting is intrastate commerce for the purposes of taxation. This information was received by Henry A. Bellows, of the National Association of Broadcasters in a telegram from the West Coast. It was a five-judge decision with one judge dissenting.

The litigation began when the State of Washington included broadcasting among the industries upon which a general sales tax was imposed. When the State endeavored to collect from Station KOMO, that station secured an injunction restraining the collection. A lower court made the injunction permanent and the Tax Commission appealed to the Supreme Court of the State.

The case was argued at great length and very ably on both sides. The decision came as a great surprise to the broadcasters and was considered most unfortunate as it had seemed that their arguments were unanswerable.

In view of the precedent the decision sets, and the country-wide importance of the case, it seems assured that it will be appealed to the United States Supreme Court.

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R.M.A. EXECUTIVE BELIEVES CODE BLOW-UP HELPS EMPLOYEES

Larger pay envelopes for many radio employees were an immediate and beneficial result of the Supreme Court's decision annulling all NRA codes, including the electrical manufacturing code under which radio manufacturers have been temporarily operating, in the opinion of Bond Geddes, Executive Vice-President of the Radio Manufacturers' Association.

Compulsory compliance under the Electrical Code having terminated, radio manufacturers will not be requested by the Code supervisory agencies and are not obligated to file the labor and other statistical reports. At the RMA convention in Chicago June 11-12, the many important pending problems and future procedure will make the meeting of unusual importance.

Members of the RMA will consider the voluntary continuation of procedure under the Code which has been helpful. This will include possible voluntary continuation of price-filing by set and other manufacturers if desired, collection by the RMA of industry statistics and other procedure.

"Relieved from the 36-hour minimum weekly restrictions of the Electrical Code, some radio manufacturers immediately instituted a 40-hour week for their employees", Mr. Geddes set forth in a bulletin to members. "The Electrical Code was one of very few codes restricting employees' hours to a maximum of 36 hours a week and was one of the most severe code handicaps under which radio manufacturers operated. Overtime restrictions of the Electrical Code also were removed.

"Another immediate effect for radio manufacturers of the Supreme Court decision was to suspend the many Code reports required, including monthly labor reports, sales and other statistical reports and special reports of 'emergency' and 'seasonal or peak' overtime. These code restrictions were ended as the radio industry enters its seasonal peak operations.

"The RMA may salvage from the Code wreckage the beneficial features of Code operations, including the open price-filing system of set manufacturers and also radio industry statistics. Future operations, however, would be under the RMA independently and without connection with National Electrical Manufacturers' Association, the Electrical Code authority.

"Set manufacturers have been requested to voluntarily continue filing all their prices with Arthur T. Murray, Chairman of the RMA Set Division and Code supervisory agency for set manufacturers.

"Compulsory powers of NRA and NEMA, the Code Authority, having ended under the Electrical Code, there will be no future Code reports by radio manufacturers or Code relations with NEMA.

"RMA members are fortunate in exemption from any Code assessments or expenses. All of these have been carried for Association members from the Association's treasury. In the case of other codes, there is discussion of liability by Code Authorities for return of assessments now asserted to be illegal in view of the unconstitutionality of the Codes.

"The Manufacturers' Association emerges from the Code operations with a larger membership, a stronger and more stable organization, with complete industrial independence as a result of past policies followed by the Board of Directors and its Code Committees, and with independent position to continue its service to the industry.

"While the future plans of the Administration, Congress and NRA remain at the present date unsettled, there is no uncertainty regarding the termination of the Electrical Code so far as compulsory compliance is concerned. The Supreme Court held that 'manufacturing' is intrastate commerce and apparently this removed radio manufacturing from any future Code and also probably much other legislation pending. The labor problem is the most difficult and important. Labor organizations have immediately turned to the 30-hour week bill of Senator Black and to the Wagner Labor Relations Bill but with the outcome, and their constitutionality also, uncertain."

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COMPOSERS-BROADCASTERS AGAIN FAIL TO AGREE

Apparently another impasse has been reached in the exchanges between the Broadcasters and the Composers. After the rejection of several suggestions by both sides, the Composers have turned down the final proposal of the Broadcasters that the licensing agreement be continued on the present basis to await the outcome of the Government anti-trust suit against the ASCAP. Just what the next move will be is not known, but there is still time as a temporary extension of the copyright agreement is now in force until December 31.

At the recent meeting in New York between the Composers and Broadcasters' Committees, the former proposed a 5-year extension of the present contracts with one modification, that each station pay 5% of the card rate of stations for chain as well as local programs. For instance, if WBAL, in Baltimore were getting \$50 from the chain for carrying the program, but the program were actually sold for \$250, ASCAP would get 5% of \$250 rather than 5% of \$50. The Broadcasters rejected this proposal.

Then the Broadcasters proposed a system of measured service in accordance with what the Government is seeking in the present suit. This was unacceptable to the Composers. Then the Composers offered a 5-year extension of the present contract, with minor modifications, but the Broadcasters did not agree to this.

Finally, the Broadcasters proposed an extension of the present contracts until the termination of the ASCAP Government litigation. E. C. Mills, General Manager of the Composers, called a meeting of the Board on this, but Friday (May 31) notified Philip Loucks, Managing Director of the NAB, that the proposal had been rejected.

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DRUG BILL WOULD CARRY LARGE ADVERTISING REGULATORY POWERS

Although liability for false advertising in the Copeland Food and Drug Bill, as it passed the Senate, would rest on the manufacturer who furnished the advertisement, and would affect publishers and broadcasters only insofar as they would be required to furnish the name of the party supplying the "ad", the Bill was apparently looked upon without enthusiasm by the broadcasting industry.

"While it has been modified to meet the objections of the broadcasters to such a point that there is nothing they could logically object to", said Henry A Bellows of the National Association of Broadcasters, "yet the Copeland Bill is clearly objectionable in that it sets up the general machinery for a new Government bureaucracy with vague but broad powers to regulate advertising."

Modified to overcome sharp Senate objections, but still rigidly regulating the manufacture, shipment and sale of foods, drugs and cosmetics, the Copeland Pure Food Bill last Tuesday unexpectedly slipped through the Senate without a dissenting voice.

Passage followed complete rout of a more drastic measure, sponsored last session by Undersecretary of Agriculture Rexford Guy Tugwell, and apparent sidetracking of more limited regulations at the present session.

The approved measure conferring wide powers on the Secretary of Agriculture, and reputedly carrying the endorsement of President Roosevelt, now goes to the House, where the Interstate Commerce Committee will open hearings in a few days. House passage was generally forecast by Senate sponsors.

False advertising would be punishable only through civil action in district courts, with a maximum \$1,000 penalty, if the violation did not involve danger to health, gross deception, or was established only by opinion evidence. In cases of wilful violation, however, maximum penalties of \$10,000 or three years' imprisonment were provided.

The revised bill sets out a short list of a half-dozen diseases for the treatment of which no so-called curative drug or device may be advertised. The list includes Bright's disease, cancer, tuberculosis, infantile paralysis, venereal diseases, heart and vascular diseases.

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FATHER COUGHLIN BRINGS IN 50,000 TELEGRAMS IN DAY

There have been many guesses as to the extent of the telegraphic deluge which Father Coughlin brought upon the Senate in connection with the bonus vote, but the first official expression on the subject is from George Henry Payne, Federal Communications Commissioner, who said:

"Anyone who believes in a democratic form of government cannot help but welcome gladly the addition of radio to methods of informing the people of the country on their Government and on public questions. Only a week ago there was an extraordinary evidence of its power when members of the Senate were deluged with 50,000 telegrams in one day as a result of a speech delivered the night before by Father Coughlin.

"I do not believe that any harm will come to the American Republic or the American people by the discussion of public questions and whether we are in sympathy or not with the ideas of the person who has the power to express himself with clarity over the radio, we must admit that in our form of Government the greater the number of people that are informed and stirred to take an interest in public questions, the safer are the foundations on which this Government is laid."

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TYPHOONS MAKE FILIPINOS WANT WIRELESS INSTEAD OF WIRE

The Secretary of Public Works and Communications in the Philippines is preparing a bill to be introduced into the next session of the Legislature in July to appropriate money for the installation of a new radio-telegraph service to replace the present telegraph service throughout the Islands. It is not certain just how large an appropriation will be required, Trade Commissioner J. Bartlett Richards, in Manila, reports, but it will probably be between P250,000 and P500,000. The plan contemplates the establishment of radio stations at the principal centers throughout the Islands, including stations at Brooks Point, Palawan, and Sitangki, Jolo, to combat smuggling of aliens. New transmitting and receiving sets would be purchased. The Secretary of Public Works and Communications is convinced that the radio service could be operated more economically than the telegraph service and that it would also be more reliable, being less vulnerable to typhoons.

This plan for installation of a beam radio service has no connection with the proposed plan, which it is believed will ultimately be realized, for installing a Government-owned broadcasting system for purposes of propaganda and instruction or, alternatively, taking over the broadcasting stations already in operation.

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CONTINUED GAINS RECORDED FOR RADIO SET SALES

New designs and improvement, augmented by the most entertaining programs that broadcasting companies ever have devised, are the leading factors which have caused an extension of the gains made by the radio industry last year, according to a survey of the radio industry which has just been completed by Dun & Bradstreet, Inc.

Perfection of the short-wave sets and progress made in the development of radios for motor cars forced some manufacturers to increase their output from 75 to 300 per cent above that for the first quarter of 1934. Sales in nearly all parts of the country have expanded, the increases running from 15 to 70 per cent.

A particularly encouraging phase of this year's sales has been the higher profit margin obtained on household sets, because of the trend toward the larger and more expensive models. Many distributors are stocking only the long and short-wave combination sets and are increasing the proportion of their inventories represented by units ranging from \$300 to \$1,000.

Following increases of 50 to 100 per cent in sales of radios in 1934, when compared with the 1933 figures, the expansion of demand has been extended thus far in the current year. Dollar sales in most parts of the country averaged 15 to 50 per cent larger than during the first four months of 1934. The introduction of all-wave sets, designed for use with batteries in sections not electrified, has created considerable interest among farmers, and sales in rural districts during the first two months of this year nearly equalled the total for the entire twelve months of 1934.

The phenomenal increase in radio sales this year is attributed to the greater demand for foreign reception, which has made every owner of the long-wave set a prospect for either the short-wave unit or a combination of the two. As manufacturers have succeeded in combining short-wave reception with standard broadcasting, at only a slight additional cost, fully 80 to 90 per cent of the radio purchases are of this type. In the Nationally-advertised sets, the best-selling items are the console models with foreign bands, and in this field approximately 60 to 85 per cent of the total is accounted for by short-wave sets. In the popular-priced grades, the short-wave models make up 75 to 95 per cent of the total.

Although sales of automobile radios in 1934 established an all-time high, the increase over that record thus far this year has ranged from 20 to 40 per cent, with the gain in some districts as high as 75 per cent. During the first four months of the current year, sales of automobile sets made up 10 to 30 per cent of the total radios sold, but this ratio is expected to be lifted rapidly during the Summer.

After strengthening during the Fall and early Winter months, the price level has been comparatively firm since the first of the year at a level 5 to 10 per cent higher than that of a year ago, with the current trend upward.

Prices of the better grade sets are as much as 20 per cent higher than a year ago. It is expected that the new models to be brought out next Fall will carry higher prices due to the introduction of metal tubes by some of the large producers. Recent developments in the tube industry indicate that further recessions may be expected.

Wholesalers report collections as more prompt than during the comparative period of 1934, and a number of old accounts, which had been outstanding more than a year, have been liquidated. Retail collections in many centers are making the best showing in several years, due to the steady increase in cash sales.

The total of failures for manufacturers and wholesalers and retailers of radios in 1934 was reduced to 46, the fewest recorded for any year in the industry's history. During the first four months of the current year only 2 failures were listed for manufacturers and 19 for wholesalers and retailers.

For the money lost because of bankruptcies, the reduction was not pronounced in the manufacturing division in 1934, as the defaulted indebtedness dropped to \$941,338, which was the first year that it has been held under a million dollars, and was 74.7 per cent under the 1933 total of \$3,719,519. While the number of wholesalers and retailers that failed in 1934 was nearly two-thirds fewer than in 1933, the involved liabilities rose to \$2,207,408, or an increase of 21.7 per cent over the \$1,813,980 in 1933, due to the bankruptcy of one large wholesaler during the early part of the year for more than \$1,000,000.

The industry's total defaulted indebtedness for 1934 of \$3,148,746 was lower by 43.1 per cent than in 1933, when it amounted to \$5,533,499, and marked a record low. Since 1931, when the peak was reached at \$9,067,804, bankruptcy losses have been cut 65.3 per cent.

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CLIMATE DOESN'T HOLD RADIO BACK IN MEXICO

While the climate ranges from the temperate to the tropical, the bulk of radio users is found in Mexico City, where climatic and other conditions do not interfere with good reception to the point of restricting to any noteworthy extent the use of receiving sets, Assistant Trade Commissioner Horton Henry, Mexico City, reports. Of course, interest in radio noticeably diminishes during the rainy season, which normally extends from May to October, owing to static.

"Mexico City, situated on a plateau at an altitude of 7,434 feet above sea level, offers the most ideal location in the country for broadcasting stations and it is reported that the reception from even the comparatively low power stations of Mexico City is clear in certain sections of the United States, particularly in the Mississippi Valley", Commissioner Henry continues. "It should be pointed out, however, that reception at a few of the coastal cities from Mexico City broadcasting stations is far from satisfactory, owing to causes of a technical nature. During the winter months fairly strong signals are received from high powered stations in the United States with sets of good selectivity and sensitivity.

"Radio programs of Mexico correspond closely to those offered in the United States with the exception that much less emphasis is placed on sporting events, short sketches, and speeches. The American sponsored-program system is followed. The Communications Law restricts advertising to 20 percent of the total time consumed and any selection advertising medicinal or hygienic products may only be transmitted under the express authorization of the Department of Health. Strict vigilance is exercised by the Government to insure compliance of these provisions of the law.

"While chain broadcasts have been made through linking stations in Mexico City, where programs originated to stations in Guadalajara, Monterrey, Veracruz, and Tampico, they have not proved satisfactory owing, it is alleged by broadcasting companies, to the fact that the tone range of the present wire lines is decidedly limited, and it is claimed that until this defect is remedied chain broadcasting in this country will remain undeveloped. Agreements between some of the large broadcasting stations of Mexico City and smaller stations in other cities are in force whereby the latter are permitted to relay broadcasts from Mexico City, but it seems the relaying of Mexico City broadcasts is intermittent and is resorted to only when an especially notable program is being presented or when the smaller stations need "fillers."

"Sixty private commercial broadcasting stations are officially reported to be actually operating in the Republic, with 20 stations located in the Federal District. Only seven of the total number of stations are operating at over 5,000 watts and only one official station and one private station, insofar as is known, are broadcasting programs by short waves.

A marked increase in the purchasing power of the country, together with improved programs and more continuous service rendered by domestic broadcasting stations, has been reflected in a sharply expanded market for radio receiving sets in Mexico. In 1933 imports of radio receiving sets totaled 2,521,322 pesos and reached 3,696,701 pesos in 1934, which represents an increase of more than 46 percent. The estimated number of radio receiving

sets in use in Mexico is now placed at 130,000, and with a continuance of prevailing favorable business conditions the demand for radios should increase at a rapid rate.

"The last 2 years have witnessed an increasingly larger sale for all-wave receiving sets, it being estimated that at present from 50 to 60 percent of the total demand is for this type of instrument. The accelerated trend in the demand for sets capable of receiving distant programs confirms other indications that Mexican listeners are manifesting greater interest in distant reception. Reception of short-wave programs originating in the eastern part of the United States is characterized as satisfactory during the rainy season and good during the winter months.

"Five and six tube alternating current sets find the largest demand and while an increasingly larger number of automobiles are being equipped with radios, as yet the sale for this type of radio is comparatively small. Insofar as is known, no trains, airplanes, or motor busses in this country are equipped to receive broadcasts, but receiving sets have been installed in a limited number of taxi cabs.

"American radios enjoy a virtual monopoly in this market, with the Phillips radio, with a share of the total annual business of less than one percent, being the only competitor worthy of mention.

"The bulk of retail sales of radios in Mexico are made on the instalment plan. The general practice calls for an initial payment of from 10 to 20 percent, depending upon the sales price, with the balance payable in monthly instalments over a period of a year."

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"FORTUNE" MAGAZINE WRITES UP COLUMBIA

The June issue of "Fortune" magazine gives quite a spread to the story of the rapid growth of the Columbia Broadcasting System. The article is captioned "And All Because They're Smart".

The magazine brings out the fact dramatically that the sales of the network increased from \$5,00,000 in 1929 to \$19,000,000 in 1934.

There are sidelights on William Paley, the still young president of the company, Ed Klauber, and others.

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PHILCO 1935 HAVANA CONVENTION CRUISE

The Philco Radio and Television Corporation is now enjoying its 1935 convention cruise to Havana. Philco radio dealers and other representatives embarked from New York on the "Monarch of Bermuda" last Tuesday and are due back on Tuesday, June 4.

Convention sessions were held aboard the ship while it was enroute to and from Cuba. One of the speakers was J. R. Poppele, chief engineer of WOR, who explained the workings of the station's new 50,000 watt, high-fidelity transmitter.

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CABLE AND WIRELESS AND MARCONI SHOW PROFIT

The annual report of Cable and Wireless (Holding), Ltd., of London, shows gross revenue of £1,080,392, for 1934 and a net profit of £986,901 after expenses, directors' fees, income tax, interest and organization expenses written off. Including £99,276 brought forward from 1933, £1,086,177 was available for dividends and surplus.

The Directors recommended payment of a dividend of 4-1/8 per cent less income tax on the cumulative preference stock, being the remainder of the dividend for 1932 and a payment of 1-3/8 per cent on account of 1933.

Marconi's Wireless Telegraph Company, Ltd., subsidiary of Cables and Wireless, Ltd., reported a net income of £225,732 for 1934 after all deductions, comparing with a profit of £126,553 in 1933.

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A visitor to Washington this week was Frank E. Mullen, of New York, in charge of Public Relations for the Radio Corporation of America. Mr. Mullen now has his feet well in the stirrups and has already succeeded in bringing about a decided improvement in the RCA press service in both New York and Washington.

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C O R R E C T I O N

In the story on page 8 of the May 28 issue, "Food and Drug Bill Takes On New Life", the first sentence of second paragraph should read, "While the broadcasting industry does not favor the Copeland Bill, it is not actively opposing it."

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RMA URGES ABOLISHMENT OF FRENCH RADIO QUOTAS

Abolishment of the French import quota system restricting American radio sales in France was urged in a brief submitted by the RMA to Government officials in connection with the June negotiations between the United States and France for a reciprocal trade agreement.

Reduction of the French tariff on American radio products was an alternative recommended by RMA, and individual letters from many American manufacturers were appended to the RMA brief filed with the U. S. Tariff Commission. The brief and data of individual radio manufacturers will be used in the Government's negotiations with France.

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APPLICATIONS GRANTED BY FCC BROADCAST DIVISION

WBZA, Westinghouse E. & M. Co., Boston, Mass., C.P. to make changes in eqpt.; WDZ, James L. Bush, Tuscola, Ill., C.P. (amended) to make changes in eqpt; change freq. from 1070 to 1020 kc., power from 100 watts to 250 watts daytime, and to determine transmitter site; KFH, The Radio Station KFH Co., Wichita, Kans. C.P. to make changes in eqpt. and increase power to 5 KW day; WHIS, Daily Telegraph Printing Co., Bluefield, W. Va., Mod. of CP to cover changes in eqpt.; also license, 1410 kc., 250 w. night, 500 w. day, S-WRBX; WGCM, WGCM, Inc., Mississippi City, Miss., CP (amended) to change freq. to 1120 kc.; make changes in eqpt. increase power to 500 watts, change hours to unlt'd. time except from 8 to 9 PM on Monday and Friday nights; WDAY, WDAY, Inc., Fargo, N. Dak., license to cover CP. 940 kc., 1 KW night, 5 KW day, unlt'd. time; KFRC, Don Lee Brdcastg. System, San Francisco, Cal. Mod. of CP to extend commencement date to 5/1/35 and completion date to 12/1/35; this extension, however, does not constitute a finding by the Commission in anywise with reference to the issues involved in the renewal application "The extension of the permit is granted only for the purpose of preserving the status quo concerning the permit heretofore granted and authorizing the installation of new equipt. and increase in power only"

Also, WJEJ, Hagerstown Brdcastg. Co., Hagerstown, Md., extension of special temp. auth. for period of 30 days, to operate with 50 watts from LS to 11 PM, EST, on Tues. Thurs. Sat. and Sun. in order to broadcast local civic and political activities; KWEA KWKH, International Broadcastg. Corp., Shreveport, La., application for consent to transfer control of International Brdcastg. Corp licenses to the Times Publishing Co., Ltd. from Samd D. Hunter, KWEA and KWKH; KSO, Cedar Rapids Broadcast Co., Des Moines, Ia., license to cover CP authorizing changes in eqpt. and extension of commencement and completion dates; 1430 kc., 250 w. night, 500 w. day, unlt'd.

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