

HEINL RADIO BUSINESS LETTER

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No. 831

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June 4, 1935

FCC HEAD BELIEVES IN "OUNCE OF PREVENTION" DOCTRINE

Notwithstanding the fact that "Marmola", a patent medicine, the advertising of which has caused 21 stations to be called on the carpet, has been proceeded against for the second time by the Federal Trade Commission, there doesn't seem to be a chance that any of these stations will suffer loss of their licenses. "Marmola" will have its next bath of fire June 28th before the Trade Commission but the broadcasting stations cited will not have to face the music until next October. In the meantime, the purpose of the warning will have been served and it is believed the affair will pretty much have blown over.

Sometime before "Marmola", a treatment alleged to reduce fat, had been signled out by the Federal Communications Commission as a "horrible example", Chairman Anning S. Prall, discussing the elimination of a certain type of patent medicine broadcasts, said to this writer:

"I once knew a very famous police inspector in New York. A crime wave was rampant. This inspector said to me, 'Do you know how to stop all this crime?' 'No', I answered. 'Well Annie', the experienced old inspector answered, 'The way to stop crime is to prevent it.'

"I think the way to stop objectionable medical advertising over the radio is to prevent it, and I propose to use this method."

According to one estimate, if the Federal Communications Commission would exclude from the air all proprietaries, medicines, or medical services, it might mean the loss of between five and six million dollars in advertising revenue to the networks. One broadcaster believes that the situation is more serious than it looks, and the medical people will fight back on the ground that the Commission has no power of censorship.

On the other hand, having waved the big stick at the stations carrying "Marmola", and other remedies alleged to be offensive, it is believed in some quarters that the situation will now quiet down with the minimum amount of advertising casualties.

To prevent such a "bawling out" in the future, the Chicago Broadcasters' Association has requested that the National Association of Broadcasters establish a bureau in Washington to pass on the propriety of the acceptance of advertising accounts, and the conditions of such acceptance, to disseminate information

concerning advertising practices to its members, and to represent the members before the Federal Communications Commission when any of their advertising is questioned.

A resolution passed by the Chicago Broadcasters' Association reads, in part, as follows:

"As broadcasters, we are cognizant of our duties to the public. We are appreciative of the attitude of the Federal Communications Commission in its desire to see that broadcast advertising be of such a standard that the public will be pleased with its service and not offended by the advertising.

"We know that we must maintain our advertising revenues, if the high type of service to which the American radio audience has become accustomed is to be continued and constantly improved.

"We are aware of the difficulties encountered by the Federal Communications Commission, through their lack of the right of censorship, and the broadcasters, through their inability to secure unbiased information, in determining the propriety of certain advertising accounts."

Commending the Commission upon its broadcast advertising with regard to patent medicines, Dr. Arthur J. Cramp, Director of the Bureau of Investigation of the American Medical Association, said:

"Radio advertising of 'patent medicines' is more objectionable than newspaper advertising of the same products. Many newspapers, as a matter of enlightened self-interest, have developed certain standards of decency and censorship that keep out of their pages the advertisements of many products of this character. Further, the public has through several generations developed a defense mechanism against the printed word and is much less likely to be carried away by false or fraudulent claims made in cold type than it is when similar claims are made verbally by a plausible radio announcer.

"Then, too, claims that are to be made in printed form have a permanency that causes the maker of them to be much more cautious than when they are to have the ephemeral character of a radio broadcast. It is also to be remembered that impressionable young people do not, as a rule, read 'patent medicine' advertisements in newspapers or magazines. These same people can hardly avoid listening to the 'patent medicine' ballyhoo that comes into their homes over the radio.

"There is no doubt that the better type of broadcasting stations do make some attempt to reject 'patent medicine' contracts of the most objectionable type. Broadly speaking, however, broadcasting stations are still far behind newspapers and magazines in their recognition not merely of the dangers to the public health involved in the advertising of these secret nostrums, but also of the loss of public confidence in all advertising that such advertisements are bound to engender eventually. The action

of one broadcasting station in the past few weeks is worthy of special note: The Milwaukee Journal announced in its issue of April 8, 1935, that 'because the advertising of internal patent medicines was not deemed to be in the public interest, convenience nor necessity, WTMJ has cancelled all such contracts in an effort to clean up the air and rid it of offensive advertising matter.'

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N. Y. RADIO DEALER MUST CUT OUT ALL-WAVE HOKUM

Misleading representations of radio receiving sets is alleged in a stipulation between the Federal Trade Commission and Gus Stokley, of New York City, trading as Eilen Radio Laboratories. Stokley, a manufacturer, agrees to cease and desist from describing his sets so as to imply that users of his products could have foreign or world-wide reception at will and with satisfactory volume.

Stokley agrees not to present the merits and advantages of his products in such a way as to "conceal the difficulties and deficiencies of the same, inherent in the present state of the art, but unknown to the purchasing public."

Radio receiving sets sold by Stokley were advertised as "All-Wave" with "Foreign Reception Guaranteed", when, in fact, according to the stipulation, they were not capable of reception over the entire meter range covering all broadcasts and commercial transmission so as to be properly designated by those phrases.

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WANTS PRESS TO GRAB TELEVISION

Newspapers are advised by the Editor & Publisher to "get aboard" on television as follows:

"Television is today about where radio was in 1920. If the press had accepted radio then, completing its public communications service, there would be no press-radio problem today. The situation has changed, but the press should not make the same mistakes in reference to the development of television."

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NO REBUKE FOR MEXICAN SONG BROADCAST

The Federal Communications Commission has declined to take any disciplinary action in the case of an alleged indecent song broadcast over NBC during the Mexican Government Hour.

In a letter to Rev. John C. Harney, Superior General of the Paulist Fathers, owners of Station WLWL in New York City, Judge E. O. Sykes, Chairman of the Broadcast Division, wrote, in part, as follows:

"The portion of the program referred to in your letter to the Commission was a song entitled 'En Ellogio De Silves', sung in Spanish.

"The question as to whether a matter which is broadcast is obscene or indecent must be determined by the application of the rule announced in *Duncan v. U. S.* 48 Fed. (2d) 128, and other leading cases, which is as follows:

"The true test to determine whether a writing comes within the meaning of the statutes is whether its language has a tendency to deprave and corrupt the morals of those whose minds are open to such influences and into whose hands it may fall by arousing or implanting in such minds obscene, lewd, or lascivious thoughts or desires."

"The Commission, Broadcast Division, after careful study of all the facts and circumstances in connection with this broadcast, has reached the conclusion that the program does not fall within the above definition."

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NAB CONVENTION TO HEAR EUROPEAN TELEVISION REPORT

Andrew W. Cruse, Chief of the Electrical Division of the Commerce Department, now abroad making a two months' study of the European television situation, is expected to give a first-hand report at the annual convention of the National Association of Broadcasters to be held at Colorado Springs early in July. Invitations have gone to Anning S. Prall, Chairman of the Communications Commission, Dr. John W. Studebaker, U. S. Commissioner of Education, and Senator Burton K. Wheeler, Chairman of the Senate Interstate Commerce Committee, to speak at the convention.

Although the gathering is still sometime ahead, those who expect to attend the convention are urged to make their reservations at once as already hotel space is at a premium.

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EFFORTS MADE FOR ELEVENTH-HOUR COMPOSERS AGREEMENT

As this is written (Tuesday), the Broadcasters and Composers are conferring in New York in connection with the forthcoming suit of the Government against the American Society of Composers, set for trial Monday, June 10th. Although nothing has been given out officially, word trickles through from one side that the Broadcasters are moving heaven and earth in a frantic last minute endeavor to persuade the Government not to try the lawsuit.

From the other side is the assurance that though consent decrees are sometimes signed "on the Court House steps", there is every indication that the trial will begin Monday.

Anthony W. Bennett, Special Assistant to the Attorney General, is in charge of the Government case. About 50 witnesses have been served with subpoenas to date with more to follow, including broadcasters, motion picture and hotel people, and many small users of music such as shoe-shining stands, restaurants, and others.

It is estimated that during the current twelve months' period, the Composers will derive between \$2,500,000 and \$3,000,000 for radio performing rights. This is said to be an increase of more than 200% over the flat fee paid prior to the writing of the three-year contracts which became effective in September, 1932.

While current contracts calling for 5% of the "net receipts" of stations, plus an arbitrary sustaining fee, ordinarily would expire on August 31st, the Composers have agreed to extend them until December 31st on the same basis. They however refuse to agree to an extension which would run indefinitely while awaiting the outcome of the Government suit.

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CODE DECISION ASSURES LARGE NRA CHICAGO GATHERING

A record attendance is expected at the two-day annual convention of the Radio Manufacturers' Association, meeting in Chicago Tuesday, June 11th, due to the desire of the manufacturers to check up to see exactly where they stand as the result of being relieved of Code obligations by the Supreme Court. Bond Geddes, Executive Vice-President of the RMA, has already expressed the opinion that being released from the 36-hour minimum weekly restrictions of the Electrical Code, some radio manufacturers will immediately institute a 40-hour week for their employees.

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The convention will elect a President, Directors and other officers. The impression at this time is that Leslie F. Muter, of Chicago, will be pressed to accept another term as president.

A late change has been made in the program, that of staging the RMA "Cabaret", which will be in the competent hands of Paul B. Klugh, of Chicago, on Tuesday instead of Wednesday night.

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RCA CONTINUES CODE HOURS AND WAGES

David Sarnoff, President of the Radio Corporation of America, said last Monday that the Radio Corporation and its wholly owned companies would continue the same hours and wage scales as were in effect under the NRA codes.

Mr. F. E. Basler, of Philadelphia, General Sales Manager of Atwater Kent Manufacturing Co., predicted that the larger radio manufacturers would continue operations under the majority of the Code provisions set up under the NRA. He said he believed the hour and wage scales would be continued.

Radio sales this year are in advance of those at this time last year, Mr. Basler said at the opening of the company's tenth annual distributors' convention in Atlantic City. Approximately 250 distributors attended.

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SENATE TO CONSIDER COPYRIGHT BILL THURSDAY

The Senate Patent Committee of which Senator McAdoo, of California, is Chairman, meets Thursday, June 6th, at which time the Committee will take up the question as to whether or not hearings will be held on the Copyright Bill.

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TWO MORE STATIONS JOIN WMCA

WMCA programs will be fed to two additional stations in the East, it was announced Monday by Donald Flamm, President of the Knickerbocker Broadcasting Co.

WMEX in Boston, and WPRO, in Providence, are now part of the Inter-City group, thus giving WMCA program coverage from Boston to Washington on a full schedule basis. All stations are linked to WMCA with permanent twenty-four hour A. T. & T. service.

In announcing the additional outlets, Mr. Flamm said:

"With Boston and Providence added to our present group of Inter-City stations that include Philadelphia, Baltimore, Washington and Wilmington, WMCA is now able to offer coverage throughout the most populated section of the Atlantic Seaboard. As I stated before, this is not the beginning of a 'third network', but rather a practical association of progressive independent broadcasters who look to New York, through WMCA, for their program material.

"Now that the Inter-City group covers the country's choicest Eastern markets, we have a real sales story to tell to radio advertisers, particularly in view of the fact that the costly item of telephone line charges will not enter into the combined rate. The WMCA Sales Department is concentrating on the group as a unit. It is interesting to note that within a few hours after the addition of the two New England stations, several WMCA clients signified their intention of using the entire group in the Fall.

"I am indeed happy that other broadcasters want the WMCA programs and once more it is my privilege to say it is our pleasure to serve them."

Thirteen hours weekly of commercial programs are being broadcast over the WMCA, New York-WIP, Philadelphia tieup, in addition to several sustaining programs which are exchanged. Largest user of time is Rev. George A. Palmer, Philadelphia, using an hour every morning except Sunday. Other advertisers on the twin stations are Health Aids Inc., Fitch Publishing Co., Dr. Howard D. Norton, Rev. Percy Crawford and Reformation Fellowship. WCBM, Baltimore; WDEL, Wilmington, Del., and WOL, Washington, now receiving station programs from WMCA, in no way affect the relationship between WIP and WMCA, having made independent arrangements with WMCA for sustaining service but receiving none of the programs originating at WIP.

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WHEELER CLASSED AS "AMERICAN MESSIAH"

After discussing Senator Huey Long, Father Coughlin and several others, Senator Burton K. Wheeler, Democrat of Montana, Chairman of the Interstate Commerce Committee, and czar of communications in the upper House, is taken up in the "American Messiahs", a book soon to be published by Simon & Schuster, Inc., in New York, and now appearing serially in the Washington Post.

"His prophecies are not always accurate", the anonymous author of the "American Messiahs", observes, "and when he hoists the cyclone signals, only a spring shower or a local thunder storm may follow. His particular importance lies in the fact that he hoists his signals early - he was for Roosevelt for President before the latter's re-election to the New York Governorship in 1930 - while others are still arguing over the portents or tapping the barometer."

Asserting that as a presidential candidate, Senator Wheeler would have a powerful grip on his home State of Montana, and considerable personal prestige in the other Northwestern and Rocky Mountain States, the writer declares his monetary policy carries him very close to Father Coughlin. In fact, Wheeler could say "aye" to almost every plank of the latter's National Union for Social Justice and there is some suspicion that he has been one of Coughlin's monetary coaches.

"Moreover, Wheeler stands ace-high with the Catholics - the backbone of his support in Montana being Catholic and Montana itself being a strongly Catholic State as a result of the late Jim Hill's land policy for the Northern Pacific (Hill having argued that the Catholics were more docile and orderly, politically and economically, than the Protestants and so, though himself a Protestant, deliberately favored Catholic immigration along the right-of-way of his railroad)", the writer continues.

"Wheeler is very friendly with Huey P. Long, for whom he has acted as guide, interpreter and friend. Excepting Senator Overton, of Louisiana, and Hattie Caraway, of Arkansas - both of whom owe their election to Long - Wheeler is Long's closest buddy in the Senate, lending Long friendly assistance without permitting him to exercise any control. When Huey failed to turn up for the opening of the 1935 session of Congress, he wired Wheeler a message of explanation, promising that he would have an important utterance to deliver as soon as he arrived, and Wheeler read the telegram to the Senate."

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NBC ARTISTS SERVICE REORGANIZES

A new and expanded operating plan for the NBC Artists Service has been completed, after months of experimentation, and put in operation, according to an announcement by George Engles, Vice-President of the National Broadcasting Company, and Managing Director of NBC Artists Service. The enlarged and highly specialized organization is now prepared to serve artists in the fields of radio, motion pictures, theater, opera, concerts, recording, private entertainment, hotels, night clubs and resorts. It also offers an equally extensive service to talent buyers in the advertising, theatrical and film worlds.

Daniel S. Tuthill, Assistant Managing Director of NBC Artists Service, Engles said, will continue in the office to which he was appointed for the purpose of effecting closer coordination between various departments within the organization. Tuthill also will continue his direction of the department's sales and sales promotion activities.

New divisions in the Artists Service operating plan include Auditions, Bands and Sales Promotion. Other departments, more highly organized than ever before, are:

SALES REPRESENTATIVES CONTACTING ADVERTISING AGENCIES:

Mrs. Ethel B. Gilbert, T. F. Allen, John Babb.

SALES REPRESENTATIVES CONTACTING LEGITIMATE AND

VAUDEVILLE THEATERS: Ruby Cowan, Murray Bloom.

SALES REPRESENTATIVE TO MOTION PICTURE PRODUCERS:

Harold Kemp.

PRIVATE ENTERTAINMENT DEPARTMENT: Frances Rockefeller

King.

SALES REPRESENTATIVE FOR MANAGED AND OPERATED LOCAL

STATIONS: S. L. Ross.

PROGRAM DEPARTMENT REPRESENTATIVE: L. J. Fitzgerald.

BAND DIVISION: Harold Kemp, Director; Paul Wimbish,

Assistant; John L. Flynn, Road Bookings.

NBC MANAGED ARTISTS: A. Frank Jones, Chester Stratton.

NBC REPRESENTED ARTISTS: S. L. Ross

CENTRAL BOOKINGS DIVISION: Edmund Sickels, Miss M. H.

Campbell, James Stirton, George Sax, Frank Murtha.

AUDITIONS DIVISION: J. Ernest Cutting, Director;

Robert Smith, Anne Taylor, Assistants; E. H. Strong, Engineer.

STAR TALENT PROMOTION: William McCaffrey

SALES PROMOTION: Edward de Salisbury, Director;

Edith deTakacs, Assistant.

CONCERT DIVISION: Marks Levin, Director; Elsie Illingsworth, A. F. Haas, Siegfried Hearst, Sales Representatives; Helen Mobert, Promotion and Publicity; Jeannette Green, Recitals.

Out-of-town offices, in addition to the new Hollywood office, will function as usual. Sidney Strotz remains in charge of the Chicago office, assisted by Henry Sellinger and Robert Kendall; San Francisco, Everett Jones; Cleveland, Warren Wade; Boston, Cleon B. White.

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U. S. GIVES SANCTION TO CBS ESTIMATES

Protest against acceptance by the United States Government by figures on radio homes compiled by Columbia Broadcasting Company has been voiced by Wallace Witmer, Manager of Arkansas Dailies, Inc., Publishers' representatives. As regards Arkansas at least, Mr. Witmer cites figures conflicting with the CBS estimates. Newspapers, he points out, are unfairly handicapped by acceptance of radio claims as to the number of listeners.

"As a CBS promotion piece", he told Editor & Publisher, "these claims might be understandable, but it is difficult to reason why the Bureau of Foreign and Domestic Commerce should accept these estimates and publish them as authoritative Federal information."

The estimates in question were published in the first Annual Statistical Number of "Electric Foreign Trade Notes" issued by the Bureau of Foreign and Domestic Commerce of the Department of Commerce at Washington.

"We have made no effort to check these estimates outside of Arkansas", Mr. Witmer states. "There can be no question that in Arkansas the estimates are greatly exaggerated. The 1930 census credited Arkansas with 40,248 radio homes. The World Almanac of the New York World Telegram reports 82,696 radio homes in Arkansas January 1934. Now this latest report of the CBS, as republished by the Department of Commerce, credits Arkansas with 122,089 radio homes.

"They are claiming more radios in Arkansas than there are electrically wired homes - the Arkansas Power & Light Company reports 97,125 wired homes in the State. Compare this with 122,989 radio homes claimed by the CBS. Granting that every electrically wired home has a radio set, the difference would have to be made up by battery sets.

"However, it is unlikely that very many battery sets are located in the cities. A quick check shows that even in the cities, the CBS claims more radio homes than there are homes electrically wired. The figures as quoted in the Department of Commerce bulletin include only the cities of Little Rock and Hot Springs in Arkansas. In Hot Springs they claim 3,100 radio homes when the total number of homes electrically wired is but 3,015, and in Little Rock, they claim 16,800 radio homes when the total number of homes connected with electricity is 15,685.

"A casual survey by anyone will show there are many electrically wired homes without radio sets in both of these cities; yet in both instances the CBS claims show more radio homes than are supplied with electric connections."

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SWEDISH PATENT DECISION MAY HELP AMERICAN MANUFACTURERS

A decision was rendered in the Borough Court at Malmo which Swedish experts on patent law believe will eventuate in opening wide the Swedish market to all American makers of radio apparatus who, for a number of years, have been blocked in their efforts in this market by the radio patent situation, Commercial Attache Osborn S. Watson, Stockholm, reports.

The case was one in which Telefunken sued an importer of American apparatus under the basic screen grid tube patent. The decision, based on a new interpretation of Swedish patent law, held that the law provided that where a license fee was paid on a patent in another country and goods manufactured under that license were imported into Sweden that a second fee could not be collected in Sweden even though the original patent was also registered in Sweden. The American patents in Sweden have been assigned to European manufacturers, principally Phillips of Holland, who have carried on a campaign to keep American competitors out. The case will be appealed but until a final decision is given, it seems certain that American radio will have a better chance in Sweden.

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CONGRESSMAN PRAISES RADIO RESULTS

Apparently amazed at the results he secured speaking on the subject of international peace and disarmament over Stations WRC and WJSV, in Washington, Representative Louis Ludlow (D), of Indiana, said:

"Believe me, when I say that radio is the way to reach the public."

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