

# HEINL RADIO BUSINESS LETTER

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## MEXICAN SONG AT BOTTOM OF DEMAND FOR PROBE OF FCC

It was a little Mexican song, "En Elogio de Silves", sung in Spanish over the NBC-WJZ network last Spring, that started the movement for an investigation of the Federal Communications Commission and materialized in a resolution introduced in the House January 15. The song, which sixteen members of Congress said contained obscene passages, was on a program sponsored and paid for by the Mexican Government. The FCC, after an investigation, declared that the program was not obscene in the meaning of the Communications Act.

Representative Connery, Chairman of the House Labor Committee, introduced the resolution which demanded an investigation of the FCC by a special committee of five members of the House. The probe, the resolution stated, should delve into all operations of the Commission and examine all charges of irregularities made against it. It made no reference to the political scrap between the networks and the G.O.P.

The resolution was referred to the Rules Committee with its fate uncertain. While it was believed the committee, headed by Representative O'Connor (Democrat), of New York, is loath to report the resolution favorably, Connery felt that there are enough disgruntled members to give him 218 signatures, if necessary, to discharge the committee and bring the resolution to the floor.

In introducing the resolution, Connery had the House clerk read correspondence which he had exchanged with members of the FCC and Secretary of State Cordell Hull relative to the Mexican program on NBC. At no time did he explain how sixteen members of Congress were able to translate Spanish sufficiently to know that the Spanish song was obscene.

He asserted that the FCC went back to 1883 "to find a case with which to whitewash the National Broadcasting Company." It was *Duncan v. United States* (48 Fed. 2d 128) and involved a violation of postal regulations.

Connery added that he had received "complaints from all over the nation." Relating an incident in which the FCC allegedly almost took away a Middle-western station's license for stepping up its power, he said:

"That was a small station, but when the NBC comes in and puts a foreign government on the radio for the sum of \$40,000 and sends insidious propaganda and obscene and indecent songs into the homes of American people - songs not fit to be recited anywhere - we have a different story. The National Broadcasting Co. must be and is whitewashed. Why? Does this monopoly control the Commission?"



Republican members of the House sought vainly to link the resolution with the refusal of the networks to broadcast the dramatic skits sponsored by the Republican National Committee, but Connery confined his complaints to the trouble that labor leaders, World War veterans, and others allegedly experienced in trying to air their grievances on the radio.

The text of the resolution follows:

"Whereas, on April 5, 1935, sixteen members of the House of Representatives, whose attention having been directed to a broadcast over the NBC network which broadcast contained alleged obscene and indecent utterances, and which program was in the interest of and paid for by a foreign government, filed with the Federal Communications Commission a protest against such programs and, in addition, petitioned said Federal Communications Commission for an immediate investigation of the charges contained in said protest and, further, requested a public hearing on the results of such investigation, and

"Whereas, the Federal Communications Commission, in reply to said petition, stated that an investigation was being made, and

"Whereas, the Federal Communications Commission later replied to the petitioners setting forth that said program was not obscene within the rule laid down in a court decision cited by said Commission, which citation quoted language which is not to be found in the specific decision cited, and,

"Whereas, the Congressional Record of July 31, 1935, contains a full and facual history of this failure on the part of the Federal Communications Commission to properly enforce the Communications Act of 1934, and, in addition, contains excerpts from affidavits which alleged that competent officials of the said NBC admitted that the program complained of contained obscene and indecent utterances, and

"Whereas, the Chairman of the said Federal Communications Commission, in testifying before the House Appropriations Committee admitted that the property of the Government, namely, radio broadcasting licenses or franchises, were the subject of profiteering on the part of individuals and others, and

"Whereas, charges have been made that certain vested interests are alleged to be receiving large sums of money due to the leasing to others of licenses or franchises issued by said Federal Communications Commission, and

"Whereas, it is well known that a monopoly exists wherein a few control all of the valuable franchises or licenses issued by said Commission, while educational, labor, religious and other non-profit making organizations are denied opportunities of securing favorable consideration for radio broadcasting facilities from said Federal Communications Commission, and

"Whereas, the said Commission, as a result of charges apparently placed before it by the Chairman of said Commission, has now created a committee of five of its seven members to investigate charges of alleged misconduct and alleged corruption on the part of certain persons officially connected with the said Commission, and

"Whereas it is in the public interest that a thorough and exhaustive investigation be made of these and other alleged irregularities

"Therefore, be it

"RESOLVED, that a committee of five members of the House of Representatives shall be appointed by the Speaker, which committee is hereby authorized and directed to inquire into and investigate the allegations and charges that have been or may be made relative to irregularities in the granting and renewal of licenses and other matters coming within the jurisdiction of the Federal Communications Commission, or pertaining in whole or in part to the functions of the said Federal Communications Commission; be it further

"Resolved, that the said committee shall make a thorough and exhaustive investigation of allegations and charges that have been or may be made in connection with any and all matters pertaining to the Federal Communications Commission and shall report in whole or in part at any time to the House of Representatives together with such recommendations as it deems advisable; and be it further

"Resolved, That for the purpose of this resolution the said committee is authorized to hold such hearings, to sit and act during the sessions and the recesses of the present Congress at such time and places, either in the District of Columbia or elsewhere and to employ such expert clerical and stenographic services as may be found necessary and to require by subpoena or otherwise the attendance of witnesses; to administer oaths; to compel the production of books, papers and documents by government or private agencies and to take and record such testimony as the committee may deem advisable or necessary to the proper conduct of the investigation directed by this resolution."

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#### RADIO REPRESENTATIVE ON BUSINESS ADVISORY COUNCIL

Despite the refusal of the organized radio and broadcasting industries to participate in the recent business conferences called by Maj. George Berry, Coordinator for Industrial Progress, Secretary of Commerce Roper this week named a radio representative on the Business Advisory and Planning Council of 18. He is Roland J. Hamilton, President of the American Radio Company of New York.

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STATIC DROWNS G.O.P. SKITS FOR CHAIRMAN FLETCHER

After arranging for the broadcasting of "Liberty at the Crossroads", the G.O.P. dramatic skits, over Station WGN, Chicago, Henry P. Fletcher, Chairman of the Republican National Committee, couldn't pick up the broadcast at his home in Washington. Bad atmospheric conditions and the overlapping of other stations were blamed.

Newspaper correspondents interested in hearing the G.O.P. dramatic debut experienced the same difficulty in tuning in the station which ordinarily is clearly heard in Washington.

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HIGHER POWER FOR WSPD; RENEWAL FOR WFEA RECOMMENDED

An increase in daytime power from  $2\frac{1}{2}$  KW to 5 KW, on 1340 kc., with a continuation of 1 KW nighttime power, was recommended this week for Station WSPD, Toledo, by Examiner Seward in a report to the FCC.

In another report, Seward recommended renewal of the license of WFEA, Manchester, N. H., on 1340 kc., providing that a new antenna system be installed and field intensity measurements be made in the Toledo area and reported to the Federal Communications Commission.

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BROADCAST OF HUEY LONG'S VOICE SETS POLITICAL PRECEDENT

Something new in political campaigning via radio was introduced in New Orleans this week when the voice of Huey P. Long, assassinated dictator of Louisiana, was broadcast over a network of State stations.

Long's words were carried from a recording made of one of his addresses shortly before his death. The broadcast was sponsored by candidates in the January 21 Democratic primary who are members of the Long faction.

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## FCC MAY RULE ON DUPLICATIONS OF COMMUNICATIONS SERVICE

The Federal Communications Commission probably will announce a policy shortly on the question of whether duplication of radio communications service on a large scale is to be permitted.

The issue arose in a hearing opened this week on a petition of the Mackay Radio and Telegraph Company, Inc., to add Oslo to its service as a point of communication. Ellery W. Stone, operating Vice President of Mackay, told the Commission that his organization would like to establish far-flung radio-telegraph services which allegedly would conflict in many instances with those controlled by R.C.A. Communications, Inc.

Stone termed the position of RCA "monopolistic" during his testimony and immediately aroused a challenge from Frank W. Wozencroft, RCA counsel, who labelled his remarks "pure demagogy". Wozencroft also pointed out that he had not been notified that the hearing would deal with communications services all over the globe.

Commissioner Irvin Stewart, who presided at the hearing, said that the question is one of policy which will have to be decided by the whole Commission.

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## REA BROADENS RADIO MARKET IN FARM AREAS OF THE COUNTRY

A broader market for radio manufacturers and broadcast sponsors is being made available by the work of the Rural Electrification Administration. Last year 175 per cent more American farms were electrified than during 1934, Morris L. Cooke, Administrator of Rural Electrification announced. Even a greater increase is anticipated in 1936, he said.

The usual trend is for radio receivers to follow close on the heels of rural electrification, and the assumption is that this was the case in 1935.

It is estimated, on the basis of figures submitted to REA by the private utility industry, that in 1935 electric service was extended to approximately 83,000 farms, compared with 30,396 in 1934. This brings the total of farms having central station electric service to approximately 827,000 out of a total of more than 6,800,000 farms in the country.

Industry figures estimate a 50% increase in rural line construction in 1936 over 1935. They indicate that approximately \$80,000,000 will be invested in rural line construction by the private utility companies in the two year period 1935-1936, of which sum approximately \$50,000,000 will be spent in 1936. Over 175,000 farms will for the first time be provided with central station electric service. Another \$80,000,000 is being invested in farm wiring and appliances.

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## DEMOCRAT LAUDS FLETCHER'S CRITICISM OF THE NETWORKS

The verbal battle between Henry P. Fletcher, Chairman of the Republican National Committee, and the Presidents of the National Broadcasting Company and the Columbia Broadcasting System, has evoked a thing strange in national politics - commendation for the G.O.P. stand by a Democratic member of the House.

Representative Scott (Democrat), of California, author of several resolutions to restrict the authority of the Federal Communications Commission, sent the following telegram to Fletcher following publication of the exchange of letters between himself and the network executives:

"Observe with commendation press accounts of your protest against unwarranted censorship of free political discussion over nation-wide radio broadcasting systems stop I call your attention to House of Representatives Bills nine tw two nine to thirty one inclusive and House Resolution three seventy introduced by me stop These bills deprive the Communications Commission of censorship powers and relieve radio stations from liability for remarks made in any broadcasts on public, social, political, or economic issues and would provide for regular periods for discussion of social problems with an equal opportunity for both sides of a controversial issue to expound their points of view and would further provide that all radio stations would be compelled to keep accurate records of rejected applications for time and the reasons therefor stop Will you and your party organization support me in securing passage of these bills to terminate prejudiced, irresponsible, and frivolous censorship of the expression of free political opinion over the American Radio networks?"

The correspondence was placed in the Congressional Record on January 14 by Representative Bolton (Republican), of Ohio, with an indorsement of the move of Representative Connery (Democrat), of Massachusetts, to bring about an investigation of the FCC.

"I would like to see the purpose of the investigation broadened in order that the true situation may be fully disclosed as to the activities of the radio companies and the question which has been raised as to what is the connection, if any, between the large radio companies or chains and the Commission", he said.

"Also, what influence has the present administration in this filed which may be properly termed a public utility in the interest of the general public."

"As the Republican National Committee went forward with its plan to follow up the broadcast over WGN, Chicago, of "Liberty at the Crossroads", with recorded dramatic skits on independent stations, William S. Paley, President of Columbia, wrote another letter to Fletcher denying the charge that the networks feared punitive measures from the FCC.

He said, in part:

"You are under a misapprehension in all your assumptions that the Federal Communications Commission could - even if it would - take punitive action against us for political reasons or that we live in fear of this administration or any other. There is nothing in the Federal Communications Law which would allow the Commission to act from partisan political motives, and if it did so act, its judgments would very promptly be reversed by the Federal courts.

"Moreover, if this company were subject to such domination by a political party as is implied by you, the American people would be served so shabbily that I should lose all interest in the conduct of this business.

"We believe the American public will uphold us in our view that our own editorial judgment rather than the availability of funds in the hands of others should regulate the amount of time given to the various sides of any discussion. We believe the public will agree that such discussion should be in proportion to the general public interest in the subject."

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#### NEW HEARING DENIED WLTH AND WARD IN "BROOKLYN CASE"

Even while members of Congress were criticizing the Federal Communications Commission in the House for its action in the WVFV (Brooklyn) case, the FCC on January 15 over-ruled a motion by WLTH and WARD, Brooklyn, for an opportunity to be heard before the full Commission and for a postponement of the Broadcast Division's order for deletion of the stations, effective January 22, be postponed from time to time.

The Commission did, however, move up the effective date until February 18 because of "the possible hardship which may result by reason of the immediate application" of the order.

Commissioner Irvin Stewart, as in the former Brooklyn case involving WVFV - renewed his partial objection, namely to the granting of a licenses to the Brooklyn Daily Eagle.

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#### KWKC DUE TO BE AUCTIONED JAN. 22 FOR DELINQUENT TAXES

Station KWKC, Kansas City, is scheduled to be auctioned off January 22 to satisfy tax delinquencies amounting to approximately \$16,500 against Wilson Duncan, station owner. The sale was advertised in the Kansas City Daily Democrat by George R. Clark, Deputy Collector of Internal Revenue.

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## INDEPENDENT STATIONS ACCEDE TO ASCAP ULTIMATUM

Practically all of the member stations of the National Association of Broadcasters were said at the Washington NAB headquarters to have acceded to the January 15 ultimatum of the American Society of Authors, Composers, and Publishers and to have signed new 5-year licenses on former terms.

Whether any of the larger independent stations will hold out and carry the fight to court was not immediately known despite reports that such litigation was impending.

The next move of the organized broadcasters in the copyright tussle was indefinite on January 16 although James W. Baldwin, Managing Director, planned to return to New York to straighten out last-minute tangles. No further negotiations with ASCAP were in prospect.

Warner Brothers meanwhile announced that 26 more independent stations had signed the new contract submitted by the music publishing firms owned by W-B, giving them the right to use W-B music for the first three months of 1936. This brought the total number of stations with W-B contracts to 181.

Broadcasters had in their hands the lengthy report made by Mr. Baldwin earlier in the week on past negotiations with ASCAP and the program proposed for the future by the NAB Advisory Committee.

Mr. Baldwin, in this report, charged the networks and certain independent stations with constituting an obstacle to negotiations with ASCAP because of their contracts entered into previously.

"It must be frankly recognized that the principal obstacle to satisfactory negotiations with ASCAP proceeds from its outstanding contracts with the two network companies and certain individual broadcasters", he said. "Early in June, 1935, as already stated, unconditional five-year renewals were obtained by about fifty-five stations including the network-owned or controlled units. Between June, 1935, and December, 1935, some 70 additional stations sought and obtained five-year renewals, with the condition (already mentioned) as to diminution of ASCAP's repertoire. During the closing days of 1935, some additional stations (the exact number of which is not known), availed themselves of five-year renewals conditioned on ASCAP's repertoire as of January 1, 1936.

"It cannot be denied that the fact that such contracts are outstanding presents a serious problem in any future negotiations, particularly since some of the contracts (e.g. those of the two networks) contain material advantages which will not lightly be surrendered. The Managing Director and the Advisory Committee believe, however, that the early elimination of these discriminatory advantages is an indispensable condition precedent to a stable solution of the copyright problem."

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## PRALL ANSWERS 15 QUESTIONS ASKED BY REP. WIGGLESWORTH

A foretaste of what members of the Federal Communications Commission may expect if the Connery resolution calling for an investigation of the FCC is passed by the House is seen in a letter addressed to Chairman Anning S. Prall, by Representative Wigglesworth (Republican), of Massachusetts.

The letter of inquiry, carrying 15 specific questions, and Prall's reply were placed in the January 16 Congressional Record by Wigglesworth during a discussion of Connery's resolution.

"I want to say that I agree with the point of view expressed by my colleague (Mr. Connery), namely, that a full, impartial, non-partisan investigation into the entire field of work covered by this Commission would be in the national interest at this time", he said.

"There is so much smoke that it is not surprising that many are led to believe that there must be some fire."

Wigglesworth's questions concerned the number of clear channels controlled by independent stations, the extent of control by the FCC over leases or assignments by licensees, the protest addressed to the FCC last Spring by 16 members regarding the Mexican program on NBC-WJZ, the connection between the FCC and FTC, and certain data on the Shepard Broadcasting Co., and other matters.

Prall replied at length to all questions, stating that five of the 40 clear channels are assigned to independent stations, that the FCC has no information on the assignment of nighttime to national advertisers, and that the FCC is not the enforcing agency for "cease and desist orders" issued by the FTC.

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## CBS GRANTS FULL HOUR TO LIBERTY LEAGUE'S DINNER

The Columbia Broadcasting System decided this week to increase the radio time allotment for the American Liberty League dinner in Washington January 25, from 45 minutes to a full hour. Alfred E. Smith, arch Democratic critic of the New Deal, will make the principal address, which will go on the air at 10 P.M., EST.

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## DON FLAMM PUTS ON ROXY MEMORIAL

A tribute to the memory of the late S. L. (Roxy) Rothafel, was broadcast by WMCA in New York and associated stations of the Inter-City Group last night (Thursday). The musical background was furnished by a symphony of 40 musicians, former members of the orchestras used on radio programs under Roxy's direction. David Mendoza, one of Roxy's early proteges, conducted the memorial orchestra. Artists heard included Wee Willie Robyn, member of the original gang, Yasha Bunchuck, cellist and conductor, and Gladys Rice.

Among those who spoke were Donald Flamm, of WMCA, Jack Pulaski, of Variety, a close friend of Roxy, and Miss Martha Wilshinski, Roxy's old press representative.

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## NBC REPORTED READY TO BUY SEVERAL AFFILIATED STATIONS

The National Broadcasting Company "has under consideration a proposal to purchase outright several affiliated stations which are located in strategic spots", according to Variety.

"Through such acquisitions the network would feel secure from any further raids by Columbia and also prevent any shiftovers of important outlets to the Mutual Broadcasting System", the story continues.

"It is over four years since NBC has done any buying or long-term leasing of stations. Network has been largely influenced against indulging in this procedure by two factors; one is the operating losses that such control have entailed in most instances, while the other has had to do with wariness of giving cause for cries of monopolistic practices or tendencies. It has preferred to keep its strategic releases in the fold by the good-will or prestige method, and, as later developed, through an upping of the associated stations' compensation."

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## FCC INTERPRETS "GOOD ENGINEERING PRACTICE" RULE

Over the signature of Herbert L. Pettey, Secretary, the Federal Communications Commission has sent out to all broadcast licensees a three-page interpretation of "Good Engineering Practice" as used in FCC Rule 132.

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## HEARINGS SCHEDULED ON APPEALS IN SECTION 212 CASES

The Federal Communications Commission on January 15 directed that hearings be held in a number of cities throughout the country on applications filed by officers and directors of telephone and telegraph companies, under Section 212 of the Communications Act of 1934. An Examiner will preside.

Hearings will take place as follows:

Dallas, Texas - February 6; Los Angeles, Cal., - February 11; San Francisco, Cal., - February 14; Portland, Ore. - February 20; Seattle, Wash. - February 21; Omaha, Neb. - February 24; St. Paul, Minn. - February 28; Madison, Wis. - March 2; Chicago, Ill. - March 4; St. Louis, Mo. - March 5; Indianapolis, Ind. - March 9; Cincinnati, Ohio - March 10.

The Commission's action in bringing an Examiner to the above places to conduct these hearings will save applicants the trouble and expense of a trip to Washington and the necessary delays incident thereto.

The hearings in Dalls, Los Angeles, San Francisco, Portland, Seattle, and Chicago will take place in the local offices of the Federal Communications Commission. In other cities the places of hearing will be announced later.

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## APPLICATIONS GRANTED BY FCC BROADCAST DIVISION

WMBC, Mich. Broadcasting Co., Detroit, Mich., C.P. to make changes in equipment; WNYC, City of New York, Dept. of Plant and Structures, New York City; CP to erect auxiliary transmitter at Brooklyn, to be used principally while moving main transmitter from New York City to Brooklyn; KWTO, Ozarks Broadcasting Co., Springfield, Mo., Mod. of CP to extend commencement date to 1/1/36 and completion date to 7/21/36; KRNR, Southern Oregon Pub. Co., Roseburg, Ore., license to cover CP authorizing erection of new station, 1500 kc., 100 watts daytime; WFIL, WFIL Broadcasting Co., Philadelphia, Pa., license to use auxiliary transmitter which was licensed to WLIT, at same location as main transmitter of WRIL; WIND, Johnson-Kennedy Radio Corp., Gary, Ind., license to cover CP authorizing changes in eqpt. and increase in day power to 5 KW, 560 kc., 1 KW night, unlt'd.; WABI, Community Broadcasting Service, Bangor, Maine, consent to transfer of control of the Community Broadcasting Service, Inc., licensee of WABI from the First Universalist Society of Bangor to an individual, Frederick B. Simpson; KSD, The Pulitzer Publishing Co., St. Louis, Mo., license to cover CP authorizing increase in night power to 1 KW, day power to 5 KW, and special authority to operate 1 KW night with directional antenna; 550 kc., S-KFUO.

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