

HEINL RADIO BUSINESS LETTER

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No. 1038

[Handwritten signatures and initials]

June 22, 1937.

SILENCE CRITICS WITH SERVICE, SYKES ADVISES N.A.B.

The nation's broadcasters were advised this week to render such fine public service that critics of the American plan of broadcasting would be silenced by Judge Eugene O. Sykes, veteran Chairman of the Broadcast Division, Federal Communications Commission.

Delivering the principal address at the convention of the National Association of Broadcasters in Chicago, Judge Sykes spoke on "The Duty and Responsibility of the Broadcaster."

"The entire theory of the Radio Act and its successor, the Communications Act", he said, "is that broadcasting licensees are made trustees of the Federal Government to render a public service to the communities their stations serve; that this license is a privilege granted by the Government for just such time as this service is rendered and in no way constitutes a vested right to the use of a frequency.

"The criterion set up in this law for the issuance and for renewal of licenses, is 'if public convenience, interest or necessity will be served thereby', or as stated in another section of the Act if 'the Commission shall determine that public interest, convenience or necessity would be served by the granting thereof.' In the one phrase, the word 'convenience' is placed first, while in the other the word 'interest'. However, they mean the same thing.

"While another section of the Act expressly states that a broadcasting station is not a common carrier yet, by the terms of the Act, above quoted and by its very nature, it is a business clothed with a public interest.

"The Commission, having determined that you are a proper party to serve the public of your community and having granted you this gracious privilege in the form of a license, this duty then devolves upon you to render the best public service to your community that you can. You assume, by the acceptance of this license, a great responsibility of public service. How then is the best way in which you can fulfill this duty and responsibility?

"You are thereby accorded a wonderful opportunity for service which necessarily carries with it a grave responsibility. You are invited to enter the homes and firesides of your listening public for practically sixteen hours a day. These programs reach the men, women and children of the entire nation. They

They reach those who are now steering the destinies of our communities, state and nation, and those who are being trained to assume these reins of government when the present actors pass from the stage. These thoughts should ever be present with you and your programs should be so built that our younger generations who have the privilege of listening to the radio should be improved and be better equipped for their responsibility to be so soon assumed by them.

"While under our plan of broadcasting the stations must be self-supporting by their sale of time, yet you must bear in mind that this is but an incident and that your main object and purpose is one of public service. In fact, the better service you render the more popular becomes your station and the larger becomes your listening audience, hence the easier for you to obtain the necessary advertisement.

"You are still a young industry and Federal regulation thereof is still young, yet within this period of a little over ten years we have seen a wonderful growth in the industry and have had wonderful improvements not only from a technical nature but also in the programs and the character of public service being rendered. Yet, like all young industries, there is room for greater improvement not only in our regulation of this art and industry but in the nature and character of the programs of the stations.

"The best answer to make to those who are not satisfied with our American system of broadcasting is to render such a wonderful public service that these critics may, in the course of time, be silenced. The needs of our various communities differ. Therefore, what will be a public service on one community might not be in another. You should carefully familiarize yourself with your communities and see what local service you may render them and since your programs are going into these homes you must consider good taste. Certainly when broadcasting a dinner program it should not be interspersed with advertising announcements which would tend to destroy the appetites of this audience. You must be just and fair to every one in your community and your editorial policy should be one to bring about closer cooperation and not to stir up strife therein. You should build up and not tear down.

"I now desire to congratulate you upon the great and unique public service you rendered during the flood on the Ohio and Mississippi Rivers last February. The broadcast stations were a source of inestimable assistance in preventing loss of life and property and by keeping the public posted on the exact stage of the flood. Broadcast stations offer a very excellent means of acquainting the public almost instantly with any message the relief authorities may desire to disseminate. Many stations coordinated emergency units, procured supplies, directed relief activities, and raised many thousands of dollars through appeals to the public for the Red Cross.

"Our engineers are now studying plans for the better cooperation of all radio facilities and relief organizations in times of emergencies. I feel sure we can always count on the broadcasters cooperating fully and to do their share. Service of this character is indeed public service of the highest order and which service I am sure was appreciated by our entire citizens.

"Another public service in which progress is being made is that of the Committee on Federal Radio Education headed by Dr. J. W. Studebaker, Commissioner of Education, and composed of an equal number of broadcasters and educators. I understand that two of the large foundations are very much interested and are willing to materially help in financing the work of this committee. I believe a successful conclusion of the labors of this committee will be of the greatest benefits to both radio and education."

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SEGAL AND SMITH DENY FCC CHARGES

Dismissal of charges alleging improprieties in the practice of law before the Federal Communications Commission was requested last Saturday in pleading filed with the FCC by Paul M. Segal and George S. Smith, Washington attorneys. The lawyers were cited by the FCC in an order issued May 19th to show cause why they should not be disbarred for purported filing of applications in the name of so-called "dummy" applicants, and for other specified reasons.

In separate answers, Messrs. Segal and Smith categorically denied all of the charges made in the FCC order as without foundation. The answers were in the nature of a full disclosure of the facts relating to the matters upon which the charges were based. A hearing on the charges was requested, unless the Commission should conclude that the order be dismissed.

The attorneys contended their conduct at all times has been entirely ethical, proper and professional, and that the acts cited in the FCC order were not improper or in violation of any existing rules or methods of legal practice. Dealing specifically with the allegation that "dummy" applications had been filed for the purpose of "deceiving" the Commission, the attorneys declared that their applicants were not "dummies" and that their procedure was in conformity with a prevalent and sanctioned practice before the Commission.

The four principal charges made against Messrs. Segal and Smith by the Commission and the categorical answers of the radio attorneys follow in brief:

Charge: (1) That they "knowingly and with intention to deceive, interpolate, or aid and abet in the interpolation of, certain signed and notarized depositions into the files of the Commission in the case of Richard M. Casto, contrary to the Rules and Regulations of the Commission.

Answer: Mr. Segal denied any part in the incident but recalled Mr. Smith's role in it. Mr. Smith said that the attachment of signed affidavits to the unsigned originals was done "with the full knowledge and acquiescence of the Secretary's office". He added that he had previously made "full disclosure" of the facts in the case and that the FCC had issued an order disposing of the matter.

Charge: (2) That Richard M. Castro was "a subterfuge or dummy applicant for another person, or persons, . . . to deceive and mislead the Commission."

Answer: Mr. Segal said Mr. Castro wrote to them and asked that they represent him in an application for a new station at Charleston, W. Va. "I believed then and I believe now", Mr. Segal said, "that Mr. Castro was a bona fide applicant and was in possession of funds which he had represented to George S. Smith he owned."

Charge: (3) That Messrs Segal and Smith organized the Palmer Broadcasting Syndicate, Inc., as a dummy applicant for obtaining authorizations from the FCC.

Answer: Mr. Segal said the Palmer Broadcasting Syndicate, Inc., was chartered for a client (unnamed) and that there was never any intention that it should become a dummy applicant or that the FCC should be deceived.

Charge: (4) That the attorneys through the Palmer Broadcasting Syndicate, Inc., "with the intention to deceive", filed applications for construction permits to build stations at Portland, Me., Lewiston, Me., and Cheyenne, Wyo., "for the purpose of deceiving and misleading the Commission in its consideration of said applications and applications of other applicants, and to hinder and delay other applicants."

Answer: The applications were legitimate, Mr. Segal said. There was no intention to deceive the Commission. He added:

"I was requested by the client referred to above to cause the formation of Palmer Broadcasting Syndicate, Inc., on or about June 26, 1934. I was told by that client to cause a Delaware corporation to be formed and to use clerical personnel as incorporators, original stockholders and original directors, during the formative and organization stages of the corporation's life. I was directed to cause such original stockholders to transfer the stock of Palmer Broadcasting Syndicate, Inc., to

my client after the completion of the corporate organization. I was told by my client that there were substantial reasons why, with regard to an application proposed to be filed at Portland, Maine, it was desirable to maintain anonymity of my client in connection with the filing of the application until such time as hearing should be held upon the application. This course not being in contravention of any law, rule or regulation and not being contrary to prevailing practice and wholly without sinister purpose, I did, pursuant to and upon my client's instructions, cause said corporation to be formed and cause applications to be filed before the Federal Radio Commission for construction permits for two radiobroadcasting stations, one at Portland, Maine, and one at Cheyenne, Wyoming. These applications were filed on June 27, 1934. They complied in all respects with the Radio Act of 1927 and the Rules and Regulations of the Federal Radio Commission and all of the facts and statements contained in the applications were true and correct to the best of my knowledge and belief.

"When these applications were filed they in no manner conflicted with any other applications. Both the Cheyenne and the Portland applications were filed with a bona-fide intention on the part of my client to prosecute such applications and to exercise and use the facilities if granted.

"Later, in the case of Cheyenne, Wyoming, the person who was to prepare the data and carry forward with the factual presentation on that application finally reported that he did not believe, upon the basis of his investigation, that the application could be successfully prosecuted, and accordingly my client permitted the Cheyenne application to go by default.

"In the case of Portland, Maine, all applications for local facilities in that city, including the application of Palmer Broadcasting Syndicate, Inc., the application of Eastern Broadcasting Company, and a number of other applications which were filed even later were all held up and no action was taken on them by the Commission for a period in excess of two years, and hence any delay in action upon the Palmer application or in action upon the applications which competed with it was not ascribable either to my client or to me.

"Finally about September 24, 1936, more than 2 years after the application had been filed, the circumstances concerning Portland, Maine, the service available to it, and the many other factors that determine whether or not an application should be granted, had so changed that my client came to the conclusion that the application should be withdrawn and, accordingly, on September 24, 1936, the Commission was requested to dismiss that application and it did so dismiss it on October 7, 1936.

"I should mention that for a short time during the long pendency of the Palmer Broadcasting Syndicate, Inc., application for Portland, Maine, there was another application filed by Palmer for the same facility, namely, for 1210 kc., to be used at Lewiston, Maine. Since the distance from Lewiston to Portland is some thirty miles, it was obvious that these two applications were in mutual conflict. The Lewiston application was filed on October 26, 1934, and during the time when no action could have been taken on it and at a time when my client was undecided whether there was a better chance to establish a station at Lewiston or at Portland. Thereafter my client decided that the application for Portland, Maine, was more meritorious and accordingly my client permitted the Commission to return the Lewiston application on May 10, 1935, without acting on it."

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WJSV ASKS FOR 50 KW; NEW TRANSMITTER SITE

The Columbia Broadcasting System, through its affiliated Washington station, WJSV, has asked the Federal Communications Commission for permission to increase its power from 10,000 watts to 50,000 watts and to relocate its transmitter from the present site on the Memorial Highway in Alexandria, Va., to a proposed site in Montgomery County, Md.

Harry C. Butcher, Vice-President of the CBS in charge of the Washington office, estimated the cost of the project, including the removal to the new location and the new 50,000-watt transmitter, at \$270,000.

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TWO NEW BROADCASTING STATIONS RECOMMENDED

Favorable reports on applications for two broadcasting stations were filed with the Federal Communications Commission this week.

Examiner Robert L. Irwin recommended the granting of a construction permit to the Elmira Star-Gazette, Inc., of Elmira, N. Y., for operation on 1200 kc. with 250 watts daytime.

Chase S. Osborn, Jr., of Fresno, Cal., was given a favorable report by Examiner John P. Branhall. Osborn asked for 1440 kc. with 500 watts time, unlimited hours.

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NAB ELECTS JOHN ELMER AS PRESIDENT

The National Association of Broadcasters meeting in Chicago for their annual convention, held their election of officers today (Tuesday) and Mr. John Elmer, President of Station WCBM, Baltimore, was elected as President of the NAB.

Other officers are: First Vice-President - John J. Gillin, Jr., Manager, WOW, Omaha; Second Vice-President, W. J. Scripps, WWJ, Detroit; and Harold V. Hough, Station WBAP, Fort Worth, was reelected as Treasurer.

Six new Directors were elected as follows: C. W. Myers, KOIN, Portland, Ore., retiring President; Frank M. Russell, National Broadcasting Company, Washington, D. C.; Harry C. Butcher, Columbia Broadcasting System, Washington, D. C.; Herbert Hollister, Kansas (Wichita); Theodore C. Streibert, WOR, Newark, and Gene Dyer, WGES, Chicago.

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GOOD RADIO MART IN ECUADOR, CONSUL REPORTS

There is a steady, though small, market for radios in Ecuador, according to U. S. Consul General Dayle C. McDonough, of Guayaquil.

"Import permits without exchange are issued from time to time for radios by the control officials", he writes, "but the demand for such importations is limited and sales are small. A regular but small demand may be expected in the future. The American radios are preferred and foreign makes, with one or two exceptions, have not been successful on the Ecuadoran market.

"Radios as a rule can be sold only on the basis of installment payments. Accessories are expensive in this market and expert repair service is difficult to obtain and when available is costly."

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A Central Children's radio station is being built in Kharkov, Soviet Republic. Children themselves are taking part in the installation of the equipment.

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::: BROADCASTING ABROAD :::

Ninety-one broadcasting stations are functioning in China, Hong Kong, and Manchuria, ranging from $7\frac{1}{2}$ watts to 100,000 watts in power. The most powerful station is MTCY, the 100,000 watt installation at Hsinking, Manchuria. The next largest installation is XGOA, the 75,000-watt station of the National Government at Nanking. At Hong Kong the British Colonial Government operates two stations of 2,000 watts each.

Of the total number of stations in this combined area over one-third, (37) are located in the city of Shanghai, which is reputed to have more radio broadcasting stations within its limits than any other single city in the world. Dials are crowded with stations; powerful ones often overlapping the weak; with bad reception for both; and competition at its keenest. With the exception of XQHC owned by the Ministry of Communications, XKOI controlled by the Chinese City Government and XSMP, the Police transmitter of the Shanghai Municipal Council, all of the Shanghai stations are privately owned. Five are foreign-owned, the remainder being Chinese. Broadcasting stations in China operate on a wave band of 550 to 1500 kilocycles with stations supposedly placed 20 kilocycles apart, but little adherence to frequency, resulting in serious interference. Only two or three stations use crystal control. Less than ten of the thirty-seven stations in Shanghai can be considered as being relatively well organized and equipped. Studios and transmitters are generally scattered with very limited and poorly engineered equipment, as compared with modern practices. XMHA, an American owned and operated station at Shanghai, is regarded as being the best operated.

As a step toward eliminating broadcasting congestion in Shanghai, the Ministry of Communications of the Chinese Government revoked the permits of XLHC (50 watts), XLHI ($7\frac{1}{2}$); XLHL (100); XHHD (50); WLHE (50); XLHF (50); XHHR (50) and XQHF (200) on February 1, 1937. The reasons given officially for this action were lack of proper modern transmitting equipment to insure clear reception and keep programs on assigned frequency, and transfers in ownership and increase in power by some stations without permission. The stations involved are reported to have had an average investment of less than US\$2,000 each. Despite numerous protests to the government, including the suspension of an entire day's program by all Chinese broadcasting stations in Shanghai, the eight stations affected have remained closed. Broadcasting interests believe that this is the prelude to a thorough cleaning up and look for an additional twelve stations to be withdrawn during the next six months.

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TRANSMITTERS BETTER AND CHEAPER, SAYS BAKER

Outstanding progress towards improved performance and economy has featured development of transmitter and speech input equipment during the last few years.

One of the bugaboos of broadcasting have been conquered and radio engineers still continue to perfect equipment for greater clarity, less distortion, wider range of tone cycles, at the same time bringing about reduction in price.

"Development, design and production of transmitters from 100 watt to 5,000 watt feature improved performance at the same or lower prices than last year", I. R. Baker, manager of transmitter sales for RCA told Editor & Publisher last week before leaving for the broadcasters convention in Chicago.

"The electrical design features considerably lower distortion over the entire audio band which, of course, makes for higher fidelity performance. In addition, the selection of power tubes has been directed toward the use of the smaller and less expensive tubes, thus reducing operation and maintenance costs."

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CBS TECHNICIANS JOIN C.I.O. AFFILIATE

Over the opposition of the International Association of Theatrical and Stage Employees, A. F. of L. affiliate, radio technicians employed by the Columbia Broadcasting Company voted last week to join the American Radio Telegraphists Association, C.I.O. affiliate, it was announced by Mervyn Rathbone, President of the Radio Telegraphists.

Mr. Rathbone said the radio technicians had voted to join the radio telegraphists despite a threat by the theatrical and stage association that they "would be walking the streets out of a job for joining the C.I.O."

They voted also, according to Mr. Rathbone, to dissolve the Association of Columbia Broadcast Technicians and to organize about 300 radio technicians in seven out-of-town stations operated by Columbia. The technicians will become members of the New York Broadcast Local 16 of the American Radio Telegraphists Association. Mr. Rathbone said that employees of Columbia stations in Washington, D. C.; Boston, Mass.; Charlotte, N. C., and Los Angeles, Calif., were prepared to join the radio telegraphists.

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BIG PRESS ADVERTISERS ALSO USE RADIO

Annual estimates compiled by the Bureau of Advertising, American Newspaper Publishers' Association and released last week, reveal that 394 national advertisers who spent at least \$50,000 each in newspapers in 1936 apportioned a total expenditure of \$272,953,478 in the three major mediums as follows: \$160,235,000, or 58.7% to newspapers; \$72,873,727, or 26.7% to magazines; \$39,844,751, or 14.6% to chain broadcast, according to Newsdom.

Altogether, of the 29 trade groups listed in the study, 24 placed the major portion of their appropriation for the three mediums in newspapers. The combined advertising expenditure in the three mediums by groups favoring newspapers was \$245,195,354 - compared with a combined investment of \$27,758,124 by trade groups favoring other mediums.

The study also includes a chart of the national advertiser's dollar for 1936 which is not a chart of figures included in the study as these figures cover only 394 advertisers who spent at least \$50,000 in newspapers last year. The dollar chart covers expenditures of all national advertisers in five mediums: newspapers, magazines, chain broadcast, car cards and outdoor.

The chart shows \$188,000,000, or 44%, going to newspapers, a gain of 12.5% over 1935; \$143,790,000, or 33.6% to magazines, a gain of 20.7% over 1935; \$59,671,000, or 14%, to chain broadcast, a gain of 21.1% over 1935; \$34,000,000, or 7.9%, to outdoor, a gain of 17.2% and about \$2,100,000, or .5% to car cards, compared with \$2,200,000 in 1935.

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The U. S. Commerce Department reports that 8,216 new radio licenses were issued in Palestine in 1936, bringing the total number of licenses in force to 20,388 at the end of 1936, against 12,172 at the end of 1935. The large increase in the number of licenses is attributed to the stimulation in the use of radio sets caused by the opening, on March 30, 1936, of the Palestine Broadcasting Station. As the total value of imports of radio sets has shown a slight decrease, the majority of new sets must have been small and inexpensive types purchased principally for reception from the local station.

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