

# HEINL RADIO BUSINESS LETTER

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No. 1134

## SENATE RATIFIES HAVANA TREATY AND CONVENTION

Paving the way for a general shake-up in the broadcasting spectrum, the Senate just before adjourning this week ratified the North American Regional Broadcasting Agreement and the Inter-American Radio Communications Convention.

The documents, drafted at the Inter-American Radio Conference in Havana last Fall, were reported favorably to the Senate by the Foreign Relations Committee, together with an analysis and the favorable report of Senator Wallace H. White, Jr., (Republican), of Maine, who recently was a delegate to the world Communications Conference at Cairo.

Ratification of the North American treaty will have its effect on the present inquiry into super-power proposals and the new FCC rules and regulations. Had the Senate's action been taken earlier, the engineering proposals would have been made a part of the hearing.

The FCC's new rules, however, cover the most important phases of the Havana treaty, it was said, and the reallocation of channels in accordance with the agreement may be effected without any revolutionary changes. The treaty constitutes the base of many of the new engineering rules, though, including the reclassification of stations and general increases in power.

The two documents approved by the Senate were explained to Secretary Hull by Commdr. T.A.M. Craven, the FCC member who helped draft them at Havana, as follows:

"The Inter-American Radiocommunications Convention undertakes to establish, at least temporarily in the city of Habana and under the auspices of the Government of Cuba, an Inter-American Radio Office (O.I.R.) which, in a consultative capacity, is intended to provide for closer cooperation among the member states and for a fuller and more rapid dissemination of technical, legal and other data of interest in the field of communications, all for the purpose of an improvement of engineering practices and a better understanding of the legal problems in the field of communications in the participating countries. . .

"The North American Regional Broadcasting Agreement undertakes to establish in that region, which consists of Canada, Cuba, Dominican Republic, Haiti, Mexico, Newfoundland and the United States and within the standard broadcast band, frequency assignments to specified classes of stations on clear, regional and local channels with a view to avoiding interference which in



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this region has caused great inconvenience to radio listeners. It is believed that the principles laid down in this Convention, if carried into effect, will result in general satisfaction not only to the listening public but to the broadcasters as well."

Secretary Hull in submitting the North American agreement to the Senate said:

"This agreement, while eliminating the theory of exclusive radio channels for broadcasting, will provide in its stead a more effective plan which will greatly increase the availability of radio frequencies for broadcasting purposes in North America, including 14 additional channels for use by United States stations, through the establishment of various classes of clear channels graduated according to power and mileage separation, regional channels, and local channels.

"Nationally this agreement is of importance because it not only reserves to the United States the necessary complement of frequency channels within the standard broadcasting band of 550 to 1,600 kilocycles but provides at the same time for sufficient flexibility to permit of the allocation of those frequencies to the best interests of the broadcasting industry and of the listening public in this country.

"Internationally the agreement is of importance because it provides for a definite plan in North America with respect to the use of broadcasting channels, thus eliminating the dissatisfaction heretofore evident in North American countries other than the United States due to allocations to them which they have deemed insufficient to meet their needs and avoiding the confusion which naturally resulted from the efforts of those countries to provide themselves with adequate broadcasting facilities."

An analysis of the Treaty and the Convention by Senator White are carried elsewhere in this news service.

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#### TWO ENGINEERING HEARINGS CALLED BY THE FCC

Two informal hearings on proposed new rules affecting special radio services were scheduled this week by the Federal Communications Commission.

State Forestry Departments and other organizations administering forestry lands were invited to a conference on the use of radio-communications in the protection of forested areas. The parley is set for June 29th.

Another conference of professional radio operators was called for July 11th. The FCC explained it is considering a draft of revised radio operator regulations for all professional classes.

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## 75TH CONGRESS NOTED FOR KILLING RADIO MEASURES

The 75th Congress, which adjourned last night (Thursday), was notable for killing more radio legislation than it enacted. With its adjournment a score of bills affecting the broadcasting industry died automatically, but they may, of course, be reintroduced in the 76th Congress when it convenes.

After ignoring radio matters for almost its entire three sessions, Congress took a sudden interest in pending bills during the closing weeks only to reject them.

Outstanding were the numerous proposals for Congressional investigations of the radio industry and the FCC. The House voted down the principle resolution, while the Senate refused to consider the White resolution although it had been reported by two committees.

Hearings were held in both the House and the Senate on bills to establish a government-owned Pan American short-wave station, but united industry opposition, together with a lack of support from the administration, caused them to be buried in committees.

Copyright legislation, including Senate ratification of the international copyright treaty, was at a standstill as Congress quit, no action having been taken since the first session.

The Senate adopted a resolution expressing its opposition to super-power for broadcasting and ratified the North American Broadcasting Agreement and Inter-American Communications Convention during the final week.

A dozen or so minor bills affecting radio, including one proposal of the FCC regarding control of diathermy machines, failed even to obtain Committee approval.

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## BROADCASTERS' EARNINGS BARED BY FCC STATISTICIANS

Broadcasters of the country were definitely in the money in 1937, according to figures made public this week by the Federal Communications Commission during the super-power hearings. They had a gross income of \$114,222,906 and a net return of \$18,883,935.

Estimating the industry's investment in properties as \$46,240,128, the FCC statisticians figured the net return as 16 percent. The figure, however, does not include network properties as distinguished from their key stations. Broadcasters believe this would add another \$10,000,000 to the industry's investment and reduce the percentage profit accordingly.



Network revenues, including secondary chains and key stations, amounted to \$40,541,062 in 1937, or a net return of \$6,395,955, about a third of the industry's total earnings.

Capital investments of networks, including key stations and owned and managed stations, was estimated at \$16,000,000 by the FCC statisticians.

Program and talent made up by far the greatest expense of the broadcasters, as might be expected. The total for the year was \$32,500,677. Salaries of the administrative and sales staff ran a close second, however, amounting to approximately \$20,000,000.

Total time sales by networks and stations amounted to \$117,908,973, of which the networks took in \$35,812,537.

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#### WHITE ANALYZES HAVANA RADIO TREATY AND CONVENTION

Following are excerpts from the analysis of the North American Broadcasting Agreement and the Inter-American Radio Communications Convention by Senator Wallace H. White, Jr., (R.), of Maine, the Senate's leading authority on radio matters:

"The North American Regional Broadcasting Agreement is an agreement concluded by Canada, Cuba, the Dominican Republic, Haiti, Mexico, and the United States. It may be said generally that this agreement establishes the technical principles which our radio experts believe should be followed in the use of the standard broadcast band in the North American region, so-called, which includes the countries party to this agreement. The agreement represents the efforts of the technicians of the six countries to establish these principles and to make practical application to them.

"I have heard but two criticisms of this agreement. The first is that it sanctions superpower stations and thereby threatens harm to stations of lesser power in our country and tends to concentrate broadcasting opportunity in the hands of the few who are licensed to use superpower. In my opinion the criticism is not justified. It is true that in the agreement, stations with a power in excess of 50 kilowatts are recognized and defined as class 1-A stations. This classification does not authorize the erection or the operation of any station with power in excess of 50 kilowatts. It simply recognizes that there are such stations; that the nations under their own law may license such stations; and it seeks with respect to them to declare the principles which shall control their operation precisely as it seeks to lay down the principles which shall guide in the operation of other classes of stations. Under present United States law our Communications Commission has authority to license stations of any power the Commission sees fit. This agreement

neither adds to nor takes from our Communications Commission the authority vested in it in this respect. I repeat that the criticism is without merit.

"The other complaint is that by this treaty the United States surrenders some of the rights in the broadcasting spectrum now enjoyed by it. I do not agree with this criticism. I think it is ill-founded. I believe that the United States will secure from this treaty definite advantages over those now possessed by it.

"This pending broadcast agreement is the result of long study and many preliminary conferences between our authorities and those of Canada, Mexico, and Cuba. I regard it as a substantial accomplishment. I have said above that one criticism of this treaty was that the United States lost rights it has heretofore enjoyed. In my judgment, this is not so. For a long while we have used 90 of the 96 channels within the standard broadcasting band. Of these channels 40 were allocated to clear channel stations, 44 to regional stations and 6 to local stations but the interferences from stations within the other countries party to this treaty have been such that we have had in effect only about 10 clear channels instead of the nominal 40 clear channels. Under this treaty, the broadcasting band has been increased from 550-1500 kilocycles to 550-1600 kilocycles. This added 100 kilocycles will make available 10 additional broadcasting channels. As a result of this increase and other provisions of the treaty, the United States will have the full use of 93 channels and a limited use of 13 channels, making a total of 106 channels which is 100 percent of the broadcasting band. It is an increase of 16 channels over the 90 within the broadcast band we have heretofore been using. For the sake of accuracy, I should add that we have heretofore been using three channels outside the standard broadcasting band. This means that we have made a net gain of 13 channels under this treaty.

"In addition to this, through the technical provisions of the treaty, 32 of the 40 clear channels, the use of which has been heretofore greatly disturbed by foreign interference, have now been cleared. We have the use also of 14 other clear channels, making a total of 46 clear channels which the United States may now use. Of these, 32 will be clear of all interference and the remaining 14 will be measurably free from objectionable interference. At the time of the conference, of approximately 1,000 broadcasting stations on the North American continent, 725 were in the United States. Not a single one of these stations within the United States need be given up because of the agreement reached at Havana.

"These accomplishments have not been brought about without a price but that price involves only a shifting of the frequency allocations made to our broadcasting stations. This shifting of frequencies is necessary to conform our broadcasting structure and our operating practices to the technical principles and standards agreed upon in Havana. The shifting will impose a small expense only upon the stations involved."



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Regarding the Inter-American Convention, Senator White said:

"The Inter-American Communications Convention is an undertaking on the part of the United States and the other principal countries of the Western Hemisphere to establish a permanent inter-American radio organization through which the signatory or adhering countries can effectively consult concerning common radio-communication problems. It contemplates further that the countries party to the convention shall communicate to this central organization all provisions of internal and international radio legislation and regulations in force in their respective territories and statistical, technical, and administrative reports relative thereto. By the terms of the convention this inter-American organization is to have charge of the work preparatory to future inter-American conferences and the publication and circulation of the work accomplished by conferences. Generally, it may be said that this inter-American organization is to be the secretariat for all future inter-American conferences and that it will perform the duties and have the responsibilities incident to such a service.

"In addition to this general purpose, the convention includes various agreements all of a general character, as for example, that the contracting Governments shall take appropriate measures to insure the maintenance of adequate radio service for the safety of navigation by sea and by air; that aircraft when operated on international scheduled services and carrying passengers shall be provided with radio apparatus in efficient condition and in charge of properly licensed operators; that each Government will take steps to establish a sufficient number of regional radio stations to furnish meteorological and safety information for use in air traffic; that they will encourage rapid and economical transmission, dissemination and exchange of news and information among the nations of America, and other provisions general in character which it is believed will benefit all nations."

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Dr. Ernest F. W. Alexanderson, radio inventor and consulting engineer of the General Electric Company, has received word that the honorary degree of Doctor of Philosophy has been conferred upon him in absentia by the Royal University of Uppsala, Sweden.

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## McCOSKER SEES 50 KW MINIMUM UNDER NEW TREATY

Although he testified the day before the Senate ratified the Havana Treaty, Alfred J. McCosker, President of Station WOR foreshadowed the effect it would have on United States stations in testifying at the super-power hearing at the Federal Communications Commission.

"If the Commission today, or for many months to come, considers it undesirable to permit the use of power in excess of 50 KW by a station in the United States, there is still no necessity or apparent value in the adoption of a rule by the Commission restricting the Commission's authority to grant the use of power in excess of 50 KW", Mr. McCosker declared. "It deserves to be kept in mind that, in the relatively near future, it is probable we will be operating our radio stations in accordance with the Inter-American Radio Treaty. In that treaty Class 1-A stations are required to operate with a minimum power of 50 KW.

"Our neighbors now have in operation at least one station using power in excess of 50 KW, and it may reasonably be expected they will, in the future, have additional stations operating with power in excess of 50 KW. It is my understanding the licensing authorities of the other countries, signatories to the Havana Treaty, have no thought or intention to limit in such countries, by rule or practice, the use of power by their Class 1-A stations. Therefore this rule, if adopted, will serve the negative purpose of inviting our neighboring foreign stations to encroach on our commercial markets and to spread such gospel as they may choose. This rule, if adopted, would be similar to a law prohibiting the exportation of our goods into foreign markets and permitting the unrestricted importation of foreign goods into our markets."

Mr. McCosker, who was offered as the principal witness by Former Representative Frank D. Scott, of Michigan, counsel for WOR, continued to dwell upon the foreign aspect of the situation as follows:

"It is neither the purpose or intention of this country to tell our neighbors how they should live, or the manner in which they should govern themselves. However, it is definitely our responsibility to furnish accurate information to our citizenship to preserve our form of Government and to keep our house in order. Recent world events have proven that conquest can be accomplished by persistent partisan propaganda as successfully as by war. The adequate self defense of our institutions require us to maintain the possibility of using a medium of communication in the United States."

Mr. McCosker launched a strong protest against the proposal to class WEA, WJZ and WABC as Class 1-A stations and the proposal to place WOR as a Class 1-B station saying this had occasioned adverse repercussions toward WOR.



"The advertising agencies immediately contacted us with a query as to why WOR was to be relegated to a 1-B classification. It may be urged that this is mere psychology. Such a diagnosis has been made of depressions and other social convulsions", Mr. McCosker submitted. "However, as long as we have human beings, we may expect psychology to play an important part in our scheme of life. The people who use the facilities of WOR, by and large, insist on using one of the best stations in the New Jersey-New York area. It may be urged there is no material difference between 1-A and 1-B stations, but we cannot convince our customers and prospects that there is a distinction without a difference. They ask: 'Then why the distinction?' In truth there is a substantial difference between 1-A and 1-B stations independent of the comparative protection to service areas. The Class 1-A station has the opportunity of promotion - expansion. The Class 1-B station is definitely static."

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#### SEES WCAU'S 1938 BUSINESS ALMOST DOUBLED

A large increase in the business of Station WCAU, despite depression conditions, was seen by Dr. Leon Levy, of Philadelphia, its President, at the Federal Communications Commission's super-power hearing. Dr. Levy, introduced by his counsel, Paul A. Porter, said:

"From January 1st to June 1st, of this year, we did a gross business of approximately \$430,000, and my estimate of the gross business for the year 1938 is approximately \$800,000. Our company does not owe any money other than current monthly liabilities and has no outstanding preferred stock or bonds.

"At the present time, we are spending about \$40,000 for improvements in our building. Although we have been in this building a little over five years, we have expanded our organization considerably during that time, and we are now constructing two additional studios. We will have a coordination of our offices which will bring about increased efficiency. We are building separate recording studios with up-to-date equipment and increased facilities for experimental and research work."

Dr. Levy told the Commissioners that the WCAU Broadcasting Company owned its building against which there are no mortgages or encumbrances, that it was located on the principal street in the most important section of Philadelphia and added that \$263,801 had been spent on the transmitter and land.

The station has 120 employees with a monthly payroll of \$23,000, operating expenses per month of \$48,000, and about \$10,000 a month spent on local talent. The witness stated that the station's owners had invested \$1,600,000 in the promotion and development of the station, a sum, which it was declared, was perhaps not equalled by any other individual broadcasting station in America.

This led to a plea on the part of Dr. Levy that WCAU be classed as an 1-A station. Calling attention to the fact that Philadelphia is the third largest city in the United States, he declared:

"Surely, such development should not be retarded and should not be penalized by any reallocation that fails to take all of these matters into consideration.

"If necessary, the number of 1-A station classifications should be increased to twenty-six which can be done without prejudice to any other existing station and which should be done by the United States at this most important time when it would appear that final allocation is to be made of the various frequencies. The United States should not penalize themselves by a policy of adopting only a minimum number of 1-A stations.

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#### LOBBYIST CHARGES EXCHANGED AS HOUSE BLOCKS PROBE

Charge of lobbying were hurled both by proponents and opponents of a resolution calling for an investigation of the radio industry and the FCC before the proposal was voted down late Tuesday night in the House by a vote of 234 to 101.

Critics of the resolution turned their principal fire on Commissioner George Henry Payne, who had appeared before the House Rules Committee to make charges against his colleagues and figures in the radio industry.

Representative Warren (D.), of North Carolina, called him "a disgruntled Republican smart aleck", while Representative Cox (D.), of Georgia, asserted that he "presented a very sorry figure in his appearance" before the Rules Committee.

Chairman O'Connor, of the Rules Committee, led the unsuccessful fight for the resolution. He was joined by Representatives Connery (D.), and Wigglesworth (R.), of Massachusetts, and others, including Representative Fish (R.), of New York.

Representative Fish dared the House Democrats to pass the resolution and declared he was particularly interested in finding out whether Charley Michelson, Democratic publicity chief, "is still receiving \$10,000 from the Crosley Radio Corporation of Cincinnati for the use of his influence".

The lengthiest defense of the radio industry and the FCC came from Representative Stefan (R.), of Nebraska.



Excerpts from the hour-long debate follow:

Mr. O'Connor:

"I have never seen a situation just like this. I have never in my life seen such lobbying against a resolution, from high places and from low places, from part of the leadership of the House and from the page boys of the House and even the colored boys in the other places. I have been here so long I can smell what is going to happen in this House.

"This is not my resolution. It is the resolution of a great friend of ours, our late beloved colleague 'Bill' Connery, of Massachusetts, who introduced it years ago. It is his resolution that has been reported out. Admittedly there is a 95-percent monopoly of radio in the hands of certain interests. You can walk out in that lobby tonight and you will find difficulty in getting through the lobby because of the crowd of radio lobbyists from New York and all over the country, and from every department of the Government. This is the situation we face. The Committee on Rules instructed me after holding hearings for 2 years to bring in this resolution to investigate the radio monopoly. I know all the pressure that has been put on my friends. I know all the pressure that has been put on all the Members of this House. I shall reply to the alibis when I close. I can take a licking, but there will be a scandal in America as far as the interests of our public are concerned if this resolution is voted down. We shall have a roll call and see who is for the public and who is for the radio trusts."

Mr. Wigglesworth:

"We are confronted also by a practice of trafficking in licenses which to my mind carries with it all the possibilities for the capitalization of these Federal franchises into profits to the detriment of the people as a whole, as in other fields in the past in this country.

"I have not time to go into the details of the monopoly. Every one of the 40 so-called cleared channels in the broadcast band is today controlled by a station owned or affiliated with one of the three big chains; 96 percent of the full-time operating power is similarly allocated to chains affiliated with the big three. At last accounts no independent station was authorized to operate with more than 1,000-watt power, while over 200 Big Three stations were authorized to operate with a power of 50,000 watts, one of them with a power of 500,000 watts."

Mr. Connery:

"Mr. Speaker, first of all I wish to commend the chairman of the Committee on Rules and the Rules Committee for bringing this resolution into the House for action. It seems ridiculous to me that anybody should have to stand in the well of this House and tell its membership that a radio monopoly exists. It is generally conceded that such a monopoly does exist, and in this resolution the National Broadcasting Co., the Columbia Broadcasting System and the Mutual Broadcasting Company are specifically named. The greatest proof, to my mind, that a radio monopoly does exist, and that the whole situation shows that there is something 'rotten in Denmark', is the very fact that the Federal

Communications Commission itself, realizing that such monopoly does exist and that conditions are obnoxious, has voted and is now in the process of an investigation of its own into the situation.

"But here we have the farcial situation of the Federal Communications Commission investigating something for which it is directly responsible. This monopolistic situation is nothing new. Radio monopolies have existed for years; and the Federal Communications Commissioners have had every opportunity to rectify conditions and clean them up; and, therefore, it seems ridiculous to me, and it should to all other Members of the House, that we can expect the Federal Communications Commission to investigate itself. Such procedure, of course, will only result in whitewash."

Mr. Warren:

"Mr. Speaker, I certainly am not here to offer any alibis that might be attempted to be answered later on in this debate as to my opposition to this resolution. No lobbyists have talked to me about it. No one has seen me and asked me to oppose it, although it is a well-known fact that this hall out here has been covered with them today asking Members to support it. . .

"I will tell you what is back of this thing. The whole thing was started on baseless charges which he has refused repeatedly to substantiated by Commissioner Payne, a disgruntled Republican smart aleck of the Communications Commission.

"I hold no brief for Mr. Frank R. McNinch. Back in the Hoover administration I appeared before the Senate committee in opposition to his confirmation, and I made some very caustic remarks at that time about the gentleman. We were mad then in North Carolina; a political question was involved, and we attributed most of our troubles at that time to Mr. McNinch."

Mr. Cox:

"The gentleman from North Carolina put his finger upon the trouble. This resolution is here because of certain insinuations that have been made by Mr. Payne of the Commission. The Rules Committee had Mr. Payne pay it a visit, and he was given full opportunity to make complete disclosures and sustain by evidence the insinuations or the charges which he had been making for many months.

"Mr. Speaker, Mr. Payne presented a very sorry figure in his appearance before that committee. Having stated he would offer proof to sustain his charges, upon a subsequent appearance he confessed that he had no evidence to support the statements he had made. He was loose, careless and irresponsible in what he said, and made a most unfavorable impression."

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