

# HEINL RADIO BUSINESS LETTER

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No. 1174

## PRESIDENT, DISPLEASED, TO RECALL McNINCH

Chairman Frank R. McNinch of the Federal Communications Commission will return shortly to his erstwhile job as head of the Federal Power Commission, it was disclosed this week at the culmination of another McNinch purge of three FCC employees and the abolition of the Examining Division.

Mr. McNinch admitted at a press conference that he planned to return to the Federal Power Commission after Arnold G. Davis, Chief Examiner, had quoted the Chairman to that effect in a statement following his ouster. The transfer, it was said, was "in compliance with the President's desire". While Chairman McNinch recalled that he had been lent to the FCC only long enough to effect a "house cleaning", it was learned on high authority that the President has been distinctly displeased with the manner in which he has brought about a reorganization.

Chairman McNinch would not say when he expected to quit the FCC but there were indications that he will retire before Congress convenes. This becomes significant in view of the almost certainty of a Congressional investigation of the Commission.

The latest purge of the FCC Chairman took the scalps of Chief Examiner Davis G. Arnold, G. Franklin Wisner, Press Relations Chief, and Melvin H. Dalberg, an Examiner.

The ouster of Messrs. Arnold and Wisner, both veteran Civil Service employees, had been anticipated, but Mr. Dalberg's name was new on the purge list. It was learned, however, that he had recently gone to see Marvin McIntyre, Secretary to the President, and complained against Mr. McNinch's methods of effecting a reorganization. The story got back to the Chairman, and Mr. Dalberg was dismissed without warning while his colleagues in the Examining Division, except Mr. Arnold, were transferred to the Legal Division.

More disturbing to the broadcasting industry than the actual purge of three FCC employees was the sudden abolition of the Examining Division and the setting up of an unusual procedure for conducting hearings on applications. Without precedent in the Federal Government, the McNinch plan permits any designated employee to conduct hearings and report to the Commission without recommendation. Mr. McNinch said even the secretary could act in such a capacity.

The Commission, which already is burdened with detailed work, will then have to examine the record, together with briefs that may be filed by counsel for the applicants, and reach a decision.

Chairman McNinch, in explaining the plan, admitted that the Commission had been accused in the past of yielding to political pressure when it over-ruled recommendations of Examiners.

Mr. Arnold, in his statement, attacked the move to abolish the Examining Division, pointing out that it "puts the judicial work of the Commission directly under the authority and control of the Legal Department, which in many matters represents the opposition, and which is now headed by William J. Dempsey, 32-year old protege of Thomas G. Corcoran. Mr. Dempsey was made Chief Counsel following the purge last month of Hampson Gary.

The reorganization was effected in a brief interval of a regular Commission meeting as minority members protested they had not been given previous notice of the sweeping proposal and asked for time to study it. They also urged in vain that the ousted Civil Service employees be given a hearing as requested by Mr. Arnold.

Voting with the Chairman were Commissioners Eugene O. Sykes, Thed H. Brown and Paul Walker. Commissioner Norman S. Case, who complained loudly against the ouster of Mr. Arnold, voted with the majority on Mr. Wisner's dismissal.

Commissioner T.A.M. Craven, after a futile plea to the Chairman to give the Commissioners time to consider the proposed reorganization, voted against all motions, as did Commissioner George Henry Payne.

The action widened the rift that has been growing steadily within the Commission since Mr. McNinch inaugurated his purge and assured a Congressional airing of the whole affair early next session.

When questioned at a press conference, Chairman McNinch indicated he stood ready to recommend a shake-up in the Commission itself should President Roosevelt ask for his advice. He denied, however, that he might advocate a single administrator in lieu of the seven-man bi-partisan Commission.

"I do think there are distinct advantages in the centralization of authority", he said, "but I believe that the work under the present set-up would be too much for one man."

The diminutive FCC Chairman stated that he had not consulted President Roosevelt on his reorganization plan. He insisted, however, that he had been given free rein by the President when he was appointed more than a year ago. While stating that the reorganization was on the whole completed, he intimated a few more personnel changes may yet follow.

One of the FCC subordinate officials who was marked originally for the purge, T. G. Slowie, the Secretary, apparently has escaped the axe for the time being because of his political influence on Capitol Hill, where he formerly was secretary to Representative Jacobsen (D.), of Iowa.

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## NBC FIRST WITNESS AT CHAIN-MONOPOLY PROBE

The National Broadcasting Company will present the first witnesses in the chain-monopoly investigation by the Federal Communications Commission which will open Monday at 10 A.M. in the departmental auditorium on Constitution Avenue, it was announced this week. The hearing, which is expected to continue for several months, will be conducted by Chairman Frank R. McNinch and Commissioners Thad H. Brown, Eugene O. Sykes, and Paul Walker.

The networks, which will occupy only the first stage of the inquiry will require more than a month to present their testimony. The National Broadcasting Company and the Columbia Broadcasting System will take up two weeks each, it was said, and the Mutual Broadcasting System will need about ten days.

The hearing will be held only four days a week, Chairman McNinch said, so that the Commissioners may have time for other FCC business. After the opening day, the hearings will be held on Tuesdays, Wednesdays, Thursdays and Fridays.

A recess will be taken from November 23rd to November 29th for the Thanksgiving holiday and from December 23 to January 4th for the Christmas holiday.

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## SAWYER AND O'CONNOR LOSE; O'DANIEL WINS ELECTION

Charles Sawyer, Vice President of the Crosley Radio Corporation, which operates Station WLW, Cincinnati, lost the Ohio race for Governor on Tuesday to John W. Bricker, Republican nominee. In Texas, however, W. Lee O'Daniel, radio entertainer and flour manufacturer, won the Governorship with little opposition.

Among the Congressional defeats of interest to broadcasters was that of Representative O'Connor, of New York, who as Chairman of the House Rules Committee last session urged a Congressional investigation of radio. After being defeated in the Democratic primary, he ran as a Republican.

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The Federal Communications Commission has postponed the hearing upon the petitions of the telegraph carriers for an increase in rates for United States Government domestic telegraph communications until November 28th.

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TEXT OF ORDER ON REORGANIZATION OF FCC

Following are the principal provisions of the Federal Communications Commission order abolishing the Examining Division and setting up a new procedure for hearing applicants:

"Whereas, in order to provide for the more efficient discharge of the business of the Commission, particularly with respect to the handling of matters involving hearings, it is necessary to effect certain changes in the Commission's procedure and a reorganization of the Commission's staff:

"Now, therefore, it is ordered:

"1. That the following procedure shall be followed with respect to cases designated by the Commission for hearing, unless otherwise specified in the order designating a particular matter for hearing:

- "(a) In designating a case for hearing the Commission will specify whether the hearing shall be conducted by the Commission, by a Commissioner, or by a Board composed of one or more suitably qualified employees of the Commission.
- "(b) The Commissioner or Board designated as provided above to conduct the hearing shall preside at the hearing and have authority to rule upon the admissibility of evidence and other matters normally and properly arising in the course of the hearing but shall have no power to decide any motion or petition to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding.
- "(c) After the close of the hearing the transcript of the testimony taken at the hearing shall be filed with the Commission by the official reporter as provided in the Commission's rules and the Commissioner or board designated to conduct the hearing shall have authority to entertain motions to correct the record made in accordance with the rules, but shall have no further authority with respect to the proceeding.
- "(d) Within twenty days from the filing of the transcript of record of the hearing each party to the proceeding shall file with the Commission proposed findings of fact and conclusions of law.
- "(e) The Commission will, after considering such proposals of the parties filed as above provided, and the record in the proceeding, file its proposed report or findings of fact and conclusions of law, which shall be public.

"(f) Within twenty days from the filing of the Commission's proposed report or findings of fact and conclusions of law, the parties to the proceeding may file exceptions to the same and may request oral argument.

"(g) After considering exceptions filed and oral argument, the Commission shall file its report or findings of fact and conclusions of law and its order.

"2. That the position of Chief Examiner be hereby abolished. To permit Chief Examiner Davis G. Arnold to take his full accumulated and accrued annual leave, this paragraph shall not become effective until the close of business on January 13, 1939, and commencing November 10, 1938, Chief Examiner Arnold shall be on annual leave status.

"3. That the Examining Department and all of the positions of Examiner (including the position of Assistant Chief Examiner) be hereby abolished.

"4. That the following members of the Examining Department be hereby transferred at their present grade and salary to the Law Department:

Seward, P. W.	Irwin, Robert L.
Hill, George H.	Hyde, Rosel H.
Bramhall, John P.	Berry, Tyler. "

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#### CRAVEN SEES GRAVE ISSUES IN McNINCH'S SHAKE-UP

Grave danger to the control of the nation's communications and the stability of the Civil Service system were foreseen by Commissioner T.A.M. Craven following the approval by the Federal Communications Commission of the McNinch reorganization plan.

"I regret that the majority of this Commission desired to terminate the services of men who have long and faithfully served this Government, as well as this Commission", he said. "In my opinion the men discharged were efficient and honest.

"Although the public press has been filled with rumors of reorganization of the Commission staff, today was the first official notification of the nature and purpose of the proposed Commission action. I regret that, in view of the ramifications of the action, those individual Commissioners who were taken by surprise were not accorded the courtesy to study the proposals at greater length.

"I am disturbed by some of the factors which appear to be involved in this situation and I feel that our basic difficulties might be the result of the failure of Commissioners acting as a body to properly direct and indoctrinate the subordinate staff of the Commission. I informed my colleagues that I could not agree that the staff should be burdened unfairly with all the blame and that I am ever willing to cooperate with the Commission in an endeavor to discuss all of the available methods for improving the effectiveness and manner of performing work at the Commission.

"With respect to the termination of the services of Mr. Wisner, and the employment of Mr. Ramsey, I voted 'No' because I did not know Mr. Ramsey and had no opportunity to investigate his qualifications and because I felt that the Commission might be in danger of evading the spirit of the Civil Service Act.

"Furthermore, I felt that if the majority of the Commission desired the services of Mr. Ramsey in an advisory capacity for a temporary period, he could have been employed in addition to the present staff.

"I voted 'No' with respect to the abolition of the Examining Department because I felt that grave questions of procedure involving undesirable control of the nation's communication systems might be involved and because I felt that long Government service and excellent record of efficiency should be recognized by this Commission. Moreover, I felt that these men should be given an opportunity to be heard by the Commissioners prior to their severance from the service. Likewise, I am concerned with reference to the effect on Civil Service in Government by action such as that taken today."

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#### FRENCH GOVERNMENT PUTS CURB ON PRIVATE STATIONS

The French Government has decided for the first time to direct control over a section of broadcasts made by private radio stations in France, according to the American Commercial Attache at Paris.

It is stated in the decision that the Paris private stations, Ile-de-France, Poste Parisien, Radio Cite and Radio 37, and the private stations situated in the provinces, Radio-Mediterranee, Radio-Nimes, Radio-Toulouse, Bordeaux-Sud-Ouest, Radio-Agen, Radio-Lyon and Radio-Normandie must in future maintain very close contact with the French State broadcasting service in regard to all broadcasts concerning political, financial and economic matters. All private stations must send copies of such broadcasts to the French broadcasting authorities daily.

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## WISNER SEES BREAKDOWN OF CIVIL SERVICE PROTECTION

A break-down in the Civil Service system was seen by G. Franklin Wisner following his abrupt dismissal by the Federal Communications Commission as Press Relations Chief in the McNinch purge.

"The action of the Commission came as a great surprise to me", he said. "At no time has the Chairman indicated to me he contemplated such action. I paid no attention to rumors that he was after my scalp since at a recent Press Conference he said he did not plan to disturb Civil Service employees.

"Since I have been under Civil Service for nearly 12 years, under the competitive system, serving the Government since the creation of the old Radio Commission, naturally, I have paid little attention to 'purge' stories as they affected my post.

"Furthermore, my record at the Civil Service Commission led me to believe I would be protected from arbitrary and capricious actions. It is evident in this case Civil Service broke down completely and the law was ignored by circumvention. No one under Civil Service can henceforth feel secure.

"Since Mr. McNinch has been Chairman of the Commission he has never discussed with me for one minute my job. He made no effort to find out how I run my office or the problems I was called upon to solve. If faults were found about my actions, as a matter of fairness, I should have been informed so I could have made corrections.

"I came to this Commission with clean hands and I am leaving it the same way. I am very proud of my record here in dealing with the Press and the Public."

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Order No. 28 of the Telegraph Division of the Federal Communications Commission which tentatively approved automatic alarm devices described as Radiomarine Corporation of America "Model AR-8600 Auto Alarm" and "Mackay Radio and Telegraph Company Auto Alarm Type 101-A manufactured by Federal Telegraph Company", until December 31, 1938, has been extended until March 31, 1939.

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## ARNOLD TELLS HOW McNINCH ORDERED HIM TO QUIT

The "inside story" of how Chairman Frank R. McNinch demanded the resignation of Davis G. Arnold as Chief Examiner several days before his formal ouster was disclosed by Mr. Arnold in a lengthy statement issued after his dismissal.

"Some three weeks ago I made an effort to see the Chairman and succeeded in conferring with him", he said. "At this meeting I approached the Chairman with all humility and expressed my uneasiness because of the publicity concerning me. I outlined my years of service to the Government, in and out of the Army; the fact that I had come with the Commission with the consent and approval of the President of the United States as I was desirous of getting into more interesting work, even though my transfer would not mean any immediate increase in salary; and that I joined the Commission as Attorney-Examiner at the salary of \$6,000 and that upon the organization of the Examining Department I was made Chief Examiner at a salary of \$6,500; later increased by the Commission to \$7,000. I outlined to the Chairman with great humility my responsibilities and indicated that a man of my age with a Civil Service status, if dismissed by the Commission on the theory of being inefficient, might find great difficulty in later being employed. We discussed what had happened to Mr. Gary, the General Counsel, as to his being offered a new \$9,000 position and I expressed to the Chairman my willingness to resign if the Commission indicated this to be its desire and he expressed his interest and willingness to obtain for me a position elsewhere.

"A few days thereafter there appeared in the public press an article to the effect that 'I had made my peace with the Chairman'. I was later summoned by the Chairman, who was highly indignant because of this publicity, and in spite of my assurances that I had not in any way been responsible for it, his attitude toward me was most unfriendly. At a later meeting he informed me that he had made a contact with General Hines of the Veterans Administration and for me to call upon him. This I did, and General Hines with whom I had served for over twelve years at salaries ranging from \$6,000 to \$7,500, said that he would be happy to have me back but that he could not offer me a position which would carry with it a salary of over \$5,000. On the following day I was summoned by the Chairman, who desired to know my intentions as to accepting the new position offered by General Hines. Upon my stating that I was unable to take a position at \$5,000, the Chairman commented that 'in these days that was a very good salary for a Republican'. The Chairman displayed great indignation that informed me, as he escorted me from his office, that his feeling toward me was no longer one of friendship.

"Shortly after this visit the Washington Post published an article and I was again summoned by the Chairman, who was again most indignant, and although I assured him, as the article disclosed, that I had nothing to say to any reporter and knew

nothing about the source of this information, he demanded my answer as to whether or not I was going to resign. I plead with the Chairman for more time and asked that he await the return of some of my friends through whom I was sure I could obtain a position in the Government which would compensate me at or near my present salary. To this plea the Chairman retorted that he 'must have new faces around here at once' and that this matter must be decided before November 10, in order that he might comply with the President's wishes and return to the Federal Power Commission.

"A day or two later, in order to give answer to the Chairman, I wrote him a personal and confidential note again pleading with him to retain me in my present position, or in the event that this was not possible, that I be retained as an Examiner, if possible at my present salary. On Saturday, November 5th, I was called to the Chairman's office and asked if that was my refusal to resign. At this time I took with me another memorandum to the Commissioners in which I requested that before action was taken to the end that I be dropped from the rolls of this Commission, that I be given an opportunity to meet with the Commission.

"Under Section 6 of the Civil Service Act, Congress provides that a person in the classified Civil Service may not be removed except for such cause as will promote the efficiency of such service and for reasons given in writing, and allows the person whose removal is sought a reasonable time for personally answering same in writing. Congress did not, however, permit any examination of witnesses or any trial or hearing, except in the discretion of the officer making the removal.

"My request to the Commissioners was for a hearing before charges were made, and I felt that this request was not unreasonable when coming from a man who had served the Commission for over four years, and as head of a department which had not been in any way criticized by the Commission. Three of the four Commissioners now acting with the Chairman have been heard to speak with commendation of the services of the Examining Department and the Chief Examiner. Action by the Commission to remove me without some word of advice or caution first being given by the Commission or to any conditions desired to be remedied would seem to be most unreasonable and unfair."

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Neville Miller, President of the National Association of Broadcasters, and Frank R. McNinch, Chairman of the Federal Communications Commission will speak Saturday, November 19th, at White Sulphur Springs, W. Va., where a district meeting of the NAB will be in session. Their addresses, however, will deal with national phases of radio, rather than local. The addresses will be broadcast.

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## INDIA TO TRY EDUCATIONAL BROADCASTING

A new experiment in school broadcasting is about to be put into effect by the Calcutta station of a large radio broadcasting company, according to a report received by the Department of Commerce from the office of the American Commercial Attache at Calcutta.

Under the plan, lectures will be given by professors and specialists for 45 minutes on Mondays and Thursdays of each week. The subject of these broadcasts is to attempt to supplement the work of the school in the more general and imaginative side. There are some 64,000 schools in Bengal, and perhaps before long each of these will be fitted up with a receiving set, the report stated.

The educational subjects will include Nature Study, Biology, World History, Current Events, English, Hindustani, Geography, Civics, and Music. It is also intended to give a feature program every fortnight. If a sufficient number of schools are willing to organize, drill classes and physical instruction will be given by radio every morning, according to the report.

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## PARAMOUNT TO ENTER TELEVISION FIELD

Hollywood, which has been watching the development of television as a possible competitor of the movies, heard an announcement last Monday from Stanton Griffis, Chairman of Paramount Pictures Executive Committee, that his studio had entered the television field, according to the Associated Press.

"Television is bound to be a tremendous factor in entertainment", he said. "Paramount recognizes its development is placing upon the motion picture industry a responsibility that is virtually an obligation to the public."

The Allen B. Dumont laboratory, practically a subsidiary of Paramount, was understood to be now building a television transmitter at Montclair, N. J., and expects to have it in operation by January, Mr. Griffis said. It would have receiving sets on the market next month to cost between \$150 and \$200 each, he added.

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## MBS OCTOBER 1 BILLINGS SET NEW MARK

A 45.7 percent increase in time billings for last month is reported for the Mutual Broadcasting System in comparison with October 1937.

Total billings for this month in 1938 were \$347,770.61, marking the largest individual month's billings in the history of the network. October, 1937, billings totalled \$238,682.77.

A 33.8 percent increase in time billings for the first ten months of 1938, is also reported at this time. Total billings for this period in 1938 were \$2,322,026. For the first ten months of 1937 they were \$1,735,255.63.

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## RCA NET PROFIT SHOWS DECLINE FOR 1938

Net profits of the Radio Corporation of America for the nine months of this year showed a decline as compared with the corresponding period of 1937 from \$6,599,111.84 to \$4,368,823.56, David Sarnoff, President, disclosed this week in a statement.

The net profit of RCA for the third quarter, however, was \$1,616,449.28 as compared with \$1,951,726.20 for the corresponding period last year.

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## NBC OCTOBER BILLINGS RISE 13.0%

Expenditures of NBC clients for last month rose 13.0% over October, 1937, continuing the climb of gross billings for the eleventh successive month. The percentage change from September, 1938, was +26.7, while the percentage change of the first ten months cumulative total was +6.5 over the comparable period a year ago.

The tabulation follows:

October, 1938	September, 1938	October, 1937
\$3,773,964	\$2,979,241	\$3,339,739
First 10 months 1938	First 10 Months 1937	% Change
\$33,676,688	\$31,630,854	+6.5

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