

HEINL RADIO BUSINESS LETTER

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January 24, 1939

FCC REORGANIZATION ASKED BY PRESIDENT

Expressing thorough dissatisfaction with the present "legal framework and administrative machinery" of the Federal Communications Commission, President Roosevelt this week asked Congress for new legislation "to effectuate a satisfactory reorganization."

The message was addressed to the Chairmen of the Senate and House Committees on Interstate Commerce. It was disclosed, however, in testimony of Chairman Frank R. McNinch of the FCC before the House sub-committee on Appropriations in executive session Monday.

The text of the letter follows: (addressed to Senator
Burton K. Wheeler)

"Although considerable progress has been made as a result of efforts to reorganize the work of the Federal Communications Commission under existing law, I am thoroughly dissatisfied with the present legal framework and administrative machinery of the Commission. I have come to the definite conclusion that new legislation is necessary to effectuate a satisfactory reorganization of the Commission.

"New legislation is also needed to lay down clear Congressional policies on the substantive side - so clear that the new administrative body will have no difficulty in interpreting or administering them.

"I very much hope that your Committee will consider the advisability of such new legislation.

"I have sent a duplicate of this letter to Chairman Lea of the House Committee on Interstate and Foreign Commerce, and I have asked Chairman McNinch of the Commission to discuss this problem with you and give you his recommendations."

Unconfirmed reports also were current on Capitol Hill that legislation to change the set-up of the Federal Communications Commission is being prepared and will be introduced shortly.

It was said that the legislation will follow the lines of a proposal formerly attributed to Thomas G. Corcoran, i.e., a three-man Commission, but dropped when the President issued an order that all legislation must originate in Congress rather than within the administrative agencies.

The McNinch "purge" and FCC reorganization were discussed at length during the executive hearing of the Commission along with the "proposed" telephone report.

Republican members of the Sub-Committee, with Representatives Wigglesworth, of Massachusetts, and Dirksen, of Illinois, taking the lead, cross-examined Chairman McNinch at some length regarding the "purge" and his unsuccessful effort to exempt some 60 FCC jobs from the Civil Service Act.

They also questioned both Chairman McNinch and Commissioner Paul Walker regarding the telephone investigation and the procedure followed in conducting the hearings. The questioners were highly critical of the methods used by Commissioner Walker in the inquiry.

Democratic members of the Sub-Committee were silent for the most part during the cross-examination although Chairman Woodrum (D.), of Virginia, came to Mr. McNinch's defense somewhat half-heartedly, it was learned.

While it is doubtful that the House Sub-Committee will take any action either to curb or penalize Chairman McNinch or the Commission, indications are that the Republican members are laying a groundwork for an attack on the FCC, probably on the House floor.

All members of the Communications Commission were present at the House hearing, but Messrs. McNinch and Walker were the only members questioned.

A transcript of the testimony and questioning will be made public when the Omnibus Supply Bill for independent offices is reported to the House, possibly next week.

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CELLER SPONSORS BILL TO RELIEVE RADIO FROM LIBEL

A bill which would relieve radio owners or operators of responsibility for libel or slander uttered over their facilities, providing due care is exercised to prevent it, was offered in the House this week by Representative Celler (D.), of New York.

Representative Celler, who has clashed with commercial broadcasters in the past over his proposals to establish a Government-owned short-wave radio station, struck a sympathetic note in his latest legislative effort due to the general dissatisfaction within the broadcasting industry over present libel laws as they apply to radio stations.

In a lengthy statement Representative Celler explained the purpose of and reasons for his bill and at the same time stated that he saw no need for changing the law with respect to publishers.

"A publisher of a newspaper usually has uppermost control of his own company, and can easily protect himself against libel", he said. "He has the direct supervision of his writers,

and can blue-pencil anything. The editors of his paper can accept or reject the work of the reporter. The publisher, therefore, should be held responsible for libelous and slanderous statements in his paper.....A written word that is poisoned with libel spreads rapidly.

"The broadcaster, on the other hand, in many instances, cannot exercise such vigilance. He cannot control that which is spoken over his station. Be he ever so alert, the speaker may often get in edgewise damaging utterances. He cannot stand guard as effectively as a publisher or editor of a paper or magazine or pamphlet.

"Furthermore, it is often impossible to prevent orators over the radio from uttering slanderous statements. A 'mike' may be set up at a political meeting, or in a banquet hall. The owner of a station may have asked for a copy of the script, and the request may have been refused. The importance of a speaker or the occasion may make the speech or speeches of real value and consequence. The owner can exercise no power or control over the speaker. The owners of radio sets are anxious to get the words of the particular speaker on particular occasions. Some one is slandered. Is it fair to hold the owner of the radio station responsible for these slanderous utterances, when he had no opportunity to stop or prevent them?

"Speakers, and particularly officials of public life resent censorship. They are loathe to present in advance copies of their orations, and when they do so they are reluctant to accept the suggested changes.

"We should not compel the broadcaster to censor save to prevent readily ascertainable libel and/or slander. He should, of course, exercise some initiative and be fairly vigilant, but behind that vigilance there should not be the stalking spectre of a suit for defamation. That fear should be removed and he (the broadcaster) should not be liable, except where he is absolutely and directly responsible for the utterance of the orators or failed to exercise due and reasonable vigilance to prevent the damage."

The bill, which seeks to amend the Judicial Code by adding after Section 274d a new Section, states, in part:

"Section 274e: That the owner, lessee, licensee or operator of a radio broadcasting station, and the agents or employees of any such owner, lessee, licensee or operator, shall not be liable for any damages for any libelous and/or slanderous and/or defamatory statement published or uttered in or as a part of a radio broadcast, by one other than such owner, lessee, licensee or operator, or agent or employee thereof, if such owner, lessee, licensee, operator, agent or employee shall prove the exercise of due care to prevent the publication or utterance of such statement or statements in such broadcast."

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CAPITAL TO SEE FIRST TELEVISION EXHIBIT

Television's first showing in the Nation's Capital of high-definition pictures through the air will be given in a series of demonstrations, to begin next Friday, (January 27) by the National Broadcasting Company and the Radio Corporation of America, according to Frank M. Russell, NBC Vice President. The demonstrations, the first to be given by NBC outside New York City, will extend over a five-day period.

Invitations have been sent to the press, members of governmental bodies and the Diplomatic Corps, and heads of engineering, educational and other interested groups to witness images and their associated sound as transmitted by the latest type all-electronic television apparatus. The television showing will be the most extensive ever undertaken with a mobile station by the National Broadcasting Company.

A battery of RCA experimental receivers, installed at the National Press Club, will reproduce the sight-and-sound programs. The transmitting station, the NBC mobile television units which arrived here last week, will be located at the Agricultural Building, more than one-half mile distant. The images will be sent over a radio beam by the units' ultra-high frequency transmitter; sound will be relayed over a separate radio channel.

No elaborate programming is planned, because technical facilities adequate for such an attempt are not available in Washington. An opportunity will be given, however, for a pre-view of what New Yorkers will begin to enjoy coincident with the opening of the New York World's Fair. NBC will launch a regular television service for the New York metropolitan area in April. RCA plans to market its first commercial receivers at the same time.

"This showing of television", Mr. Russell warned, "should not be interpreted as an indication that a public program service in Washington is close at hand. The National Broadcasting Company is only just now on the eve of regular television broadcasting from Radio City. Present indications are that reception will be limited to a service area extending not more than 55 miles from the Empire State tower transmitter. Washington will probably not have television until the problem of networking is solved. As yet, the engineering and economic problems involved in television networking lie beyond our powers of solution."

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A textual copy of the new license issued by the Radio Patent Pool, of which Marconi's Wireless Telegraph Company, Ltd., is the operating member, has been issued by the U. S. Bureau of Foreign and Domestic Commerce.

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PALEY DISCLOSES CBS BAN ON COMMENTATORS

The Columbia Broadcasting System has adopted a policy of refusing commercial accounts which sponsor radio news commentators of the type of Boake Carter, William S. Paley, President of CBS, disclosed during testimony last week in the chain-monopoly hearing being held at the Federal Communications Commission.

The network's own commentators, whose talks are sustaining features, and straight forward news reports, commercially sponsored, are still acceptable, he said.

Even W. J. Cameron, Public Relations Director of the Ford Motor Company, whose talks during the "Sunday Evening Hour" have aroused the ire of Chairman Frank R. McNinch, has "toned down" his comments and avoided controversial news topics since the policy was adopted last Fall, Mr. Paley said.

Under questioning, Mr. Paley denied that Boake Carter, whose anti-New Deal comments aroused Washington officials, had been put off the air by CBS. The contract under which Philco Radio & Television Corporation sponsored him, Mr. Paley said, had merely expired and was not renewed.

Pressed for a definition as to what he considered a radio news commentator, Mr. Paley said it was a person who expressed editorial opinions and emphasized one side of the news as against another.

"A news commentator in a true sense of the word", he said, "is one who not only gives news but one who takes one side of the news and tries to further one side as against another or at least that practice has developed in radio when news commentators were on the air."

Mr. Paley also told the Commission that CBS restricts the advertising time on its sponsored programs to 10 percent at night and 15 percent in the daytime. Actually, he said, most advertisers don't use that much time for commercial announcements.

Columbia has eliminated the "horror" and "blood and thunder" type of children's programs from its network, he said, and as a result has lost \$1,250,000 in potential business. A child psychologist at Columbia University, Dr. Arthur T. Jersild, must pass upon all children's programs, he said, before they are put on the air. A committee representative of the public passes upon policies.

CBS does not permit advertisers to advance controversial doctrines on the air, Mr. Paley said, nor will it sell time for the purpose of forwarding them.

Following Mr. Paley's testimony, which also dealt with his financial holdings, Herbert V. Akerberg, in Charge of Station Relations, discussed CBS contracts with affiliates and Gilson

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Gray, Commercial Continuity Editor, explained how the CBS policies Mr. Paley had disclosed are applied.

Columbia was expected to continue on the stand the remainder of this week, after which the Mutual Broadcasting System will present its witnesses.

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ACTORS' STRIKE STILL THREAT; WRIGLEY SIGNS

A nation-wide strike of radio actors who are members of the American Federation of Radio Artists was still a threat early this week as negotiations were continued with Charles J. Post, a Labor Department conciliator, attempting to effect an agreement between the advertising agencies and the Union.

The Union won a round in the fight for higher wage scales when it signed a contract with William J. Wrigley & Co., Inc. of Chicago. Henry Jaffe and George Heller, counsel for the Federation, said that Wrigley had accepted all the Union's demands concerning wages, hours, and working conditions.

The contract calls for the following minimum wage scale: \$15 for a fifteen-minute program, \$25 for a half-hour program and \$35 for one hour, with \$6 an hour for rehearsals, the rehearsals to consist of a minimum of one hour; no free auditions; \$75 a week for announcers for a fifteen-minute program, the working week to consist of five broadcasts, and \$37.50 for rehearsals; chorus singers are to receive a scale ranging from \$14 for fifteen minutes to \$20 an hour, with \$24 for fifteen minutes and \$36 an hour for groups of five to eight. Singers in groups of two to four are to receive each \$30 for fifteen minutes and \$45 an hour. Soloists will receive \$40 for fifteen minutes to \$70 an hour.

Mr. Jaffe said copies of the code would be sent out to all advertising agencies and program producers. All refusing to sign will face a strike, Mr. Jaffe said. He added that the Federation would not seek a collective agreement with the American Association of Advertising Agencies.

Meanwhile, the sponsors of commercial broadcasts prepared to take a hand in the dispute.

Mr. Post indicated that one avenue for settling the controversy over minimum wage scales might be to invite the Union, the agencies, sponsors and radio networks to a joint conference.

Frederic R. Gamble, Executive Secretary of the Association of Advertising Agencies, told reporters he was hopeful of a peaceful solution of the dispute. He said the agencies were ready at any time to renew wage conferences with the Union.

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EARLY ACTION ON CASE APPOINTMENT SEEN

The Senate Committee on Interstate Commerce probably will act this week on the nomination of Norman S. Case for another term as a member of the Federal Communications Commission.

No protests have been received against the appointment, according to the Committee Clerk, and no prolonged hearing is likely. Mr. Case may be called before an executive session of the Committee, however, for questioning.

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NAZI BROADCASTS KEEP U.S. OUT OF PUERTO RICO

Powerful German broadcasts make it almost impossible for radio listeners in Puerto Rico to tune in either local or United States stations, according to the Rev. Jarvis S. Morris, President of the Polytechnic Institute of Puerto Rico.

Speaking in a New York City church Sunday, he complained that Nazi propaganda broadcasts are drowning out educational programs from this country. He said there is a definite need for more powerful stations to counteract the European broadcasts.

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THREE FREQUENCIES ALLOTTED FORESTRY SERVICE

The allocation of three new frequencies in the 2000 to 3000 kilocycle band for exclusive use in forestry service in preventing and combatting forest fires, was announced last week by the Federal Communications Commission. Considerable research was necessary to find these frequencies as this band is already shared by police, government, ship, coastal harbor, aviation, and relay broadcasting stations, it was said.

Last June the Commission held an informal conference with representatives interested in forestry communications. Previous to this conference, ten ultra-high frequencies, in the 30,000 to 40,000 band, had been established for forestry use and the medium band frequency of 2726 kilocycles available for emergency service, was also made available to forestry protective agencies.

The ultra-high frequencies were set up for purposes of local communication and the medium frequency was for use in emergencies in ordering supplies and fire fighting equipment. Because the useful range of the ultra high frequencies is limited substantially to the horizon, state foresters and private individuals requested an additional frequency in the medium band.

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U.S.-OWNED MARITIME RADIO STATIONS PROPOSED

A network of Government-owned maritime radio broadcasting stations at "marine schools" was proposed last week by Senator Reynolds (D.), of North Carolina, in a bill introduced in the Senate. The measure seeks to set up the "marine schools".

Each of the schools, the bill provides, would be equipped with a radio station or stations for intercommunication between the schools "and to be available as a coastal radio network for defensive purposes if needed as a screen against foreign radio penetration and propaganda in times of war or national emergency."

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RADIO SATELITES AT ALFALFA FEAST

In the presence of Vice President Garner and a distinguished gathering of notables, leaders in the radio industry saw Gene Buck, head of the American Society of Composers, installed as President of the Alfalfa Club of Washington. Before they succeeded in convincing Senator Pat Harrison, of Mississippi, Past President of the Club that he should give way to Mr Buck, Senator Harrison insisted upon consulting Andrew Jackson "by wireless" as to the propriety of a third term to which Andrew thundered back, "No".

Among those identified with the radio industry attending the Alfalfa Dinner were:

Horatio H. Adams, General Electric Co., Washington; Thad H. Brown, Federal Communications Commissioner; Harry C. Butcher, Vice-President, Columbia Broadcasting Co., Washington; Louis G. Caldwell, radio counsellor; Commissioner Norman S. Case, Federal Communications Commission; Maj. Joseph T. Clement, Radio Corporation of America, Camden; Martin Codel, Editor, Broadcasting Magazine; Commander T.A.M. Craven, Federal Communications Commissioner; Ewin L. David, Federal Trade Commissioner; John W. Guider, radio counsellor; James H. Littlepage, John M. Littlepage and Thomas P. Littlepage, Jr., radio counsellors; Thomas P. Littlepage, Sr., Past President of the Alfalfa Club, radio counsellor; Edgar Morris, Zenith distributor, Washington; Frank C. Page, Vice-President, International Telephone & Telegraph Company, New York; Duke M. Patrick, radio counsellor; Andrew D. Ring, Federal Communications Commission; Oswald F. Schuette, Radio Corporation of America, Washington; Kurt G. Sell, German Broadcasting Company, Washington; Eugene O. Sykes, Federal Communications Commissioner; E. A. Tracey, Vice President, Zenith Radio Corporation, Chicago; Senator Wallace H. White, of Maine; and Frank W. Wozencraft, Radio Corporation of America, New York.

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 ::: TRADE NOTES :::
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The deal between the National Association of Broadcasters and E. V. Brinckerhoff and Company, Inc., to continue the NAB Bureau of Copyrights tax free music library has collapsed, the NAB announced last week.

 RCA Manufacturing Co., Inc., and Publishers' Service Co. were named defendants in a suit filed last week in the New York Supreme Court in which the plaintiff, Nathan A. Hurwitz, seeks to restrain RCA from selling records and turntables to newspapers through Publishers' Service for promotion.

Hurwitz claims it was his idea and he was the first one to interest RCA, largest manufacturer of musical recordings, in the idea of having newspapers distribute records as part of an advertising campaign. He contends that he contracted with RCA that if the present distribution of records by the New York Post was "sufficiently promising" RCA would deal exclusively with him in this field. In spite of this agreement, Hurwitz alleges, RCA is at present dickering with Publishers' Service at the instigation of the Post to make available to other papers these records and turntables.

 Daily publicity releases, as issued by the WOR Press Department, are being used for the station's nightly facsimile broadcasts being transmitted over the regular 710 kilocycle channel after the close of the day's program schedules. Under a specially designed masthead, "WOR RADIO PRINT", executed by WOR's Chief Engineer, J. R. Poppele, these facsimile transmissions also include photographs of the station's activities.

 An order to cease and desist from the use of lottery methods in the sale of merchandise, including radios, to ultimate purchasers has been entered by the Federal Trade Commission against J. A. Schwartz, trading as National Sales & Novelty Co., 1407 Diversey Parkway, Chicago.

 The Federal Communications Commission refused the request of the National Association of Broadcasters for a simplification of the radio station ownership questionnaire.

 C. J. Burnside, formerly Manager of Radio Engineering of the Westinghouse Electric & Manufacturing Company, has been appointed Manager of Radio Sales, according to Walter Evans, Manager of the company's Radio Division. He is succeeded by Donald G. Little, former Chief Engineer of the Radio Engineering Department. John W. McNair, formerly Assistant to the Works Manager of the Westinghouse Merchandising Division at Mansfield, Ohio, has been named Assistant Manager of the Radio Division.

Operating on 25,950 kilocycles - approximately 11 meters, an ultra-high frequency station, W8XNU, has begun a schedule of daily broadcasts under the auspices of the Crosley Corporation, Cincinnati. The station has an output of 1,000 watts. Designed primarily for a local audience, the station is operated on an experimental basis to determine the adaptability of high frequencies locally.

Canadian radio sales to dealers in November, 1938, numbered 28,908 with a list value of \$2,277,526 as compared with 38,518 units valued at \$2,922,740 in October and 25,903 units valued at \$2,375,286 in November, 1937, according to a report to the Department of Commerce from the office of the American Commercial Attache at Ottawa.

Inventories of companies reporting to the Radio Manufacturers' Association of Canada as of November 30, 1938, totaled 62,291 units as compared with 66,662 units on hand at the end of October and to 66,829 units at the end of November, 1937, the report stated.

In response to urging by share-holders, the Directors of the Radio Corporation of America have amended the by-laws of the corporation to permit the selection by stockholders of independent public accountants to audit the corporation's annual financial statements. The action amending the by-laws was taken by the Directors on Dec. 22, but was not made public until last week, when notification of the action was filed with the New York Stock Exchange.

Eight high frequency stations, located in widely separated sections of the United States, will be available for experimental use by the Columbia Broadcasting System following its inauguration of W6XDA on or about February 1, and when CBS places its powerful television transmitter in operation sometime during the Spring or early Summer.

The shortwave and ultra-shortwave stations owned, operated by or affiliated with CBS are: International broadcasting stations W2XE, New York, and W3XAU, Philadelphia; High frequency broadcasting stations W2XDV, New York; W9XHW, Minneapolis and W6XDA, Los Angeles; television station W2XAX, New York.

In addition, W1XAL and W1XK, international broadcasting stations in Boston, co-operate with CBS by transmitting a number of network programs to Latin-America and Europe.

Representatives of commercial broadcasting stations in foreign countries have formed an association patterned after that of the International Publishers' Representatives' Association under the name of the Association of Representatives of Foreign Broadcasting Stations. Members include All-American Newspapers Representatives, Inc.; Broadcasting Abroad, Ltd.; Chalmers-Ortega, Inc.; Conquest Alliance Company, Inc., and Melchor Guzman Company, Inc. Objectives of the group include dissemination of information on stations and their equipment, adherence to uniform rates, study of listeners' habits and preferences, preparation of market data and improvement of facilities and methods. Offices are at 515 Madison Ave., New York City.

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PHELAN HEADS ALL AMERICA CABLES

At a meeting of the Board of Directors of All America Cables and Radio, Inc., held last Thursday, Frank W. Phelan, Executive Vice President, was elected President, to succeed John L. Merrill, who was elected Chairman of the Board.

Mr. Merrill, who had been President since 1918, entered the employ of the Company in 1884, and Mr. Phelan, Executive Vice President since 1923, joined the Company in 1895.

Mr. Phelan, the new President, like his predecessor, has devoted practically his whole life to telegraphy. He was an operator at the age of fourteen and since 1895, when he joined the company, he has, at one time or another, been in charge of practically every division of all America Cables and Radio.

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FCC WORKING ON NEW TELEPHONE REPORT

The Federal Communications Commission's ultimate report to Congress on its investigation of the American Telephone & Telegraph Co., it now appears, will be in different dress than the proposed report which was sent to Committees of Congress last April.

The Commission has decided to hold two meetings a week on the telephone report, and expects to have it ready in a few months, but it was indicated that progress in consideration of the report has been slow at the few meetings that have been held.

There is some difference of opinion among members of the Commission as to the manner in which the information was developed. Although those objecting to the refusal to permit the telephone company representatives the right of cross-examination and rebuttal are of the belief that the Commission acted within its authority, the belief was expressed that more could have been accomplished and better feeling engendered had this been done.

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CROSLEY FACSIMILE RECEIVER EXHIBITED

A device, which can be used in connection with console radios, permitting reception of pictures and printed matter in facsimile, was displayed by the Crosley Distributing Corporation, New York City and the Apollo Distributing Company of Newark, N.J., wholesalers in that area for the Crosley Corporation of Cincinnati, to 1,500 dealers at a luncheon yesterday (Monday) in New York City. The mechanism will retail for \$79.50.

It was announced that the Crosley Corporation would display its products at the World's Fair in a special building which also will contain a studio of Station WLW. The new line of radios, gas ranges, washers and refrigerators were shown to the dealers in New York City.

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