

# HEINL RADIO BUSINESS LETTER

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## McNINCH ON WAY OUT AS FCC REFORM LOOMS

While President Roosevelt has given no indication as yet whom he may appoint to the proposed three-man Federal Communications Commission, once it is approved by Congress, competent observers believe that Chairman Frank R. McNinch is being eased out and will return to his post as head of the Federal Power Commission after the present Commission is abolished.

The terms of all seven members of the FCC will expire with the change in character of the Commission, and the President will be free to select entirely new personnel or one to three members of the present FCC for the jobs.

President Roosevelt is reliably reported to have remarked recently that he wished all members of the Commission would resign, and it may be that he will make a clean sweep in the reorganization.

Were it not that Commissioner T.A.M. Craven is in such bad graces with Chairman McNinch because of his opposition to the purge and other McNinch policies, he would be the most likely reappointee. Being the only member of the Commission thoroughly familiar with the technical aspects of communications, he stands out as the type of man suggested for the new Commission by Chairman Wheeler, of the Senate Interstate Commerce Committee.

Commander Craven has been a respected confidential advisor of the President in the past, and it may be that he will emerge on top in the present reorganization despite Chairman McNinch's animosity toward him. Much will depend, it is believed, on the impression that he makes on the Congressional Committees that investigate the FCC in connection with the reorganization.

Meanwhile, it appeared that the McNinch-Wheeler plan of pushing through a bill setting up a three-man Commission before defining policies for it will encounter obstacles, at least in the House.

While Senator Wheeler predicted that he will be able to rush the legislation through the Senate, Chairman Lea, of the House Interstate Commerce Committee indicated he agreed with House members who are demanding an investigation of the Communications Commission before authorizing the reorganization.

Two members of the House introduced resolutions calling for a sweeping investigation of the Commission and the broadcasting industry by seven-man House Committee.

The resolutions which flayed the Commission for dis-regarding its own rules and the Communications Act and for yielding to political pressure, were sponsored by Representatives Connery (D.), and Wigglesworth (R.), both of Massachusetts. They were similar to a resolution that was defeated by a small margin last year after Administration pressure.

Earlier Chairman Wheeler of the Senate Committee on Interstate Commerce, had asked Chairman McNinch to submit a bill to set up a three-man agency to supplant the FCC. The legislation was promised early next week.

Senator Wheeler, adopting a procedure contrary to that suggested by President Roosevelt, said the reorganization bill would be enacted before steps were taken to clarify the Communications Act so as to provide a definite policy guide for the new Commission.

Under the new plan, it is understood that radio, telephone and telegraph would be governed as separate divisions. A similar system was in operation under the seven-man FCC when Mc. McNinch took office, and he promptly abolished it.

Representative Connery, who has taken up the cudgel left by his late brother in the House, said the three-man Commission, unless properly manned, might be used in a dictatorial fashion because of the concentration of authority.

Both House resolutions charged numerous irregular and monopolistic practices.

Representative Connery's resolution called attention to the unsuccessful effort of Chairman McNinch to exempt FCC employees from the Civil Service and predicted that the current chain-monopoly inquiry by the FCC would result in a "whitewash". He charged that radio facilities had been denied to civic, farm, labor and educational organizations. His proposed investigation would cover the character of programs and advertising rates charged by stations and networks, as well as violations of the Communications Act.

Both resolutions proposed the setting up of a seven-man committee of House members, to be named by the Speaker. Both were referred to the House Rules Committee.

Representative Lea said he had talked with Chairman McNinch concerning the proposed legislation, and that the Commission Chairman was pressing the move for a reduced Commission. He added that Mr. McNinch wants this legislation pressed through first, leaving for the future the matter of amending the present organic act or rewriting a new one to govern the Commission's activities. Mr. McNinch, he said, was so desirous of getting the size of the Commission reduced that he did not want to have this proposed change in the Act included in the general rewriting of the statute at this time because of the delay which might be entailed.

Representative Lea said he believed appearance of this legislation will result in a full investigation because members of Congress will want to know all of the reasons back of such a plan.

Elaborating on his statement that it would take some time to get this legislation before the House, he said his Committee had a number of important matters scheduled for hearings. He was quite sure, he said, it would be necessary to hold hearings.

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### "FREE SPEECH" ON AIR IMPOSSIBLE, SAYS McNINCH

Complete free speech on the air for a nation of 140,000,000 listeners is obviously an impossibility, Chairman Frank R. McNinch, of the Federal Communications Commission, told a student organization at the University of North Carolina, Chapel Hill, Thursday night.

The best listeners can expect, he said, is the right to hear both sides of a controversy if the issue is presented at all on the radio. He said he advocated such a policy. The Chairman denied, however, that he favors any form of Government ownership of radio programs.

Excerpts from his address follow:

"There is not and cannot be any such thing as 'free speech' for all our 140 millions of citizens to broadcast their ideas", he said. "Sheer physical limitations make this impossible. Nothing is clearer to me than that the use of the phrase 'free speech', as a label, connoting as it does to all Americans freedom of all to speak, to describe a situation where only those relatively few licensed by the Government and their necessarily limited number of permittees can speak at all, is highly misleading.

"In the United States where democratic ideals and principles are dominant, it is inconceivable that broadcast stations are licensed to serve a few select and privileged people as a medium of communication of their ideas to the rest of us. Can you doubt that the people of this country who insisted on the inclusion of the Bill of Rights in the Constitution would have insisted that neither the Government nor any special group selected or licensed by the Government should have the right to use, regulate or control the expression of ideas and dissemination of information by means of broadcasting in such a manner as to impose its or their views upon the people of this country? Any suggestion to the contrary would have been as repugnant to our people then as I am sure it is to our people today. Broadcasting cannot, as long as we retain the principles of our Constitution become a propaganda medium serving the interests of any administration, Democratic or Republican, or any political, religious or economic organization or any individual however rich

or powerful to the exclusion of others. This does not mean that political, religious, economic or social questions may not be discussed over the radio without doing violence to our Constitution, nor does it mean that persons who are either biased or prejudiced may not be given opportunity to express their bias or prejudice over the radio. It does mean, however, that if any of these questions are discussed, a complete and rounded discussion of all important aspects of the controversy should be given for the benefit of all listeners. Whether such a presentation is achieved through debate or expression otherwise of opposing views is not material. The important and necessary requirement for the protection of the listeners is that all sides be given, if any side is given on any important controversial, social, political, economic, or religious question.

"With respect to broadcasting, the one thing that every person in the United States possesses in common with every other person is the ability to hear radio programs. In the sense that this is something common to all persons, it meets one test which is met by the rights which are recognized and protected by the Bill of Rights.

"I personally have a very strong distaste for the idea that anyone, whether he be a high Government official or whether his command is packed by the persuasive power of economic coercion, can tell me what to say or what not to say. I equally dislike the notion that I or anybody else has the duty, the right, or the obligation to tell anybody else what he may or may not say, whether it be over the air or on the street corner.

"No matter how much I may disagree with the views expressed, I would never advocate that anyone be punished for expressing his views over the air on any side of a controversial question which is discussed over the air, nor hold it against a radio station for letting anyone express his views. But I have the strong conviction that no one should be allowed to have his particular views on a controversial subject broadcast to the exclusion of those holding different views. Unless all sides of an important controversial question are adequately given on the air, the listening public will be incompletely informed. I advocate, in fairness to all listeners, that they be permitted to hear all sides of an important question, and that licensees of broadcast stations or persons to whom they may give or sell time be prevented from taking an unfair, unAmerican, undemocratic advantage, by telling their side of a controversy to the public and preventing the other side of the story from being told as well.

"I am convinced that broadcasters in America today have not and do not seek or desire to exercise any such power. I am equally sure that the Federal Government does not. I am no less sure that the people of the United States do not want either the Government or the broadcasters or the persons to whom broadcasters may permit the use of their facilities to debase to their own selfish purposes this great natural and scientific gift which should be used for the benefit of us all.

"I do not want to close without adverting to the question of censorship of radiobroadcasting. In this vital question I want no misunderstanding to exist as to my position. I am unalterably opposed to government censorship of broadcasting in any manner, shape or form. I do not think the government should

directly or indirectly dictate what shall or shall not be said or who shall or shall not speak over the air on any public question.

"A broadcaster's duty is to see that his station is never used by persons or groups especially interested in some public question in such a way that his station's listeners are left without sufficient information to make their own independent judgments on questions they should help to decide. The right to hear over the air all sides of a controversial question, if one side is presented, and protection from being required to listen to only one side of an important public question to the exclusion of all others, is what, in my humble opinion, the American people of Colonial days, if they had known broadcasting in those times, would have insisted upon in the Bill of Rights. It is also the right which the people of the United States today should enjoy, uniformly and fully."

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### NAB LAUDS MOVE TO REWRITE RADIO LAW

Neville Miller, President of the National Association of Broadcasters, offered the broadcasting industry's full cooperation this week in rewriting the Federal radio law.

"I am certain that broadcasters throughout the country welcome the recommendation of the President that the radio law be rewritten", Mr. Miller said.

"It is gratifying that the President has recommended to both Senator Wheeler and Representative Lea that Congress lay down radio policies in new legislation 'so clear that the new administrative body will have no difficulty in interpreting them or administering them'. The President has put his finger on the core of the radio problem.

"Through the National Association of Broadcasters, the radio broadcasting industry of the country stands ready to cooperate with Congress, the President and the administrative agency, in establishing a durable radio administration which will permit the future development of broadcasting to its fullest possibilities, conforming to the finest traditions of public service, in line with our democratic heritage of a free press and a free radio operative within the American democracy."

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The Minnesota Lower House Thursday killed a resolution to memorialize the Federal Communications Commission to bar radio stars if they have been indicted or convicted of a felony. The vote was 63 to 53. L. A. Brophay, sponsor for the resolution, said: "I don't think people ought to cheat the Government out of taxes and then get on a popular radio program and joke about it."

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## FCC PROBE A FAILURE, SAYS CONNERY

The Federal Communications Commission's self-investigation and the "house-cleaning" by Chairman Frank R. McNinch have been a flat failure, Representative Connery (D.), of Massachusetts, implied in his resolution proposing a thorough investigation of the FCC and the radio industry this week.

In a series of "Whereases" he hurls a number of charges at the Communications Commission and the industry as follows:

"Whereas the Federal Communications Commission has been the subject of numerous charges of inefficiency, neglect and misuse of official power; and

"Whereas during the Seventy-fifth Congress undenied allegations of corruption of public officials, directly or indirectly, by individuals, companies, or corporations were so prevalent as to indicate the necessity of an investigation by a congressional committee, which investigation was halted by changes in personnel and promises that the situation would be cleaned up by the Commission itself and that the said Commission would conduct an investigation; and

"Whereas said investigation by said Commission has not been completed, and if ever completed is expected to result in a white-wash of very serious charges without changing the basis for the charges heretofore made against the conduct of the Commission; and

"Whereas during said investigation an attempt has been made to destroy all or a portion of the Civil Service status of employees of the Commission; and

"Whereas numerous civic, farm, labor, educational, and other public organizations have been denied the opportunity of operating stations, and practically complete control of the airways is in the hands of a few large companies and chains, amounting to a virtual monopoly, which condition led to the Rules Committee of the Seventy-fifth Congress favorably reporting a resolution creating a special House committee to investigate said charges of monopoly, and the passage of said resolution having been forestalled by the formation of a joint congressional committee to investigate the broad subject of monopolies and which committee has not made public any investigation of the Communications Commission; and

"Whereas the conditions concerning monopoly trafficking in licenses and other charges involving the Commission have not changed; and

"Whereas numerous subjects involving radio are of vast interest to the general public and are a matter of immediate concern, such subjects including the facsimile printing of newspapers by use of radio, television, prevention of monopoly, and the right of the public to have a Federal agency charged with the protection of public interests to be conducted openly, honestly, and efficiently; and

"Whereas it is believed that neither public interest, convenience, nor necessity is served by permitting virtual radio broadcasting monopolies to control this property which has been reserved to the control of the American people.

Representative Connery proposes that a seven-man House committee "shall make a thorough and exhaustive investigation of the Federal Communications Commission and of all charges and allegations of neglect, inefficiency, misuse of public power, corruption, and the existence of a monopoly or monopolies in radio broadcasting and the effect which such alleged conditions in the Commission and such monopoly or monopolies may have on the character of radio programs, and rates charged advertisers, and generally the effect of said alleged conditions and such monopoly or monopolies on the public, and said committee shall report in whole or in part at any time to the House of Representatives during the Seventy-sixth Congress, together with such recommendations for legislation or otherwise, as it deems advisable."

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#### WIGGLESWORTH HITS FCC ON 28 COUNTS

At least 28 aspects of the administration of the Communications Act by the Federal Communications Commission need investigating, according to Representative Wigglesworth (R.), of Massachusetts.

A bill of particulars covering 28 specific points was set forth by the FCC critic in support of his resolution to investigate the Commission and the radio industry this week. The inquiry, he said, should make a study of the following ills, though not to the exclusion of other matters:

"(1) The cases, if any, in which the Commission has departed from or has modified the application of its regulations and the engineering and other standards generally observed by it, together with the reasons for each such departure or modification;

"(2) All acts by the Commission which recognize or seem to recognize the right of a licensee to a license or a frequency other than as specified in the terms, conditions, and time of the license;

"(3) Whether the acts and decisions of the Commission in broadcasting cases have been influenced by matters not apparent in the public records;

"(4) The geographical distribution of broadcasting facilities and whether there is an equitable distribution of broadcast service to all parts of the country and, if not, what steps should be taken to provide fair and equitable service throughout the United States;

"(5) The extent to which broadcast stations have been concentrated in the larger communities of the country by transfer of stations from smaller communities to such centers or otherwise;

"(6) The extent to which and the circumstances under which the ownership, control, management, or interest in more than a single broadcast station has passed into the hands of any person or group of persons;

"(7) The circumstances surrounding and the considerations for the voluntary transfer of station licenses or construction permits;

"(8) Instances of the transfer of minority interests in broadcasting-station licensees, and all transactions directly or indirectly affecting the control of such licensees, and whether said transfers have or have not been submitted to the Commission for approval and have received Commission approval or acquiescence;

"(9) The sale price of any broadcasting station in any manner sold and transferred, together with a statement of the fair value of the physical assets and of other property, rights, contracts, and licenses involved in said sales, and in particular the value placed by the parties to the transaction upon the frequency licensed to be used;

"(10) The sale of stock or other securities of any broadcasting stations, of any licensees, or of any person or persons directly or indirectly controlling such licensees, and the valuation put by the person transferring the same upon the station license or the frequency, the power or the hours of operation fixed in the station license, and the circumstances surrounding and the consideration for such sales and transfers and as to the participation in the negotiations for such sales and transfers by any person other than the seller and purchaser, the transferor and the transferee;

"(11) The licensing of broadcast stations to persons other than the owners of the physical equipment, and in particular all cases involving the leasing of transmitting equipment;

"(12) The surrender of control of facilities by licensees, including all agreements to accept proffered programs with or without supervision by the licensee;

"(13) All acts or assertions by broadcast-station licensees which involve the claim to any right or interest beyond the terms, conditions, and periods of the license;

"(14) Whether considerations have been paid or promised to any licensee or permittee for not interposing objection to an application for all or a part of his facilities or for other facilities which could not be granted without disregard for the Commission's rules or its standards except with the consent of such licensee or permittee;

"(15) All cases in which persons, whose applications for the renewal of a broadcasting license have been refused by the Commission, have received from persons licensed to use the facilities for which renewal license has been refused money or other consideration in excess of the value of the physical equipment taken off the air and sold to the new licensee;

"(16) Cases in which the real parties in interest in any application for broadcast facilities have not been disclosed to the Commission;

"(17) The extent to which holding or other intermediate companies or persons have been employed in the ownership or control of broadcast stations and the effect of such intermediate ownership or control upon the effective regulation of broadcasting;

"(18) The investments by licensees in the stations authorized to be operated by them, including the investment in equipment and in other items of cost;

"(19) The charges for the use of station facilities and the profit or loss resulting therefrom;

"(20) The extent to which broadcast stations are used to build up other businesses or enterprises in which the station licensees or persons financially interested in the licensees are engaged, the extent to which the facilities of broadcast stations are refused or are granted conditionally to competitors of such other businesses or enterprises, and the effect of the ownership and use of such radio facilities upon the businesses of those in competition with the businesses of those having the radio facilities;

"(21) The extent to which broadcast stations are owned or controlled by or are affiliated with newspapers or other media of information or entertainment, and the effect of such ownership, control, or affiliation upon competing newspapers not possessing such facilities and upon the public interest;

"(22) The development and present facts concerning broadcasting networks or chains, including the effects of chain association upon the licensee's control over his station;

"(23) The effect of chain operations upon the financial results and status of chain affiliated stations and independent stations, the ability of the chain owned or affiliated station to render a local service, both sustaining and commercial and the duplication of broadcast programs; and the desirability of special regulations governing chains and stations engaged in chain broadcasting;

"(24) The extent to which licensees of broadcast stations censor or refuse programs offered to them for transmission and the reasons for and the effects of such censorship or refusal;

"(25) The extent to which, the basis upon which, and the times at which broadcast stations carry programs relating to public affairs, education, religion, labor, agriculture, charity, and public service generally;

"(26) The extent to which and basis upon which broadcast stations carry programs offered by or on behalf of candidates for public office or programs relating to controversial subjects in the field of national, State, or local politics; and

"(27) The extent to which, the basis upon which, the manner in which, and the times at which broadcast stations are used for commercial programs including programs advertising products claimed to have medicinal or therapeutic value and programs relating to products or services, the sale or use of which may be illegal in any State in which the programs of the station carrying such programs may be received, the time given by the several classes of stations to commercial advertising or sales talk in the programs broadcast and whether there should be control or regulation of advertising by radio and the character and extent thereof;

"(28) The extent to which companies engaged in radio communication between the United States and any foreign country have entered into exclusive traffic arrangements or other agreements with the purpose or effect of securing a monopoly in such communication or of lessening competition therein and the effect of such arrangements or agreements upon competing American companies."

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 ::: TRADE NOTES :::  
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Action to revive the National Association of Radio Dealers, which was formed early last year but failed to function to any extent, will be taken shortly, according to the New York Times. A committee meeting will be held next week, both place and time to be determined. Chief reasons for the renewed interest in such an association are the prospective introduction of television sets, marketing of facsimile sets and the rapid growth in the demand for radio-phonographs. Dealers also wish to be prepared for any problems that might arise in connection with the introduction of the new radio sets later in the year.

Station WRVA, Richmond, a CBS affiliate, will begin operating with 50,000 watts power on January 28th. This ten-fold increase in power will add extensively to the station's area of primary coverage - including Norfolk, Newport News and Portsmouth, it was said.

On or before June 1, WWNC, Asheville, N.C., will rejoin the Columbia Network as a member of the Southeastern Group. WWNC operates full time with 1,000 watts on 570 kilocycles.

The Federal Communications Commission this week granted the application of the Eastern Carolina Broadcasting Company, Goldsboro, N.C. for a permit to construct a radio broadcast station to operate on the frequency of 1370 kc. with power of 100 watts, unlimited time.

Columbia Broadcasting System has filed an application with Montgomery County Commissioners requesting permission to erect a radio transmitter for Station WJSV on the Wheaton-Four Corners Road, near Wheaton, Md. The Federal Communications Commission last month granted WJSV the right to increase its power from 10,000 to 50,000 watts and to move its transmitter presently located off Mount Vernon Highway, in nearby Virginia.

As a result of the threatened strike of radio artists the electrical transcription business has taken a sudden spurt, according to the New York Times. In an effort to have replacement programs available in the event that the strike is called, some advertising agencies have started auditioning as many transcriptions as possible. So far the largest agencies have not turned to transcriptions as a substitute for their live script programs, but about a dozen of the medium-sized agencies expect to rely on them, in case of a walk-out, it was said.

Miss Angela Frances McCosker, daughter of Alfred J. McCosker, President of the Mutual Broadcasting System, and Mrs. McCosker, was married Thursday to Sheldon Van Dolen. The ceremony was performed at the Catholic Church of St. Ignatius Loyola in the presence of a large gathering. The Rev. Joseph P. Connor, of West Orange, N. J., officiated.

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## I. T. & T. TELEPHONE SUBSIDIARIES EXPAND

Telephone operating subsidiaries of the International Telephone and Telegraph Corporation serving nine countries have reported a net gain of more than 76,000 telephones for 1938, the largest annual gain in their history. The telephone systems operated by I.T.&T. companies in Argentine, Chile, southern Brazil, Peru, Mexico, Rumania, Shanghai, China, and Puerto Rico achieved a new record high development at the end of the year. Companies in Latin America contributed approximately 46,500 telephones of the 76,000 gained, and advance figures on local and long distance telephone calls also reflect the rising current of activity in Latin America during 1938; the increase in long distance usage for the first eleven months of 1938 over the same period of 1937 was approximately 2,800,000 calls.

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## FRITZ MEDAL GIVEN TO DR. JEWETT

The John Fritz Medal, highest honor in the engineering world, was presented Wednesday night at the annual medal ceremonies of the American Institute of Electrical Engineers in New York to Dr. Frank B. Jewett, President of the Bell Telephone Laboratories and Vice-President of the American Telephone and Telegraph Company, "for vision and leadership in science, and for notable achievement in the furtherance of industrial research and development in communication."

The Fritz Medal is awarded under the auspices of the four national engineering "founder societies", the American Society of Civil Engineers, the American Institute of Mining and Metallurgical Engineers, American Society of Mechanical Engineers, and American Institute of Electrical Engineers. It was founded in 1902 in honor of John Fritz of Bethlehem, Pa., one of America's pioneers in the iron and steel industries. The medal is of gold and is awarded not oftener than once a year for notable scientific or industrial achievement, without restriction on account of nationality or sex.

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