

# HEINL RADIO BUSINESS LETTER

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No. 1136

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H. K.

June 27, 1939

## HOUSE PASSES FCC BILL, REJECTS S-W RULE BAN

The House of Representatives on Friday passed a Special Deficiency Appropriations Bill carrying \$1,838,175 for the Federal Communications Commission after rejecting an amendment to prevent the Commission from enforcing its recently promulgated rules governing international broadcast stations.

The passage of the Supply Bill was preceded by brief attacks on the FCC by Representatives Wigglesworth (R.), of Massachusetts, and Dirksen (R.), of Illinois. Congressman Wigglesworth made a renewed plea for a House investigation of the FCC, while Representative Dirksen offered the amendment to tie up the international rules.

The FCC appropriation, held up because of a promised legislative reorganization that has never materialized, is \$200,000 less than the amount recommended by the Budget Bureau but \$93,175 more than the agency had for the current year. Most of the expansions proposed by Chairman Frank R. McNinch will not be possible with the limited funds.

"The increases asked in the estimates", the Committee explained, "contemplated additional personnel in the administrative, engineering, legal, and accounting divisions, additional equipment in connection with engineering work, and enlarged expenses for travel and miscellaneous purposes.

"The Committee has not approved increases in any particularity, but in making the general increases of \$100,000 in the item for salaries and expenses has in mind the very important phase of its work developing around the engineering, legal, and accounting sections of its functions."

Representative Dirksen's amendment, which was defeated 43 to 27, provided that none of the appropriations might be used to enforce the FCC order of May 23 relating to international short-wave broadcasting.

In explaining the amendment, Representative Dirksen said:

"Mr. Chairman, I bring this to the attention of the Committee today largely because there has been a considerable tempest about the order of the Federal Communications Commission issued on May 23 relative to international broadcasting. No hearings were held on the order. The purport of the order, of course, was to let the international broadcasting agencies know precisely what they could broadcast and what they could not broadcast.

"I just want to read a portion of the language employed by the Commission, and I think it is very unfortunate language, found in paragraph (a) of the order issued on that day:

"A licensee of an international broadcast station shall render only an international broadcast service which will reflect the culture of this country and which will promote international good will, understanding, and cooperation.

"Mr. Chairman, when you seek to interpret language of that kind it virtually means there may be a minority view with respect to something in which South America is interested; yet if it does not subserve the interests of good will, understanding, and cultural relations, it would mean that a minority viewpoint could not be expressed. It is so easy to translate that kind of authority, and that kind of criticism, and that kind of restriction from the international field to the national field. My good friend the gentleman from Michigan is sitting here, and he is, no doubt, familiar with the bills introduced to set up a Federal broadcasting system. There is one pending at the present time over on the Senate side in the Foreign Relations Committee. It was introduced by a Senator and asks for \$3,000,000 with which to set up such a station. It has gotten so far now that it is pending before a committee.

"We had a bill pending on the House side a year or two ago introduced by the gentleman from New York (Mr. Celler). It is rather interesting in connection with the testimony that was offered on the bill to set up a Federal broadcasting station to note that the statement was made in the course of the testimony that it would be effective in transmitting programs to all parts of the United States. In other words, it is set up as an instrumentality of international good will, but the programs may be received in this country no less. We clap on restrictions and a kind of censorship which can be easily translated to every other broadcasting agency of the country.

"There was a gentleman named Mr. T. A. Walters who testified before the House committee at that time who was formerly employed in the Department of the Interior. He submitted a written memorandum to the committee, but he was in the Department of the Interior when that memoranda was written. Among other things he mentioned was the usefulness of providing programs of national interest. So that if this was ever passed by the Congress, it would mean ultimately some kind of censorship. They did that in Great Britain. On the 7th day of June British broadcasting was taken over by the British Government. They even supervise news over there today.

"When those in the broadcasting field finally raised their voices to the high heavens, the Federal Communications Commission relented and decided there should be a hearing on the 12th day of July, but it was not until the steam had been turned. It may be after hearings are held, and they may be very perfunctory hearings, that this rule will continue to stand.

"It is my opinion that limiting restrictions ought to be placed in this bill, so that no portion of the funds herein made available may be used to effectuate or to enforce the provisions of the order of May 23. It is very unfortunate in the choice of language for one thing, and, secondly, it is a disturbing factor



and it is a poor approach to this problem by the Federal Communications Commission. That Commission should not be permitted to impose what amounts to censorship on international broadcasting.

"Mr. Chairman, when we had the members of that Commission before the Independent Offices sub-committee along in January, my colleague the gentleman from Massachusetts (Mr. Wigglesworth) and I examined into radio matters quite thoroughly. We did not want to be unkind. But things have not been right down in the Communications Commission and that is the reason no appropriation was included in the regular bill. Therefore this urgent deficiency bill carries \$1,800,000. It seems to me that restriction ought to be placed in this bill so this foolish, nonsensical, and ill-advised order of the Commission may not be enforced. That is the purpose of the amendment which I have offered."

Representative Woodrum (D.), of Virginia, who was in charge of the bill, asked that the amendment be defeated. He said he believed a majority of the House didn't know what the rules were all about.

"I heard the testimony at the hearings", he said, "and this question is about as clear as a hunk of mud."

Representative Wigglesworth, in making a new plea for an FCC probe by the House, said, in part:

"In my judgment, we have today no proper policy in regard to the issue and transfer of licenses. We have no proper policy in regard to the charging of fees for licenses issued to those making millions and millions of dollars out of those licenses today. We have no proper policy in reference to the matter of exclusive contracts, for example, with members of the three great chains in the country. We have no proper policy in respect of the issue of experimental licenses and their limitation to experimental work as distinct from commercial work. We have no proper policy in reference to the control of radio frequencies by the newspapers of the country. We have no proper standards of program service, despite the thousands of complaints received in this connection by the Commission. On the contrary, we have seen steps taken by the Commission recently, both in the domestic and international fields, which have served to level charges at their door of embarking upon censorship of both domestic and international broadcasting."

"In the hearings to which I refer you will also find, in my judgment, evidence of tendencies tending to destroy the proper functioning of the F.C.C. as a quasi-judicial agency, tending to destroy its independence as an agency, tending to bring it under executive domination in accordance with the proposal in the original Government reorganization bill a year ago, which excited such condemnation by the American people."

"You will find there the discharge of the general counsel, with a new legal set-up less experienced and more costly. You will find there the discharge of the publicity head, with a new set-up less experienced and more costly."



"Mr. Chairman, you will find there also the abolition without consultation with the Civil Service Commission of the experienced Civil-Service examiners who have functioned heretofore and the turning over of their entire work to the general counsel's staff, with the result that the applicant today is deprived of the type of independent hearing and finding of facts by an expert and independent examiner which he has always enjoyed in the past. Instead, the applicant from start to finish is in the hands of the general counsel, the Commission being, of course, relieved of any embarrassing finding in any examiner's report. It is the same story again, in my judgment, of prosecutor, jury, and judge becoming one and the same."

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 "You will find in the hearings also, Mr. Chairman, continuing evidence of the virtual monopoly of radio fostered by the Government under the F.C.C. in the hands of the three great broadcasting chains of this country. You will find continuing evidence of undesirable, if not improper trafficking in radio licenses, with all the possibilities for the capitization of those licenses, to the detriment of the people as a whole, which we have known in other fields.

"You will find evidence of a telephone investigation conducted on such a basis that those examined were denied the right to produce their own witnesses, were denied the right to cross-examine Government witnesses, and for a long period of time were denied the right to consideration of about 40 volumes of comment and criticism which they had submitted at the request of the Federal Communications Commission. The methods employed in this investigation were such to my mind as to raise squarely the question whether it is humanly possible for the F.C.C. to give to Congress a 'fair and comprehensive' statement of all the facts in the field investigated in accordance with the mandate from Congress.

"You will find evidence of continual dissension and disagreement within the Commission. You will find charges of inefficiency, favoritism, and politics. These and other things you will find if you will consult the hearings to which I have referred.

"Mr. Chairman, as the members of this Committee know, I have for years advocated a thoroughgoing investigation of radio broadcasting and its regulation by F.C.C. I have advocated it because I believe it to be essential for the proper regulation of this all-important industry in the interest of the people as a whole."

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#### NEW RULES ARE APPROVED BY FCC

The Federal Communications Commission last Friday approved new Rules and Regulations governing Standard Broadcast Stations. The new rules become effective on August 1, 1939, except as otherwise provided in the terms of the individual sections.

Hearing on the proposed new rules and regulations were held from June 6 to June 30, 1938, before a Committee composed of Commissioners Norman S. Case, Chairman, T.A.M. Craven and George Henry Payne. The new rules are the outgrowth of these hearings

and the recent report on Rules and Standards of Good Engineering Practice concerning Standard Broadcast Stations which was released in two parts, the first appearing January 18, 1939, and the second, April 7, 1939. Oral Argument on these Rules and Standards was held before the Commission on June 1, 1939.

The recommendation in the report of the Committee for the adoption of these Rules and Regulations and Standards of Good Engineering Practice was, with a few modifications, unanimously approved by the Commission.

The new rules and regulations contain several new provisions, as well as numerous changes and clarifications necessary due to progress in the art since the original rules governing standard broadcast stations were promulgated some 10 years ago.

Under the new rules, the license period of Standard Broadcast Stations is increased from six months to one year. The instability created by the delay of Mexico in ratifying the North American Regional Broadcasting Agreement was a factor in the Commission's decision not to extend the license period of broadcast stations to a term greater than one year at this time. Under the Communications Act of 1934 the Commission is empowered to grant licenses for any period up to three years.

The new regulations change the classes of stations from Clear Channel, Regional, and Local, to Class I, Class II, Class III and Class IV. The Class II station is a new class recognized for duplicate operation on clear channels for the purpose of extending urban service.

The new rules permit the increase of the maximum night power of Class III stations to 5000 watts and the maximum night power of Class IV stations to 250 watts. The present night power limitation on these stations is 1000 watts and 100 watts, respectively.

The number of clear channels allocated for the exclusive use of stations at night, under the new regulations, is reduced from 40 to 26, and in addition, 18 clear channels are made available for duplicate operation either of Class I stations or Class I and Class II stations.

In view of the uncertainty in regard to the North American Agreement the Commission deemed it inadvisable to reduce the number of unduplicated clear channels at this time to less than 26. However, the provisions for the allocation of frequencies follow closely, but do not duplicate, those enumerated in the North American Regional Broadcasting Agreement. In general the new rules are designed to extend and improve broadcast service in the United States through an increase in signal in urban areas and an increase in coverage in rural areas.

The Commission feels that the new Rules and Regulations, together with the Standards of Good Engineering Practice, are a distinct contribution to the science and art of radio. Drawn up with the cooperation of the industry and the foremost radio engineers in the country, the new rules and standards give to the people of the United States and its possessions the technical basis for the finest radio service in the world. The advantages of this service, however, cannot be fully realized until the North American Regional Broadcasting Agreement is ratified and made effective.

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#### NAB HIRES COUNSEL FOR S-W HEARING

The National Association of Broadcasters has retained Swagar Sherley as special counsel for the FCC hearings in regard to the recent regulations concerning international short-wave broadcasting. Mr. Sherley was a former member of Congress.

A petition will be filed requesting (1) a postponement of the date of the hearing which is now set for July 12, because it conflicts with the NAB convention in Atlantic City; (2) that the scope of the hearing be enlarged to include all the regulations recently issued; and (3) that the operation of the regulations be suspended pending the hearings. In addition, each of the seven operators in the international short-wave field will file individual appearances.

These developments came as a result of the meeting of the NAB International Short-Wave Committee which met last week in New York City at the call of Neville Miller, President of the NAB and Chairman of the Committee. Those present were: Frank Mason, Frank Russell and P. J. Hennessey, Jr., of the National Broadcasting Company; Dr. Charles B. Jolliffe of Radio Corporation of America; Harry Butcher, Frederic Willis, Paul Porter and A. B. Chamberlain of the Columbia Broadcasting System; Dr. Leon Levy, WCAU, Philadelphia, Pennsylvania; Walter Evans and J. B. Rock of Westinghouse Broadcasting Stations; Jack Poppele, WOR, New York City; Joseph Reis, WLW, Cincinnati, Ohio. From NAB headquarters were Edwin Spence, Secretary-Treasurer; Andrew Bennett, Counsel; and Ed Kirby, Director of Public Relations.

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Work has just started on the erection of a new broadcasting station in central Sweden at Stora Tuna, in Dalecarlia. The new station will improve receiving conditions in the central districts, which hitherto have not been well covered by the transmitter at Motala. The transmitter will have an output of 100 KW and the aerial is supported by a single mast, similar to those at Horby (Sweden) and Stagshaw. The new station is to start transmitting in the Autumn on a wavelength of 258.8 m., (1,159 kcs.)

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## WLW LOSES SUPER-POWER APPEAL IN COURT

The Crosley Corporation, operating station WLW Cincinnati, lost in the United States Court of Appeals of the District of Columbia Monday its battle to force the Federal Communications Commission to restore its experimental superpower of 500,000 watts. The Court dismissed the appeal for lack of jurisdiction.

The first station in the United States to operate with 500,000 watts, which gave it an effective signal substantially throughout the country, WLW, by FCC edict, returned to 50,000 watts status. It had operated with "special experimental authority" for super-power for nearly five years, but the Commission concluded that the experiments were no longer necessary and that social and economic implications of the superpower authorization were such as to warrant cancellation.

In the majority opinion Chief Justice D. Lawrence Groner held that nothing in the Commission's action warranted the contention of WLW that the decision was arbitrary or capricious. Moreover, he stated that the WLW appeal "wholly fails to take into consideration the nature of its agreement and the obligations assumed" in accepting an experimental authorization, terminable at the will of the Commission.

Associate Justice Harold M. Stephens, in a separate opinion, concurred with the majority, but disagreed "with the reasoning because of certain implications therein". He held that the majority should have limited itself to whether the "special experimental authorization" was void or whether it was a kind of license not subject to review or appeal. The majority opinion as written, he contended, implied that the Commission "has power to issue and terminate special experimental authorizations without conformance to the provisions of the statute for notice, hearing and review, and that the Commission can by contract with a licensee render ineffective and inapplicable those provisions". He added that he thought the court ought not to rule until necessary on such "grave questions as are involved in the alternatives stated".

In another opinion, the Court affirmed the FCC in denying to Station KFUD, St. Louis, operated by the Evangelical Lutheran Synod of Missouri, half-time on the channel which it now occupies with Station KSD, of The St. Louis Post-Dispatch. KSD now uses 80 percent of the time and KFUD the balance.

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## NBC, CBS, AND MBS PROGRAMS PRAISED IN POLL

Awards for excellence of radio programs and services were given to the National Broadcasting Company, the Columbia Broadcasting System, and the Mutual Broadcasting System Monday night in New York by the National Federation of Press Women as the result of their 1939-40 nationwide poll.

Seventeen first awards, including thirteen in the eleven regular program classifications and four special awards were given to NBC. Nine CBS programs won certificates of merit in their respective groups.

Two of the awards were given all three networks for the "Salute of Nations" to the New York World's Fair" series.

The Certificates of Merit were presented during a broadcast over NBC, CBS and MBS from the Federation banquet at the Waldorf Astoria Hotel.

A special Certificate of Merit for the Toscanini concerts was awarded to David Sarnoff, President of the Radio Corporation of America and Chairman of the Board of the National Broadcasting Company, for "Disregarding the popular fallacy that radio listeners have the average mentality of children; and for having had the courage to inaugurate a sustaining program series of symphony concerts under the leadership of world-famous Arturo Toscanini. This major step is another indication of the vision of the man, who has many firsts to his credit in the radio industry.

The Columbia Broadcasting System was given a special certificate for its broadcasts of the New York Philharmonic Orchestra, and William B. Shirer, CBS Central European representative, won a special certificate for his reporting of European news.

Alfred J. McCosker, Chairman of the Board of MBS, received a special certificate for rebroadcasting European news bulletins during the European crisis last Fall; and the Mutual Broadcasting System and Alfred Wallenstein each received a special certificate for the Sinfonietta program.

The National Broadcasting Company and CBS each received a special certificate for "Those nation-wide religious programs that have contributed nationally to the upbuilding of character, to the formation of attitudes of reverence for the great and the good, and to a better understanding among peoples of all faiths."

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## FIVE NATIONS SHARE RADIO RIGHTS FOR CLIPPER FLIGHT

Aeronautical radio services of five nations, coordinated into a single operating unit, will form the communications and directional network to guard the first trans-Atlantic air passengers who boarded the Dixie Clipper for the first scheduled air transport service between the United States and Europe, according to the New York Times.

Protecting any right that might benefit its own national transport enterprise in the competitive field, no nation was willing to authorize the air transport system of another country to establish air bases, weather bureaus, radio stations or other technical facilities on its sovereign territory. Similarly, the United States would not permit a foreign airline to establish facilities on its territory.

The problem was overcome by exchanging the available facilities controlled by one company for those required in the territory of another. In the twelve years that Pan American Airways System has been established it has been required, under American law, to provide at its own expense all airways and base facilities and weather, radio, navigation and other technical aids for flying beyond the borders of the continental United States.

On the other side of the ocean these facilities are provided for Imperial Airways in Great Britain, for Air France in France and for Deutsche Lufthansa in Germany by the respective governments through governmental agencies.

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## WARSAW BUILDING "MOST POWERFUL" STATION

The American Commercial Attache at Warsaw reports that the power of the government owned and operated station of "Polskie Radio", Warsaw I, Raszyn, which has been operating on 120 kw. will be increased 250 percent to 300 kw. at the antenna, thereby becoming one of the most powerful stations in the world. No definite information as to when this increase will be put into operation is yet available, it being understood that some difficulty is being encountered with wave-length allotment.

Construction work on the enlargement of the present quarters is being rushed and the building is expected to be finished this month. The capacity of the present building is reported to be 4,000 cubic meters and that of the addition to be 7,000 cubic meters.

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 ::: TRADE NOTES :::  
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Reprints of an article by David Sarnoff, President of the Radio Corporation of America, in the Journal of Applied Physics on "Probable Influences of Television on Society" are being distributed by RCA.

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Broadcast service to South America, Asia, and the Antipodes from General Electric's West Coast shortwave Station W6XBE, located at the Golden Gate International Exposition on Treasure Island, San Francisco Bay, have been practically doubled, according to C. H. Lang, Manager of Broadcasting of General Electric. Mr. Lang also announced that the company's short-wave station W2XAF at Schenectady had added 10 additional hours to the existing weekly schedule of programs for the Spanish-speaking listeners in Central America and the western half of South America.

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Harry C. Butcher, Vice President of the Columbia Broadcasting System in Washington, is Chairman of a Special Committee of Washingtonians who are planning a dinner for District Commissioner George E. Allen July 7th at the Burning Tree Country Club, near Washington.

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The American Trade Commissioner at Calcutta reports that although there are several automobiles in Calcutta equipped with radios, and dealers were just starting to explore this field, the Governor has sanctioned an amendment to the Calcutta and Howrah Motor Vehicles Rules which bans the use of radios in both Calcutta and Howrah Motor Vehicles Rules which bans the use of radios in both Calcutta and Howrah. The authorities feel that apart from the resultant noises, the tuning of radios in automobiles is fraught with possibilities of accidents, since the motorist's attention is likely to be directed to the program rather than the careful operation of the vehicle, the report stated.

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WALKER RENOMINATED FOR SEVEN-YEAR TERM

Commissioner Paul A. Walker of the Federal Communications Commission was renominated for a 7-year term this week by President Roosevelt and the Senate Interstate Commerce Committee after an executive session voted to report the nomination favorably. Commissioner Walker was not questioned by the Committee.

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