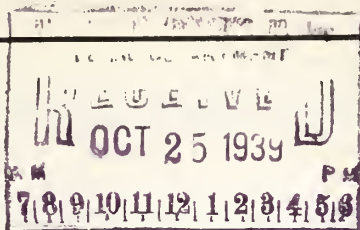


HEINL RADIO BUSINESS LETTER

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No. 1168

October 24, 1939

FCC HOLDING HOT POLITICAL POTATO IN RACING PROBE

The Federal Communications Commission this week is scheduled to decide whether or not to lend aid to the efforts of Pennsylvania authorities to obtain data on the transmission of race track information by telephone wires in the Moe Annenberg case.

Much of the recent mysterious activities of Chairman James L. Fly, including a visit to the White House and trips to New York with William J. Dempsey, General Counsel, are understood to have had to do with the Pennsylvania matter.

Former Chairman Frank R. McNinch set a precedent a year ago when he lent FCC personnel to the Justice Department in a previous inquiry just prior to the November elections.

At least some members of the Federal Communications Commission are afraid that the FCC will get into deep political waters if it takes a hand in the present Pennsylvania inquiry.

Pennsylvania's formal request that the FCC aid in getting the necessary information on the use of wire facilities, particularly telephones, in the transmission of racing information for gambling purposes, is now before the Commission, and it is expected to get its second consideration at meeting today.

The Pennsylvania commission wants the FCC to search the records of the long lines department of the American Telephone & Telegraph Company and gather there any information available as to what lines and what equipment is used in transmitting this data into Pennsylvania, as well as its source.

The Law Department of the Commission has been studying the matter and has suggested to members of the Commission that while the information could be collected without any great expenditure of Federal funds, it questioned whether the Federal Government should be a party in aiding a State to enforce its criminal laws. The Law Department made no recommendation.

When the matter was laid before the Commission, several members sensed that the Federal body might be drawn strongly into the political scramble in Pennsylvania. This was impressed by the knowledge that the present Pennsylvania administration is doing everything possible to wipe out the Annenberg racing information service.

While the political angle does not appear on the records of the Federal body, nevertheless the question has been seriously raised in discussions by the Commission as to whether there is any crime involved in the interstate transmission of this type of information and whether a Federal agency can rightfully collect this information, not primarily for the regulation of the Federal Communications Act, but for the aiding of a State in enforcement of its criminal laws.

Aside from the possibility of becoming involved in the political difficulties in Pennsylvania, it was pointed out that compliance with the request from officials of the Keystone State might be the precedent which would serve as a wedge for requests from other States which want similar investigations.

The Communications Commission is the only agency which could get this data from the American Telephone & Telegraph Co., it was pointed out, as the State would have no authority to go outside the State and examine the records of the company.

When the matter was brought before the Commission the first time, doubt was raised as to the authority of the Commission to collect this data for one State agency. The request was sent back to the Law Department for further study.

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COURT UPHOLDS FCC IN KWTN CASE

United States Court of Appeals for the District of Columbia last week handed down a decision in the case of KWTN of Watertown, South Dakota, against the Federal Communications Commission, in which the Court upheld the Commission.

In this case the FCC charged that the station had operated in violation of the Commission's rules governing the technical operation of broadcast stations and the Commission refused to renew the station's license.

The Court of Appeals in its decision in upholding the Commission's action stated that "the report, findings, and grounds of decision are amply substantiated by the evidence contained in a voluminous record. Appellant does not deny their correctness but does deny that they provide a proper basis for the Commission's decision." The Court's decision says further that "appellant places considerable stress, also, upon the need for broadcasting services in the area served by Station KWTN, and upon the fact that 'No question was raised upon the record with respect to the efficiency of the station's present transmitting equipment and antenna system or the suitability of its site.' These are no doubt important considerations, to be weighed by the Commission in making its determination. But other considerations are important also, including the willingness and ability of the licensee

to comply with the law and with the rules and regulations prescribed by the Commission; in order to guarantee so far as possible a wholesome policy in management and operation.

"We think the record in the present case fully justifies the Commission's action in refusing to renew the license."

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BOSTON LAWYER BECOMES AIDE TO FLY

Nathan H. David of Newton Highlands, Mass., this week assumed the duties of Assistant to Chairman James L. Fly, of the Federal Communications Commission.

Mr. David was born at Somerville, Mass., on August 1, 1913. He was graduated from Yale University in 1934 magna cum laude and stood fourth in his class when graduated from Harvard Law School three years later. He served two years on the Board of the Harvard Law Review, the second being spent as Case Editor.

Since 1937 Mr. David has been associated with the Boston law firm of Burns and Brandon, (John J. Burns was formerly General Counsel of the Securities and Exchange Commission). He assisted in the preparation of evidence and law in support of New England's position in the Southern Governors' Rate Case. He has also specialized in work involving the Securities Act, the Exchange Act, and Public Utilities Holding Company Act, the Fair Labor Standards Act, the Labor Relations Act, and motor vehicles regulations.

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NEWSPAPER STATION SUPPORTS NAB CODE

Station WBAP, of Fort Worth, Texas, did not join other stations Sunday in the regular broadcast of Governor O'Daniel's weekly address.

WBAP, the Star-Telegram's station, issued an explanation as follows:

"The usual talk of Governor O'Daniel was not heard over this station this morning because the Governor does not desire to submit advance script of his speech to the station. The regulations, imposed in the Code of the National Association of Broadcasters, of which this station is a member, require that all persons in the discussion of controversial issues be treated equally.

"The facilities of WBAP, so far as time is concerned, have been tendered to the Governor without cost to him. They remain open to him if he desires to use them on the same basis as others."

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SARNOFF SEES TELEVISION AS NEW EDUCATION AID

Speaking recently at a New York University ceremony at Albany, David Sarnoff, President of the Radio Corporation of America, discussed the various educational services of the National Broadcasting Company and predicted that television will provide a new educational aid.

Copies of the address were distributed this week by Frank E. Mullen, RCA Vice President in Charge of Publicity and Advertising.

"It would be difficult to overestimate its future significance, or its potential influence on education", Mr. Sarnoff said.

"In making television receiving sets available to the residents of this area, a number of competing radio manufacturers have followed the lead of the RCA, and several makes of receivers are now on the market. The only programs broadcast so far in the New York area have been those of the National Broadcasting Company. We hope that before long we may also experience the stimulus of competition in this wonderfully interesting field. NBC television programs are broadcast regularly four days a week, supplemented by additional pickups of special events on other days.

"For the presentation of music and of factual news bulletins, sound broadcasting can do a highly satisfactory job without any visual aid. Most other program subjects can be presented more effectively by sight and sound combined than by sound alone, and there are many subjects suitable for television which are entirely outside the scope of sound broadcasting.

"Seated before your television receiver you can see as well as hear your public speaker, comedian, or opera star. You can attend an exhibit of art while a qualified commentator discusses it. You can study bugs under a microscope, watch a parade or a football game, observe experiments in physics and chemistry, or witness public events - American history in the making.

"To sit before a receiving set in your living room and see as well as hear events which are taking place many miles away is a far cry from Marconi's early exploits. But the American people have lost their capacity for being surprised. The rapid pace of industrial science has taught us to expect miracles as an everyday occurrence. New products and services are no longer judged by their novelty but by their utility.

"The usefulness of broadcasting in education is now clearly established. It should grow with the years. In it, the ultimate aims of educators and broadcasters are identical. Both desire to see American standards of culture and intelligence raised to higher levels. Both recognize the power of broadcasting as a means to that end.

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"These are days when American institutions are the subject of attack, both abroad and at home. The question is again being asked, as it was in Lincoln's time, 'whether this nation or any nation so conceived and so dedicated can long endure.' I believe it can.

"But the answer lies largely in the use we make of our freedom; in the ability of our citizens to think for themselves and to govern themselves; in the ability of our self-controlled industries to render a larger measure of public service than is rendered by the state-controlled industries of other lands.

"Young as it is, radio is proud of its share in helping to shape that answer. Education of the masses - as well as of the leaders - is one of the bulwarks of our democracy. Radio is a mass medium. It reaches both the rich and the poor. It reaches the leaders, and the led. It reaches the literate, and those who cannot read. It brings the treasures of education to all alike. In fact, the richest man in the world cannot buy for himself what the poorest man gets free by radio.

"In no other nation of the world - even where it is endowed by the treasuries of the state - has radio achieved so much in the cause of education and freedom as it has in the United States."

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INCREASED RADIO SALES SEEN IN TAX COLLECTIONS

Substantially increased radio sales this year were indicated in the September report of the U. S. Bureau of Internal Revenue on collections of the 5 percent radio excise tax, according to Bond Geddes, Executive Vice-President of the Radio Manufacturers' Association. At the end of September the increase was 22.7 percent above the same nine months' period of last year. Collections of the 5 percent radio excise tax in September were \$590,350.31, higher by 70 percent over the September 1938 radio taxes of \$345,431.00. Collections of excise taxes on mechanical refrigerators in September were \$637,537.93, against \$404,479.27 in September 1938.

For the nine months ending September this year, collections of the radio excise tax totaled \$3,440,940.12, increased 22.7 percent above the excise taxes collected during the first nine months of 1938 amounting to \$2,804,997.65.

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NAB HEAD HITS ROOSEVELT RESIGNATION

Indirectly assailing the resignation of Elliott Roosevelt from the National Association of Broadcasters, Neville Miller, NAB President, on Sunday entered a vigorous defense of the new broadcasters' code, which outlaws the sale of radio time for "the discussion of controversial public issues".

Speaking from Washington over a Columbia network of 45 stations, Mr. Miller denied that the Code bars opinion from the air. It merely provides, he said, "that those holding other views shall not be deprived of the right to present their views under similar conditions."

Without mentioning Elliott Roosevelt's name, Mr. Miller hit at the expression of "personal opinions under the guise of news". He went on to say that "the job of the news broadcasters in a democracy ends with the presentation of the news as it happens."

"If one giving a news broadcast wishes to express on the air his personal opinion about a public controversial matter, he has an opportunity to do so on time freely allotted for the discussion of public controversial questions, but his opinion does not belong on a news broadcast."

Elliott Roosevelt in a broadcast on October 7 defied the NAB to stop him from expression his opinion on neutrality issues in his news comments. Friday, However, after action by the NAB, the Mutual Broadcasting System announced that he would conform to the Code in his network comments. At the same time the President's eldest son stated that he would resign from the NAB and take with him ten Texas station members.

The Code restrictions on news commentators also apply to others who may seek to purchase radio time to discuss controversial subjects.

Mr. Miller maintained that before the Code was adopted "there was a danger that, due to the mere possession of money, various groups might monopolize, dominate or control the discussion of public issues over the radio, precluding a fair opportunity for the opposition."

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CHICAGO LABOR STATION GOES OFF THE AIR

The Federal Communications Commission this week made permanent its preliminary order refusing a renewal of license to the Chicago Federation of Labor's short-wave station, W9XAA, and denying permission to transfer the license to the Radio Service Corporation of Utah.

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EDUCATORS JOIN N.Y.C. IN PLEA TO ALTER FCC RULE

Prominent educators and the operator of an international short-wave educational radio station joined Mayor LaGuardia of New York City this week in urging the Federal Communications Commission to remove its prohibition against the rebroadcasting of short-wave programs by a long-wave outlet.

Mayor LaGuardia explained that New York City wants to pick up certain programs of Station WBUL, operated by the World Wide Broadcasting Foundation, for rebroadcasting on Station WNYC, the New York municipally-owned station. He was joined in his request by Walter S. Lemmon, President of the World Wide Broadcasting Foundation.

Among others who endorsed the change in rules to permit a wider distribution of educational broadcasts were:

Professor William Y. Elliott of Harvard; Frank Schooley, Executive Secretary of the National Association of Educational Broadcasters and Program Director of Station WILL of the University of Illinois, and S. Howard Evans, Executive Secretary of the National Committee on Education by Radio.

It was their contention, supported also as a technical proposition by Mr. Lemmon and by Moris Novik, Director of Station WNYC, that programs can be picked up and rebroadcast as proposed without affecting adversely the maximum efficiency in operation of Station WBUL, the protection of which is the object of the Commission's existing prohibitory ruling.

The rules of the Commission do not now permit regular stations to rebroadcast the programs of international broadcast stations located within the United States except where wire lines are not available to transmit the programs to regular broadcast stations.

Mayor LaGuardia's petition for amendment of the rule in favor of non-commercial stations is regarded as a test case by which will be determined whether relaxation is possible of the prohibition to permit the rebroadcasting of special programs from international stations by non-commercial stations, including those owned by and operated by municipalities and other government agencies, universities and other educational institutions and non-profit organizations.

It has been the belief and policy of the Commission, and was contended by Andrew D. Ring, the FCC's Assistant Chief Engineer, at the hearing, that indications point to the impossibility of making such rebroadcasts without detracting from the efficiency of operation of international stations.

Mr. Lemmon, however, argued that, with the development of the radio art and by the use of improved directional antenna in his own station, and capable of installation in other stations

at an approximate cost of \$1,000, such rebroadcasts can, in fact, be made.

Both agreed that the test is whether or not programs as broadcast to foreign stations can be clearly heard when picked up by short-wave over radio sets in this country, and that no conclusive evidence on this point was at present available.

Mr. Ring conceded the possibility of such clear reception here and abroad and under certain conditions, but declared that an exhaustive survey would be essential to determine the facts.

Mr. Lemmon presented affirmative telegrams received from listeners in many parts of this country in response to a general request broadcast by his station for reports from all parts of the world on the clarity of reception of its programs.

He conceded that these returns from the United States were not conclusive, but argued that they were indicative.

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AIRING OF FEUD SCHEDULED IN BOSTON NEXT MONTH

A long smouldering feud between John Shepard, III, operator of the Yankee Network, and Lawrence Flynn, a former employee, is scheduled for an airing in Boston on November 8, when an Examiner of the Federal Communications Commission takes testimony on the application of Mr. Flynn for a permit to use WAAB's 1410 kc. wavelength.

The Shepard-Flynn row has been before the Commission for more than a year and in the Fall of 1938 caused a minor political explosion when a hearing was scheduled and later withdrawn on charges against the Yankee Network head.

Broadcasters are interested in the matter because of the question involved in the original controversy as to whether a station owner may conduct a crusade and express editorial opinions over his radio outlet. Since the Shepard episode, however, the NAB Code has placed restrictions on the broadcasting.

Mr. Shepard also is at odds with the National Association of Broadcasters regarding enforcement of the Code provision which would stop the paid broadcasts of the Rev. Charles E. Coughlin after October 29th on the Colonial Network. Mr. Shepard was reported, however, to be considering a proposal to give Father Coughlin the time after the expiration of the present contract.

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NEW DEVICE TO AID STUDY OF SHORT-WAVES

An invention announced this week by the Bell Telephone Laboratories is expected to aid the study of disturbances in short-wave radio transmission.

By enabling astronomers to study the activity of the solar corona - the flaming halo around the sun - the device will permit the forecasting of short-wave interference which originates in the sun.

The machine was invented by Dr. A. M. Skellett of the laboratories. It has been successfully tried out in the private observatory of Dr. G. W. Cook at Wynnewood, Pa.

The new system or machine, named the "coronaviser", uses the principles of television, which can discriminate between steady light and variations. In effect it "scans" a ring around the sun, discarding the light from the sun itself and throwing on a cathode ray reproducer only the image of the corona. This was impossible with ordinary apparatus because the main body of the sun is a million times brighter than its luminous envelope.

In the actual operation of the system in Dr. Cook's observatory it was discovered that almost perfect conditions of cleanliness of reflectors and lenses must prevail to get a true image. The slightest smudge or grain of dust on the glass plate supporting the scanning hole unit showed up on the reproducer.

Occasionally tiny specks of brilliant light would float across the screen, the sources of which were puzzling. They finally were traced to wind-blown seeds or specks of dust drifting across the path of the light reflected from the siderostat mirror into the eye of the scanning system.

The real worth of the coronaviser, the Bell Laboratories said, will not be definitely determined until it has been used under the clear skies encountered on mountain tops, where the principal observatories are situated, and where a telescope pointing directly at the sun can be used. At Wynnewood, only a horizontal mounting was feasible. This, the inventor said, caused considerably more glare than will be encountered in a vertical mounting.

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LONDONERS REGRET TABU ON TELEVISION

"It has been pointed out to us that nobody said a word in the Radio Times about the passing of television", the Radio Times, of London, comments. "That is quite true, but so many things were passing, too, on that ominous week-end at the beginning of September, that television was at least not singled out for neglect. As a matter of fact we ourselves, as viewers, miss television as much as anybody could. It seems to us that it would have been the ideal entertainment for the black-outs - something to keep you happy that does not mean going out, that does not cause crowds to collect, and that you can enjoy in a darkened room."

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TRADE NOTES

The Federal Trade Commission announces that hearings to take testimony were to be held in the case of the Automatic Radio Manufacturing Company, Inc., Boston, and others, on Monday, October 23rd, and Wednesday, October 25th, at Philadelphia and New York respectively. The case involves unauthorized use of well-known trade names.

The possibilities of radio in advertising and why many opportunities for increasing sales have been slighted because of unfamiliarity with a still more or less unexplored technique are examined in "Radio as an Advertising Medium", by Warren B. Dygert, Assistant Professor of Marketing at New York University and Secretary and Account Executive of F. J. Low Advertising Agency. The volume is published by the McGraw-Hill Book Company, Inc., at \$3.00

Seasonal increases in radio factory employment, payrolls and working hours were detailed in the current employment report for July 1939 of the U. S. Bureau of Labor Statistics. Radio factory employment last July increased 8.1 percent over the preceding month and was 43.7 percent above radio employment in July 1938. The July index figure on radio employment was 117.3 compared with the June index of 108.5. A supplementary government report stated that in the monthly turnover rate per 100 radio employees, there were layoffs last July of only 1.34 per 100 and 1.35 per 100 in August, while the ratio of new employees hired was 6.51 last July and 8.16 in August, compared with 5.36 in August 1938.

"Americans All - Immigrants All", the U. S. Office of Education's series of dramatic radio programs devoted to promotion of racial and religious tolerance, has just received the Fourth Annual American Legion Auxiliary Radio Award. Citations on silver plaques were presented to Sterling Fisher of the Columbia Broadcasting System and to John W. Studebaker, U. S. Commissioner of Education, praising the series for its "endeavor to present a cross section of community life through several generations of America's immigrants". In announcing the award at the Chicago convention of the auxiliary, Mrs. William H. Corwith, Chairman of the National Radio Committee, said that "Americans All - Immigrants All" is "a program which best inculcates the characteristics of the American way of life and government."

WENY Elmira's new radio station, will be affiliated with the Mutual Broadcasting System when the station is formally opened within a few weeks, it was announced this week by J. T. Calkins, of the Elmira Star-Gazette, Inc., owners of WENY, and by Fred Weber, General Manager of the Mutual Broadcasting System. The station will operate on 1200 kc., 250 watts power and unlimited time.

BRITISH LURE NAZI LISTENERS BY PRISONER LIST

The British are trying out a new idea to get their propaganda over in Germany - tempting the Germans to tune in on a radio broadcast of news items favorable to the allies by sandwiching in the names of German prisoners of war, according to the Associated Press.

The broadcasts originate in the studios of the British Broadcasting Corporation. Twenty names are read daily. Ten names are repeated from yesterday's list, and ten new ones are added.

The program was beamed toward Germany from powerful short-wave transmitters in Daventry, England, it was stated. The actual reading of the names takes only about half a minute; the rest of the time is given over to the reading of the news items.

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EDITOR SAYS ELLIOTT'S WRONG, NAB RIGHT

Following is an editorial which appeared in the Washington Post this week:

"The ban which the National Association of Broadcasters voluntarily imposed upon the sale of time for discussion of controversial issues has caused Elliott Roosevelt to withdraw from membership on the ground that the new rule constitutes 'censorship in its worst form', Representative Cochran of Missouri has also characterized the ruling as 'a direct assault upon one of the most sacred provisions of our Constitution - freedom of speech'.

"These views betray a profound misconception of the nature of the problem with which the NAB is trying to deal. The new ruling does not involve any curtailment of constitutionally guaranteed rights of free speech. Nor is there any element of censorship apparent in a resolution that simply defines the conditions under which controversial discussions may be broadcast. Indeed, it can be argued quite plausibly that greater freedom of discussion is encouraged by putting the man who cannot pay for radio time on the same footing as one with money.

"Radio transmission is clearly 'affected with a public interest'. Hence, it has been subjected to Federal regulation on an extensive scale. And regulation will unquestionably become more sweeping as the potentialities of the radio for influencing public opinion are better understood. Without restrictive rules and regulation bedlam would result. Moreover, for the sake of good taste and the preservation of public morals, a certain amount of censorship over programs is essential. There is no difference of opinion on that point; the only question arises as to where to draw the line in specific cases. . . .

"There is certainly room for doubt as to the practicability and desirability of the new policy. But there is no warrant for assuming that a man's freedom of speech is invaded because he is unable to buy time on the air to broadcast his personal opinions to the world."

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