

# HEINL RADIO BUSINESS LETTER

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## FCC LOSES GENERAL COUNSEL AND AIDE; FRICTION DENIED

The Federal Communications Commission announced Thursday that William J. Dempsey, General Counsel, and William C. Koplovitz, Assistant General Counsel, have submitted their resignations for the purpose of engaging in the private practice of law, specializing in radio, in Washington. The resignations are effective at the convenience of the Commission.

Known as the "Little Corcoran and Cohen" team of New Deal lawyers, Messrs. Dempsey and Koplovitz denied a published report that they were quitting because of friction with the Commission and Chairman James L. Fly.

"Our relations with the Commission have never been better", Mr. Dempsey said.

Acting Chairman Thad H. Brown commented:

"It is with genuine regret that the Commission has received the resignations of General Counsel Dempsey and Assistant General Counsel Koplovitz. They are able, industrious, and conscientious young men with an exceptionally high regard for public service. Their going is a distinct loss to the Commission."

Chairman James Lawrence Fly, who is absent from the city, wired:

"The Commission is sorry to lose such valuable services to private practice." He credited Messrs. Dempsey and Koplovitz with expediting and simplifying Commission procedure, and particularly complimented them for their unbroken record of favorable decisions for the Commission in seven cases before the United States Supreme Court and in 29 cases before the Court of Appeals.

Mr. Dempsey and Mr. Koplovitz have "teamed" in Government service since 1933. Before joining the Federal Communications Commission legal staff, they were counsels to the Federal Power Commission and, before that, the Public Works Administration.

Mr. Dempsey was named General Counsel, after a brief tenure as Special Counsel for the monopoly investigation, at the height of the FCC "purge" conducted by Chairman Frank R. McNinch. Mr. Koplovitz became his aide about the same time in December, 1938. Mr. Dempsey succeeded Hampson Gary.

Despite their youth - Mr. Dempsey is 34 and Mr. Koplovitz is 30 - the attorneys have been singularly successful in defending appeals from FCC decisions both in the Court of Appeals of the District of Columbia and in the U. S. Supreme Court.

Under Mr. Dempsey's direction, the FCC Legal Division has won 7 cases and lost none in the Supreme Court and two are pending and has won 29 and lost none in the Court of Appeals with 9 pending.

Mr. Dempsey is the son of Representative Dempsey (D.), of New Mexico. At the time of his appointment to the FCC, he was reported to be one of the school of young New Deal attorneys sponsored by Thomas Corcoran, presidential advisor.

Mr. Dempsey was born in Brooklyn, N. Y., February 22, 1906. He received his elementary education in New York, his high school education in Oklahoma City and later attended Georgetown University from which he received his B.S. degree, cum laude in 1927, his M.S. degree in 1929 and his L.L.B. degree in 1931. While attending Georgetown Law School, Mr. Dempsey was Assistant Professor of Mathematics at Georgetown College teaching Mathematics and Physics. Following his graduation from law school, Mr. Dempsey entered the private practice of law in New York, specializing in trial work. He entered Government service in 1933 as attorney for the Public Works Administration.

Mr. Koplovitz was born in St. Louis, May 30, 1909. He received his elementary and high school education in St. Louis, ranking first in his class, which won him a four-year scholarship to Washington University. He received his A.B. degree in 1929 with honors, was awarded a fellowship in Sociology and received his M.S. degree in 1930. He is a member of Phi Beta Kappa. He entered Harvard Law School in 1930 where his grades won him a scholarship during his first year. He was elected to the Legal Aid Society and graduated in 1933, cum laude. Like Mr. Dempsey, Mr. Koplovitz entered Government service in 1933 as attorney for the Public Works Administration.

Both men worked together as a legal team from the beginning of their government careers. In the Legal Bureau of the Public Works Administration they specialized in municipal financing and construction contract law and in June, 1934, both were made counsel to Administrator Ickes.

At the Communications Commission, Messrs. Dempsey and Koplovitz devoted themselves primarily to litigation. Both men were responsible for putting into effect the Commission's revised hearing procedure and were largely responsible for the issuance of the Commission's present rules and regulations in complete form.

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The warden of a State prison wants local radio stations to cooperate in broadcasting emergency information regarding escaping prisoners. The Commission has advised that, though the law prevents standard broadcast stations from being used for routine police work, there is no bar to news flashes containing information about escaping prisoners which may be of interest or concern to the general public.

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## NO FCC ACTION ON TELEVISION OR FM BEFORE MAY

While the radio industry grows anxious over the delay in FCC decisions on television and frequency modulation, the Commission plans to take another vacation next week.

Chairman James L. Fly will not return to Washington from Texas before the middle or latter part of next week, and the Commission is expected to hold no full quorum meetings before the week of May 6.

Meanwhile, radio manufacturers are complaining that orders for new receivers are being held up because of the uncertainty of what the Commission will do about television and FM. Dealers are afraid to place orders for new radio receiving sets, it was said, until they know whether they are to include FM attachments and be able to be adapted to television reception.

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## SUPREME COURT ALTERS SANDERS CASE DECISION

A slight change was made this week in the language of the Sanders Brothers radio station case decision, announced March 25 by the U. S. Supreme Court and since widely quoted with regard to the powers of the Federal Communications Commission.

The court wrote in the word "financially" into a comment on Congressional intent as interpreted by the tribunal and struck out another comment on Section 402(b)(2) of the Communications Act.

As revised the Court's decision reads:

"Congress had some purpose in enacting SS 402(b)(2). It may have been of opinion that one likely to be financially injured by the issue of a license would be the only person having a sufficient interest to bring to the attention of the Appellate Court errors of law in the action of the Commission in granting the license."

The Court then struck out the following sentence: "In this view, while the injury to such person would not be the subject of redress, that person might be the instrument, upon an appeal, of redressing an injury to the public service which would otherwise remain without remedy".

Left in the decision was the concluding sentence of the paragraph: "It is within the power of Congress to confer such standing to prosecute an appeal."

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## NETWORKS PREPARE FOR FULL CONVENTION COVERAGE

Plans for the complete coverage of the Republican and Democratic Conventions this year, just announced this week, are a far cry from the feeble yet revolutionary broadcasts of the 1924 conventions when radio was still a baby.

NBC, CBS and MBS all released announcements simultaneously this week outlining their program for informing the radio public of developments at the convention almost as soon as they happen. Crack commentators and news analysts will be on hand. Microphones will be staged at every vantage point throughout the convention halls in Philadelphia and Chicago.

On the NBC-Red Network, H. V. Kaltenborn and Earl Godwin will follow the progress of the conventions. On the NBC-Blue Network will be heard Baukhage, Raymond Clapper, Washington columnist, and Lowell Thomas. Announcers assigned to convention coverage include George Hicks and Charles Lyons, spot news reporters, and Carleton Smith and Herluf Provenson, both of whom have acted as presidential announcers. Women's activities at both conventions will be covered by Ann Underwood.

At both Philadelphia and Chicago, the NBC convention staff will operate from a glass booth back of the speaker's platform, where a complete broadcasting studio setup will be installed. In addition, both convention halls will be connected by direct NBC wires with New York to carry last-minute developments in Europe to delegates and candidates.

Paul W. White, Columbia's Director of Public Affairs, has mustered the following analysts to give the radio audience informed reports on developments: Elmer Davis, Bob Trout, Albert Warner and John Charles Daly. Edwin C. Hill and Paul Sullivan also may participate in Columbia's coverage direct from the convention cities.

For the floor pickups, the most modern equipment devised by radio engineers has been planned. The CBS microphone for each State delegation will be connected by lines to a panel at the speaker's stand. From this "nerve center", engineers and technicians will survey the spectacle, punching buttons on an intricate board before them as various States answer the roll or participate in the proceedings. This will open the circuit to unit chairmen or their spokesmen.

For the Republican convention, arrangements provide for construction of an elevated Columbia broadcasting booth directly behind the speaker's platform. In Chicago, Columbia's main control booth is to be mounted over an arena-floor section of seats behind the speaker's stand.

Expected to head the combined staffs of the Mutual Broadcasting System's chain and four station affiliates - WGN, Chicago; WOR, Newark; WFIL, Philadelphia; and WOL, Washington - will be such names as Gabriel Heatter, one of the airwaves' best known voices; Arthur Sears Henning, chief of the Chicago Tribune's Washington bureau; Fulton Lewis, Jr., Mutual's nightly newscaster, Washington; Quin Ryan, veteran of radio convention broadcasts since the crystal set era; Wythe Williams, editor of the Greenwith "Time", and Dave Driscoll, special events director for WOR.

Elaborate technical set-ups are to be installed under the supervision of three Mutual network chief engineers - J. R. Poppele of WOR, Carl Meyers of WGN, and Arnold Nygren of WFIL - and Andrew L. Poole, Traffic Manager of the network.

More than 50 microphones bearing the banners of Mutual, CBS and NBC will be posted strategically inside both halls and upon the speakers' platforms so that each State Chairman will have his own microphone. Specially constructed radio booths will tower over the stages, with auxiliary studios and offices maintained directly beneath the main stages in both halls. Portable transmitters, capable of moving about through the crowds for interviews, will also be utilized. Parabolic microphones are to pick up background noises for atmosphere, while other specially installed mikes eavesdrop on band music.

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#### FCC EXPLAINS HOW TO GET A STATION LICENSE

In the face of complaints that the broadcast spectrum is already over-crowded, the Federal Communications Commission this week issued a press release on "Procedure Necessary to Establish a Radio Broadcast Station".

After explaining that the minimum power requirement is 100 watts, and that such a station can be built for between \$5,000 and \$8,500, the FCC statement adds:

"Any person, firm or corporation legally qualified may apply to the Commission for radio broadcast facilities in any locality . . . .

"The time required for an application for a new broadcast station to go through the necessary routine varies with individual cases. In the case of a purely local station, where no interference is involved, the time can be as short as four to six weeks, providing that the application is accurately and completely filled out and all the required exhibits are appended. However, where interference and formal objection by other stations enter, a longer time is necessary."

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The release also explains the procedure for holding hearings, testing equipment, etc., and explains the Commission exercises no jurisdiction over advertising rates on programs and charges no fees.

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#### SENATE TELEVISION TESTIMONY IS PUBLISHED

The Senate Interstate Commerce Committee this week released printed copies of the testimony of David Sarnoff, President of the Radio Corporation of America, and James L. Fly, Chairman of the Federal Communications Commission, before the Committee April 10 with regard to the Lundeen resolution.

Copies may be obtained from the clerk of the Committee until the supply is exhausted.

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#### MILITARY ORDERS DISRUPT NAZI RADIO INDUSTRY

Huge army orders for wireless equipment which have been placed with the German radio industry during recent months have necessitated swift and far-reaching changes in the production program, according to the American Commercial Attache at Berlin.

"Naturally, army orders receive first attention and the change to mass production for such equipment has already been completed", he reported. "At the same time, laboratory research is also being carried out primarily for military purposes.

"In the second line, the production program aims at filling export orders, although the part taken by exports in the total German radio production has never been large.

"The domestic market is scheduled to be supplied especially with small, high-capacity receivers, notably for supplying the requirements of repatriated Germans from the east. Incidentally, during the past few months, it has been virtually impossible to find new and large radio sets in German retail shops as the supply of such sets to the trade had been suspended during the reorganization of the industry for army production."

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## 150 SHIP RADIO OPERATORS CALLED COMMUNISTS

Charging that there are 150 Communists in the radio rooms of American ships, a Dies Committee witness asserted this week that the C.I.O.'s American Communication Association was under "99 per cent" Communist control, and that Mervyn Rathborne, its president, is a Communist.

One of the ships with a Communist radio operator, he said, is former Ambassador Joseph E. Davies' yacht, "Sea Cloud".

The witness, Fred H. Howe, testified that he had been ousted by an A.C.A. "goon squad" last year from his post as secretary of a marine radio union local.

Howe's allegation that the A.C.A. is under Communist domination brought an immediate denial from Rathborne, whom President Roosevelt last year appointed as adviser to the National Youth Administration.

In a statement issued in New York, Rathborne asserted that Howe had been expelled from the A.C.A. "after having been tried and found guilty of being an agent of the employers". The Dies Committee, Rathborne, added, "clearly shows its union-busting hand once again" in providing a "public platform from which the vilest slander can be broadcast" against workers who believe in collective bargaining.

Chairman Dies himself stated that Howe's testimony as to Rathborne's alleged communism was based on "secondary evidence" which was admitted into the Committee's record only because of the Communist Party's refusal to make public its membership list.

The witness charged that the Communist Party had been able to place "probably 150 or more good members" as radio operators on American merchant vessels. In time of war, he said, they could "sew up" the ships and "help establish a Soviet system here."

Naming as communists several radio operators on Government and privately owned American ships and land stations, Howe included in his list George Stano, radio operator of Davies' yacht.

The former Ambassador to Russia, who is now Assistant to Secretary Hull, said that Stano had been employed as chief wireless operator on the "Sea Cloud" since 1934, is an "excellent operator" and "thoroughly trusted by his captain."

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## NEW AMATEUR OPERATOR LICENSE EXAMINATIONS ORDERED

Effective July 1, 1940, the Federal Communications Commission will replace the amateur operator license examinations, which have been in use for several years, with new examinations consisting primarily of the multiple choice type of question which has proven so successful during the past year in the commercial radio operators license examination.

The class "A" examination will contain a maximum of forty advanced technical questions dealing mostly with radiotelephony. The class "B" and "C" examinations will contain a maximum of fifty questions, of which approximately thirty will be technical and twenty regulatory and law questions. The code requirements remain unchanged.

The multiple choice type of question is usually answered by the insertion of a number in the space provided and the entire examination can be completed in a very short time. The FCC believes that this type of examination, in addition to greatly reducing the examination time, will also reduce the elapsed time for grading and issuance of the license and will provide better sampling of the applicant's knowledge by the increased number of questions without making the examination more difficult.

A study guide containing "paraphrased" questions which cover the field of all questions asked in the actual examinations will be released by the FCC at an early date.

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## BRITISH POSTPONE RADIO RELAY DEVELOPMENT

It has been officially announced that the scheme proposed by the British General Post Office for a radio relay service has been postponed until after the war. The American Commercial Attache at London reports that the reasons for the decision are cost and the fact that the scheme would absorb too many skilled technicians who are needed for the services.

In the House of Commons recently a member asked the Postmaster General "what progress has been made in respect of the Government's proposed broadcasting relay service by telephones; when such service will be available to the public; and whether he is now in a position to give particulars of the proposed changes to be made to telephone subscribers for the installation and maintenance of the necessary additional apparatus?"

In reply Major Tryon, the Postmaster General, stated: "On June 16, 1939, I gave the House some details of a scheme for the distribution of broadcast programs over telephone lines; and I expressed the hope that my Department would be able to take the first step by introducing such a service about the end of the year in Central London, and in Edinburgh, Birmingham and Manchester.

As the House is aware, the outbreak of war resulted in heavy demands being made on the telephone service for defense purposes, while at the same time many members of the engineering staff were withdrawn for services with the forces. The preparations for the new wire broadcasting service were necessarily delayed, and the question arose whether it would be desirable to proceed with the scheme or to postpone it. After full consideration of this question in all its aspects, the Government has reached the conclusion that the advantages likely to be derived from the introduction and development of the service under present conditions would not be sufficient to justify the diversion of capital and skilled labor from other war-time activities. It has been decided, therefore, to postpone the introduction of the service until the end of the war."

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 ::: TRADE NOTES :::  
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World radio market series reports issued this week by the U. S. Bureau of Foreign and Domestic Commerce included: Brazil (regulations), Malta, Brazil (regulations), and Uruguay.

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Opposing viewpoints on the continuance of WNYC, New York City radio station, was expressed Wednesday by Harold Riegelman, counsel for the Citizens Budget Commission, and H. V. Kaltenborn, radio news commentator, at a public hearing before the Council Committee investigating the station in City Hall.

Mr. Kaltenborn defended the station as an aid to public education in the city. He said the city might as logically close its school system. He told the Committee that he was "shocked" by Mr. Riegelman's argument for abolition of the station as a city-supported agency.

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Jerry Danzig has been appointed Director of WOR publicity, Alfred J. McCosker, President of WOR, announces. In taking over this post Danzig leaves his present position as Commercial Program Manager. He succeeds G. W. (Johnny) Johnstone, who recently announced his resignation to become Director of Radio for the Democratic National Committee.

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With foundations completed and brickwork rising rapidly, all indications are that the new transmitter building of NBC station WEAF, at Port Washington, L.I., will begin operation in September, according to a report issued this week by Raymond F. Guy, NBC Facilities engineer. The new WEAF transmitter, being erected at an approximate cost of \$280,000, embodies the latest technical developments. Its new location, selected after several years of exhaustive study of all possible sites in the Metropolitan area, is expected to produce the strongest signal of any radio station in the New York area.

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## DRUGS, TOILET GOODS BIGGEST NBC ADVERTISER

The drugs and toilet goods industry, with a total expenditure of \$4,186,616 for the first quarter of 1940, an increase of 13.4 percent over the 1939 figure of \$3,691,116, led all other advertisers on the National Broadcasting Company networks for the first three months of this year.

In second place was last year's leader in the first quarter, the food industry, which expended a total of \$3,543,777, a decrease of 17.4 percent over the 1939 outlay of \$4,291,744.

Most sensational rise in expenditures occurred in the tobacco industry, which displaced laundry soaps and cleaners as the third leading advertiser on NBC. The tobacco outlay for the first quarter of 1940 hit an all-time high of \$1,759,748, an increase of 92.9 percent over the 1939 total of \$912,256.

Manufacturers of laundry soaps and cleaners also increased their expenditures sharply, marking up a figure for the first three months of \$1,735,744, an increase of 30.6 percent over 1939's total for the period of \$1,329,319.

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## PUBLISHERS SEEN AS UNION OF RADIO AND PRINTING PRESS

The American Newspaper Publishers' Association this week in New York City considered the possibilities of union between the radio and the printing press, according to the New York Times. More than 500 editors, publishers and business managers attending the Association's fifty-fourth annual convention at the Hotel Waldorf-Astoria learned from their Radio Committee that newspapers now had a proprietary interest in one-third of all licensed radio stations.

The Committee's report, presented by its Chairman, J.S. Gray, of The Monroe (Mich.) Evening News, declared that while radio as a medium had become "a powerful commercial entity, an inevitable gravitation associates it increasingly, and in many of its best uses, with newspaper operation." The moderate cost of the new frequency modulation system, the report added, offered inducement for the establishment of stations in smaller communities.

Paul Bellamy, editor of The Cleveland Plain Dealer, said: "But I am ready to accept them, the gentlemen the radio, as partners", when he presented the report of his Committee on cooperation of press, bar and radio. He added:

"We can agree on pretty much everything except the use of cameras and microphones in court. It remains to be seen what can be done about that."

John S. McCarrens, Vice President and General Manager of The Cleveland Plain Dealer, in his address as President of the Publishers, referred to Gutenberg's movable type and said:

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"And it remained the fastest method until the invention of the electrical devices of communications, such as the telegraph, telephone, radio, facsimile and television. It has been our good fortune thus far to marry these miracles to the printing press."

The radio report cited an increase of fifty in the number of the standard radio stations in the last year, the largest increase since 1937 when there were fifty-three new stations. It noted an increase in the volume of sponsored spot news broadcasts and "concurrent rises of newspaper circulations" described as "most gratifying and no doubt significant."

The possibility that 90 percent of standard stations now licensed might change to new frequencies when modulated frequency is put into effect by the Federal Communications Commission was mentioned in the report, which added:

"Included among the applicants for frequency modulation licenses in the lists published to date are, The Chicago Tribune, The Detroit News, The Worcester Telegram, The St. Louis-Star-Times, and The Winston-Salem Journal. The Milwaukee Journal is now operating under frequency modulation license.

"Facsimile experimenters hope that frequency modulation will open new prospects to that medium inasmuch as facsimile can be broadcast simultaneously with programs from the new type transmitter. Otherwise, exploitation of facsimile appears to have further receded during the last year."

Mr. Bellamy, for his committee, reported progress toward cooperation among the press, bar and radio and said: "We children of the printing press are also the children of God in the responsibility we bear and the opportunity we possess. And we know it well. Trust to say, the radio knows it, too, though the radio is a young child in the kingdom, by the rite we might describe as infant baptism. In other words, it yet has to prove itself on the stricken field as our great ancestors in the printing business have done, and as we believe we are doing.

"The only real problems in the hard assignment you have given this committee is the difference of opinion between the bar on the one side and the press and radio on the other.

"We hope to receive shortly some likely evidences of a new faith from the bar. There is to be a meeting in this city April 26 of the four committees engaged in this enterprise, namely, those of the American Newspaper Publishers' Association, the American Society of Newspaper Editors, the National Association of Broadcasters and the American Bar Association."

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