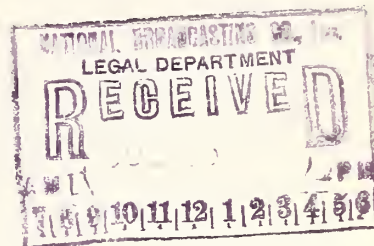


HEINL RADIO BUSINESS LETTER

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No. 1249

"ERRORS" IN MONOPOLY REPORT TO BE CITED

The networks and other interested parties will be given an opportunity to cite specific errors in facts and conclusions in briefs filed with the Federal Communications Commission, it was disclosed this week at the third hearing by the Senate Interstate Commerce Committee on the renomination of Commissioner Thad H. Brown.

John J. Burns, special counsel for the Columbia Broadcasting System, made the disclosure in the presence of Chairman James L. Fly of the FCC after the monopoly report had been riddled by Ralph Colin, general counsel of the CBS.

Previously Mr. Burns charged that the report "contains errors of fact and unwarranted inferences", and Mr. Colin pointed out in detail numerous misstatements with regard to the CBS deal with Paramount, the motion picture company.

The disclosure brought a reproof to the FCC from Chairman Wheeler, of the Interstate Commerce Committee, who said:

"Everyone of these governmental commissions ought to be extremely careful not to make misstatements of fact regarding any company. Such action brings the commission into disrespect."

Earlier Chairman Wheeler and other members of the Senate Committee rebuked Mr. Colin for his sharp language in criticizing Senator Tobey (R), of New Hampshire, for his attack on CBS and William S. Paley, its President, during the previous Brown hearing.

Senator Wheeler called Mr. Colin's statement, in which on June 21 in a statement to the press he charged Senator Tobey with making false statements and deliberately attempting to injure CBS and Mr. Paley, "entirely unjustified" even if the information on which Senator Tobey's remarks were based was incorrect.

Senator Tobey and other members of the Committee had criticized the network and its officers on the basis of charges made in the FCC monopoly report, prepared by a Committee headed by Commissioner Brown.

Senator Reed (R), of Kansas, joined Senator Wheeler in the condemnation and suggested that Mr. Colin "correct" his statement in "your own interest". He labelled the attack on Senator Tobey as "outrageous".

Mr. Colin persistently refused to withdraw the statement or make an apology, but at the conclusion of the hearing he said

that if he had known all the circumstances at the time and had not been trying to "beat a deadline" he "might have thought differently."

"I withdraw any charge of malice against Senator Tobey", he said.

Senate action on Commissioner Brown's renomination was delayed until after the Congressional recess for the Democratic convention as Senator Tobey said he still had more questions to ask the nominee.

While Commissioner Brown did not take the stand, he was asked several times for an explanation of statements appearing in the monopoly report.

After the Commissioner had turned each time to his aides who prepared the report for advice before answering, Senator Tobey observed that Mr. Brown appeared "ignorant" of what is contained in the report.

At one stage of the proceedings Senator Neely (D), of West Virginia, complained that the inquiry seemed to be "going far afield" of the matter before the Committee, and Senator Wheeler observed that it should be confined more to the "question of the general fitness of the nominee for office".

Meanwhile, the FCC is operating as a six-man agency and there is some question as to whether Commissioner Brown, when and if confirmed, will be able to collect back salary to July 1, when his new appointment was intended to begin. FCC officials said he would draw back salary, while others suggested that the Comptroller General will have to pass upon the question.

The CBS-Paramount deal, which was the basis of the Tobey criticism, was explained at length by Mr. Colin, who pointed out in detail wherein the FCC monopoly report was wrong in reporting fact and in its conclusions and implications.

Afterward Chairman Wheeler commented that he saw nothing irregular in the transaction in which Mr. Paley is reputed to have made \$1,000,000.

Mr. Colin explained that CBS had doubled its shares of stock in 1929 and sold them to Paramount in exchange for 58,823 shares of the movie company's stock. Paramount agreed to buy back its own stock at the end of two years at \$85 a share providing CBS earned \$1,000,000 a year or more in the interim.

As the stock market crash occurred before the expiration of the two-year period, Paramount, when confronted with the demand decided to sell its CBS holdings to raise the necessary cash. CBS, thereupon bought 14,156 of the 63,250 shares held by Paramount out of its surplus, and 15 CBS stockholders bought the remainder.

The profit came to Mr. Paley and other stockholders through the subsequent sale of this CBS stock to investment bankers at \$82.21 a share, which was the value fixed by Paramount, although the book value was far less.

Mr. Colin insisted that minority stockholders, as well as the majority, profited by the transaction.

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NEW FCC RULES AIMED AT "FIFTH COLUMNISTS"

New rules obviously designed to prevent "Fifth Column" activities in the radio communications field were adopted this week by the Federal Communications Commission. They prohibit, among other things, damage to apparatus, false signals, and malicious interferences by either amateur or commercial radio operators.

The new rules governing commercial radio operators are:

Sec. 13.64 Obedience to lawful orders. All licensed radio operators shall obey and carry out the lawful orders of the master or person lawfully in charge of the ship or aircraft on which they are employed.

Sec. 13.65 Damage to apparatus. No licensed radio operator shall willfully damage, or cause or permit to be damaged, any radio apparatus or installation in any licensed radio station.

Sec. 13.66 Unnecessary, unidentified, or superfluous communications. No licensed radio operator shall transmit unnecessary, unidentified, or superfluous radio communications or signals.

Sec. 13.67. Obscenity, indecency, profanity. No licensed radio operator or other person shall transmit communications containing obscene, indecent, or profane words, language, or meaning.

Sec. 13.68. False signals. No licensed radio operator shall transmit false or deceptive signals or communications by radio, or any call letter or signal which has not been assigned by proper authority to the radio station he is operating.

Sec. 13.69. Interference. No licensed radio operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.

Sec. 13.70. Fraudulent licenses. No licensed radio operator or other person shall obtain or attempt to obtain, or assist another to obtain or attempt to obtain, an operator's license by fraudulent means.

The new rules governing amateur radio stations and operators are:

Sec. 12.156 Obscenity, indecency, profanity. No licensed radio operator or other person shall transmit communications containing obscene, indecent, or profane words, language, or meaning.

Sec. 12.157 False signals. No licensed radio operator shall transmit false or deceptive signals or communications by radio, or any call letter or signal which has not been assigned by proper authority to the radio station he is operating.

Sec. 12.158 Unidentified communications. No licensed radio operator shall transmit unidentified radio communications or signals.

Sec. 12.159 Interference. No licensed radio operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal.

Sec. 12.160 Damage to apparatus. No licensed radio operator shall willfully damage, or cause or permit to be damaged, any radio apparatus or installation in any licensed radio station.

Sec. 12.161 Fraudulent licenses. No licensed radio operator or other person shall obtain or attempt to obtain, or assist another to obtain or attempt to obtain, an operator license by fraudulent means.

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WAR CLOSES FRANCE MARKET FOR IMPORTED RADIOS

Even before its capitulation to Germany, France was practically closed as a market for imported radio sets and parts from the United States, the U. S. Commerce Department disclosed this week.

Releasing a report which was completed before the French invasion, the Commerce Department quoted the American Consul in Paris thus:

"The war has practically closed the market in France for imported radio sets and parts. The domestic industry, built up under the protection of restrictive quotas for several years, is able to satisfy all ordinary demands. War-time restriction of imports, permitted only under special license and subject to the grant of foreign exchange permits, is being administered so as to admit only such products from abroad as are not obtainable in France and are essential to the national war-time economy."

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U. S. BROADCASTS POPULAR IN LATIN AMERICA

Increasing popularity in Latin America of radio programs originating in the United States is indicated in consular reports reaching the Department of Commerce from the Latin American countries, according to John H. Payne, Chief of the Electrical Division.

While it is frequently reported that reception in certain of the countries is not good, due to adverse atmospheric conditions or technical limitations, the excellent quality of the programs is commented upon in most of the communications.

Mr. Payne said that transmission of radio programs to Latin America is considered of mutual benefit, since it makes available in that region many of the high quality programs heard in the United States and at the same time is a medium through which the Latin American public is informed of our customs, culture and endeavors.

News reports emanating from American short-wave broadcasting stations have probably acted as the greatest single factor in enhancing the popularity of American broadcasts among Latin American listeners. Mr. Payne believes, too, that emphasis on entertainment value which characterizes American broadcasts also contributes greatly to their popularity.

Publication in newspapers and other periodicals in Latin America of schedules of short-wave radio programs originating in the United States and beamed directly on Latin America is being effected by the Department of Commerce in close cooperation with the Department of State, the Radio Manufacturers' Association and the radio broadcasting industry. Mr. Payne indicated that a greater volume of short-wave programs is put on the air by American broadcasters than in any foreign country.

Weekly schedules of forthcoming radio programs, especially prepared or selected on the basis of known preferences of radio listeners in Latin America and frequently presented in the languages most widely understood in that area, are distributed in Latin American countries through the Foreign Offices of the United States Government.

At the present time, seven companies operating eleven short-wave radio stations located in New York, N.Y., Schenectady, N.Y., Boston, Mass., Philadelphia, Pa., Pittsburgh, Pa., Cincinnati, Ohio, and San Francisco, Calif., are transmitting these programs daily to Latin America.

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FCC MAKES DECISION IN HEITMEYER AND FRONTIER CASES

The Federal Communications Commission this week announced decisions with respect to docket cases involving construction of new radio broadcast stations at Cheyenne, Wyo.

It denied a motion of Paul R. Heitmeyer to grant without further hearing his application for a construction permit but complied with his alternative request that his application be dismissed. At the same time, the Commission granted the petition of the Frontier Broadcasting Company to reconsider Commission action in remanding its application for hearing and granted the same without further hearing.

In doing so it authorized the Frontier Company to operate on 1420 kilocycles, with power of 100 watts night, 250 watts until local sunset, unlimited time of operation, subject to condition that permittee file within a period of two months an application for modification of construction permit specifying the exact transmitter location and antenna system proposed to be installed.

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NEWSPAPERS AGAIN ADVISED TO SEEK FM LICENSES

Editor & Publisher, organ of the newspaper publishers, last week again advised newspapers to seek frequency modulation licenses so that the broadcasting of news "will not fall into incompetent hands". In an editorial it said:

"Several comments on the editorial which appeared here last week informed us that the Federal Communications Commission is now receiving applications for commercial operation of frequency modulation radio stations. Several stations, including some newspapers, are already working on an experimental basis, and commercial operation will be permitted on and after Jan. 1, 1941, to all licensed by the FCC. Forms for application were released by the Commission July 1. It is stated that the applications will receive immediate action.

"We mentioned that commercial broadcasting by FM may be approved as of Jan. 1, 1941. That approval has already been given, but applicants should not take it as a guarantee of commercial support. Our own view is that FM will take months, if not years, of nursing before the amount of income available to it will suffice to support the number of potential stations. Only a few thousand receivers equipped to take FM signals are now in the hands of the public, and, until that condition is changed, the field for commercial broadcasts is limited.

"Nevertheless, we repeat our advice that newspapers generally should seek FM licenses. The cost of supporting an FM station during experimental commercial stages can well be regarded as insurance against formidable local competition, and insurance to the public also that the function of furnishing news by radio will not fall into incompetent hands."

No new FM applications have been received by the FCC to date. A Commission spokesman suggested that the forms were so complicated that applicants need a little time to understand them.

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BROADCASTERS SEEK WAGE-HOUR MODIFICATION

Broadcasters will seek a redefinition of the term "executive" in the wage and hour regulations at a hearing before the Wage and Hour Division of the Labor Department July 25 in Washington.

Many stations, particularly smaller ones, have found it difficult to comply with the definition of executive, as interpreted by the Wage and Hour Division. The regulations prescribe that bona fide executives, professional workers, outside salesmen, and others in similar classifications, shall be exempt from overtime provisions of the Act. In its interpretations of October, 1938, the Division held that executives must be paid \$30 per week and direct work of others as the head of a department, have the power to hire and fire, or make recommendations on retention or release of personnel.

The interpretation further specified that executives "shall do no substantial amount of work of the same character as that performed by non-exempt employees." It is this provision that has worked undue hardship on stations, since chief announcers, chief engineers, and program department heads in many cases perform operating functions along with members of their staffs.

Joseph L. Miller, NAB Labor Relations Director, has filed an appearance for the July 25 hearing before Harold Stein, Assistant Director of the hearings branch of the Division.

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So that radio listeners may make their own transcribed versions of notable radio programs, General Electric's Radio Department has announced a new home recording record player. The new unit has facilities not only for making transcriptions or original recordings on blank disks, but for playing records of any type in conjunction with a modern radio, thus combining the functions of record player and recorder.

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EXTENSIVE NAZI RADIO NET SEEN BY PICK-UPS

Germany, which has utilized radio with considerable success in the present war, may now be linking radio stations in countries it has conquered into an extensive network. Evidence that such a thing is being done comes from American short-wave listening posts, which have heard announcements recently that ten or more stations are linked to handle the same program.

Among the powerful short-wave stations no longer heard independently in this country are those of Eindhoven and Paris. Prague disappeared some time ago. Berlin and Rome continue to come in with regularly scheduled programs.

Generally, only three or four of the stations are picked up in this country, the New York Times notes, since they operate on short waves. The others are standard broadcast waves that do not span the Atlantic. Prague was the first to be added to the Nazi chain, and the stations of Poland were next. Since then Oslo, Copenhagen, Brussels, Amsterdam and Paris have been annexed. According to operators in New York, constantly listening in on Europe, the Nazis dominate the air.

This week five short-wave stations were heard - Berlin, Paris, Amsterdam, Rome and Belgrade - handling the same program, apparently originating at the Rome end of the Axis, the Times reported. The announcer was Italian. American listeners were puzzled at Belgrade being in the hook-up.

"It's all very confusing", explained an operator at one of the receiving outposts on Long Island. "We can't make out what goes on over there. We aren't linguists, so can only report that the broadcasts appear as news, probably propaganda, martial airs and waltzes. We even hear Berling through Rome."

Press Wireless, Inc. later tuned in a station, apparently rebroadcasting a German program, which identified itself in English as JZK, Japan.

The station, heard on 15,160 kilocycles, was said to have broadcast the program simultaneously with the German-controlled Paris Mondial transmitter. Programs originating in Germany already have been picked up from a hook-up taking in France, Italy, the Netherlands, Belgium and Norway.

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Increasing its daily schedule to include a special three-hour program of full-fidelity recordings, Major Edwin H. Armstrong's high-powered FM station, W2XMN, at Alpine, N.J., is now being heard Mondays through Saturdays from 10 a.m. to 1 p.m., EST. In addition, W2XMN continues its regular transmission of Columbia Broadcasting System programs from 4 to 11 p.m. each weekday, Mondays through Fridays, and from 3 to 6 p.m. on Sundays.

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COASTAL HARBOR RADIOTELEPHONE FREQUENCIES CHANGED

Ship radiotelephone stations which now communicate or intend to communicate with the public coastal harbor radio stations at Ocean Gate, N.J.; Delaware City, Del.; Tampa, Fla., and New Orleans, La., were reminded this week of changes in the existing frequencies of these four stations, effective August 1.

Ocean Gate will use 2558 kilocycles in place of the 2522 kilocycles now employed, and ships transmitting to Ocean Gate will change over from 2126 to 2166 kilocycles, the FCC stated.

Delaware City will employ 2558 instead of 2522 kilocycles, and ships transmitting to Delaware City will use 2166 instead of 2126 kilocycles.

Tampa will supplant 2598 with 2550 kilocycles, and communicating ships will change from 2206 to 2158 kilocycles.

New Orleans will move from 2558 to 2598 kilocycles, and ships transmitting there will substitute 2206 for 2166 kilocycles.

Ships in contact with these points must adjust their equipment accordingly.

The changed frequencies are necessitated by the modified regional working arrangement to improve short-distance maritime radiotelephone service of Canada and the United States, which went into effect May 1 last. Other stations will retain their present frequencies.

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Mrs. Franklin D. Roosevelt, who has been broadcasting on current topics Tuesday and Thursday afternoons over forty-three outlets of the National Broadcasting Company's Blue Network, will not be signed for a new series when her contract expires July 25, according to the Franklin Bruck Agency, which handles the account for her sponsors, the Manhattan Soap Company.

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The University of Berlin recently established a chair for the study and teaching of the scientific, technical and educational aspects of radio as one of its many new departments. The department is under the direction of Prof. Dr. Kurt Wagenfuehr, who is proceeding with his work in collaboration with many notable experts in the field of radio broadcasting and research.

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PHILCO SHARES QUICKLY BOUGHT BY PUBLIC

Initial public financing on behalf of Philco Corporation, the largest radio receiver manufacturer in the United States, was carried out successfully Thursday through the offering of 325,000 shares of common stock by an underwriting syndicate headed by Smith, Barney & Co., according to the business page of the New York Times. The stock was priced at \$15 a share. Of the total shares offered, 150,000 shares were for the account of the company and 175,000 shares for the account of certain stockholders.

Formal offering of the stock was made before the opening of normal trading activities Thursday morning. The issue was oversubscribed by 1 P.M., and the syndicate managers formally announced at 3:20 P.M. that the books had been closed.

The net proceeds to be received by the company from the sale of 150,000 shares of common stock, estimated to be \$1,908,829 after deducting estimated expenses, will be used, with such additional funds from the general funds of the company as may be required, to retire and cancel all the outstanding \$5 preference stock.

Net proceeds from the sale of the remaining 175,000 common shares will not be received by the company inasmuch as these shares are being sold by certain stockholders. Since the company's common stock has heretofore been held by a relatively small number of stockholders, principally officers and employees, certain stockholders agreed to sell simultaneously as much of their stock as they were advised by the bankers as desirable for the purpose of creating a satisfactory public market. After the sale of the shares, the company's officers, directors and employees will still own, of record or beneficially, approximately 68 percent of the company's total common stock.

Underwriting discounts or commissions on the whole offering amounts to \$568,750, or \$1.75 a share, leaving gross proceeds to both the company and the stockholders who sold part of their holdings of \$4,306,250. Upon completion of this financing, the capitalization of Philco Corporation will consist solely of an authorized issue of 2,000,000 shares of \$3 par value common stock, of which 1,371,000 shares will be outstanding. The company has no funded debt of any kind.

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