

HEINL RADIO BUSINESS LETTER

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No. 1356 ✓

INDUSTRY REGISTERS STRONG PROTEST AGAINST BROADCAST TAX

Led by James L. Fly, Chairman of the Federal Communications Commission, the broadcasting industry solidly voiced its disapproval of the proposed tax on broadcasting time at the hearing on the Defense Revenue bill before the Senate Finance Committee last Monday morning. In the absence of Senator Walter George (D) of Georgia, Chairman, Senator Josiah Bailey (D) of North Carolina presided.

Among the other senators present were Champ Clark (D) of Missouri, Peter Gerry (D) of Rhode Island, Edwin C. Johnson (D) of Kansas, Arthur H. Vandenberg (R) of Michigan, James J. Davis (R) of Pennsylvania, John A. Donaher (R) of Connecticut, and Robert A. Taft (R) of Ohio.

There were indications that some of the Senate committee members were themselves far from being satisfied with the proposed tax on broadcasting time. At one stage of the proceedings the acting chairman, Senator Bailey, said, "I don't like this tax but we have to do something to raise the money." Senator Vandenberg, a former Michigan newspaper publisher, declared the tax was unfair, discriminatory and indefensible." There were those among the observers at the hearing who thought the proposed tax on time sales might be dropped in favor of some sort of a franchise tax to raise enough revenue - say \$2,000,000 annually - to pay for the operating expenses of the Federal Communications Commission. Mr. Fly had said it now took about two million a year to run the Commission.

Chairman Fly seemed to favor a franchise tax but believed it should also be borne by the other branches of the communications industry - telephone, telegraph and cable. He explained that only a portion of the Commission's time was taken up by radio. Mr. Fly said it might be difficult to know how much to charge for a radio station franchise but that this might better be on a basis of coverage rather than power. Senator Bailey remarked that the broadcasting industry "enjoying the franchise given to it to operate in the public domain" should be willing to pay well for it. Mr. Fly said he thought that might be true.

Ellsworth C. Alvord, tax expert, speaking in behalf of the National Association of Broadcasters, said he assumed the radio industry wouldn't object to a non-discriminatory franchise tax. Mr. Alvord however suggested if the government is to embark on a policy of making industries pay for their own regulation that radio should not be the first industry picked out for the experiment. Mentioning railroads and some others, he said radio should really be the last.

Remarking that a franchise to broadcast in the public domain must be a very valuable thing, Senator Bailey asked what the NBC franchise was probably worth.

"Probably depends upon who tried to buy it" Senator Clark broke in. "In the case of Noble it was probably less," Senator Clark referred to the sale of Station WJCA of N.Y. not long ago to Edward J. Noble, former Under Secretary of Commerce who was reported to have grabbed it off on account of his political influence at a bargain price. Chairman Fly explained that Mr. Noble had two options, one for \$875,000 for the station with Don Flamm, the latter agreeing not to go into the broadcasting industry for a period years, or \$850,000 without any restrictions. The witness said Noble accepted the latter proposition and that there was therefore adequate ground for him going this.

When asked by Senator Vandenberg if he was opposed to the proposed tax on radio time sales, Chairman Fly replied, "I think it is a pretty dubious tax." Senator Johnson wanted to know if it really wasn't a tax on the freedom of expression. The witness seemed to be of this opinion. Mr. Fly called attention to the amount of time devoted to public service and to carrying the speeches of senators and congressmen. Mr. Alvord later went so far as to say that the government takes two-thirds of the radio time leaving the industry only one-third of the time for commercials.

"When you spoke of the free time which radio gives to the government you omitted any mention of the President's 'Fireside Chats'." Senator Bailey said, bringing a laugh. Senator Vandenberg asked Harold A. Lafount, President of the Independent Broadcasters Association if he had ever figured up what one of these Fireside broadcasts would cost if the President had to pay for it.

"Several thousand dollars" was the reply. Evidently not satisfied with the answer, Senator Vandenberg got at it a different way when he later asked Mr. Alvord how much a half an hour's time would cost on every station in the United States.

"If that is related to the question you asked Mr. LaFount", Mr. Alvord replied, "I should say \$50,000."

I hear the government has set up a station for broadcasting its own praises," Senator Clark remarked. "No sir," Mr. Fly answered, "but they have the nicest little broadcasting studio you ever saw at the Interior Department." Mr. Fly said the additional expense and burden would be placed on the broadcasting industry by national defense. He explained that stations might have to keep on the air long hours for air raid warnings. Also that they would have to go to the extra expense of putting in emergency transmitters in case the regular power was bombed. The witness also pointed out the possibility of loss of revenue by the stations from clients as the oil, aluminum, automobile and silk industries ceased advertising. Broadcasting, he added, would have to go on whether these advertising returns came in or not.

Mr. Fly said the industry felt that this tax on advertising might be a burden on distribution and that conceivably might be important in a time of business recovery. The witness also pointed to the fact that newspapers and magazines - competing media - were not taxed.

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In addition he said the latter media were favored by the heavy second class mail subsidiary privilege.

The FCC chairman said some of the smaller stations would be hard hit. "Take the Don Lee system", he went on, "this is an extensive and important regional network on the West Coast. Yet it is not composed entirely of big and profitable stations. The proposed tax in the Defense revenue bill might cause the abandonment of some of the stations in this network." Mr. Lafount asserted that 300 broadcasters already operated at a loss in which case the new levy would have the effect of taxing a loss. Maurice Lynch, of the Chicago Federation of Labor, opposing the tax, told the Senators that his station WCFL in Chicago was operating at a loss.

Senator Davis inquired into the charges of the long-lines telephone service for connecting the broadcasting stations. Mr. Fly said this varied with the location of the studios and the distance covered. Mr. Alvord said he had had to advocate all sorts of taxes in his long experience, but that he hoped the state of the treasury would never be so low that he would have to favor a tax such as this on gross receipts. "That sort of a tax is unsound because it is based solely on dollars received and has nothing to do with profit and loss" the tax expert argued. "Also there is no justification in taxing one important advertising medium without taxing all of them." This again referred to the advertising in newspapers and magazines for which no tax is provided in the Defense Revenue bill. "An advertising tax is nothing but a tax on the dissemination of news and on a free press," Alvord declared.

Testimony was given the committee to the effect that the gross yield of the new tax would be more than \$12,000,000, but that its net addition to Federal receipts would not exceed \$5,000,000.

Mr. Fly said that is not a large amount, but would have a substantial effect on the broadcasting industry. He said it is not a big industry "in a money sense."

Senator Clark pointed out that in a Louisiana case the Supreme Court held a tax on newspaper advertising of doubtful constitutionality. He said he understood the contention of the radio industry is that, since radio and newspapers are competing media, radio ought not to face this tax.

Others appearing in opposition to the tax were Mrs. Emily Holt of New York, for the American Federation of Radio Artists, and by Lawson Wimberly of the International Brotherhood of Electrical Workers.

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PUBLISHERS TAKE FIGHT TO HIGHER COURT

Continuing the fight despite the adverse ruling of Justice James W. Morris of the U. S. District Court of the District of Columbia, Elisha Hanson, counsel for the American Newspaper Publishers Association, will go up to the District Court of Appeals in an effort to keep James G. Stahlman, publisher of the Nashville Banner, from testifying in the radio station newspaper ownership hearings which reconvene before the Federal Communications Commission, September 17. Judge Morris had backed up the Communications Commission by ordering Mr. Stahlman to appear.

Mr. Hanson said the appeal would contain about the same arguments as he used with Judge Morris maintaining that the Commission has no authority to discriminate in favor of or against newspaper ownership of broadcasting.

"There is nothing before the court on the question of power to make recommendations to Congress," Mr. Hanson emphasized in his argument before Judge Morris. "If the Commission has the power to disqualify newspaper interests from obtaining radio facilities it has the power to conduct these hearings; if it hasn't the power it has no right to inquire."

The statute enumerates with preciseness the classes to whom radio facilities may be denied, and because newspapers are not in the prescribed class, the Commission has no power to take an action the effect of which would be to expand the act, the publisher's counsel continued.

Mr. Hanson cited local and Supreme Court decisions delimiting the power of the Federal Communications Commission. One of these was the Sanders Brothers Radio Corporation case in which the FCC was instructed to confine its inquiry to questions of equipment, competence, financial ability, and interference with the transmission of existing stations.

To lay down a policy that "newspaper interests" were to be denied licenses would violate the due process guarantee of the United States Constitution, the lawyer argued.

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CHARLES TRAVIS, RADIO ENGINEER, DIES

Charles Travis, geologist and radio engineer, died of a heart ailment last Saturday night in Germantown Hospital in Philadelphia after an illness of three months. He was 58 years old.

Mr. Travis had been a consultant for the Philco Corporation since 1935 and was the inventor of many radio devices, including an automatic frequency control radio. He had served at various times as consultant for the A. Atwater Kent Manufacturing Co., RCA Manufacturing Co., and the Tacony Steel Company, and the arsenal at Rock Island, Ill.

Mr. Travis was the author of many papers on geology and radio engineering.

MAUBORGNE MENTIONED FOR COMMISSION

Spoken of as a possibility in the selection of a new Federal Communications Commissioner to succeed Frederick I. Thompson is Major General Joseph O. Mauborgne, chief of the U.S. Army Signal Corps, who is to retire the latter part of September.

Gen. Mauborgne is an old timer in radio, holding many patents of his own. He joined the Army in 1903 and serving from 1917 to 1921 as chief of engineering and research of the Signal Corps under Gen. Squier, the inventor of wired wireless. During that time he served in Paris with the American delegation to the International Radio Conference. Subsequently he was commanding officer of the Signal Corps Laboratory at the Bureau of Standards, director of the Aircraft Radio Laboratory at Wright Field, O., and radio expert with the War Claims Commission.

Others in the service who have been named commissioners are Commander T. A. M. Craven, Major General Charles Saltzman and the late Admiral Bullard. Admiral S. C. Hooper also once served the Commission in an advisory capacity.

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LET MRS. R. TRY IT UNDER ANOTHER NAME, WRITER SUGGESTS

Considerable comment has been occasioned in the Capitol by an article written by Frank Kent, whose column "The Great Game of Politics" is printed in the Baltimore Sun, the Washington Star and other leading newspapers, taking Mrs. Roosevelt to task for her forthcoming series of commercial broadcasts.

"It is a strange thing that Mrs. Roosevelt has never been able to appreciate the basic argument against her money-making activities - to wit, that the important thing is not what she does with the money, but how she gets it," Mr. Kent writes. "She gets it solely because she is the wife of the President. That is why her publishers, sponsors and managers pay her prices. If she wants to be convinced of this she might try selling an article or a column or a broadcast under an assumed name, or anonymous, sometime.

"Mrs. Roosevelt does not sell her services cheaply. She gets top prices. For example, last year, when she radioed for the Little Sweetheart Toilet Soap Co., it was stated that she received \$2,500 for each broadcast. That, as General Johnson would say, is not hay. In her new role, Mrs. Roosevelt undoubtedly will exude the same sort of sweetness and light, interspersed with cunning little eulogies of her special proteges, projects and policies, which mark her lectures, syndicated columns and magazine articles. There will be nothing remotely offensive in what she says. There never is. She is the most consistent and articulate advocate of the true, the good and the beautiful in the country today.

"Nevertheless, her broadcasts will not promote national unity because the unfortunate truth is that while Mrs. Roosevelt has a very large following which thinks she is perfectly splendid and

regards her as the embodiment of all virtue and wisdom, it is equally true that there are several million men and women whom she irritates very much and who think she is unpleasantly self-satisfied. And, whether the money is given to charity or not, they always will resent the use of her White House connection to extract large sums from commercial enterprises. To them, it is a revolting thought that any concern can bid high enough to buy the services of the wife of the President of the United States."

"A great proportion of these people are patriotic Americans who have been strongly anti-New Deal but are now in favor of the President's foreign policy, anxious to support him in international affairs and to aid in the defense job. These will not be pleased with Mrs. Roosevelt's new venture. They will not like having her interpreting the news and instructing them as to the facts. It is true she has her millions who cannot get enough of her, and will welcome her back on the air, but there are these other millions who already have had too much. Another weekly dose for a three-month period will not go down with them very well.

"It will revive their resentment about the whole White House commercial capitalization business. It will recall to them other activities of Mrs. Roosevelt, such, for example, as her recent encouragement of strikes, her former coddling of young Communists at the White House and her membership in the Communistic Newspaper Guild. Of course, it will not change their feeling about the President's foreign policy, nor cause them to withdraw their support. That would be silly. But it is bound to dampen their enthusiasm. It will chill the spirit with which they would like to support the President at a time like this. It will make them think of things they would rather forget. It will not promote good feeling."

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NEW WEST COAST TELEVISION STATION SOUGHT

Earle C. Anthony, Inc., of Los Angeles, Calif., has applied for a construction permit for a new commercial television broadcast station (formerly W6XEA) to be operated on Channel #6 - 96000-102000 kilocycles; A5 and special emission for frequency modulation; unlimited time; Coverage: 2215 square miles; Population: 2,645,521.

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FTC CITES KTSA FOR OVERSTATING POWER

Sunshine Broadcasting Co., San Antonio, Texas, engaged in interstate commerce in communication by radio and dissemination of such communications, including commercial and other programs, by and through its broadcasting station designated by the call letters "KTSA", has entered into a stipulation with the Federal Trade Commission in which it agrees that in selling the facilities and services of its station, it will cease and desist from using the slogan or words "KTSA San Antonio, Texas, 5,000 WATTS, DOING A 50,000 WATT JOB." According to the stipulation, Station KTSA operates on 5,000 watts in the daytime and on 1,000 watts at night.

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WARTIME CENSORSHIP PLAN DISAPPROVED

President Roosevelt has disapproved an Army-Navy proposal for a war-time censorship, Stephen T. Early, White House secretary, told a press conference today. The disapproval, Mr. Early said, was expressed some time ago to a plan which would not require legislative sanction and which would be invoked only if this country became actually involved in war.

At the same time, the secretary said he had never heard of the reported draft of censorship legislation which is supposed to be before the Chief Executive on recommendation of the War and Navy Departments.

"I don't know the source of that report," Mr. Early said, "but I don't believe it. I never heard of any bill presented for approval of the President.

"I know that some time ago he disapproved an Army-Navy plan, but that was one that did not call for legislation and was for use in war time only."

Plans for Navy censorship on all outgoing communications from the United States, to be imposed as soon as the necessary legislation is enacted, were disclosed sometime ago in a House Appropriations Committee report.

The Navy sought \$796,500 to establish the necessary offices, the largest of which would be in New York, but the committee rejected the item pending the passage of enabling legislation which a Navy spokesman said the Justice Department was preparing with President Roosevelt's approval.

The proposed censorship presumably would cover commercial wireless messages as well as cables. Although the testimony did not refer specifically to wireless messages, reference was made to an "international censorship on outgoing communications."

At the time Mr. Early said: "I can't imagine that it is anything more than a precautionary move to apply the censorship that the Army and Navy do and always use when certain eventualities take place."

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James F. Buckley, president of Philco, is one of fifteen executives of industries with large plants chosen by O.P.M. to consult with fifteen leaders of labor for a conference on common problems, the first of which will be the diversion of idle silk workers into other industries.

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:::: TRADE NOTES ::::
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The Mackay Radio and Telegraph Company has compiled current rate information in a folder helpful at this time in sending business communications. The rates are included for Europe, and other parts of the world, ships at sea, and also the lower per word radiotelegraph rates between New York, Chicago, Washington, Boston, Philadelphia, Baltimore, Detroit, New Orleans, San Francisco, Los Angeles, Portland, and Seattle.

Among the 135 leaders from many sections of American life who will serve as sponsors of the Williamstown, Mass. Institute of Human Relations which opens at Williams College, August 24, will be David Sarnoff, president of the Radio Corporation of America.

Bice Clemow, president of Hartford (Conn.) Newsdailies, Inc., and editor of the former Hartford Newsdaily, offset tabloid, announced that all physical assets of the paper had been sold to the Hemisphere Publishing Company headed by Herbert Moore, president of Transradio Press Service, New York. Mr. Moore made it clear that the purchase was a personal venture and not connected with Transradio.

Farnsworth Television and Radio Corporation -- Year to April 30: Net loss, after depreciation and amortization of \$194,322, \$181,858, compared with \$749,741 loss in preceding fiscal year after depreciation and amortization charges of \$118,795.

Nathan H. David has resigned from the Law Department of the Federal Communications Commission to join the staff of Coordinator of Information William J. Donovan. Mr. Davis, who is 28 years old and a native of Massachusetts, joined the Commission in 1939 as Assistant to the Chairman. Subsequently transferring to the legal staff, his most recent assignment has been as Chief of the Litigation Section.

Silent or supersonic sounds so powerful that they can scorch wood, kill germs, scrape soot from the inside of chimneys or make oil and water mix will be discussed by Dr. Orestes H. Caldwell during his "Radio Magic" program over the NBC-Blue Network, Friday, Aug. 22, at 7:15 p.m., EDT.

The National Broadcasting Company is making special arrangements to carry daily by William Hillman and Earl Godwin direct from the annual convention of the National Wholesale Druggists Convention at White Sulphur Springs, West Virginia, September 29 to October 2.

WAGA, Blue Atlanta Outlet of the National Broadcasting Company, has been granted a construction permit to change its frequency to 590 kc and to increase day power to 5000 watts.

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I. S. Becker, vice president of Columbia Artists, Inc., will join the Columbia Broadcasting System's operating department as general assistant to Lawrence W. Lowman, CBS vice president in charge of operations.

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James Bell Company, Inc., 36 Green St., Newark, N.J., engaged in the sale and distribution of aluminum ware, enamel ware, radios and other articles of merchandise, is charged, in a complaint issued by the Federal Trade Commission, with using lottery methods in the sale and distribution of its products.

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FCC ACTION

WBEN, Inc., Buffalo, N.Y., granted license to cover construction permit for increase in power to 5 kilowatts day and night, installation of new transmitter, directional antenna for night use and move of transmitter.

General Electric Company, Schenectady, N.Y., granted license to cover construction permit which authorized increase in power, new equipment and additional frequencies in international broadcast station; frequencies 6190, 9559, 15330, 21500 and 21590 kilocycles; 50 kilowatts.

Edwin H. Armstrong, Alpine, N.J., granted special temporary authority to operate an additional transmitter on 43 megacycles with power not in excess of 40 kilowatts, using FM for a period ending no later than September 8, in order to conduct further experiments on adjacent channel operation of FM broadcast stations and demonstrate such operation to certain engineering committees of the RMA.

Columbia Broadcasting System, Inc., New York City, granted extension of special temporary authority to Sept. 17, to use a 25-watt test transmitter on 330.4, 333.4 and 336.4 megacycles in order to conduct tests.

National Broadcasting Co., Inc., New York City, granted extension of special temporary authority to operate on 9670 kilocycles, with effective power of 100 kilowatts using separate power amplifiers feeding separate directional antennas, to Sept. 17.

Edwin A. Kraft, Kodiak, Alaska, has applied for construction permit for a new broadcast station to be operated on 1230 kilocycles, 250 watts, unlimited time.

B. S. Sadler, New Bern, N.C., has applied for construction permit for a new broadcast station to be operated on 1340 kilocycles, 250 watts, unlimited time.

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OUR SOUTH AMERICAN PROGRAMS RAPPED

States Quite a whack is taken by Variety in the programs which the United/short-wave stations are beaming to Latin-America.

"One annoyed New York listener has recently said of an international 'good will' program he heard on the U.S. radio that it sounded like a 1904 Edison disc," the entertainment trade journal states. "This was picturesque imagery suggesting that a lot of time-wasting, piffle-saturated radio nonsense is being passed off from north to south and from south to north. It just isn't creating, and it just won't create, good will. Because this kind of radio program is too often dull and phoney and so unnaturally polite, it hurts to hear.

"What Latin American good will relations apparently needs is not a sudden burst of serenading, but some patient study of the history of the U.S.A. as taught in, and believed by, the Latin republics. Charm has definite limitations and showmanship provides no magic in overcoming generations of teaching. Big Stick Uncle Sam is not runner-up to Santa Claus in the minds of Latins. So why kid ourselves? And why not stop thinking that miracles are going to be achieved in weeks or months? Any genuine, deep-rooted improvement in good feeling may take a decade or more. In particular, the Latins are not going to be convinced until the good will stuff is a normal feature of Yankee policy in normal times. These are not normal times and the serenading is tuned in with that reservation in mind.

"There seems too little blunt speaking about this good-neighbor business. Until the resentments on both sides are talked out in the open they cannot be answered and neutralized. It takes a lot more than a change of heart and personnel at the State Department; it also takes a change of attitude among the run-of-mill Yankees.

"An occasional Chilean, Brazilian or Argentinian has also been heard speaking the language of sensible men, not of fatuous Alphonses and Gastons. Excessive bowing may be good for the waistline, but not for much else. Let's have some good healthy, frank talk on the radio. Our radio first.

"Let's face the facts! A lot of South Americans don't like us on any basis; a lot more don't trust our recent protestations. Against this a lot of Yanks are underestimating the culture, the memories and the shrewdness at the other end."

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