

HEINL RADIO BUSINESS LETTER

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September 16, 1941

EARLY ACTION PROMISED ON MBS PETITION

Chairman James L. Fly told newspaper men at his weekly press conference Monday that the Federal Communications Commission will act promptly on the petition of the Mutual Broadcasting System which was argued last Friday. He would not predict the time, however, when a decision may be made.

Four networks were represented at the hearing: MBS, NBC, CBS and the Yankee Network.

Suspension of the rules regulating radio chain broadcasting for the duration of the national emergency were proposed by the Columbia Broadcasting System.

John J. Burns, counsel for Columbia, told the Commission the broadcasters must devote themselves wholeheartedly to their share in the defense effort and that the national interest could best be served by the proposed action. The National Broadcasting Company joined Columbia in asking for a suspension of the rules.

Mr. Burns attacked the authority of the Commission to issue the rules, but suggested that if the rules are suspended during the emergency the FCC go to Congress with representatives of the industry and ask for legislation to provide more stability in network operation. He said such action would permit networks to plan operations in advance without risk of having rules changed suddenly. Mr. Burns, a former General Counsel of the Securities and Exchange Commission, said this method of approach had been used successfully in working out a new law for the investment trust industry.

Louis G. Caldwell, Counsel for Mutual, expressed hope that there will be no delay in putting the FCC chain-monopoly rules into effect. He offered two proposals:

- (1) Longer terms for contracts, possibly two or three years instead of one year, with license periods corresponding in length.
- (2) Permit option time under certain restrictions.

Mr. Caldwell said Mutual could operate under the new regulations without option time, but added that it now recognized that the practice was a convenience. He urged the Commission, however, to put the rules, either as originally written or as modified, into effect immediately, adding that Mutual was suffering from the delay.

However, Mr. Caldwell admitted under questioning by Commissioner T.A.M. Craven that Mutual's business had substantially increased over that of last year.

Mutual, he said, proposes to permit time options under certain restrictions. It suggested that the broadcasting day be divided into three five-hour periods, namely from 8 A.M. to 1 P.M., 1 to 6 P.M., and 6 to 11 P.M. In each five-hour segment Mutual would have the Commission permit $3\frac{1}{2}$ or possibly 4 hours of option time. It would not permit any optioning of time between 11 P.M. and 8 A.M.

Mr. Caldwell suggested that the Commission make certain that a fair amount of time in each segment is left free of control by the networks.

Both NBC and CBS challenged the power of the FCC to promulgate regulations governing them.

Describing the regulations as arbitrary and unreasonable, Mr. Burns reiterated Columbia's position that Congress had not given the Commission power to regulate network-station regulations and practices.

"The language of the Act makes it clear that the only power to make regulations with respect to chain broadcasting which Congress intended to confer upon the Commission is that dealing principally with the physical operations of stations", Mr. Burns said.

"The record before the Commission demonstrates that the Commission has founded its regulations upon speculation. It has drawn on its imagination to find evil without adequate appraisal of the confusion its reforms will bring to radio broadcasting. We repeat that these regulations are not justified by any existing or threatened evils. They are not founded upon adequate demonstrable facts or upon common knowledge or experience."

"The effect of the Commission's order", Mr. Cahill, counsel for the National Broadcasting Company, said, "will be the destruction of nation-wide broadcasting."

Paul Spearman, attorney for the Yankee Network, urged that exceptions be made for regional networks in the chain regulations. He was given permission to file a brief.

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Peter Q. Nyce, Alexandria (Va.) attorney, has amended his application to ask for a permit to construct a broadcasting station in Washington rather than Alexandria. He wants assignment on 1600 kc. with 5 KW power.

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DEFENSE AGENCY DISTRIBUTING S-W PROGRAMS

The Office of the Coordinator of Inter-American Affairs has begun weekly mailings of United States short-wave radio program schedules to the other American Republics, the Coordinator's Office announced today (Tuesday).

Forty thousand programs for the week of October 12 were distributed in the first mailing which went out last week. The programs are printed in three languages - Spanish, Portuguese and English.

Distribution of these schedules is designed to supply detailed information on all short-wave programs broadcast from this country which can be heard in the other American Republics. Each program on the schedules is listed by title, the hour at which it may be heard and the wave length of the broadcasting station.

Only programs broadcast in Spanish are listed in the Spanish language schedules, and similarly, Portuguese programs are listed in the Portuguese schedules, and English in the English schedules. To further facilitate the location of programs, the Spanish schedules are published in four separate issues, each showing the time in effect in the area in which it is distributed.

The distribution is being handled by the Radio Section of the Coordinator's office under the direction of M. H. Aylesworth, formerly President of the National Broadcasting Company. John H. Payne, Associate Director of the Radio Section has developed this project in cooperation with the Columbia Broadcasting System, the Crosley Corporation, the General Electric Company, the National Broadcasting Company, WCAU Broadcasting Company, the Westinghouse Radio Stations, Inc., and the World Wide Broadcasting Foundation - all international short-wave broadcasters.

Don Francisco, of Chicago, former Chairman of Lord & Thomas, is head of the Communications Division of the Coordinator's Office.

The U. S. short-wave broadcasters, in order to make their programs attractive to the millions of listeners among our neighbors to the South, regularly direct their broadcast to them by means of antennae which greatly increase the signal strength in each locality in which they are directed.

There has been a crying need for these U.S. short-wave programs, which were published for about five years by the Department of Commerce under the direction of Mr. Payne, but only in English and thus had a very limited distribution, and it is believed that this new service will largely fill that need. They should develop a vastly increased audience for these short-wave broadcasts and thus greatly increase a common understanding and improve relations throughout the Western Hemisphere.

NOTE: A SAMPLE OF THE NEW SHORT-WAVE PROGRAM SCHEDULE IN ENGLISH IS INCLUDED WITH THIS LETTER.

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FCC HELD BIASED IN NEWSPAPER INQUIRY

Charges that the Federal Communications Commission is discriminating against newspapers were made last week by the Newspaper-Radio Committee as the Commission prepared to resume the radio-press inquiry on Wednesday.

The statement, released by Harold Hough, of the Fort Worth Star-Telegram, Chairman of said committee, asserted that this hearing has singled out newspapers from all other classes and kinds of owners and prospective owners and that no comparative study of other kinds of ownership has been sought.

"The Commission should not point a discriminatory finger against a few newspapers, any more than it should against a few bankers, clergymen, lawyers, electricians, equipment manufacturers, merchants, insurance companies, utilities, fraternal and economic groups, or any other group or kind of those who may own or seek to own radio stations", it says.

"The proceedings had the appearance not only of an attack, but of being a deliberate attempt to discredit newspapers and to prejudice their case before the public."

The fact is brought out that the Commission apparently had an after-thought in its second order and three months later brought in the alternative purpose of recommendations to Congress. The Newspaper-Radio statement asks, "What next?" and raises the question of whether the Commission is now aiming to lay the evidence before Congress.

"If this investigation is to proceed with the purpose of making recommendations to Congress, it should be carried on with such impartiality that no one could assume that newspapers were already indicted and were being tried", the statement says.

It then points out that proceedings at the first hearings in July were not carried out with such impartiality. "Class journals committed to a policy of hostility to the daily press hailed the proceedings as an 'attack' upon newspapers, and such they appeared to be", it adds.

The Committee asks "whether or not the FCC questioning has been directed to setting up a case for the divorcement of news service to radio stations from that to newspapers."

"This unquestionably would inaugurate more supervision over news dissemination than has heretofore existed in this country", it continues. "It might pave the way to control and censorship of news by a Government agency."

The Newspaper-Radio Committee will be represented at the reopened hearings by Judge Thomas D. Thacher, Chief Counsel, and

Sydney M. Kaye of New York and A. M. Herman of Fort Worth, as Assistant Counsel.

The renewed hearings in the newspaper-radio inquiry will run for several weeks, Chairman James L. Fly predicted this week. The sessions will not be continuous, however, but will run two or three days a week, he said.

Questioned about the case of James G. Stahlman, Nashville (Tenn.) publisher, Mr. Fly admitted that the inquiry may be over before the U. S. Court of Appeals finally acts on the case. However, he argued that the FCC had won its point regarding its ability to subpoena witnesses and would see the matter through. No other publishers are to be summoned, he indicated.

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PRESIDENT EXTENDS WORKING TIME OF W. D. TERRELL

By Executive Order, President Roosevelt has waived the Retirement Act to permit the Federal Communications Commission to retain William D. Terrell, as Chief of the FCC Field Section for at least another year.

Mr. Terrell, who at one time was the one-man authority directing U. S. radio operations, was 70 years old on August 10th. He would have had to retire at that time had not the President interceded.

Beginning his career in communications with the Postal Telegraph Company in Washington, Mr. Terrell was with the U. S. Treasury for a few years before going to the Department of Commerce. He was in charge of the Radio Section of the Commerce Department from 1915 to 1930 when radio was in its infancy.

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LEWIS, CBS VICE PRESIDENT, JOINS OFFICE OF CIVILIAN DEFENSE

W. B. Lewis, Vice President of the Columbia Broadcasting System in Charge of Programs, has accepted an important radio assignment in Mayor Fiorello H. LaGuardia's Office of Civilian Defense. He assumed his new responsibilities yesterday (Sept. 15).

Edward Klauber, CBS Executive Vice President, announced that Columbia had gladly extended Lewis an indefinite leave of absence for the period of his service in defense work. While he is away, Douglas Coulter will be acting head of the Program Division.

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CURE ON RADIO EXPORTS TO SOUTH AFRICA FORECAST

Curtailement of American shipments of radio equipment to the Union of South Africa was forecast this week when it became known that South Africa had placed restrictions on the imports of goods from non-sterling countries.

Coincident with the imposition of the restrictions, a ban was issued on a long list of articles, mostly luxuries, the importation of which is halted entirely.

During the first six months of this year, according to statistics of the Department of Commerce, exports to the Union of South Africa, exclusive of war goods, amounted to \$76,966,000, or almost as much as for the twelve months of the last pre-war year, 1938. During the same period of 1941 imports from South Africa, largely manganese and chrome, amounted to \$22,000,000, also more than double the figure for the whole of 1938.

Principally affected are American manufacturers of automobiles, machinery and ready-to-wear goods, which make up the bulk of the exports from the United States to South Africa. Radios and refrigerators also are exported in considerable quantity.

With shipping space at a premium, imposition of the new restrictions will mean a double check on our exports. After a "certificate of essentiality", is obtained by the South African importer and the order placed, the goods will be subject to shipping priority as decided by the South African Purchasing Commission which began functioning here a few weeks ago.

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FLY OUT? GET THE FLIT

In New York last week this writer ran across the trail of an impression that has prevailed in Washington from time to time that Chairman J. L. Fly in some way was to be rubbed out of the Federal Communications Commission picture because of supposed dissatisfaction of the White House at his handling of the broadcasting situation.

The question was asked in New York if Mr. Fly were not removed outright might there not be a chance of transferring him to some other job just as he was himself wished on to the broadcasting and communications industry. The story was prevalent at that time that the power industry was good and sick of him and was just as anxious to get rid of him as the radio people apparently now are.

Leonard Lyons in his New York column "-by Another Name" wrote today (Tuesday):

Chairman Fly of the FCC soon will be the loser in his dispute with Mark Ethridge".

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HEARING SET ON 7 FM APPLICATIONS FOR NEW YORK

The Federal Communications Commission has decided to hold a joint hearing on seven of the applications still ungranted for F.M. channels in New York, where the demand exceeds the supply.

Eleven commercial FM licenses for New York City have already been approved. Most of the stations are now under construction.

The seven applications to be considered at the joint hearing will be those of the New York Daily News; FM Radio Broadcasting Co.; Debs Memorial Radio Fund, Inc. (WEVD); Knickerbocker Broadcasting Co. (WMCA); WBNX Broadcasting Co.; Greater New York Broadcasting Corp. (WOV); and Wodaam Corp. (WNEW). In addition, the FCC will consider at the same time the application of the Mercer Broadcasting Co. (The Trenton Times) for a station at Ewing Township, N.J.

In announcing the hearing - for which no definite date has been set - the FCC pointed out that only three Class B channels remain unassigned in the New York region. (A Class B type FM station is one intended to cover the basic trading area of a city over 25,000 population. It may be as large as 15,000 square miles. New York's established area is 8,500.

The three remaining stations available to New York - but not yet assigned, will have the call letters W 79NY, W83NY and W87NY, conforming with their channel frequencies.

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TELEVISION TO AID DEFENSE STAMP SALES

Under the auspices of the State Committee for Defense Savings Bonds and Stamps, in cooperation with fashion editors, department stores and specialty shops, the National Broadcasting Company will televise a fashion pageant in the sunken gardens in Rockefeller Center Friday at 2:45 P.M., it was announced Sunday by Richard C. Patterson, Jr., Chairman of the Treasury Department's Committee promoting the sale of Defense Savings Bonds and Stamps in New York State.

American Fall fashions to be displayed will include furs, evening gowns, dresses, coats, suits and millinery. Each purchaser of a Defense Savings Stamp Book containing \$5 worth of Savings Stamps or more will receive a ticket of admission to the pageant.

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The International Telephone and Telegraph Corporation in a statement for the six months ending June 30, 1941, report net income of \$73,760 after payment of all interest charges of parent company as against a loss of \$126,977 for the corresponding period in 1940.

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FCC KNEW ABOUT FBI STATION ALL ALONG

Confirming a report in the previous issue of the Heinl News Service, Chairman James L. Fly told his press conference this week that "of course the Commission knew" about the secret short-wave station which was disclosed at the current New York trial of Nazi spies.

In connection with this same Nazi spy trial, William G. Sebold, who turned his German assignment in espionage over to the Federal Bureau of Investigation, testified that a German Gestapo leader had given him five micro-photographs of instructions to be distributed to spies here. One of the postage stamp size documents, which Sebold said was addressed early last year to Frederick Duquesne, a defendant, asked for detailed information, among other things, on:

Catalogue of newest radio sending and receiving devices and latest operators' manuals.

An American Telephone & Telegraph Co., bombing device, believed offered to Britain and France, under which one ray would direct a bomber to its target while another ray would release the bombs over the target.

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FLY TO ADDRESS INDEPENDENT BROADCASTERS

Giving his implied blessing to a movement to organize independently-owned radio stations, Chairman James L. Fly has agreed to be the principal speaker at a meeting in Chicago September 22-23.

National Independent Broadcasters, Inc. sent to some 750 station owners formal invitations for an extraordinary convention to be held at the Palmer House, Chicago.

All stations but those owned, managed or operated by NBC and CBS were extended invitations to the convention, called to appraise the whole regulatory and business outlook for broadcasting stations.

Among other Government officials scheduled to address the broadcasters are Victor O. Waters, Special Assistant to the Attorney General in charge of copyright and music activities, and Maj. Gen. Joseph M. Cummins, Commanding General of the Sixth Corps, area, Chicago, who will discuss radio's role in National Defense.

Despite lack of official comment from NIB, it is believed that the Association may make an open break with NAB, on the ground that the latter organization is in serious conflict with the FCC and other governmental agencies with which broadcasters must maintain contact and amicable relations.

Impetus was given the report of a bolt from the NAB banner by Chairman Fly's active collaboration with the NIB executives in arranging the Chicago convention. The FCC Chairman bitterly condemned the NAB as a result of developments at the trade association's annual convention in St. Louis last May when a serious rift developed.

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"ELECTRONICS" SCHOOL CITED IN FTC COMPLAINT

Thomas J. Casey, formerly doing business under the name of National Institute of Technology, and since June, 1939, doing business under the name of National School of Electronics at 529 South Seventh St., Minneapolis, Minn., is charged, in a complaint issued by the Federal Trade Commission, with misrepresentation.

The complaint charges that the respondent has been engaged in the sale and distribution in commerce of courses of study and instruction designated "Electronics" which include such subjects as photo cells, television, ultra short waves, sound broadcasting, talking movies, public address system, commercial and aircraft radio, and design construction research.

The respondent, in the conduct of his business, the complaint continues, has, through letters, circulars and catalogs circulated in commerce, represented that the school is a residence school occupying a large six-story building covering half a block; that the respondent is connected with most of the larger electrical companies, airports and radio and police broadcasting stations; that some of the best engineers in the country collaborate in preparing the courses and that a staff of engineers corrects each lesson for inaccuracies; that students have the benefit of frequent visits from "field engineers" who act in the capacity of traveling teachers or instructors; that the respondent's airplane, equipped with radio devices, and the respondent's trucks, similarly equipped, will be flown or driven to the student's home and used for the purpose of testing equipment built by the student; that only a limited number of applicants in each community will be accepted; that a United States Government radio operator's license will be issued to the student upon completing the course of study; that the prospective student will receive remunerative employment or special paying assignments from the respondent while taking the course of instruction or thereafter; and that many graduates of the school are drawing high salaries in the radio field, and that several of its graduates are heads of broadcasting stations.

All these representations are declared by the complaint to be grossly exaggerated, false and misleading. The complaint alleges that the trade school occupies only a small portion of one floor of the Sexton Building in Minneapolis; that it has no connections with any electrical companies, radio or police broadcasting stations or airports; that the members of the respondent's field

force are merely high school graduates who have received their radio or electronic training from the respondent's school; that the respondent does not visit, nor do his agents visit, students at frequent intervals or at all with airplanes and trucks for testing the equipment built by students, and that the respondent does not provide students with employment or special paying assignments.

The complaint also charges that the respondent has presented that a powerful short-wave radio station, W9VXZ, is a part of the school's operating equipment, when in fact, the respondent does not control or operation Station W9VXZ, the license for which is held by a trustee for an amateur society known as "National Institute of Technology Radio Club".

Twenty days are allowed the respondent for filing answer to the charges.

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FCC FINDS ICELANDIC LINGUIST WHEN NEEDED

Federal Communications Commission's Foreign Broadcast Monitoring Service has translators to dissect foreign propaganda. But when Germany recently started to shortwave to Iceland in the latter's own lingo, Uncle Sam's propaganda analysts were momentarily stumped. FCC was about to SOS the State Department when one of its own translators, Miss Doma Westman, mentioned that she had been taught the Icelandic language by her parents. Result: Nazi "bombcasts" in Icelandic are now being thawed out.

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MUSEUM OF NATURAL HISTORY WIRED FOR SOUND

Using a new sound amplification system to give added appeal to its lectures, the American Museum of Natural History in New York, has opened its annual education program.

The Museum described its sound system as a "long step forward in graphic museum presentation". It was installed after a year of experimentation under the supervision of Dr. Charles Russell. The apparatus makes it possible to broadcast from a central control room such subjects as travel talks, recordings and music of foreign lands to 100 outlets in the Museum's exhibition halls, classrooms and offices. It includes facilities for direct lines to three radio broadcasting stations.

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WESTERN THEATERS SUE ASCAP, ASK \$235,000

Suit was filed in Federal Court last week/^{in Los Angeles} by 137 Western theater owners against the American Society of Composers, Authors and Publishers charging violation of the Sherman Anti-Trust Act in its music licensing arrangements and demanding triple damages of \$235,000.

In addition to ASCAP, the complaint named as defendants Gene Buck, its President, 25 individual officers and Directors and 19 corporations, for the most part with offices in New York.

The complaint charged the defendants employed "threats, coercion and intimidation" in demanding license fees from the plaintiff theaters covering use of copyrighted music, and asked an injunction against the practices complained of.

It declared ASCAP controls more than 75 percent of the musical compositions demanded by the public, but that the theaters were able to use only a small portion of the music rights for which they were forced to contract.

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GENERAL ELECTRIC TO PROMOTE FM

A substantial part of the advertising and sales promotion for the 1942 line of General Electric radios is designed to do an educational job on the advantages of frequency modulation radio, according to H. J. Deines, Advertising Manager of the G.E. Radio and Television Department.

Cooperative newspaper, national magazine and radio advertising is planned. The campaign will open with full-page, two-color advertisements in three national magazines late in October. Two types of ads will be used in newspapers. One, designed for markets where FM is already on the air, will go "all-out" for FM. For general use, there will be other newspaper ads in which FM is mentioned but not featured.

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John Roland Pinelli, a second class radio man in the Navy, whose home is in Trenton, N. J., won special commendation last week for his "interest and ingenuity" in developing an improved type of radio sending key. According to a Navy announcement, the key makes possible the speedier transmission of messages.

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