

HEINL RADIO BUSINESS LETTER

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FRANK E. MULLEN

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No. 1371

NATIONAL BROADCASTING COMPANY, INC.
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October 14, 1941

ANOTHER NEW DEALER GETS FCC PLUM

Again proving the utter weakness and lack of influence of the National Association of Broadcasters and the communications industry in such matters, President Roosevelt has appointed another career office holder to the Federal Communications Commission as a Commissioner. It is Clifford J. Durr, 42 years old, New Deal lawyer, who though an Oxford scholar and undoubtedly a promising young lawyer, has had absolutely no experience in the communications field. Apparently two of the strongest points in favor of Mr. Durr - neither of which means a thing to the broadcasters - are that coming from Alabama, he has the strong political backing of Senators Bankhead and Hill of that State, and that he is a brother-in-law of Supreme Court Justice Hugo Black.

Imagine a labor appointment of commensurate importance being made without consulting the A. F. of L. or the C.I.O. or both. It is doubtful if in its entire history the National Association of Broadcasters has had any influence or been a factor in the naming of a member of either the old Radio Commission or the present Communications Commission. Although the life of the industry has been in the hands of government from the very beginning, it has never yet had the courage or the strength to assert itself in the case of a White House appointment. Apparently anything the President desires to wish off on the broadcasting industry is taken without a murmur. Far from resenting this old Spanish custom, or in any way fighting back, there has usually been a foot-race around to the office of the new man by NAB and other industry leaders to see who could get there first to congratulate him.

Mr. Durr came to Washington eight years ago as a member of the legal staff of the Reconstruction Finance Corporation of which he is now Assistant General Counsel. He is also General Counsel of the Defense Plant Corporation, an RFC subsidiary.

A biographical sketch of Mr. Durr in "Who's Who in America", reads:

Durr, Clifford Judkins, lawyer; b. Montgomery, Ala., March 2, 1899; s. John Wesley and Lucy (Judkins) D; A.B., U. of Ala., 1919; B.A. in jurisprudence, Oxford Univ. (Queen's Coll.), England, 1922; m. Virginia Heard Foster, Apr. 5, 1926; children - Ann Patterson, Clifford Judkins (deceased), Lucy Judkins, Virginia Foster. Admitted Ala. bar 1923, Wis. bar, 1924; asso. with firm Rushton, Crenshaw & Rushton, Montgomery, Ala., 1922-23, Fawcett, Smart & Shea, Milwaukee, Wis., 1923-24; mem. firm Martin, Thompson, Turner & McWhorter, Birmingham, Ala., 1925-33; legal div., R.F.C., Washington, D. C. since 1933, asst. gen. counsel since 1936; dir. Commodity Credit Corp.,

1937-39. Served in 4th O.T.C., Camp Pike, Ark., Oct.-Dec. 1918; Mem. Phi Beta Kappa, Sigma Alpha Epsilon. Democrat; Presbyn. Club: Redstone (Birmingham, Ala.). Home: Seminary Hill, Alexandria, Va.

Mr. Durr, if confirmed by the Senate will succeed Frederick I. Thompson, also of Alabama, whose term expired last June.

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SAYS RADIO HAS WARTS; FLY OPERATING FOR CANCER

Discussing the drastic supplemental FCC report on chain broadcasting, an official commented, "The trouble is that maybe the industry is suffering from warts, but Fly wants to operate on it for cancer. The industry has made errors which it is undoubtedly ready to correct but for such things you can't put it on the operating table. It may die."

The minority report of Commissioners T. A. M. Craven and Norman S. Case, which contains plenty of paprika, follows, in part:

"We remain convinced that the majority of the Commission exceeds the power delegated to the Commission in the Communications Act. We are convinced that the aggregate effect of the proposed rules will not result in a broadcasting system more in the public interest than that of today. We fear that the nation's radio service may be seriously impaired at a time when efficient service is most needed. Furthermore, we believe that the effect of the rules is certain to result in deterioration of the present excellent public service programs now rendered to the nation by the radio industry.

"The effect of the regulations will be to change radically the business structure of the broadcast industry. The present is no time to force revolutionary reforms upon an industry which has served the public interest of the nation, particularly when such reforms bear no relation whatsoever to the national defense effort. The radio industry has cooperated wholeheartedly with the Government in this national emergency. The cumulative effect of the present basic national economic readjustments upon the radio industry cannot be determined with accuracy at this time. Therefore, it appears to us that to add to the instability of the radio industry by enforcing new Government regulations, which in themselves superimpose fundamental economic readjustments, is unwise. There is no evidence in this record which justifies such a sweeping change. Any improvements which may seem desirable in the operation of the existing broadcast structure can be obtained in an evolutionary manner by far less harsh measures than those proposed by the majority in the instant case.

We do not condone unreasonable restraints upon competition within the broadcasting industry of this country and, therefore, advocate that if any abuses of this nature exist they should be corrected forthwith either by voluntary action within the industry or

else by procedures undertaken by agencies of the Government having legal jurisdiction in the premises. Likewise, we subscribe to the doctrine of reasonable diversification in the control of the radio broadcasting channels. It is for this latter reason that we believe the ultimate separation of one of the two networks now operated by the National Broadcasting Company will be an improvement of benefit to the public.

"In this respect, however, we believe that the Government should not force private enterprise to dispose of its property on an unsound business basis when such enterprise has rendered good service to the public, and particularly when, as in this case, the Government itself has previously given its tacit approval and encouragement to the enterprise. Consequently, we welcome the fact that the majority has suspended the effective date of its original regulation to force the sale of one of the networks now operated by the National Broadcasting Company.

"Our present objection is centered on the modified regulation which permits options to be taken by a network on an affiliated station's time. In reality, however, an affiliate must be free to option identical time to all networks regardless of affiliation. Under such conditions it should be obvious that absurd complexities may easily arise in the ordinary conduct of business. It is true that another regulation permits a station to contract with a network for first call on a network's program offerings. If it be reasonable for an affiliate to contract for first call on a network's programs, it is obviously reasonable for the network to obtain first call on the affiliate station's time. However, the latter is specifically prohibited by the regulation. We believe that stations should be permitted to utilize the same option principles as is done in ordinary business.

"The time has come to create stability in the radio industry rather than instability. We believe that service to the public would be enhanced by extending the broadcast station license period to the legal limit of three years. Network companies should be permitted to contract for regular affiliates with which they can engage in business in accord with sound business principles. In this connection we believe that an improvement in the existing situation can be obtained if network affiliates are free at all times to exercise final judgment as to whether or not any program offered to them by the network will serve public interest in the community served by the station. We also believe that the affiliates should have equal power with the networks to terminate the affiliates' contract on due notice."

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The Southern Conference on Audio-Visual Education meets this year in Atlanta, Georgia, November 13 to 15. Educators and technicians will take part in demonstrations and group forums for the informal discussion of mutual problems. Already many outstanding speakers in the fields of radio and visual education have accepted invitations to participate.

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LATEST FCC BLITZ STARTS FREE FOR ALL FIGHT

It has been a long time since the animals have been so badly stirred up as they were this week by the terrific blitz waged by the Federal Communications Commission upon the major networks in the so-called modification of the chain broadcast regulations.

Those that the new rules got an immediate rise out of were William S. Paley, President of the Columbia Broadcasting System; Niles Trammell, President of the National Broadcasting Company; Senator Wallace H. White, of Maine; Congressman Jared Y. Sanders, Jr., of Louisiana; and Commissioners T. A. M. Craven and Norman S. Case. All were fighting mad and Mr. Fly, defending the latest rules, showed his teeth as never before in his warning to the chains to lay off any political high pressure stuff to prevent the rules going into effect November 15th.

Apparently a little cockier and even more sure of himself than usual, the Chairman gave the distinct impression that he felt certain of his ground, not only in the courts but on upstairs to the White House. One might have thought the way he cracked the whip at the FCC lashing back at his critics last Monday that he was the President himself. It was almost as good a performance as at St. Louis when he made a meal of Neville Miller.

The first detonation came when the Commission was hastily whipped together for a vote on Saturday - a day when ordinarily there is less work done in Washington than any place on the face of the earth. Also a strange day for the Commission never noted for working overtime to assemble.

At the meeting, the FCC voted 5 to 2 to suspend its promulgated rule requiring the National Broadcasting System to dispose of one of its networks, and modified to some degree other rules which the broadcasting industry had objected to strenuously.

The Commission suspended the rule applicable to NBC for an indefinite period, and further decided that if it was to be reinstated, at least six months' notice would be given to the company so that it could dispose of one network "without there being any form of legal compulsion". Provision also was made in the order for extension of the time for "orderly" disposition of the property.

The other rules modified are:

1. Extension of the licensing period from one to two years.

2. Modification of the rule limiting the duration of network affiliation contracts, extending the time from one to two years.

3. Where a station options time from networks, such options may not be exclusive and may not prevent or hinder the station from optioning or selling any or all of the time covered by the option to other network organizations.

There was a quick comeback from Mr. Paley of CBS, that he would take the matter to Court. He also hurled at Mr. Fly a rather significant expression the latter frequently uses "Then we move in". Mr. Paley concluded with:

"I want to bring home to the public that the Commission is stretching its loosely defined authority far beyond any area of regulation it has ever attempted to invade before.

"Thus it is 'moving in' to render broadcasters more and more subservient to it. Soon the broadcasters will not be able to call their souls their own. Imagine a free press surviving under similar encroachment on newspapers and magazines, and you will have some idea of what is happening to radio under the cloak of an unjustified cry of monopoly."

"The new rules", Mr. Fly snapped back, "contain generous modifications not even discussed with Mr. Paley. The public ought to know, moreover, that the Columbia Broadcasting System has always refused and continues to refuse to submit to any form of regulations, regardless of the public interest reflected therein. The public ought to know also that no member of the Commission has ever questioned the propriety of the company's going to court on any issue concerning the Commission."

Mr. Paley, in reply to Mr. Fly's statement, said:

"Columbia's reputation is in our own keeping, not in Mr. Fly's, and we do not believe that demagogic charges that we defy lawful and proper regulation will fool a public that has known us all these years."

Niles Trammell, President of the NBC, "moved in" with the caustic assertion that the rules were "regulations by men and not by laws". He too spoke of going to Court.

Then Senator White came into the picture calling for a Congressional investigation into the matter.

Senator White said he was not concerned at the moment with whether the new amendments to the broadcasting regulations were desirable, but he doubted the Commission's power to issue them.

Early in the Summer the Senate Committee heard testimony under a resolution to investigate the FCC and its regulations, but the hearings have been in adjournment since, and no action has been taken. Senator White said he would ask Chairman Wheeler to reconvene the Committee to resume the investigation. The resolution set forth that the Commission's rules were "alleged to constitute an attempt upon the part of the Commission to exercise a supervisory control of the programs or the business management and of the policy to be employed by radio broadcast stations."

There was also discussion of bringing up the Sanders bill in the House in hopes of putting the brakes on the Commission and also that Speaker Rayburn might give Mr. Fly another "dressing down". If indeed there was a previous dressing down by Mr. Rayburn, there was no evidence of it in the Chairman's belligerent attitude Monday.

Asked at his press conference if anybody would go to Court besides Columbia, Mr. Fly said he would be surprised if anybody goes to Court. The Chairman told the correspondents that the nets could always come back to the Commission, and "if the operation is not successful, the doors are always open to them and he didn't see why anyone would want to go to Court." Mr. Fly said that most reactions to the report "have been right favorable. There has been considerable degree of optimism expressed by a number of responsible people in the industry and the Government."

The Chairman volunteered that he thought the present option provision is better for the industry as a whole than anything they had discussed. "Relaxation of the rule as to the Red and Blue networks was never pressed by any of the groups", he said. "Of course NBC has mentioned it but that was really no part of the discussion. Extension for license period was not a part of the option time during discussion. We have done the best job we can and we are prepared to see these rules work successfully. If they don't work successfully, then the networks will always know where to come."

Someone inquired if the nets didn't have to wait to see if the rules work out before they could come back to the Commission. Mr. Fly said: "It is about time the industry takes these rules and gives them an actual operation. After all the work that has been done and consideration that has been given them, it is about time they are settling down and starting on their course. I don't think there should be any further extensions of time, for example, on this business of readjusting the contract terms."

Again, the Chairman said he didn't want to say that there would not be, providing assurance was given that the extension was for purpose of orderly compliance with rules. "If anybody wants to litigate the rules, there never has been any objection to that", Mr. Fly concluded. "There always will be objection to the main form in which the activities of the networks have taken in terms of political pressure. That is one thing that we will have to stamp out in this industry. Democratic government cannot be run on any such basis."

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The University of North Carolina is the first institution of higher learning to provide a course for the training of radio technicians and engineers for national defense, according to a bulletin issued by the National Committee on Education by Radio. To help meet the growing need for radio experts a twelve-week course at the University's Engineering School, a class for graduate engineers, and off-campus instruction in principal cities of the State have been planned.

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ROCKEFELLER SELECTS AMATEUR FOR INTER-AMERICAN WORK

At the request of Nelson A. Rockefeller, Coordinator of Inter-American Affairs, the Federal Communications Commission has waived restrictions in regard to amateurs communicating with foreign countries to permit Earl F. Lucas, of amateur station W2JT, Faner Road, Midland Park, N. J., to cooperate with the Inter-American Escadrille in the handling of radio communications to and from approximately twenty-one amateur stations in Central and South America. There was a proviso that none of the messages transmitted should relate to any business transactions or be of a character that would be handled by commercial communications companies.

The Inter-American Escadrille, it was explained, was organized for the purpose of fostering friendship between peoples of the American Republics by the promotion of travel by airplane.

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AUTOMATIC RADIO TO WARN ON LOS ANGELES FLOODS

Within the next few days a 400,000-kilocycle transmitter, deriving power from a windmill and wholly automatic in operation, built on Flint Peak in the San Rafael Hills, between Pasadena and Eagle Rock, will go into service for sixteen radio stations in the system of the Los Angeles Flood Control District, according to the New York Times.

The installation is the first of its type, so far as is known, and will be used to relay and to expedite rainfall and run-off messages from county dams and reservoirs throughout the country. The system also will be used in forest-fire control and in certain phases of the National Defense program.

The new automatic equipment will be controlled at all times from the central station by tones actuated by the turning of a dial similar to those on ordinary telephones. No operator will be at the station on the peak.

Flint Peak was chosen for the transmitter because it is centrally located in the flood-control radio system.

The station will operate on an ultra-high frequency over a radio beam, thereby eliminating all possibility of interference no matter how much static or other electrical interference. Batteries charged by a two-blade windmill will furnish the electric current for the new station.

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NEWSPAPER HEARINGS RUN ANOTHER MONTH

The inquiry into newspaper ownership of radio stations was adjourned until next Thursday morning (October 16). Chairman Fly said the hearings would probably run another month, two days a week.

In answer to the charge that the United Press refused to serve with news, independently owned radio stations because local clients objected, Edwin M. Williams, Vice-President of the United Press admitted there were protests from newspapers in a number of instances, but he did not concede that this was a controlling factor in failure of the press association and radio stations to "get together".

Mr. Williams admitted there were such negotiations with the Tampa(Fla.) Station WBAE, owned by the Tampa Times, and they failed and the U.P. later signed a contract with WFLA, owned by the Tampa Tribune, a newspaper that already had the U.P. news report. Asked if the Tribune had not blocked the contract with the rival station, Mr. Williams said:

"I don't think they wanted to see another radio station owned by their competitor use the same service they were getting. And we didn't think it was fair to WBAE to ride in on the promotion given our service by the Tribune."

W. J. McCambridge, General Manager of Press Association, Inc., testified that the Associated Press Board of Directors had refused news service to radio station KVOs, Bellingham, Wash., because the station previously had pirated A. P. news and because of resulting litigation.

He appeared after Rogan Jones, President of companies which operate Station KVOs and Station KPQ, Wenatchee, Wash., had testified that KVOs was unable to obtain news from Press Association (a wholly-owned subsidiary of the Associated Press engaged in supplying news to radio stations), the United Press or the International News Service for a period of six weeks last Spring.

Mr. McCambridge said the factors which entered into the decision to refuse the service to KVOs were the litigation, still unsettled, carried on by the Associated Press and the Bellingham Herald against KVOs over a period of years at a cost of "thousands of dollars", and the belief of the A. P. Board of Directors that "it is not a healthy situation when a radio station is pirating the news report of the Associated Press."

Asked why Press Association was willing to supply news to KPQ when it was under the same control as KVOs, Mr. McCambridge replied that there had been "no complaint that the management at Wenatchee had stolen the news report."

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FCC ACTION

Applications Granted: Don Lee Broadcasting System, Los Angeles, Cal., granted extension of special temporary authority to operate frequency modulation station commercially on 44500 kilocycles, 1000 watts, special emission for FM, with transmitter located on top Mt. Lee, Los Angeles, for a period no later than Jan. 2, 1942; W6XYZ, Television Productions, Inc., Los Angeles, Cal., granted modification of construction permit authorizing extension of completion date to 4/15/42; WNBT, National Broadcasting Co., Inc., New York, N. Y., granted extension of special temporary authority to operate a specially constructed 1 kilowatt peak power, special emission laboratory model FM visual transmitter in conjunction with the main picture power amplifier of WNBT on Channel No. 1 in order to make comparison of FM and A5 emissions and to obtain engineering data for the period not later than November 15, 1941; W43B, The Yankee Network, Boston, Mass., granted extension of special temporary authority to operate frequency modulation station commercially on 44300 kilocycles, 50000 watts power, special emission for frequency modulation, using the transmitter of High Frequency Experimental Station W1XOJ at summit of Asnebumskit Hill, Paxton, Mass., for a period beginning October 26, 1941 to not later than December 24, 1941, without prejudice to the issues to be determined.

Applications Received: New Jersey Broadcasting Corp., Newark, N. J., construction permit for a new high frequency broadcast station to be operated on 47,900 kilocycles; amended: to change coverage to 5,580 square miles, population to 11,194,000 change type of transmitter, change frequency to 49,100 kilocycles; change transmitter from Jersey City to West Orange, N. J., and studio from New York, N. Y. to at or near Newark, N. J.; Philco Radio and Television Corp., Portable-Mobile, construction permit for a new television relay broadcast station to be operated on channel 13 and 14, 230,000-242,000 kilocycles, power 60 watts, Emission A5 (to be operated with Commercial television station WPTZ, Philadelphia, Pa.); Don Lee Broadcasting System, KHJ, Los Angeles, Calif., license to cover construction permit as modified for changes in equipment, install directional antenna for day and night use, increase power and move transmitter; also authority to determine operating power by direct method; Palo Alto Radio Station, Inc., Palo Alto, Calif., construction permit for a new international broadcast station to be operated on 6140, 9570, 11870, 15210, 17760, 21540 kilocycles, 100 kilowatts, Emission A3; share with WBOS on 6140, 9570, 11870, 15210, 21540; unlimited on 17760 kilocycles.

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 ::: TRADE NOTES :::
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Dr. John A. Lapp, labor counsel for the Rural Electrification Administration, has been appointed to arbitrate wage increase demands by 260 technicians employed in seven Columbia Broadcasting System stations. The workers are members of the Associated Broadcasting Technicians' Union. (A.F.L.).

"Parade," syndicated newspaper supplement published by Marshall Field, gave a two-page pictorial spread last Sunday to a visit of Lillian Kodok, "an average girl" to CBS television studio in New York.

A decision was handed down by Supreme Court Justice (N.Y.C.) Ernest E. L. Hammer in dealing with a claim of unfair competition made by Mutual Broadcasting System and Gillette Safety Razor Co., Inc., against Muzak Corporation in connection with the alleged re-broadcast by defendant over telephone wires of a radio report of the World Series, which plaintiffs averred was their exclusive privilege. The court upheld the plaintiffs and granted them a temporary injunction to restrain defendant from interfering with plaintiffs' exclusive rights to broadcast the games.

The National Broadcasting Company's short-wave service to Europe will be augmented by a new high-gain directional beam antenna, centering its beam on Paris, beginning October 15.

"The new antenna", said John W. Elwood, International Division Manager, "specially built to serve the British Isles and Central Europe, will produce optimum coverage. It has been especially designed for transmission during the time of day most favorable for European reception and frequencies will be adjusted accordingly."

Station KQW, San Francisco, beginning January 1, replaces Station KSFO as the CBS outlet in the San Francisco bay area. KQW now with 5,000 watts power began experimenting with voice transmission as long ago as 1909, and has been in operation as a full-time commercial radio station since 1925.

The programs on National Defense presented by the National Broadcasting Company January through July, 1941, have been listed in a booklet entitled "An Informed Nation is one of America's Best Defenses".

One hundred and twenty-five representatives of Mutual network stations gathered at Atlantic City last Friday to discuss plans for the handling of Coca Cola programs beginning Nov. 3rd, the largest account ever placed on the Mutual network for a single advertising product. The two-day convention heard talks by Price Gilbert, Jr., Vice-President in charge of advertising for the Coca Cola Company; James A. Farley, Chairman of the Board of the Coca Cola Export Corporation; Alfred J. McCosker, Chairman of the Board of Mutual Broadcasting System, and Fred Weber, General Manager of Mutual

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RCA LAB FINDS DEFENSE REPLACEMENT MATERIALS

As a result of the search necessitated by National Defense for alternate materials in radio sets, RCA Laboratories has developed more than forty replacement materials. One item alone has saved 148,000 pounds of aluminum in the plants of the RCA Manufacturing Co.

Twenty of the newly developed materials are being used in RCA's radio production, as the result of its broad, long-term program conservation. A dozen more alternates have been approved and scheduled for early use; many others are available for production as necessity arises, while the process of development continues promising additional alternates.

Early in the national preparedness program, when it appeared there would be a scarcity of materials, RCA Laboratories made a survey of the entire radio field. Radio equipment was dismantled and each component part studied with a view to replacing it with a more available alternate, when such replacement became necessary.

Aluminum was one of the first items, essential to the radio industry, affected by priorities control. G. W. Blessing, head of the Manufacturing Development Division, RCA Manufacturing Company, Camden, N. J., assigned his staff to solve the problem. In every RCA Victor radio set, an aluminum can was employed to protect intermediate transformer coils. Four millions of these cans had been used in 1940; therefore, if they could be replaced by using an alternate, a tremendous saving in aluminum would result.

Mr. Blessing and his associates suggested that a fabricated cardboard tube, coated with a moisture-resisting substance and a sheet of copper foil, be used instead of the aluminum can. This was done with marked success. The aluminum saved has amounted to seventy-four tons. Another important saving of aluminum by RCA was effected by using a plastic in the record changer control segment of radio-phonographs.

Plastics are under consideration to replace the metal housing that protects loudspeaker cones in radio receivers. They can also be used in making dial faces and a number of other parts in both radio and phonograph equipment. Their possible field of application is extremely wide. But even plastics are likely to meet curtailment, because defense needs have created a shortage in the supply of formaldehyde, required to manufacture the synthetic resin used as a base in some plastics. Only recently, the Office of Price Administration warned of a new classification prohibiting manufacture of phonographs, escutcheon plates and switch plates with phenolic materials. Thereupon, the job of finding an alternate for an alternate was started. The answer was a felted substance made from shredded wood, cardboard paper scraps, and sulphite pulp.

Nickel, another metal almost non-existent for civilian use as the result of priorities, created an additional problem in the making of phonograph records. A new secret method already is in use.

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