

HEINL RADIO BUSINESS LETTER

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No. 1421

PRINTING TRADES AGAIN URGE HEAVY BROADCASTING TAX

An excise tax of some twelve and a half-million of dollars yearly on the net profits of the broadcasting industry is again vigorously advocated by the International Allied Printing Trades Association. The printers argue that even this amount could very properly be increased because the present requirements on the Treasury are greater than they were a year ago.

Addressing Chairman Robert L. Doughton of the Ways and Means Committee, which is expected to begin writing the new war revenue bill next week, President John B. Haggerty of the Allied Trades Association with a membership of more than 200,000, wrote the findings of the Treasury Department last year for the levying of these taxes "were" so convincing that the Association was at a loss to understand why the same recommendations have been omitted this year.

"The financial reports of the radio broadcasting industry for 1940, as reported officially by the Federal Communications Commission, show that had the proposed excise taxes of some \$12,500,000 been collected, the radio networks and commercial radio broadcasters would have retained some \$14,000,000 on their declared value of their investments of some \$40,000,000 or some 35 percent", Mr. Haggerty stated.

"The Allied Printing Trades Association suggest the levying of excise or special taxes on the commercial radio broadcast industry, first, because, as the Treasury Department stated last year, 'they possess unusual tax paying ability which, in view of the Government's present revenue requirements, could properly be subject to special taxation;' secondly, because their unusually high annual net profits are derived through the holding of a Government franchise or license which the licensee holds without cost; third, because these unusual profits are derived through the displacement of the jobs of some 25,000 skilled printing trades workers, through the diversion of advertising from the printed page to radio broadcasting; and, fourth, in order to equalize, in part, the competitive advantages which the radio broadcasters have, due to the small taxes, if any, which they pay to local communities as compared with the heavy taxes paid by those who make possible job opportunities for printing trades workers. Those who provide jobs for printing trades workers must necessarily pay substantial local taxes on the costly equipment in addition to the Federal taxes while the radio broadcasters only pay the Federal taxes.

"The Treasury Department, in its summary of the brief presented to the Ways and Means Committee, last year, said:

"After the imposition of these rates the broadcasting industry would have been left with a very high rate of return on investment even if it absorbed all of the tax. On the average, all taxable stations would have been left with a net income equal to 43.8 percent of invested capital. The corresponding figure for networks, (all network operations but excluding station operations) would have been 33.3 percent."

"The Federal Communications Commission report for 1940 shows that the 3 major networks and their 9 owned and 14 managed and operated stations reported net profits, after the payment of all taxes, of \$8,885,694. The same Commission report, referring to the same networks and the same stations for 1939, shows they reported net profits of \$9,313,856. An average of 180 percent on their investments for each of these years.

"The Federal Communications Commission reports officially that the 33 radio stations with 50,000 watt power, in 1939, operating on clear channels, had a net profit for that year of \$9,375,000 or an average net profit of \$284,000 on a declared present worth value of \$122,000 or 133.6 percent.

"Reports of the Federal Communications Commission further reveal that of the total net profits of the radio broadcasting industry, 1939, some 93 percent was received by 154 stations which averaged a gross income of more than \$150,000.

"Radio broadcasters have attempted to have Congress believe that a tax on the radio broadcasting industry constitutes a tax on advertising. First, we cite the findings of the Treasury Department that these proposed taxes are 'Distinct from a tax on advertising'. Secondly, the radio broadcasters, in briefs filed with Congressional Committees have stated, 'Radio broadcasting is the principal source of entertainment in America.' Further, the radio broadcasters allege that radio broadcasting is an amusement and entertainment enterprise and that broadcasting 'enjoys the favor of half again as many people as its closest competitor, the motion picture.'

"Surely no one will contend that 'the motion picture', radio broadcastings 'closest competitor' in entertainment and amusement, is advertising.

"We strongly urge the adoption of the language in the report of this Committee last year with the rates set substantially increased. We contend that the proposed tax on commercial radio broadcasters and networks is justified to equalize the competitive advantage which these Government licensees now have over their competitors, primarily the many thousands of skilled printing trades workers, the job opportunities of whom are threatened by the diversion of advertising from the printed page to radio broadcasting."

It is believed it will require at least three weeks to a month to write the new revenue bill.

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RADIO WAR GUIDE SOON OFF THE PRESS

The Office of Facts and Figures will shortly issue a "Radio War Guide" for the convenience of the broadcasting stations. Copies are now being printed and should go into the mail for all broadcast stations "soon", according to the Broadcasters Victory Council.

The "Radio War Guide" is designed to help stations understand the relative programming importance of (1) factual war information, and (2) inspirational war themes.

"If you haven't already counted them up, we'd like to point out that 30--odd specific subjects are being plugged in sundry scripts, announcements, transcriptions and whatnot regularly sent you by government agencies. The OFF is naturally in a position to evaluate these", says the Victory Council.

The second function of the War Guide deals with inspirational war themes. Revised editions of the Guide will come off the presses as future developments warrant, automatically reaching every broadcast station in the country.

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RADIO TRANSCRIPTION AND RECORD OUTPUT CUT 70%

The War Production Board has reduced the output of phonograph records and radio transcriptions to approximately 30 percent of 1941 production by limiting the amount of shellac available to that amount.

The order issued by J. S. Knowlson, Director of Industry Operations, also freezes 50 percent of all inventories of shellac of 10,000 pounds or more and 50 percent of all future imports.

Uses other than the manufacture of recordings are restricted to 75 percent of the corresponding period of 1941 until June 30 and 35 percent by quarters thereafter.

The reason for the drastic action is that India is practically our sole source of shellac and supplies are subject to shipping hazards. Direct military requirements are heavy and use of shellac is necessary in certain essential civilian processes.

Among these uses excepted from the restrictions of the order are: Electrical equipment, navigational and scientific instruments, communication instruments and in scientific research.

Reason for the action on phonograph and transcription records is that these uses normally consum approximately one-third of the nation's annual shellac consumption. Experiments now are being made to find a suitable substitute for these uses and re-claiming of old records probably will be tried out.

Persons who had on April 1 possession or control of five thousand pounds of shellac are required to file a report with the War Production Board by May 9th.

Referring to the radio transcription and phonograph record business as one which has been "booming" for three years, Variety says:

"Exactly how much shellac Columbia, Victor, Decca and other independent pressing plants had on hand is impossible to determine. One asserted several weeks ago that it had enough to last more than two years at its present production pace. Informal estimates by executives of the other two majors were similar. That the Government was keeping tabs on the reserves held by each, since last January, is now known.

"No plans for the future have definitely been mapped by the major manufacturers and none can be until their position is clear. Rumors were plentiful the latter part of last week about what was to be done by them, and how much of the shellac they were going to lose. Unofficial, but heretofore authoritative sources, believed that the disc-makers would be allowed to retain enough of the material to press 50% of the 120,000,000 platters made in 1941 (approximately the total sales of 1940 - 55,600,000,000).

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IMPORTANCE OF RADIO PLANT PROTECTION EMPHASIZED

One of the problems James L. Fly, Chairman of the Federal Communications Commission discussed at the National Convention of the American Communications Association (C.I.O.) at Atlanta last Monday was wartime protection of communications plants.

"Plans and equipment must be protected, both from accidental injury and from deliberate sabotage", the Chairman said. "Dependability must be enhanced. The secrecy of messages must be safeguarded. All of this must be accomplished without a hitch if our telephone, telegraph, radio and cable systems are to perform the work expected of them.

"The task of converting our communications services to a war basis differs from the task faced in most other industries. To manufacture tanks and planes, we have had to stop making auto-

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mobiles. To make more shell casings we must make fewer rouge compacts. To procure brass for munitions we must use less brass for plumbing. But you can't apply that principle in unmodified form to communications. Unlike most sectors of our American economy, civilian communication needs, necessarily expand along with added military needs. The nation's mines, mills, and smelters, factories, shipyards, and railroads, must have adequate communications if our Army and Navy are to get what it takes to lick Hitler and the mad war lords of Japan. Thus we have had to meet, and we are meeting, military war needs while meeting civilian war needs too. Our communications system is truly the nerve center of a nation whose whole economy is devoted to war."

Mr. Fly mentioned two further matters of interest to communications workers which he said he should like to stress.

"One has to do with the need for uninterrupted service. That need has been stressed by the President with respect to industry as a whole; but I should like to underline the especial importance - the vital necessity - of uninterrupted communications service. For your work is more than one service among many; it is a prerequisite without which the other parts of your productive system cannot function.

"Telephone, telegraph and radio workers have a long tradition of dependability. On land and sea, through fire and flood, earthquake and marine disaster, you have held to your posts and put the message through. That same spirit will put the war messages through today, and the victory message tomorrow.

"Closely allied with freedom from interruption is the need for secrecy of communications. Here the danger is of two types - deliberate revelations of secret messages by spies and traitors, and accidental revelations by those who fail to realize the need for secrecy or who quite innocently leak news like a sieve. With respect to the latter group, those who unwittingly talk too much, I want to enlist your full cooperation, for an intensification of the ACA 'keep mum' campaign. This, it seems to me, is a problem which can best be solved by the workers themselves. Every man who handles other people's messages is in a position of trust, and it is up to you not only to keep mum yourselves, but also to insist on 'mumness' among your fellow employees.

"I have been wondering whether you men and women who are closest to the problem, and who know various sections of our communications system from the inside, may not have some suggestions on this matter of secrecy, and indeed on other problems of wartime communication. If so, let us have them."

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HOUSE GETS ANOTHER WIRE AND RADIO TAPPING BILL

The opposition of Chairman James L. Fly of the Federal Communications Commission to previous bills on the subject notwithstanding, Representative Sam Hobbs (D.), of Alabama, has introduced another bill to authorize agents of the Military Intelligence Division of the War Department, or of the Office of Naval Intelligence of the Navy Department, or of the Federal Bureau of Investigation of the Department of Justice, to intercept, listen in on, or record telephone, telegraph, cable, radio, or any other similar messages or communications, and making such authorizations and communications and the testimony concerning them admissible evidence.

The Hobbs bill would also require telegraph and cable companies to furnish such agencies with copies of communications in their possession or under their control upon request.

The punishment for anyone who interferes with the War, Navy or FBI listening in on conversations or hinders them from securing a copy of any message is liable to a fine of not more than \$10,000 a year or imprisonment of more than 20 years or both. Anyone who divulges information secured by wire tapping otherwise than for the purposes indicated is liable to a fine of \$10,000 or imprisonment of 2 years.

Such a bill was passed during the session of the last Congress by the House but was lost in the Senate. Representative Hobbs introduced a similar bill in the last session of the present Congress but it failed in the House. Later Representative Emanuel Celler, of New York, put in still another bill on the subject.

Representative Celler charged Mr. Fly with being the only important man in official position who was against the passage of a wire or radio tapping bill. Mr. Fly was quoted as saying that if such legislation were passed that Government officials engaged with various aspects of the defense program would virtually have to discontinue the use of telephones and the radio and rely on slower means of communications.

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DEFENSE COMMUNICATIONS STOPS FUTURE CONSTRUCTION

The Defense Communications Board yesterday (Thursday) recommended to the War Production Board and the Federal Communications Commission that with regard to the construction of radio broadcast facilities there be immediately placed into effect the following policy:

No future authorizations involving the use of any materials shall be issued by the Federal Communications Commission nor shall further materials be allocated by the War Production Board, to construct or to change the transmitting facilities of any Standard, Television, Facsimile, Relay or High Frequency (FM, Non-Commercial Educational Experimental) broadcast station.

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BROADCASTERS AND FEDERAL BAR URGE LIMIT ON FCC POWER

As the first witnesses at the hearing before the House Interstate and Foreign Commerce Committee on the Sanders bill to completely reorganize and redefine the power of the Federal Communications Commission, the Federal Communications Bar Association and the National Association of Broadcasters both advocated the need for reform of radio regulatory legislation. The sessions which began Tuesday and lasted through Thursday have recessed until Tuesday, May 5th.

Three amendments to the Federal Communications Act, designed to curb unauthorized assumption of power by the Federal Communications Commission, were proposed to the House Committee by Neville Miller, President of the National Association of Broadcasters.

The amendments would:

(1) Specifically forbid the FCC to interfere with radio programs or business management.

(2) Forbid the FCC to impose various penalties not authorized by law. This would stop the FCC, for instance, from forcing the owner of two stations in a single community to dispose of one before he could get authorization for a power increase for the other.

(3) Provide for declaratory rulings by FCC which could be appealed to courts. This would permit station owners to appeal FCC rules, regulations and orders to the courts before they become effective. This would prevent the FCC from taking away station licenses for failure to comply with FCC actions before the courts had passed upon the validity of those actions.

In drafting the amendment to bar the FCC from interfering with radio programs or business management, Mr. Miller merely took the language of a Supreme Court decision on that issue. It said, in part:

"But the Act does not essay to regulate the business of the licensee. The Commission is given no supervisory control of the programs, of business management or of policy. In short, the broadcasting field is open to anyone, provided there be an available frequency over which he can broadcast without interference to others, if he shows his competency, the adequacy of his equipment, and financial ability to make good use of the assigned channel."

"Notwithstanding this pronouncement of the Supreme Court and notwithstanding the fact that no language can be found in the Act which confers any right upon the Commission to concern itself with the business phases of the operation of radio broadcast stations, we find the Commission concerning itself more and more with such matters", Mr. Miller told the Committee.

"For a period of time applicants for broadcast facilities who were also identified with newspapers or newspaper activities have been discriminated against by the Commission", he said. "In some cases this discrimination may have been justified because of the facts of a particular case, but that is not the point in issue. The point in issue is that notwithstanding the fact that the Act contains no authority for such action and notwithstanding the further fact that the United States Court of Appeals for the District of Columbia has twice pointed this out, the Commission has nevertheless continued to discriminate against newspaper applicants as a class and has withheld facilities from such applicants to which they were otherwise entitled.

"Sometimes this discrimination has been effected by adverse action upon particular applications; sometimes by merely holding applications without action. But in practically all cases where newspaper or newspaper interests have made application for new or increased facilities, they have been confronted with action of this sort."

A summary of the proposal of the Federal Bar Association to redefine the FCC powers was:

"(1) The whole Commission will have and exercise all legislative and quasi-legislative powers conferred by the Act. It will have power and authority to adopt and promulgate any rule or regulation of general application required or authorized by the Act, including procedural rules and regulations for the Commission and each division. The whole Commission will have plenary authority over emergency services, the qualification and licensing of operators, the selection and control of Commission personnel, the assignment of bands of frequencies to the various radio services, and over many other subjects and services as at present.

"(2) The present judicial and quasi-judicial functions of the Commission will be vested in the proposed divisions insofar as those functions relate to the most important and controversial subjects within the jurisdiction of the Commission. Jurisdiction to hear and determine all cases arising under the Act or regulations relating to broadcast, television, facsimile and kindred communications intended for public reception will be vested in the Division of Public Communications. Similar jurisdiction with respect to common carriers and communications intended for a designated addressee will be vested in the Division of Private Communications. This plan not only recognizes the basic and fundamental differences between the two types of communications involved and the nature of the questions presented by each, but it also provides a method for obtaining proper consideration of those cases by persons who will be able to devote their time and attention to the questions committed to them without undue interruption or interference occasioned by the demands of basically different problems.

"(3) The status of the Chairman will be that of an executive officer and coordinator participating fully in all matters within the jurisdiction of the Commission except the determination and decision of contested matters which are made the exclusive business

of the divisions. Experience has amply demonstrated that the Chairman cannot be expected to devote the time and attention necessary to the proper handling and disposition of these matters and also efficiently to discharge the many other duties which are unavoidably his under the Act. As to these other duties, an attempt has been made to clarify the status of the Chairman and to make him and him only the official spokesman and representative of the Commission in certain important respects."

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MACKAY OPENS NEW DIRECT AUSTRALIAN RADIO CIRCUIT

The Mackay Radio and Telegraph Company has opened a new direct radiotelegraph service between the United States and Australia. The circuit is operated by the Mackay radio station at San Francisco, and the station of Amalgamated Wireless (Australasia) Ltd. near Sydney. The announcement says that all classes of radiograms are handled and that the new service is available from all parts of the United States.

It was stated that Mackay has been granted licenses by the Federal Communications Commission to establish service with more than forty additional centres abroad, all of strategic importance.

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NAB OPPOSES BROADCAST TAX AS DISCRIMINATORY

The National Association of Broadcasters through Ellsworth C. Alvord, advised the House Ways and Means Committee that they are opposed to a special tax on radio broadcasting made by John B. Haggerty, President of the International Allied Printing Trades Association, because:

(1) It would imperil a vital public service; (2) It would be discriminatory; (3) It would not benefit labor; (4) It cannot be justified on any of the grounds advanced by its sponsor.

Mr. Alvord's memo stated further:

"The National Association of Broadcasters fully realize the seriousness of the emergency, and the terrific responsibility borne by the members of this Committee. They know that taxes must be drastically increased, and they will cheerfully pay their share of all general taxes which the Congress may see fit to impose. They are, however, vigorously opposed to special and discriminatory taxation, and especially to penal taxation which imperils an essential public service."

"Radio's immense popularity is not due to its novelty. It is due to the fact that the radio broadcasting industry, from the very start, has had a real sense of its great public responsibility. The listening public of America is radio's censor; the broadcasters of America have met, and will continue to meet, the rigorous tests imposed by that censor. The public will tune in the radio only so long as the radio serves the public. * * *

"In time of peace radio gives the public news and information from all over the world. . . . In the field of cultural improvement and recreation, radio's contribution is invaluable.. .. In time of war, radio's service to the public is multiplied many times. . . Tremendously important results have been achieved by the radio industry in the field of international short-wave broadcasting. . . Radio has played a highly effective role in the mobilization of men, money, and materials for the war effort.

"Programs sponsored by the war agencies cost the Government nothing. The industry looks upon them as its contribution, in the public interest.

"The competitive situation is such that it would be impossible for the broadcasting industry to pass on to the advertiser the added burden of the proposed tax. Under existing conditions, the industry likewise cannot hope to absorb the tax by increasing the volume of advertising. Nor can it do so by reducing expenses. Any attempt to do so would imperil the important public services it is now rendering.

"The radio broadcasting industry derives substantially all its revenue from the sale of advertising. Advertising is done, of course, almost exclusively by the sellers of consumer goods. Advertising stimulates demand; and thus fosters sales, distribution, and production."

"Statistics bear out the fact that competition among the various advertising media is vigorous. Radio does not and cannot monopolize the field.

"In 1940, advertisers spent about \$937,000,000. The percentage share of the newspapers was 60%; of the magazines, 17.8%; of radio 22.2%. Although newspaper advertising declined slightly in 1940, volume actually increased each year from 1938-1940. Magazine advertising, like radio, increased slightly, both in percentage and in volume."

"It is suggested that the tax might aid one relatively small labor group. Even that is doubtful. There can be no doubt, however, that the proposal is directly opposed to the interests of the hundreds of thousands of workers who are directly or indirectly dependent upon radio for their livelihood, and that from the standpoint of labor as a whole, the proposal is selfish and short-sighted.

"In 1940 the radio broadcasting industry provided direct employment for about 22,000 full-time workers, at a weekly wage aggregating over \$1,000,000. In addition, about 4000 part-time workers were employed by the industry, and this figure does not include talent under contract to the networks, to stations, to individual sponsors, or to advertising agencies. Most of the

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talent employed in important commercial programs is under contract to the advertising agencies. It is estimated that if this talent were included, some 50,000 persons would be found to be employed by the radio broadcasting industry. Indirectly, the industry is responsible for the employment of perhaps 250,000 additional workers in the manufacturing and distribution fields. Some 300,000 workers will thus challenge the threat to their security which this proposal represents."

"In 1940, the amount spent for advertising was about \$1,660,000,000. Radio got about \$200,000,000. Newspapers took about \$560,000,000, nearly three times as much as radio. Magazines of all kinds got about \$210,000,000, a little more than radio. Direct mail advertising took at least \$300,000,000, one and one-half times radio's share. Radio thus commands less than one-eighth of the advertisers' dollar, and it must fight every inch of the way for that share.

"Radio broadcasting is a truly competitive business which should not be singled out for special tax on the theory that it does not compete on equal terms with other businesses."

"The proposed tax is novel in form and unsound in principle. It would discriminate against and impose an undue burden upon an industry which renders a vital public service in normal times, and whose efficient functioning in a time of emergency, such as the present, is of the utmost importance. Even without the tax, the industry is facing a period of tremendous difficulty, for the war effort necessarily involves extensive dislocations and disruptions of normal business activities, and these impinge with particular severity upon radio. A special tax of the character proposed would only multiply the difficulties. Its imposition would at best be an experiment, and an experiment which even a much larger amount of revenue than this tax would produce could not conceivably justify.

"Overshadowing all these considerations is a major consideration of broad public policy. Radio broadcasting has become the most important medium of disseminating information to the public, and the greatest forum for public debate. It must be kept free; the necessity for this freedom is clearer today than ever before. This freedom cannot be preserved by special taxation.

"The proposal should not be adopted."

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