

HEINL RADIO BUSINESS LETTER

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No. 1543

TAFT BLAST SEEN TROUBLE FOR FCC FROM NEW QUARTER

A shot across the bow by Senator Bob Taft (R), of Ohio, proposing that Congress curb the Federal Communications Commission, brought a heavy hitter into the scrap who may cause plenty of trouble for the Commission. Mr. Taft, whose family own Station WKRC in Cincinnati, and the Cincinnati Times-Star and who is still talked of as a possible presidential nominee, declared that the Supreme Court had gone entirely too far.

"It is my belief that this opinion threatens freedom of speech in the United States unless it is corrected by legislation," Senator Taft said.

"In my opinion the Congress should proceed at once to amend the Federal Communications Act to define precisely the limitations of authority to be conferred on the Federal Communications Commission. The senior Senator from Maine (Mr. White) and the senior Senator from Montana (Mr. Wheeler) have introduced a bill to carry out this purpose. They are experts on the question, and are familiar with the intent of the former act. I hope that hearings may be held immediately upon the proposed bill, and that Congress may consider it immediately upon its return from the recess. In the meantime, the regulations should be suspended until the whole problem can be considered by Congress. Only in that way can we defend ourselves against the most serious infringement on the right of freedom of speech in the United States which has occurred since the Bill of Rights was adopted."

Senator Taft said that if rules to prevent monopoly in the network field are to be added, they should be made by Congress and not by the FCC. Senator Taft took up the cudgel for the newspapers saying the present administration has shown no concern for the freedom of the press and added:

"No doubt the Associated Press could secure the dismissal of the suit, if they were willing to run their business as the Department of Justice or some other New Deal agency thinks that the distribution of news should be run."

"From the time that the President traveled publicly all over the United States without a word appearing in the newspapers, the people have lost confidence in the accuracy or completeness of any news. Such a condition is not freedom of the press."

"While all the FCC policies indicate that the administration has no real interest in freedom of the press in this country, the ingrained insistence of our people upon that freedom has prevented any great progress toward actual suppression of the freedom of newspapers and magazines. Publications still represent every

shade of opinion among the people, and anyone with a real message can find a newspaper or magazine to print it. There is as yet no Federal agency in control of the press, and there is as yet no Federal bureau which licenses the press.

"But what is true of the newspapers is no longer true of the radio, and the radio is an even more important instrument of free speech than the newspaper. In the broadcasting case the Federal Communications Commission undertook to issue regulations assuming complete control of all the relations between the local broadcasting stations and the networks and breaking down the network system which has grown up in recent years. The Commission did this under the Communications Act of 1934, not by direct regulations of chain broadcasting but by using its power to refuse licenses to local stations. These regulations provided that no license should be granted to any station having a contract with a network which provides that it shall only broadcast the programs of that network, or a contract which provides that other stations within the area cannot use the network's programs. Licenses are to be denied to any station having a contract with a network for more than 2 years, or giving the network options on more than a very limited period of time. The Commission will refuse licenses to any local station which does not retain the complete right to reject any program in its own discretion, or which agrees that it will not undercut its network rates for national advertisers who come to it directly.

"It seems obvious that if licenses can be denied for violations of regulations of this kind, they can be denied for almost any method of conducting the local radio business of which the Commission does not approve. If these regulations are valid, then local stations are subject to almost any rules which the Federal Communications Commission sees fit to make. The Court held that these regulations were valid, and the majority decision of Mr. Justice Frankfurter is broad enough to justify any regulation which is not completely arbitrary."

"In other words, it is declared that control of what reaches the American people over the air has passed from the American public into the hands of an all-powerful Commission, whose edicts are final and conclusive, and which exercises powers as complete as those existing in many foreign countries."

"The protection of the network system has been commercial advertising. By this means it has been possible for the broadcasters to send over the air programs that represent millions of dollars of expenditure. But if that expenditure is to be justified, the advertiser must be guaranteed an audience sufficiently large to make the expenditures worth while.

"But the regulations which have been upheld prevent any network from guaranteeing to an advertiser any of the affiliated stations; in fact, they destroy the whole system of affiliated systems. A majority of a seven-man board has decided that the present network system is entirely wrong, and, without consultation with Congress, has undertaken a compulsory restriction which may well destroy these systems."

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JESSE JONES BANGS BACK AT WALLACE ON QUARTZ CRYSTALS

Secretary of Commerce Jesse Jones replied Texas fashion to the charges of negligence by Vice-President Wallace that the former had mishandled the quartz crystal situation. Said Secretary Jones:

"Vice-President Wallace states: 'For two years now Brazilian quartz crystal, essential element in airplane, tank and submarine radio sets, has been in critically short supply.'

"This statement is misleading. There has been no actual shortage. All consuming demands have been met. There is now a large stockpile in Government hands, which is increasing. RFC's sales of quartz crystal to manufacturers during the last three months have been the smallest in more than a year, in part because the demand for this material is levelling off, and in part because consumers hold ample stocks.

"Morris Rosenthal, head of the BEW Imports Office, cabled to the BEW representative in Brazil on May 27th saying 'stock position here is such that it is not necessary to reach for quartz in Brazil at present'; and on June 26th BEW wired its representative in Argentina that the quartz crystal situation is easier and that therefore the examination of an Argentine deposit was not warranted.

"Mr. Wallace states that during 1941 and early 1942 the RFC agent in Brazil 'bought 2,000 tons of crystals.....without checking to see whether they were of the quality needed and paid for' and that over 85% of them were not. Mr. Wallace says the Government lost between two and six million dollars. Those statements are largely incorrect, and deliberately misleading.

"RFC purchases to April 13, 1942, amounted to approximately 1600 tons. The cost of this material was \$7,750,000.

"During the period in question, RFC purchased all of the quartz crystal available in Brazil, whether of good grades or poor, under an arrangement with the Brazilian government to prevent any crystals from reaching Axis sources. Instead of more than 85% being of no value, however, between 35 and 40% of the 1600 tons are suitable for radio use (which is the normal recovery based on the experience of private importers). It is estimated and our opinion that no loss will be sustained by the Government on the material in question. This result has been brought about by the technical discovery that much material previously considered unusable can be fully utilized. It is therefore fortunate that RFC bought the entire output, good and poor.

"Mr. Wallace refers to a commission of $1\frac{1}{2}\%$ having been paid the RFC agent on his gross purchases. The following are the facts:

"In May 1941, the RFC with the cooperation of the State Department, entered into an over-all purchase agreement with the

Brazilian Government covering twelve strategic and critical materials of Brazilian production. Under this agreement the Brazilian Government issued a decree confining the exportation of these materials to the United States, and the RFC agreed to purchase all of such materials at prices agreed upon. Due to the fact that considerable quantities of these materials were at that time being exported to Germany, Italy and Japan, quick action had to be taken in order to stop this traffic. Rather than attempt quickly to set up a buying organization in Brazil, we decided that both time and money could be saved by employing a capable American firm, experienced in the business of importing metals, to handle this business for us. This we did, paying a commission of $1\frac{1}{2}\%$ which was less than we could have done the work for ourselves and is far less than it is costing the BEW at the present time.

"Mr. Wallace also states that RFC refused to 'relax its restrictions' on the purchase of quartz crystal, because 'we didn't need quartz enough to pay more for it.' This statement is not true. RFC did not refuse to relax its restrictions. It merely asked BEW for certain information before it acted.

"Starting in October 1942, RFC has purchased in the United States, under BEW directive, \$2,500,000 in scarce equipment for shipment to Brazil to be used in mining quartz, mica and tantalum, but predominantly for quartz. These minerals have usually been produced by hand labor, but BEW thought production could be increased by mechanizing operations with bulldozers, tractors, compressors, rock drills, etc. In addition to the aforesaid equipment bought in this country and shipped to Brazil, substantial amounts of such machinery have been bought in Brazil by RFC, under directive of BEW.

"We are advised that much of this machinery has not been put to work, but is lying idle and rusting. Considering that this equipment is vital to our war effort, the loss cannot be measured in terms of wasted money alone. Notwithstanding this and the fact that much of the machinery already on hand is not being used, BEW continues to direct RFC to buy additional machinery and equipment.

"May 12, 1943, BEW's Brazilian representatives estimated that exports of quartz crystal during the second half of 1943 would average 113 short tons a month. This compares with an average of over 160 tons a month during the first year RFC bought quartz in Brazil, and before BEW had sent 100 or more engineers and purchasing agents to Brazil and had directed RFC to buy so much machinery."

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With new business sales soaring 60 percent over last year's total, WOR has exceeded in dollar volume every June in the history of the station, according to Eugene S. Thomas, WOR Sales Manager. The new business gain led the way to a 26 per cent rise in total business over June of 1942.

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PETRILLO SAYS WILL NOT PULL A JOHN L. LEWIS WITH WLB

James C. Petrillo, President of the American Federation of Labor, having recently poon-pooped John L. Lewis as more or less of a piker, there is considerable speculation as to whether he will not employ the Lewis tactics with the War Labor Board before which he has been summoned to appear today (Friday). Madam Perkins, Secretary of Labor certified the case to the WLB after Mr. Petrillo calmly declared in New York that he thought the electrical transcription business should be permanently discontinued. Mr. Petrillo has already denied any intention of doing this but nevertheless didn't show much enthusiasm about the latest Government hearing though he did say that either he or his counsel Joseph Padway would attend today's session.

The threat of Mr. Petrillo which, if carried out, would virtually destroy a well-established industry, caused an immediate outburst from the press which already has panned the little music czar repeatedly. Also it should be noticed that the newspapers have been taking up the cudgel more and more frequently of late.

"The Administration, Congress and the Supreme Court have among them placed in the hands of James Caesar Petrillo the power to force practically every musician in the country to join his union", says the New York Times. "They have placed in his hands the power to tell these musicians when and how and whether or not they can make recordings. They have placed in his hands the private arbitrary power to tell the American people what music they can and cannot hear. They have placed in his hands the power to boycott and thereby the power to ruin theatres, restaurants, concert halls, transcription companies and radio companies that do not do his bidding.

"They have given to Petrillo and every other labor leader a special exemption from the anti-trust and anti-conspiracy laws, a special exemption even from the anti-racketeering laws. They have put labor leaders, as such, above the laws that apply to everyone else. And then they are amazed and hurt and horrified when these labor leaders proceed to make use of the legal immunities that they have been at such pains to shower upon them."

"Several months ago, in the course of hearings before a Congressional Committee, Mr. Petrillo was reported to have assured Senator Wheeler that the Union did not intend to wipe out an industry", the Washington Star declared. "At the time, Senator Wheeler said that such a move would be met by prompt Congressional action. Now, however, Mr. Petrillo has changed his mind, and has served notice on the transcription industry to prepare for summary execution. It remains for Congress to say whether the sentence is to be carried out."

"As the law is now interpreted by the Supreme Court, there seems to be no means of restraining Petrillo", the Washington Post concludes.

"Seven transcription companies have requested that the dispute be certified to the War Labor Board. But it seems doubtful whether the WLB can cope with this sort of a racket. Legislation is needed to prevent the enforcement of monopolies that destroy trade and encroach upon Government regulation, whether those monopolies are operated by business or labor groups. Congress has been incredibly slow in meeting this challenge. We do not see how even the comic-opera atmosphere surrounding Mr. Petrillo's antics can longer stay the hand of Congress in meeting this menace to free enterprise."

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SAYS FLY WENT HAYWIRE ON MONOPOLY CHARGES

Expressing the opinion that James L. Fly, Chairman of the Federal Communications Commission overshot the mark in accusing the Cox Congressional Committee and ranking military leaders of playing into the hands of Wall Street and the "radio monopoly", the Washington Evening Star, owners of Blue network Station WMAL, says:

"Had Chairman Fly of the Federal Communications Commission chosen to issue a factual statement protesting against the designation of Representative Cox of Georgia to serve as Chairman of a House Committee investigating the FCC, there would have been a very considerable body of public opinion to support his position.

"On the known facts of this case, it seems clear that the selection of Mr. Cox to head this investigating committee was an unfortunate one, since Mr. Cox is an avowed antagonist of the Commission and all its works. Some time ago the FCC filed a complaint with the Department of Justice, alleging that Mr. Cox, in violation of law, had accepted a fee for representing a radio station before the Commission. Mr. Cox denied that there had been any law violation, and the Department of Justice, after an investigation, concluded that there was insufficient evidence to warrant a prosecution.

"In these circumstances, even though the Justice Department's decision be viewed as an exoneration, it is regrettable that the investigation of the FCC should have been turned over to a committee headed by Mr. Cox."

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WHEELER ASSURES GOOD FCC GOING OVER IN FALL

As a direct result of Senator Taft's blast at the Federal Communications Commission, Chairman Burton K. Wheeler (D), of Montana, of the Senate Interstate Commerce Committee, reassured inquirers that the FCC inquiry in connection with the White-Wheeler bill to redefine the powers of the Commission would be taken up

immediately after the Congressional recess two months hence and would be thorough.

Senator Wheeler said he is in accord with a proposal by Senator Taft (R), of Ohio, that Congress - and not the FCC - write the specifications for Government restraints on radio.

He made it clear, however, that he did not agree fully with Senator Taft's contention in the Senate that FCC regulations point toward ultimate "destruction" of the radio networks and the limitation of their freedom of expression.

"I am in favor of free speech", Senator Wheeler told an interviewed, "but I don't want that freedom to be regulation by a couple of chains that are owned and controlled by large financial interests in New York which have been guilty in the past of filling the air with propaganda on foreign policies with which they agree."

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SENATE ADJOURNS WITHOUT HEARING FURTHER ABOUT PAYNE

The Senate adjourned for its Summer recess without hearing anything further regarding the nomination of George Henry Payne, Republican, to the Federal Communications Commission, which was withdrawn by President Roosevelt 24 hours after it had been sent to the Senate. There were several versions of why the President might have changed his mind. One was that Speaker Sam Rayburn and Democratic Leader John McCormack had suggested to Mr. Roosevelt that it was a slap in the face to the Cox Committee to send up the renomination of Mr. Payne as a member of the Commission while the investigation was still going on. Another was that Mr. Payne was anti-Semitic, which Payne answered by pointing to the fact that he had had a Jewish secretary for the past nine years.

Still another reason was that Mr. Payne had sided with the Dies Committee in voting to oust FCC employees Dodd and Watson.

Mr. Fly told a press conference this week he had not recommended the canceling of the nomination, although he did visit the White House Thursday morning. It was an "off-the-record" visit, he said.

"I did not know that day why the nomination had been withdrawn. I have since learned something about it. I do not undertake to assign any reasons for the withdrawal of the name. I know I do not know the reasons. I knew nothing about it until I arrived at the White House that morning and the action had been taken."

Chairman Fly, answering a question, said that it was hardly appropriate to say much about it, but added that it was a matter of public record that Payne had voted "with me and a majority here consecutively, and he had supported most of the policies I had supported."

When Mr. Payne himself was asked today (Friday) if he could aid in clearing up the mustery, he said:

"I don't know a thing - honestly I don't - I am just as much in the dark as you are."

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PRESIDENT SEEN BACKING COX-FLY SLUGFEST

Seasoned observers expressed the opinion that Chairman James L. Fly of the Federal Communications Commission would have been the last man in the world to strike back at Representative Cox as he has done three times since the Capitol Hill FCC investigation began if he had not had the personal backing of the President. It was argued that Mr. Fly, a Government career man, would never make such a mistake as that. Proof that Mr. Fly was in close touch with the President was the former's recent "off-the-record" visit to the White House.

Also the President was charged with not allowing the Army and Navy officers to testify last Friday at the opening Cox hearing. Furthermore at the hearing the War and Navy Departments by direction of President Roosevelt refused to turn over to the Cox committee certain documents it had requested to support charges that the FCC was interfering with intelligence operations of the armed forces.

Mr. Fly's latest attack was not confined to Mr. Cox but a letter addressed to Committee members in which he criticized sharply "the extremity and unfairness" of procedure followed by the Committee.

He cited the charges against the FCC made public last week by Eugene Garey, committee counsel, and asked whether the committee had "already concluded" to accept the charges as its own findings.

In a series of 12 questions, to which he asked a committee reply, Mr. Fly asked whether the Committee authorized publication of "those conclusions of its Wall Street counsel", and demanded whether the FCC would be given a hearing before Congress takes its proposed Summer recess.

Mr. Fly asked whether the Committee's "Wall Street lawyer" would continue closed hearings and refuse FCC permission to obtain transcripts.

In his final question, Mr. Fly asked assurance that FCC attorneys would be given an opportunity to cross-examine witnesses to guard against "falsehood and distortion".

Mr. Fly was asked who gave the FCC Investigating Committee the letters it made public last week, including one by Admiral William D. Leahy, Chief of Staff to the Commander in Chief.

"I have an idea", said Mr. Fly, but I do not think it is a question on which we ought to make any statement."

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DAVIS IN ECLIPSE AS PUBLISHERS AID IN REVAMPING OWI

With Elmer Davis still undecided as to whether or not he will resign an Advisory Committee of nine of the most prominent publishers and broadcasters in the country have volunteered to serve as an Advisory Committee in trying to help Palmer Hoyt, a Republican, West Coast publisher and broadcaster, put the $2\frac{1}{2}$ million dollars to the best possible use and if possible save at least the face of the Domestic Branch of OWI.

Mr. Hoyt said he will also meet with various heads of newspapers, magazines, and radio stations in the next 10 days to discuss OWI's problems.

The Committee, which will have its first meeting July 13, consists of Roy A. Roberts, Managing Editor, Kansas City Star; Lawrence L. Winship, Managing Editor, Boston Globe; George W. Healy, Jr., Managing Editor, New Orleans Times-Picayune; Paul Bellamy, editor, Cleveland Plain Dealer; Mark Ethridge, Editor and Publisher, Louisville Courier-Journal; Gardner Cowles, Jr., Editor and Publisher, Des Moines Register and Tribune; Fred Gaetner, Jr., Managing Editor, Detroit News; Wilbur Forrest, Editor, New York Herald Tribune, and H. D. Paulson, Editor, Fargo Forum.

Mr. Hoyt was quoted as saying that $2\frac{1}{2}$ million was "a pretty small amount to operate a war agency" but Representative Taber (R), of New York felt differently saying:

"The \$2,750,000, in my opinion, is too much. On the other hand, we have got to get to a compromise on things if we are going to get legislation. We have eliminated entirely all propaganda in the United States. There are some sections in the OWI that, in my opinion, could be eliminated or cut down very materially. It will be up to Mr. Joyt, the new Director of the Domestic Branch, to coordinate this situation and clean it up. I believe that our compromise has had to be made not on the basis of needs but on the basis of providing some jobs for some of those fellows who are in there. I hope that Mr. Hoyt, the new Director, will take that into consideration when it comes to cleaning that situation up and that he will eliminate those who are absolutely worthless and get rid of them. That is what he has to do if he is going to make a success of it, there is no other way. I have yielded on this \$2,750,000 largely as a result of the importunings of the gentleman from Indiana, who has been a great compromiser, but I still think it is up to Mr. Hoyt to save at least a million and a half out of that \$2,750,000 if he cleans the thing up and gets rid of the unnecessary help, as I believe he should."

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Dean Studios, Omaha, Nebraska, are charged in a complaint issued by the Federal Trade Commission with misrepresenting the quality, price and terms of sale of the colored photographic enlargements and frames they sell via newspaper, periodical and radio advertising.

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FCC EMPLOYEE BILL TYING UP THOUSANDS PAY UNSIGNED

The 143-million dollar Urgency Deficiency Bill carrying two controversial amendments, one providing for the removal of Dr. Goodwin Watson and William Dodd, Jr., of the Federal Communications Commission, and Dr. Robert Lovett of the Virgin Islands, and the other providing for limitation of the President's Emergency Fund remained unsigned as Congress kissed Washington good-bye. President Roosevelt said at his press conference this morning (Friday) that the bill had not yet reached his desk.

Hereafter, these White House conferences are to be known as "Press and Radio Conferences" due to the fact that the broadcasting industry is now represented at these gatherings.

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LOWELL MELLETT RESIGNS AS OWI MOVIE CHIEF

Elmer Davis, Director of the Office of War Information, today announced that Lowell Mellett has resigned as Chief of the Motion Picture Bureau, Domestic Branch.

Mr. Mellett's resignation, effective July 15, was due to budget reductions made by Congress in appropriations for the Domestic Motion Picture activities of OWI, which virtually eliminated all of the activities of the Bureau as presently constituted.

As to future OWI activities in the Motion Picture field, Elmer Davis stated:

"Our funds will not permit any production of motion pictures by OWI for domestic use. We will, however, continue to discharge our responsibility for the coordination of Government films and for liaison between the Government and the motion picture industry.

"We are indebted to Mr. Mellett for the establishment of cordial and satisfactory relations with the industry, which we hope may continue.

"Within a week or 10 days Palmer Hoyt, Director of Domestic Operations, and I hope to sit down with the heads of the motion picture companies and discuss plans for our continued cooperation."

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FCC TO PROBE CHARGES ON RADIO, WIRE PICTURES

The Federal Communications Commission has ordered an investigation into the legality of charges for interstate and foreign transmission of photographs by wire and radio. A hearing was set for August 11, and each carrier furnishing such service was made a party to the proceeding.

The Commission said that it would serve a copy of the order on the Office of War Information.

At the same time, the Commission denied the request of Press Wireless, Inc., for special temporary authority to provide radiophoto service between New York and Berne, Switzerland, to commercial users. It also suspended until October new rates filed by Press Wireless which would revise the tariff schedules for radiophoto reception service furnished at New York and Los Angeles by putting the charges on a time basis. A hearing on the lawfulness of the proposed new tariffs was ordered.

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CALLS GARDNER COWLES ONE OF OWI'S "FORCES OF SANITY"

There have been quite a few tributes to Gardner Cowles, Jr. the latest being from Representative Halleck (R), of Indiana, who said, addressing Congress:

"In connection with the effort to terminate the domestic activities of OWI, it is consistent to make it a matter of record that this bipartisan move has no connection with the resignation of Gardner Cowles, Jr., of Iowa, as Director of the Domestic Bureau. Mr. Cowles agreed to stay until June 1943, and no longer, when he was drafted by the President personally 1 year ago. His resignation and the selection of Palmer Hoyt, of Oregon, as his successor were announced before the OWI appropriation came out of committee.

"During his year here Mr. Cowles was one of the forces for sanity in OWI. Members will recall that he was opposed to the radical pamphleteers in OWI. They fought him back, but it is of lasting credit to Mr. Cowles that he succeeded in divorcing a dozen or more of them from the OWI payroll. Perhaps a check-up would reveal that they were immediately hired by some other New Deal agency, for that seems to be the procedure when any reforms in personnel in any given bureau are accomplished. Our war effort would be speeded up if men like Gardner Cowles, Jr., were held here and given more authority to do a job."

Drew Pearson had this to say about Mr. Cowles:

"Gardner Cowles, who kept denying he would resign from OWI and help Willkie's campaign, finally is willing to admit it. After a holiday in the Minnesota lake country, he will become brain truster for Wendell Willkie . . . Cowles makes three predictions about the 1944 campaign . . . If Willkie can get the Republican nomination without splitting the party, he will be the next President. . . The Republican strategy will be to wage the campaign on domestic issues, avoiding international question. . . The food shortage will be a leading political issue in the coming campaign."

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