

**HEINL RADIO BUSINESS LETTER**

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## DIES CHARGES FDR SEEKS LEFTIST AID FIGHTING OUSTERS

In the front-page fight over President Roosevelt's comeback at Congress for trying to put him on the spot in the order to discharge Dr. Goodwin Watson and William E. Dodd, Jr., of the Federal Communications Commission and Dr. Robert M. Lovett, of the Virgin Islands, Rep. Dies of Texas, Chairman of the House Un-American Activities Committee charges the President with seeking the support of "the Left Wing group". Mr. Dies challenged the President to "take to the American people the issue of whether men who don't believe in our form of Government should be allowed to stay on the Government payroll." He assailed as "smacking of dictatorship" the President's message to Congress yesterday criticizing the congressional action in the case.

"The President attempts to tell Congress it cannot fulfill its Constitutional function of controlling the nation's purse strings," Dies said. "That's the way Mussolini started."

Indicating that there will be a continuation of the fight, which has developed into one of the most bitter controversies the Congress has ever had, full records of the hearings at which Messrs. Goodwin Watson, Dodd and Lovett were questioned, were released on the Hill, obviously for the purpose of giving Congressmen additional ammunition.

It seemed to be the general opinion that the action of Congress in ordering the trio dropped from the Government payroll on Nov. 15 if not renominated by that time by President Roosevelt, and denounced by the President as unconstitutional, would eventually be fought in the United States Court of Claims. Instead of seeking Senate confirmation, Dr. Watson disclosed that present plans call for all three remaining at work past the ouster deadline, and suing for their salaries in the Court of Claims. A lawyer has already been chosen for the case, Dr. Watson said, and there is a chance that a showdown in the court may be sought before November 15 by asking for a declaratory judgment against the action of Congress. It was conceded, in view of the message that Mr. Roosevelt will not renominate the three after the November 15 deadline, since, legal experts say, to do so would be to recognize the action which the President has termed illegal.

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Therefore, informed congressional circles said, if the employees continue at their posts, their only recourse apparently will be to file suit for their pay which would subject the entire question to judicial review.

- On the chance of his losing out in the courts it is known that Dr. Watson has turned in the direction of the Navy Department where it is said he has been seeking a commission as Lieutenant Commander.

Mr. Roosevelt signed the appropriations bill which carried the Goodwin Watson - Dodd - Lovett rider he told reporters at the time, because it contained money needed for the war effort, but he described the restrictive rider as a "bill of attainder" and not binding on the executive branch of the Government and said he would so advise Congress.

The Goodwin Watson et al message was the first one he sent to Congress this session and was in substantially the form in which he had told reporters earlier in the summer it would be drafted. He repeated that he believed the rider "not only unwise and discriminatory, but unconstitutional," and once more assailed it as "an unwarranted encroachment upon the authority of both the executive and judicial branches under our Constitution." He pointed out that no trials had been held, nor impeachment proceedings instituted. "There is no suggestion," Mr. Roosevelt said, "that the three named individuals have not loyally and competently performed the duty for which they had been employed. They are sought to be disqualified for Federal employment because of political opinions attributed to them."

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#### ATLANTA AND JACKSONVILLE MEETINGS URGE NEW LAWS

Fifty delegates of the National Association of Broadcasters Fifth District, meeting in Atlanta last week with James Woodruff, Jr. presiding, resolved that legislation was the greatest problem facing the radio industry, as follows:

1. That sound adequate basic legislation defining the rights and responsibilities of broadcasters and protecting the freedom of radio is the most important matter before the industry today.
2. That the Legislative Committee of NAB be instructed to proceed forthwith to prosecute the passage of such legislation thru the White-Wheeler, Holmes or other bills which might prove, after adequate hearing and consideration, to be the best for the public and all interests of the industry.
3. That a Legislative Committee, composed of Harry Ayers of Anniston; Henry Johnston, Birmingham; Leonard Reinsch, Atlanta; Walter Tison, Tampa, be appointed in the Fifth District to cooperate with the National Legislative Committee.



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Discussion of the Petrillo situation resulted in a second resolution:

"A motion that this District go on record urging the Board of Directors and the Staff of the National Association of Broadcasters to prosecute with every means at their command methods to prevent the industry from being persecuted by any action of the American Federation of Musicians."

James W. Woodruff, Jr., appointed the following Fifth District Legislative Committee: Thad Holt - WAPI - Birmingham, Ala.; Frank King - WMBR - Jacksonville, Fla.; Walter Tison - WFLA - Tampa, Fla.; and Red Cross - WMAZ - Macon, Ga.

Luncheon speaker, Lou Gordon, Director of Public Relations for the Citizens and Southern Bank, paid radio high compliments for its promotion of the sale of War Bonds and requested generous contributions of time and talent in the Third War Loan Campaign.

The Florida Association of Broadcasters, with thirteen of its twenty members present, met in Jacksonville on Sunday, where Jack Hopkins, WJAX, assumed the office of President. Discussion of new radio legislation was followed by passage of the resolution adopted by the Fifth NAB District at Atlanta, urging new laws.

The afternoon session was devoted to a discussion of the Florida "anti-ASCAP" law, originally passed in 1937, which places prohibitions upon the operations of ASCAP, AMP and BMI in that State. Assistant Attorney General, John C. Wynn, explained the action of the Attorney General in filing a suit against these organizations for clarification of the law and his obligations as an enforcement officer, which the legislation prescribes. Action was taken by the Association to insure satisfactory conclusion to this and a suit previously filed by Palm Taverns, Inc., of West Palm Beach, in a "friendly" action against ASCAP.

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BUTCHER FOR NAB PRESIDENT?; SAW ITALIANS SURRENDER

The latest person to be mentioned to succeed Neville Miller as President of the National Association of Broadcasters, is Lieut. Commander Harry C. Butcher, now serving as naval aide to General Dwight D. Eisenhower in Africa. Mr. Butcher is the former Washington Vice-President of the Columbia Broadcasting System on leave of absence for the duration. Mr. Miller's term expires next June.

A dispatch from Clark Lee, International News Service correspondent with the British Mediterranean Fleet this week told



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how Mr. Butcher had been the only American to see the Italian fleet surrender. The account follows: "The surrender of the main Italian force from Spezia took place at 8:35 Friday morning off of Cape Bon, where the British battle unit commanded by a rear admiral aboard the Warspite, awaited the Italians in accordance with the armistice arrangements. On the Warspite bridge was Commander Harry C. Butcher, U.S.N., aide to Gen. Dwight D. Eisenhower, whom he was representing.

"The Warspite, the Valiant and five British destroyers had been escorting a carrier, whose planes assisted in covering our landing near Naples, when they received word Thursday afternoon to proceed on a secret mission, whose nature only Butcher knew until the British admiral received a message from Admiral Sir Andrew Browne Cunningham, Allied commander of Mediterranean naval forces, to proceed as appointed.

"'We weren't sorry to leave,' Commander Butcher said. 'During the night of landings at Salerno we were attacked for three hours by German planes. One torpedo missed us by a few yards.'

"'There were no ceremonies and no greetings, except for hoisting signal flag instructions for the Italians to line up behind us. The admiral debated whether to place some ships behind the Italians to prevent any of them from escaping, but decided not to do so inasmuch as they had kept the agreement.'"

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#### FLY'S VIEWS ON COMMENTATORS CAUSE SOME EXCITEMENT

There was consternation in certain quarters over the views Chairman James L. Fly of the Federal Communications Commission expressed on the subject of radio commentators (See our release of Sept. 14). It was charged that Mr. Fly was taking in more and more territory and would continue to do so unless stopped by Congress.

However, in view of the number of cracks Mr. Fly has taken at Wall Street, the reaction of Wall Street Journal to his latest remarks are interesting. The Journal says editorially:

"Chairman Fly of the Federal Communications Commission raises a highly important question as to the duty of broadcasting stations to preserve 'impartiality' in the discussion of 'controversial' matters over the air on 'sponsored' programs and the duty of the Government to see that that duty is performed. He points out that under the guise of news summaries and comments on news, sponsors could in fact peddle their ideologies and philosophies, and that these ideologies should be openly presented and opportunity be given for presentation of the other side lest the public be deceived. He hinted that unless the industry itself took measures to improve the situation, Government might have to step in.

"Natural limitation of the available air-channels - science may find a way some day greatly to increase their number - makes public regulation of their use a necessity. The only alternative is that of complete ownership and operation by Government itself as in Great Britain. Broadcasting stations are expensive to construct and operate and in private hands must employ the sponsorship method in order to live. 'Air time' is itself expensive, and is beyond the reach of the ordinary citizen. Sponsors choose the programs which they think will best carry their advertising to the public. Most sponsors are corporations; some are organizations which aim to promote their ideas or philosophies. Broadcasting stations also generally present unsponsored programs at their own expense. The fact remains, however, that the forum of the air is not available to Tom, Dick and Harry, nor is there any present prospect that it will ever be.

"Is the actual state of the air traffic such that 'impartiality' in the presentation of 'news' and 'comment' is notoriously lacking as a result of sponsorship? Apparently in Chairman Fly's mind the one great controversy around which all arguments finally center is that as to 'left' and 'right' and impartiality as between these two ideologies is the goal at which he is aiming. Is it a fact that the sponsored programs are preponderatingly of the 'right' orientation, and that the 'left' is not getting a fair hearing? Such is not this newspaper's impression. Mr. Fly himself admits that we have 'splendid examples of courage in news reporters and commentators who are paid by the sponsors'. When broadcasting stations accord time to a party of any sort for its propaganda they are constrained to offer equal time to the propagandists on the other side. This newspaper does not spend much time in monitoring the air waves and will not be dogmatic on the general state of the traffic, but it has not observed any notable lack of impartiality in such of that traffic that has come under its notice.

"Men are so constituted that they are apt to consider impartial that which happens to agree with their own set of 'slants', for rare indeed are those who are not in some degree slanted on many things. After all, ideologies are not necessarily prejudices; a man can have a philosophy, a frame of reference by which he measures values in general, and that is a 'slant'. Can Government itself be free of 'slants'? Are governments ever really impartial? How could a governmental agency establish standards by which to measure impartiality on the air waves? And if it attempted to do so what would become of freedom of speech?

"Until some way can be found to provide Tom, Dick and Harry with a public audience free of charge to which he can express his mind when, as and if he pleases, what can government safely do about the air waves which, we all agree, it cannot safely do about the newspaper press? The very power of life and death which the law has given the Federal Communications Commission in the case



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of the air-waves has been by common consent refused to government in the case of the press, and that should be a warning that its use could be justified only by the plainest and most imperious necessity. We have seen only too clearly what governments can do with air waves when they seize their control for a Hitler.

"It is admittedly a problem, but when all is said and done so is free speech a problem and for that matter so is freedom itself. Nevertheless Mr. Fly has done a service in raising the question."

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#### SUGGESTS CONGRESS CLEAN OWN STABLES; HITS REP. COX

Drew Pearson, columnist and Blue commentator, recently said a kind word for an increase in pay for Congress. "Seldom has the resultant storm of mail been so heavy, so scathing and so abusive," Mr. Pearson writes. "The public, if that cross-section of mail is any criterion, does not like Congress. At \$10,000 a year, it considers a Congressman overpaid, overstuffed and underdone."

To overcome this unpopularity Pearson suggests that "Congress is going to have to clean out its own Augean stables". Then he proceeds to take another terrific wallop at his old friend Cox:

"Probably nothing has decreased public esteem of Congress more than the travesty by which one of their own members has turned the investigational force of the powerful House of Representatives against the Government agency which had the temerity to do its duty and recommend him to the Justice Department for criminal prosecution.

"The case is complicated but now most of the American people fully understand the significance of the manner in which Congressman Eugene Cox of Georgia, a crony of Speaker Sam Rayburn, was able to take a \$2500 check for alleged illegal lobbying for a radio station with the Federal Communications Commission, and then not only escape prosecution, but get his colleagues to vote \$60,000 of the taxpayers' money to 'investigate' the agency which accused him.

"Not only did he get \$60,000 of the taxpayers' money (in addition to the salaries of six Cox relatives on the public payroll) but he also got himself appointed chairman of the committee to 'persecute' the FCC.

"All summer Cox's committee has been holding hearings at which its side of the story has been presented. The FCC's story has been barred.

"Furthermore, Committee Counsel Eugene Garey has now gone to the extent of striking from the record various reports or questions asked by him which put the FCC in a favorable light.

"Three years ago, when testifying before the Attorney General's Committee on Administrative Procedure, Garey complained bitterly that SEC officials told 'the stenographer what to put in the record and what not to put in the record' at public hearings. Therefore, he said, the record was never complete.

"But recently the shoe has been on the other foot. For instance, Garey accused the FCC of 'doctoring' a memo on Fascist activities which had been submitted to the Office of Censorship. FCC Counsel Nathan David denied the charge and gave an explanation which made Garey look absurd.

"I ask that Mr. David's words be physically stricken from the record', said Garey, looking as if he wished he had never brought the matter up. Chairman Cox immediately agreed.

"So now the official transcript does not show the remarks of Garey, Cox or David, merely the notation: 'At this point a statement was made by Mr. Nathan David which was ordered physically stricken from the record'.

"The official record is full of deletions of this kind-- whenever anything is said favorable to the FCC."

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#### PRESS BEATS OWI'S RADIO AN HOUR ON ITALIAN SURRENDER

There was a slip up of some kind at General Dwight D. Eisenhower's headquarters in Algiers Sept. 8 with the result, according to the Editor and Publisher that the three major press associations scooped the American commander on the history-making story of the unconditional surrender of Italy to the Allies. The Associated Press, United Press and International News Service all flashed bulletins over their wires anywhere from between 45 and 40 minutes before General Eisenhower went on the air at 12:30 p.m. with his own announcement.

In Washington, Elmer Davis, director of the Office of War Information, told reporters he had no idea how word of the surrender had cleared through censors in Algiers. His office, he said, had laid elaborate plans to cooperate on the story with General Eisenhower. Accepting the fact that the news flashes had anticipated their planned announcement and that it had been scooped on its own story, OWI began at once to broadcast the press association's bulletins to the world over its short-wave transmitters, and at 12:30 p.m., as scheduled, it recorded the American commander's address.



## WMCA SOLD FOR \$1,255,000; BLUE NETWORK HEARINGS MONDAY

Further progress was made in the Blue Network transfer with the purchase from Edward J. Noble of Station WMCA in New York by Nathan Straus, former head of the U. S. Housing Authority. The price was \$1,255,000.

The sale of the station was necessary under Federal Communications Commission rules against an owner controlling two radio stations in a single city. As the Blue Network which Mr. Noble bought recently includes Station WJZ in New York, he was obliged to find a purchaser for WMCA.

The hearings before the FCC with regard to the transfer of the licenses of WJZ, New York, KGO, San Francisco, and WENR, Chicago, the Blue Network stations, will be resumed Monday, (Sept. 20). Although the matter will be gone into thoroughly, there is a feeling that no real opposition will be encountered and that the Commission will approve the transfer.

There will probably be continued opposition to the sale of WMCA on the part of Donald Flamm, former owner, when it comes up for the approval of the Commission. Mr. Flamm recently filed a rescission suit against Mr. Noble, charging that the sale of the station was made under duress, and asked for a temporary injunction to restrain Mr. Noble from disposing of the station during the litigation. Supreme Court Justice David W. Peck denied the plea but Justice Albert Cohn of the Appellate Division granted an order to show cause, returnable Sept. 24, why a temporary stay should not be granted. He denied a stay in the interim. The price paid Flamm for WMCA was \$850,000.

Mr. Straus is 43 years old, son of Jesse I. Straus, a graduate of Harvard, formerly vice-president of R. H. Macy & Co., and a director in the Mutual Broadcasting System and Chairman of the Bumberger Broadcasting Company (WOR). Mr. Straus was former editor of "Puck" and later, Assistant Editor of the N. Y. Globe.

Asked at his press conference what action the Commission could take in the transfer of the Blue Net station licenses, J. L. Fly, Chairman, said: "I think that the Commission may well inquire further into the general policies and conduct of the operations as a basis of approval or disapproval of the transfer. We will have a full hearing and everybody will be heard so far as it is appropriately related to the issues. I think that is about all we can say. And, of course, on the Commission's own end we want an ample record in a case of that importance. We want to be sure that the statutory qualifications are shown to be met."

It remains to be seen if anything more will be heard from Ira Chase Koehne, Washington lawyer, who threatened to sue the

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Blue Network for \$2,000,000 for statements made on the network by Walter Winchell, Drew Pearson and Dorothy Thompson. Koehne is said to share an office with H. Victor Broenstrup, listed as defense counsel for Wm. Dudley Pelley, of the Silver Shirts.

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#### RADIO TECHNICAL BOARD MEETS TO PLAN POSTWAR SERVICES.

Nine industry and service groups have joined in the organization of a Radio Technical Planning Board for studies to develop postwar radio services and products preliminary to the organization of a technical advisory group which will formulate recommendations to the Federal Communications Commission and other organizations concerned. This was effected at a meeting of the groups last Wednesday in New York City.

The organization plan for RTPB sponsored and presented jointly by the Radio Manufacturers Association and The Institute of Radio Engineers was approved unanimously by the initially invited sponsors. These included in addition to RMA and IRE the following: American Institute of Electrical Engineers, American Institute of Physics, American Radio Relay League, F. M. Broadcasters, Inc., International Association of Chiefs of Police, National Association of Broadcasters, and National Independent Broadcasters. Other sponsors are expected to later join RTPB for work on many technical projects including utilization of the broadcast spectrum and systems standardization for many public radio services including television and frequency modulation. The general plan for organization of RTPB approved unanimously at the New York meeting will be developed in detail at another meeting in New York on Wednesday, September 29.

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#### NEW WPB PLAN FOR SUBCONTRACTING RADIO TEST EQUIPMENT

To meet increasing requirements of the armed services for electronic test equipment, a plan for wider subcontracting of orders for critical test equipment, test instruments and component parts has been initiated by the Radio and Radar Division of the War Production Board.

Two surveys have been launched by the Radio and Radar Division in its plan to place this extra demand on the test equipment industry in places where facilities and competent personnel already exist, since the expansion of facilities is impractical for lack of time, construction materials and new personnel.



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Regional offices of WPB have been requested to furnish detailed reports on manufacturers and facilities available for prime or sub-contracts for producing test equipment, test instruments and components. At the same time, each manufacturer of electronics test equipment has been asked to indicate which firms would be most capable of adapting themselves to produce, under sub-contract, items for the manufacturer's schedule.

In a letter to manufacturers of electronic test equipment, Ray C. Ellis, Director of the Radio and Radar Division, stated that the armed services have given notification that requirements for test equipment needed to manufacture, install, maintain and service equipment for the future will increase substantially.

There are several ways of alleviating shortages of test equipment by sub-contracting, the letter says in part. Suggested items for sub-contracting include: (1) Those models having relatively small volume of sales. This releases productive capacity for the large volume models requiring the prime contractors' special skill; (2) A part or all of the order for a model having a large backlog; (3) Component parts.

The letter requests comments on the sub-contracting plan for the production of critical models of test equipment by September 15. The Division desires to have its survey completed for presentation before the Test Equipment Industry Advisory Committee meeting in the near future.

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#### PETRILLO HEARINGS RESUME; AGREEMENT PLAN RUMORS

Hearings of the War Labor Board in the Petrillo case are scheduled to resume today (Friday) in New York City.

In the meantime Variety carries a story that there may be an outside settlement of the case. It says, in part:

"A strong impression prevails within the band booking industry and music publishing business that the recording ban is on the verge of a break. Reports from sources close to the contending principals are that Decca Record Corp. and the American Federation of Musicians will shortly announce that they concluded an agreement whereby the Federation will receive a royalty, perhaps 2¢, on each record sold by that company.

"The same report has it that Milton Diamond, counsel for Decca, recently advised a meeting of the three leading phonograph record manufacturers (the other two being RCA Victor and Columbia) that it looked to him as though from now on it would 'have to be every man for himself,' and that subsequently the other two companies relieved Decca of its commitment to stick along with the rest of the industry and not sign a separate agreement. Decca, in other words, was given carte blanche to do as it saw fit."

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## M-G GETS READY FOR TELEVISION

With the signing up of Nat Wolff, chief of the OWI Domestic Radio Bureau on the West Coast, to organize a radio and television department, Metro-Goldwyn in Hollywood is preparing for the combining sight with sound after the war. Mr. Wolff will join M-G in October. He has had a wide experience in radio, has been with OWI for two years and has closely followed the development of television.

It is expected that Mr. Wolff's assistant, Cornwell Jackson, will succeed him at OWI.

TRADE NOTES

Tuesday, September 21, has been designated CBS War Bond Day by the Treasury Department. On that day Columbia will devote all its network facilities to a seventeen-hour Bond selling campaign -- from 8 AM, EWT until 1 AM, EWT the following morning.

Believed to be one of the first national events of its kind, and to save travel, the National Association of Foremen's "Convention-By-Radio" will be broadcast over the Blue Network Saturday, Sept. 25, at 8:15 p.m., EWT, originating in the National Cash Register Building auditorium in Dayton, Ohio.

Newspaper advertising to a total daily circulation of over 12,000,000, transportation advertising, posters, direct mail and radio itself will be utilized in a campaign of voluntary program promotion to be launched by Columbia Broadcasting System late this month. Advertising will be used in every "station city" in the country over individual station signatures.

Because of a breakdown of negotiations with the American Federation of Musicians concerning the projected broadcasts, the Columbia Broadcasting System has the cancellation of the 26-week series of Saturday afternoon broadcasts by the Philadelphia Orchestra. Eugene Ormandy was to have conducted the broadcasts.

KMMJ, Grand Island, Neb., joined the Blue Network as a basic supplementary station on September 15.

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