

# HEINL RADIO BUSINESS LETTER

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No. 1568

## TELLS U.S. HOW LUCKY IT IS IN ITS FREEDOM TO LISTEN

Over a Columbia Broadcasting System network, James L. Fly, Chairman of the Federal Communications Commission, told the people of the country how fortunate they were in the United States to listen to anything they wanted to.

"It is no doubt difficult for my listeners to believe that freedom to listen needs a special pleader", Chairman Fly said. "As you sit twirling the dial and listening to various stations within the range of your sets, you perhaps feel that, as listeners, you are completely free. There are in the world today no better informed people, and since under our form of government people must make enlightened judgments, a full freedom to receive information must exist. We take all of this as a matter of course, and all too seldom do we articulate our underlying confidence or make explicit our knowledge that democratic government must ultimately depend on an informed citizenry. It was the possibility of being received in just that sort of atmosphere that prompted me to draw up a hypothetical law on the matter some time ago. Among its various provisions outlawing rights we take for granted were the following:

- "1. It shall be illegal to own a radio set that can receive a program not transmitted by the United States Government;
- "2. It shall be illegal to listen to any program not originated by the United States Government;
- "3. No set that would reach outside the United States shall be manufactured.

"To these outrageous provisions I provided further:

- "1. It shall be illegal to listen, sell buy, possess, manufacture a radio set unless it has a government stamp affixed to it.
- "2. All sets so stamped must receive programs of United States Government stations and no others.

"To make the law air-tight, I imagined the lawmaker might add:

- "1. A requirement that any programs originating outside the United States be 'jammed'.
- "2. Listening after 10:00 P.M. and in groups made illegal.

"The violations of the Act would be punished by fines and imprisonment. For persistent attempts to listen to signals emanating from outside the United States, the penalty would be death."

Then Mr. Fly asked the radio audience, as he had previously asked the Boston Advertising Club, where he had made a speech along the same lines:

"Is such a statute unthinkable or fantastic? Unfortunately, it is not. The counterpart of almost every one of these provisions, or equally onerous restraints, can be found in one part of the world or another now under Axis domination. Such edicts as the above are not vain imaginings applicable only to existence on another planet. They are in force in our own contemporary world.\*\*\*

"The chief interest of the Founding Fathers was not freedom of speech merely for its own sake or for the sake of the speaker. They, too, had a concern for freedom to listen - for Whitman's 'ears willing to hear the tongues'. Their philosophy of free speech and press was based in large part upon the beneficial impact upon the people at the receiving end. True democratic government, they wisely felt, rests upon the capacity for self-government which, in turn, is founded upon the unstinting diffusion of knowledge. Thus Jefferson said: 'Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like spirits at the dawn of day.' James Madison stated it even more bluntly. He said, 'A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy.' \* \* \*

"Our history is rich with battles looking toward a sound basis for democracy, in effect for an informed electorate, and in practical effect for the freedom to listen. What was significant at the beginning of this democracy is underscored in the modern world. Listening has become one of the vital functions of our modern civilization. A vast amount of public information, public enlightenment, public news and even public education - not to speak of entertainment - now reaches our people via the air waves. Radio has provided the mechanical means for attaining the Founding Fathers' ideal; we have today the first really practical mechanism of free speech; a great responsibility lies upon those to whom its control is intrusted.\*\*\*

"It is a fortuitous circumstance that modern science has provided the means for the first adequate realization of free speech. It is with the advent of radio that audiences have become nationwide and even worldwide; their interests national and international.

"Radio appears to have come all the way but in reality it has only approached the crossroads. Radio is a living thing; it must grow and expand as people grow and expand. Despite its achievements we dare not be too smug about it.

"The warnings from abroad that prompted me to offer you a mythical statute have been drastic. There is, however, no need for restriction - either mechanically or in the form of legal sanctions against the listener's person. The Freedom to Listen necessarily includes the freedom not to listen; in order that beliefs and opinions may be soundly tested there cannot be suppression of the thinking of any group. The majority need not listen; the group



speaking can only bid for listeners. Professor Chafee of Harvard Law School says:

....unremitting regard for the First Amendment benefits the nation even more than it protects the individuals who are prosecuted. The real value of freedom of speech is not to the minority that wants to talk but to the majority that does not want to listen.

"My concern is only that ears willing to listen shall hear; whenever those ears are unwilling then the competitive battle for broadcast time, unrestrained by shibboleths will, as it should, determine what the public should hear. Without restrictions, the levels that can be reached are limited only by the general levels the public aims for in this competitive battle.

"In the post-war world, international broadcasting will stand on the threshold much as our domestic radio stood in the days when Woodrow Wilson foresaw its great possibilities. As the domestic radio has played a large part in welding one nation, so international broadcasting should provide the free flow of information, and generate the tolerance for beliefs, and an appreciation of cultures and thought patterns. Radio is that necessary catalyst among peoples. It would be harmful beyond prediction to have world radio restricted by allowing any individual nation to adopt mechanical restraints. I cannot but feel that the future peace and security of the peoples of the world must rest in large measure upon enlightenment. If we are to have an enlightened world it must function on the basis of enlightened principles. Any substitute for the free communication of ideas is bound to be dangerous. Witness what we are fighting today.

"We are primarily engaged in a struggle for freedom. From the idea of complete freedom itself have sprung many phases of more particularity. My own particular interest is, of course, in communications; and truly transmission is nothing without reception. But I suggest to you a development of this point along broader and deeper lines. All of us must be deeply concerned with bringing this freedom to listen to those we are seeking to liberate. I suggest that the principle is fundamental and must be guaranteed in the post-war world. The growth of international broadcasting and the prospective development of international television demand it. It is inevitable that for good or evil closer relations will exist among nations, races and religious groups. We must strive to make it for the good."

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Award of the Army-Navy "E" flag to the Indianapolis plant of the RCA Victor Division of Radio Corporation of America is the fifth such award to be won by RCA.

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## WAR STEPS UP RADIOTELEGRAPH AND PHONE; ALSO CABLE

An idea of the intense activity of the radiotelegraph, radio telephone, and cable services in the war is given by the Office of War Information which says:

"Although the entry of the United States into the war brought about the discontinuance of direct radiotelegraph circuits with Axis countries and countries occupied by the Axis, international radiotelegraph service to and from the United States has been greatly extended since the beginning of the war.

"Prior to Pearl Harbor, for example, radiotelegraphic communications between the United States and Australia were relayed via Montreal. Now the traffic is routed over direct circuits. Since 1939, new direct radiotelegraph circuits have been established to Egypt, Iceland, Paraguay, Bolivia, New Caledonia, Greenland, New Zealand, Iran, French Equatorial Africa, Belgian Congo, Algiers, British Gold Coast, Bermuda, Afghanistan, and numerous points in European and Asiatic USSR and unoccupied China.

"During the past year, radiotelephone service has been extended to Surinam (Dutch Guiana) and to Recife (Brazil) via Rio de Janeiro. Plans for service to the Soviet Union and several additional islands in the Caribbean are under way. Due to the tremendous increase in radiotelephone traffic to Central and South America, Hawaii, Puerto Rico, and Panama, additional circuits have been established to these points. Radiotelephone traffic between the United States and Panama is up over 200 percent since Pearl Harbor; with Hawaii, over 300 percent. This growth in inter-American calls has more than offset the loss of calls to other parts of the world. Today the total radiotelephone message volume is about half again as large as before Pearl Harbor.

"Although the war has interrupted cable communication services of American companies to continental Europe and to Far Eastern points, direct facilities are still available to the United Kingdom, Eire, Portugal, Gibraltar, the Azores, Hawaii and Midway. In addition, there is complete Western Hemisphere cable service, uninterrupted by the war, to the West Indies and along both coasts of South America, and the submarine cables to Alaska have been modernized to carry heavy traffic.

"About 66 percent of international communication telegraph traffic to Europe, the Near East and Africa is handled by cable; as is about 81 percent of the traffic to South America, and about 30 percent of trans-Pacific traffic, including traffic via British cables from Canada. (The reason for this low percentage of trans-Pacific cable traffic is that only two direct cables exist to Australia - those from Vancouver; all other trans-Pacific cable traffic, except for the American cable to Hawaii and Midway, must go via the Mediterranean or the Cape of Good Hope and India.) The rest of the traffic is handled by radiotelegraph.

"In general, it may be said that computed by the number of messages, 65 percent of the world international communication telegraph traffic is handled by cable, and 35 percent by radio. The speed of the two services is the same between points to which there are direct cable circuits; when relays are necessary, radio is faster.

"One of the reasons for this continued predominance of ocean cable in the face of radio competition is habit - cables have always carried the bulk of direct business traffic. On those lines which are still open, business has greatly increased, and the traffic is largely in government messages, with a priority known as 'government urgent'. The State Department, the Army, the Navy and other government departments lease their own time on cable circuits, some of them for 24 hours a day, others part time. The adoption of the varioplex channeling system - widely used on land telegraph lines - on the cables to England makes it possible to send as many as twelve messages simultaneously over a single cable.

"Another reason for the continued popularity of submarine cable is the secrecy which it affords in time of war. It is difficult to tap an ocean cable. Plans exist by which increased radio-telegraph facilities are to be made available in case of the cutting of any of the cables by the enemy.

"Cable repairs, difficult in the best of times, present increased hazards at present. Not only are there shortages of many materials needed in repair work, but also cable repair ships now require naval escort. Several British cable ships (most cable ships are under British registry) have been sunk in the North Atlantic while engaged in their work or en route to it."

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#### FCC PROBE TO CONTINUE BUT QUESTION IS HOW VIGOROUSLY

A continuation of the investigation of the Federal Communications Commission by the House Congressional Committee is assured with the appointment of Representative Clarence F. Lea (D), of California, to succeed Representative Cox of Georgia. As yet no date has been set for the resumption. The question now is - how vigorously will it be carried on and is there a chance of a coat of whitewash.

Speaker Rayburn eulogized Mr. Lea saying that he had served with him in the House for 27 years and regarded him as "a man of splendid courage, unimpeachable integrity, great ability and a splendid judicial preferment, and whose fairness cannot be questioned." Nevertheless several members recalled that the Speaker himself has on occasion criticized Mr. Lea for lack of initiative in pushing legislation through the Committee on Interstate and Foreign Commerce of which he is the Chairman.



On the other hand, a number of Congressmen insisted that Mr. Lea is a legislator of independent views not likely to take orders either from executive or legislative hads. Representative Lea, 69 years old, is one of the oldest members of the House in length of service. Although Mr. Lea was once a District Attorney in California, that was years ago and apparently his House colleagues do not regard him as "a ball of fire".

The inside fact regarding the resignation of Mr. Cox, according to Drew Pearson, was that Speaker Rayburn had worked out a deal with the Justice Department regarding this last Spring, but Cox refused to play ball.

"The deal was that Cox would resign as Chairman of the Committee, and simultaneously the Justice Department would drop its case against him", Columnist Pearson wrote. "Cox, however, was too tough even for persuasive Sam Rayburn. He would not step down.

"Finally, with the prestige of Congress seriously at stake, and with a constant barrage of criticism being hurled at every member of Congress, Cox yielded. He is reported to have been promised that the Justice Department case would be dropped.

"However, public criticism has now gone so far that the Justice Department continues to be very much on the hot spot. So the original deal may not stick. Public opinion may be too strong for the Justice Department and even the persuasive charm of Speaker Sam Rayburn.

"According to Congressman Will Rogers, Jr., the Cox military communique should be: 'Disengaging activities. Retiring to positions previously prepared.'"

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#### EASE UNLICENSED TRANSMITTER AND DIATHERMY REPORTS

The Federal Communications Commission hereafter will require manufacturers and dealers of diathermy apparatus to submit only monthly inventory reports to the Commission. The submission of these monthly inventory reports does not now appear necessary, the FCC states, especially in view of the present requirement that manufacturers of and dealers in diathermy apparatus give the Commission notice of disposition in the event of transfer of possession of such apparatus to anyone other than another manufacturer or dealer.

Concurrently, the Commission adopted an order (No. 99-B) to require submission of quarterly reports by manufacturers of and dealers in radio transmitters not licensed, instead of monthly reports as were required by Order No. 99-A.

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## FLORIDA COURT ABSOLVES ASCAP

The Florida Supreme Court has upheld a lower Court opinion that the American Society of Composers, Authors and Publishers is not a price fixing combination operating illegally in restraint of trade in the State of Florida and is therefore not prohibited from doing business within the State. The effect of this decision is to recognize the fact that the operations of the American Society of Composers, Authors and Publishers under the consent decree are such that the decision of the United States Supreme Court handed down prior to the consent decree is not applicable at this time. Decision was in the action of a Florida tavern which had entered into a contract with ASCAP on January 18, 1943. The Supreme Court decision says "We have found nothing either in the contract or in the record of the proceedings below which indicates that the contract is contrary either to the statutes of Florida or to the Federal statutes."

Palm Tavern, Inc. had sued to determine whether its contract with ASCAP was binding in view of State laws against monopolies. Attorneys contended a license from the Society for use of its music was a vital part of the tavern's business and that music copyrighted by the Society's members could not be obtained without the license because it would make the user liable to damages for infringement of copyright laws.

They also claimed the licensing amounted to price-fixing by ASCAP.

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## FCC AUTHORIZES CONSTRUCTION OF RELAY BROADCAST STATIONS

The Federal Communications Commission has granted the application of Larus and Brother Company, Inc., licensee of Station WRVA, Richmond, Va., for construction permits to establish two new relay broadcast stations. Both of the low-powered transmitters needed for the stations were acquired by WRVA in April, 1942. When set up, the two relay stations will be used for emergency purposes only, upon failure of the normal wire lines connecting the transmitter and studios of Station WRVA.

In granting the applications, the Commission noted that any obstacle in the granting of WRVA's petition because of the Commission's Memorandum Opinion of April 27, 1942, with respect to the use of critical materials, had been removed by the FCC's later statement of policy made August 28, 1943, authorizing the construction of new relay broadcast stations under certain conditions.

At the same time the Commission denied the application of the Black Hills Broadcast Company (KOBH), Rapid City, So. Dakota, for construction permit to install new transmitting equipment, change transmitter location, install a directional antenna system for both day and night use and change operating assignment from 1400 to 610 kilocycles, increase power from 250 watts to 5 KW, unlimited time.

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## WPB REVISES PREFERENCE RATING ORDER P-133

Preference Rating Order P-133 was revised today by the War Production Board to make it the exclusive controlling order for obtaining maintenance, repair and operating supplies for radio communication and radio broadcasting. CMP Regulations 5 and 5A governing expenditures up to \$500 for capital equipment under the MRO rating no longer apply to these businesses.

The amended order continues to give the AA-1 preference rating and use of the allotment symbol "MRO" to persons engaged in the radio communications business and AA-2 rating and the "MRO" symbol to person in the radio broadcasting business for obtaining maintenance, repair and operating supplies.

For obtaining these supplies, the rating of AA-5, without the "MRO" symbol is specifically assigned for the businesses of sound recording for commercial, educational and industrial purposes, and in the operation and maintenance of public address, intercommunication, plant sound and similar electronic systems, including systems for the controlled distribution of musical programs. Order P-133 previously had given an AA-2X rating for maintenance, repair and operating supplies for sound recording for commercial purposes.

International commercial point-to-point radio communication carriers are exempted from the necessity of obtaining special authorization for the purpose of expanding existing facilities and equipment (but not buildings) to the extent of \$1,500 for any one project, and may use the rating and allotment symbol. The exemption was made because these services are engaged in important direct and indirect war activity, the Radio and Radar Division of WPB said.

Other changes in Order P-133 include a clarification of tube inventory restrictions. Use of ratings and allotment symbol to buy or repair a tube is prohibited unless a person has in stock less than one new and one rebuilt tube, or two rebuilt spare tubes per active socket. The previous order did not restrict the number of repaired tubes that could be stocked. However, no important change in the average radio station's stock is likely to result from this restriction.

Another added restriction bars use of the ratings to obtain supplies for the War Emergency Radio Service, the amateur operators' group under the Office of Civilian Defense.

Service repair shops doing maintenance and repair work for persons engaged in radio communication may use the rating and symbol of a customer to do such work, and the restrictions on use of ratings apply as to the customer.

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## PALEY OVERSEAS FOR OWI; KESTEN NEW CBS EXEC. V-P

OWI Director Elmer Davis announced Thursday that William S. Paley, President of the Columbia Broadcasting System, has accepted an overseas assignment with OWI for a limited period. Mr. Paley will join C. D. Jackson, Director of all OWI operations in Italy, North Africa, and the Middle East, and will operate with the Army's Psychological Warfare Branch at Gen. Dwight Eisenhower's headquarters.

Paul W. Kesten, then Vice-President and General Manager, Wednesday was elected CBS Executive Vice-President. He joined CBS in July, 1930, to become the network's Director of Sales Promotion. His rise thereafter was rapid. In December, 1934, he was elected a CBS Vice President; in May, 1937, he was voted a place on its Board of Directors, and in March, 1942, became CBS Vice-President and General Manager.

Mr. Kesten, a native of Milwaukee, was born August 30, 1898. After attending the University of Wisconsin for two years, he enlisted in the Marine Corps. The first World War armistice was declared before he had completed his training. Shortly thereafter he was appointed Advertising Manager of the Gimbel Store in his home city - parent unit of the present department store group. In 1922 he became Vice President and Advertising Manager of the Foreman and Clark Stores, clothing chain from Chicago to the West Coast.

There followed a period with Lennon and Mitchell in New York until his association with CBS 13 years ago.

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## GIVE THEM THE BAD NEWS TOO, OWI RADIO GROUP ADVISES

Following through with the same advice given by the Newspaper Advisory group, the Radio Advisory Committee urged the Office of War Information to give the people of this country the bad news as well as the good.

At the conclusion of their first session in Washington last Tuesday, the Committee gave out the following statement:

"In its initial meeting with the Office of War Information, the Radio Advisory Committee carefully reviewed the past operations of the Radio Bureau of the Domestic Branch and considered suggestions pointing toward a closer and more effective cooperation between the Government, the broadcasting industry and the OWI. The Advisory Committee commended the Radio Bureau for the efficient functional cooperation rendered to the industry by coordinating the needs and requests of the various governmental agencies and budgeting those requests in a form that could best be handled by the



industry, with due evaluation of the needs of the government. The Radio Advisory Committee requested that all future requirements of governmental agencies for radio facilities in their various drives and campaigns, be cleared exclusively through the OWI so that full advantage could be taken of the coordinating functions provided by the OWI.

"The Radio Advisory Committee also commended the OWI for the recent improvement and expansion of its activities in facilitating the release of war news and recommended a continuation and expansion of such material because the broadcasters are acutely aware of the desire of the listeners of America for all of the war news, whether it is good or bad, that it be released to them factually at the earliest possible moment that the exigencies of military and naval strategy will permit."

Members of the Committee are: William S. Paley, CBS President; Niles Trammell, NBC President; Mark Woods, Blue President; Miller McClintock, Mutual President; Lewis Allen Weiss, Vice-President and General Manager, Don Lee; Leo Fitzpatrick, Executive Vice-President and General Manager, WJR, Detroit; Herbert L. Pettey, Director, WHN, New York; Martin B. Campbell, Managing Director, WFAA WBAP, KGKO Dallas-Fort Worth; and Neville Miller, NAB President.

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#### FLY MAKES THREE FREEDOM SPEECHES IN WEEK; BUCKS CBS

Apparently feeling his oats after the dethronement of Representative Eugene Cox, of Georgia, Chairman James L. Fly of the Federal Communications Commission practiced what he preached by delivering three speeches on the freedom of speech in less than a week. The first was at the Advertising Club in Boston Tuesday, the second was a streamlined version of the Boston speech which he broadcast over Columbia Broadcasting System Wednesday night, and the third was of the same to the Radio Executives Club in New York Thursday but with a kick in the pants of the Paul White CBS news censorship policy.

At the Radio Executives Club, Mr. Fly got a prompt answer from Paul Kesten, new Executive Vice-President of Columbia. Furthermore, the radio executives voted to give Mr. Kesten an opportunity to reply to the charges more fully at a later date.

Mr. Fly said that the Columbia Broadcasting System's policy of "regulating the expression of the views and opinions of its news analysts" was a curtailment of freedom of speech.

"Personal opinions, of course, should not be aired in the guise of news", he said, "but, assuming competency, if the statements are properly labeled as opinion, I can hardly see the reason why they should not be aired."

"It is a little strange to reach the conclusion that all Americans are to enjoy free speech except radio commentators, the very men who have presumably been chosen for their outstanding competence in this field."

Chairman Fly took quite a fall out of the National Association of Broadcasters' Code of Ethics upon which the policy is based but also included the other networks.

Mr. Fly said:

"Licensees must become aware that management should take stock of itself and re-explore the whole significance of free speech applied to radio", he continued. "We can no longer operate under dodge clauses. No precedents ought to be allowed that will make this industry automatically stagnate."

"One point should be clear - these are not Government problems in the first instance. They are primarily problems for the industry itself to face and to solve in the best traditions of American free speech."

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#### RADIO AMATEURS ALLOWED TO MAKE AND TRANSFER SETS

In order to permit radio amateur operators under direction of the War Emergency Radio Service of the Office of Civilian Defense to make or transfer radio sets and electronic equipment for civilian defense emergencies, Limitation Order L-265 was amended today by the War Production Board.

The amendment provides that restrictions of the order shall not apply "to gratuitous transfers of electronic equipment to or for the account of the War Emergency Radio Service by any person; and to the manufacture or transfer of electronic equipment for the account of the War Emergency Radio Service by any individual who is not a commercial producer or supplier of electronic equipment."

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#### CONSIDER COLLEGE RADIO NEWS WRITING STANDARDS

Standards of radio news writing and radio news broadcasting curricula in schools and colleges will be discussed October 15th by a sub-committee of the Radio News Committee of the National Association of Broadcasters in New York City. Paul White, Director of News broadcasts at CBS, and Bill Brooks, NBC Director of Special Events, are working with Walt Dennis, News Committee Secretary, as the sub-committee.

Lyman Bryson, Director of Education for CBS, and Dr. James R. Angell and William Burke Miller of NBC's Public Service Division will meet with the News Committee sub-committee as advisors and counsellors. It is proposed to set up curricula standards for radio news writing and radio news broadcasting courses, modeled after those now in effect at such universities as Northwestern, Columbia and Minnesota. Principal end in view is to help alleviate the serious manpower shortage in broadcasting newsrooms.

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