

HEINL RADIO BUSINESS LETTER

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No. 1584

December 7, 1943

BELIEVED OUSTED FCC EMPLOYEES LOSE IF THEY WIN

The general belief in Washington is that any way the case is decided, the three alleged subversives - Dr. Goodwin Watson and William Dodd, Jr., of the Federal Communications Commission, and Robert Morss Lovett, Executive Assistant to the Governor of the Virgin Islands - who formally filed suits last week to test the constitutionality of the legislative action, will come out at the little end of the horn. If so, this will be too bad for the gentlemen in question because though there is big talk about it being a matter of principle, what they are really fighting for is to get themselves back on Uncle Sam's payroll, since there doesn't seem to be any pressing demand for their services elsewhere. In fact, though the suits ostensibly have been filed for back pay for the one week after November 15th when Congress endeavored to oust them, their counsel, Charles A. Horsky admitted that the purpose of the action is to restore their jobs.

One well-informed observer was skeptical of the effectiveness of the Court action, which has just been started, even if a favorable judgment is eventually obtained. He pointed out that no Court could make Congress appropriate the money to pay any judgment which might be obtained and asserted there are scores of instances where Congress has refused to appropriate money to settle judgments in the past. Thus they would get neither their back pay nor their lost jobs.

Also regardless of how the Courts may decide, there may be repercussions, for Chairman James L. Fly and Secretary Ickes for allowing the men to remain at their desks after November 15th, the date Congress set for their departure. There is a law forbidding the Government to accept gratuitous services (the reason for the \$1 payment to \$1 a year men). It is claimed that Messrs. Fly and Ickes (who, one person remarked, stood by the men as if they had been their own sons) in permitting them to remain at their desks after their salary had been legally stopped, violated the law.

The House Committee investigating the Federal Communications Commission last week, questioning the action, asked Commissioner Tam Craven about it. FCC counsel Charles R. Denny defended the Commission's course on the ground that the statute was not violated inasmuch as the FCC was willing to pay the men if the Court action was favorable.

The suits were filed by Mr. Horsky of the law firm of Covington, Burling, Rublee, Acheson and Shorb, of Washington. The Justice Department has several months in which to file the Government's answer, but is expected to reply much sooner in view of the unusual nature of the case. An appeal to the Supreme Court is almost certain to follow.

The suits state that the Congress unconstitutionally encroached on the power of the President and also has deprived the three men of their right to due process of law.

"The proceedings before the Special Subcommittee of the House Committee on Appropriations . . . were secret and not public, and were conducted without opportunity for plaintiff to know what charges were to be made against him, to prepare a defense of any kind, to be represented by counsel, to produce witnesses in his behalf, to cross-examine witnesses, to confront his accusers, or to employ the compulsory process of the Committee in his behalf. Section 304 is arbitrary special legislation."

Dr. Lovett's suit quotes Secretary Ickes, who tried to outwit Congress by transferring Lovett from the position of Secretary to the Governor of the Virgin Islands to Executive Assistant to the Governor, as saying, "I wish to repeat the request that you continue in the office of Executive Assistant to the Governor. Funds may not be available to pay your salary until the unconstitutional prohibition of the Urgency Deficiencies Act is declared invalid by the Courts. I am confident, however, that the prohibition will be so adjudged, and a principle fundamental to democratic government will be upheld."

All the petitions state that the plaintiffs have "at all times born true allegiance to the Government of the United States" and have not "in any way aided, or abetted, or given encouragement to rebellion against the United States."

Details of the hearing before the House Appropriations Subcommittee which were released in July, showed that Dr. Lovett was frequently charged with being closely connected with Communists and Communistic organizations. Dr. Lovett replied that he was not responsible for the Communistic philosophy, adding, "I have never endorsed it, and my association with Communists has been strictly for common ends which I believe in."

Similar charges of affiliations with Communistic organizations were made against Dr. Watson.

Mr. Dodd informed the Committee that he had lectured in a campaign to raise money for refugees and medical aid to Spain, and later for such aid to China, while Mr. Watson was examined sharply regarding charges in a formal report that he had admitted "association or affiliation with 12 or more organizations", some of which were characterized as "front organizations" and others as "questionable".

Dr. Lovett, whose salary was \$4,600 a year, is seeking to recover \$211.18, more or less, which represents approximately two weeks' pay. He received his last pay check with the amount deducted, November 30. Mr. Dodd, an FCC news editor who made \$3,200 a year, and Mr. Watson, who was Chief of the Analysis Division, Foreign Broadcast Intelligence Section of the FCC at \$6,500 a year, are seeking \$79.75 and \$148.50, respectively, representing the amounts they

claim to have earned between November 15 and November 21, the date of their last pay checks.

In line with this position, Mr. Ickes has permitted Dr. Lovett to continue working without pay on his job in the Virgin Islands, a \$4,600 a year post, with a 25 per cent differential for service outside the United States. Both Mr. Dodd and Mr. Watson are now taking their annual leaves in accordance with the Congressional mandate.

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FOLSOM TO DIRECT RCA-VICTOR; THROCKMORTON RETIRES

Frank M. Folsom, who until the first of this month served as Chief of the Procurement Branch of the Navy Department, has been elected a Vice-President and a Director of the Radio Corporation of America, and will be in charge of the Company's Manufacturing Division, RCA Victor, with principal plants in six cities and headquarters at Camden, New Jersey. Mr. Folsom was born in Sprague, Washington, and is 49 years of age.

David Sarnoff, President of RCA, also announced that the resignation of George K. Throckmorton as an RCA Vice-President and Director had been accepted. Mr. Throckmorton, present head of the RCA Victor Division, is retiring for reasons of health, but will continue as a consultant of the Company.

Secretary Knox in a letter to Mr. Sarnoff said:

"Frank Folsom has done a real job for me in the two years he has been here in the Office of Procurement and Material. We shall all miss him."

Under-Secretary Forrestal stated:

"Frank Folsom has rendered great services and has been of the greatest help to me during many crowded months. The Company and its stockholders are to be congratulated upon his election as an officer, and I am sure that your own association with him will create the same feeling of admiration and personal regard which all of us in the Navy have come to have for him."

WPB Chairman Donald Nelson said:

"My experience with Mr. Folsom dates back over a number of years. I first knew him as a competitor when he was at Ward's and, believe me, he was a good one. When I came down to Washington and was asked to take the job as Director of Purchases, the first man in the country I asked to come here to help me was Frank. He has been close to me ever since.

"He has done an outstanding job in helping our country get ready to win a war. I am delighted that he is joining your organization."

In commenting on Mr. Folsom's election, Mr. Sarnoff said:

"The operations of the RCA Victor Division, with its large plants and many thousands of employees, involve the design and manufacture of important war production assignments for the Navy, Army, Air Forces and Maritime Commission. These assignments call for leadership, experience and ability of the highest order. The need for a man of unusual qualifications is enhanced by the prospect of our post-war manufacturing activities in radio, television, electronics, phonograph records and allied fields. Recognizing the problems of full scale war production, as well as post-war conversion and the expanded role distribution will need to play to provide maximum employment, we feel the company is extremely fortunate in its choice of Mr. Folsom."

The speeding up of Navy procurement has been attributed to the unique authority entrusted to Mr. Folsom, through the delegation to him of full responsibility to act for both the WPB and the Secretary of the Navy in clearance of all contracts in excess of \$200,000. At the same time Mr. Folsom has been Chairman of the Procurement Policy Board of the WPB, the coordinating agent for procurement policy of all the war services and agencies.

Except for services during this and the first World War, Mr. Folsom's career has been in retail, mail order, and chain store distribution. Educated in the public schools in Oregon, he started in business with Lipman Wolfe & Co., Portland, Oregon, then went with Hale Brothers, San Francisco. Just before and immediately after serving with the Air Corps in World War I, he was with Weinstock, Lubin & Co. of California. He rejoined Hale Brothers in 1923 and became their General Manager. In 1932 he became Pacific Coast Manager for Montgomery Ward's Mail Order and Retail Stores, and one year later became Vice President in charge of merchandise, and a Director of Montgomery Ward with headquarters in Chicago.

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STABILIZATION OF TELEGRAPH INDUSTRY URGED

Presidential appointment of a Stabilization Committee in the telegraph industry was urged by the American Communications Association, Local 35, CIO, in Washington, D. C., this week.

The plan advocated is one formulated by the International Union. It provides for negotiation of a single national collective bargaining contract which would include all unions and membership for the duration of the war. It would outlaw jurisdictional disputes and strikes, it was reported.

Members of the American Communications Association were reported to have signed individual pledges against strikes, lockouts and organizational disputes. The pledges were addressed to the President and will be forwarded to him by the national office of the Union.

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HOW PRESIDENT AIDED FCC REVEALED IN HIS LETTER

President Roosevelt was revealed as having directly backed Chairman Fly in the row between the Federal Communications Commission and the War and Navy Departments when his much talked of letter was finally made public at a hearing of the House Committee investigating the Commission last Friday. No date has been set for the next session, which will be held at a time to be designated by Representative Lea (D), of California, Chairman of the Commission. FCC Commissioner T.A.M. Craven also concluded his exhaustive testimony before the House Committee.

After the President's letter had been read, there wasn't anyone present who seemed to have any doubt as to its all-out endorsement for Chairman Fly in his battle with the Congressional group.

Mr. Roosevelt emphasized that the Board of War Communications, headed by FCC Chairman Fly, is "the responsible inter-departmental body charged with responsibility in the field of war-time communications."

The President advised that "any differences" should be reviewed by the War Communications Board.

Mr. Roosevelt's letter was addressed to Secretary of War Henry L. Stimson and Secretary of the Navy Frank Knox.

Secretaries Stimson and Knox had proposed an Executive Order transferring radio intelligence functions from the hands of the FCC on the grounds that duplication by the FCC has "endangered the effectiveness and security of military radio intelligence."

The Chief Executive declared that "after careful study by the staff of the executive offices" and "full consideration", he determined that the transfer should not be made.

Commissioner Craven testified that the radio intelligence activities of the Federal Communications Commission had been called by the Navy more of a hindrance than a help both before and after Pearl Harbor.

"Did they inform you that the Navy did in fact issue orders to ships on information that turned out to be erroneous?" Eugene L. Garey, counsel for the Committee, asked.

"They so stated to me", Mr. Craven replied.

Mr. Craven said that he was not at liberty to reveal when, where and under what circumstances the incidents occurred and that he would give the names of the officers only in executive session.

Representative Louis E. Miller, (R), of Missouri, suggested questioning these officers, but Mr. Garey reminded him of the President's order barring all officers of the Army and Navy, as well as the departmental secretaries, from testifying before the Committee.

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SENATORS HEAR PROF. ARMSTRONG; COMMISSIONER WAKEFIELD

Appearing before the Senate Interstate Commerce Committee on the White-Wheeler Bill to revamp the present outmoded Radio Act, Dr. Edward H. Armstrong, Professor of Electrical Engineering at Columbia, and father of "FM", and FCC Commissioner Ray C. Wakefield testified regarding questions which the Senators were considering.

Professor Armstrong predicted that FM would be the major development after the war. So great have been the technical and scientific advances already made, and so much greater are those in prospect, he testified, that broadcasting stations in the future would be limited, not by the wave-lengths available, but to the number of stations which communities can support. The Professor also told the Committee that FM had solved the problem of static.

Commissioner Wakefield gave his views on a number of subjects, such as competition between stations, time sales on controversial issues and unification of U. S. radio and cable service abroad.

Commissioner Wakefield was of the opinion here at home that broadcasting stations should be allowed to compete as newspapers do. He said that if a broadcasting frequency is available new stations should be permitted to operate, even if the radio field might not be considered capable economically of supporting additional broadcasters.

"I think that the more access the people have for dissemination of ideas the better democracy will work", he said, pointing out that newspapers have complete freedom of competition, and that such competition does a valuable public service.

Mr. Wakefield declared that freedom of speech would suffer if the White-Wheeler proposal to prohibit the sale by radio stations of time for the discussion of controversial issues prevailed.

Mr. Wakefield said he deplored a provision "that no time shall be sold for the discussion of controversial questions", adding "freedom of speech takes a beating when controversial questions are excluded."

"It takes a worse beating", he asserted, "when the network officials are permitted to determine what is and what is not a controversial question."

Commissioner Wakefield strongly advocated merging our communications interests in foreign fields.

Asked by Senator Wheeler, Committee Chairman, if it was true, as reported by Senators recently returned from abroad, that "Great Britain has at present more or less of a monopoly on short-wave", he answered:

"I think that's true, and it constitutes a large part of our problem."

Asked what the Commission had done and was doing to protect and help American interests in the matter of present and future communication facilities abroad, he declared that it was "promoting the merger."

"How many and what companies would be included in the merger?" Senator Wheeler asked.

He named Press Wireless, Inc., Radio Corporation of America Communications, American Telephone and Telegraph Company, International Telephone and Telegraph Corporation, adding that the merger would also cover a "few others".

The witness said there was some question as to whether or not Press Wireless should be included because it wasn't a commercial concern, its object being to transmit news for the press.

Commissioner Wakefield dismissed the present charges against the FCC of exceeding its authority and of lack of confidence in the Commission as "unrest", much of which had been "manufactured" by opponents of regulation and "deliberately promoted by the press in its reports of radio news in newspapers and magazines."

He agreed that it might be well to define more clearly the powers of the Commission, but not to limit them beyond the boundaries fixed by the 1934 Communications Act, which, he insisted, had never been exceeded by the Commission.

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WLB RULES ON POSTAL EMPLOYEES SHIFTED TO W.U.

The War Manpower Commission has ruled that former employees of the Postal Telegraph Company, now merged with the Western Union Company, cannot be considered as laid off, discharged or otherwise involuntarily separated from employment when transferred to the payrolls of the second company. Such employees are not, therefore, entitled to statements showing their availability for new employment.

The War Manpower Commission ruling is based upon the following facts:

1. The rights and benefits of all transferred employees are securely protected by the terms of the merger. The change of employer is, hence, a technical one which in itself does not affect the worker.

2. Shortages of employees in the telegraph industry which is part of the essential communications services industry, have caused the quality of the service to deteriorate dangerously.

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BBC "DON'TS" EXPLAINED BY ITS U. S. REPRESENTATIVE

To the extent of almost a column, the New York Times carried an explanation of the new British Broadcasting Corporation's restrictions and "don'ts" made by Lindsay Wellington, North American BBC representative, who wrote, in part:

"According to an Associated Press summary of an article in the London Sunday Chronicle, which The New York Times printed, these proscriptions concern a wide range of topics, from alcohol, the Home Guard and women in the services, to references to American soldiers, and even the Southern (American) accent. It is alleged that all of these have been designated out of bounds as subjects of microphone jesting.

"First let me say officially, categorically and comprehensively that, with a single exception - jokes on the subject of the black market - the report of these alleged repressions has no substance whatever in fact. They do not exist. If they did they would virtually prevent broadcasting altogether in many of its important functions in Britain. A denial has duly been issued at headquarters of the BBC in the direction of Fleet Street radio columnists in London.

"But rather than accept these assurances from one who may for all your readers now be simply another of the timid, elderly Victorian spoil-sports of the BBC, I should like strongly to recommend all interested Americans to listen personally to such of BBC's programs as are audible over here. It would hardly be possible, I think they will agree after listening, to produce programs such as the weekly exchange CBS-BBC feature 'Transatlantic Call', originating in many different regions of America, including recently Montgomery, Ala., and Tampa, Fla., without running heavily into accents, including the Southern accent, or to avoid references of every kind to American soldiers by their fathers and mothers who take part as typical citizens in the broadcasts.

"It does not follow, of course, that the BBC sees always eye to eye with either professional jokesmiths or with private connoisseurs of hilarity among the general public. A joke is a joke. But it can be good or bad. We prefer the good ones. In practice the material itself supplies the answer. The same applies to popular songs. I can conceive, for example, that 'humorous references to religion' might be taboo on any broadcasting station in the world. But that would hardly exclude 'Praise the Lord and Pass the Ammunition', and did not in fact work that way in America or in Britain.

"As for the black market, the situation is simply that the BBC considers it too serious a topic for jesting. The elimination of jokes about it has behind it the same object as the motion-picture films produced in America in this connection and the anti-black-market publicity emphasized on network broadcasts over here - namely, to bring home the seriousness of rationing regulations and to mobilize sentiment against violators."

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HANDBOOKS FOR INTER-AMERICAN UNIVERSITY OF THE AIR

Handbooks have been compiled by the National Broadcasting supplementing two Inter-American University of the Air programs.

"Lands of the Free" is a history series and "Music of the New World" is a music series. Both are designed to meet college standards of instruction. "Lands of the Free", for example, is currently being used in more than 100 colleges as either recommended or required listening.

Forewords to the handbooks have been written by Dr. James Rowland Angell, former President of Yale University, and now NBC's authority in such matters. Dr. Angell was assisted in this by Sterling Fisher.

In New York, the Board of Education has approved courses based on both programs for the continuing instruction of teachers. Teachers satisfactorily completing these courses are eligible to receive salary increments.

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"RADIO AT WAR" FILM AVAILABLE FOR SCHOOLS

Radio's dramatic part in this global conflict, where communication is playing a determining role, is portrayed in an action-laden 24-minute presentation 16 mm. sound film, "Radio at War", which will be available for release to schools, colleges and civic organizations shortly after January 1. The picture is sponsored by Radio Corporation of America, in cooperation with the communication branches of the Army and Navy.

Training camp routine is pictured in interesting detail, followed by scenes taken at actual maneuvers during which many phases of electronics communications are brought into play. Moving rapidly forward, the film carries battle sequences, reveals how radio-borne orders to ship commanders allow instantaneous action to meet possible attacks.

A high point is the recent official Army and Navy motion pictures of an invasion in the southwest Pacific and the establishment of a beachhead, with authentic battle scenes adding to the exciting portrayal of radio's vital part in the operations. Final scenes show an operator on the beach with his Army Signal Corps outfit, contacting a warship at sea, relaying information on the battle ashore, and the message being received aboard ship.

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SEES TELEVISION PROGRESSING IF PUBLIC CHOOSES PROGRAMS

Success of television depends upon the right given the public to choose its programs and the freedom given broadcasters to respect the public choice, C. L. Menser, Vice-President in Charge of Programs of the National Broadcasting Company, declared last week in a talk before the Public Relations Clinic of the United States Savings and Loan League in Chicago.

Television, Mr. Menser pointed out, is an "established fact", and improvement in both the quality and quantity of current television programs is constantly taking place.

"Two things are worthy of note", Mr. Menser said. "The ultimate success of television, like that of radio, will be dependent upon public acceptance. Without that acceptance, it can have no real success. And it cannot have that acceptance unless the public is given the right to choose its programs and the broadcasters are given the freedom to respect the public choice. The second thing worthy of note is that television, like radio, will find its great fulfillment in the home. Whatever other uses it may have it will, I believe, find its greatest acceptance by the public as a device for use in the home. To that end, it will complement and fortify, rather than oppose or nullify, those contributions to the home life of America which have been made by radio. In this day and age that is an important fact."

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WJZ NOVEMBER TIME SALES TOP 1942 BY 69 PERCENT

Time sales on Station WJZ during the month of November were 69 percent over sales during the same month in 1942. Total sales during the first 11 months of this year increased 42 percent over the same period in 1942.

Sales have been made to the amusement business - an increase in motion picture advertising has been particularly noticeable - and radio promotion by publications has also been heavier. The retail field is also partly responsible for the increase in business on WJZ.

One significant aspect of the sales picture on WJZ is the increase in recent months in the sales of program series, in contrast with the first half of the year when sales of one-minute announcements were heavy and program sales were at a minimum.

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 ::: TRADE NOTES :::
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Lectrofilm, a new synthetic dielectric material for capacitors, developed after several years of General Electric laboratory research, and made of materials available in the United States, has been announced by the Company.

Lectrofilm, the development of which was hastened by the growing shortage of high-grade mica, can be best applied to the manufacture of most radio-frequency-blocking and by-pass, fixed capacitors used in communications and other electronic equipment.

KICD, Spencer, Iowa, automatically became a Mutual affiliate, when it joined the North Central Broadcasting System, affiliated with Mutual as a unit, last Sunday, December 5th.

The world's longest "talking book" for the blind has just been completed, the Library of Congress has announced. It is a recording of Count Leo Tolstoi's famous novel, "War and Peace".

A talking book is a slow-playing phonograph recording prepared specifically for the blind. "War and Peace", never available before for the blind, totals 119 records in eight containers.

Congress in 1931 authorized an annual appropriation for books for the adult blind. Duplicates of each book are placed in 27 libraries throughout the country. A WPA project made 23,500 talking book machines for blind readers.

The following dividends were declared last week following the Board of Directors of the Radio Corporation of America held last week:

On the outstanding shares of First Preferred stock 87½ cents per share, for the period from October 1, 1943 to December 31, 1943, payable in cash on January 1, 1944, to the holders of record of such stock at the close of business December 13, 1943.

On the outstanding shares of Common stock, 20 cents per share, payable in cash on January 26, 1944, to the holders of record of such stock at the close of business December 17, 1943.

"How to Promote Your Program", which is Booklet #4 in the series being distributed by the Retail Promotion Committee for the Broadcasting Industry, will be issued at an early date.

The biggest package of new commercial business to be scheduled on any network within a single month's period was set up in the month of November on the Don Lee Network, according to Sydney Gaynor, Sales Manager of the Don Lee Broadcasting System.

Among the 12 programs totalling seven and a quarter broadcast hours weekly were the "Jack Benny" repeat broadcast for General Foods; "Point Sublime" for Union Oil; and "What's the Name of that Song" for 42 Products, Inc.; "Goodwill Hour" for Clark Candy, etc.

The Nation's Number One Swoon-Singer will originate his Sunday, December 12th, 7:15 P.M. show from WTOP-CBS station in Washington, but his studio audience will consist of one lone girl! The WTOP has decided to limit the audience to the girl who writes the best letter of 25 words or less on "Why I Swoon Over Sinatra!"

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