

The National Association of Broadcasters

1760 N STREET, N. W. * * * * * WASHINGTON 6, D. C.

July 3, 1943

SPECIAL LEGISLATIVE BULLETIN

No. 5

F. C. C. Investigation Under Way

House Committee Convened July 2

Herewith are charges and statements presented at opening session. Committee adjourned to re-convene Friday, July 9

STATEMENT OF EUGENE L. GAREY, GENERAL COUNSEL TO THE SELECT COMMITTEE OF THE HOUSE OF REPRESENTATIVES TO INVESTIGATE THE FEDERAL COMMUNICATIONS COMMISSION, MADE AT THE OPENING OF THE PUBLIC HEARINGS ON JULY 2, 1943.

Mr. Chairman and Members of the Committee:

The House, by practically a unanimous vote, on January 19, 1943, passed Resolution No. 21, pursuant to which your Committee was appointed by the Speaker "to conduct a study and investigation of the organization, personnel and activities of the Federal Communications Commission with a view to determining whether or not such Commission in its organization, in the selection of personnel, and in the conduct of its activities, has been, and is, acting in accordance with law and the public interest."

For sometime past, at your direction, your staff has been engaged in an investigation of the functioning of the Federal Communications Commission, and is now prepared to submit to the Committee, for its consideration, evidence of certain phases of the Commission's activities which has come to the staff's attention during the progress of its work.

Since these particular matters relate primarily to the radio activities of the Commission under Title III of the Communications Act of 1934, it may not be inappropriate at the outset of these public hearings to make a brief reference to the recorded background and legislative history of federal regulation of radio communications.

Radio broadcasting is the transmission of electrical energy from a station using a specific frequency to receivers attuned to the same frequency without the aid of physical connection by wire.

The radio art emerged from its development stage to one of practical utility by the year 1910. The many

advantages to mankind resulting from the steady progress made in this field received early recognition by the Congress. The first exercise of the power of the Congress in the radio field is found in the passage of the Wireless Ship Act on June 24, 1910 (36 Stat. 629). By this Act, any steamer authorized to carry fifty or more persons was forbidden to leave American shores unless equipped with radio communication apparatus in charge of a competent operator.

Since the Secretary of Commerce and Labor was administering the marine navigation laws, the administration of the Wireless Ship Act was delegated to that cabinet officer.

In 1912 the United States ratified the first international radio treaty (37 Stat. 1565). Radio was then used primarily for radio telegraphic communication, since radio broadcasting, as we now understand that term, had not then been developed. Nevertheless, the requirement for more comprehensive regulatory legislation had at this early date become imperative.

In obedience to our treaty obligations, the Congress, on August 13, 1912, enacted the Radio Act of 1912 (37 Stat. 302). This Act provided for the federal licensing of radio transmitters and prohibited the use of any apparatus not so authorized. By this legislation certain frequencies in the radio spectrum were allocated for use by the Government and restrictions were imposed upon the character of wave emissions, the transmission of distress signals, and the like. The administration of this Act was likewise entrusted to the Secretary of Commerce and Labor.

For a period of years no serious enforcement problems arose. Meanwhile, however, the radio art had developed to the point that standard broadcasting had become practical. The first World War had rapidly accelerated the development of the art, and in 1921 the first standard broadcasting stations were established. They grew rapidly in number, and by 1923 there were several hundred such stations operating throughout the United States. As a direct and immediate result of this rapid growth, a grave problem was presented. Two radio stations broadcasting simultaneously upon the same frequency

cannot be intelligibly heard over receiving sets within the range of both stations. The chaos thereby resulting in the ether is characterized in radio as interference. With the expansion of standard broadcasting, this problem of interference threatened ultimately to destroy the usefulness of radio.

The problem of interference, which rarely arose prior to the first World War as there were more than sufficient frequencies for all the stations then operating, became a problem of the first magnitude.

The development in radio broadcasting, resulting as it did in a tremendous increase in the number of stations, made the 1912 Act obsolete, because under it the Secretary of Commerce and Labor was required to grant a license to any applicant, and licensees were not required to confine themselves to their allotted frequencies. A factor further contributing to this obsolescence was that the 1912 Act did not set aside any portion of the useful radio spectrum for the exclusive use of commercial broadcasting stations. The Secretary sought to remedy this condition by allocating two frequencies to the standard broadcasting stations, and licensing them to use either of these channels. This attempted solution, however, proved entirely unworkable.

The spectrum was then divided among the various users and allocations were made to each particular type of service. Frequencies were provided for the standard broadcast stations, and resort was had to the policy of assigning a specific frequency to each station. However, the continuous increase in the number of stations soon rendered this solution likewise impracticable. Despite the increased number of frequencies allocated for standard broadcasting, there still were more stations than there were frequencies available.

The then known useful radio spectrum was inadequate to accommodate everybody, because there is a fixed natural limitation upon the number of stations that can operate without interference by one with another. Every channel in the standard broadcast band soon became occupied by at least one, and in many instances by several, stations. The standard broadcast band could only be extended (considering the then known practical limits of the spectrum) at the expense of other types of radio service, by withdrawing channels from them and assigning such frequencies to the broadcast stations, or by compelling existing broadcast stations to divide time with each other on the same channel and imposing severe limitations on the power of such stations so as to permit a number of them to use the same channel simultaneously, without causing too much interference.

Vigorous opposition to both of these methods was voiced, and the Secretary was powerless to remedy the situation under the law then existing. The problem of interference had become so acute by that time that it became all too apparent that, if radio was to survive, it was imperative that more comprehensive regulation be speedily procured. The Congress was therefore asked to enact legislation then deemed adequate to remedy the existing chaos in the radio field.

Recognizing that prompt action was essential if the potentialities and usefulness of radio were not to be lost to the nation, the Congress, to meet the national need, enacted the Radio Act of 1927 (44 Stat. 1162). There was thus placed on the statute books the first real comprehensive legislation for the control of radio communi-

cations. By this Act the Federal Radio Commission, composed of five members, was created and granted licensing and regulatory powers in the radio field.

The powers of that Commission were subsequently transferred to the Federal Communications Commission by the Communications Act of 1934 (48 Stat. 1064) which not only created a new commission comprised of seven members, but also mapped out a broader regulatory system for the entire communications industry.

While the powers of the Federal Radio Commission under the Radio Act of 1927 were transferred to the Federal Communications Commission, the substantial objectives of that Act remained the same. Title III of the Communications Act of 1934, which deals with radio broadcasting, reenacted, without substantial change, the provisions of the Radio Act of 1927.

By Section 303 of the 1934 Act, the Federal Communications Commission was granted these powers:

“Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

- (a) Classify radio stations;
- (b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;
- (c) Assign bands of frequencies to the various classes of stations, and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;
- (d) Determine the location of classes of stations or individual stations;
- (e) Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein;
- (f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this Act: PROVIDED, HOWEVER, That changes in the frequencies, authorized power, or in the times of operation of any station shall not be made without the consent of the station licensee unless, after a public hearing, the Commission shall determine that such changes will promote public convenience or interest or will serve public necessity, or the provisions of this Act will be more fully complied with;
- (g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;
- (h) Have authority to establish areas or zones to be served by any station;
- (i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;
- (j) Have authority to make general rules and regulations requiring stations to keep such records of programs, transmissions of energy, communications, or signals as it may deem desirable;
- (k) Have authority to exclude from the requirements of any regulations in whole or in part

any radio station upon railroad rolling stock, or to modify such regulations in its discretion;

- (l) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens of the United States as the Commission finds qualified;
- (m) (1) Have authority to suspend the license of any operator upon proof sufficient to satisfy the Commission that the licensee—
 - (A) Has violated any provision of any Act, treaty, or convention binding on the United States, which the Commission is authorized to administer, or any regulation made by the Commission under any such Act, treaty, or convention; or
 - (B) Has failed to carry out a lawful order of the master or person lawfully in charge of the ship or aircraft on which he is employed; or
 - (C) Has willfully damaged or permitted radio apparatus or installations to be damaged; or
 - (D) Has transmitted superfluous radio communications or signals or communications containing profane or obscene words, language, or meaning, or has knowingly transmitted—
 - (1) False or deceptive signals or communications, or
 - (2) A call signal or letter which has not been assigned by proper authority to the station he is operating; or
 - (E) Has willfully or maliciously interfered with any other radio communications or signals; or
 - (F) Has obtained or attempted to obtain, or has assisted another to obtain or attempt to obtain, an operator's license by fraudulent means.

(2) No order of suspension of any operator's license shall take effect until fifteen days' notice in writing thereof, stating the cause for the proposed suspension, has been given to the operator licensee who may make written application to the Commission at any time within said fifteen days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have fifteen days in which to mail the said application. In the event that physical conditions prevent mailing of the application at the expiration of the fifteen-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be held in abeyance until the conclusion of the hearing which shall be conducted under such rules as the Commission may prescribe. Upon the conclusion of said hearing the Commission may

affirm, modify, or revoke said order of suspension.

- (n) Have authority to inspect all radio installations associated with stations required to be licensed by any Act or which are subject to the provisions of any Act, treaty, or convention binding on the United States, to ascertain whether in construction, installation, and operation they conform to the requirements of the rules and regulations of the Commission, the provisions of any Act, the terms of any treaty or convention binding on the United States, and the conditions of the license or other instrument of authorization under which they are constructed, installed, or operated;
- (o) Have authority to designate call letters of all stations;
- (p) Have authority to cause to be published such call letters and such other announcements and data as in the judgment of the Commission may be required for the efficient operation of radio stations subject to the jurisdiction of the United States and for the proper enforcement of this Act;
- (q) Have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation;
- (r) Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act, or any international radio or wire communications treaty or convention, or regulations annexed thereto, including any treaty or convention insofar as it relates to the use of radio, to which the United States is or may hereafter become a party."

In this language we find undisputed statutory authority in the Commission to regulate the physical aspects of the use of the radio spectrum. Such authority was to be exercised within the lawful scope of the phrase "public interest, convenience or necessity" as such terminology is employed in the Act. Thus, there was delegated to the Commission the broad visitatorial powers of the Congress in this field. Many of the acrimonious disputes which have subsequently arisen respecting the lawful extent and scope of the Commission's powers may be directly traced to the employment of this phrase in the statute.

It is clear that the practically unrestricted delegation of power made by the phrase "public interest, convenience or necessity", without guiding standards and without the check and balance which a full judicial review might have provided, created ample and unlimited opportunity for the Commission, if so minded, to distribute unchecked Government favor and largesse among the politically faithful and subservient; and ample power with which to whip and cow all political opponents possessing the temerity and courage to protest or challenge the actions or policies of the Commission.

And it is claimed that the Commission has not altogether failed to take full advantage of the opportunities presented to establish its own purposes and policies and advance its own ends. It is said that the Commission has neither been slow nor loath to utilize its asserted

powers so to entrench itself that on occasion it has even defied the Congress. Power always seeks and thrives on more power. It has been ever thus in Government. The phrase "public interest, convenience or necessity" needs only the proverbial "man on horseback" to bring about a situation such as is said presently to obtain.

Much bitter controversy has raged—and still rages—over the extent and meaning of the statutory words "public interest, convenience or necessity" employed in this legislation. The Commission contends, and the Supreme Court has quite recently agreed, that its powers under Section 303 are much broader and more extensive than those herein suggested as indisputably granted.

Since the Committee will, in the due progress of its labors, enter upon a detailed study of the merits of this controversy and come to its own conclusions on these matters, I now leave that subject for later consideration and pass to other provisions of the Communications Act of 1934 under Title III.

The Commission is required by Sections 307(a) and 309(a) of the Act to license applicants for radio facilities upon a finding of "public interest, convenience or necessity," and the operation of a radio station without a license from the Commission is made illegal. Section 307(a) of the Act directs the Commission to distribute licenses, frequencies, time and power among the several states and communities so as to provide a fair, efficient and equitable distribution of radio service to each.

Evidence gathered by the staff will be presented clearly indicating that at least in this latter statutory direction, the Commission has wholly failed to observe the express intent of the Congress as laid down in the 1934 Act.

Mr. Chairman, I now offer in evidence as Exhibit 1, the Communications Act of 1934, as amended, and ask that it be marked and received in evidence accordingly.

I also offer in evidence, as Exhibit 2, a list of the persons who have served as Commissioners under the 1934 Act and the respective tenures of such persons, and ask that such exhibit be received and marked accordingly.

The administration of this Act by the Commission has been widely and bitterly criticized and condemned—to an extent, perhaps, to which no other federal administrative agency ever has been subjected. These complaints began with the inception of the Commission and have constantly continued to grow in intensity and bitterness.

In order intelligently to find and apply a remedy, a careful examination must first be made of the prevailing evils and abuses and of the basic causes underlying them. A determination should be made as to the extent to which relief by appropriate legislative action can be accorded against proven and conceded abuses. To this end much evidence will be submitted for the Committee's consideration. Some of this material has already been studied and sifted by the staff and more is in the course of examination.

What is charged against the Commission regarding the manner in which it has fulfilled its stewardship?

Broadly stated, among the widespread accusations leveled against the Commission and brought to the attention of the Committee for its investigation, are:

(1) That it has been and is so completely dominated by its Chairman that, for most purposes, it has become and is a one-man Commission;

(2) That it is entirely motivated by political partiality and favoritism in the performance of its duties;

(3) That its powers are unlawfully exercised for the purpose of furthering its own political ideologies and philosophies;

(4) That its powers are employed to reward its political friends and punish its political enemies;

(5) That the radio industry has been so purposefully terrorized by the Commission that it is enslaved and lives in an unremitting state of fear, as a result of which it acquiesces in every whim and caprice of the Commission;

(6) That the fear engendered in the industry is so great that licensees refrain from challenging unlawful and excessive acts of the Commission or from asserting their legal rights;

(7) That it acts arbitrarily, capriciously and without warrant of law;

(8) That in its quest for power it has incurred the antagonism and distrust of other Government departments and agencies;

(9) That it has sought to dominate and control the entire communications field, private and governmental, without lawful authority and contrary to the express intent of the Congress;

(10) That in its lust for power it has usurped the functions of the Congress by arrogating to itself the determination of matters of legislative policy resting solely within the competency of the Congress;

(11) That in pursuing this course it has adopted and followed the reputed communistic technique of "cessation and gradualism";

(12) That it has deliberately abstained from seeking from the Congress powers exercised but not possessed by it because of the fear that the grant of such powers would be denied;

(13) That it has made misrepresentations to the Congress for the purpose of procuring appropriations, and has expended appropriated funds contrary to the purpose for which they were granted;

(14) That it has unlawfully augmented its appropriated funds by procuring the transfer to it of funds appropriated to other departments and agencies;

(15) That it has violated laws of the United States and defied the will of the Congress;

(16) That it has wilfully evaded and procured the evasion and violation of laws affecting the civil service;

(17) That it has sought to cloak itself as an essential war agency making a vital contribution to the war effort, whereas in truth its alleged war activities constitute a danger and menace to national security;

(18) That in furtherance of its alleged war activities, it has drawn to its use manpower and critical materials from the limited sources available and needed by the armed forces of the United States, and has procured the exemption from military service of a large number of persons not entitled thereto;

(19) That it has set up a group commonly called "the Gestapo" for the purpose of unlawfully dominating the radio industry and rendering it subservient to its will;

(20) That "the Gestapo," under the guise of lawful and proper investigation, is violating constitutional rights of individuals;

(21) That it has been guilty of reprisals against

individuals who have attempted to challenge its asserted powers;

(22) That in its pursuit of power and dominance over broadcasting it has neglected its functions, duties and responsibilities in other fields of communication;

(23) That it is so much interested in obtaining publicity that the possibilities of publicity affect and govern its judgments and determinations; and

(24) That, notwithstanding the express statutory prohibition to the contrary, it has sought to exercise the power of censorship over radio broadcasts and has interfered with the right of free speech over the radio.

The investigation of these and many other matters has been occupying the time of your staff. In due course evidence bearing on the truth or falsity of these charges will be presented to you. In many respects the investigation is yet in a preliminary stage. It is clearly recognized that the inquiry into every phase of the Commission's activities must be thorough, searching and complete.

Without now attempting to specify with exactness, or to outline in detail, the entire program for the inquiry, it should be noted that testimony bearing on important questions of policy, such as network broadcasting, multiple station ownership, newspaper ownership, judicial decisions, practice and procedure, judicial review, personnel, and needed amendatory legislation will in due course be presented for your study.

The investigation will proceed always mindful that the Committee's primary desire is to achieve a constructive result. All inquiries will be made with that objective in view. The full benefits to be obtained from this investigation will not be satisfied by the mere portrayal of evils, since surely more is required. The elimination of the opportunity for the recurrence of abuses by wise and carefully considered corrective legislation must be the ultimate goal.

With the entry of this country into the war, there was a frantic rush by numerous governmental agencies, both old and new, to establish themselves as indispensable units in the conduct and winning of the war. In many instances the war activities of such agencies have been magnified, through one means or another, far and beyond all recognition that may properly be accorded them as true war agencies.

One cannot be unmindful of the fact that when alleged war activities are challenged, either on the floor of the Congress, in committee hearings, or otherwise, as wasteful, extravagant, or as unauthorized by law, the agencies attempting to enhance their importance to the war effort, and their friends, inevitably raise the hue and cry that the war effort is being impeded, and that an inquiry into their war functions will call for a disclosure of secret military information.

This investigation can and will be conducted without the disclosure of any such military information. The responsibility of nondisclosure rests quite as much on this Committee as upon any other part of Government.

It must be recognized that the existence of a state of war constitutes no license to raid the Treasury, either through waste and extravagance by lawfully constituted war agencies, through the operation of worthless activities under the guise of the furtherance of the war effort, or otherwise. Hence this investigation has thus far proceeded in such matters in the belief that this Committee, the Congress, and the public are entitled to know the

facts surrounding the Commission's so-called war activities and functions, to the end that such activities and functions may be abolished, curtailed or extended as the Congress shall see fit.

(Joint letter of the Secretaries of War and Navy to the President of the United States.)

WAR DEPARTMENT WASHINGTON

February 8, 1943.

DEAR MR. PRESIDENT:

We join with the United States Chiefs of Staff in recommending that you promulgate the attached executive order transferring from the Federal Communications Commission to the Department of War certain radio intelligence functions.

Through radio intelligence activities, the military forces of the United States and our Allies obtain military information of the utmost importance. Radio intelligence is an important military weapon.

Participation by the Federal Communications Commission in radio intelligence should be discontinued, because:

Since radio intelligence develops information as to the movements and dispositions of the enemy, it is essential, for reasons of coordination and security, that there be full military control;

Since the responsibility for military action rests with the armed forces, the responsibility for obtaining the technical information governing that action, must also be in the armed forces;

Military activities have been hampered by severe shortages of trained personnel and critical equipment essential to radio intelligence.

The Secretary of the Navy, on September 11, 1942, requested the Joint Chiefs of Staff to study the problem of responsibility and security of radio intelligence. The Joint Chiefs of Staff have made a thorough and comprehensive study, and their response (based on that study) is attached hereto. They, as well as the responsible military commanders in the field, are of the belief that radio intelligence, the location of clandestine stations, the supervision of military communications security and related activities must, in their very nature, be under the sole control of the military forces.

Enclosed herewith is a copy of a letter from Admiral Leahy recommending this action.

Yours respectfully,

/s/ FRANK KNOX, *Secretary of the Navy.*
/s/ HENRY L. STIMSON, *Secretary of War.*

The President,

The White House
Washington, D. C.

THE JOINT CHIEFS OF STAFF WASHINGTON

The Honorable,
The Secretary of the Navy,
Washington, D. C.

February 1, 1943.

MY DEAR MR. SECRETARY:

In response to your memorandum to the Joint Chiefs of Staff, dated September 11, 1942, on the subject of

responsibility for the conduct of security of military communications activities, the Joint Chiefs of Staff have had made a thorough and comprehensive study of the problems referred to therein in which full consideration has been given to the views of the military and naval commanders in the field who are charged with responsibility for military action based on radio intelligence. A summary of the findings is given in the following paragraphs.

In general, radio intelligence is the method of determining the enemy's plans and dispositions through observation of his radio communications. The facilities used for this are also used to assist our own forces through monitoring of communications channels to enforce security standards and to render assistance to our own craft.

Both the Army and Navy are engaged in radio intelligence and related activities. In addition, the Federal Communications Commission has set up an elaborate system of its own which is engaged in:

- (a) the location of enemy units at sea and abroad;
- (b) the interception of enemy army, navy, and diplomatic traffic;
- (c) the location of clandestine stations;
- (d) the giving of bearing aids to lost planes;
- (e) the maintenance of a "marine watch" at distress frequencies; and
- (f) the monitoring of military radio circuits.

These activities of the F.C.C. are constantly expanding and are a substantial drain upon available material and personnel.

Radio intelligence activities of the F.C.C. tend to be less and less useful as the art progresses. This is due to integration into proper radio-intelligence systems of large quantities of secret military information accumulated through special processes by the armed forces, including exchanges of military information with our allies, knowledge of present and proposed disposition of forces, and other special information which for obvious reasons cannot be disseminated to an agency such as the F.C.C. Moreover, information obtained by the F.C.C. through its own radio-intelligence activities is not, in the military sense, secure, due to inherent tendencies toward publicity of F.C.C. activities, use of non-secure methods of reporting and correlation, and the necessarily close relationship of F.C.C. military-intelligence activity with other phases of the agency's work.

Because of the essential differences between military and F.C.C. standards and methods it has not been possible to integrate their information, with the result that the attempted duplication by the F.C.C. of work that is being more effectively done by the military has in fact endangered the effectiveness and security of military radio intelligence.

In view of the foregoing it is concluded that the better prosecution of the war will be served by terminating all military and quasi-military radio intelligence activities of the Federal Communications Commission and confining such activities to the Army and Navy.

Since the Army's present need for personnel and equipment in the field of radio intelligence is greater than that of the Navy, all of the radio-intelligence facilities of the F.C.C. should forthwith be transferred to the Army entirely. The personnel of the F.C.C. heretofore engaged in radio intelligence should be made available initially as civilian employees of the Army, pending deci-

sion by the Army as to which shall be placed in military status, which replaced by military personnel, and which would be best retained in the Army as civilian employees.

The foregoing conclusions are supported by the views of the Army and Navy commanders in the field who are charged with responsibility for military action based on radio intelligence.

The Joint Chiefs of Staff therefore request the Secretaries of War and Navy to join in a recommendation to the President that he transfer to the Army personnel and equipment now used by the F.C.C. in the field of radio intelligence. A proposed executive order is enclosed.

From the standpoint of the present problem, the promulgation of this Executive Order would leave the F.C.C. in the radio field, with the responsibility for monitoring, processing and disseminating foreign voice, news, and propaganda broadcasts (its Foreign Broadcast Intelligence Service), the monitoring and inspection of stations licensed under the Communications Act of 1934, all necessary licensing procedures, including revocation and suspension, and the institution of prosecutions of *licensed* stations and operators for violations of treaty, statute, or regulations.

The Army and Navy (in accordance with divisions of function between themselves) would have full and exclusive responsibility for the conduct of military radio intelligence as described in the present report.

Sincerely yours,

For the Joint Chiefs of Staff:

/s/ WILLIAM D. LEAHY,
*Admiral, U. S. Navy,
Chief of Staff to the
Commander in Chief
of the Army and Navy.*

EXECUTIVE ORDER

Transferring Radio Intelligence Functions to the War and Navy Departments

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941, approved December 18, 1941, as President of the United States and Commander in Chief of the Army and Navy, it is hereby ordered as follows:

1. All functions, powers, and duties of the Federal Communications Commission in the field of radio intelligence and, particularly: in the conduct of direction-finding activities; the location of enemy radio transmissions abroad and at sea; the interception of radio traffic of foreign countries (excluding voice broadcasting); the detection, location and suppression of clandestine or illegal stations both abroad and within the limits of the United States, its territories and possessions and the areas occupied by its armed forces; the giving of radio and direction-finding navigational aids to vessels and aircraft; the monitoring of United States Army and Navy communications circuits and the maintenance of distress frequency watches, are transferred to the Departments of War and Navy in accordance with distribution of functions established between them.

2. All records and property (including radio transmitting and receiving equipment) and all personnel of

the Federal Communications Commission used primarily in the performance and administration of the functions transferred by this Order are transferred to the War Department for use in the performance and administration of functions transferred by this Order; but any personnel so transferred who are found by the War Department to be in excess of the personnel necessary for the performance and administration of such functions, powers, and duties shall be retransferred under existing law to other positions in the Government or separated from the service. So far as possible, personnel transferred who are found qualified therefor shall be placed in a military status.

3. So much of the unexpended balance of the appropriations or other funds available, including those available for the fiscal year ending June 30, 1943, to the Federal Communications Commission in the exercise of functions transferred by this Order as the Director of the Bureau of the Budget, with the approval of the President, shall determine, shall be transferred to the War Department for use in connection with the exercise of functions so transferred. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidations of obligations incurred against such appropriations or other funds prior to the transfer.

THE WHITE HOUSE,
February, 1943.

(Letter from Eugene L. Garey, General Counsel to the Select Committee of the House of Representatives to Investigate the Federal Communications Commission, addressed to The Secretary of War.)

June
Twenty-fifth
1943.

The Honorable,
The Secretary of War,
Washington, D. C.

SIR:

The Committee has now completed certain phases of its preliminary investigation into the activities of the Federal Communications Commission, and intends to hold formal public hearings and take testimony on such matters within a short day.

In its public consideration of these matters the Committee will require at such hearings (1) the presence of certain officers of the military and naval forces of the United States as witnesses and (2) the production of certain documents and papers from the files of your Department.

The military personnel whose attendance at such hearings as witnesses will be required by the Committee are:

The Secretary of War.
Col. Howard F. Bressee, U.S.A.
Lt. Col. Armand Durant, U.S.A., Military Intelligence Service.
Col. Wesley T. Guest, U.S.A., Director of Planning, Signal Corps.
Major General Dawson Olmstead, U.S.A., Chief Signal Officer.

Col. Conrad E. Snow, U.S.A., Chief, Legal Branch, Office of the Chief Signal Officer.

Major General Frank Stoner, U.S.A., Army Communications Service.

Major General George V. Strong, U.S.A., Assistant Chief of Staff (Military Intelligence).

Captain E. M. Webster, U.S.A.

The Committee will require the attendance of Major General Joseph O. Mauborgne, U.S.A. (Retired), but since he is not now on active duty the Committee presumably will be compelled to require his presence by subpoena, and I will arrange accordingly.

The documents, reports, memoranda and the like which your Department will be required to produce at such hearings are:

1. All Department files and correspondence pertaining to the Army's efforts to obtain approval of the use of ultra-high frequencies, and the difficulty encountered by the Army in getting the Federal Communications Commission to make a study of the subject.
2. All files and correspondence pertaining to the Army's position favoring the passage of a bill to permit wire-tapping, and Chairman Fly's opposition to such bill.
3. All files and correspondence pertaining to the Army's efforts to stop Japanese language radio broadcasts from Hawaii prior to Pearl Harbor and the reports of the Army officers of their activities in negotiating voluntary agreements to that end; and Chairman Fly's opposition to such action and his subsequent actions which are alleged to have caused such voluntary agreements to be abandoned.
4. All files, memoranda, correspondence and the like concerning the mergers (both international and domestic) of telegraph, telephone, and cable companies; the position of the Army in respect thereof and Chairman Fly's unwillingness to hear or consider the military services' position in respect thereto.
5. The letter dated June 12, 1940, from Chairman Fly of the Federal Communications Commission, addressed to the Chief Signal Officer, U.S.A., and to the Director of Naval Communications, stating, in substance, that the Federal Communications Commission had determined that its Chairman should be the Commission's representative on and Chairman of the Defense Communications Board.
6. All files, documents, memoranda and correspondence relating to or bearing on various questions arising between the War Department and Federal Communications Commission, or any of its staff or divisions, or between the Army and the Board of War Communications or its predecessor, the Defense Communications Board, not called for in Item 5 above.
7. All Department files, letters, papers and documents pertaining to the proposed transfer to the military establishments of the Government of the activities of the Federal Communications Commission's Radio Intelligence Division, particularly a copy of the letter dated February 1, 1943, to the Secretary of the Navy, from William D. Leahy, Admiral, U.S.N., Chief of Staff to the Commander

- in Chief of the Army and Navy, a copy of the proposed Executive Order therein referred to, a copy of the joint letter dated February 8, 1943, addressed to the President by the Secretary of War and the Secretary of the Navy, and all subsequent memoranda and letters on the same subject matter, including the studies and reports made prior to the letter dated February 1, 1943, and referred to in such letter.
8. Copies of all requests, if any, by the Department to Federal Communications Commission requesting Federal Communications Commission to monitor, intercept, listen to or record, either specifically or generally, domestic foreign language or foreign broadcasts.
 9. Copies of all requests, if any, by the Department to Federal Communications Commission to locate clandestine radio stations, either domestic or foreign.
 10. Copies of all memoranda, reports or letters to the White House and others respecting the creation of the Defense Communications Board, now known as the Board of War Communications, and pertaining to Executive Order dated September 24, 1940, creating such Board.
 11. Copies of any and all reports and correspondence between the Army or the Navy, the Interdepartment Radio Advisory Committee, and Chairman Fly with reference to the application of the U. S. Army for frequencies to broadcast in Alaska and elsewhere for the purpose of maintaining morale among the United States armed forces stationed there, and the opposition of Chairman Fly to such broadcasting by the Army for such purposes, and his insistence that such broadcasting be done by the Office of War Information.
 12. All correspondence, files and memoranda relating to the difficulties of the Army and Navy in having their views properly presented by Federal Communications Commission representatives to the International Conference in Madrid.
 13. Copies of reports from the Federal Communications Commission to the Army as to the alleged direction finding and location by it of certain enemy ships, particularly those which developed upon investigation by the Navy to be enemy stations located in Japan.
 14. Any and all correspondence between the Army and the Federal Communications Commission with reference to Chairman Fly's proposal to establish East and West Coast Central Intelligence services and requesting the Army to contribute to the cost thereof.
 15. All memoranda and correspondence with reference to the passage of the resolution (and a copy thereof) forbidding the release of any information unless authorized by the Board of War Communications, which was adopted by such Board for the purpose of curbing Chairman Fly's unauthorized disclosure of the Board's activities.
 16. Copies of all correspondence between the Army and the Federal Communications Commission respecting the material compiled by Foreign Broadcast Intelligence Service.
 17. Copies of reports received by the Army with reference to certain information improperly evaluated, edited and distributed by the Federal Communications Commission pertaining to the war in Alaskan waters.
 18. Proposed constitution of the Interdepartment Radio Advisory Committee proposed by the representatives of the Army, which Chairman Fly opposed and which therefore never became effective.
 19. All memoranda, reports and correspondence relating to charges filed (and as changed from time to time during the hearing) before the Board of War Communications, against Neville Miller, President of the National Association of Broadcasters, the Army and Navy's opposition thereto, the transcript of testimony taken at the hearing on such charges, and the findings exonerating Mr. Miller.
 20. All reports, memoranda and correspondence in the Department relating to, or dealing or connected with, any of the subjects hereinafter outlined.
- (Remainder of letter virtually duplicates letter to Secretary of Navy.)
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- (Letter from Eugene L. Garey, General Counsel to the Select Committee of the House of Representatives to Investigate the Federal Communications Commission, addressed to the Secretary of the Navy.)
- June
Twenty-fifth
1943
- The Honorable,
The Secretary of the Navy,
Washington, D. C.
- Sir:
- The committee has now completed certain phases of its preliminary investigation into the activities of the Federal Communications Commission and intends to hold formal public hearings and take testimony on such matters within a short day.
- In its public consideration of these matters the Committee will require at such hearings (1) the presence of certain officers of the military and naval forces of the United States as witnesses and (2) the production of certain documents and papers from the files of your Department.
- The naval personnel whose attendance at such hearings as witnesses will be required by the Committee are:
- The Secretary of the Navy.
Captain Andrew H. Addons, U.S.N., Communications Officer, Eastern Sea Frontier.
Captain Jerome L. Allen, U.S.N., former Communications Officer, Eastern Sea Frontier.
Lieutenant Commander Cecil H. Coggins, U.S.N.
Lieutenant (j.g.) Edward Cooper, U.S.N.
Captain John Lawrason Driscoll, U.S.M.C., Air Station at Cherry Point, N. C.
Captain Chas. F. Fielding, U.S.N.
Captain Carl F. Holden, U.S.N., former Director of Naval Communications.
Rear Admiral R. E. Ingersoll, U.S.N.

Lieutenant Vanner T. Larson, U.S.N.R., Office of Naval Intelligence.

Rear Admiral Leigh Noyes, U.S.N.

Lieutenant Commander Duke M. Patrick, U.S.N.R.

Rear Admiral Joseph R. Redman, U.S.N., Director of Naval Communications.

Lieutenant Commander Paul Segal, U.S.N.R.

Rear Admiral Harold C. Train, U.S.N., Director of Naval Intelligence.

Rear Admiral Theodore S. Wilkinson, U.S.N.

Commander F. O. Willenbacher, U.S.N. (Retired), Chief of the Legal Section, in the Office of the Director of Naval Communications.

Captain Ellis M. Zacharias, U.S.N., Assistant Director, Office of Naval Intelligence.

The Committee will require the attendance of Rear Admiral Adolphus R. Staton, U.S.N. (Retired) and Rear Admiral Stanford C. Hooper, U.S.N. (Retired), former Director of Naval Communications, but since these Admirals are not now on active duty the Committee presumably will be compelled to require their presence by subpoena, and I will arrange accordingly.

The documents, reports, memoranda and the like which your Department will be required to produce at such hearings are:

1. Report of Admiral Hooper recommending that all persons doing monitoring work in wartime should be under complete supervision of the armed forces and should not be under civilian control.
2. Memorandum to the Secretary of the Navy, dated May 14, 1942, regarding the undesirability of chairmanship of Defense Communications Board being vested ex officio in Chairman of Federal Communications Commission, especially during wartime.
3. Memoranda made by Admiral Hooper (from the Department's "Policy Files") concerning disputes with Federal Communications Commission with respect to the assignment of frequencies to the Navy and other governmental departments and agencies.
4. All Department files concerning the establishment on the Fleet of a new type of radio, and the Navy's consequent necessity of promptly ascertaining the frequencies that would be allocated to it to enable the purchase by it of the essential equipment necessary to carry out such purpose, the delay in allocating such frequencies and subsequent change in the frequencies allocated, due to Federal Communications Commission's activities and inactivities, in consequence of which it was necessary for the Navy to purchase new equipment to replace the new equipment already purchased for such purpose and rendered useless as a result.
5. All Department files and correspondence pertaining to the Navy's efforts to obtain approval of the use of ultra-high frequencies, and the difficulty encountered by the Navy in getting the Federal Communications Commission to make a study of the subject.
6. All files and correspondence pertaining to the Navy's position favoring the passage of a bill to permit wire-tapping, and Chairman Fly's opposition to such bill.

7. All files and correspondence pertaining to the Navy's efforts to stop Japanese language radio broadcasts from Hawaii prior to Pearl Harbor and the reports of the naval commanders of their activities in negotiating voluntary agreements to that end; and Chairman Fly's opposition to such action and his subsequent actions which are alleged to have caused such voluntary agreements to be abandoned.
8. All files, memoranda, correspondence and the like concerning the mergers (both international and domestic) of telegraph, telephone, and cable companies; the position of the Navy in respect thereof and Chairman Fly's unwillingness to hear or consider the military services' position in respect thereto.
9. The letter dated June 12, 1940, from Chairman Fly of the Federal Communications Commission, addressed to the Chief Signal Officer, U.S.A., and to the Director of Naval Communications, stating, in substance, that the Federal Communications Commission had determined that its Chairman should be the Commission's representative on and Chairman of the Defense Communications Board.
10. All Department files, letters, papers and documents pertaining to the proposed transfer to the military establishment of the Government of the activities of the Federal Communications Commission's Radio Intelligence Division, particularly a copy of the letter dated February 1, 1943, to the Secretary of the Navy, from William D. Leahy, Admiral, U.S.N., Chief of Staff, to the Commander-in-Chief of the Army and Navy, a copy of the proposed Executive Order therein referred to, a copy of the joint letter dated February 8, 1943, addressed to the President by the Secretary of War and the Secretary of the Navy and all subsequent memoranda and letters on the same subject matter, including the studies and reports made prior to the letter dated February 1, 1943, and referred to in such letter.
11. All other files, letters, papers, and documents of the Navy Department, in the form of letters from naval commanders, giving their estimate that work being done by the Federal Communications Commission's Radio Intelligence Division was of no value to the Navy and constituted a danger to the national defense, not submitted in response to Item 10 above.
12. Copies of all correspondence between the Navy and the Federal Communications Commission with respect to the opposition of the Navy to the proposal of the Federal Communications Commission to establish stations overseas.
13. Copies of all requests, if any, by the Department to Federal Communications Commission to locate clandestine radio stations, either domestic or foreign.
14. Copies of all reports, memoranda or letters to the White House and others respecting the creation of the Defense Communications Board, now known as the Board of War Communications, and pertaining to Executive Order dated September 24, 1940, creating such Board.
15. Copies of any and all reports and correspondence between the Army or the Navy, the interdepart-

- ment Radio Advisory Committee, and Chairman Fly with reference to the application of the U. S. Army for frequencies to broadcast in Alaska and elsewhere for the purpose of maintaining morale among the United States armed forces stationed there and the opposition of Chairman Fly to such broadcasting by the Army for such purposes and his insistence that such broadcasting be done by the Office of War Information.
16. All correspondence, files and memoranda relating to the difficulties of the Army and Navy in having their views properly presented by the Federal Communications Commission representatives to the International Conference in Madrid.
 17. Copies of reports from the Federal Communications Commission to the Navy as to the alleged direction finding and location by it of certain enemy ships, particularly those which developed upon investigation by the Navy to be enemy stations located in Japan.
 18. Any and all correspondence between the Navy and the Federal Communications Commission with reference to Chairman Fly's proposal to establish East and West Coast Central Intelligence services and requesting the Navy to contribute to the cost thereof and the basis or reasons for the Navy's refusal to do so.
 19. All memoranda and correspondence with reference to the passage of the resolution (and a copy thereof) forbidding the release of any information unless authorized by the Board of War Communications, which was adopted by such Board for the purpose of curbing Chairman Fly's unauthorized disclosure of the Board's activities.
 20. Copies of all correspondence between the Navy and the Federal Communications Commission stopping the transmission to the Navy of the material compiled by Foreign Broadcast Intelligence Service because it was of no value.
 21. Copies of reports received by the Navy with reference to certain information improperly evaluated, edited and distributed by the Federal Communications Commission pertaining to the war in Alaskan waters.
 22. The report to Admiral Noyes with respect to the fitness of the persons proposed to be appointed to the various Committees of the Board of War Communications and the letter requests of the Secretary of the Navy to the Chairman of the Federal Communications Commission for such an investigation of such persons before they were so appointed, including all reports of the Office of Naval Intelligence regarding the importance of and delay of the Federal Communications Commission to investigate and fingerprint the radio operators on board ships in the merchant marine.
 23. Proposed constitution of the Interdepartment Radio Advisory Committee proposed by the representatives of the Navy which Chairman Fly opposed and which therefore never became effective.
 24. Memoranda and reports of Admiral Hooper with reference to the failure of Chairman Fly to cooperate with the Interdepartment Radio Advisory Committee and the tactics employed by him to defeat its recommendations.
 25. Reports of Stanford C. Hooper, as a member of the Naval Districts Readiness Inspection Board, relating to the danger arising out of the activities of the Federal Communications Commission in its clandestine station location work outside of the United States beyond the purview of its authority and an encroachment in fields in which the Army and Navy were better qualified to function.
- For your information and guidance, the testimony of the officers above named, to be presented to the Committee at such public hearings, will not call for the disclosure of any secret military information. Inquiries to the officers of the armed forces will be directed to the establishment of the subjects hereinbelow broadly noted. The existence of these facts has been heretofore substantially established through investigation by this Committee.
- A brief outline of the subjects of inquiries to be made of such officers is as follows:
- The personal history, training and experience of such officers, particularly in the communications field and generally in respect of the personnel, activities, actions and non-actions of the Federal Communications Commission and its related or affiliated agencies.
- The participation of such officers in the preparation of the reports, memoranda and papers enumerated hereinabove and generally with respect to their knowledge of the subject matter, facts, opinions and circumstances which are referred to therein.
- The composition, functions and duties of the Interdepartment Radio Advisory Committee.
- The refusal of Mr. Fly to transmit to the President without comment, for his approval, the constitution of the Interdepartment Radio Advisory Committee as drafted and proposed by the Army and Navy for the express purpose of eliminating Mr. Fly's control of such Committee; the resulting failure to have such constitution adopted and the consequences flowing therefrom.
- The conclusion of the Army-Navy Joint Board, reached after a long study by that Board and approved by the Secretaries of War and Navy, that a board or committee should be formed solely to assist the military services in planning the control of non-military communications for war uses in such a manner as to bring them into coordination with the military communications; and that such a board should have no authority whatsoever over military communications.
- That the Defense Communications Board, now known as the Board of War Communications, was created by Executive Order pursuant to the approved conclusion reached as stated aforesaid.
- The letter dated June 12, 1940, from Mr. Fly to the Chief Signal Officer and Director of Naval Communications, stating that the Commission had determined that its Chairman should be the representative of the Commission on the Defense Communications Board, and had also decided that its Chairman should act as Chairman of such Board.
- The memorandum to the Secretary of the Navy dated May 14, 1942, "regarding the undesirability of chairmanship of Defense Communications Board (now known as Board of War Communications) being vested ex-officio in Chairman of Federal Communications Commission, especially during wartime" and the facts, circumstances

and reasons underlying each of such objections which were made.

The insidious steps by which Mr. Fly injected himself into the control of the Board of War Communications which he and his organization dominate, and the methods and manner in which he brought about and has since maintained that domination and control.

Mr. Fly's successful efforts in defeating the recommendations of the Army and Navy representatives to keep off the technical committees of the Defense Communications Board which handled secret and confidential matters, certain proposed members who had no proper place thereon.

Mr. Fly's assumption, through the Board of War Communications, of power over the communications facilities of all Government departments, including the Army and Navy, contrary to the powers of such Board and over the vigorous protests of the Army and Navy and other Government departments.

The difficulties encountered by the military services in making wartime arrangements for military communications facilities through the Board of War Communications, as opposed to direct action by them, due to the domination of such Board by Mr. Fly.

Mr. Fly's refusal to collaborate with interested Government departments in preparing recommendations to the Congress on the subject of international merger of communications.

Mr. Fly's disposition to speak for the Army and Navy due to his Board of War Communications connection; his testimony before Committees of the Congress on national defense matters contrary to the views of the Army and Navy and without authority from them; the resolution adopted by the Board of War Communications for the purpose of preventing Mr. Fly from making public utterances on matters relating to such Board affecting national defense.

Mr. Fly's insistence on reopening the consent decree and refusing to renew RCAC licenses despite the protests of the Army and Navy.

Mr. Fly's refusal to approve the operation of miniature broadcast stations at isolated combat outposts if the stations are to be soldier operated.

Mr. Fly's insistence that the broadcasting stations operated by the Army in Alaska and elsewhere abroad for the purpose of maintaining morale in the armed forces should be operated by the Office of War Information.

The Federal Communications Commission's consistent effort through the years to exercise jurisdiction, domination and control over the useful radio spectrum, not only in respect of the allocation of standard commercial broadcasting frequencies as provided by law, but also over the allocation of frequencies for use by Government departments and agencies, the jurisdiction of which has not been entrusted to the Federal Communications Commission by law; and the manner by which Mr. Fly, through his domination and control of the Interdepartment Radio Advisory Committee, has prevented Government agencies from having their needs and opinions in such matters presented to the President for his consideration.

Mr. Fly's insistence that the question of sending cable ships to certain places was a matter to be decided by the Board of War Communications, which he dominated,

notwithstanding the needs of the armed forces and the primary duty resting on the Navy to arrange a convoy to prevent the loss of such cable ships in transit.

Mr. Fly's insistence that no commercial company could permit the War or Navy Department to take over and operate a transmitter without a license from the Federal Communications Commission.

Mr. Fly's insistence that the Board of War Communications should handle Army and Navy requests of commercial companies for frequencies and stations and the consequent resulting and unjustifiable delay which endangered the national defense.

Mr. Fly's refusal for a period of nine months—and for nearly seven months after Pearl Harbor—to turn over to the Federal Bureau of Investigation, at the request of that Bureau and the Navy, the fingerprints of radio operators aboard American merchant marine vessels, for investigation by the Federal Bureau of Investigation; the importance to the national defense that such investigation should have been promptly made, and the strategic position occupied by any disloyal or enemy operators to endanger the national defense; the incompetent manner in which such fingerprints were taken by the Federal Communications Commission, compelling the return to the Federal Communications Commission of the fingerprints of some 55,000 operators as useless and of no value.

The protests made by the Admirals in charge of convoys respecting the failure of the Federal Communications Commission to have the ship radio operators investigated by the Federal Bureau of Investigation promptly because of the imminent danger to the national interests in the event that such action was not promptly taken.

Mr. Fly's successful activities in defeating the Army-Navy and Hawaiian broadcasting stations' voluntary pre-Pearl Harbor joint efforts to arrange for the elimination of Japanese language broadcasts in Hawaii; and the contribution of such resulting failure to the Pearl Harbor disaster.

Federal Communications Commission's penetration into the military field of radio intelligence and direction finding; the resulting duplication of such services maintained by the Army and Navy; the fact that the names of Federal Communications Commission's two divisions—Radio Intelligence Division and Foreign Broadcast Intelligence Service—are misnomers and misleading, since such divisions do not perform intelligence services, because it is impossible to impart to an agency like the Federal Communications Commission information which it would have to have, and which the Army and Navy do have, in order to do such work effectively; that such services was first known as Foreign Broadcast Monitoring Service (F. B. M. S.); and the fact that it is impossible to coordinate any civilian agency like the Federal Communications Commission with the Navy's radio direction finding systems, which are coordinated with military systems.

That the Federal Communications Commission is not equipped to do radio intelligence work because of the elaborate systems that the military services maintain, the location of their stations, and the work done by such services with the stations maintained by our military allies, and because of the nature of the secret military information which can be known only to the few

military people charged with the responsibility of doing that kind of work; that such work is a form of military work more distinctly necessary than combat work itself.

That military radio intelligence means gaining through the radio spectrum intelligence of the enemy; and that what Federal Communications Commission attempts to do does not constitute radio intelligence but merely constitutes monitoring or more primarily listening to the enemy's transmissions.

That radio intelligence requires a staff of expert people with knowledge of military operations. Such a service must know where its own forces are and, by reconnaissance and other means must also know where the enemy forces are.

That such a service must have specially trained operators, who must know the enemy's code and be familiar with the traffic handled, because in wartime, unlike peacetime, the messages are in secret code. Such a service must be able, when they take a bearing, to identify it and know where it is coming from and must have full knowledge of the cryptographic systems employed, which oftentimes vary from message to message.

In none of the respects above noted, as well as in other respects not specifically herein noted, can Federal Communications Commission meet the necessary requirements referred to.

That the Federal Communications Commission personnel is inadequately trained in radio intelligence work and not familiar with the methods and radio activities of our enemies. That essential information to a proper conduct of this intelligence work is of the highest degree of secrecy, which can be given only to the most trusted and experienced personnel, who must also be subject to military discipline. That without this essential information, no matter how technically able any civilian agency might be, the inevitable result would necessarily be information which could not be properly evaluated. That if such information is disseminated it would result in operations based on such improperly evaluated information.

That such an event would be highly dangerous, and that such an incident based on such improperly evaluated information furnished by the Federal Communications Commission actually transpired in Alaskan waters.

That the Radio Intelligence Division of the Federal Communications Commission definitely overlaps functions and operations of the military services in the fields of radio direction finding overseas, radio direction finding of domestic clandestine stations, the interception of enemy radio telegraph transmissions, the conduct of a distress service, and such matters as the furnishing of information to aircraft in operation. That the War and Navy Departments believe that the above activities should be conducted by the military services, Army and Navy, in accordance with the delineation of fields of responsibility between them.

The fact that the Radio Intelligence Division (R. I. D.) of the Federal Communications Commission is not qualified, either from the standpoint of equipment or personnel, to do other than local monitoring, because (1) its stations are not properly located, (2) its personnel lacks adequate intelligence information respecting the enemy and is not trained to handle direction finding triangulations and other radio intelligence functions, and (3) the military services cannot entrust secret military informa-

tion essential to the proper functioning in radio intelligence to a civilian agency, and more particularly to one prone to publicize its activities for its own aggrandizement. The fact that the military personnel is trained and equipped to and does perform adequate radio intelligence functions; and the fact that the alleged national defense efforts of the Federal Communications Commission constitute a duplication of no value whatsoever to the armed forces, but, on the contrary, in fact endanger national security.

That the Federal Communications Commission does not and cannot, as claimed by Mr. Fly, render services of any value to the Navy in locating enemy ships or in reporting attacks upon war shipping.

That Federal Communications Commission, through its Radio Intelligence Division, does not perform the services which Mr. Fly has claimed it renders for the Army and Navy in his testimony before various committees of the Congress, such as the Appropriations, Costello and other committees. That the Army and Navy have never requested (and do not want) Federal Communications Commission to perform for them the services claimed by Mr. Fly to be rendered to them by their request. That such information furnished the Navy by the Radio Intelligence Division of the Federal Communications Commission respecting the alleged location of enemy ships has necessitated the expenditure by the Navy of days in checking such reports, only to ascertain that the alleged enemy ships were in fact standard radio stations located in Japan.

That neither the Army nor the Navy is engaged in work which calls for the use of the transcripts of foreign broadcasts prepared by the Federal Communications Commission's Foreign Broadcast Intelligence Service, with the possible exception of Naval Intelligence, and that with the exception noted none of such material is used by either.

That the daily, weekly and other analyses prepared by the Federal Communications Commission's Foreign Broadcast Intelligence Service from the foreign broadcasts are of no value to the Army or Navy, since they are engaged in military operations controlled by Chiefs of Staff pursuant to plans made long in advance.

That the Army and Navy prefer to have information in the form of "raw material" so that they can subject the same to their own intelligence tests and make their own analyses of the same rather than to accept the analyses made by the inexperienced and only partly informed staff of the Federal Communications Commission's Foreign Broadcast Intelligence Service.

That neither the Army nor the Navy makes use of the wire or analysis material put out by the Federal Communications Commission's Foreign Broadcast Intelligence Service, because they have their own well tried and established means of obtaining such material as they require for the purpose of military operations.

That the material gathered by the Federal Communications Commission's Foreign Broadcast Intelligence Service and wired by it through the Office of War Information is nothing more than a sort of glorified, world-wide news-gathering and disseminating agency which serves the national and international press associations, the daily press, and the broadcasting companies.

That the Foreign Broadcast Intelligence Service is a service in which neither the Army nor the Navy is en-

gaged, in which neither service has any desire to engage, and in which neither service would engage, even though no such service were maintained by the Federal Communications Commission.

That the disclosures made by Mr. Fly to the Appropriations Committee of the Congress in respect of the alleged war activities of the Federal Communications Commission in support of appropriations sought by him to maintain these useless divisions, are detrimental to the national security, because the Army and Navy feel that even the existence of the conduct of such services should not be disclosed, much less a description of the manner in which they function. That false impressions have been given to the Congress in the representations made to get appropriations for such services.

That the influx of the civilian employees of the Foreign Broadcast Intelligence Service of the Federal Communications Commission and the Office of War Information in the North African theatre of war operations has presented difficulties and embarrassment to the armed forces there which have necessitated a request for their immediate withdrawal and transfer.

Mr. Fly's domination of the Federal Communications Commission and his control over its actions and activities.

The letter dated February 1, 1943, to the Secretary of the Navy from William D. Leahy, Admiral, U.S.N., Chief of Staff to the Commander in Chief of the Army and Navy, requesting the Secretaries of War and Navy to join in a recommendation to the President that he transfer to the Army personnel and equipment now used by the Federal Communications Commission in the field of radio intelligence, and transmitting a proposed Executive Order designed to accomplish that objective.

The joint letter dated February 8, 1943, of the Secretaries of War and Navy to the President recommending the transfer aforesaid and transmitting to the President the letter dated February 1, 1943, aforesaid.

The thorough and comprehensive study of the problems made by the Joint Chiefs of Staff on the Federal Communications Commission activities last above described, pursuant to the Directive of the Secretary of the Navy dated September 11, 1942, and a discussion of the facts and circumstances revealed by such study.

Mr. Fly's successful efforts in delaying television, thereby depriving the national defense of the benefits of such development in wartime.

Mr. Fly's delay of frequency modulation (F.M.) by the expenditure of the Commission's time in establishing Commission policy with respect of matters more properly within the competency of the Congress rather than within the lawful jurisdiction of the Commission; and his activities in keeping the radio industry terrorized and in a state of fear, particularly during a period when unity is required and every energy devoted to the winning of the war.

From information in the possession of the Committee, these naval officers can be made available for the purposes stated, and I assume that you will direct the attendance of such officers before the Committee for the purpose of giving testimony, within substantially the limits above stated, on the day(s) which I will in due course advise you the Committee has fixed for such purpose, without the necessity of requiring the Committee to issue its process either to compel the attendance of such officers or the production of the documents desired from your Department.

It will be extremely helpful to the Committee if you would forward to it at once the documents and files herein enumerated for consideration by the Committee and its staff in advance of the public hearings.

Will you be good enough to advise me promptly in your official capacity and over your own signature of your willingness to cooperate with the Committee in the manner and to the extent requested herein so that the Committee may be advised accordingly.

With assurance of high respect and esteem, I am, Sir

Faithfully yours,

EUGENE L. GAREY,
General Counsel.

FLY STATEMENT

James Lawrence Fly, Chairman of the Federal Communications Commission released this statement following the opening of the hearings:

"We have grown accustomed to Cox announcing conclusions in advance of a hearing. These charges are a tissue of falsehoods. They will be wholly disproved if anything like a fair hearing can be expected from a Committee constituted and motivated as is this one."