



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 3, 1941

## WHITE RESOLUTION HEARING: SECOND DAY

James Lawrence Fly, FCC chairman, was on the stand throughout the second day of the Senate Interstate Commerce Committee's hearing on the White resolution (Tuesday).

Senator White (R-Maine), author of the resolution, opened with a statement that he felt Congress, not the FCC, should lay down the policies governing radio. He pointed out that in March, 1937, he had urged a congressional survey of both the industry and the FCC, and that he had reiterated this position in May, 1938, with particular reference to network broadcasting.

The Senator said he was making this statement to clarify any misunderstanding that might have grown out of Mr. Fly's remarks the previous day. Mr. Fly had said the FCC had undertaken the "monopoly" investigation and had formulated the new network rules as a result of congressional pressure, and had quoted from one of Senator White's speeches in that connection.

The Senator concluded his statement by asking why the FCC had not submitted its "monopoly" findings, along with recommendations, to Congress, and adding: "I shrink from commission-made law."

Mr. Fly opened his day's testimony by defending the FCC's right to make the new network rules. He cited the history of anti-monopoly law among the English-speaking peoples and said the feeling of Congress was so strong against monopoly that it had written an anti-monopoly policy into the radio laws of '29 and '34; and had empowered the FCC to make special regulations for chain broadcasting. At one point, Senator White stopped Mr. Fly to state that the chairman was inferring that he (the Senator) was an advocate of monopoly. Mr. Fly said he had no such intention and was sorry.

Mr. Fly then turned to the charges made yesterday by

Senator Tobey (R-NH) that the commission was subject to political pressure in awarding licenses, giving power increases, etc., and had given special attention to applications from Governor Cox and Jesse Jones. Yesterday, Mr. Fly had said that a transfer application from Governor Cox had gone through with unusual speed because there were no engineering problems to consider and because the governor's financial position and other qualifications were well known. As to any Jesse Jones case, Mr. Fly said today, there had been no extraordinary speed in putting through the only one that had aroused any comment.

Mr. Fly also said he had not meant to imply by his remarks yesterday that there was no political pressure brought to bear on the commission.

"We are subject to an unmerciful line of political pressure," he said, adding that this was true "never as much as now from a scandal-mongering section of the industry."

Senator Tobey then suggested that the FCC ask all stations and networks to submit lists of all their speakers on the issue of whether this country should get into the war, along with the texts of all the speeches. He indicated that he felt some stations had not given the "anti-war" side an equal amount of time. When he asked Mr. Fly whether he felt this should be done, Mr. Fly said he concurred. Both Senator Wheeler and Senator Tobey pointed out at that point that they felt the networks had been fair in this respect, but that some individual stations had not been.

Mr. Fly then turned to that section of the new rules dealing with "exclusivity" which he discussed at great length. He was interrupted frequently by questions from the committee. At one point, in reply to a question, he

said he thought it would be “healthy” to have six national networks, and that each could be a “good, healthy, profitable operation.” He was not certain that this was the proper number, however, nor was he at all certain that the establishment of any new networks (aside from the separated Blue) would result from the new rules.

Any talk that the new rules would result in a general shake-up of the industry, he said, was “just so much moonshine.”

He indicated that the commission expected the new rules to be tested by litigation, and said that no punitive action would be taken against any station that entered into any *bonafide* litigation in this respect. Such a station, he said, could continue to operate as at present, pending the outcome of the litigation. He also said that the 90-day limit on sale of the Blue network by NBC could

and probably should be extended to prevent a forced sale. Some observers thought that Mr. Fly did not answer definitely a question as to whether the operation of the new rules would be suspended in entirety pending the outcome of any litigation.

Senator Smith (D-SC) at one point asked Mr. Fly whether there wasn't in fact unlimited competition between the networks—“Are these two companies competing with each other or are they in cahoots?”

“I have thought in my observation that they were pretty footy-footy,” Mr. Fly replied.

As the session neared a close, Mr. Fly repeated that the new rules constituted “a minor operation on a few small clauses in these (network affiliation) contracts” and “not a wrecking operation . . . except for the Red and Blue.”