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FURTHER NEED OF CONGRESSIONAL REVIEW REVEALED AT SENATE RADIO HEARING

Necessity for revision by Congress of the law governing radio broadcasting was indicated by Senator Clark, of Idaho, at today's hearing before the Senate Interstate Commerce Committee on the White resolution calling for a Senate investigation of the broadcasting industry. Senator White introduced his resolution following promulgation by the FCC on May 2nd of new rules imposing drastic restrictions upon network broadcasting operations.

"The only question that is troubling me," Senator Clark asserted, "is whether this law is in proper shape. You see these networks have grown up largely since the law was enacted. Probably Congress at the time did not contemplate the exact situation in which we are today. It is 14 years since the law was enacted."

Doubt as to just what will be the effect of the new rules was expressed a number of times during the first few days of the hearing, when FCC Chairman Fly appeared.

Further evidence of such confusion resulting from application of the rules was brought out at today's hearing during questioning of Louis G. Caldwell, counsel for the Mutual Broadcasting System, and Fred Weber, Mutual's general manager, who took the stand together.

Referring to previous discussions of difficulties which would confront radio broadcasting if exclusive contracts and option time are eliminated under the new rules, Senator Clark said, "You would have a lot of chaos there unless there is some right to option time."

Senator Clark said he can see where network broadcasters would not have a whole lot to sell an advertiser if they did not have some right to option time adding that "you would end up by having your time all messed

up, particularly if other networks could come in and contract with that station for time, too."

With stations shifting from network to network under the new rules, Senator Clark asked if the result would not be that the Mutual Broadcasting System, which is supporting the new rules, would get the benefit of placing programs on stations where facilities and listening audience have been built up over a period of years in the course of affiliation with competing networks.

Senator Clark cited as an example a situation in which under the new rules Mutual would be able to offer its program to a station which had become the leading broadcasting outlet in its city through a ten-year period of affiliation with Columbia. When such a program is announced as being broadcast for the Mutual Broadcasting System, he said, "you are getting time on a station that has really been made valuable by your competitor."

During his testimony, Mr. Caldwell said that "Mutual had nothing whatsoever to do with the Commission's action initiating the investigation of chain broadcasting. Neither it nor its stockholders nor its lawyers had made any complaint to the Commission. We simply responded when asked to appear and set forth our situation as accurately and fully as we could."

Later, he said, Mutual did suggest that the Commission adopt a regulation, temporary in character, to serve somewhat the purpose of a temporary injunction "designed to preserve the status quo until the court has made its decision."

In regard to the World Series baseball games broadcast exclusively by Mutual, and mentioned several times previously during the hearings as being denied to some stations having exclusive contracts with other networks,

Senator Gurney asked Mr. Weber if Mutual did not have "an exclusive contract with the baseball people." Mr. Weber said that was true.

"You cannot," declared Senator Gurney, "stand on one leg and say the other stations could not get the program, and then on the other leg have an exclusive contract with the baseball people."

At yesterday's hearing, FCC Chairman Fly said he understood Station WCAU in Philadelphia had refused broadcasting time to Charles A. Lindbergh. Today Senator Wheeler read the following telegram from Leon Levy, president of WCAU:

"I wish to call your committee's attention and to have also entered into the record the fact that no request was made of this station to broadcast the speech. A request was made, however, to buy announcements for this meeting, but a member of the sales division interpreting the broadcasting code as applying also to such announcements

refused to sell them. When my attention was directed to this fact, I issued instructions to the WCAU staff that announcements calling attention to a meeting do not come under controversial subjects and are therefore acceptable. A statement was issued to the press about these announcements and also the fact that no request was made to broadcast Lindbergh's speech and if such request was made it would receive due and careful consideration and if broadcast would be done without charge. . . . May I respectfully call your committee's attention to the fact that during the same month WCAU broadcast Lindbergh's speech on May tenth and also Senator Wheeler's speeches on May twenty-third and May twenty-eighth."

Senator Wheeler said, "I am very glad indeed to have the statement from Mr. Levy and to correct the impression which I myself and many others had with reference to the matter."