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& President

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THE WHITE HOUSE
WASHINGTON

April 15, 1941

Memorandum For The President:

On March 12 you issued to me a memorandum directing that I investigate the so-called Flamm case, involving alleged duress by Messrs. Dempsey and Koplovitz in the sale of New York radio station WMCA to Edward Noble.

In pursuance of this investigation I have interviewed Kenneth Crawford, Washington correspondent for PM; George Henry Payne and James Lawrence Fly, members of the Federal Communications Commission; William J. Dempsey, former counsel for the Commission and now attorney for Edward J. Noble; and William E. Weisman, counsel for Donald J. Flamm, former owner of the radio station in question.

AFTER CAREFUL AND EXHAUSTIVE EXAMINATION OF THIS CASE I FAIL TO FIND ANY EVIDENCE TO JUSTIFY THE CHARGE OF DURESS. THIS CONCLUSION APPEARS TO BE THOROUGHLY SUBSTANTIATED BY THE ACCOMPANYING EXHIBITS.

FURTHERMORE THERE IS THE STATEMENT OF FLAMM'S ATTORNEY, WILLIAM E. WEISMAN, WHO STATED HE DID NOT CONSIDER THE WORDS OR ACTIONS OF MESSRS. DEMPSEY AND KOPLOVITZ AS "INTIMIDATION COERCEMENT OR DURESS", ALTHOUGH HIS CLIENT DID SO CONSTRUE IT.

- Exhibit A -- Allegations made by William E. Weisman as counsel for Mr. Flamm and the answers of Messrs. Dempsey and Koplovitz to these allegations.
- Exhibit B -- Letter to the writer from Mr. Fly pertinent to the case.
- Exhibit C -- Article appearing in PM on January 22, 1941.
- Exhibit D -- Contract agreement between Noble and Flamm.
- Exhibit E -- Excerpt from Flamm's application for assignment of license.
- Exhibit F -- Flamm's petition for reconsideration of Commission approval.
- Exhibit G -- Copy of Commission's decision denying that petition.
- Exhibit H -- Excerpt from hearings before Sub-committee of House Appropriations Committee.
- Exhibit I -- Letter of Dempsey and Koplovitz to Flamm in which duress is alleged by Flamm.

While it is universally agreed that Flamm enjoyed an unsavory reputation because of past relationships with the Federal Communications Commission and its predecessor agencies, absolutely no charges were pending against him during the period when sales negotiations were on, which would have led him to believe that he had anything to fear from any alleged intimidation, coercion or duress.

However, I learn that the Commission has the right under the F.C.C. statute to revoke any license and wave length regardless of the good conduct or otherwise of a station if it believes that another individual or corporation can and will render an improved public service. Therefore, with full knowledge of the law on this subject Flamm may well have taken his past delinquencies into consideration at the time the contract was signed.

No individual interviewed has failed to commend both Messrs. Dempsey and Koplovitz as being honorable, forthright, honest, admirable and capable gentlemen. It has been observed, however, that in this particular case in their zealotness to gain justice for a client as they viewed it, that they were audacious which led to actions that have been characterized as "stupid, unwise and indiscreet".

I do respectfully desire to make one recommendation that has grown out of this investigation. That is, that mandatory provisions under law be enacted to prevent any individual employed by any Commission or Department in any capacity from appearing before said Commission or Department for a period of two years after the severance of his duties with the Commission or Department, by which he has been most recently employed. There are five reasons herewith outlined to support the proposed law in part from the human angle:

1. That it is only human that when an individual contemplates entering the private practice of law that he keeps an eye open to the future and potential clients.
2. That he develops friends quite legitimately yet selfishly with an eye to their potentiality as clients.
3. There is the possibility -- yes, the probability -- of a change in philosophy from that of a public defender to a champion of selfish interests.
4. Without any dishonest motive one begins to see the spectrum in the light of what his future attitude would necessarily be.
5. It is only human that he might adopt an attitude of favor to applicants before the Commission with the hope of incurring future favor.

Also a memorandum entitled, "On the Right of Former Employees", which indicates that just such a rule is now in effect before the Supreme Court, the Department of Interior and certain other government departments and agencies, being exhibit "J".

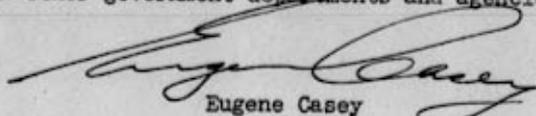

Eugene Casey

Exhibit "A"

Allegations of Mr. William E. Weisman, Counsel for Flamm, and Answers of
Dempsey and Koplovitz

Allegation No. 1.

That on November 11, 1940 Messrs. Weisman and Flamm called on Messrs. Dempsey and Koplovitz in their Washington office and requested that said Dempsey and Koplovitz serve as their counsel with adequate and proper remuneration. This offer of a retainer was refused by Dempsey and Koplovitz according to Mr. Weisman because of the statement on the part of Dempsey and Koplovitz that there could possibly exist a conflict of interest. Thereupon, Dempsey and Koplovitz asked Mr. Flamm if he was interested in selling the station, to which he replied "No."

Answer to Allegation No. 1.

The facts in this allegation are substantially correct. Two additions are necessary to get the significance of the facts.

- a. The query as to whether Flamm was interested in selling the station was a question directed at determining the permanence and desirability of the retainer by learning how long Flamm contemplated owning the station. There was a tradition in the radio industry that Flamm was always "selling" the station.
- b. Dempsey and Koplovitz may have made a statement that there might be "a conflict of interest". If so, it was merely the traditional professional polite phrase with which a lawyer turns down business which he does not care to take while saving the face of the would-be client. At the time of this conversation, neither Dempsey nor Koplovitz had ever talked with Noble or had the slightest notion that he was or would be

interested in buying Station WMCA.

Allegation No. 2.

On or about November 27 Dempsey and Koplovitz had dinner with Weisman and Flamm at the latter's home, at which time they advised Mr. Flamm that they had been retained to apply for WMCA's frequency by a client who was a lately resigned high government official of considerable wealth and position. Flamm assumed that it was Ambassador Kennedy who had lately returned from London and there were rumors current that he would resign to an inter-radio business. According to Weisman, Noble desired to completely ignore Mr. Flamm's occupancy of the WMCA frequency and immediately petitioned the Radio Commission for the wave length. Dempsey and Koplovitz convinced him that he should attempt to buy it because of its intrinsic value, and the first bid was made at \$500,000, subsequently being raised to "a final offer of \$750,000." As a culmination of this dinner Flamm asks, "Either I sell or else, is that it?" Dempsey and Koplovitz answered, "Yes, that's it."

Answer to Allegation No. 2.

The general tenor of this allegation and the substantial details of it are both completely incorrect.

It is correct that Dempsey and Koplovitz had dinner with Weisman and Flamm at Flamm's home. But the dinner followed an earlier meeting in Flamm's office at which Dempsey and Koplovitz discussed with Flamm and Weisman the fact that Dempsey and Koplovitz had been retained by an undisclosed client who wished to acquire the license for the 570 kc frequency in New York City either,

(a) by purchasing a contract for the transfer of Flamm's existing license (WMCA), or

(b) by application in the normal course of the procedures of the

Federal Communications Commission for such 570 kc license upon the expiration of Flamm's license in March 29, 1941.

Noble's name was not mentioned. Dempsey and Koplovitz, under instructions from Noble, refused to divulge the name of their principal.

Allegation (2) is enormously interesting because it reveals for the first time in all the publicity about the motives of the parties to this transaction, that until November 28, when Noble's name was disclosed, Flamm predicated his actions on the mistaken hunch that Dempsey and Koplovitz's undisclosed client was not Willkie-supporter Noble, who obviously had no influence with the Administration at Washington, but Ambassador Joseph P. Kennedy, who was reputed to have great influence.

There is no allegation anywhere that Dempsey or Koplovitz gave the slightest suggestion that Ambassador Kennedy was their client.

This mistaken "hunch" of Flamm may be the cause of his otherwise inexplicable assumption that he was under "political duress" until Noble's name was disclosed. Note that Weisman's allegation No. 5 admits Weisman, who was Flamm's lawyer and constant adviser, was never under such delusion as to Kennedy or as to "duress".

The disclosure of Noble on November 28 as Dempsey and Koplovitz's principal would certainly remove any cause for even a mistaken assumption by Flamm that Flamm would be subject to the alleged political influence of Ambassador Kennedy. But there were two occasions after the disclosure of Noble as the purchaser in which Noble broke off negotiations with Flamm and released Flamm from the obligations of any contract. On both such occasions Flamm voluntarily reapplied for the resumption of the contract. That cured even a mistaken assumption of "coercion" by a "hysterical", "crazy" man,

"obviously suffering from a persecution complex".

"Either I sell or else", is a phrase which Weisman attempted to put into the mouths of Dempsey and Koplovitz at several times during the negotiations. At no time did they use or accept the phrase.

The discussion as to the application for the wave length arose in the following way.

Noble telephoned Dempsey and Koplovitz to tell them that a finder (the banking house of Rollins and Company - later paid a formal finder's commission by Noble), had brought Noble an offer from Flamm to sell the physical assets of Station WMCA for approximately \$900,000. Noble asked to retain Dempsey and Koplovitz to represent him in the transfer of the station if the deal were consummated.

As part of the advice to Noble as a client, Dempsey and Koplovitz informed Noble that:

- (a) they had previous knowledge of the values involved in WMCA;
- (b) The Federal Communications Commission had lately embarked on a strict policy of refusing transfers for purchase prices which included an obvious mark-up of the value of the physical assets as a way of realizing a profit on the transfer of a Government license;
- (c) they were therefore very doubtful whether the Federal Communications Commission could be induced to approve a sale of the physical assets of Station WMCA at \$900,000;
- (d) they advised their client that if he was interested in acquiring a station he should consider whether or not to file an application in due course under Section 309 of the Communications Act for a license for 570 kc at the expiration of the term of Flamm's license on March 29, 1941, on the basis that he would run a better station,

better serving the public interest.

This procedure of application is one of the regularly utilized procedures provided for the Federal Communications Commission under the statutory provisions of the Communications Act, which refuses to recognize any vested permanent private property right in any Government license.

Noble thereupon commissioned Dempsey and Koplovitz as his counsel, to prepare and file such an application upon the condition that if a transfer of Flamm's interests could be purchased in the intervening time at a price which the Commission would approve, the long course of an original application should be avoided through such a purchase.

It is a basic principle in the Communications Act, as it was in the Radio Act of 1927, that radio station licenses shall be granted to those who will best serve the public interest.

The Communications Act itself, which provides (Sec. 308) that station licenses shall only be issued for a limited term, and in Section 307(d) states:

"Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term not to exceed three years in the case of broadcasting licenses and not to exceed five years in the case of other licenses, but action of the Commission with reference to the granting of such application for the renewal of a license shall be limited to and governed by the same considerations and practice which affect the granting of original applications."

In addition, Section 309(b)(1) provides specifically that station licenses issued by the Commission must contain in addition to other provisions, the following specific condition:

The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein.

The Supreme Court of the United States affirmed this in the case of Nelson Brothers against the Federal Radio Commission, reported in 289 U.S.,

p. 266 et seq., in which the Supreme Court upheld the action of the Radio Commission in deleting a station license to Nelson Brothers and permitting the use of the frequency theretofore used by Nelson Brothers by another applicant. The recent decision of the Supreme Court in Pottsville Broadcasting Company v. Federal Communications Commission reiterates this same principle.

It is unnecessary to cite additional provisions of the statute or decisions to demonstrate that any person is entitled to receive a license for the operation of a radio broadcast station notwithstanding that the granting of a license to him may require the denial of another applicant for a station or the denial of a renewal application by an existing station if such person can show that his operation of a station will better serve the public interest. In fact, it was on the affirmation of this principle twice by the Court of Appeals that Flamm was able to obtain the use of 570 kc despite the fact that the City of New York had been a prior user of the frequency and vigorously contested the action of the Commission in assigning the frequency to Flamm and taking it away from the City.

It should also be remarked that the Rules of Practice at the Federal Communications Commission and its predecessor, the Federal Radio Commission, have always provided for the manner of filing of applications which involve a whole or partial deletion of existing stations. It also should be observed that while it may seem a harsh rule so far as existing stations are concerned, in practice it has not proven so. On the contrary, it has been a salutary principle which has been largely responsible for continual improvement in broadcast operation, since all licensees recognize that they are only entitled to continued renewals of their licenses if they so operate their stations that prospective applicants for their facilities cannot show that the public interest

could be better served by assigning their operating frequencies to others at the expiration of their license period.

It must always be remembered that Flamm himself had acquired his license in exactly the same way - by the course of application to the Federal Communications Commission - which Dempsey and Koplovitz proposed to their client that he pursue.

It may be useful to recall briefly the history of Station WMCA in considering the question of whether Flamm would have any reason to feel aggrieved if an application were filed for the use of 570 kc by someone else. The City of New York was granted a license in the year 1924 to operate on 570 kc unlimited time in New York City. In 1928, in the Coolidge Administration, the Federal Radio Commission modified the license then held by the City of New York so as to require the City to divide the time on 570 kc with Station WMCA.

Later Station WPCH, which was owned and controlled by Flamm, who also owned and controlled WMCA, applied to the Radio Commission for the right to share time with Station WMCA on 570 kc, thus deleting Station WNYC (the station owned by the City of New York) so far as its right to use frequency 570 kc on which it had been operating since 1924 was concerned. This action of the Radio Commission was taken in 1933. WNYC, the City station, was thereupon assigned the relatively poor daytime-only frequency on which it has been since operating. The basis on which these actions were taken by the Radio Commission was that the service rendered to the public by Station WMCA on 570 kc would be superior to the service which would be rendered if the City of New York were permitted to continue to use that frequency. It would seem that Flamm should have been willing to permit his continued use of that frequency to be based upon the same principle and, in addition, he should

certainly not have felt any concern about the possibility of a new application if he was in a position to show that his use of 570 kc would best serve the public in New York.

It is submitted that one of the most important witnesses as to the place of Flamm and WMCA in the radio industry, and the negotiations by which Flamm's place was taken by Noble, is Mayor LaGuardia of New York City, who has been aware of the whole history of the affair up to the present time.

It is also interesting, in discussing the legal "ethics" of this affair, that the Washington counsel for Flamm and Weisman in this WMCA matter was ex-Commissioner Thad Brown, who was retained by Flamm, according to Flamm's own admission, to carry out a commitment made by Flamm to do so while Colonel Brown was still a member of the Commission.

Ex-Commissioner Brown had a previous connection with Flamm and WMCA. When Flamm acquired the wave length from the City of New York, Brown was General Counsel of the Federal Radio Commission. Brown acted in two capacities in passing on the application - first as General Counsel of the Federal Radio Commission, and later as a member of that Commission. The City of New York appealed the case up to the Court of Appeals of New York. One of the grounds of the appeal was that Mr. Brown as General Counsel had been so obviously active and partisan as General Counsel of the Commission in furthering Flamm's cause, that he was disqualified to pass on the application when he later sat as Commissioner.

Does an honest revelation of a purpose to carry out a perfectly legal method of acquiring a radio license - the same method by which Flamm himself had acquired his license - become "intimidation, duress and coercion" because an over-imaginative, hysterical Flamm - though advised by a perfectly cool-headed Weisman - had a wrong hunch about Ambassador Kennedy. There are no

provisions about hunches in the Communications Act.

Allegation No. 3.

Next day Messrs. Dempsey and Koplovitz met with Messrs. Weisman and Flamm, kept their hats and coats on during the negotiations and were quite impatient as to any further delay or decision on the part of Mr. Flamm and finally stated: "Mr. Flamm, we have the papers ready for filing, petitioning the Commission for your frequency and we are leaving for Washington at once to put same on record. Either you sell or else."

Answer to Allegation No. 3.

The allegation is incorrect both in general tenor and in detail.

This conference, far from being "a hat and coat affair" was a conference of several hours in Flamm's own office. There was no "or else". The high feeling at the conference arose out of the fact that Dempsey and Koplovitz had caught Flamm that morning shopping their confidential offer around New York as a means of getting better offers from other prospective purchasers.

Allegation No. 4.

On the evening of the 28th at 10:00 p.m. Mr. Noble's name and person first came into the case, the purchaser being anonymous heretofore. Negotiations were carried on and several times in the early morning hours Mr. Flamm, and later Mr. Weisman, offered Messrs. Dempsey and Koplovitz and Noble \$25,000 on their promise that they would not file an application for the WMCA wave length and "leave them alone."

Answer to Allegation No. 4.

The allegation is correct in stating that Noble's name did not come into the case until late in the evening of November 28, after a contract

had been signed.

Otherwise the allegation is, so far as Dempsey and Koplovitz know, incorrect. Weisman and Flamm did offer Dempsey and Koplovitz \$50,000 to withdraw from the case and get Noble to abandon his contract - whether the offer was sincere or not there is no way of telling. Dempsey and Koplovitz told Noble about this as soon as he arrived at Flamm's office and Weisman then indicated that he was making the offer to Noble.

Allegation No. 5.

Mr. Weisman states that he used every device to persuade Mr. Flamm not to sign the contract which was ultimately made for \$875,000, but that Mr. Flamm was hysterical and appeared to be crazy because of the imputed influence that the purchaser and his attorneys held in Washington. Mr. Weisman states that Flamm definitely considered the attitude of the purchaser and his attorneys to be intimidation, duress and coercion and obviously was suffering from a persecution complex. Mr. Weisman states for his own part, however, that he did not look upon it in that fashion and in his words, "would have thrown them out."

Answer to Allegation No. 5.

Some comment on this allegation was included in the comment on allegation No. 3, supra.

As Weisman's allegation No. 5 frankly admits, Dempsey and Koplovitz's statement to Flamm and Weisman about their purpose to file for the wave length was not a matter of "intimidation, duress and coercion". So far as Weisman, the lawyer, was concerned, it was a natural and honest disclosure by attorneys who had been given the earlier courtesy by Weisman and Flamm of a request for professional association, a disclosure made frankly so that there could be no

subsequent allegation of bad faith if, after sale negotiations were unsuccessful, Dempsey and Koplovitz on behalf of their client filed an application under Section 309 of the Communications Act. This act of simple honesty is now being twisted into an accusation of dishonest Machiavellian intimidation.

As allegation No. 5 of Weisman states, Weisman, Flamm's attorney, "did not look upon it in that fashion", did not "consider the attitude of the purchaser and his attorneys to be intimidation, duress and coercion". In allegation No. 5 Weisman himself admits that Flamm's assumption that Flamm was under coercion and duress arose out of the fact that Flamm was "hysterical", "crazy" "and obviously suffering from a persecution complex" because Flamm had a mistaken hunch that Dempsey's principal was Ambassador Kennedy with imputed "influence" in Washington.

Dempsey and Koplovitz are not guilty of "intimidation, duress and coercion" because Flamm was under a subjective hallucination that Ambassador Kennedy was seeking Flamm's station. Particularly so because Flamm was at all times attended by his lawyer Weisman, who by Weisman's own admission in his allegation No. 5 was never under any sense of "intimidation, duress and coercion".

The Federal Communications Act and the Code of Legal Ethics are not amended by the hallucinations of people who are "hysterical", "crazy" "and obviously suffering from a persecution complex". It should also be pointed out that neither Dempsey or Koplovitz at any time in the negotiations were given any reason by Flamm's action to believe that he was, as Weisman stated, "hysterical" or "crazy". On the contrary, he evidenced considerable acuteness in bargaining and in discussion throughout the entire negotiations, using every device possible to attempt to get a higher price and, in fact, succeeded in getting a cash price which, considering the net income of the corporation

reported to the taxing authorities, was exceedingly large.

In determining how much "political influence" actually had to do with this transaction the following should be noted:

(a) Noble was an avowed Willkie-ite Republican, "a renegade from the Ad", and this action took place in November, immediately after the campaign.

(b) The vote by the Commission on the approval of the application to transfer the license from Flamm to Noble was 4 to 1 - as follows:

Favoring approval of the application:

Republicans: Case, Payne

Democrats: Walker

Against approval of the application:

Craven (politics not known)

Not present and not voting:

Democrats: Fly and Thompson

(c) The vote to refuse Flamm's later application to set aside this vote of approval was 2 to 1 - as follows:

Against the application:

Republicans: Case, Payne

Democrats: Walker, Fly, Thompson

In favor of the application:

None Craven not voting

The chief protagonist of Flamm outside the Commission at this time, lobbying against Republican Noble, was Representative Irving Steingutt of New York Assembly, reputedly hired by Weisman for a contingent of \$100,000 to get the Federal Communications Commission to reverse itself.

Attached are copies of the contract entered into between Flamm and Noble which was submitted to the Commission in connection with the application for approval of assignment of license. There is also attached an excerpt from the application, signed and sworn to by Flamm, in which he states his reason for selling the station. There is also a copy of Flamm's petition for reconsideration of the Commission's action granting the application, and also attached a copy of the Commission's decision denying that petition. A reading of these documents will demonstrate that at no time did Flamm ever indicate to the Commission that he entered into his agreement to sell the station under any threat, duress, coercion or intimidation, but, on the contrary, he swore under oath to the Commission that he entered into the arrangement voluntarily. Further than that, the filing of a petition by Flamm asking the Commission to reconsider its action in granting the application and to dismiss said application indicates definitely that he was certainly not at the time he filed such petition intimidated or in any fear of the consequences of his refusal to carry out his agreement with Noble. It is peculiarly significant that in his sworn petition to the Commission requesting a dismissal of his application he did not include any allegation that he had been threatened. It is inconceivable that had he really believed the contract had been entered into under threat or duress that he would not have made allegation to that effect in support of his petition requesting the Commission to dismiss his application. Furthermore, as is clear from a reading of the Commission's decision denying his petition, the Commission's order did not compel him to sell his station but, on the contrary, only gave Commission consent to his complying with the agreement with Noble in the event he still desired to do so, and the Commission itself carefully pointed out

that it was no concern of the Commission but was a matter of private contractual agreement between Noble and Flamm whether or not he went through with his contract.

There is also attached excerpts from the hearing before the sub-committee of the House Appropriations Committee in which certain phases of Commission action on the application for transfer of control of Station WMCA were discussed by members of that Committee and by members of the Commission. A reading of these excerpts indicates clearly that the Commission's action was entirely proper and in every way in order. It also shows that Flamm through his attorney, Colonel Brown, was advised by the Chairman of the Commission at an early stage in the negotiations for the sale of the station that so far as the Commission was concerned there would be no reason for Flamm to sell unless he desired to do so because the price was satisfactory to him. Chairman Fly in fact advised Brown that Flamm need have no fear that his application for renewal of license would be in any way prejudiced because he refused an offer to purchase his station, and that any application for his frequency would be considered solely on its own merits.

COMMISSIONERS

Exhibit "B"

ADDRESS ALL COMMUNICATIONS
TO THE SECRETARY

T. J. BLOWIE, SECRETARY

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.

March 27, 1941

MEMORANDUM FOR: Mr. Eugene Casey
The White House

SUBJECT: Transfer of control of Station WMCA,
New York City, from Donald Flamm to
Edward J. Noble.

Station WMCA was first licensed to a company controlled by Donald Flamm in 1929. Its operations since that time have been generally reputed to be poor. Numerous program and advertising complaints have been received, many of which, upon investigation, were found justified. Other departures from standards of decent operation have been noted. These culminated in September of 1939 with a revocation proceeding immediately precipitated by the station's violation of the Communications Act in intercepting and broadcasting secret radio communications from the governments of Germany and Great Britain to their respective naval vessels. No order of revocation was finally entered, but in the opinion which closed the proceeding, grave doubt was expressed as to the qualifications of Mr. Flamm and his associates to operate the station in a manner consistent with the public interest. As raising this doubt there were cited the violation of the statute, misleading testimony and failure to cooperate with the Commission. Mr. Flamm's conduct at the hearing, it may be noted, did not detract from the general impression created.

Negotiations for the transfer of all the stock of the license to Noble began in November, 1940. The first knowledge the Commission or its staff had of the pending negotiations was in the latter part of November when the late Thad Brown, representing Flamm, visited me late one evening. He advised me of the negotiations then current and stated Flamm felt he was being coerced because the prospective purchaser had indicated that he felt confident that if he applied for the license of Station WMCA, his application would be granted. Flamm was concerned as to whether the Commission had expressed any such view. I told Colonel Brown that I had not known until then of the negotiations, that the Commission had not discussed the matter and that no one had any reason for assuming

Mr. Eugene Casey

that any particular person could take over that license or that anyone at the Commission had made any such assertion. During the conversation, reference was made to Flamm's bad reputation and both of us assumed that it was that reputation that occasioned the statement about Noble's acquiring the facilities. I believe that conversation removed any question of coercion founded in any way upon statement or action of the Commission. I was most explicit on that point. I naturally assumed that Colonel Brown immediately notified Flamm as to my assurances. Nevertheless the negotiations continued thereafter and the contract was signed several days later, on November 30. An application by Flamm and Noble for the Commission's consent to a transfer of control was filed on December 2, 1940. The application was granted by the Commission on December 17, thus giving Mr. Flamm only that permission for which he explicitly asked.

On December 23, Flamm filed a petition to dismiss the already granted application. In it he alleged that when the Commission acted on December 17 he had prepared a petition to dismiss which had not been filed prior to the Commission's action because of his understanding that further information was required before the Commission would consider the application. As a matter of fact, the information in question was obtained from the transferee on December 14. While the latter petition was pending, Flamm privately revived the story of coercion. Rumor also had it that he had found a purchaser prepared to pay a higher price. The petition was dismissed on January 7, 1941, on the ground that final action having been taken on the application, the petition was not in order and that further, the consent was merely permissive and did not constitute a mandatory order. In other words, the Commission never ordered Flamm to do anything. The Commission's records show that on December 31, 1940, all of the stock of the licensee was transferred by Flamm to Noble in accordance with the contract.

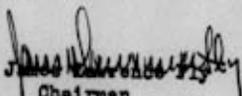

James Lawrence
Chairman

Exhibit "D"

THIS AGREEMENT made in the City and State of New York on this 30th day of November, 1940, by and between DONALD FLAMM, residing at Closter, New Jersey, hereinafter referred to as "Flamm", and EDWARD J. NOBLE, residing at Greenwich, Connecticut, hereinafter referred to as "Noble".

IN CONSIDERATION of the sum of Eight Hundred and Fifty Thousand (\$850,000.) Dollars in cash to be paid by Noble to Flamm as hereinafter provided, the parties hereto agree as follows:

1. Flamm hereby sells and agrees to transfer and assign the following: 100 shares of the capital stock of Knickerbocker Broadcasting Company; 100 shares of the capital stock of Gildon Holding Co., Inc.; 100 shares of the capital stock of WMCA Artist Bureau, Inc. Flamm hereby represents that the shares of stock hereby sold constitute 100% of all of the capital stock of the said corporations; that he is the sole owner thereof; and that the said shares of stock are fully issued, fully paid for, and that they are non-assessable. It is the intention of the parties, and Flamm hereby represents that the foregoing corporations named own all of the assets used and useful in radio broadcasting station WMCA and high frequency station W2IQO.

2. It is intended that an inventory of the assets of

the said radio stations will be made as soon as practicable; and Flamm hereby represents that such assets are the property of the corporations hereinbefore named.

3. It is understood and agreed that pending the approval by the Federal Communications Commission of the transfer of control as contemplated in this agreement, the business of radio station WMCA will be conducted as heretofore.

4. Flamm agrees that on and after the date hereof, the corporations will not sell, assign, transfer, mortgage, pledge, hypothecate, or otherwise dispose of any other properties, real, personal or mixed; that no liabilities will be incurred, except in the ordinary course of the business; no money will be borrowed by any of the corporations, and no employment contracts will be entered into or renewed by any of the said corporations beyond December 31, 1940.

5. Flamm represents that the only employment contracts in existence (other than the ordinary weekly employment agreements) are those which have been exhibited to and initialed by counsel for Noble. It is further understood that the musicians, announcers, production men, actors, singers and artists are employed pursuant to agreements between the station and trade unions of which such employees are members.

6. It is expressly understood and agreed that on or before the closing date the following assets are to be transferred and

assigned to Flamm or his nominee, to wit: (a) All cash on hand and in banks as of the closing date; (b) all Accounts and Notes Receivable as of the closing date, provided that as to Accounts and Notes Receivable of the said corporations, inter-company accounts are not included in this provision.

7. On the closing date all items prepaid by or to the corporations shall be adjusted in cash between Flamm and Noble. In addition thereto, all operating expenses shall be adjusted as of the closing date whether or not any such item is due and payable on that date.

8. (a). Flamm agrees to pay all liabilities consisting of accounts and notes payable and notes outstanding which liabilities shall have been incurred prior to the closing date whether or not the same shall be payable on the closing date, it being the intention that the corporations shall be free of liabilities except those which shall accrue subsequent to the closing date on executory contracts for goods, rents and services.

8. (b). Flamm further agrees that all income and other corporate taxes for the calendar year 1940 and years prior thereto will be paid in full by Flamm. Flamm also agrees to indemnify and save harmless both Noble and the corporations and their assigns or successors from all liabilities of and all claims against the corporation, including claims in litigation, which have arisen prior to the closing date.

9. For the purpose of insuring compliance with the pro-

visions of Paragraph 8 hereof, Flamm will deposit on the closing date cash, or securities as may be approved by Noble, in the sum of One Hundred Thousand Dollars (\$100,000) in escrow with any bank or trust company designated by Flamm.

Upon full compliance with Paragraph 8 hereof, said funds or securities shall be returned to Flamm; otherwise the funds or securities shall be used for the purpose of paying all items described in paragraph 8; and said funds or securities shall remain in escrow for such purpose only for six months after the closing date, after which time the funds or securities or those remaining, shall be returned to Flamm on his demand. But the return of such funds or securities shall not affect Flamm's personal liability on items covered in Paragraph 8 hereof.

Flamm represents that the Federal Bureau of Internal Revenue has examined and adjusted the taxes and payments of the said corporations for the years 1937, 1938, and 1939.

10. Flamm and Noble agree to file with the Federal Communications Commission an application for the voluntary transfer of control of Radio Stations WMCA and W2XQO on the forms prescribed by the said Federal Communications Commission. Noble agrees to retain counsel and at his own expense to prosecute such application; and Flamm agrees to give such reasonable assistance in the prosecution of such application as may be required in the premises.

11. It being understood by the parties that the transfer

of control of the said radio stations is subject to approval by the Federal Communications Commission, the parties hereto agree that this agreement shall be null and void if such approval is refused by the Federal Communications Commission.

12. The full purchase price of Eight Hundred and Fifty Thousand (\$850,000.) Dollars shall be deposited by Noble at the Bankers Trust Company in New York City in a special account and shall be paid to Flamm on the closing date; and to Noble as and if the Federal Communications Commission denies its consent to the transfer of control, or if this agreement is otherwise terminated.

13. Noble represents that no person representing himself to Noble as a broker is entitled to any fee or commission for bringing about the sale provided for under this agreement, and Noble agrees to defend and indemnify Flamm against claims for brokerage fees that may be made by any person claiming he has so represented himself to Noble.

14. This agreement is made on the understanding that Flamm has made no representations with respect to any of the several corporations mentioned in this agreement, except as contained in this agreement.

15. During the pendency of this agreement, Noble shall be afforded reasonable opportunity to acquaint himself with

the operations and business of the corporations.

16. Both Flamm and Noble represent and warrant that this agreement constitutes the entire contract and agreement between them for the sale of the stock involved and that there are no other contracts, agreements, understandings or commitments of any kind or character by or between them, and the consideration recited herein is the entire consideration for the sale involved.

17. It is further understood and agreed by and between Flamm and Noble that since one of the important factors in arriving at the purchase price of Eight Hundred and Fifty Thousand (\$850,000.) Dollars provided for herein is the assumption that the amount of taxes which will be assessed against Flamm if this consideration is paid over to him during the tax year 1940 would be substantially less than the amount of taxes which would be assessed against him if the consideration is paid during the tax year 1941, and that thereby the consideration would be in effect diminished, this agreement shall be null and void unless the consideration of Eight Hundred and Fifty Thousand (\$850,000.) Dollars becomes payable to Flamm under the terms hereon on December 31, 1940, provided that Noble shall have the option to extend the life of this agreement beyond January 1, 1941 by so notifying Flamm in writing on or before December 31, 1940; and if said option is exercised by Noble, he shall pay to Flamm an amount equal to ninety (90%) per cent of

any increase in Flamm's taxes on this transaction resulting from an increase in the tax rate on capital gains in the year 1941.

18. The closing date shall be a date mutually satisfactory to Flamm and Noble, not more than one week after approval of the transfer of control involved herein by the Federal Communications Commission, provided that the closing date shall be December 31, 1940, if such approval has been given on or before that date.

19. This agreement shall enure to the benefit of and shall be binding on the parties hereto and their respective executors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals.

DONALD FLAMM (L.S.)

EDWARD J. NOBLE (L.S.)

Witnesses:

William J. Dempsey

William Weisman

Exhibit "E"

Excerpt from sworn statement of Flamm in his application for transfer of control.

"REASONS FOR TRANSFER OF CONTROL"

"17. Transferor's reasons or purposes for transfer of control are as follows:

To relieve himself of the responsibility of operating Station WMCA in order that he may devote himself to other affairs."

Exhibit "F"

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C.

In re Application of
KNICKERBOCKER BROADCASTING
CO. INC. (WMCA)
NEW YORK, NEW YORK
For Consent to Transfer Control

}
}
}
}

File No. HL-TC-252

PETITION TO RECONSIDER ACTION
APPROVING TRANSFER OF CONTROL
AND TO DISMISS APPLICATION IN
ACCORDANCE WITH RULE 1.73 OF
THE COMMISSION'S RULES AND REG-
ULATIONS.

Now comes DONALD FLAMM, Transferor in the above entitled cause and respectfully requests that the action of the Commission taken on December 17, 1940 authorizing the transfer of control in Knickerbocker Broadcasting Co. Inc. be reconsidered and upon such reconsideration and pursuant to Rule 1.73 of the Commission's rules of practice and procedure respectfully requests the Commission to dismiss the application for Consent to Transfer Control of Knickerbocker Broadcasting Co. Inc., Licensee of Station WMCA.

In support of this request the Petitioner respectfully sets forth:

1. That the application for consent to transfer control of Knickerbocker Broadcasting Co. Inc., was filed with the Federal Communications Commission in behalf of DONALD FLAMM as Transferor and EDWARD J. NOBLE as Transferee on December 2, 1940.
2. That the said application has not been designated for hearing by the Federal Communications Commission.
3. Although no official notification of the action of the Commission has been given to Petitioner, your Petitioner has been unofficially informed that the Federal Communications Commission by a vote of three to one, on December 17, 1940, approved the application for Consent to Transfer

4. That your Petitioner's counsel received on December 14, 1940 a communication from the Hon. T. J. Slowie, Secretary of the Federal Communications Commission in which your Petitioner was required to submit further information with respect to said application, and in which communication your Petitioner's counsel was informed that,

"Before action is had thereon, it will be necessary to supply the Commission with additional information. The information called for should be furnished in duplicate and under oath, as required by Section 308(b) of the Communications Act, and should be given by the parties having personal knowledge of the same."

5. That on December 17, 1940, your Petitioner had prepared a petition to dismiss the application in accordance with Rule 1.73 of the Commission's Rules and Regulations of the Federal Communications Commission, and which was ready to be filed when such informal notice of the Commission's action was received by your Petitioner.

WHEREFORE, the premises considered, Petitioner respectfully requests that the Commission reconsider its action taken on the above-entitled application on December 17, 1940, and upon such reconsideration, to dismiss said application for Consent to Transfer Control of Knickerbocker Broadcasting Co. Inc.

Respectfully submitted,
KNICKERBOCKER BROADCASTING CO. INC.

(s) DONALD FLAMM

DONALD FLAMM, Transferor

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

DONALD FLAMM, first being duly sworn on oath, deposes and says:

That he is the Transferor in the above-entitled matter and that he has read the within and foregoing petition and knows the contents thereof; that the matters and things therein stated are true of his own knowledge save and except those matters therein stated on information and belief, and as to those he believes them to be true.

DONALD FLAMM
1657 Broadway
New York, New York

Subscribed and sworn to before me this 20th day of December, 1940.

FRED DYSON, Jr.
Notary Public

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

DONALD FLAMM, being first duly sworn deposes and says that at his direction a true and correct copy of the foregoing petition has been sent by United States mail, postage prepaid, to each of the following parties:

EDWARD J. NOBLE
Round Hill Road
Greenwich, Connecticut

DEMPSEY & KOPLOVITZ
Bowen Building
Washington, D.C.
Attorneys for Edward J. Noble

DONALD FLAMM

Subscribed and sworn to before me this 20th day of December, 1940.

FRED DYSON, JR.
Notary Public

Exhibit "G"

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C.

46105

January 8, 1941

In re)
DONALD J. FLAMM)
NEW YORK, NEW YORK) FILE NO. 81-TC-252
For Consent to Transfer of Control of)
KNICKERBOCKER BROADCASTING COMPANY, INC.)
(WMCA))

DECISION AND ORDER ON PETITION TO RECONSIDER

BY THE COMMISSION: (Commissioner Craven not participating)

This is a petition filed December 23, 1940, by Donald J. Flamm, New York City. It requests the Commission to reconsider its action of December 17, 1940, giving consent to a transfer of control of Knickerbocker Broadcasting Company, Inc., licensee of Radio Station WMCA, New York City, from Donald J. Flamm to Edward J. Noble, upon application filed December 2, 1940, by Donald J. Flamm, transferor, and Edward J. Noble, transferee (81-TC-252), and upon such reconsideration, to dismiss the application.

In support of the petition it is alleged that the application for consent to transfer control of the Knickerbocker Broadcasting Company, Inc., (WMCA), through the transfer of all the stock from Donald J. Flamm to Edward J. Noble was filed December 2, 1940; that on December 14, 1940, petitioner's counsel received a letter from the Commission requesting further information, and stating that before action would be taken on the application it would be necessary to supply the Commission with such information; that on December 17, 1940, petitioner had prepared a petition to dismiss the application under Rule 1.73, "which was ready to be filed" when notice of the Commission's action of December 17, 1940, was received.

On December 30, 1940, Edward J. Noble, transferee, filed his answer to the petition filed by Donald J. Flamm, transferor.

Upon examination of the application filed December 2, 1940, by Donald J. Flamm, transferor, and Edward J. Noble, transferee, for consent to transfer control of the Knickerbocker Broadcasting Company, Inc., (WMCA), it was found

that full information was lacking, particularly as to the financial arrangements between the parties, the financial showing of the transferee, and the nature of an asset item in the licensee's balance sheet entitled "franchise". On December 13, 1940, a request for additional information in regard to these matters was made jointly of transferor and transferee. On December 14, 1940, the Commission received a response from the transferee to its inquiry of December 13, 1940.

Thereupon the application became available for action by the Commission, and, upon consideration of the application and data submitted therewith by the transferor and transferee, the Commission, on December 17, 1940, found that the transferee was legally, technically, financially and otherwise qualified, and that the transfer requested was in the public interest. It, therefore, gave its consent to the transfer.

In so far as the instant petition requests a reconsideration of the action of the Commission granting consent, as applied for, to transfer of control of a licensee corporation, neither the Communications Act of 1934, as amended, nor any rule or regulation promulgated by the Commission pursuant to the Act either expressly or by implication makes provision for the filing by an applicant of a petition for reconsideration or rehearing following a grant of his own application as filed. Section 405 of the Communications Act of 1934 and Paragraph 1.271 of the Commission's Rules of Practice and Procedure provide for the filing of a petition for rehearing which may request reconsideration, hearing, or rehearing by any "person aggrieved or whose interests are adversely affected" by any decision, order, or requirement of the Commission. Petitioner has failed to make any showing that he is aggrieved or adversely affected by the action of the Commission taken pursuant to his request.

In so far as the petition requests a dismissal of the above-entitled application, petitioner's sole complaint appears to be that the Commission acted upon the merits of his application without awaiting a response from him as well as from the transferee to its communication of December 13, 1940, and while he was preparing to file a request for dismissal of the instant application. Petitioner does not claim that the information furnished by the transferee was in any way inadequate, improper or incorrect, nor does he allege that he had intended to furnish any additional information. On the contrary, it appears from his petition that his intentions were to ignore the Commission's request for information, and to petition the Commission to dismiss the application without giving any consideration whatever to its merits.

Petitioner's application was pending from December 2 to December 17, 1940, during which time he had ample opportunity to request a dismissal thereof pursuant to Paragraph 1.73 of the Commission's Rules. If petitioner found

himself unable to have the necessary papers prepared formally requesting a dismissal of his application, he might have informally communicated his intentions to the Commission, and requested additional time within which formally to do so. In the absence of any contrary expression of intention by an applicant, the Commission necessarily presumes that the request contained in his application is a continuing one until final action is taken thereon. Since the applicant in this case did not make his intentions known to the Commission prior to final action thereon, Rule 1.73 is no longer applicable.

In view of the foregoing, we are of the opinion that the "Petition to Reconsider Action Approving Transfer of Control and to Dismiss Application in Accordance with Rule 1.73 of the Commission's Rules and Regulations" should be dismissed.

However, in accordance with our usual practice, we have examined the instant petition with particularity in order to determine whether it presents any matters upon which we should, on our own motion, take action. As hereinbefore indicated, after securing full information we found on December 17, 1940, that the transferee was legally, technically, financially, and otherwise qualified; that the transfer requested would serve the public interest, and gave our consent to the transfer. The petition for reconsideration does not allege the contrary. No facts are stated in the petition which contradict in whole or in part the Commission's conclusion that the transferee is qualified to serve the public interest. In the absence of any showing that our action giving consent to the transfer of control of the Kickerbocker Broadcasting Company, Inc., (WMCA), is contrary to the public interest or that the action is in any respect unjust, unwarranted, or erroneous, no basis exists for reconsidering on our own motion our action of December 17, 1940, giving consent to said transfer of control.

In this connection, it should be noted that our action taken at the request of the parties is not a mandatory order, but is a permissive consent to the proposal contained in the application. The petitioner, as transferor, was himself an applicant seeking our consent to that proposal. Our consent has been given, and the matter is now one of private contractual arrangements between the parties.

Accordingly, IT IS ORDERED, this 7th day of January, 1941, that the petition filed by Donald J. Flamm, transferor, "to reconsider action approving transfer of control and to dismiss application in accordance with Rule 1.73 of the Commission's Rules and Regulations" BE, AND IT IS HEREBY, DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

T. J. Slowie
T. J. Slowie,
Secretary.

Exhibit "H"

Excerpt from

HEARINGS BEFORE SUB-COMMITTEE
OF
HOUSE APPROPRIATIONS COMMITTEE
ON
INDEPENDENT OFFICES APPROPRIATIONS BILL
FOR
FISCAL YEAR 1942

TRANSFER OF STATION WMCA

Mr. Wigglesworth. The Commission turned over to me a little while ago the so-called duplicate file of the WMCA transfer. From that folder it appears that an agreement was entered into between the parties concerned on November 30 to turn over the stock of that station, and a couple of other stations, for the sum of \$850,000, provided the transfer was approved by the Commission before the end of the calendar year. I think it also appears that the papers were filed with the commission about 2 days later, or December 2. Is that correct?

Mr. Fly. I believe that is right.

Mr. Wigglesworth. After the filing of those papers, did the Commission request further information from the licensee?

Mr. Fly. As I understand it, that is true. After the filing of that application, the Commission addressed a joint letter to the transferor and the transferee asking for certain information.

Mr. Wigglesworth. What was the date of that letter?

Mr. Fly. It was about December 15th.

Mr. Wigglesworth. Was the application subsequently approved by the Commission?

Mr. Fly. As I understand it, sir, while I was not there, the application was subsequently approved by the Commission.

Mr. Wigglesworth. On what date?

Mr. Fly. December 17th.

Mr. Wigglesworth. If you were not there, who was acting chairman and who was present?

Commissioner Case. I was acting chairman.

Mr. Fly. Commissioner Case was present as acting chairman. Commissioner Craven was present. Commissioner Walker and Commissioner Payne.

Mr. Wigglesworth. At the time of that action, had the additional information been received?

Mr. Fly. As I understand, the information had been received from the transferee in response to the joint letter.

Mr. Wigglesworth. Not from the licensee?

Mr. Fly. No. The request was to the two of them. There was one letter written addressed to the two of them, and it was received, as I understand it, from the transferee.

Mr. Wigglesworth. Was action taken after hearing?

Mr. Fly. No, sir. Congress has not provided for that. Where there is no opposition or no question is raised, Congress requires us to grant without a hearing.

Mr. Wigglesworth. Was it not suggested that a hearing should be held at that time?

Mr. Fly. Not that I know of.

Mr. Wigglesworth. I might ask Mr. Case, inasmuch as he was acting chairman.

Commissioner Case. It was so suggested, that a hearing be held. Commissioner Craven felt that a hearing should be held in the matter. The other three commissioners felt that they had sufficient information before them at that time on which they could properly act; that in case of a hearing, no further additional information would be brought forward that was necessary to a full understanding of the case by the Commission. So the vote was 3 to 1 to grant, Commissioner Craven voting for a hearing.

Mr. Wigglesworth. A hearing could have been granted in the discretion of the Commission?

Commissioner Case. That was in the discretion of the Commission. The vote gave permission to transfer the stock. It issues in usual form, under a form which we have, which makes it defeasible within 30 days, and if they do not consummate their contract within 30 days then the permission lapses. That is necessary, so that we know who is running the station, you understand.

Mr. Wigglesworth. It has been represented, whether truly or not, that a few days after this action, a member of the Commission who voted to proceed without hearing, on return from New York, moved to rescind the action of the Commission in order that a hearing might be held, because of the allegation, or rumors, or charges, that coercive tactics had been used in reference to the licensee in this case.

Is that substantially true or not?

Commissioner Case. There was a conference and discussion, but no meeting was held of the Commission from the 17th of December until the end of the year. As a matter of fact—I was acting chairman, and we had a quorum on the 17th of December. I asked the law department to bring forward any matters which should be acted on by the Commission prior to the 31st of December, my doubt being whether or not we would have a full quorum present during Christmas week.

Mr. Wigglesworth. Was that representation in substance made by a Commissioner who had voted to proceed without hearing?

Commissioner Case. Well, I think that Commissioner should answer that himself.

Mr. Wigglesworth. Is he here?

Commissioner Case. I think so, sir.

Commissioner Case. If he came from New York, that must be Commissioner Payne.

Mr. Wigglesworth. Mr. Payne is the representation in substance true?

Mr. Payne. I asked for a short discussion, because I had heard that there had been unusual haste, and also there had been a lack of information before the Commission. We sent for the law department and their explanation was--it seemed to be satisfactory--that by addressing the one letter to both the transferee and the transferor they had put themselves in a position that wherever the information came from, as long as it was the information that they wanted, they had all the information that they desired.

Mr. Wigglesworth. Did you obtain information in New York that the licensee felt the coercive tactics had been used on him, or anything along that line?

Mr. Payne. Yes, sir; I did.

Mr. Wigglesworth. Did you make a motion at this informal meeting that the action be rescinded and that a hearing be held?

Mr. Payne. I did not make any motion, but I asked for a full and complete discussion.

Mr. Wigglesworth. No motion was made or seconded?

Mr. Payne. No, sir.

Mr. Woodrum. Was there the full and complete discussion that you asked for?

Mr. Payne. Well, we spent most of the morning and part of the afternoon.

Mr. Woodrum. Were you satisfied with the ultimate action of the Commission?

Mr. Payne. It was a good explanation.

Mr. Woodrum. Well, did you insist on a hearing or did you acquiesce in what they had done?

Mr. Payne. I acquiesced finally.

Mr. Wigglesworth. How many were at that hearing?

Mr. Payne. Four.

Mr. Starnes. Mr. Chairman, are we trying this case?

Mr. Woodrum. I think within certain limitations the committee may ask for information of this kind from an agency. I would not want to go into a long investigation of it, but we usually have questions of this kind.

Mr. Wigglesworth. I will say, Mr. Chairman, that this particular case was brought to my attention through publicity in a number of newspapers.

Mr. Woodrum. I have no objection to your asking about it, Mr. Wiggles-

worth.

Mr. Starnes. I have no objection, either. I just wondered if we were trying the case here.

Mr. Woodrum. I want Mr. Fly and these gentlemen to see that the record contains a full account of just what happened.

Mr. Fly. We want to give you any information we can.

Mr. Wigglesworth. Is it true that the petitioner subsequently filed a petition with the Commission to withdraw or rescind—whatever the technical term is—the original petition for transfer of control?

Commissioner Case. He filed a petition which was received, I think, on a Monday—our meeting was on the Tuesday before; I think that is correct—in which he said that owing to the fact that this letter had been addressed to him he thought we were not going to act, and therefore he was in the process of preparing a petition to withdraw his request before us for transfer.

You see, they both came before us requesting the transfer. At the time we acted, we supposed that both wanted the transfer. The permission was granted. Subsequently, about a week later, he desired to withdraw the approval which he had previously given.

Mr. Woodrum. Was that after you had acted on it?

Commissioner Case. Yes, sir.

Mr. Wigglesworth. What action, if any, was taken on that petition?

Commissioner Case. That petition was denied on the ground that it was requesting us to reconsider something that we had already done at the request of the one who was asking us to reconsider it. It did not seem that that was a legal proposition. I do not know how the law department felt about that.

Mr. Wigglesworth. When was that action taken?

Commissioner Case. I think that was taken yesterday, sir.

Mr. Houston. Where is this station located?

Commissioner Case. In New York City, sir. It was owned by a Mr. Flann and he entered into a contract with one Mr. Noble, who used to be here in Washington.

Mr. Fly. He was the head of the Civil Aeronautics Authority later, I believe.

Mr. Wigglesworth. Was the decision unanimous?

Commissioner Case. With the exception of Commissioner Craven who did not participate in that particular vote.

Mr. Wigglesworth. The purchase price was \$850,000?

Commissioner Case. That is correct.

Mr. Wigglesworth. Is it true, as has also been represented, that there is a suit pending against the licensee for a broker's commission on the ground that he had agreed to sell the station to another for the price of \$1,200,000?

Commissioner Case. I have no such information.

Mr. Wigglesworth. You have not?

Commissioner Case. The law department informs me that they have no such information. I never heard it.

Mr. Fly. Did any of us hear of any such suit? I know I did not.

Mr. Wigglesworth. At the time of the action of the Commission, was the Commission aware that the charge had been made that Mr. Dempsey and his client had gone to the licensee and in substance stated that if the proposed sale was not agreed to action would be taken before the Commission, with assurance that the Commission would revoke or refuse to extend the existing license?

Commissioner Case. I can only speak of my own knowledge, sir. At a meeting of the Federal Bar--at a dinner--one lawyer spoke to me and said that he heard they had used a little force on Flamm to get him to sell to Noble. That is what I heard.

Mr. Wigglesworth. Did anybody in the Commission bring that forward at all for consideration?

Commissioner Case. I cannot speak for Commissioner Craven but I think that is the reason Commissioner Craven voted the way he did.

Commissioner Craven. I voted the way I did because I did not have sufficient information to cast an intelligent vote. I had heard rumors. I did not put any credence in the rumors, but I thought that we should have sufficient time to find out what it was all about.

Mr. Fly. I think in fairness to the committee and to the Commission, I ought to say, while I did not have any part in these later proceedings except in the decision on the petition yesterday, during the time when this negotiation was under way, as I recall--perhaps I am wrong on my date-- 2 or 3 days or 3 or 4 days before the contract was signed, Colonel Thad Brown came to me--my recollection is that that was a Friday; the contract was subsequently signed by the parties on Tuesday. Colonel Brown came to me stating that he represented WMCA and Mr. Flamm, and that a negotiation was in process; that there had been some suggestion or Flamm had indicated that the purchasers had indicated to him that they felt confident that if Mr. Noble applied for the license, that he could get it. In some way apparently Flamm became concerned as to whether or not the Commission had done anything about it, or whether any expression had been made in that regard by any of the Commissioners. Colonel Brown put it up to me in just that way. I told him that I did not know that those gentlemen were negotiating for the station, that I had not talked to them about it, that I had not talked to anybody in the Commission about it, and that I knew nothing about it. I made it clear that, of course, no one had any reason for assuming that any particular person could move in there and take that license.

There had been questions in times past as to Flamm's qualifications as a licensee. Colonel Brown knew that, and Flamm knew that. Everybody knew that. The license had been under attack for different questions in times past. But I assured Colonel Brown that so far as I knew or could know there was no reason for any assumption that anyone had any reason for any assumption that anyone had any reason for relying on the Commission to see that that license went over to another party.

I make that point because that was during the negotiation and 3 or 4 days before the contract was signed. And I think Colonel Brown must have told Flamm that I gave him those assurances, because he was there representing Flamm, and I was very explicit about it.

Mr. Wigglesworth. Was there any indication to any of the Commission, through Colonel Watson or Mr. Foster, that the White House was particularly interested in having this transfer approved?

Commissioner Case. Mr. Foster called me and said that any rumors to the contrary notwithstanding, the White House was not interested in this, in any way, shape, or manner, whatsoever.

Mr. Wigglesworth. How about Colonel Watson? Did he talk to the Commission?

Commissioner Case. Do you think I should answer that?

Mr. Woodrum. I do not see why not.

Commissioner Case. Colonel Watson did call me and say, when I was acting chairman, that he understood that this matter was before us, and representations had been made that Mr. Flamm had been forced into this thing, and would I look into the matter carefully. That is what he asked me.

Mr. Woodrum. He asked you to be cautious about it?

Commissioner Case. He asked me to be cautious about it; yes.

Mr. Fly. Was it subsequent to that that Mr. Foster called and said that the White House had no interest in it?

Commissioner Case. Yes, sir.

Mr. Wigglesworth. Is the Commission satisfied that Mr. Noble is, in fact, the real purchaser?

Commissioner Case. I would not have voted as I did if I had not been so satisfied, and I am sure the other two gentlemen who voted that way felt the same way as I did.

Mr. Fly. That is a lot of money, Mr. Wigglesworth.

Mr. Wigglesworth. This newspaper here, for example, says that—

"Thomas J. Corcoran (one time Roosevelt brain-truster known as Tommy-the-Cork) will be the eventual beneficiary."

Commissioner Case. As far as I know, they are not. As far as I know, Mr. Noble made definite representations—he was asked whether or not he would himself take an interest in this, or whether, with the various businesses that he had he would have direct control himself, and his reply, as I understand it, was, to the investigating department, that he intended to take direct supervision of the business.

Mr. Woodrum. Let us see if we can understand this proposition. The suggestion is that he gave Mr. Flamm, who now perhaps thinks that he was flimflammed, \$850,000 for his license?

Commissioner Case. Yes, sir.

Mr. Woodrum. How much physical property did he have? What was it worth?

Mr. Fly. You mean the station? The Commission does not approve the sale of licenses.

Mr. Woodrum. I know you do not approve of the sale of them, but they do sell them just the same, whether you approve of them or not. What was the value of the physical property that he had there?

Mr. Taylor. Approximately \$302,000.

Mr. Woodrum. So that he got \$542,000 for his goodwill, is that correct?

Commissioner Case. Going concern value.

Mr. Woodrum. I do not see that he was very badly hurt.

Commissioner Case. Unless, of course, there is a lot more profit in running a station than in selling the station.

Mr. Fitzpatrick. Was there a legitimate offer of more money made?

Commissioner Case. I do not know, sir.

Mr. Wigglesworth. It is represented that \$1,200,000 had been offered and accepted. I do not know whether that is a fact.

Mr. Fitzpatrick. Was that offer made by any reliable party, or that representation?

Mr. Fly. No. There have been flocks of rumors, and that is one rumor I have not heard, and I seriously doubt that there had been any such proposition.

Mr. Fitzpatrick. Did you ask the owner if he had been made any such offer?

Mr. Fly. I had not talked to him.

Mr. Fitzpatrick. Did any of the Commissioners—did you, Colonel Payne, coming from New York, have any representations that any such offer had been made, on reliable information?

Mr. Payne. No.

Mr. Fitzpatrick. Then all it is, is a rumor.

Mr. Payne. Yes, sir; as far as I know.

Mr. Fitzpatrick. And no doubt there is a lot of politics in that rumor.

Mr. Fly. As I understand—and this is from rumor; I do not have any direct information on it—that at about the same time there was one other party that was dickering for the station, and I believe the indication was that they would pay a little more, perhaps \$25,000, but that they wanted some sort of restrictive agreement from Flamm that within 5 years, for example, or 4 or 5 years thereafter, he would not go into the broadcasting business in any way, in that vicinity.

Mr. Houston. Who is complaining about this?

Mr. Starnes. Who is Flamm? Since this matter has been brought up, let us know something about this.

Mr. Fly. I did not bring it up.

Mr. Starnes. I would like to know who Flamm is. Tell us something about him.

Mr. Fitzpatrick. He is the one who made the protest.

Mr. Wigglesworth. He has filed a petition to withdraw his original request.

Mr. Woodrum. He found out that he could flimflam somebody else for more than he could this other fellow, and he wanted the Commission to help him undo his original request, so that he can get a bigger price from somebody else for something that he has no right to sell.

Mr. Fly. I understand that Flamm is trying to renegotiate this deal and trying to get an arrangement which will give him an interest in the station, and I believe a salary of \$25,000 or \$30,000 to continue as manager of it.

Mr. Houston. What did you say his name is?

Mr. Fly. Flamm, F-l-a-m-m-.

Mr. Starnes. I would like to suggest for the benefit of the committee, and certainly for my own personal information, that we ought to know a little something about Flamm's background and why all this furor. There are too many implications being made. I would like to know something about FLAMM and the reason for this complaint.

Mr. Fitzpatrick. Did he sign a contract to sell the station for that price?

Mr. Fly. Yes, sir.

Mr. Fitzpatrick. He did.

Mr. Fly. Yes, sir. He filed a petition for the Commission's consent. The Commission gave its consent as he requested. After the Commission gave its consent, then he says, "Well, won't the Commission take back the thing that it gave me at my request?"

Now, mind you, gentlemen, the Commission—and again I did not take part in that proceeding—but the Commission did not order him to transfer. The Commission has not ordered him to transfer. The Commission simply gave him the consent which he requested in writing.

Mr. Starnes. And were the rules and regulations, and the law concerning transfers of radio stations completely conformed with?

Mr. Fly. There is no doubt of that, sir.

ACTIVITIES OF MR. DEMPSEY AND MR. KOPLOVITZ

Mr. Wigglesworth. Let me ask you one other thing, Mr. Fly. When did Mr. Dempsey and Mr. Koplovitz leave the Commission?

Mr. Fly. About 6 months ago.

Mr. Wigglesworth. They are at present acting as counsel for Mr. Noble, are they not?

Mr. Fly. That is right.

Mr. Wigglesworth. Is there not a rule of the Commission that prohibits attorneys acting for a period of 2 years in such capacity?

Mr. Fly. No, only on such matters as they have been engaged upon within the Commission.

Mr. Starnes. In other words, Mr. Dempsey did not violate any rule or regulation in appearing for Mr. Noble?

Mr. Fly. No, sir.

Mr. Starnes. Or any law that you know of.

Mr. Fly. No, sir.

Mr. Wigglesworth. I shall appreciate it if you will furnish for the record a statement of the action, if any, by Mr. Dempsey or Mr. Koplovitz, in connection with the consideration by the Commission of the revocation of Mr. Flann's license in 1939; also a copy of the rule of the Commission prohibiting attorneys from participation in matters dealt with while with the Commission; also a statement as to why former Assistant General Counsel Porter was severely criticized yesterday by members of the Commission for appearing for an applicant previously examined by Porter while with the Commission as a witness in a case in which he had no interest.

Mr. Fly. I should like to answer the three points you raise in order.

Mr. Dempsey and Mr. Koplovitz, in their capacities as general counsel and assistant general counsel of the Commission supervised the work of other attorneys and themselves furnished the Commission with legal advice in connection with the preparation of the order to show cause issued against Station WMCA, in preparing for

the hearing, and in the drafting of the Commission's final decision. Mr. Dempsey appeared as Commission counsel at the hearing.

Section 1.38 of the Commission's Rules of Practice and Procedure provides:

" No member, officer, or employee of the Commission shall, within 2 years after his service with the Commission is terminated, appear as attorney before the Commission in any cause or application which he has handled or passed upon while in the service of the Commission."

In regard to the third point you raise, I know of no such criticism.

Mr. Case. Does the permission to sell carry with it an implication that the person who purchases will automatically receive a license to continue?

Mr. Fly. Yes; that is a part of the approval. The approval is of the transfer.

Mr. Taylor. The approval is this. If the licensee desires to transfer his license he may do so, but he does not have to. All that it is, is a consent.

Mr. Fitzpatrick. He was agreeable to the transfer when he made the application?

Mr. Fly. I think that must be true.

Mr. Case. And the statement is made here by counsel in the Commission that he does not have to go through with the transfer, that it is simply a proposition of consent.

Mr. Fly. We are not requiring him to transfer. I want to make that clear.

Mr. Woodrum. Then if he wants to, he can keep the station and turn down the \$850,000.

Mr. Fly. So far as this order is concerned, he is simply asking for a consent and he has got it. What he does with it is up to him.

Mr. Case. And 6 months from now he may come before you again and at that time ask for a different sort of a consent.

Mr. Fly. He might ask for something else. He shows up every so often.

Commissioner Case. Please remember this, that this consent is from the date that it is marked and issued and only runs for 30 days. Our consent only runs for 30 days and is defensible at the end of 30 days.

Mr. Fly. Under the present state of the record, gentlemen, the question as to whether he complies with the contract and conveys the station is simply one between the parties and they fall right back on their contractual rights and obligations. It is for them as private parties under contract with each other, and conceivably for the courts. It is not for us to say as to whether or not it will go over.

Mr. Nigglesworth. Of course, there would not have been any contract in the absence of your approval. It was made subject to your approval.

Mr. Fly. It was a conditional contract; of course it could not be actually transferred without the Commission's approval.

Note.—On January 7, 1941, the Commission was notified by letter of Pfeiffer & Cramos, attorneys at law, 271 Madison Avenue, New York City that a suit had been commenced by these attorneys in the Supreme Court, New York County, in which Alexander J. Jacoby is plaintiff, and Knickerbocker Broadcasting Co., Inc., Donald Flamm and Emile Z. Weinberg, are defendants, for commissions, in connection with the proposed sale of the WMCA radio station.

DEMPSEY AND KOPLOVITZ
ATTORNEYS AT LAW

M. J. DEMPSEY
C. KOPLOVITZ

Exhibit "I"

BOWEN BUILDING
WASHINGTON, D. C.
REPUBLIC 6363

December 23, 1940

Mr. Donald Flamm, President
Knickerbocker Broadcasting Co., Inc.
1657 Broadway
New York, N. Y.

Dear Sir:

Both Mr. Noble and ourselves have received copies of your "Petition to Reconsider Action Approving Transfer and Control and to Dismiss Application in Accordance with Rule 1.73 of the Commission's Rules and Regulations". This document is frivolous and patently lacking in merit.

Obviously your petition not only evidences a failure to assist in procuring the required approval as you undertook to do by your contract but represents an express effort on your behalf to induce the Commission to set aside the approval it has already given.

We infer that your action is prompted by the thought that it may influence our client to give more favorable consideration than he has heretofore to your proposal, repeated as recently as last Thursday, that he employ you to run the station for him and that he allow you to retain a minority interest in the company. Or possibly you hope by means of these threats to get still better terms from him or others.

It may therefore be opportune for us to use this occasion to review the situation and to make it clear that our client has no intention of being coerced by charges of duress to yield his rights under a fair contract freely entered into by you.

At an early stage of our negotiations we advised you of our client's intention to apply for a license to operate a broadcast station on 570 k.c. in New York City. We also advised you that our client desired to purchase your station from you at a reasonable and mutually agreeable price in preference to making such application if you were willing to sell. We stated that in our opinion a meritorious case could be made for the proposition that the public interest would be served by granting his application based on the value

Mr. Donald Flamm
December 23, 1940
Page 2

to the public of the service he would render as opposed to any service which could reasonably be expected from station WMCA under its present management. Very promptly you made the claim that this was an attempt to force you into a contract to sell on whatever terms our client might be willing to offer.

That this was not true is evidenced not only by the further course of the negotiations but by the fact that you finally succeeded in getting Mr. Noble to enter into a contract to pay you \$850,000. for your station. Your allegations in this regard are also controverted by many other indisputable facts which occurred during the negotiations and after the signing of the contract. For example, in the course of the negotiations you told us that you had caused Col. Brown, your Washington counsel, to tell the Chairman of the Federal Communications Commission that this statement had been made and that our negotiations constituted an attempt to force you to sell under duress. You quoted the Chairman as replying in substance that while any one has a right to apply for such a license, any such application by our client would be considered solely on its merits without favor or bias, that you had no reason to fear any prejudiced or unjustifiable action by the Commission, that the renewal of your license would in no way be prejudiced by your refusal to accept any offer to purchase your station, and that you should not enter into any contract to sell unless you really wanted to do so.

With full knowledge of that situation you went ahead and negotiated and signed the existing contract whereby you are to receive a price of \$850,000. for the enterprise after you have taken out the prescribed assets. You were fully aware of the entire situation at the time when you signed that contract. You will recall that Mr. Noble was indignant over the rumors that you had set afoot that he was attempting to force you to sell under duress, and that on at least two occasions Mr. Noble told you that so far as he was concerned the contract was off and that you were free to withdraw from the transaction. On both of these occasions you requested him to reconsider his action, and eventually the agreement was signed by both of you. After its execution you frankly told Mr. Noble how well satisfied you were and of your confidence in the excellent results that would follow under his management. In that connection you adverted to your former claims of duress and compulsion and instructed your counsel, Mr. Weisman, to telephone Col. Brown that you were wholly satisfied with the contract and that he was to withdraw any objections that he may have raised on your behalf, and in particular that he should retract any allegation of duress that he had previously made.

We have no shadow of a doubt as to the validity of this agreement and no threat or attempt to embarrass our client by false charges of duress will drive us from our course.

Mr. Donald Flann
December 23, 1940
Page 3

When you first interjected the charges of duress in this matter, no contract had yet been concluded and our client was prepared to withdraw from the negotiations. Having subsequently been assured by you that you desired to continue the negotiations and were satisfied with his proposal, he is not going to yield any of his legal rights. To do so would be to give countenance to your wholly unfounded charges. If your license is or was vulnerable to a new application it is not because of any conduct of third parties but solely because of the character of the service the station has given under your management. You procured an extremely favorable contract from Mr. Noble. You did so with your eyes fully open to the exact facts and all the facts. Before and after the execution of the contract you acknowledged your complete satisfaction with it. More than once since then you have proffered your fullest cooperation in acquainting him with the business and in arranging the details of the closing.

We feel constrained to advise you that if your action in filing the so-called petition results in a delay beyond December 31, 1940 of the closing of the contract, you will be held strictly accountable for any damages resulting to Mr. Noble. You will also note that if performance of this contract on that date is made impossible by your own actions, Mr. Noble will not be liable for any increased taxes that may be payable by you if and when a court obliges you to perform at a later date.

Finally we should like to make clear that our client will not be intimidated or coerced by any charges of duress into modifying or amending the agreement freely entered into by you with him and properly approved by the Federal Communications Commission. Nor will he be forced by any such tactics to give you a contract of employment with station WNGA.

Our client stands ready, willing and able to perform his contract and to make the closing on December 31. He expects full performance of the contract by you according to its terms.

Very truly yours,

DEMPSEY AND KOPLOVITZ
Attorneys for Edward J. Noble

By

William J. Dempsey

FCC Exhibit "J"

From RULES OF PRACTICE AND PROCEDURE, approved December 18, 1935: -

Former Commission counsel barred for 2 years.

101.7. No persons serving as an attorney at law in the Federal Communications Commission on or after July 1, 1935, shall be permitted to practice, appear, or act as an attorney in any case, claim, contest, or other proceeding before the Commission or before any Division or agency thereof until 2 years shall have elapsed after the separation of the said person from the said service. The term "attorney at law" includes attorney-examiner. Nothing herein shall be construed to prevent any former officer or employee of the Federal Communications Commission from appearing as a witness in any hearing, investigation, or other proceeding before it.

Amended March 17, 1937.

101.7. No person serving as an attorney at law in the Federal Communications Commission on or after July 1, 1935, shall be permitted to practice, appear, or act as an attorney in any case, claim, contest, or other proceeding before the Commission or before any Division or agency thereof until 2 years shall have elapsed after the separation of the said person from the said service. The provisions of this rule shall not apply to any person practicing, appearing or acting as an attorney in behalf of any municipality, or State or the Federal Government in any case, claim, contest or other proceeding before the Commission or before any Division or agency thereof. The term "attorney at law" includes attorney-examiner. Nothing herein shall be construed to prevent any former officer or employee of the Federal Communications Commission from appearing as a witness in any hearing, investigation, or other proceeding before it.

Amended July 19, 1939.

1.36. Former employees (a) No member, officer or employee of the Commission shall, within two years after his service with the Commission is terminated, appear as attorney before the Commission in any cause or application which he has handled or passed upon while in the service of the Commission.

(b) No member, officer or employee of the Commission (1) whose active service with the Commission has terminated but who is receiving pay while on annual leave not taken prior to separation from such active service, or (2) who is in any other leave status, shall appear as attorney or participate in the preparation or handling of any matter before, or to be submitted to, the Commission.

file
personal

PSF Exec. O'c. Casey Folder
1-41

THE WHITE HOUSE
WASHINGTON

July 12, 1941

MEMORANDUM TO THE PRESIDENT

I felt that you would be especially interested at this time in having brought to your attention a news article that appeared in the Washington Merry-Go-Round under date of August 5, 1933.

It is my information that the petition upon which this article was based was received at the White House during August, 1933.

Respectfully Submitted,

Eugene Casey
(hmp)

Eugene Casey

EC/hmp
Enc.

THE WHITE HOUSE
WASHINGTON

C
O
P
Y

Article from the Washington Merry-Go-Round by
Pearson and Allen.

August 5, 1933.

"President Roosevelt has received a proposal from the people of the Azores Island that he become their ruler.

"Situated in Mid-Atlantic, famous chiefly for transatlantic flight fueling, the Azoreans told Roosevelt they could stage a bloodless revolution, throw off the yoke of Portugal overnight."

PSF Exec. OXC

Eugene Casey

THE WHITE HOUSE

WASHINGTON

File Personal

Casey Folder
1-41

November 7, 1941.

MEMORANDUM FOR GENE CASEY:

I have your memorandum of Nov. 6th with the suggestion that I make a swing to various parts of the country. I would like to do it, but at the present time it is impossible for me to make any plans because all my plans have to be cancelled out by new events.

F.D.R.

THE WHITE HOUSE
WASHINGTON

November 6, 1941

Memorandum for the President:

We are all thoroughly conscious of the weakened support of the isolationists, Bundists, anti-British, and other opposing groups operating under the guise of the "America First Committee."

However, aside from yourself there exists no leadership for that vast majority of our people who favor all-out and complete armament for America, as well as unstinted aid to Britain.

Yet, you must know better than anyone else that when you cross the Allegheny Mountains, Washington is considered a long, long way off by the rank and file of the people. No greater blow could be struck against isolationists and subversive groups than for you to visit Detroit and swing down to Chicago, and then perhaps to Omaha and Kansas City, and on the return visit touch Indianapolis, Cincinnati, and a few other key points.

Let me say to you that this, in the opinion of keen observers, would be one of your greatest master strokes and would receive the most heralded newspaper support ever accorded you.

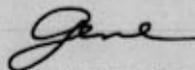
I believe that your presence in these heavy industrial centers would quiet the labor unrest and create a national unity never before existing in this country.

As I travel about, in my intense objectivity, I find that the people of the country, especially your former most bitter critics, are completely and unequivocally supporting you on the foreign policy.

They do, however, clamor and beg that you visit the Middle West to tell them firsthand our story of defense and national unity, to let these strong-minded Middle Westerners see you once again, and to break the backbone of the opposition.

Of course, I believe that a trip across the continent would be tremendously valuable and yet I realize you would probably not consider this, therefore, I suggest the Middle West tour which could be accomplished in less than a week or broken down into weekend jaunts.

Respectfully submitted,



Eugene Casey

Casey Folder
1-41

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personal*

BSF Ec. Oxc.

*Casely Folder
1-41*

THE WHITE HOUSE
WASHINGTON

November 13, 1941

Memorandum to the President:

The following memorandum has come to me from Bob Allen, co-author of the Washington Merry-Go-Round, concerning the present thinking of the citizens of Montana and their present unsympathetic attitude toward their senior Senator Burton Wheeler.

I thought that this would be especially interesting to you and probably quite comforting in the realization of the tremendous support your program is commanding in the West generally, and Montana specifically:

"About a month ago, E. Leroy Ayers, chief engineer of the Telephone Company here, together with several other Washington men, left on a hunting and fishing trip in the west. Three weeks of the time was to be spent in Montana. - - Ayers, a good friend of mine (in spite of the fact that he is a moderate isolationist), agreed to talk to the people with whom he came in contact as to their feelings about Wheeler, and the war situation in general. He returned late last week, and gave me this report:

"He talked to approximately 110 people in Montana (Gas station attendants, restaurant men, hotel clerks, ranchers and sporting-goods men);

"Only one (1) stated that he favored Wheeler and would vote for him again. He was a rancher for whom Wheeler had succeeded in getting \$10,000 allotted to keep a road past his ranch ice-free during the winter; he was so grateful, he said he would vote for Wheeler, regardless.

"The reaction of the entire remainder was as follows:

That Wheeler - -

- does not represent the true sentiment of his constituents;
- is an opportunist; thinks he will ride to the Presidency on the wake of reaction after the war;
- is carrying on his isolationist fight in the face of strong pleas from people of his State to change his course in the Senate.
- expects to be able to cover his present attitude between 1944 and 1946, - if, by 1944, he is still on the wrong side of the fence.

Memorandum to the President

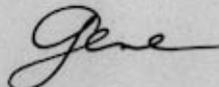
-2-

November 14, 1941

"And - (says Ayers), three of the people to whom he talked told him a story that is common gossip in Montana, i.e., that Wheeler obtained the money to support his political activity by his very questionable handling of a law case for a rich widow, following death of her husband. (If this case was as flagrant as Ayers was given to believe, you might be able to obtain further detailed particulars from sources at your disposal).

"The point is - Ayers, an isolationist, would have been glad to tell me that Montana was behind Wheeler, etc. etc., - But, to his credit, he was fair enough to give me the facts as he found them."

Respectfully submitted,



Eugene Casey

EC:mj

*Eugene Casey folder
2-43*

**THE WHITE HOUSE
WASHINGTON**

March 12, 1943.

copy

MEMORANDUM FOR MAC:

I think you might talk to the
Secretary of Agriculture about this.

F.D.R.

Eugene Casey folder
2-43
PSF Exec. OXO.

THE WHITE HOUSE
WASHINGTON

March 4, 1943

Memorandum to the President

The subject of this memorandum is just one more reason for the political riot and disintegration of our Party in the Congress.

Our good friend, Senator Murray of Montana, was promised several months ago by Mr. C. B. Baldwin, Farm Security Administrator in Washington, and Mr. Charles F. Brannan, Regional Director of the Farm Security at Denver, that a change in the State Director in Montana was imminent and at the request of Senator Murray, both men gave their solemn assurance to the Senator that he would be consulted on the new appointment before same was made.

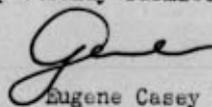
Time passed and the objectionable incumbent remained in office and then one day the Senator learned through most indirect sources that a Mr. George Hubber had been appointed Acting Director. This man was personally objectionable to the Senator and was appointed not only over his objection but despite the fact that the Senator had suggested the name of Mr. T. R. Schoenborn, who has been in the state office of the Agricultural Adjustment Administration for several years and known to be the best qualified man to fill the Farm Security office.

Mr. Baldwin, as is characteristic of him and for that matter of most department heads, "indicated to Senator Murray that he resented any attempts by the Senator to interfere with the internal operations of the Farm Security Administration in Montana."

I might add, Mr. President, that such tactics as these employed by all of Agriculture in general and Mr. Baldwin in particular are the crux of the difficulties between the executive and legislative branches of our government.

I shall be personally grateful to you if I may be taken into your confidence and advised as to your feeling on this subject and also of your disposition of it.

Respectfully submitted,


Eugene Casey

PSF Exec. Oxc.

Casey-falder
2-11-44

THE WHITE HOUSE
WASHINGTON

*file
Barnes*

January 3, 1944.

MEMORANDUM FOR

HON. EUGENE CASEY

This Farm Credit appointment matter is wholly new to me. The first I heard of it was about five or six days ago when a telegram came in and I asked Sam Rosenman to look into it.

Something must be done about it. Therefore, will you and Sam and Jim Barnes act as a triumvirate to get the two appointments made by Secretary Wickard withdrawn and the other two men put in their places? Mr. Wickard can use any excuse he likes -- that I was away in Egypt; that a letter from him went astray, or something like that but I do think something should be done at once.

F. D. R.

THE WHITE HOUSE
WASHINGTON

December 31, 1943

Memorandum to the President

My heart is torn asunder by events during the past few days surrounding the appointments of Frank Robinson of Kearney, Nebraska and Jess Alton of Mondamin, Iowa, as Directors on the Farm Credit Administration Board at Omaha, Nebraska.

I am suffering, not so much personally, as I am for my Country, my Party and my President. All three will see created the most violent political whirlwind that has descended upon Washington from within the Party in the eleven years of your tenure. "As we sow, so shall we reap."

Probably for the first time in all American political history every single political leader, as well as the complete roster of elected officials, in four states have unanimously endorsed for appointment to the above positions, Luther Bonham of Fairbury, Nebraska and J. E. Gatens of Dennison, Iowa. Added to this unanimity was the endorsement of the National Chairman, the Honorable Frank C. Walker.

Despite this fine array of support, together with the fact that Bonham and Gatens have unimpeachable and irreproachable records as Americans and Democrats, they have been denied appointment by Wickard and Black, Governor of Farm Credit, in the most flagrant violation of Party regularity ever to confront the Nation.

Page 2

Wickard, and his Assistant, Carl Hamilton, not only deceived Chairman Walker but connived to keep from Mr. Walker pertinent information concerning their intentions until it was too late for Mr. Walker, in his opinion, to rightfully bring the subject to your attention.

The entire subject is odious, politically treasonable and events will prove my contention that the act is seditious to my Country and to my President.

On Monday, December 27, from Omaha I forwarded the attached telegram which, for some reason unknown to me, was withheld from you. May I invite your reading of it at this late date?

As you know, the Democratic National Committee will meet in Washington on January 22 and I predict that as a result of these appointments a bombshell will be thrown into the meeting that will cause chaos, turmoil, disunity and disharmony. I predict that it will be said publicly on the floor for the benefit of the press, who will be present, that "the time has come to determine the future of the Democratic Party and, furthermore, that unless the flagrant avoidance of their recommendations are corrected that it will be far better to purge the Party of its extraneous features and begin anew."

All the above is the philosophy of Jim Farley who made several trips across the country in which he capitalized on the bad blood of the state leaders and has convinced many that "it would be far better in the interests of the Party that this Administration be defeated in 1944 so that a new nuclei and leadership could be built up in the Party for the 1948 and 1952 elections."

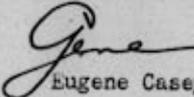
Page 3

The above, Mr. President, is not preposterous. It is the naked truth. It is within your power to stop this impending revolt by ordering Wickard to withdraw the appointments of Alton and Robinson and appoint the unanimous choice of the Party----Messrs. Bonham and Gatens.

As a result of Wickard's basic disloyalty the Party leaders have withheld from the Democratic Committee seven thousand dollars which I was authorized to pledge to Mr. Walker, two thousand of which I have in hand.

I beg you, I beseech you----I pray you, Mr. President, to keep harmony in the Party by correcting this grave injustice. This may seem very trivial but it is the sort of thing----in fact, may be the overt act that will defeat our Party and, therefore, the peace the world so richly deserves.

Respectfully submitted


Eugene Casey

STANDARD FORM NO. 14-A
APPROVED BY THE PRESIDENT
MARCH 10, 1925

TELEGRAM

OFFICIAL BUSINESS—GOVERNMENT RATES

FROM

The White House
Washington

Omaha, Nebraska
December 27, 1943

Pres. Franklin D. Roosevelt
White House
Washington, D. C.

Attention: Miss Grace Tully

Chairman Walker advises me Wickard and Black refuse to accept his recommendation, together with that of every leader and elected representative of Nebraska, Wyoming, Iowa, and South Dakota, that Bonham of Nebraska and Gatens of Iowa be appointed to Omaha Farm Credit Board. This is rank insubordination, utterly reprehensible, and politically treasonable on Wickard's part. Should Wickard persist in ignoring Chairman Walker, you may expect immediate resignations of the party leaders in above four states and others. Repercussions from this subject are vast. Earnestly request you personally prevent an act that will throw the party into chaos in coming National Committee meeting and National Convention. Kindly order Wickard to follow Chairman Walker's recommendation.

Lugene Casey

*file
Personal*

PSF Exec. O'Co. Eugene Casey folder 2-44

THE WHITE HOUSE
WASHINGTON

January 19, 1944

Memorandum to the President

This is an unusual, difficult, unpleasant and unpalatable memo to dictate. It is such because it necessarily becomes a personal one. It involves the alleged choice of Robert Hannegan of St. Louis as Chairman of your Democratic National Committee to succeed the present incumbent, the Honorable Frank C. Walker.

At the outset, permit me to make it crystal clear that I favor the continuation of the Postmaster General as Chairman. I do so without equivocation. Mr. Walker is the only man in the party today, to my knowledge, who can continue to keep all groups, factions and cliques together, provide leadership and be free from any indictment whatever as to his personal, political or economic life.

Likewise, I am opposed to Mr. Hannegan whom I understand and know to be a perfect gentleman, a 100% organization Democrat, and an honest, honorable and able citizen and administrator. However, all the above falls into a million shattered pieces. Yes, all the above is but packing-case fluff when placed in balance on the scales of public opinion and the wolves are unleashed by the opposition, its press and hired agents.

May I go back a very short year indeed to the case of the Honorable Edward J. Flynn whom I love, honor and revere, not only as a gentleman, an associate, an American, a Democrat, a compatriot - but as a father. For four years now, Ed Flynn has in effect been a father to me as well as a mentor. I love him as a father and he has said on many occasions that he too loves me as a son. Certain it is that I never make a move without consulting him. I say all the above as prolegue, so what comes hereinafter shall not be misconstrued as in any way impugning this really grand guy. The fact is, however, that because in Ed's absence his lovely wonderful little wife innocently accepted the offer of a New York City employee to have hauled to their farm a few loads of condemned paving blocks, Ed was smeared from San Francisco to New York, to London, Cairo, Shanghai, Canberra, and back to San Francisco.

"The boys" cared not a damn in effect whether they personally smeared our great and good mutual friend, Ed Flynn. It was you, Franklin D. Roosevelt, President of the United States, upon whom their foul blows were indirectly aimed, and I choose to believe that the darts found their mark - for you did suffer personally and politically as a result of this fight and smear campaign.

This must not happen again. We enter the '44 campaign, I choose to think, as a definite underdog at the moment. Certainly, we are behind. We must have virtuous platforms, and honest, resourceful and irreproachable men as our candidates if we are to eke out victory. We cannot afford to bridle ourselves with obvious handicaps. What I shall relate now is not to be construed as any personal indictment on my part of Mr. Robert Hannegan. The gossip as well as the printed story about Mr. Robert Hannegan is as follows:

- (1) that he was the St. Louis representative of the Prendergast machine in Missouri.
- (2) that he was the leader of the Democratic spearhead in Missouri which succeeded for the actual as well as the proverbial 40 days and 40 nights in keeping out of the governorship the duly elected Republican, Ferrest Dennell, and only was restrained and defeated in his attempt by the Supreme Court. Further, that he has been imported to steal a fourth term for Roosevelt.
- (3) that he is being placed in this position of Chairman in order that the wealthy taxpayers of the Nation may be made to cringe, and out of fear of the tax collector, support generously the Democratic War Chest. While I have stated this third premise lightly, others are using the words "blackmail", "extortion", "coercement", and "intimidation".

I attach herewith stories written throughout the United States during the past few days by David Lawrence and George Rothwell Brown. It is only an introductory taste of what is to come. As a matter of fact, the Republican press is carefully ignoring Mr. Hannegan's background at the moment and the Republican party individually and collectively pray for Mr. Hannegan's election. They feel it will give them the strongest issue - - that of corrupt politics and bossism to take before the American people. Mr. President, the Democratic party cannot afford an issue of this type. It is extremely unfair to you, as the President and the leader of the party, to have had selected for you and recommended to you Mr. Hannegan because of the unfortunate background of the gentleman who, I repeat, is a true gentleman and a real American and Democrat.

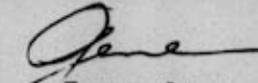
You and I believe in the good American philosophy that every man is innocent until proven guilty. The Republican party would indoctrinate the American people with the Caesarian doctrine that it is not only necessary to be honest - but compulsory that you be able to prove it.

I have talked to many National Committeeman and State Chairman and Governors during the past few days and they all believe to a man Hannegan's appointment or election would be a mistake and authorize me to convey that sentiment to you, and further that you insist on Frank Walker retaining the Chairmanship until the Convention. During the interim, a careful search may be instituted for the "right man".

All of the above I have written with the full personal knowledge of what will be my inevitable fate for opposing Hannegan and his supporters.

However, Mr. President, my life, political, social and economic belongs to my country, the Democratic Party, and to Franklin D. Roosevelt. If I can save future disaster for either or both, I shall not have been sacrificed in vain.

Respectfully submitted,


Eugene Casey

N.Y. Chicago American

File 11/15/41 No 27
Hannegan

POLITICAL PARADE

George Rothwell Brown

ST. LOUIS, Jan. 15.—The Missouri New Deal appears to have taken the preliminary steps toward preventing the heat being turned on Robert E. Hannegan, prospective new Democratic national chairman, later on in the fourth-term presidential campaign, in connection with the attempted steal of the governorship of this state four years ago.

Hannegan, now Internal Revenue Commissioner in Washington, at that time was chairman of the Democratic City Committee of St. Louis.

The incident in which he has just been made to figure again occurred in 1940, when Forrest C. Donnell, the present Republican governor of Missouri, was elected to that office by a plurality of more than 3,000.

What occurred then attracted national—and most unfavorable—attention, an attempt to seize the governorship in the interest of Lawrence McDaniel, the defeated Democratic candidate. It wasn't very savory. In fact it was smelly in the extreme.

The plan cooked up was to delay the seating of Donnell, and "investigate" the election, C. Marion Hulen, chairman of the Democratic State Committee, promising to supply the "evidence" that would justify the seating of McDaniel.

The scheme worked to the extent that Governor Donnell was kept out of office for 40 days, until the State Supreme Court peremptorily ordered the seating of Donnell. Then it blew up.

Hannegan was one of the Democratic leaders who went along with the scheme.

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Now out of a clear sky, Lawrence McDaniel, who has become Circuit Court parole officer, and is most inconspicuous in Missouri politics, suddenly bulges into front-page prominence in the New Deal press with a statement in which he places the blame for the attempt to raid the state capitol on "out-state party leaders."

He says that he himself was never enthusiastic about the scheme, and that Hannegan was not persuaded of the wisdom of the plan, but fell in with it under outside "pressure."

Now, obviously there is but one reason why the redecoration of the attempt to seize the Missouri governorship four years ago should be made, as it were with a whitewash brush, at this late date.

There is a dark-skinned gentleman in this particular Missouri woodpile.

It looks as though Hannegan is the man who has been selected to succeed Frank Walker as Democratic national chairman and conduct the Roosevelt fourth-term campaign. The incident above referred to tends to confirm the reports to this effect which have been in circulation here, in Chicago and in Washington.

Now of course there might be a certain amount of embarrassment during the aforesaid fourth-term campaign. If Republican spellbinders were to go around pointing an accusing finger and saying:

"Oh, yeah! The new chairman of the Democratic National Committee is the bird who tried to seize the governorship of Missouri in 1940 and who kept the rightful governor out of office for 40 days, until the Supreme Court blocked the scheme."

Nice alibi—but rather a belated one, what?

What made Mr. McDaniel wait so long before making his explanation?

And what New Deal "out-state pressure"—if any—was placed on him to whitewash the new national leader of the fourth-term draft?

"Evening Star"; January 18, 19

Finger of Suspicion

Rumor Hannegan Slated for Party Post Stirs Internal Revenue Bureau Charges

By DAVID LAWRENCE

Talk of selecting Robert E. Hannegan, commissioner of internal revenue, to be chairman of the Democratic National Committee tends to corroborate the oft-repeated charge that the Internal Revenue Bureau is just a political tool of the Roosevelt administration.

For the last 10 years the finger of suspicion has often been pointed to the bureau as being subject to the whims of administration politics and it has been suggested more than once that the tactics of the Internal Revenue Bureau, if innocent of political motives, often produced some remarkable coincidences with respect to the handling of the income tax returns of opponents of the administration. Mr.



David Lawrence

Hannegan came here only a few months ago and now he is to be taken away for political campaigning. Will he be given back the job after the election?

Any bureau of the Government which touches the pocketbook of millions of persons and handles billions of dollars of taxes must be without suspicion of being a political football. It has the power to construe the revenue laws and hence is a quasi-judicial body. For this reason, if for no other, the recent proposal of Representative Knutson to separate the Internal Revenue Bureau from the Treasury Department and give it the status of an independent bureau has much merit. The Bureau of Internal Revenue should have the dignity and the prestige of the office of controller general or of the Interstate Commerce Commission or the Federal Trade Commission. It should be governed by a bipartisan board or commission of at least seven members chosen proportionately from the major political parties so that the minority members might constantly check the majority and vice versa.

independent status with a commission of seven instead of one political appointee to fight for a sufficient staff and adequate appropriations to do the job the American people expect of any agency which is to collect 40 billions of dollars in taxes this fiscal year.

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The rank and file of employees of the Bureau of Internal Revenue are under civil service rules and are themselves free from political bias. They do a magnificent job, considering the handicaps under which they labor. But some of them are intimidated by fears from above and instead of accepting responsibility for the adjustment of taxpayers' claims they often refuse to make such adjustment, forcing the taxpayer into expensive litigation.

Indeed, the whole attitude of the Bureau of Internal Revenue toward the taxpayer might well undergo the scrutiny of a Congressional committee. Why, for instance, is it common knowledge among tax attorneys that it is harder to get a refund on an overpayment of taxes than it is to settle a claim involving underpayment? Why is it common knowledge among tax attorneys that the auditors for the Internal Revenue Bureau often feel that they must impose some trumped-up claim for the Government the minute the taxpayer applies for a refund on some item beneficial to him?

The stories of the peculiar tactics and strategy of the Internal Revenue Bureau among those familiar with the operation of the tax laws are numerous. The charge that politics influences action, however, relates mostly to businessmen who feel that opposition to the administration leads to a sudden checkup of old returns or some equally harassing maneuver. If there is nothing to any of these charges, a Congressional study of the subject would do a great deal once and for all toward improving the relations between the taxpayers and their Government.

Separation of the Internal Revenue Bureau altogether from the Treasury would improve the administration of the tax laws and result in something of the efficient practice prevalent in Great Britain where tax auditors are given the power to effect settlements on the spot, thus saving costly litigation and endless delay. The public generally hasn't the slightest idea, for instance, of how far behind the Internal Revenue Bureau is in handling tax returns, especially for business. Manpower shortages and heavy loss of men to the draft of trained men might not have occurred if the bureau had had an

PSF. Exec O/O. [E. CASEY]

President

4735

THE WHITE HOUSE
WASHINGTON

(no date)

Memorandum to the President:

This is the answer to the questions posed to me by yourself, Mr. President, a few weeks ago. The interrogations, as you will remember, were: "What are the farmers' kicks all about?" "What are the reasons for the kicks?" and, lastly, "What is the source of these gripes and what means are being employed to disseminate discontent, rancor, jealousy, and even hate, into the hearts and minds of the American farmer?"

This epistle is not an easy one to write. I do not propose, by that statement, to indicate that it has been difficult to find the irrefutable answers to the above questions, but rather it is onerous and unpleasant that I must engage in personalities. Well can I defend myself on entering this realm, when it is considered that individuals, their philosophies, their ideologies, their predilections, their inhibitions, their weaknesses—are all part of each and every respective personality—therefore, inevitably their acts. Laws are made by persons—yes, laws are executed by individuals and interpreted by individuals. So it must be apparent that the personal equation cannot be ruled out of any thesis.

So I shall begin at the beginning and place first things first. Therefore, the paramount consideration goes back to 1940 when Claude Wickard, an honest, sympathetic, Christian gentleman, but lacking intellectual qualifications, was catapulted into the office of Acting

Page 2

Secretary of Agriculture by reason of the nomination of Henry Wallace as Vice President. From that day thenceforth only confusion, misunderstanding and chaos have reigned in the Department of Agriculture and in rural America.

Immediately upon assuming office, Wickard surrounded himself with immature, untrained and politically inept advisers. They immediately led him into a direct repudiation of the farm groups, farm leaders and individual dirt farmers who had provided our only political and financial support in the late 1940 campaign as they had in 1936. He became a convert to Judas Iscariotism by yielding to the bullyragging of the American Farm Bureau Federation which for the first time in its history was feeling the heat of membership competition and the pains and reactions to political defeat sustained by your victory at the polls. It is still a secret that Wickard, however, was consulting a Delphi oracle at the White House (not yourself or a member of your secretariat) before acting finally on all decisions. This adviser is recognized and deprecated unanimously in the Democratic Party for lack of political astuteness. His association is also the source of the irritation, lack of confidence and hard feelings that exist between the Congress and yourself, as well as millions of people throughout the land.

Well, we all know what happened. With the repudiation of their opposition, and incidentally your only friends on the farm front, the Farm Bureau once again was dictating policy, writing legislation, recommending personnel and generally riding herd over the Department of Agriculture and Congress. The Grange, headed by that bitter and hateful reactionary Albert Gess, newly elected master of the Grange, appraised the opportunities and

moved in. So did the National Milk Producers Cooperative Association and the National Council of Farmers' Cooperatives. Apparently, and for good reason, the Congress felt the Administration was in concurrence with the four farm groups, inasmuch as Wickard was advancing their program.

Came the dawn, and you perceived what was happening. You recognized these opportunity riders for what only they could be, the four horsemen of inflation, selfishness, greed and ruin. The damage, however, had been accomplished. Wickard in his naive innocence had solemnly committed the Administration to minimum prices for many basic commodities including the greatest curse of all the hog at \$13.75.

Farmers complained about the policy, or lack of policy, in regard to the corn price ceiling. They pointed out that the Secretary of Agriculture put a ceiling of \$.92 on corn and a ceiling of \$14.75 on hogs. This was ridiculous because it was out of line with the corn-hog ratio. This price relationship induced a great deal of feeding, in fact too much. Also, it kept hogs off the market when needed because farmers were using them for breeding. The corn ceiling was raised to \$1.00 and later to \$1.05. Recently the Senate passed a bill putting a ceiling of \$1.40. This confusion and change of corn prices alone has been sufficient to cause all the complaints coming in. Landlords who own corn and do not feed feel they should get \$1.40. Tenants who have been increasing their number of hogs feel that about \$1.00 is as high as they want to pay, to take care of the risks involved in hog feeding and the amount of work done by the operator alone who invariably is short of labor. Many of the landlords live in county seats and have plenty of time to write to their congressmen and their local papers. Of course, corn processors howl about the lack of supplies.

As you know, this act destroyed the accepted corn-hog ratio and is the basic fundamental cause for our corn shortage today. Beef cattle, poultry, and dairy stock are progressively going hungry because Earle Smith of Illinois, Francis Sayre of Iowa, and a few other Farm Bureau leaders sold Wickard, the Indiana hog farmer, an unforgivable, selfish and unworkable scheme.

Recognizing their mischief, the Executive Department broke with the four farm organizations when they carried their inflationary program direct to Congress. WICKARD WAS ALERT ONLY TO YOUR RECOGNITION OF THEIR CHICANERY.

We must always keep in mind that the leaders of the four major farm groups are very definitely anti-New Deal and pro-Republican, not only in their philosophy but by background and birth. Edward O'Neal, the Alabama President of Farm Bureau, retains his position only because he does the bidding of the Republican leaders, such as Earl Smith in Illinois, Francis Johnson in Iowa, Hassil Schenck in Indiana, Frank White in Minnesota, C. Y. Thompson in Nebraska, and others. Albert S. Goss comes from Oregon, and as you will remember was deposed by you as President of the Land Bank in 1940. The heads of the Dairy Council and Co-ops Association are not only Republicans but tools for the packers, corporate creameries, implement manufacturers, feed processors, and big business of all types.

Poisonous venom equivalent to treason against one's country in time of war is being disseminated by millers, feed processors, consumers and sales agencies concerning the present tight situation in stock feeds. Certain false allegations are to the effect that they cannot sell to individual farmers as the Government is forcing the distribution of feed through co-ops.

Others will tell you that Washington plans to socialize all feeds. Another story widely circulated is to the effect that members of the Jewish faith are making all the rules in Washington, and only their brethren in the business are intelligent and slick enough to get around the rulings and provide for themselves plentiful supplies.

There can be no question that the propaganda is being sown to the winds in every county of the United States. It is either inspired, encouraged or condoned by the packers, creameries and feed processors.

The leadership of the Farmers Union, alert to the tenseness and opportunity of the times, had moved quickly into an all-out support position of the Administration's "hold the fart" and "roll back" policy. Their protestations against the economic evils of inflation were notable for their ineffectiveness. They used the occasion to begin a major membership campaign and sometimes enlisted the aid of the Agricultural Adjustment Administration field men to facilitate the drive. Concrete evidence was presented to the farm leaders in Congress of the aid given by Government employees to the Farmers Union membership effort. This only seemed to infuriate the Farm Bureau, which fought back with the ferocity of a she-bear for existence.

Meanwhile Wickard had called into Washington certain AAA fieldmen, and with Harry Scheeler, Director of the North Central Region, agreed to a plan to bombard the Congress with a barrage of opposition letters and telegrams opposing the Big Four's inflationary program. Operating in the ten states of Ohio, Indiana, Iowa, Michigan, Illinois, Missouri, Wisconsin, Minnesota, Nebraska and South Dakota, they caused a veritable flood of protests which inundated the Congress with AAA inspired mail. However, it

was easily traceable to Harry Scheeler and his AAA, whose head was demanded by the Farm Bureau, and Chester Davis' first pay-off to Ed O'Neal was to dismiss Scheeler. He (Scheeler) had fought a courageous and valiant battle for the Administration and obeyed Wickard's instructions, but not one important person stood up to defend him at his hour of doom. Scheeler was fired for defending your program and is still OUT. Claude Wickard was indeed magnificent in his austere, aloof role of Pontius Pilate.

During the last ten years about the only outstanding contribution to the farm situation, other than Rural Electrification, was the development of the AAA with its various techniques of conservation and parity payments. Now this is a total loss for in the last two years the policies of the AAA have been so bad and the organization has been so political that they have lost out completely. Their handling of parity alone has been sufficient to wreck the organization. They continued to give parity payments on the one hand, while the Treasury Department attempted to sell War Bonds on the other. This did not make sense to the farmer as he felt that the Administration should have let farm prices go to parity and not try to pay farmers out of the Treasury. The Administration, they say, should not have attempted to use parity payments to hold down prices just to placate labor groups. The whole muddled AAA situation was thrown into further confusion by a drastic investigation ordered by the Secretary of Agriculture. The Gestapo tactics of the investigation were a final blow to a loyal group of AAA leaders--Scheeler, et al. Right now, it appears best to eliminate the AAA entirely and begin anew. It appears to be extremely important to

have a new organization and a new approach. At the same time this organization could take over some of the best activities of Farm Security Administration, Soil Conservation Service, Farm Credit Administration and other overlapping agencies that the Department of Agriculture has in the field and which add to the confusion.

The feeling throughout the United States, particularly in the north central and southern regions towards Triple A is dangerous and most lamentable. In certain states, the Farm Bureau pays a portion of the county agent's salary. That factor, of course, directly affects its relationship with Farm Bureau. In all states, the county and state contribute the largest part of the county agent's salary. Inasmuch as half of all the States are Republican and better than 80% of the governors and legislatures north of the Mason and Dixon Line bear the Republican label, it is easy to understand whose bidding they do.

We should explore the strength, influence and political power of this Farmers Union whose affections and embraces we have accepted. First, let us agree that its national leadership is basically liberal and has always been found on our side on all important issues. Recipients of many millions from the Farm Credit Administration, through its affiliate, the Grain Terminal Elevator Association, many feel it was plausible, convenient and profitable to enunciate our viewpoint. However, I repeat, the national leaders are definitely liberal in their economic, social and political philosophy.

While Jim Patton and William Thatcher are forthrightly and sincerely defending the Administration's philosophy here in Washington, in effect it is tantamount only to lip service as many of the Union's

state leaders and their local publications are engaged in pouring out vicious poisonous vitriol of misrepresentation, distortion and prevarications relative to our farm program and cite its confusing, contradictory and demoralizing effects on the individual farmer. Specifically, they are attacking the roll-back program and the corn ceilings and charging the government with using "jokers" against the farmers in a diabolical plot to "neatly fleece farmers."

I do not charge chicanery or double-cross to the Farmers Union. It is simply a fact that its National leaders cannot control the state or local leaders and neithermore are they effective with the rank and file membership. They are likewise not effective with Congressional majorities.

In fact, the front man in the Congress for Thatcher, Patton and the Farmers Union in their drive to obtain parity for wheat, which, incidentally, is their main and almost sole important consideration, is Senator Reed of Kansas. No more caustic, bitter and belligerent Republican bellows under the Capitol dome. In fact, he is the most personally vicious member of the opposition. Yet, we find him gaining high favor in the great wheat state of Kansas on an issue, the arguments for which are provided by those upon whom we are bestowing great favors. There are other cases of equal contradiction and confusion.

The Farmers Union membership strength is found in North and South Dakota, Colorado, Nebraska, Oklahoma and Arkansas. The former four are by all odds the most Republican-minded states in the country, as proven by the elections of 1938, 1940 and 1942, and will continue to be. Oklahoma and Arkansas are traditionally Democratic states. The question, therefore, is properly posed as to why on a strictly political basis we

should make an alliance or association with this group.

Frankly, the result has been to give the Farm Bureau and Grange the opportunity to go forth among their members and sell the story (maliciously, yes--untruthfully, yes, but none the less effectively) that this Administration desires to discredit and destroy all farm organizations except the Farmers Union--"a notorious radical and communistic organization supported financially and otherwise by John L. Lewis," as the opposition brands the Union.

The farmer in the Middle West is a Republican by birth and through tradition. You may say that he is a Republican for the same reason that the farmer in the South is a Democrat. It all reverts to the Civil War and Reconstruction Days. Moreover, there are additional strong reasons for the Republican feeling regardless of a possible inherent liberal philosophy. Following the conclusion of the Civil War, land grants were given to Union soldiers in North and South Dakota, Western Iowa, Nebraska, Minnesota and other states. Many of these people feel that they owe their ownership of the farms to the Republican Party, who promulgated the land grant legislation.

When Chester Davis was appointed War Feed Administrator he moved in concurrently many reactionary and Republican appointees such as Jesse Tapp, who was, and is still, representing the agricultural interests of the Gianninis, and Jim Russell of the Des Moines Register and Tribune. These treasonable appointments set the pattern for an almost 100% organization of Republican appointments in the field.

The result is that the morale of those dealing with the organization has been lowered and little satisfaction derived by the public dealing with the organization. The reason being that the great majority of the employees is not in sympathy with the Administration as a whole or the precepts of the War Food Administration specifically. They undermine cooperation, in the same fashion that Leon Henderson's appointees destroyed public confidence in O.P.A.

Thus was the stage set for the entrance of Judge Marvin Jones, a really fine, honest and judicious character who, however, is certainly not happy in his new surroundings.

Unfortunately, nothing whatever has been done to oust from his organization those people who would destroy you, the program, the Party and Judge Jones. The antagonism that exists between W.F.A., State and Regional organizations and the Party machinery is tragic and bitter. Instead of cleaning house, as I believe should have been done, a typical example is the closing of the Des Moines Regional office where the strife was at its height, and sprinkling these Republican troublemakers about the rest of the country and bringing others back to Washington.

The Department of Agriculture has historically and traditionally throughout the ten years of your Administration been a seething cauldron of factions, cliques and prima donna groups whose distrust for each other has been legend and frequently culminated in purges, dismissals and forced resignations. The hatreds were personal often, but more frequently the civil war was fought on grounds of philosephy, administrative jealousies, jurisdictional controversies, and frequently clashes between the old guard forces of Republican reaction (Extension Service, Bureau of Agricultural

Economics, and scientific officials who are holdovers from Coolidge, Harding and Hoover) and so-called New Deal agencies, such as Agricultural Adjustment Administration, Farm Security Administration, Commodity Credit Corporation and the Farm Credit Administration.

Added to these conflagrations were quarrels of equal bitterness within the liberal agencies themselves and between liberal groups. Agricultural Adjustment, Farm Security and Farm Credit never agreed in principle or method between themselves despite their purpose to serve the farmers. This lack of agreement and coordination and often open repudiation and disparagement of each other was held in check to a large degree by Henry Wallace.

Wickard's appointment was the signal for chaos, rebellion and open name-calling. Wickard could not cope with the problem and his administrative weakness and avoidance of courage gave added strength to factional controversies. Honest, but weak of character, and devoid of executive or judicial acumen, Wickard would sail with one group in placid currents. A shifting wind would find him drifting in diverse directions. The storm clouds would find him nestled in a cove with the thunder and lightning of every group demanding decisions and enlightenment. Light from him never came. He only had a prayer for balmy weather. You, Mr. President, the Messiah, gave him peace by disrobing him of his mantle of authority. Today he stands properly repudiated but is still a menace and prohibition to agricultural unity.

That brings us to stark realism. We failed in the Agricultural program. Not that we deserved to fail. We have failed because of poor leadership, political ineptness, and colossal and unparalleled bungling in this Administration.

It is my strong feeling that farmers are pretty confused about the Administration's policies. This, of course, reflects the lack of leadership in Agriculture—a leadership that is indecisive, ineffective and shortsighted. The complaints against the Administration are coming from tenants, owners, farm organizations, extension service, and even the AAA committeemen. They gripe, of course, about the different things, all hereinafter enumerated.

It is essential and vital that the Department of Agriculture be reorganized to the end that the farmers of the nation have a clear cut understanding of its respective aims, purposes and services. Now it is a gangling, sprattling, sprawling, adolescent body possessed only of immature jealousy, envy and intolerance.

The various agencies bitterly assail each other in the field and passionately hate each other as divisions and individuals. Is it any wonder, therefore, that the farmer generally is unhappy, uncertain, confused and distrustful of the entire Department and all its component parts?

I recommend that the various county and state offices of the different agencies be merged and a strong central authority be designated. The same recommendation is germane to Washington.

The farmers have no real complaint on prices but they do complain about their relative position. That is, the way their problems have been handled as compared to labor and industry. They feel that the Administration has taken care of labor and industry but not agriculture. Of course, this is a reflection on the leadership in Agriculture in the Administration. I feel that if the real brains of Agriculture could be gotten together and be empowered with a directive to eliminate the overlapping in the agencies mentioned and come forth with a single new agency that would stand for the best

farmer thinking, that the situation might be saved before November 1944. If this is not done, there will be no advantage to instigate minor remedies for the situation is too hopeless. About the only thing that farmers have gotten out of the last ten years is the knowledge that they can get something done if they go after it, regardless of the Administration. Most of them feel that they could get as much, or maybe more, from a new Administration, using their experiences of the last ten years. In addition, they point out that the government will be so badly in debt at the end of the war that agriculture will be so overproduced that it will be impossible to use this Administration's program of conservation and parity payments.

Cattle feeders almost broke out in open rebellion because of OPA's policies in regard to meat prices. There are more cattle and sheep than in any time in history, but feeders are not available and there are meat shortages. The stupid handling of the meat situation will be hard to live down.

Commenting on farm conditions in the middle west following an extended personal tour through the real grass roots of America, the Vice President observed:

"Without question, the farmers are doing a good job under difficult conditions. If the labor scarcity is to increase, I feel they should have more machinery than they are likely to get next year. In various areas there is considerable resentment over the increase in the price of soy bean oil meal, tankage and mixed feeds. THERE IS A FEELING THAT MUCH OF THE TANKAGE, SOY BEAN OIL MEAL AND OTHER FEEDS IS BEING PURCHASED BY THE MIXED FEED MANUFACTURERS SO THAT FARMERS CANNOT DO THEIR OWN MIXING. (I will add the manufacturers have hogged ALL very definitely). The farmers blame the

Administration for giving the mixed feed manufacturers a prior opportunity to get various feeds so that farmers themselves cannot get their normal supplies."

Incidentally, despite all the Department of Agriculture's propaganda and promises, the supply of farm machinery for 1944 will be considerably below schedule, which, in itself, is grossly inadequate. The farmers inability to get parts and repairs constitute a scandal.

Summing up, the confused agricultural situation, due to lack of leadership, has opened up the way for complaints by all elements. A drastic reorganization with the elimination entirely of old agencies and with new leadership might be able to save the situation--nothing less will do.

Labor has had no less difficulties than Agriculture. Fortunately, you personally have undertaken to solve these problems and your astuteness and dexterity have won the day.

The farmer is tremendously confused and, in many cases, justifiably so, by the lack of a workable program here in Washington and some times no program at all: As a rule, when a plan comes out of Washington from the Administrative agencies, it is usually coincident with statements of grave distrust from certain powerful members of the Congressional Farm Bloc and farm organizations. Added to this, and perhaps equally, if not more important, is the constant bickering and counter-interpretations of rulings by the Department of Agriculture, War Feed Administration and the Office of Price Administration. In fact, agencies within the War Feed Administration and Agriculture Department, respectively, carry on constant jealous and prima donna warfare between themselves. The attitude of the

farmers, and consumers too for that matter, is to sit tight and "wait it out" so to speak. Hundreds of farmers and consumers who have spoken too frankly say "Why should I and my neighbors obey these regulations or cooperate when the governing body in Washington cannot make up their minds what is proper? When Washington understands the problem, we can be counted on for cooperation."

Indicative of the contradictory procedure were the incentive payments promised by Wickard for the production of certain much needed commodities. The farmer arranged his program in order to cooperate. Shortly thereafter the program was completely repudiated by Congress. Incidentally, Wickard was politically inastute in proposing a program that promised incentive payments without the prior approval of Congress. Moreover, Wickard promised floors under the prices for cattle, hogs, sheep, butter and other commodities. These were repudiated by OPA. It is such contradictions as these that provide the opposition with the fuel to feed the fire, which is ranging over the prairies of the country.

It is vital to have one and only one voice in Agriculture and for Agriculture so far as Washington and the Administration is concerned. We are suffering today from many voices, none of which are authoritative and all of which are in dissension with each other.

I cannot stress too strongly the urgent need immediately for strong aggressive leadership in Agriculture and the grave deficiency, yes the total absence of a leader.

We must appoint an outstanding, hard-hitting man as Secretary of Agriculture, who can restore the confidence of the farmer in his Agricultural administration and likewise furnish him with positive, unequivocal and unmitigated leadership here in Washington.

Had not Wickard failed so ignobly in his vacillating indecisiveness, the crux of the agricultural problem could never have occurred. Had he been even a feeble entity he would have provided the Agriculture of the nation with aggressive, righteous, and deserving representation before the War Production Board in gaining priorities on steel for farm implements; before the War Manpower Commission in obtaining deferment of farm labor, and before the staff of his own Departmental organization in devising a farm plan for all-out war production.

Mr. President, in a nutshell and briefly, the three main gripes of the average dirt farmer are:

- (1) INABILITY TO OBTAIN FARM MACHINERY.
- (2) LACK OF MAN-POWER ON FARMS.
- (3) ABSENCE OF A FARM PROGRAM AND IN ITS STEAD UTTER
CONFUSION AND CONTRADICTION.

In Agriculture a boy was sent to perform a man's job and the failure has been not only infamous, inglorious and colossal but FATAL.

The above brief political, economic and historic background leads inevitably to the demand for a bill of particulars—yes, specific complaints of the farmers and their organizations against the Administration as well as its farm program.

The complaints are set forth without interpretation or the attempt to analyze them for truth, accuracy or purpose. These are not my criticisms but are assembled from personal contact with farm leaders all over the United States. They are as follows:

GENERAL CRITICISMS

1. Belief that the "political high command" of the New Deal has "thrown agriculture to the dogs" and is relying on the city

vote, especially the labor vote, and the "Solid South" to win elections.

2. Coddling of organized labor--growing feeling that organized labor is dictating the policies of the New Deal Administration and that labor is being favored at the expense of agriculture and at the expense of the national welfare.
3. Too close association with industrial, public utility, banking and railroad leaders, and the tendency to re-establish in power the forces that wrecked the country from 1927 to 1933.
4. Growth of Federal bureaucracy--trend toward centralized control at Washington; vast powers concentrated in Executive branch of Government which causes fear that our traditional balance of powers will be lost; increasing trend toward Government by Executive decrees and directives; "blank-check" appropriations and blanket discretionary powers.
5. Feeling that the farmers have no leader, advocate, proponent or friends in the Executive branch of Government generally and the Department of Agriculture in particular. In fact the feeling is so widespread that the Department which was created in the interest of the farmer has degenerated into a opposition lever for opposing and suppressing the farmer's proper representation.
6. Extravagance and increase in cost of Government--enormous increase in national debt.
7. The presence among your advisers of an individual who is

universally despised, loathed and distrusted.

SPECIFIC CRITICISMS

1. Your Labor Day speech of 1942 which the Farm Bureau deliberately and viciously distorted and misinterpreted. They thereupon indoctrinated the farmer with the inference that you had charged him with demanding inflationary commodity prices; therefore, inflation could be directly chargeable to the farmer. Yes, that the farmer was the really selfish devil and was responsible for inflation. They further charged you with attacking farm prices, and the 110 per cent of parity provision and threatening to act any way if Congress did not repeal this provision, but at the same time asking that wage control be left to the discretion of the President.
2. The Farm Bureau widely disseminated an alleged interview by the Press with Messrs. Green and Murray on the White House threshold in which it was stated and implied by them that you, the President, were for
 - (a) Labor against the farmer's activities and interests.
 - (b) Would veto the Steagall-Bankhead Bill.
3. Refusal to adjust price ceilings to extent necessary to offset increased labor costs and other costs and to get necessary production, although Congress has directed that this be done (Act of October 2, 1942).

4. Refusal to modify "Hold the Line" order which greatly penalizes farmers and allegedly hampering of food production, although Congress specifically directed that adjustments be made in farm price ceilings whenever necessary to effect increased costs and to get necessary production.
5. Acquiescence of Administration in demands of labor for consumer subsidies to roll back food prices, when industrial workers are allegedly paying the smallest proportion of their incomes for food on record.
6. President's veto of Commodity Credit Corporation bill because of the Wolcott amendment prohibiting subsidies in lieu of price adjustments.
7. President's veto of Bankhead-Steagall bill to prevent the inclusion of subsidy payments in fixing farm price ceilings.
8. Threat of veto of Pace bill to require the inclusion of farm labor costs in computing parity prices for farm products.
9. President's veto of Connally Anti-Strike Bill.
10. Insistence of Administration on retaining all "social gains" during wartime, especially 40-hour week with its overtime penalty provisions. Farmers are working 60, 70, and as high as 80 hours per week without premium pay; they feel that in wartime, when manpower is scarce, industrial workers should work longer than 40 hours without premium pay provisions which retard full utilization of manpower.

11. Efforts to socialize agriculture through misuse of such agencies as the Farm Security Administration, especially its extravagant and costly methods of administration, its efforts to maintain a large administrative organization despite decreased needs, and its promotion of experiments in communal farming and colonies of clients, which many believe to be socialistic.
12. Efforts of Administration to retain relief agencies when needs for which such agencies were created no longer existed.
13. Efforts to use agricultural agencies for political purposes.

SUGGESTION AND RECOMMENDATION

I propose that you, Mr. President, make a farm speech in the early future or at least devote a major part of some other address to the problem. It will prove of great value in allaying the unrest among the farmers and sweeping aside the lies, distortions and half-truths that are being told about the Administration and some times yourself. There can be no question in the mind of the average farmer today concerning his feeling that you believe him to be an ingrate and selfish individual, who could never be satisfied or made happy regardless of what you might do for him. The farm groups have seen to it that he feels this way.

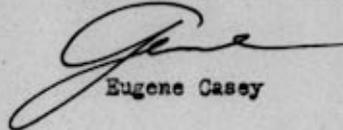
I further recommend a joint radio address to the farmers and laboring masses of the country, in which you point out the complete interdependence of one upon the other. Only you can do this here effectively. It is vital

Page 21

that we regain the confidence and the support and unity of our rural populations.

Mr President, I do hope you have read this thesis in detail and without too much impatience with its rambling length. Believe me, it is, despite all else an honest, ingenious and sincere effort.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Eugene Casey', written in dark ink. The signature is fluid and somewhat stylized, with a long horizontal stroke extending to the right.

Eugene Casey