

West Coast DX

Bulletin

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July 11, 1968

Special

The ARRL in a letter to its Directors dated July 9, 1968, released the information on the settlement of the Don Miller, W9WNV, lawsuit which settlement had previously been reported in the WEST COAST DX BULLETIN. The text of the letter follows:

On June 15, 1968, Dr. Donald W. Miller, W9WNV, signed an agreement to withdraw his lawsuit against the League and me, contingent upon ratification of its terms by the Board of Directors and upon action of the Awards Committee to grant credit for certain of his 1968 DXpedition operations, which had been properly documented and concerning which the Committee had received no unresolved complaints. The matter was submitted to the Directors, per instructions of the executive Committee, under the terms of Article 6, and as of July 1 more than the required 60% (11 in favor, 5 opposed) of Directors had voted to approve the agreement.

As this matter was originally handled with officers and directors only, at the recommendation of the General Counsel and the instructions of the President, it is appropriate now to provide a bit of background on developments which led to the agreement. Much of what follows has been furnished me by General Counsel Booth or President Denniston.

From the very outset of the litigation, Special Counsel James J. Brosnahan, of the firm of Cooper, White & Cooper, San Francisco, Edward F. Peck K6AN, as Co-Counsel and General Counsel Booth shared the view that the taking of Dr. Miller's deposition at the earliest possible moment was most desirable to acquaint his attorneys fully with the true facts concerning certain of his DXpeditions and his representations to the Awards Committee and the Directors. They believed the possibility was great that the litigation would be terminated by Dr. Miller once certain basic facts were known to all interested parties.

The taking of Dr. Miller's deposition was begun on Tuesday, June 11, in Hartford, and continued for the better part of three days. Some of the facts developed by Mr.

Brosnahan's questioning were as follows:

Dr. Miller's passport, necessary to establish many of the all-important dates of his entries into and exits from various countries disappeared and presumably was lost in February of this year, shortly before filing the suit; records and files concerning details of many of the DXpeditions were stored in the truck of Dr. Miller's automobile which was reported stolen from the New York area in July or August of last year and never had been recovered; financial records of contributions for his DXpeditions prior to early 1967 are in the possession of the World Radio Propagation Study Association and were not available to Dr. Miller; he admitted the operation under the call PY0XA, claimed to have been from St. Peter and Paul Rocks, actually took place from a boat some 1800 miles northwest of the Rocks and within sight of the coast of Venezuela and one of the Caribbean Islands, presumably Trinidad; pictures submitted by Dr. Miller which he represented were of the Rocks were of other areas or locations in the Caribbean; the name of the boat used for

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that operation, the 'Pussy Galore' was a 'nickname' given by either Dr. Miller or Herbert Kline, K1IMP, who accompanied Dr. Miller on that 'expedition'; many of the statements concerning the 'Rocks expedition' given by Dr. Miller to the Directors at the meeting attended by all the Directors on May 4, 1967, were not true; and he could remember few, if any, specific details of any of the alleged trips during 1966 and 1967 to Chagos (VQ9AA/C), Laccadive Islands (VU2WNV), Blenheim Reef (IB9WNV), and Heard Island (VK2ADY/VK0), and had no travel or expense records available to support his accounts of those 'expeditions.' Dr. Miller's explanations in an attempt to justify the St. Peter & Paul Rocks episode and many of his other actions were, in the opinion of the League's counsel, most unconvincing - and, at times, incredible.

The attorneys had previously agreed that only three days would be devoted at this time to Dr. Miller's deposition, that my deposition would be taken by Dr. Miller's attorney during the following three days, and Mr. Kline's deposition would be taken by the League in the Boston area on Monday, June 17. Accordingly, Dr. Miller's deposition was suspended after three days to be continued at a later date, and mine was begun on Friday, June 14.

According to our counsel, few, if any, facts adverse to the League were developed during my deposition. It was established that complaints concerning Dr. Miller's DXpeditions were carefully investigated and thoroughly considered by the Awards Committee. In our counsel's opinion, not one fact was developed to support Dr. Miller's claim that I rather than the Awards Committee had made the decisions, that

I displayed any malice towards Dr. Miller, or had called or termed Dr. Miller a "liar and a cheat."

Although some indications of a desire to reach a settlement appeared during the taking of Dr. Miller's deposition, specific proposals warranting careful consideration were not forthcoming until the end of the first day of the deposition. At the very outset of the settlement discussions-the word 'settlement' is used in the broadest sense and should not be construed as evidencing any weakness by the League-it was made clear that not one dime would be paid Dr. Miller to withdraw or dismiss his suit. Any and all suggestions of any payments by the League to DR. Miller were summarily rejected.

After many hours of discussion between attorneys and with their respective clients, and after liaison with President Denniston by telephone, the agreement was signed by Dr. Miller, the League (by me as Secretary), and by me as a defendant.

Basically, the agreement provides, that upon its approval by the League's Board of Directors, Dr. Miller shall dismiss his suit against both the League and me, and forfeits any right to file that or any similar suit in any court anywhere in the United States.

As concerns the 1968 DXpeditions of Dr. Miller, the Awards Committee had earlier been supplied with complete documentation by Dr. Miller, and had no unresolved complaints against any of those operations. It had, however, held up release of a decision because of complications caused through institution of the lawsuit. This bar having been dropped, the Awards Committee is now able to announce its favorable decision on the three operations. September QST will carry the news.

President Denniston called a special meeting of the Executive Committee in Chicago to hear counsel's report and discuss the agreement. During the meeting, Mr. Brosnahan was asked why the League should enter into -any- agreement, in light of the most favorable facts developed to date, rather than sit tight with the hope that

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Dr. Miller will become discouraged and give up the case. He based his very strong recommendation that the agreement be approved upon the following considerations; trial of the case would take at least a month, would have to be preceded by many more depositions in various parts of the United States and possibly overseas, and would be most expensive, perhaps involving additional expenditures up to \$35,000. And possibly even \$50,000; trial of a case before a jury always involves considerable uncertainty and risk because of the unknown jury, and there always

would be some possibility of a judgement for Dr. Miller; although arrangements between Dr. Miller and his attorneys is not known and cannot be ascertained, certain facts indicate that the arrangements are such that the case could be prosecuted with relatively little expense to Dr. Miller and, therefore, the possibility of a voluntary dismissal or loss of desire to prosecute would be remote; and even if a judgement in the League's favor would be obtained after trial, the publicity to the League would be no more favorable than can be realized from the present agreement. Mr. Brosnanhan most strongly recommended the agreement be approved. General Counsel Booth shared his views.

After extensive discussion, the Executive Committee referred the matter to the Board of Directors for a mail vote, with its strong recommendation for approval. As stated earlier, the Board's decision was favorable. Thus the agreement is now in effect and the lawsuit should shortly be terminated.

I personally regard this outcome a decisive victory for the League, its officers, and employees. It is indeed unfortunate that the League has been put to such unreasonable expense and some of its officers and employees subjected to such abuse. However, as our attorneys have said, "anyone can sue anyone else for almost any reason, and the party sued has no alternative but to defend".

A brief item on this subject will appear in August QST "League Lines", and a more complete story in a later issue.

Sincerely yours,
/s/ John Huntoon
W1LVQ
General Manager

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