

HEINL RADIO BUSINESS LETTER

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No. 737

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July 3, 1934.

SURPRISE APPOINTMENTS DELAY NEW COMMISSION ORGANIZATION

Because so few members of the new Federal Communications Commission knew in advance that they were to be reappointed, a delay was occasioned in the organization of the Commission. Judge E. O. Sykes, new Chairman, endeavored to get the members together Monday, July 2nd, inasmuch as the creation of the Commission was effective July 1st, but a quorum could not be assembled in Washington on that day. Accordingly Judge Sykes said that it might be a week later before they could organize. Only three members were in Washington at the time.

Although several had been spoken of as possibilities, among those finally chosen, dark horses predominated. These included former Governor Norman S. Case, Republican, of Rhode Island; Paul Walker, Chairman of the Oklahoma Utilities Commission, Democrat, of Oklahoma; Hampson Gary, former Minister to Switzerland, Democrat, of Texas; George Henry Payne, publicist, Republican, of New York, and Dr. Irvin Stewart, of the State Department, Democrat, who hails from Texas. The reappointment of Judge Sykes, Chairman of the Federal Radio Commission, Democrat, of Mississippi, and of Col. Thad Brown, Vice-Chairman of the Radio Commission, Republican, of Ohio, seemed to have been a foregone conclusion.

Judge Sykes was appointed for the seven year term; Colonel Brown for six years; Mr. Walker, five years; former Governor Case, four years; Dr. Stewart, three years; Mr. Payne, two years; and Mr. Gary, one year. At the conclusion of their present terms, they are subject to appointment, if again approved, for a seven year term. All of the present appointments will have to be confirmed by the Senate when it meets January 1st. If any should not be confirmed by the Senate, they will receive their pay from July 1st to January 1st. The present Radio Commission will function until the new Commission is organized.

An idea of the uncertainty as to who would be appointed, which apparently prevailed until the last minute, and the speed with which President Roosevelt moved when he finally made up his mind, is illustrated in the appointment of Mr. Walker. The names of the Commissioners were given to the newspapermen Saturday night for Sunday morning's release but late Saturday afternoon, President Roosevelt was still trying to reach Mr. Walker by long-distance telephone in Oklahoma. The White House was told that Mr. Walker was in Washington sitting with the Interstate Commerce Commission. An hour or so later the President succeeded in reaching Mr. Walker at the Cosmos Club, which is only about a block from the White House. The President asked him if he would accept the position and when the latter assented, President Roosevelt, at the telephone, is reported to have said, "You are appointed."

It is a typical Government Commission in which politics, rather than technical qualifications, predominate. Senators Pat Harrison and Stephens, of Mississippi, are credited with the reappointment of Judge Sykes; former Governor James Cox, of Ohio, and one time Democratic Presidential nominee, was said to have been behind Colonel Brown; and Representative Sam Rayburn, of Texas, is reported to have been the sponsor of Dr. Stewart, who also hails from Texas. Representative Rayburn was the co-author of the Communications Act, and Dr. Stewart, in charge of radio at the State Department, acted as his advisor. Although natives of the same State, they did not meet until several months ago. When Dr. Stewart's name was first mentioned, he seemed to take it lightly and apparently was as surprised as anyone when appointed.

Mr. Walker had the support of Senator Gore and apparently the entire Oklahoma delegation. Mr. Gary, from Texas, was said to have had the backing of Col. E. M. House, and Senator Sheppard, of Texas.

Former Governor Case is said to have been the personal selection of President Roosevelt. They met as members of a conference of Governors when Mr. Roosevelt was Governor of New York. Messrs. Roosevelt and Case were a part of a sub-committee, the other members of which were Governors Pollard, of Virginia; Dern, of Utah, and Woodring, of Kansas. Although of opposite political faith, a close friendship was maintained between Mr. Roosevelt and Mr. Case with the result that the latter has twice been a guest at the White House. Governor Case was described by friends, notwithstanding his appointment by a Democratic President, as "a real Republican".

Considerable comment was occasioned by the fact that Representative Anning S. Prall, of New York, also a personal friend of President Roosevelt, was not appointed to the new Commission. The President, when Mr. Prall was defeated for renomination to the House, appointed him to the Radio Commission but he never took his seat. Under the law, Mr. Prall, having been a member of the Congress which created the Communications Commission, would not be eligible to serve on it until January 1st. His absence from the new Commission gave rise to two stories. One was that Mr. Prall would succeed Mr. Gary at the end of the latter's first term; another was that Mr. Prall would be appointed to the Federal Trade Commission to fill one of the vacancies occasioned by the appointment of Messrs. Healy and Matthews to the Securities and Exchange Commission.

It seemed a certainty that Capt. S. C. Hooper, Chief of Naval Communications, would be appointed a member of the Communications Commission but this was said to have been strongly objected to by one of the large communication companies. Radio Commissioner Hanley was reported not to have been reappointed by President Roosevelt because of the allegations made by the Chicago Tribune that he had changed his vote and swung a decision of the Commission in favor of a Peoria station because the latter

was represented by a lawyer who handled the radio business for the client of Arthur Mullen, of Nebraska, of the Democratic National Committee and floor manager for Roosevelt at Chicago. Mullen was credited with having secured the appointment of Hanley, and Hanley's failure to be reappointed is taken as a further slap by the Administration at Mullen, who was subsequently forced off the Democratic National Committee by the President.

The failure of Commissioner Lafount to be appointed to the Communications Commission is charged to the fact that Mr. Lafount, a Smoot Republican, failed to vote according to instructions from the White House in a case which the Commission had before it concerning two Louisiana stations, KWKH, at Shreveport, and WWL, at New Orleans.

The new Communications Commission brings together men of long experience in public life. Judge Sykes, who is 58 years old, was formerly Justice of the Supreme Court of Mississippi, and was appointed to the Federal Radio Commission by President Coolidge in 1927, and reappointed by President Hoover in 1930. He will have been the only member of the Radio Commission who survived from its start to finish.

Col. Thad Brown, former Secretary of State of Ohio, and campaign manager of President Hoover in that State, began his service in Washington as Chief Counsel of the Federal Power Commission. He was subsequently appointed General Counsel of the Radio Commission in 1929, and later a Commissioner. Colonel Brown is 47 years old, and served as a Captain in the World War.

Mr. Walker was judged to be about 40 years old, and is said to be one of the best known State Commissioners on little understood angles of railway rates. He has served as Special Counsel of the Interstate Commerce Commission, and for the past two years has been Chairman of a section of the Oklahoma Corporation Commission which has been conducting an investigation of the Southwest Bell Telephone rates. He is a member of the Executive Committee of the National Association of State Railroad and Utilities Commission.

According to a friend of Mr. Walker, the latter's appointment was put up to President Roosevelt that the Commission would doubtless be required to have its political appointees, and that for window-dressing, it would be well for the President to appoint someone with Public Utilities experience and to really "do the work." This friend predicted that Mr. Walker would develop into the "Joe Eastman" of the Commission. One of the difficulties which presented itself in the appointment of Mr. Walker, was that it would allow "Alfalfa Bill" Murray, Governor of Oklahoma, to appoint his successor, but President Roosevelt was said to have remarked that he would not allow that to stand in his way.

Dr. Stewart, who is 35 years old, came into the radio picture four years ago when he was appointed to supervise radio matters insofar as they affected treaties. He had previously

served as Assistant Solicitor of the State Department, and after retiring for a couple of years to private practice, returned in 1930 in charge of the radio division at the State Department. He was born in Fort Worth, attended the public schools there, was a student for two years in the University of Oklahoma. Later he received his B.A., M.A., and L.L.B. degrees at the University of Texas, and finally his Ph.D. at Columbia University. He later taught Constitutional Law at the University of Texas. Dr. Stewart served as advisor at the International Radio Conference in Washington in 1927, at the meeting of the International Technical Consulting Committee on Radio at Copenhagen, in 1931, and was a delegate to the International Radio Conference at Madrid in 1932, and finally as advisor to the North American Radio Conference in Mexico in 1933.

Former Governor Case was born in Providence, R. I., and is 46 years old. He received an A.B. degree at Brown University in 1908. He studied law at Harvard from 1909-1911, and received his LL.B. from Boston University in 1912, and LL.D. degrees from Manhattan College in 1930, and Rhode Island State College in 1931. He married Emma Louise Arnold, of Bethel, Vt. June 28, 1916, and they have three children, Norman, John and Elizabeth. Mr. Case was admitted to the bar in Rhode Island in 1911, in Massachusetts in 1912, and the Supreme Court of the United States in 1923. He was a member of the City Council of Providence from 1914-1918, of the Soldiers' Bonus Board of Rhode Island, 1920-1922, United States Attorney, District of Rhode Island from 1921 to 1926. In 1927 he was elected Lt. Governor of Rhode Island and served until 1928, succeeding as Governor of Rhode Island upon the death of Governor Pothier for period ending January, 1929 and has been Governor since that time, his second term expiring in 1933. He was Chairman of the Executive Committee of the Governor's Conference 1930-32. He served as 1st Lt. Troop A, R.I.N.G., Mexican border, 1916; World War service, July 25, 1917 to July 19, 1929, as Capt. Co. A., 103d Machine Gun Batt., 26th Division, and later with General Staff of the A.E.F. He received the Chevalier de l'Etoile Noire (France) in 1918. He is a member of Delta Upsilon, a Baptist and a Mason, and a member of the University Club.

George Henry Payne was born in New York City and is 57 years old. He was a student in the College of the City of New York and later in the College of Pharmacy, and finally studied in the New York Law University. He was married at Dallas, Pa. to Mrs. Emma James Sturdevant, March 9, 1918. Propr. Long Branch Summer Season, 1893, The Gothamite, 1895-96; Associate Editor, Criterion Magazine, 1896-99; exchange editor and editorial writer, Commercial Advertiser, 1895-96; musical and dramatic critic, New York Evening Telegram, 1903-07; political writer, Evening Post, 1909-12. He was a lecturer on history and development of American Journalism, Cooper Union, 1915, and President Direct Nominations Club, 1901. He was a member of the New York County Republican Committee 1906-07 and a candidate for Assembly in 1908. He was Manager, Lit. Bureau for Henry L. Stimson, Republican candidate for Governor in 1910 and one of the New York

campaign managers for presidential campaign of Theodore Roosevelt 1912; also manager of the campaign for George McAneny, President, Board of Aldermen, 1913; now Tax Commissioner of New York City. He was a delegate to the Republican National Convention (floor manager for General Wood), Chicago, 1920. He was a candidate for United States Senator, Republican primaries against James W. Wadsworth, receiving 46,039 votes, in 1920. He was decorated Order of Danilo I (Montenegro), 1921.

Mr. Case is a member of the Metropolitan Club (Washington, D. C.), the Army and Navy Club, City Club, National Republican Club, Park Republican Club, Hardware (New York) Club, Cercle Interallie (Paris, France). He is the author of "A Great Part and Other Stories of the Stage, published in 1901; "The Birth of a New Party", published in 1912; "History of the Child in Human Progress," 1915; "History of Journalism in America", 1919; "England - Her Treatment of America", 1931; also a one-act musical comedy, "In Silver Idaho", 1911, and a one-act play, "The Lightning Stroke", 1915.

Hampson Gary is 59 years old and was born in Tyler, Texas. He was educated in the Bingham School, North Carolina and the University of Virginia; In 1901 he married Bessie Royall, of Palestine, Texas, and has two children, Franklin and Helen. He was admitted to the bar in 1894 and in practice of law at Tyler, Texas until removal to Washington, D. C. in 1914. He was referee in bankruptcy for four years, Standing Master in Chancery; U. S. Court, 2 years and appointed Special Counsel of the Department of State in December, 1914, to assist in the consideration of matters arising out of the war situation in Europe. He was advanced to the regular service and made a Solicitor, 1915. He was diplomatic agent and Consul General to Egypt, rank of Minister Resident, 1917 to 1920. While serving in Cairo, was in charge of American interests in Palestine, Syria, and Arabia. He was at the front beyond Jerusalem with Field Marshal Allenby for a while in 1918. He was called to Paris in 1919 for work with the American Comma. to Negotiate Peace; Minister to Switzerland, 1920-1921.

Mr. Gary has been engaged in general law practice in Washington, D. C. since 1921, and New York since 1931. He was a Capt. U. S. Volunteers Spanish American War, 1898, later Colonel, 3rd Texas Infantry. He was a member of the Texas House of Representatives, 1901-02 and regent, University of Texas, 1909-11. He is a member of the American Bar Association, American Society International Law, University of Virginia chapter Phi Beta Kappa, Alpha Tau Omega, New York Southern Society, S. R. Episcopalian. His clubs are the Metropolitan and Cosmos Clubs in Washington, as well as the Chevy Chase and Lawyers Club of that same city.

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A-K EXECUTIVE QUESTIONED IN ARMY INVESTIGATION

Delving into employment of certain Army officers by outside business interests, Acting Chairman Paul Kvale of the House Military Affairs Investigation Committee today (Tuesday) in Washington behind closed doors questioned Joseph L. Schwank, executive of the Atwater Kent Radio Company.

Schwank was "invited" to give any information he may have regarding services rendered Atwater Kent in 1930 and 1932 by Lieut. Col. Joseph I. McMullen, Chief of the Patents Section of the Judge Advocate General's office of the Army.

The Committee also is in possession of records showing that at least two other Army officers received compensation from business concerns, it was disclosed. Kvale said the names of other officers involved in the records would not be made public until the facts have been thoroughly checked, and unless the findings justify action by the Committee.

He said the Committee desires to ascertain whether the officers were on leave at the time and whether the firms employing them were doing business with the Government at the time.

The Atwater Kent representative was asked to testify by Committee investigators, who spent several days in New York and Philadelphia last week.

The Committee is awaiting a promised second appearance of Colonel McMullen, who already has given sensational testimony. The veteran military lawyer told the committee he would produce personal records as to fees he received from Atwater Kent and from the Cuban-American Manganese Corporation several years ago.

The Committee has indicated it would like to compare Col. McMullen's records with those received from other sources. In his testimony, Colonel McMullen said he received about \$5,000 from Atwater Kent interests for patent services and that he was on the payroll of the Cuban-American Manganese Corporation at a retainer of \$250 a month.

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COMMISSION DIVISION DIRECTORS UNCERTAIN

When asked who might serve as the directors of each of the three divisions - broadcasting, telegraph and telephone - which it is expected the Communications Commission will create, Judge E. O. Sykes said that no thought had been given to personnel in this connection and a decision would not be reached until after the Commission met. The only names heard in connection with any of the divisions were W. D. Terrell, present Chief of Field Operations, and Capt. Roger W. Yeomans, formerly with the Army Signal Corps and the A. T. & T.

"We have to get organized before we can work out the divisions", Judge Sykes explained. He added that he was very much pleased with the selection of the Commissioners. At least one person commenting upon this did not agree with him.

"Apparently the President concentrated on the Securities Commission and allowed Farley to have his way with the Communications Commission whose complexion is highly political", the critic remarked.

"One or two politicians may have slipped through", someone commented. "Yes a number of politicians get aboard. There isn't a man on the Commission with technical knowledge of either radio or communications."

A guess as to how the Commission might divide itself to supervise the divisions was as follows: Broadcasting - Brown and Stewart; Telegraph - Case and Payne; and Telephone - Walker and Gary, with Judge Sykes sitting in on all three if he so desired.

Two favorites in the betting were Paul D. P. Spearman for General Counsel, and Dr. C. B. Jolliffe for Chief Engineer. George Porter, Acting General Counsel seeks to head the Legal Division. Miss Fanny Neyman, of the Legal Division, who had Commissionership ambitions, is spoken of as having a chance for Assistant General Counsel; also Ben Fisher, Assistant General Counsel of the Radio Commission.

In the Engineering Division, it is believed places will be found for Ford Greaves and E. K. Jett, who both served under Dr. Jolliffe on the Radio Commission. Herbert L. Pettey, Secretary of the Commission, known as Farley's "fair haired boy", despite the bitter newspaper fire he has drawn, seems to be slated for Secretary of the Communications Commission.

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YANKEE NETWORK SUED FOR LIBEL

A libel suit asking damages for \$100,000 from the Yankee Network News Service, Inc., for broadcasting an admittedly false report during the celebrated Millen-Faber murder case has been filed in Boston in Federal Court by Abraham Faber, one of the defendants, since convicted of murdering two policemen during a bank hold-up.

The broadcast in question was made at 9:55 P.M., March 23, and alleged that Faber had made a desperate attempt to escape from the jail at Dedham, Mass., where he was confined during his trial. Stations WNAC and WAAB, operated by the defendant corporation, were used for the transmission of this report.

Richard Grant, manager of the radio news service, according to the Editor & Publisher, admitted under oath in the Dedham court on April 11 that the broadcast concerning Faber's supposed escape was false. The report, prefaced in its broadcasting by the words, "The Yankee News Service has learned exclusively", had not been verified before it was sent out on the air, Grant admitted under questioning by Attorney William R. Scharton, counsel for Faber.

"It was a hoax", Grant said, asked if he had made any retraction. Grant declared that the District Attorney had directed him not to.

The purpose of Scharton's subpoena of Grant to appear in court was to show that the false broadcast had prejudiced the minds of prospective jurors.

Attachment of the property of the Yankee Network News Service was also sought with the filing of Faber's suit. The News Service has 21 days in which to file an answer.

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CROSLEY WILL EXTEND CONVENTION GLAD HAND

Powel Crosley, past master at entertaining, has been appointed Chairman of the local Committee at the Cincinnati meeting of the National Association of Broadcasters in September.

E. M. Spence, of Atlantic City, Chairman of the Convention Committee, and Phil Loucks, of the NAB, who visited Cincinnati to look over the ground, are already predicting at least 500 registrations.

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The exemption from Federal Tax which affects payments by newspapers to telegraph and telephone companies does not extend to payments made by radio broadcasting companies to those systems of communications, the Bureau of Internal Revenue has ruled.

Station WAAF, owned and operated by the Chicago Drivers Journal, burned out in the Chicago stockyards fire, returned to the air last week with its regular daily schedule. A new transmitter has been constructed on top of the Exchange Building at the yards, and new studios have been acquired at the Palmer House.

Lynne M. Lamm, Washington newspaper correspondent and radio writer is spending his vacation at Mountainville, Orange County, New York. This is not far from Cornwall-on-the-Hudson. Mr. Lamm is accompanied by Mrs. Lamm and will be away about two weeks.

Mrs. Franklin D. Roosevelt is to be featured July 9 in a broadcast program of the Simmons Company, sponsoring Better Bedding Week. Her \$3,000 fee is to be forwarded to a charity to be named by Mrs. Roosevelt.

Henry A. Bellows, Chairman of the Legislative Committee of the National Association of Broadcasters expects to spend the 4th of July in Minneapolis.

In addition to their regular duties, New York City police radio cars delivered more than 12,000 summonses last month.

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PATTERSON, PALEY AND McCOSKER IN WNYC SURVEY

Mayor LaGuardia has named the following prominent radio executives to survey the facilities of WNYC, the Municipal broadcasting station, and to report on methods of expanding its usefulness:

William Paley, President of the Columbia Broadcasting System; Richard C. Patterson, Jr., Vice-President and General Manager of the National Broadcasting Company, and Alfred J. McCosker, President of the National Association of Broadcasters and associated with WOR.

Recently the Mayor set January 1st as the expiration date of a probation period for the station. He indicated that if its usefulness was not fully demonstrated by that time, WNYC would be discontinued and the station sold.

Mr. Patterson has already made a preliminary survey of the city station's technical equipment. As a former city official he is familiar with the city's financial situation and procedure within city departments.

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DECISIONS OF THE FEDERAL RADIO COMMISSION

The Commission did not meet today, either as the Federal Radio Commission or the Federal Communications Commission. The following were some decisions handed down on June 29:

Action Taken On Examiners' Reports

WBOW, Banks of Wabash, Inc., Terre Haute, Ind., denied C.P. to make changes in equipment, change frequency from 1310 to 1360 kc., increase power from 100 w. to 500 w. night, 1 KW day, unlimited time, sustaining Examiner George H1 Hill; WHBY, WHBY, Inc., Green Bay, Wis., denied C.P. to make changes in equipment change frequency from 1200 to 1360 kc., change power from 100 w. to 1 KW, unlimited time, sustaining Examiner Hill; WSBT, The South Bend Tribune, South Bend, Ind., granted renewal of license, 1230 kc., 500 watts, specified hours, sustaining Examiner Hill; WSBC, WSBC, Inc., Chicago, Ill., dismissed C.P. to change location, install new equipment, change frequency to 1360 kc., and change power from 100 w. to 1 KW night, 1½ KW-LS, from special hours to share with WGES, sustaining Examiner Hill; New, John L. Hopkins, Hammond, Ind., dismissed application for C.P. for new station to operate on 1360 kc., 1 KW, share with WGES, sustaining Examiner Hill.

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Also, WSBT, The South Bend Tribune, South Bend, Ind., granted modification of license to change frequency from 1230 kc. to 1360 kc., change specified hours to special hours, facilities vacated by WJKS, 500 watts, sustaining Examiner Hill; WFBS, Indianapolis Power & Light Co., Indianapolis, Ind., granted modification of license to change hours from specified to unlimited (facilities of WSBT); 1230 kc., 1 KW, sustaining Examiner Hill; WGES, Oak Leaves Broadcasting Station, Inc., Chicago, Ill., granted renewal of license, 1360 kc., 500 watts, 1 KW-LS on Sunday, Share with WJKS, sustaining Examiner Hill (The effective date in the above case is July 13, 1934); WJEJ, Hagerstown Broadcasting Co., Hagerstown, Md., denied C.P. to make changes in equipment, change hours of operation from daytime to unlimited and increase power from 100 w. day to 250 w. day, 50 w. night, 1210 kc., sustaining Examiner Ralph L. Walker (Order effective July 6, 1934); NEW - C. C. Morris, Ada, Okla., granted C.P. for new station to operate on 1200 kc., 100 watts, daytime hours, sustaining Examiner George Hl Hill (Order effective July 6).

Action On Cases Heard Before Whole Commission

New, Robert Lowell Burch, Salem, Ore., denied C.P. for new experimental broadcast station to operate on 1530 kc., 300 W., experimentally for 2 months, thereafter 1 KW unlimited (order effective July 13); New - General Television Corp., Boston, Mass., denied C.P. for new experimental broadcast station to operate on 1570 kc., 500 W., unlimited time (order effective July 13); also, granted C.P. for new experimental visual broadcasting station to operate on 42000 to 56000, 60000 to 86000 kc., 200 W., unlimited, except for time division with other license, A3 emission (order effective July 13).

Miscellaneous

WLBW, Broadcasters of Pennsylvania, Erie, Pa., reconsidered and granted application for increase in night power from 500 W. to 1 KW; WTOG, Savannah Broadcasting Co., Savannah, Ga., reconsidered and granted application for increase in night power from 500 W. to 1 KW; KWCR, Cedar Rapids Broadcasting Co., Cedar Rapids, Ia., The Commission reconsidered its action of April 20 and June 26, and ordered that station KWCR be authorized to use 500 watts daytime power.

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