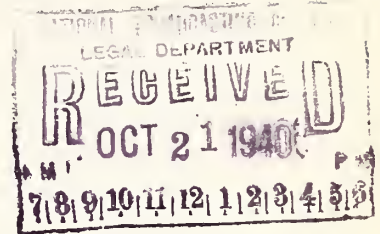


HEINL RADIO BUSINESS LETTER

2400 CALIFORNIA STREET

WASHINGTON, D. C.



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No. 1275

NEW COMMISSIONER PROBABLY WESTERNER

There seems to be every likelihood that the new member of the Federal Communications Commission to succeed Col. Thad Brown, whose reappointment was blocked by the Senate, will be a man from the West. That this part of the United States be represented on the Commission has been urged by Senator Burton K. Wheeler, of Montana, and others. Senator Wheeler is Chairman of the Senate Interstate Commerce Committee which passes on nominations and virtually everything having to do with radio in the Senate.

As the Commission now stands, its complexion is decidedly Eastern. Although Chairman James L. Fly was born in Texas, he has spent most of his life in the East. Mr. George H. Payne was born in New York City; Commissioner Norman S. Case was born in Providence, R.I., and afterwards served as Governor of that State. Commissioner T.A.M. Craven was born in Philadelphia and has spent much of his life in the East and cruising about the world in his 17 years in the Navy. Mr. Frederick I. Thompson, born in Mississippi, was appointed from Mobile, Alabama. The nearest to Western representation is Commissioner Paul A. Walker, who spent most of his life in Oklahoma although born in Pennsylvania.

Already the name of a Westerner has been mentioned as a possibility for the vacancy on the Communications Commission. It is Carl Irving Wheat, who was telephone rate attorney for the Federal Communications Commission in 1936-37, and later telephone rate counsel and Director of Telephone Rate and Research Department of the FCC at the time of the Government telephone investigation in 1937-38.

Mr. Wheat, as a matter of fact, was born in Holliston, Mass., in 1892, but went to California at an early age. He was graduated from Occidental College Academy in Los Angeles, in 1911 with an A.B. at Pomona College, Claremont, Calif. in 1915, and an LL.B., at Harvard in 1920. He was admitted to the California bar in that same year and began practice in Los Angeles, first as attorney for the Railroad Commission of California, of which he later became Chief Counsel. There followed practice at San Francisco in his serving as Public Utilities Counsel for the City of Los Angeles from 1933-36 as well as being associated with the City Attorney's office during that time.

After the telephone investigation at the FCC, he returned to San Francisco and Los Angeles where he entered law practice and became consulting attorney of the Public Utilities Commission of Hawaii and Department of Public Service in Washington, D.C. He is now practicing law in San Francisco as well as the National Capital.

Mr. Wheat was with the American Ambulance Service in France in 1917 and was a First Lieutenant in the Air Service, 1918-19. He is a member of the California Historical Society, Southern California Historical Society, E. Clampus Vitus, Book Club of California, the Roxburghe Club of San Francisco, Phi Beta Kappa, Kappa Delta. He is a Congregationalist and belongs to the following clubs: Commonwealth, Bohemian (San Francisco); Zamorano, University (Los Angeles); Cosmos (Washington).

Mr. Wheat is also a noted author and has written the following publications: "Life of Theodore D. Judah"; "Ned McGowan, the Ibiqitous"; "Trailing the Forty-Niners Through Death Valley"; "Regulation of Interstate Telephone Rates". He was editor of "The Journals of Charles E. De Long, 1929-31; The Shirley Letters from the California Mines, 1932; Wah-to-Yah, or The Taos Trail, 1935; also of Quarterly of Historical Society of Southern California, 1933-36. He compiled the following: Public Utility Regulation, California Railroad Commission, 1927; Digest of Decisions California Railroad Commission, 1927. He also has contributed to legal and historical periodicals.

Although the term of Commissioner Thad Brown expired June 30th, and the place has been vacant ever since, it may not be filled for some time. President Roosevelt said that probably no more major appointments will be made until after election. Asked about vacancies at present in the Communications Commission and the National Labor Relations Board, the President remarked that the Senate Committees are all short of quorums at present and that he very likely would make no appointments requiring Senate confirmation until the legislators return to Capitol Hill.

If the FCC appointment should be made before election, unquestionably it will be political. If afterwards, then very likely to some deserving "lame duck". It would be a juicier plum before the election because it has to be a Republican and favor might be curried among Republican voters as evidently the President tried to do in appointing Secretaries Stimson and Knox to the Cabinet.

As usual, the radio industry will probably have hardly anything to say about it. The Administration may go through the motion of consulting some of the industry leaders but as has almost invariably been the case in the past, when the announcement is made it will come pretty much as a surprise to all and this writer is willing to bet that rather than a man having any technical qualifications or knowing anything particular about the communications or radio industry, it will be another politician. It's the same old thing over and over again.

In connection with the Senate refusal to confirm the appointment, the following letters were exchanged by Colonel Brown and the President:

10/18/40

"October 14, 1940

"My dear Mr. President:

"May I express to you my deep appreciation of the trust and confidence you reposed in me in reappointing me on June 5 as a member of the Federal Communications Commission. Events which have transpired since then make it necessary for me to request at this time that my nomination be withdrawn and the appointment terminated immediately.

"As you will recall, during the early spring and before you appointed me a member of the Commission for another term, I had seriously contemplated entering the private practice of law. The opportunity which presented itself at that time is still available to me, and, in justice to my family and myself, I feel that it is my duty to carry out this original plan.

"With kindest personal regards and greetings, I am,

Respectfully yours,

(Signed) Thad H. Brown

"October 14, 1940

"Dear Mr. Brown:

"The terms of the request in your letter of October fourteenth seem to leave me no alternative but to accede. It is, however, with reluctance and with very real regret that I withdraw your nomination as a member of the Federal Communications Commission, and in further acquiescence in your request permit termination of your services as a member of the Commission, effective as of this date.

"In taking this action, however, I desire to express my appreciation of your work and my confidence in your ability to carry on - a confidence which has reflected in my action in tendering you a reappointment last June.

"I have long known of your desire to return to private life and I desire to wish you happiness and all success in the practice of the law.

"Very sincerely yours,

(Signed) Franklin D. Roosevelt

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MONOPOLY REPORT ARGUMENT PUT OVER UNTIL AFTER ELECTION

Oral argument in connection with the investigation by the Federal Communications Commission of chain broadcasting will be held on Tuesday, December 2, and Wednesday, December 3. The subject matter for argument will be limited to the issues of fact and policy raised by the report of the chain broadcasting committee dated June 12, 1940.

It was further announced that at the request of interested parties, the final date for the filing of briefs would be extended to November 11, 1940.

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NO PAY FOR VOLUNTEER RADIO PERFORMERS

Col. Phillip B. Fleming, Administrator of the Wage and Hour Law has ruled that persons who appear voluntarily on such programs as "Man on the Street" and "Quiz Game" broadcasts are not employees of the radio stations within the meaning of the law.

The instructions were issued relative to an order of Sept. 16 relating to sustaining radio programs because of a misunderstanding of its scope and the receipt of many inquiries.

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C O R R E C T I O N

In quoting from the Senate transcript in the article "Tobey Forces Brown to Quit", in our issue of October 15th, the following was inadvertently attributed to Commissioner T.A.M. Craven:

"* * * I heard a discussion, apparently coming from the direction where Mr. Brown was sitting; and I noticed that, as a result of that, he was holding the lady's wrist and I was holding it so as to prevent her from - apparently - attacking him in some form; because she seemed to be rather angry, as a result of the discussion."

This was incorrect. What Commander Craven really said was:

"I heard a discussion, apparently coming from the direction where Mr. Brown was sitting; and I noticed that, as a result of that, he was holding the lady's wrist and was holding it so as to prevent her from - apparently - attacking him, in some form; because she seemed to be rather angry, as a result of the discussion."

As stated in article, though Commander Craven was in the Club that night along with Commissioner Case and others, he was not in Colonel Brown's immediate party.

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FCC CLEARS UP OLD BROOKLYN SITUATION

The Federal Communications Commission has granted the applications for renewal of licenses for Station WLTH, The Voice of Brooklyn, Inc., and WARD, United States Broadcasting Corp., and denied the application for modification of license by WBBC, Brooklyn Broadcasting Corp., insofar, only as the facilities of WARD and WLTH are requested. All stations operate on the frequency of 1400 kilocycles with 500 watts power, sharing time equally, each station serving the Brooklyn area. It is a complicated case that has been before the Commission for years.

In 1932 four Brooklyn stations (WLTH, WARD, WBBC and WVFW), filed applications for increase of operating time, which if granted, would have required the deletion of one or more of the other stations. A hearing was held before an Examiner in August and September, 1933. During this hearing and subsequent thereto a number of applications were filed by other parties seeking full-time use of the 1400 kilocycle frequency. Also, the licensees amended their applications as to operating time requested. Therefore, the Commission ordered a further hearing to include these subsequent applications, which was held in December, 1934, and the Commission rendered its decision on December 17, 1935. Thereafter upon consideration of petitions for rehearing the Commission on February 5, 1936, ordered a hearing de novo to be held before it upon all the applications then pending and involving the use of the 1400 kilocycle frequency in Brooklyn, including renewal applications of the licensees. This hearing was held in March and April, 1937. On June 29, 1937, the Commission entered its order (1) granting the applications of WBBC for renewal of license and for renewal of auxiliary transmitter license, and granting in part, the application for modification of license, insofar as that application requested the facilities of Stations WARD and WLTH, and denying the application insofar as it requested the facilities of WVFW; (2) granting the applications of WVFW for construction permit to make equipment changes and for renewal of license, and (3) denying all other applications involved in the proceeding.

Thereafter WLTH and WARD each filed notice of appeal in the U. S. Court of Appeals for the District of Columbia from the Commission's decision of June 29, 1937, denying their applications for renewal of licenses. Appeals were also taken by the Brooklyn Daily Eagle Broadcasting Co., Inc., and the Debs Memorial Radio Fund, Inc., from the same decision which denied their applications for the operating time of WBBC, WLTH, WARD and WVFW. Later the appeals of Debs Memorial Radio Fund, Inc., and the Brooklyn Daily Eagle Broadcasting Co., Inc., were withdrawn.

On September 30, 1937, the Court of Appeals, on petitions filed by WLTH and WARD stayed the effectiveness of the Commission's order of June 29, 1937, insofar as it terminated the service of WLTH and WARD and assigned the operating time of said stations to WBBC. Pursuant to a motion filed by the Commission the Court of Appeals on October 13, 1939, remanded back to the Commission for

further proceedings the cases which were the subject of the above appeals taken by WLTH and WARD with the stipulation that "The Commission and the other parties in interest agree that the status quo will remain until the Commission has acted on the remand."

Based upon the foregoing the Commission on October 27, 1938, ordered temporary licenses be issued to WLTH and WARD for their continued operation, and on the same date set aside its order of June 29, 1937, insofar only as the same denied the applications of WLTH and WARD for renewal of licenses and granted in part the application of WBBC for modification of license to utilize the time of WLTH and WARD. The Commission's order of October 27, 1938, also set aside the Statement of Facts and Decision of June 29, 1937, insofar as the same denied the renewal applications of WLTH and WARD and granted the application of WBBC for the operating time of WLTH and WARD. The Commission's reconsideration of this record has been limited to the evidence which relates to the applications of WLTH, WARD and WBBC.

In its grounds for decision the Commission concludes:

1. The broadcasting service rendered the public by Stations WLTH and WARD has been of the same general character and quality as the service rendered by Station WBBC and there is, in fact, no substantial distinction in the merits of the services of these three stations.

2. The licensees of Stations WLTH and WARD are qualified legally, technically, financially, and otherwise to operate their respective stations on the limited basis of a time-sharing station.

3. The granting of the application of WBBC for modification of license insofar as said application request authority to operate during the hours used by WLTH and the hours used by WARD would not serve public interest, convenience and necessity.

The order in this case will become effective Oct. 22, 1940.

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WIND BOOSTED TO 5 KW

One of the fastest growing stations in the Chicago are, Station WIND, operated by the Johnson-Kennedy Radio Corporation at Gary, Ind., has been granted a construction permit to increase night power from 1 kilowatt to 5 kilowatts and make changes in directional antenna system for day and night use; 560 kilocycles.

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TESTS FOR NATIONAL TELEVISION COMMITTEE AUTHORIZED

In line with its policy of cooperating with the National Television Standards Committee, which is endeavoring to determine standards so that the development of the television industry may go forward, the Federal Communications Commission has granted authority to operate television Station W2XBS in New York with special emission in addition to A3 emission on Channel No. 1, in order to conduct experimental tests for the Committee and the National Broadcasting Co., to not later than January 1, at which time proper standards may be arrived at.

Because of the enthusiasm of Chairman Fly with regard to color television, additional requirements may be made so that when television is again reintroduced to the public, it may be in color instead of black and white. It is said the industry fears that if this rule is laid down for all television stations, there will be further delay as it may take longer to produce color apparatus and that the expense will be much greater.

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BROADCASTS TO FOREIGN COUNTRIES MUST BE RECORDED

Following the recent meeting in Washington of the representatives of U. S. short-wave broadcasting stations and by way of tightening up in connection with National Defense, the Federal Communications Commission has adopted the following rules affecting international broadcast stations:

(1) Each licensee of an international broadcast station shall make verbatim mechanical records of all international programs transmitted.

(2) The mechanical records, and such manuscripts, transcripts, and translations of international broadcast programs as are made shall be kept by the licensee for a period of two years after the date of broadcast and shall be furnished the Commission or be available for inspection by representatives of the Commission upon request.

(3) If the broadcast is in a language other than English the licensee shall furnish to the Commission upon request such record and scripts together with complete translations in English.

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One of the oldest stations in the United States, WWJ, owned by the Detroit News, is increasing its power to 5 KW.

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PRESIDENT'S PEACE TIME RADIO POWER DISCUSSED

The extent to which the President can interfere in peacetime with communication, production, and distribution is the extent to which he can interfere with the freedom and the property rights of the American citizen, according to "The President's Peace Time Power in 1940", a pamphlet prepared under the direction of The Industrial Survey and Research Service in the Barr Building, Washington, D. C.

It carries an introductory note:

"This publication has been prepared in response to urgent requests for 'plain English' information to answer such questions as, 'Well, suppose the President can take over radio stations and industrial plants, what can that do to me so long as I do not own the stations or plants he commandeers?' With one notable exception, the pages that follow are concerned with the effect of the President's peace time power upon all American citizens, rather than with its effects upon the owners of producing or servicing agencies. The laws quoted in this publication have been selected in the light of a fact which everybody knows but which too many citizens forget . . . that all the goods and services essential to our everyday family and community life are furnished by the country's producing and distributing facilities. . . .

"The information is confined to specified power grants that convert liberties, heretofore exercised as a citizen right, into privileges enjoyed at the discretion of the President."

"Radio programs come into American homes in peace-time at the pleasure of the President - not by right of the American citizen." ("Except for homes having radios capable of receiving foreign broadcasts directly - not through American chains.")

There follows the wartime radio statute with capital letters to emphasize the points which the Research Service desires to make.

"Upon proclamation BY THE PRESIDENT that there exists war or a threat of war or a state of public peril or disaster or other national emergency, or in order to preserve the neutrality of the United States, the President may suspend or amend, FOR SUCH TIME AS HE MAY SEE FIT, the rules and regulations applicable to any or all stations"(radio) "within the jurisdiction of the United States as prescribed by the Commission" (Communications) "and may cause the closing OF ANY STATION for radio communication and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station and/or its apparatus and equipment by any department of the government under such regulations as he may prescribe, upon just compensation to the owners." (48 Stat. 1104) ("The Press throughout the country during the last week of September, 1940, carried announcements that the President had set up a board to prepare an operating plan for this power.")

"The President is empowered to nullify in time of peace any order for goods or services from any American citizen or group of citizens - whether such goods or services are for use in the American home, in hospitals, schools; in private business, including transportation, communications, or in any other activity of normal American life."

"The draft-industry provision of the Act (Section 9, Selective Training and Service Act of 1940, approved September 16, 1940) makes no explicit or implied exemption of newspapers or periodicals. The printing plants of newspapers are not exempt."

"Telephone and telegraph, motion pictures, railroads, electric and gas stations, all have plants capable of furnishing war supplies. And, therefore, they are not exempt."

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AUTHORIZES RADIOTELEPHONE TO CHESAPEAKE BAY ISLANDS

The Federal Communications Commission has granted an extension of telephone facilities from Crisfield, Md. to Tangier and Smith Islands by means of radiotelephone. In granting these applications to the Chesapeake & Potomac Telephone Company of Baltimore City and the Chesapeake & Potomac Telephone Company of Virginia, the Commission made it clear that it was not establishing the policy of authorizing radiotelephone facilities instead of wire line facilities, but recognized that radiotelephone might be used in extenuating circumstances to provide telephone service to the public when such service could not be rendered through wire line facilities.

The above-mentioned islands are located in the Chesapeake Bay area approximately 13 miles from the shore. The proposed stations will provide a telephone circuit available between Crisfield and each of the islands on a shared basis or between the two islands. At Crisfield connection with the general telephone system will be provided. During the past few Winters these islands have become isolated due to ice and weather conditions and it has become necessary to organize relief parties for the purpose of providing food for the inhabitants. During one Winter the life of a State trooper was lost while attempting to cross the ice with necessary food and supplies. During the Winter of 1939 and 1940 the applicant, while planning on a permanent means to connect these islands with the regular telephone system, established emergency radio facilities. Experience has shown that there is an important need for communication, since the facilities were employed on a number of cases to request foodstuffs and medical supplies for the people on the islands. At the present time, there are approximately 800 people on Smith Island and 1400 on Tangier Island who are engaged principally in the fishing industry.

The service between Crisfield and the Islands can best be provided by means of radiotelephone rather than submarine cable, since the large amount of activity by fishing and oyster boats in the vicinity would create a hazard to the cable.

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TRAMMELL PUTS PREMIUM ON ALMONTE COURTESY

Anyone who has been pushed around and high-hatted by the male attendants in broadcasting stations will approve a very unusual order issued by Niles Trammell, new President of the National Broadcasting Company, who is shaking things up all along the line and making numerous changes in personnel. It is that the employees of the company be courteous to the studio and office visitors. Niles suggests to get further pointers on this that they see Senor Don John de Jara Almonte, longtime Nigh Manager of NBC, who, because of his gentlemanly ways has been frequently referred to as the "diplomat of the kilocycles". In fact, one Washington visitor was so impressed by Mr. Almonte's diplomacy in handling people that he suggested he would be a good man for our Ambassador to Spain.

Mr. Trammell being from Georgia, the home of good manners, was likewise impressed with this outstanding ability of Mr. Almonte and also the value of courtesy to the customers and visitors, accordingly issued the following memo to all departments and division heads of the NBC:

"It is a matter of concern to me that in the discharge of our responsibilities as executives of the National Broadcasting Company, neither you nor I are able to devote as much time as we would wish to those courtesies which mean so much in fostering good will and developing closer friendships between NBC and its clients, agencies, affiliated stations and other important contacts.

"To remedy this situation the office of Assistant to the President, occupied by Mr. John Almonte was created. Now, while an attractive brochure 'After Hours' was mailed to clients and agencies last April, it is from within our own organization that the fullest appreciation of the opportunity to create good will through the use of Mr. Almonte's services must come. In this connection, I may say that 'After Hours' did not quite cover the whole picture. Mr. Almonte is available at any hour when he can be of service to NBC.

"While the very nature of Mr. Almonte's assignment makes it necessary that he be kept free of the details of operation of any department, his unique ability may be very helpful to all departments. For example, the September 1940 list of network advertisers carries the names of seventy-four clients - our networks embrace over two-hundred stations - potential clients are continually having auditions. I believe you will agree with me that in our relationship with all of these a little extra courtesy and helpful friendliness might be very useful to NBC.

"I plan to discuss these matters with Mr. Almonte at regular intervals and I shall hope to hear that you are all taking advantage of the services he can render. I have found him a help."

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ALL AMERICA CABLES STANDS BEHIND DRAFTED EMPLOYEES

Frank W. Phelan, President of All America Cables and Radio, Inc., and President of the Commercial Mackay Corp., which comprises the Commercial Cable Co., Mackay Radio and Federal Telegraph, announced this week that any American citizen, who is a regular employee of these companies or subsidiaries, who is called into or voluntarily enters active service in the National Guard, Army, Navy or Marine Corps for a period of one year and 40 days or less, will be re-employed in his former position or an equivalent position upon satisfactory completion of such service.

An employee entering any of these services for this period of time will be granted a leave of absence and will be given credit in his record of service with the company. The company will give one month's pay to any employee who has been with the company for over one year and will carry his entire group insurance for him for the period.

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RCA CIRCUIT BETWEEN U.S. AND FINLAND OPENED

The world-wide services of R.C.A. Communications, Inc., were increased this week by the opening for the first time of a direct radiotelegraph circuit between the United States and Finland. Heretofore, it has been necessary to route messages between the two countries by way of Stockholm.

The new circuit operates between the cities of New York and Helsinki. Messages between this country and Finland may be filed or received at any R.C.A. Communications office in the United States.

In addition to the circuit's obvious advantages to business and government circles, RCAC officials said, it is believed that operation of a direct radio link should do much to further cement the excellent relations long existing between Finns and Americans.

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COLUMNISTS TO REPORT ON DEFENSE?

The Washington Post carried this paragraph recently by Leonard Lyons:

"Arrangements have been completed for a series of Sunday night broadcasts, sponsored by the United States Government, over all the hookups. The broadcasts will feature four commentators - Wythe Williams, Walter Winchell, Elmer Davis and H.V. Kaltenborn - each of whom, for 6 minutes, will report to the National exactly what the Government has accomplished for National Defense during the preceding week. Their reports will be in four classifications: Army, Navy (Winchell), Air and Industry. Each will be free to make his own analysis and criticism, unhampered by any censorship."

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