

## Congress Starts; Radio Legislation Improbable

Congress set to work again this week with enough powder-keg issues on hand to keep the session going well into the summer.

The Administration hoped that major activity would be confined to the routine appropriations, national defense and extension of the President's trade treaty power.

That would mean a short session and, possibly, fewer headaches for the Democrats during the coming campaign.

There is an increasingly loud demand, however, for amendment of the Wagner Act and the Wage and Hour Act. There also is pressure for amending the social security, relief, farm and monetary programs. In all these issues are the makings for prolonged squabbling.

There was no indication, at the session's opening, that anyone intended to push any major broadcasting legislation. Observers felt that the radio bills having the best chance of obtaining serious consideration were those which would forbid beer and liquor advertising.

Nevertheless, the long list of radio bills now pending will bear careful watching—which the NAB will do.

Starting his second trip in behalf of Broadcast Music, Inc., Neville Miller met this week with broadcasters in New Orleans and Dallas. Next week he will have meetings in Los Angeles, San Francisco and Portland. All Pacific Coast broadcasters, regardless of NAB membership, should attend. Sydney Kaye represented Broadcast Music at a district meeting in Camden, N. J., yesterday.

A complete list of the pending radio bills in Congress is published elsewhere in the *Reports*.

### A. F. of M.

IRNA negotiations with the American Federation of Musicians have resulted in the following letter from President Weber to his locals:

"Your local is hereby advised not to enter into negotiations with a broadcaster to furnish the services of musicians at the expiration of the present national agreement.

"Your local however may permit its members for the present to work for broadcasters without an agreement.

"This order is binding upon your local pending further advice from the Federation."

(Signed) JOE MILLER



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## 36 More Stations Approve B.M.I.

Substantial support of Broadcast Music, Inc., was voiced by representatives of 36 New Jersey, Pennsylvania and Delaware stations at a District 3 meeting Thursday, January 4, in Camden, New Jersey.

Twelve of the 48 commercial stations in the District were not represented.

After Sydney Kaye, representing the NAB, had explained how Broadcast Music would operate, District Director Clifford M. Chafey called the roll. Representation of the following stations said they would sign or recommend signing to their station owners: WDEL, WILM, WSNJ, WCAM, WAAT, WHOM, WOR, WCBA, WFBF, WEST, WIBG, WHJB, WKBO, WAZL, WJAC, WGAL, KYW, WCAU, WDAS, WFIL, WHAT, WIP, WPEN, WTEL, KDKA, KQV, WCAE, WJAS, WWSW, WEEU, WRAW, WGBI, WKOK, WBRE, WRAK, WORK.

After lunch, Joseph L. Miller, NAB Labor Relations Director, discussed the A. F. of M. situation. Record licensing also was discussed.

Those present: Sydney M. Kaye, NAB; F. E. Chizzini, NBC; W. C. Gartland, NBC; Ralph Wentworth, Lang-Worth; V. C. Diehm, WAZL; Derby Sproul, KDKA; John Laux, KQV; H. K. Brennen, WJAS; C. O. Langlois, Lang-Worth; C. G. Moss, WKBO; Mike Lahr, WKOK; George E. Joy, WRAK; W. V. Person, WRAK; B. A. Beck, WKOK; George W. Beck, WKOK; Clair R. McCollough, Mason-Dixon Group; Isaac D. Levy, WCAU; Ken Stowman, WCAU; J. C. Tully, WJAC; Roy Thompson, WFBG; George D. Coleman, WGBI; Sam Baltimore, WBRE; Leonard Kapner, WCAE; G. M. Stoer, WCAE; Frank R. Smith, WWSW; Benedict Gimbel, Jr., WIP; Joseph L. Miller, NAB; Frederick Caperoon, WCAM; Bob Horn, WCAM; A. W. Dannenbaum, Jr., WDAS; Pat Stanton, WDAS; S. R. Rosenbaum, WFIL; Paul H. La Stayo, WAAT; Howard S. Frazier, WSNJ; Walter Miller, WGAL; Robert Gulick, WORK; Gorman Walsh, WDEL; Louis G. Baltimore, WBRE; Leslie W. Joy, KYW; Griffith B. Thompson, KYW; Joseph Land, WHOM; Jack Compter, WHOM; Charles Stahl, WCAM;

Ed. D. Clery, WIBG; T. M. Maxwell, WIBG; Doug Hibbs, WTEL; Henry N. Crocker, WTEL; B. Bryan Musselman, WCBA-WSAN; Ray Gaul, WRAW; Clifford M. Chafey, WEEU; Arthur Simon, WPEN; A. Heine, WCAM.

## Mexico Ratifies Havana Treaty

Mexico ratified the Havana Treaty on December 28, and it is now possible that the frequency shift provisions will be put into effect sometime this year, according to Andrew D. Ring, assistant chief engineer of the FCC.

The FCC will make a study to determine what work will be required to make the treaty effective, and to eliminate allocation conflicts. When this study is completed, a date will be set for the shift.

Mexico was the fifth country to ratify. The United States, Canada, Cuba and Haiti had previously approved the treaty.

Ambassador Josephus Daniels advises the State Department that the Mexican Broadcast Association believed it possible for Mexico to place the agreement into effect in 90 days. According to provisions of the treaty it was to have gone into effect one year after ratification by the fourth government. However, the Mexican ratification was necessary in order that the benefits to be derived from the new allocation could be realized.

The operation of this agreement will eliminate the ruinous inter-country interference experienced now on some of the channels. Many American stations in the past have received undue interference from Cuban and Mexican stations.

Under the provisions of the treaty there will be a shift in frequency by most of the Broadcast Stations in the United States. With a few exceptions this shift will not be greater than four channels or forty kilocycles. Inasmuch as most of the shifts are an increase in frequencies it will be possible to regrind some of the crystals.

In this connection it should be kept in mind that on January 1, 1942, it will be required by the Federal Communications Commission that broadcast stations adhere to their carrier frequencies within twenty cycles instead of the fifty cycles as under the present regulation. If a crystal will not maintain this precision it might be better to install a new one which will. There will be an opportunity for some of the stations to secure their crystals from stations which will move off the frequency they are scheduled to be shifted to. It is probable that there will be very few cases where new crystal control equipment is required other than new crystals. The Federal Communications Commission now requires that any new equipment installed be able to maintain frequency within twenty cycles.

## LONGER INTERVAL FOR ANNOUNCING RECORDS

In the interests of public service and radio station convenience, the Federal Communications Commission Thursday agreed that station announcements of the use of mechanical records can be made at 30-minute intervals instead of the 15-minute requirement as heretofore. This is to avoid interrupting the entertainment continuity of a recorded series of records, or of the long records now quite generally used, particularly of recorded programs relayed by wire facilities.

At the same time, Section 3.93(e) of the broadcast rules has been changed to read:

"The identifying announcement shall accurately describe the type of mechanical record used, i.e., where a transcription is used it shall be announced as a 'transcription' or an 'electrical transcription' and where a phonograph record is used it shall be announced as a 'record'."

The Commission added religious service to the types of continuous recorded programs—speech, play, symphony concert or operatic production—of longer than half an hour for which the 30-minute announcement rule is waived.

This change is effective immediately.

## NEBRASKA-ASCAP STATUTE HELD UNCONSTITUTIONAL

On December 28, 1939, a specially constituted three-judge federal court in Lincoln, Nebraska, held the so-called Nebraska anti-ASCAP Statute unconstitutional as in violation of the due process and equal protection clauses of the Federal Constitution and in violation of the Federal Copyright Act of 1909.

This statute sought to compel the sale of public performing rights at the same time that sheet music is sold by providing that the sale price of the performing rights should be stamped on the music and when purchased by the user at that price the user would acquire the right to publicly perform for profit during the remaining life of the copyright. The statute further provided that if the copyright owner failed to stamp the sale price of the performing rights on the music the user would acquire such

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performing rights at whatever price he paid for the sheet music.

In addition to the foregoing, the statute prohibited the combination of a substantial number of the copyright owners of the United States for the purpose of selling blanket licenses when one of the objectives of the combination was the fixing of prices. The court held such anti-monopoly legislation to be within the power of the legislature but held that since it was combined in the same statute with the unconstitutional provisions it could not be separated from the unconstitutional provisions and the entire statute therefore must fall. The court pointed out that the statute compelled "the owner of a copyright to offer it for sale in a certain way, and if he fails so to do takes it from him without compensation" and stated that this violated the due process and equal protection clauses of the Constitution and also the Federal Copyright Act.

In speaking of the ASCAP control of copyrighted music, the court stated:

" \* \* \* Of the popular music necessary for the successful operation of radio stations, dance halls, hotels, and theaters, the society has control of about 85% or 90% and also has control of from 50% to 75% of the standard or older music that is played occasionally. All of the large and more influential publishers of music in the United States are members of the society. The users of music in Nebraska cannot success-

## THE NEXT DISTRICT MEETINGS

District 5	Alabama } Georgia } — Columbus, Ga.	Waverley Hotel	January 18, 1940
District 6	Florida — Orlando, Fla.	Fort Catlin Hotel	January 19, 1940
District 13	New Orleans, La.	Roosevelt Hotel	January 3, 1940
District 15	Dallas, Texas	Baker Hotel	January 5, 1940
District 16	San Francisco, Calif.	Palace Hotel	January 10, 1940
District 17	Los Angeles, Calif.	Ambassador Hotel	January 9, 1940
	{ Oregon — Portland	New Heathman Hotel	January 12, 1940
	{ Washington — Seattle	Olympic Hotel	January 13, 1940

fully carry on their business except they deal with the plaintiff society because there is no place where nor person or agency to whom users of music in Nebraska may go in order to deal for public performance rights and negotiate for music in any substantial amount sufficient to meet the ordinary needs of music users in the state, except the society."

After discussing the property rights created in the copyright owner by the Federal Copyright Act, the court said:

" \* \* \* Of course, the Act gives him no right to combine with others to insure control of prices and the consequent power of monopoly of an entire field by combination. Plaintiffs urge necessity as a justification or warrant for their organization. It is urged that without some such means of protection the individual copyright owner is helpless to protect his rights, but if the statute violates no rights guaranteed to the plaintiffs by the Constitution or laws of the United States, the motive for the organization or acts of ASCAP, however impelling, is not material."

The opinion recognizes that the state legislature has the constitutional power to prohibit monopolistic practices and combinations in restraint of trade but concluded that the unconstitutional attempt of the legislature to compel the sale of performing rights along with the sale of sheet music was such an essential part of the statute that the monopolistic sections of the statute could not be separated from the unconstitutional sections. Therefore a permanent injunction against the entire statute was granted. It is not known whether the State of Nebraska will appeal the decision.

### FREC RELEASES STUDY WMBD'S PROGRAM POLICIES

The Federal Radio Education Committee this week released a study of the public service operating policies and experiences of Station WMBD, Peoria, Illinois. The study, printed in a thirty-eight page booklet form, was conducted by Dr. Leonard Power of the FREC staff in the past year, prior to the adoption of the NAB Code.

WMBD is owned and operated by Edgar Bill, chairman of the NAB Code Compliance Committee.

The report is divided into two main sections: (1) station policies governing the selection and editing of programs the purposes of which are to influence public opinion, the handling of religious broadcasts on a non-sectarian, non-commercial basis, the acceptance and editing of advertising matter, cooperation with civic and educational groups who serve in advisory capacities, and (2) public service policies wherein WMBD encourages expressions of public opinions on civic matters, undertakes to promote religious harmony of the area served and special assistance and programs for educational and civic purposes.

In his conclusions, Dr. Power declared "There is no evidence of the use by the station of its position of power, as a monopoly station, to use force to secure or to prevent the use of station facilities. Neither is there any evidence of the misuse of that milder form of coercion called persuasion.

"Refusal to grant the use of station facilities has been based on the application of fair play. An examination

of station standards and practices shows that the dominant consideration has been to harmonize radio in Peoria, Illinois, with democratic ideals and methods."

Copies of the study may be secured through the Federal Radio Education Committee, U. S. Office of Education; price per copy, 15 cents. The publication is one of a series to be issued by the FREC, which is supported in part by contributions from the radio industry, through NAB, and in part by educational foundations.

The FREC has also released another study, "Forums of the Air," by Paul H. Sheats. This will be reviewed in next week's REPORTS.

### SIMPLIFIED REPORT FORMS FOR BROADCAST STATIONS

A revised form of annual financial report required of standard broadcast stations and networks was adopted by the Federal Communications Commission Thursday. It is applicable to the 1939 income statement, with balance sheet, which is due March 1, 1940.

The forms do not include schedules for program data, since it was requested by representatives of the broadcast industry that such schedules be distributed separately.

The forms are substantially the same as those used for 1938, except that they have been simplified and reduced in the number of pages. In order to obtain greater uniformity and clarity in the responses, detailed instructions have been prepared with respect to the various schedules and will be made available at the time the forms and instructions are distributed.

### FREE OFFERS

As a goodwill gesture during the holiday season, the Bureau of Radio Advertising omitted all mention of time-chiselers in recent issues of NAB REPORTS.

The time-chiseling still goes on, however, and now that the holidays are past, the undiminished flow of free offers reaching Headquarters reminds the Bureau that it's time to blast away again. As an excellent means of increasing station income, the Bureau suggests to all members that they make a New Year's resolution to "chase the chiselers in 1940."

To do otherwise is to sell short your own station, and undermine the very thing that pays the bills. Free offers constitute one of the biggest obstacles to the Bureau of Radio Advertising and all stations in their efforts to develop new sources of broadcast revenue. Recent bulletins from the Bureau, revealing the true, behind-the-scenes activities of the time-chiselers, support the truth of that statement.

Recently, several station men have been heard to remark that if all broadcasters cleared their air of free offers *simultaneously*, average station income would increase at least 15% within six months. A bold statement

perhaps, but no one can prove it wrong, especially after studying the following list of free offers reported to Headquarters in the past two weeks:

Blossom Manufacturing Co., 79 Madison Ave., New York  
G. & C. Merriam Co., Springfield, Mass.  
Metro-Goldwyn-Mayer, 1327 S. Wabash, Chicago  
Nat'l Chemical & Mfg. Co., 3617 S. May St., Chicago  
Travel Radio Service, 65 Broadway, New York City

These concerns have been invited by the Bureau to use radio on a regular basis, and it is suggested that members make every effort to sell local dealers and distributors.

In addition, the following who claim no commercial purpose have also requested free time of stations:

Institute of Oral and Visual Education  
National Patriotic Council

The Bureau of Radio Advertising will be glad to supply information to members considering acceptance of their propositions.

### Cost-per-Inquiry

The following concerns have recently sought to place advertising with member stations on a contingent basis:

Radio Drugs, 364 Parker Ave., Buffalo, N. Y.  
H. L. McClung, Tyler, Texas

The Bureau of Radio Advertising has invited their use of radio time at stations' quoted card rates, advising that NAB members consider their propositions not only unethical but poor business practice.

### Station Sales Survey

The Bureau of Radio Advertising is releasing to all members copy of a report by Dr. Herman S. Hettinger on sales administration of radio stations.

The report, in loose-leaf folder form, is the result of a survey conducted in 1939 among 88 stations, and described by Dr. Hettinger before the Sales Managers' Committee at the Atlantic City convention last July.

The report will be of interest to station managers and commercial managers, outlining typical sales department organization and activities, compensation and control of salesmen, and special problems of station sales administration.

Extra copies of the report are available to members free of charge, on request to the Bureau of Radio Advertising.

### Bureau of Radio Advertising

Members may be interested in reading an article on page 122 of *Variety* Anniversary Number, headed "Sales Ammunition for Local Broadcasters," which concerns Bureau of Radio Advertising activities.

In cooperation with the NAB Sales Managers' Division, and the NAB Departments of Research and Public Relations, the Bureau is now formulating plans for 1940, which, it is hoped, will contribute considerably to radio advertising volume during the coming year.

## THE BUSINESS OUTLOOK FOR 1940

Headquarters feel that the annual forecast by Gene Robb, Washington economist and observer, will be of interest to the membership. The forecast is based upon a compendium of information and statistics gathered from several sources. The opinions expressed, of course, represent the conclusions of Mr. Robb and do not represent any official opinion or expression of Headquarters. They are passed on as a matter of interesting information and opinion.

*The country's business stage is set to turn in a 1940 performance outranked only by 1929.* Vitality and endurance of dominant factors cast in the leading roles cannot be foretold with assurance but their healthy condition in the past year's war-torn windup (20% stronger than a year ago) inspires confidence for a successful season just ahead.

*For the new year as a whole,* the concensus of economists in Government and in private industry produces the following rough averages:

*Business activity* will be 10% greater than in 1939.

*Production of durable goods* will lead the advance with a gain of 17%, especially important in pyramiding new employment. *Output of consumer goods* is due to climb about 8%.

*Retail shoppers* will spend 8% more than last year and pay about 5% higher prices for what they buy.

*Living costs* will be shading higher but the rise in consumer income will keep purchasing power slightly above present levels.

*Commodity prices* are zig-zagging upward on an uncertain course with the war introducing an "x" in the equation which algebra can't solve.

*Quarter by quarter,* analysts differ on the path business will pursue:

*Majority* contend that a *letdown, starting this month* and sloping to the middle of the year, will be reversed before Fall and—aided by war orders—give 1941 the prosperous sort of sendoff 1940 is getting.

*Minority* believe the rate of activity will continue *near present high levels through first half* of the year (though *seasonally adjusted indexes* will register several points lower) and taper downward the last 2 quarters—at least until the character of the next Administration is determined at the polls in November.

*Unpredictables:* (1) *Scope of the war* abroad—more likely to broaden . . . (2) *Severity of the drouth* at home—another 1934 seems probable. . . . (3) *Election results* and influence of victors' economic views—edging, however, toward conservatism.

*Production*—Industries with good chances for setting *all-time output records this year:* aircraft, tobacco, domestic liquor and wine, chemicals and plastics, rayon and hosiery, air conditioning, electric goods and power, petroleum.

Costs, chiefly via labor, will average a *little higher* . . . Earnings, as a whole, should *duplicate '39;* more frequent gains in durable goods.

*Steel production* will slip from about 80% capacity in the first quarter to around 72% in the second . . . *Aircraft and machine tool plants* are booked almost solid through 1940 . . . *Auto output* is scheduled for 2½ million units in the first half compared with 2 million in the same period of '39 . . . *Textiles* will continue high mill rates well into next quarter but expect a substantial Summer letdown.

*Construction*—*Low-cost housing, utility plant expansion* and *highway building* are counted on to take up the slack in construction caused by tapering off of PWA projects.

*FHA,* which is modifying its building standards on new homes, also will insure private funds invested in *slum-renovation* . . . *USHA's* suburban substitutes for slums are well under way and will account for at least 15% of 1940 dwellings, sending the total for residential building about 10% ahead of 1939's 10-year high.

*Distribution*—*The trend continues toward mass distribution methods* on the basis of strongest sales increases from supermarkets, large chains, mail order houses.

Plastics will be fashioned from new materials for new uses . . . Rayon and other chemically-produced textiles will push silk still farther out of the mass market . . . Considerable development of television is expected in metropolitan centers this year.

Agriculture—Farm income next year will benefit from rising level of prices for farm products but suffer keenly if a nation-wide drouth is not soon alleviated: Fall moisture was up to "normal" in only 3 States . . . Purchasing power of farmers is estimated fractionally higher than this year's 8.1 billions (up 7% from 1938).

## Marketing Developments

Advertising—The lag in advertising, compared with the 1939 business advance, will be turned into gains approximately 5% over last year when (a) total newspaper linage barely nosed ahead of 1938, (b) magazines hardly broke even, (c) radio network billings climbed about 8%, local paid time about 5% . . . Advertising data of importance will become available toward the end of 1940 when results of business and population censuses begin to filter through.

Consumers—To meet the plea of consumer groups for more information on labels and in advertising, several important industry groups have been formed to direct this trend: besides the new Consumer-Retailer Council is the 4-A's non-profit corporation—Committee on Consumer Relations in Advertising . . . In Washington, the movement for a Gov't bureau of consumer information is likely to be sidetracked because of inter-departmental bickering over where it should fit into the federal set-up—in the Dept. of Agriculture or in the Dept. of Commerce . . . Legislation to compel accurate labeling of products containing wool is unnecessary in light of Trade Commission prosecutions which make the same demand.

Legislation—Little will be heard from the half dozen pending bills which would impose further restrictions on advertising: Johnson's, to ban beer advertising from use of radio time . . . Capper's, to prohibit all beer and liquor advertising . . . Nye's, to require public announcement of winners of all advertised contests . . . Flannery's, to state foreign origin of any products in their advertising . . . Maloney's, to require admissions that testimonial broadcasts were paid for by sponsors . . . Drive to tax large chain stores out of existence (Patman's H. R. 1) is further impeded by disagreement among small-business associations over its provisions and by personal resentment in some of them toward Rep. Patman.

Regulation—Trade Commission's suit against Good Housekeeping indicates how far the Gov't wishes to go to prohibit trade-puffing and extent of its demands for literal proof and tested truth in all advertising—for complete "protection" of the most gullible consumer . . . Food & Drug Administration is far behind in its program for fixing minimum quality standards for packaged foods under Food & Drug Act . . . New label requirements, including warnings on drugs containing narcotics and dosage statements on those possibly injurious, will be strictly enforced by F&DA which also will busy itself in patrolling "misleading claims" on cosmetics labels . . . Disavowal of any "attack" on advertising by Consumers Counsel Montgomery is followed by sharp criticism of its failure to supply complete information and its tendency to overemphasize emotional appeals.

Cooperation—Fifteen States are spending appropriations for advertising their industrial advantages and tourist attractions . . . More than a dozen States are raising advertising funds to promote their leading agricultural products by pro-rata taxes on growers: Michigan apples, California citrus and wine . . . Cooperative advertising also is expanding among industries on national, regional and local bases . . . Federal lending agencies are participating in advertising promotion: (a) Home Loan Bank urges building and loan associations to use newspaper linage; (b) FHA supplies builders, lenders and newspapers with advertising materials; (c) HOLC endorses plan of its contract-brokers to use special classified pages in promoting sale of repossessed homes.

## Henry Adams Bellows

It is with regret that members of the NAB learn of the passing of Henry A. Bellows. Mr. Bellows was formerly radio commissioner and a vice president of the Columbia Broadcasting System. He was chairman of the Legislative

Committee of NAB for many years and did invaluable work for the entire industry in that capacity. Mr. Bellows died in Minneapolis, December 29, at the age of 54. He had been ill for several months. After leaving Washington, he was Director of Public Relations for General Mills, Inc.

## KVNU TRANSMITTER LOOTED

Reed Bullen, manager, KVNU, Logan, Utah, reports that his transmitter building was looted the night of December 11 and asks assistance in regaining the following stolen equipment or in apprehending the thieves:

1 General Purpose, R. C. A. Amplifier, 1 R. C. A. Tri-Amplifier-Mixer Panel, 1 R. C. A. Modulation Monitor, 1 U. T. A. Line Equalizer, 2 Thordarson 8 Watt Amplifier, 1 R. C. A. 70-B Turntable complete, Serial No. P 1344, 1 R. C. A. 70-B Tone Arm and Pick-up, Head-Diamond Point, 1 Western Electric Salt Shaker Microphone, Serial No. 6685, 250 Watt Gear, 1 Clough Brengle Oscilloscope, 2 838 R. C. A. Tubes, 1 Jensen Type B. Speaker, 1 Garden Relay, 1 25 Watt Thordarson Amplifier, 1 Field Strength Meter Complete.

## EL PROUGH OR JACK SINCLAIR?

Anyone knowing of the whereabouts of a person calling himself El Prough or Jack Sinclair, please get in touch with E. B. Craney, KGIR, Butte, Montana.

## INTER-AMERICAN CONFERENCE

The United States has accepted an invitation of the Chilean Government to participate in the Second Inter-American Radio Conference scheduled to be held at Santiago, Chile, January 17-23. The President has approved the appointment of the following delegation to represent this country at the meeting:

Delegate: R. Henry Norweb, American Minister to the Dominican Republic.

Technical advisers: Department of State, Joseph T. Keating, Division of International Communications; also secretary of the delegation; Department of War, Capt. W. T. Guest, Signal Corps, United States Army; Department of the Navy, Rear Admiral Stanford C. Hooper, United States Navy, Director, Technical Division, Office of the Chief of Naval Operations; Federal Communications Commission, E. K. Jett, Chief Engineer, Gerald C. Gross, Chief, International Division; Civil Aeronautics Authority, Lloyd H. Simson, Radio Communications Specialist.

The First Inter-American Radio Conference held at Havana, Cuba, in November 1937, concluded the Inter-American Radio Communications Convention which provided for periodical conferences to consider problems arising in the field of radio communications in the American Continent. Subsequently the Conference adopted a resolution accepting the offer of the Government of Chile for the second meeting to be held in that country during the first quarter of 1940.

## PENDING RADIO BILLS IN CONGRESS

### SENATE BILLS

S. 517 (Sen. Johnson, Colo.) LIQUOR ADVERTISING—Same as H. R. 251. Referred to Interstate Commerce Committee. Hearings held. Reported to Senate.

S. 547 (Sen. Lodge, Mass.) COPYRIGHT—To create renewal rights in author of articles in periodicals, encyclopedias, etc., when such articles are not separately copyrighted but were included in copyright of periodical or other composite work. Referred to Patents Committee. Passed by Senate.

S. 550 (Sen. Sheppard, Texas) COMMUNICATIONS ACT—To amend Section 303 by limiting the issuance of operators' licenses to citizens of the United States over the age of twenty-one, provided the Commission may waive the age limit with respect to amateur operators. Referred to Interstate Commerce Committee. The bill as introduced refers to Section 303 (e), whereas the correct designation is 303 (1). A corrected bill will be introduced. No action.

S. 575 (Sen. Capper, Kans.) LIQUOR ADVERTISING—Same as H. R. 924. Referred to Interstate Commerce Committee. No action.

S. 594 (Sen. Reynolds, N. C.) GOVERNMENT RADIO STATIONS—To establish marine schools in each state and other purposes, including the construction and operation by each school of one or more stations on "a wave-length and power prescribed by the Maritime Commission." Referred to Commerce Committee. No action.

S. 635 (Sen. Schwellenbach, Wash.) COMMUNICATIONS ACT—To strike Section 315 of the Communications Act and to require each station to set aside regular and definite periods of desirable day and evening time for uncensored discussion on "non-profit basis of public, social, political, and economic problems, and for educational purposes." Qualified candidates for public office are not covered by the amendment. Referred to Interstate Commerce Committee. No action.

S. 636 (Sen. Schwellenbach, Wash.) COMMUNICATIONS ACT—To add to Section 315 with respect to candidates for public office the requirement that the station shall keep complete records open to public inspection. Referred to Interstate Commerce Committee. No action.

S. 637 (Sen. Schwellenbach, Wash.) COMMUNICATIONS ACT—To strike Section 326 and substitute in lieu thereof a similar provision with respect to censorship by the Commission with the proviso that it does not exempt stations from liability for defamatory, profane, indecent or obscene language or action broadcast by any officer, employee, agent or representative of the station. Referred to Interstate Commerce Committee. No action.

S. 1095 (Sen. Sheppard, Texas) COMMUNICATIONS ACT—To amend Section 303 (1). Corrected bill in substitution for S. 550. Limits the issuance of operators' licenses to citizens of the United States over the age of twenty-one, provided the Commission may waive the age limit with respect to amateur operators. Referred to Interstate Commerce Committee. No action.

S. 1268 (Sen. Wheeler, Mont.) COMMUNICATIONS ACT—To reorganize the Communications Commission by creating a new agency to be known as the Federal Communications and Radio Commission, consisting of an administrative board of three members. Referred to Interstate Commerce Committee. No action.

S. 1520 (Sen. White, Maine) COMMUNICATIONS ACT—To amend the Communications Act by creating an eleven-man commission and for other purposes. Referred to Committee on Interstate Commerce. No action.

S. 2058 (Nye, N. D.) PRIZE CONTESTS—Requires publication of prize winners and the prize winning entry in all promotion contests carried on through the use of the mails or any facilities of interstate or foreign commerce. Referred to Committee on Post Offices and Post Roads. No action.

S. 2251 (Chavez, N. M.) GOVERNMENT BROADCASTING STATION—Directs Secretary of Navy to construct, maintain and operate high frequency stations to broadcast programs to all nations in Western Hemisphere; to appropriate 3 million dollars for construction purposes and one hundred thousand dollars for operative expense during year ending June 30, 1940. To Committee on Foreign Relations. No action.

S. 2466 (Sheppard, D.-Texas) COMMUNICATIONS ACT—Same as H. R. 5508. To amend the Communications Act of 1934 by adding Section 307½, which would prohibit licenses in excess of fifty kilowatts to any station broadcasting network programs. Referred to Committee on Interstate Commerce. No action.

S. 2611 (Wheeler, Mont.) GOVERNMENT RADIO STATION—Authorizing the purchase of site and erection of building in Massachusetts for use as radio-monitoring station at cost not to exceed \$30,000. To Committee on Interstate Commerce. Passed by Senate.

S. 2689 (Bone, D.-Wash.) COPYRIGHT—To amend Sec. 33 of Copyright Act with respect to rules covering importation of copyrighted items. To Committee on Patents. Passed by Senate.

S. 2719 (O'Mahoney, D.-Wyo.) ANTITRUST LAWS—Same as H. R. 7035. To Committee on Judiciary. No action.

S. 2846 (Wheeler, D.-Mont.) COPYRIGHT—Provides that in network and transcription broadcasts originating station or transcription manufacturer is solely liable for infringement. To Committee on Patents. No action.

## SENATE RESOLUTION

S. Res. 94 (White, Maine) COMMUNICATIONS COMMISSION—To authorize investigation of the acts, rules, regulations, organization and policies of the FCC with respect to censorship of communications, ownership of broadcasting stations and other matters. To Interstate Commerce Committee. No action.

## HOUSE BILLS

H. R. 94 (Mr. Maloney, La.) PAID TESTIMONIALS—To require announcement of paid "recommendations" (testimonials), if any, at time of broadcast. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 251 (Mr. Culkin, N. Y.) LIQUOR ADVERTISING—To prohibit radio advertising of alcoholic beverages. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 252 (Mr. Culkin, N. Y.) LIQUOR ADVERTISING—Same as H. R. 251, except that it specifically defines "alcoholic beverage" as including "beer, ale, wine, gin, whiskey, or brandy." Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 253 (Mr. Culkin, N. Y.) LIQUOR ADVERTISING—To prohibit the transportation in interstate commerce of intoxicating liquor advertising, either by mail or otherwise, including radio broadcasting. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 924 (Mr. Culkin, N. Y.) LIQUOR ADVERTISING—Same as H. R. 253, except that it pertains to "alcoholic beverages" and is not limited to "intoxicating liquor." Referred to the Interstate and Foreign Commerce Committee. No action.

H. R. 926 (Mr. Daly, Penna.) COPYRIGHTS—To amend and consolidate acts respecting copyright, including the creation of a copyright in recording artists for renditions reproduced on phonograph records, disks, sound tracks, or any other substances. Referred to Patents Committee. No action.

H. R. 1651 (Mr. Dickstein, N. Y.) IMMIGRATION OF PERFORMING ARTISTS—Denies admission to United States for professional engagement of actor, singer or dancer where country of origin does not grant, both in law and in fact, substantially similar privileges to citizens of the United States. Referred to Immigration and Naturalization Committee. No action.

H. R. 1964 (Mr. Lucy, Mass.) COPYRIGHTS—To create renewal rights in author of articles in periodicals, encyclopedias, etc., when such articles are not separately copyrighted. Same as S. 547. Referred to Patents Committee. No action.

H. R. 2721 (Mr. Celler, N. Y.) GOVERNMENT RADIO STATION—To construct and maintain Government radio broadcasting station in vicinity of Washington by Secretary of the Navy, with programs under direction of the United States Commissioner of Education. Referred to Naval Affairs Committee. No action.

H. R. 2981 (Mr. Celler, N. Y.) LIBEL—SLANDER—Exempts station from liability for libel or slander when station proves the exercise of due care to prevent the utterance of such statements. Referred to Judiciary Committee. No action.

H. R. 3582 (Mr. Flannery, Penna.) ADVERTISING—Requires informative advertising of imported articles. Referred to Interstate and Foreign Commerce Committee. Superseded by H. R. 5985. No action.

H. R. 3752 (Mr. Lea, Calif.) COMMUNICATIONS ACT—To amend Section 303 (1). Limits the issuance of operators' licenses to citizens of the United States over the age of twenty-one, provided the Commission may waive the age limit with respect to amateur operators. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 4224 (Mr. Lea, Calif.) COMMUNICATIONS ACT—To reorganize Communications Commission. Same as S. 1268. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 4433 (Mr. Lanham, Texas) COPYRIGHTS—To secure prompt deposit of copyrightable material and prompt registration of claims to copyright in the copyright office. Referred to Committee on Patents. Hearing held. Superseded by H. R. 5319. No action.

H. R. 4684 (Mr. McLeod, Mich.) COMMUNICATIONS ACT—To amend Section 307, subdivisions (d) and (e), by requiring that broadcasting licenses be issued for a period not less than three years nor more than five years and to provide against denial of renewal

application because of political views expounded over station. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 4871 (Mr. Daly, Penna.) COPYRIGHT ACT—To amend the Copyright Act in various respects, including the creation of copyright in recording artists covering the rendition of their recordings when reproduced mechanically. Referred to Committee on Patents. No action.

H. R. 5319 (Mr. Lanham, Texas) COPYRIGHTS—To secure prompt deposits of copyrightable material with Register of Copyrights and prompt registration of claims to copyright. Referred to Committee on Patents. No action.

H. R. 5435 (Mrs. Norton, N. J.) WAGE AND HOUR ACT—To amend, to remove hours restrictions on employees making \$200 or more a month, et al. Reported to House.

H. R. 5508 (Mr. Peterson, Florida) COMMUNICATIONS ACT—To amend the Communications Act of 1934 by adding Section 307½, which would prohibit licenses in excess of fifty kilowatts to any station broadcasting network programs. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 5791 (Mr. Schulte, Ind.) COMMUNICATIONS—To prohibit recording for profit or gain any program without consent in writing of the performers. To Interstate and Foreign Commerce Committee. No action.

H. R. 5985 (Mr. Flannery, Pa.) ADVERTISING—To require announcement of place of origin of all imported articles or articles assembled in the United States from imported products, ingredients, parts or materials. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 6160 (Mr. McGranery, D.-Pa.) COPYRIGHTS—To amend the Copyright Act of 1909 in many respects, including the creation of copyright in phonograph records, the extension of the duration of copyright to 56 years. Referred to Committee on Patents. No action.

H. R. 6219 (Mr. Doughton, D.-N. C.) ALCOHOLIC BEVERAGES—To amend the Federal Alcohol Administration Act so as to prohibit, among other things, the advertising of alcoholic beverages by radio. Referred to Committee on Ways and Means. No action.

H. R. 6243 (Mr. Moser, D.-Pa.) COPYRIGHTS—Regulating use of copyrighted works. Authorizes Federal Communications Commission to grant licenses and fix the fees for use of copyrighted works when an agreement with copyright owner cannot be secured. To Committee on Patents. No action.

H. R. 6695 (Mr. McGranery, D.-Pa.) COMMUNICATIONS ACT—To prohibit recording for profit or gain any program without consent in writing of the performers. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 6973 (Mr. Lea, Calif.) GOVERNMENT RADIO STATIONS—Authorizing the purchase of site and erection of building in Massachusetts for use as radio monitoring station at cost not to exceed \$30,000. Referred to Committee on Interstate and Foreign Commerce. Same as S. 2611. No action.

H. R. 7035 (Mr. Hobbs, D.-Ala.) ANTITRUST LAWS—To amend Sec. 8 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and to provide additional civil remedies against violations. Referred to Judiciary Committee. No action.

H. R. 7188 (Mr. Cochran, D.-Mo.) COMMUNICATIONS ACT—To abrogate FCC Rule 42.03(a), adopted by FCC May 23, 1939, requiring international broadcast stations to limit programs to those which reflect the culture of the United States and promote international goodwill, understanding and cooperation, and to prohibit FCC adopting any similar rule. Referred to Interstate and Foreign Commerce Committee. No action.

H. R. 7192 (Mr. Fay, D.-N. Y.) PATENTS—To provide for the compulsory granting of licenses under patents which are brought by competitors within a single control in order to dominate an industry. Referred to Patents Committee. No action.

H. R. 7456 (Mr. Kennedy, D.-N. Y.) COPYRIGHT—Provides that in network and transcription broadcasts originating station or transcription manufacturer is solely liable for infringement. Referred to Committee on Patents. No action.

## HOUSE RESOLUTIONS

H. Res. 70 (Mr. Connery, Mass.) FCC INVESTIGATION—Provides for exhaustive investigation of Federal Communications Commission. Referred to Rules Committee. No action.

H. Res. 72 (Mr. Wigglesworth, Mass.) BROADCASTING AND FCC INVESTIGATION—Provides for investigation of the broadcasting industry in the United States and of the acts, rules, regulations and policies of the Communications Commission. Referred to Rules Committee. No action.

H. Res. 234 (Mr. Larrabee, D.-Ind.) FCC—To authorize the FCC to take steps to provide an adequate method to obtain data and other factual information and material necessary to determine the effects of power in excess of fifty kilowatts, and to provide that the FCC shall not be restrained from licensing one or more than one station to operate on power of more than fifty kilowatts for such experimental operation as may be necessary. Referred to Committee on Interstate and Foreign Commerce. No action.

## HOUSE JOINT RESOLUTION

H. J. Res. 149 (Mr. Sirovich, N. Y.) COPYRIGHT—To create a Bureau of Fine Arts in the Department of the Interior with authority in the Secretary of the Interior to undertake and carry on "such projects and activities as may be necessary or appropriate to foster, develop and encourage the use of copyrighted and copyrightable material." Referred to Patents Committee. No action.

## FCC APPROPRIATIONS

President Roosevelt in his budget message to Congress on Thursday asked for \$2,125,000 for total appropriations for the Federal Communications Commission for the fiscal year 1941 composed of \$2,100,000 for salaries and expenses and \$25,000 for printing. For the present fiscal year of 1940, the total appropriation for the Commission is \$1,838,175 composed of \$1,800,000 for salaries and expenses; \$25,000 for printing; and \$13,175 for special investigations.

## NEW SECRETARY TO COMMISSIONER BROWN

FCC Commissioner Thad H. Brown has announced the appointment of Corwin R. Lockwood as his secretary. Mr. Lockwood has been a member of the Commission's Law Department since February, 1938. Native of Bowling Green, Ohio, he received his A.B., M.A. and LL.B. degrees from George Washington University. For four years he was with the Finance Division of the Farm Credit Administration.

As Commissioner Brown's secretary, he succeeds Franklin C. Salsbury, who resigned to accept a position in the Law Department of the Commission.

## FCC RECOMMENDS TELEGRAPH MERGER

In a report to the Senate Interstate Commerce Committee, the Federal Communications Commission yesterday recommended that Congress authorize the consolidation of the Western Union and Postal Telegraph companies.

## FCC ASSIGNMENTS

The Federal Communications Commission announces that the work, business and functions of the Commission for the month of January have been assigned as follows:

Commissioner Craven

Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.

Commissioner Walker

Designated to hear and determine, order, certify, report or otherwise act upon: (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal

hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of a final order made by the Commission; *provided*, however, that such matters shall be handled in accordance with the provisions of Sections 1.251 and 1.256, inclusive, of the Commission's Rules of Practice and Procedure; (b) the designation pursuant to the provisions of Sections 1.231 to 1.232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings are scheduled before the Commission in broadcast cases for the week beginning Monday, January 8. They are subject to change.

### Monday, January 8

#### Further Hearing

- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—C. P., 950 kc., 1 KW, unlimited time. Present assignment: 1120 kc., 100 watts, daytime.  
NEW—Lakeland Broadcasting Co., Willmar, Minn.—C. P., 680 kc., 250 watts, daytime.

### Wednesday, January 10

#### Broadcast

- NEW—Chilton Radio Corp., Dallas, Texas.—C. P., 1370 kc., 250 watts, unlimited time.  
NEW—V. O. Stamps, Dallas, Texas.—C. P., 1370 kc., 250 watts, unlimited time.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for hearings. They are subject to change.

### January 15

#### Public Hearing before the Commission En Banc

In the Matter of Exceptions to the Rules and Regulations for Television Stations Tentatively Adopted by the Commission on December 21, 1939, and to Specific Recommendations of Its Television Committee.

### February 28

#### Informal Hearing before the Commission En Banc

In the Matter of Aural Broadcasting on Frequencies Above 25,000 kc. (An inquiry into the possibilities of Frequency and Amplitude Modulation.)

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—Granted construction permit to make changes in equipment and increase power from 100 to 250 watts on 1210 kc.

- WSLI—Standard Life Insurance Co. of the South, Jackson, Miss.—Granted voluntary assignment of license of station WSLI from Standard Life Insurance Co. of the South, to Standard Life Broadcasting Co. (Station operates on 1420 kc., 250 watts, unlimited time).
- W2XBT—National Broadcasting Co., Inc., New York City, Portable.—Granted modification of television broadcast station license authorizing use of frequencies 156,000 to 162,000 kc. on an experimental basis conditionally.
- WLOK—The Fort Industry Co., Lima, Ohio.—Granted construction permit authorizing operation on 1210 kc. with 100 watts, unlimited time, instead of 100 watts daytime only.
- WDMJ—The Lake Superior Broadcasting Co., Marquette, Mich.—Granted modification of license to change time of operation from specified hours to unlimited time, on frequency 1310 kc., 250 watts.
- KFVS—Hirsch Battery & Radio Co., Cape Girardeau, Mo.—Granted modification of license to change frequency from 1210 kc. to 1370 kc., and hours of operation from specified hours to unlimited time.
- WEBQ—Harrisburg Broadcasting Co., Harrisburg, Ill.—Granted modification of license to change time of operation from specified hours to unlimited on 1210 kc., 250 watts.
- W6XDU—Don Lee Broadcasting System, Los Angeles, Cal., Portable-Mobile.—Granted modification of television broadcast station license to change frequencies to 318,000 to 330,000 kc., on an experimental basis only.
- WWL—Loyola University, New Orleans, La.—Granted extension of special experimental authority until May 1, 1940, to operate unlimited time on 850 kc.
- KWKH—International Broadcasting Corp., Shreveport, La.—Granted license to cover modification of special authority authorizing changes in equipment, increase in power from 10 to 50 KW, and move of transmitter site to Gamm Road, Dixie, La., using DA for nighttime operation on frequency 1100 kc. Also granted authority to determine operating power by direct measurement of antenna input.
- KRLD—KRLD Radio Corp., Dallas, Tex.—Granted extension until May 1, 1940, of special experimental authority to operate simultaneously with WTIC, unlimited time, on 1040 kc.
- WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted extension until May 1, 1940, of special experimental authority to operate simultaneously with KRLD, unlimited time on 1060 kc.
- WPTF—WPTF Radio Co., Raleigh, N. C.—Granted extension until May 1, 1940, of special experimental authority to operate from local sunset KPO to 11 p. m., EST, on 680 kc., using DA.
- WAPI—Ala. Polytechnic Institute, Univ. of Ala. & Ala. College, Birmingham, Ala.—Granted extension until May 1, 1940, of special experimental authority to operate unlimited hours using DA after sunset at Tulsa, Okla., on 1140 kc.
- KVOO—Southwestern Sales Corp., Tulsa, Okla.—Granted extension until May 1, 1940, of special experimental authority to operate unlimited time on 1140 kc., using DA at night.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Granted extension until May 1, 1940, of special authority to operate simultaneously with KTHS on 1060 kc., from 6 a. m. to local sunset at Hot Springs, Ark., and operate from local sunset at Hot Springs to 9 p. m., EST on 1060 kc., and operate synchronously with WJZ on 760 kc., 2½ KW, using DA from 9 p. m., EST.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Granted extension until May 1, 1940, of special authority to operate on 1060 kc., simultaneously with WBAL from 6 a. m. to local sunset, suspend operation from local sunset to 8 p. m., and operate unlimited time from 8 p. m. to midnight.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension until May 1, 1940, of special experimental authority to operate synchronously with KFAB from LS at Lincoln, Neb. to midnight.
- KFAB—KFAB Broadcasting Co., Lincoln, Neb.—Granted extension until May 1, 1940, of special experimental authority to operate synchronously with WBBM from local sunset at Lincoln, Neb. to midnight.

### DESIGNATED FOR HEARING

Louis R. Spiwak & Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—Application for construction permit to erect a new station to operate on 1210 kc., 100

watts night, 250 watts day, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval. (Application designated for hearing to determine financial, technical and other qualifications of applicants; the character and nature of program and technical service proposed to be rendered; the extent and nature and effect of any electrical interference which would result should the proposed station operate simultaneously with stations KGLO, KFJB and the station proposed by pending application of J. D. Flavey.

#### MISCELLANEOUS

W6XDU—Don Lee Broadcasting System, Portable-Mobile, area of Los Angeles.—Granted license to cover construction permit as modified, for new television station; frequencies 321000-327000 kc., 6.5 watts.

W2XAB—Columbia Broadcasting System, Inc., New York City.—Granted license to cover construction permit as modified, for new transmitter and move of transmitter, increase in power to 7500 watts for television station, and add A-3 emission.

KNOW—Frontier Broadcasting Co., Inc., Austin, Texas.—Granted authority to determine operating power by direct measurement of antenna input.

KARM—George Harm, Fresno, Cal.—Granted authority to determine operating power by direct measurement of antenna input.

WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Granted authority to determine operating power by direct measurement of antenna input.

KMO—Carl E. Haymond, Tacoma, Wash.—Granted authority to determine operating power by direct measurement of antenna input.

WCBS—WCBS, Inc., Springfield, Ill.—Granted authority to determine operating power by direct measurement of antenna input.

KBTM—Jay P. Beard, tr/as Regional Broadcasting Co., Jonesboro, Ark.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54, with certain additional power specifications. Also granted license to cover construction permit for changes in equipment and power from 100 watts daytime to 250 watts day, 100 watts night on 1200 kc.

WSMB—WSMB, Inc., New Orleans, La.—Granted license to cover construction permit to replace tower and make changes in antenna (1320 kc., 1 KW night, 5 KW day, unlimited time, using DA at night).

WAIR—C. G. Hill, Geo. D. Walker & Susan H. Walker, Winston-Salem, N. C.—Granted special temporary authority to operate from 5:30 p. m. to conclusion of game by Southern team playing in Rose Bowl, January 1, 1940, EST, in order to broadcast game.

WRNL—Richmond Radio Corp., Richmond, Va.—Granted special temporary authority to operate from local sunset (December 5 p. m., EST), to 7:45 p. m., EST, on January 1, 1940, in order to broadcast East West football games for benefit Shriners Hospital for crippled children.

WKAQ—Radio Corp. of Porto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from International Broadcast stations WCBX and WCAB over station WKAQ, on a non-commercial experimental basis only, for the period December 30, 1939 to January 28, 1940.

WSOY—Commodore Broadcasting Inc., Decatur, Ill.—Granted special temporary authority to operate with power of 250 watts, from 6:30 p. m., CST, January 15, 1940, to conclusion of Illinois-Michigan game at Ann Arbor, Mich.; from 7:30 p. m., CST, January 1 and 8, 1940, to conclusion of Illinois-Butler game at Indianapolis, Ind., and Chicago-Illinois game at Urbana; from 8:00 p. m., CST, January 2, 4, 12, 16 and 23, 1940, to conclusion of games of Urbana High School at Decatur, Mattoon High School at Decatur, Springfield High School at Decatur, Illinois Wesleyan-Millikin at Decatur and Lincoln High School at Decatur, in order to broadcast basketball games between these schools.

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Granted special temporary authority to operate with power of 250 watts, from 8:00 p. m. to 9:30 p. m., CST, January 8, 13, 20, 27, 29 and February 3, 1940, in order to broadcast University of Kentucky basketball games.

KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Granted special temporary authority to

operate from 10:00 p. m., December 31, 1939, to 1:00 a. m., PST, January 1, 1940, in order to broadcast special local New Year's programs.

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with station WGBF with power of 250 watts from 6:00 p. m. to 7:00 p. m., and from 8:15 p. m. to 12 midnight, CST, on January 1, 1940, in order to broadcast dedicatory programs of transcontinental network and from 5:00 p. m. to 6:00 p. m., CST, January 1, 1940, to permit KFRU to broadcast Rose Bowl football game.

WGBF—Evansville on the Air, Evansville, Ind.—Granted special temporary authority to operate simultaneously with station KFRU with power of 250 watts from 6:00 p. m. to 7:00 p. m., and from 8:15 p. m. to 12 midnight, CST, on January 1, 1940, in order to broadcast dedicatory programs of transcontinental network and from 5:00 p. m. to 6:00 p. m., CST, January 1, 1940, to permit KFRU to broadcast Rose Bowl football game.

WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Granted special temporary authority to operate from 10:30 p. m., EST, December 31, 1939, to 12:15 a. m., EST, January 1, 1940, in order to broadcast New Year's Eve Service for churches of Haverhill, Mass.

KOWH—World Publishing Co., Omaha, Nebr.—Granted special temporary authority to operate from 5:15 p. m. to 6:30 p. m., CST, on January 1, 1940, for the purpose of broadcasting Rose Bowl game in its entirety.

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 7:15 p. m. to 10:00 p. m., CST, on January 6, 8, 13 and 15, 1940; to operate from 4:00 p. m. to 6:00 p. m., and from 7:45 p. m. to 10:00 p. m., CST, on January 20, 1940, in order to broadcast Purdue University basketball games.

WMBQ—Metropolitan Broadcasting Corp., Brooklyn, N. Y.; Lillian E. Kiefer, Brooklyn, N. Y.; WWRL—Long Island Broadcasting Corp., Woodside, Long Island, N. Y.; Paul J. Gollhofer, Brooklyn, N. Y.; WCNW—Arthur Fasse, Brooklyn, N. Y.—The Commission extended the effective date of Provision (3) of the Commission's Order of December 5, 1938, to 30 days from December 31, 1939, in re Dockets Nos. 4029, 4050, 3941, 4302, 4331 and 4622.

WHB—WHB Broadcasting Co., Kansas City, Mo.—Granted special temporary authority to operate from 5:15 p. m., CST, January 1, 1940, to conclusion of Rose Bowl football game, in order to be able to broadcast the game in its entirety.

Edwin H. Armstrong, North of Alpine, N. J.—Granted special temporary authority to operate a 1-KW frequency modulated transmitter on 43 mc. at the site of the transmitter of station W2XMN, to be operated simultaneously with station W2XMN (40 kc. on 42.8 mc.), in order to secure data on adjacent channel operations in preparation for the February 28, 1940, hearing on frequency modulation, for a period of 30 days.

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted special temporary authority to operate from 11 p. m., EST, December 31, 1939, to conclusion of Union New Year's Eve Watch Night Service from First Presbyterian Church, Sharon, Pa.

KXOX—Sweetwater Radio, Inc., Sweetwater, Tex.—Granted special temporary authority to operate from 6 p. m. to 10 p. m., CST, January 6, 1940, in order to broadcast special Old Hickory Banquet program via Network from Houston, Tex.

KTRB—Thomas R. McTammany and Wm. H. Bates, Jr., Modesto, Calif.—Denied special temporary authority to operate from 7 p. m. to midnight, PST, on January 4, 5, and 6, 1940, in order to broadcast the State Junior College basketball tournament games only.

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Denied extension of special temporary authority to operate from 9 a. m. to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday, and Sunday mornings, for the period beginning December 31, 1939, until said time is specifically authorized to be used by the Saginaw Broadcasting Co., but ending in no event later than January 29, 1940, in order to broadcast educational programs.

WKST—WKST, Inc., New Castle, Pa.—Granted special temporary authority to operate from 8:30 p. m. to 9 p. m., EST, December 31, 1939, and from 12 to 12:45 a. m., EST, January 1, 1940, in order to broadcast religious programs only.

KRBC—Reporter Broadcasting Co., Abilene, Tex.—Granted renewal of license for the regular period.

- WNEI—WFBM, Inc., Portable-Mobile (area of Indianapolis, Ind.).—Granted license to cover construction permit to make changes in equipment and reduce power of portable-mobile relay station to 0.15 watt.
- WALO—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York City).—Granted license to cover construction permit for new relay broadcast station, frequencies 33380, 35020, 37620 and 39820 kc., 2 watts, to be used with applicant's broadcast station WABC-WBOQ.
- WALP—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York City).—Granted license to cover construction permit for new relay broadcast station, frequencies 33380, 35020, 37620 and 39820 kc., 2 watts, to be used with applicant's broadcast station WABC-WBOQ.
- KVOS—KVOS, Inc., Bellingham, Wash.—Granted license to cover construction permit for changes in transmitting equipment and increase in power to 250 watts; 1200 kc., unlimited time, conditionally. Also granted authority to determine operating power by direct measurement of antenna input.
- WIS—The Liberty Life Ins. Co., Columbia, S. C.—Granted authority to determine operating power by direct measurement of antenna input.
- KLS—S. W. Warner and E. N. Warner, d/b as Warner Brothers, Oakland, Calif.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WESX—North Shore Broadcasting Co., Salem, Mass.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WESX—North Shore Broadcasting Co., Salem, Mass.—Granted license to cover construction permit for new broadcast station, frequency 1200 kc., power 100 watts, unlimited.
- KFPW—Southwestern Hotel Co., Fort Smith, Ark.—Granted modification of construction permit for change in frequency from 1210 kc., 100 watts, to 1370 kc., 250 watts, unlimited time; install new transmitter, install new antenna, and move transmitter to a site to be determined, Fort Smith, Ark.
- KLUF—The KLUF Broadcasting Co., Inc., Galveston, Tex.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54, with certain additional power specifications.
- WMAN—Richland, Inc., Mansfield, Ohio.—Granted license to cover construction permit for new broadcast station to operate on 1370 kc., 250 watts power, daytime.
- KOCA—Oil Capitol Broadcasting Association, Kilgore, Tex.—Granted construction permit to move transmitter locally and make changes in antenna.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Granted special temporary authority to operate January 1, 1940, to conclusion of Rose Bowl game in order to broadcast game.
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Granted special temporary authority to operate from 5:30 p. m. to 7:45 p. m., EST, on January 1, 1940, in order to broadcast Rose Bowl game in its entirety.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 7 p. m. to 10:30 p. m., CST, on January 2, 5, 12, 13, 19, 20 and 26, 1940, in order to broadcast basketball games of the Aurora High School.
- WDGY—Dr. George W. Young, Minneapolis, Minn.—Granted special temporary authority to operate from 6:15 p. m., CST, to conclusion of game, January 1, 1940, in order to broadcast Shrine East-West football game.
- KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted special temporary authority to operate on 1040 kc. from 7:30 p. m. to 9 p. m., PST, on January 5, 6, 8, 9, 12, 16, 17, 19, 20, 26, 27, 29 and 30, 1940, in order to broadcast the college basketball games of the Pacific Northwest Conference.
- WPR—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10 p. m., January 5, 1940, to 1 a. m., AST, January 6, 1940, in order to broadcast religious services, dance music and other activities regarding The Three Kings Day; to operate from 9 a. m. to 11 a. m., AST, and from 2 p. m. to 6 p. m., AST, January 7, 14, 21 and 28, 1940, in order to broadcast basketball games of the Semi-Pro Series only.
- KEIS—Midland Broadcasting Co., Portable-Mobile, area of Kansas City, Mo.—Granted special temporary authority to station KMBC to rebroadcast from a plane over short wave transmitter KEIS on 100 watts power, with 2790 kc., December 30, 1939, in order to broadcast ceremonies incident to the launching of a new type of plane.
- Lackawanna Broadcasting Co., Inc., Scranton, Pa.—Dismissed with prejudice application for construction permit to erect a new broadcast station to operate on 1370 kc., with 250 watts day, 100 watts night, unlimited time. (Applicant failed to appear at hearing to offer testimony in support of the application.)
- Spartanburg Advertising Co., Spartanburg, S. C.—Granted petition authorizing the assignment of call letters WORD in lieu of WHTR for its proposed new station, construction permit for which has been granted by the Commission.
- Palm Radio Company, Fort Myers, Fla.—Denied petition requesting that the Commission withhold actual issuance of a construction permit to Fort Myers Broadcasting Company (WFTM), and designate petitioner's pending application for construction permit for hearing immediately.
- KMPC—The Station of the Stars, Inc., Beverly Hills, Calif.—Granted modification of construction permit for authority to use antenna and transmitter formerly used by station KECA, and move to KECA's former site, 1418 West 81st St., Los Angeles, Calif.
- KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted extension of special temporary authority to operate on 1040 kc., limited time, and resume operation from 9 p. m. to 3 a. m., PST, beginning February 1, pending final action on application (B5-ML-648), but not beyond February 1, 1941.

## APPLICATIONS FILED AT FCC

### 790 Kilocycles

- KOAM—The Pittsburg Broadcasting Co., Inc., Pittsburg, Kans.—Authority to determine operating power by direct measurement of antenna power.

### 1100 Kilocycles

- WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—License to cover construction permit (B2-P-1982) as modified for new broadcast station.

### 1110 Kilocycles

- KSOO—Sioux Falls Broadcast Assn., Inc., Sioux Falls, S. D.—Construction permit to change frequency from 1110 kc., limited time, to 710 kc., unlimited, install directional antenna for night use and move transmitter.

### 1210 Kilocycles

- KVSO—The Ardmoreite Publishing Co., Inc., Ardmore, Okla.—Modification of license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

### 1310 Kilocycles

- KOCY—Plaza Court Broadcasting Co., Oklahoma City, Okla.—Authority to determine operating power by direct measurement of antenna power.
- KVIC—Radio Enterprises, Inc., Victoria, Texas.—License to cover construction permit (B3-P-2118) as modified for new broadcast station.

### 1350 Kilocycles

- NEW—Wendell Mayes, Joe N. Weatherby and Wm. J. Lawson, d/b as Brown County Broadcasting Co., Brownwood, Texas.—Construction permit for a new broadcast station to be operated on 1350 kc., 500 watts, unlimited time.
- KWK—Thomas Patrick, Inc., St. Louis, Mo.—Construction permit to change frequency from 1350 to 630 kc., changes in antenna for nighttime use, changes in equipment (contingent on applications WGBF and KFRU being granted). Amended: To request increase in power from 1 KW night, 5 KW day, to 5 KW day and night, and changes in directional antenna.

### 1370 Kilocycles

- NEW—Lookout Mountain Co. of Georgia, Lookout Mountain, Ga.—Construction permit for a new broadcast station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time. Amended: To request 250 watts day and night, and transmitter site to be determined, Chattanooga, Tenn.
- NEW—Chilton Radio Corp., Dallas, Texas.—Construction permit for a new broadcast station to be operated on 1370 kc., 250 watts, unlimited time. Request facilities relinquished by station KFJZ. Amended: To change power to 100 watts, and change type of transmitter.

## 1420 Kilocycles

- WILM—Delaware Broadcasting Co., Wilmington, Dela.—License to cover construction permit (B1-P-2550) for changes in equipment and increase in power.
- NEW—Capital Broadcasting Co., Washington, D. C.—Construction permit for a new broadcast station to be operated on 1420 kc., 250 watts power, unlimited time.

## 1500 Kilocycles

- KSAM—Sam Houston Broadcasting Assn., H. G. Webster, Pres., Huntsville, Texas.—Voluntary assignment of license to Sam Houston Broadcasting Corporation of Huntsville, Texas.
- KDAL—Red River B/C Co., Inc., Duluth, Minn.—License to cover construction permit (B4-P-2371) for changes in equipment and increase in power.
- KDAL—Red River Broadcasting Co., Inc., Duluth, Minn.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.
- NEW—The Delmarva Broadcast Co., Salisbury, Md.—Construction permit for a new broadcast station to be operated on 1500 kc., 250 watts, unlimited. Amended: To change frequency from 1500 to 1200 kc., and to request facilities of WSAL contingent on order of revocation against WSAL being made final.

## MISCELLANEOUS

- WAID—Onondaga Radio Broadcasting Corp., Portable-Mobile.—License to cover construction permit (B1-PRY-174) for new relay broadcast station.
- WENP—WSOC, Inc., Portable-Mobile.—License to cover construction permit (B3-PRE-332) to make changes in equipment.
- W1XSQ—Worcester Telegram Publishing Co., Inc., Holden, Mass.—Modification of construction permit (B1-PHB-78) for new high frequency broadcast station requesting equipment changes.
- NEW—WOKO, Inc., New Scotland, N. Y.—Construction permit for a new high frequency broadcast station to be located at New Scotland, N. Y., to be operated on 43400 kc., 250 watts, unlimited time, special emission for frequency modulation.
- NEW—National Broadcasting Co., Inc., Portable-Mobile.—Construction permit for new television broadcast station to be operated on 282000-294000 and 312000-324000 kc., 15 watts for visual and aural emission A3 and A5, unlimited.
- NEW—R. B. Eaton, Des Moines, Iowa.—Construction permit for a new television broadcast station to be operated on 44000-50000 kc., 100 watts visual and aural, emission A3 and A5. Amended: Requests Class II station.
- WEKR—South Bend Tribune, Portable-Mobile.—License to cover construction permit (B4-PRE-299) to install new transmitter and increase power.
- WRPM—Radio Air Service Corp., Portable-Mobile.—License to cover construction permit (B2-PRE-284) for new relay broadcast station. Amended: To change name to United Broadcasting Company.
- WEHP—The Fort Industry Co., Mobile.—Modification of license to increase power from 25 watts to 50 watts.
- WAUW—J. T. Ward, tr. as WLAC Broadcasting Service, Portable-Mobile.—License to cover construction permit (B3-PRE-326) for new relay broadcast station.

# FEDERAL TRADE COMMISSION ACTION

## COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Jay Holtz Company**—Charging violation of the Federal Trade Commission Act through promoting the sale of merchandise by use of lottery methods, a complaint has been issued against Jacob and Abraham L. Holtz, trading as Jacob Holtz and as Jay Holtz Company, 889 Broadway, New York.

It is alleged that the respondents sell toilet sets, pillow cases, blankets, smoking stands, electric appliances, zipper bags and other merchandise, and that to their customers the respondents supply "Bingo" sets by means of which the customers may resell the respondents' products to ultimate consumers in a manner involving operation of a game of chance, gift enterprise or lottery scheme. (3979)

**Herman Nelson Corporation**, Moline, Ill., manufacturer of ventilating equipment, has been served with a complaint charging misrepresentation in the sale and distribution of its product.

In advertising in periodicals, catalogs and other printed matter, the complaint alleges, the respondent designates and refers to its equipment as "air conditioning," and represents that it will air-condition school buildings and other buildings in which it may be installed.

The term "air-conditioning," the complaint continues, signifies simultaneous control by a mechanical device of various factors affecting both the physical and chemical conditions of the atmosphere within a given structure, such factors including temperature, humidity and the motion or circulation of the air within the structure. The respondent's product, the complaint alleges, is an air ventilating unit only, being a mechanical device for ventilating the room in which it is installed, and heating the air drawn from the outside through a vent in the wall of the building. No provision is made for adding moisture to the air, taking moisture from it, or for cooling the air below the temperature of that outside the building. (3981)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Club Supreme**—See Success Club.

**W. H. Fabry Manufacturing Co., Inc.**, Alhambra, Calif., manufacturer of "The Fabreeze Air Cooler," agrees to discontinue employing the words "Air Cooler" either as part of the trade name or designation for its device or in any other way as descriptive of that product, the effect of which may tend to create the belief that the action of the device on the air which passes through it produces a useful degree of cooling regardless of atmospheric conditions, or in those areas of the country where the relative humidity is high. The stipulation provides that if the words "Air Cooler" are so used, they shall be accompanied by other explanation indicating clearly that the device's action will be effective as a cooling medium only under certain atmospheric conditions, as for example, in areas of normal low relative humidity. (2623)

**John E. Jevnikar**, 708 Ninth-Chester Building, Cleveland, agrees to desist from representing that he is familiar with the individual needs of his prospective customers in the sale of wigs and toupees, or that he has all the necessary data on hand, and, inferentially or otherwise, that he has records of prospective customers sufficient to enable him to repair, adjust or otherwise service their wigs or toupees, when such are not the facts. The stipulation points out that the respondent did not have all the necessary data on hand to serve such customers; that in the hair business toupees and wigs have to be returned by customers at regular intervals for cleaning, adjusting and repairing, and that in order to perform these services properly it is necessary to have records showing the color and texture of the hair and other data, which the respondent Jevnikar himself did not have. (2616)

**Key Systems**—Dorsey E. Wynkoop, trading as Key Systems and as National Credit Rating Bureau, 358 West 59th Place, Los Angeles, sells mimeographed material purportedly describing plans for use by purchasers in the operation of collection agencies by mail. He agrees to desist from representing that his plans have been approved by chambers of commerce or legislative bodies; that profits from business based on his plans ordinarily are from \$3,000 to \$5,000 a year, or that profits of \$10,000 to \$25,000 a year are not unusual; and that the offer which the respondent customarily makes is a special offer. He also stipulates that he will discontinue use in advertisements of quotations purporting to be excerpts from so-called unsolicited expressions of appreciation from persons who or concerns which use "Key Folios", sold by him, when in fact the excerpts do not properly convey the meaning of the original letters, and that he will cease using, in connection with the sale of his plans, the trade name "National Credit Rating Bureau", alone or in conjunction with the phrase "A National Organization", so as to imply that the respondent is associated with or operates a nationwide organization or performs a credit rating service, national or otherwise, when such are not the facts. (2620)

**Kress & Owen Company**, 361 Pearl St., New York, selling medicinal preparations designated "Glyco-Thymoline", a liquid, and "Glyco-Thymoline Cough Drops", agrees to cease representing, directly or by implication, that use of these preparations will prevent, in a prophylactic sense, colds, sore throats or coughs, prior to the establishment of the infections which cause these conditions, and that they will stop, in a curative sense, colds, sore throats or coughs, if and when the infections which cause these conditions have been established. Other representations to be discontinued are that use of "Glyco-Thymoline" will aid in the relief of irritated and inflamed mucous membranes or be of any benefit thereto in any part of the body, and that, aside from its anti-acid properties, it has any therapeutic properties beyond its ability to aid in cleansing or soothing and thereby helping to heal, when used on the mucous membranes of several different parts of the body. (02478)

**Landon School**—Corwin Landon, trading as Landon School, National Building, Cleveland, in the sale of a correspondence course in cartooning, agrees to cease representing that the price customarily charged is a special reduced rate, and that 2,000 or any other number of his students are now successful comic artists or cartoonists, when there are no available facts to substantiate this claim. (2619)

**National Credit Rating Bureau**—See Key Systems.

**Robert J. Pierce, Inc.**, 78 Reade St., New York, in the sale of drug sundries, agrees to desist from representing, directly or indirectly, that it is the manufacturer of any product offered for sale by it, when such is not a fact. The stipulation relates that the respondent corporation represented itself as the manufacturer of a prophylactic product designated "Hercules" when in fact it merely distributed this article, purchasing it from the manufacturer. (2621)

**Richards' Electro-Fence Company**—Fred F. Richards, trading as Richards' Electro-Fence Company, Payette, Idaho, in the sale of "Electro-Fence Units" for fencing in of livestock, agrees to cease advertising that by the installation of electric fences or of any "Electro-Fence Unit", anyone can thereby effect a saving of any definite amount, irrespective of the extent of fencing required; that any unit selling at a lower price than "Electro-Fence Units", is without a built-in indicator; that the voltage of any of the respondent's units is greater than that of any other make; that a warning signal device or mechanisms used to change alternating current to direct current and permit only a small amount of current to reach the fence at one time, are exclusive features of the "Electro-Fence Units", and other representations. (02480)

**Success Club**—Selling lists of persons desiring correspondence for social and matrimonial purposes, Gladys Fore, Oxford, Fla.,

trading also as "The Success Club," "The Sunshine Club" and the "Club Supreme," has entered into a stipulation to discontinue misleading representations in the sale of her products.

In advertising, the respondent, according to the stipulation, represented: "The \$2 you pay shows your good faith and pays printing, mailing, etc., expended in your behalf."

Other advertising representations, according to the stipulation, were: "Lovable lady, money. Romantic, with means." \* \* \* "Man, very romantic, congenial, with money." \* \* \* "An attractive lady has just enrolled in my club who owns considerable property."

In her stipulation, the respondent admitted, among other things, that the trade names mentioned in her advertising are owned and controlled by her and do not represent competitive enterprises, and that she had not made reasonable investigation into the financial or other standing of the members but merely repeated the statements made to her by them.

Under the stipulation, the respondent agrees to cease advertising that persons listed with her or holding membership in any of her enterprises are assured that golden opportunities are awaiting them; that persons listed with her are worth any specified amounts, or have any specified income, or any social, business or financial standing other than that disclosed by competent investigation; that any offer is special unless it is less in price than the usual or regular price charged, and limited in time; that \$2 down payment in The Sunshine Club is used to pay for printing, mailing, etc., or is expended in behalf of the purchaser, or that a coupon mentioned in connection with the sale of membership in that club is of any value. (02475)

**Sunflower Hatchery**—Ernest A. Berry, trading as Sunflower Hatchery and Sunflower Poultry Farm & Hatchery, Newton, Kans., has entered into a stipulation to cease misleading representations in the sale of his product, baby chicks.

The respondent agrees to desist representing, by use of such expressions as "Livability Guaranteed," that he guarantees the livability of all grades of chicks sold by him unless and until he actually makes reimbursement in full for all losses by death.

A further representation to be discontinued is that the respondent carries insurance to protect his customers from loss due to death of any chicks purchased from him, unless and until he carries insurance with an accredited insurance company for the protection of his customers against his failure to make reimbursement in accordance with his agreement.

The respondent also agrees to discontinue advertising that the breeders producing his chicks are inspected by the American Poultry Association, until the breeders actually are inspected by an impartial representative of that association. (02479)

**Sunflower Poultry Farm & Hatchery**—See Sunflower Hatchery.

**Sunshine Club**—See Success Club.

**Superior Shirt Company**, 1216 Arch St., Philadelphia, in the sale of its garments, agrees to cease using the statement "U. S. Tested" or other representation of similar implication, the effect of which may tend to convey the impression that its garments have been tested by the United States Government or a branch thereof, when such is not a fact. (2615)

**Tomil Research Laboratories**—Harry Tomback, trading as Tomil Research Laboratories, New York, N. Y., agrees to cease advertising that application of his preparation "Albaderm" to the skin will of itself relieve acne, blackheads, whiteheads or other skin blemishes; that by continued use of this product alone, for any given period of time, persons with pimples, acne, blackheads or other skin blemishes can obtain permanent relief therefrom, and that "Albaderm," or the ingredients composing it, will remove bacterial infections causing skin blemishes. Among other representations to be discontinued are that application of "Albaderm," according to the directions prescribed, has brought happiness to hundreds, and that application of the product to the skin is harmless in all cases. The respondent also stipulates that he will cease

representing, through use of the words "laboratory" or "research," or other words of similar import as part of a trade name, that he operates, conducts or maintains a laboratory for research, manufacturing, testing or experimenting with the preparation sold by him until such time as he actually owns and operates such a laboratory. (02481)

**United Hosiery Mills**—David and Morris Carity, trading as United Hosiery Mills, Philadelphia, Pa., agree to cease employing the word "Mills" as part of their trade name and from the use of this or any word of similar implication, the effect of which may tend to create the impression that they knit or manufacture the products they sell or that they actually own and operate or control the factory in which those products are made. The respondents also stipulate that they will desist from representing, as through the use of a purported local address, that they have an office or place of business at an indicated location, when such is not a fact. (2622)

**United Studios**—Andrew M. Smith and Jack Lucas, trading as United Studios, St. Paul, Minn., in the sale of photographs by mail order, agree to cease representing their regular method of sale as a special advertising offer and their photographic enlargements as "oil colored portraits," and to discontinue misrepresenting the value of certificates or coupons or misusing the word "guaranteed." (2617)

### CEASE AND DESIST ORDERS

The following cease and desist orders have been issued during the week:

**Gimbel Brothers, Inc.**—See A. Schottland, Inc.

**Howard D. Johnson Company**, 89 Beale St., Wollaston, Mass., has been ordered to cease and desist from representing factory-made food products as being home-made.

The Commission finds that the respondent, who manufactures ice cream and other food products, has represented, among other things, through advertisements in newspapers, through other printed matter and in radio broadcasts: "Howard D. Johnson Company, Makers of Howard Johnson's home made ice cream, candies and pastries," and "Howard Johnson food is wholesome—home cooked," while in fact the products were made in a factory, of the ordinary ingredients and by the ordinary methods of production used in factories manufacturing such products for sale.

The respondent is ordered to cease and desist from representing that its food products are home-made or home-cooked, unless they are in fact made or cooked in the manner and of the ingredients characteristic of the preparation of such products in the home, for consumption in the home, as distinguished from factory-made products. (3827)

**Mattia & Briganti Company**—See Premier Color Works.

**McKesson & Robbins, Inc.**, New York, has been ordered to discontinue certain misleading representations in the sale of "Calox Tooth Powder."

Commission findings are that in newspapers and other periodicals and by means of radio broadcasts, the respondent company advertised that "For teeth that 'Shine like the Stars' use Calox Powder," and that the product "Adds a charming sparkle to your smile—take this tip from Hollywood . . . use Calox Tooth Powder . . . the very same pure, safe, refreshing dentifrice that helps protect the radiant smile of Jean Parker, scores of other famous screen stars, and millions of people throughout the world."

The respondent stated that these excerpts from its advertisements were used in 1939 but that various other excerpts, which are mentioned in the findings of fact, were discontinued in 1937 and 1938. The findings show that among this latter group were rep-

resentations to the effect that the product helps clean the proximal surfaces between the teeth, liberates nascent oxygen in the mouth, "fights" decay, "removes film and banishes stain"; that dentists advise the use of powder; that the sodium perborate in the respondent's product will keep gums firm and healthy, and other similar representations. (3791)

**Premier Color Works**—Fred C. Mattia, trading as Premier Color Works and as Mattia and Briganti Company, 382 Pearl St., New York, has been ordered to cease and desist from misrepresentations in connection with the sale and distribution of a line of effervescent and laxative products designated "Ave Maria," "Ave Maria Effervescent Preparation" and "Ave Maria Laxative Preparation."

The Commission finds that the respondent Mattia is engaged in the manufacture and sale of the products, and that on cartons and containers in which they are packed, are printed statements among which are: "\* \* \* Made in U. S. A. from a highly recommended formula of Dr. Arnaldo Piutti, Director of the Pharmaceutical Institute of 'Reggio Universita' di Napoli' (Italy)," and "Highest awards in the Hygienic Divisions of International Expositions."

The Commission finds that the respondent Mattia's products are not made from formulas recommended by Arnaldo Piutti, and that the medals and decorations depicted on the containers and cartons are not reproductions of decorations awarded the products at expositions, and that the products have not been awarded any medals or other prizes at international expositions.

The respondent Mattia is ordered to cease and desist from representing:

(1) That the formulas from which said products are manufactured are or were originated or recommended by an official or representative of the Royal University of Naples, or by any other person or persons who in truth and in fact have not originated or recommended said formulas;

(2) Through the use of medals or any other decoration depicted on the containers or cartons in which said products are packaged, or in any other manner that said products have been awarded any medals, prizes or other awards of merit by any international exposition or any other exposition or by any divisions thereof, until and unless said products have in fact won the awards represented.

The Commission's case as to Michael P. Briganti, named in the complaint as a respondent in this proceeding, was closed without prejudice to the Commission's right to reopen it and continue prosecution should such action be warranted by the facts. (3826)

**Prime Hat Company, Inc.**, 97 East Houston St., New York, and Vincent Gerbino, Samuel Scifo, Vito Digregorio and John Scifo, individually and as officers of the corporation, have been ordered to cease and desist from misrepresentation in the sale and distribution of hats made from second-hand materials.

In the conduct of their business, the Commission finds, the respondents buy old, worn and used felt hats, which are then cleaned, steamed, ironed and shaped, and fitted with new trimmings, sweat bands and labels. The hats are then sold to jobbers and wholesale dealers, the findings continue, and they resell them to retail dealers, who sell them to the public without disclosing the fact that the hats are manufactured from felts previously worn, and are not new hats.

The Commission finds that the respondents also use the words "Quality Hats" in designating their merchandise. Immediately under the words "Quality Hats" or under similar terms, the respondents cause to be embossed the words "Made Over Hat."

The methods of manufacture of the respondents and others who make hats from old, used and worn materials were found to be similar in part to the methods used in many instances by manufacturers of hats from new but shop-worn hat bodies which have never been used but have been reclaimed from merchants' shelves. By use of the words "Made Over Hat," the Commission finds, the respondents fail to disclose to purchasers that their products are made from old, worn and previously used hat bodies as distinguished from hats made from shop-worn hat bodies which have never been worn or used.

The respondents are ordered to cease and desist from representing that hats composed in whole or in part of used or second-hand materials are new, or are composed of new materials, by failure to stamp in the sweat bands thereof in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweat bands, a statement that the products are composed of second-hand or used materials. If sweat bands are not affixed to

the hats, then such stamping must appear on the bodies of the hats in conspicuous and legible terms which cannot be removed or obliterated without mutilating the bodies. The respondents are also ordered to cease representing in any manner that hats made in whole or in part from old, used or second-hand materials are new, or are composed of new materials. (3830)

**Ralston Purina Company.** St. Louis, engaged in the manufacture and distribution of livestock feeds, cereal foods, and food for dogs and other animals, is ordered to desist from misrepresentation in the sale and distribution of "Purina Dog Chow."

In pamphlets, circulars, labels and other advertising matter, the Commission finds, the respondent represented that the product contains pure beef, pure meat, and meat. The ingredient which respondent represents as pure beef, pure meat, or meat, is really meat meal, or dehydrated meat meal.

Chemically, meat is composed of four food elements, which are protein, fat, moisture and calcium. In the manufacture of the meal, the Commission finds, the heating processes used by all the companies from which respondent purchases the ingredients in "Purina Dog Chow," designated as meat or beef, remove from the original contents the fat and moisture.

The respondent is ordered to cease and desist from using the terms "pure beef", "pure meat", "meat", or "beef", or any other terms of similar import or meaning to designate or describe dehydrated meat meal or any product which is not meat or beef in fact. (3102)

**A. Schottland, Inc.**—Orders have been issued in two cases requiring New York corporations to discontinue misleading representations in connection with the fiber content of fabrics or garments sold.

Respondents in one of these cases are A. Schottland, Inc., 1441 Broadway, and Valmor Undergarment Company, Inc., 149 Madison Ave., and in the other case, Gimbel Brothers, Inc., Broadway and 33rd St.

A. Schottland, Inc., manufactures fabrics at its factories in Rocky Mount, N. C., and Nanuet, N. Y., while Valmor Undergarment Company, Inc., manufactures women's undergarments and allied products. The Schottland corporation was found to have supplied customers with tags and labels to be attached to garments made from certain of the Schottland company's fabrics, such tags and labels featuring the words "Pure Dye" and "Crepe" in prominent type and the words "DuPont Rayon and Silk" in smaller type, so that purchasers and garments manufacturers were given the impression that the products so designated were silk, when in fact they were composed entirely of rayon.

Findings are that Valmor Undergarment Company, Inc., purchased certain fabrics from the Schottland corporation and used the tags and labels furnished by Schottland and also display folders to designate its finished undergarment and allied products as silk, when they were not composed of silk.

The order against the Schottland and Valmor corporations directs that they cease using the words "Pure Dye" or other words of similar import to describe fabrics not composed wholly of unweighted silk, and provides that certain qualifications be made in designating a fabric or material composed in part of unweighted silk and in part of materials other than unweighted silk. The order also directs that the respondents discontinue using the words "Satin," "Taffeta" or "Crepe" or words of similar import to describe a fabric or product not made entirely of silk, and provides for the use of certain qualifying language when such words truthfully designate the type of weave, construction or finish. The order also prohibits use of the word "Silk" or other terms including that word or a colorable simulation thereof to designate a fabric or product not wholly composed of silk, and provides for proper qualification in designating a fabric or product composed partly of silk and partly of materials other than silk.

Gimbel Brothers, Inc., department store, was found to have purchased from Morris Kaplan & Son, Inc., 222 West 39th St., wholesaler and jobber, a quantity of dress goods or fabrics known as "mill ends" which Gimbel Brothers advertised in a special sale in March, 1938, as being "woolens" and "luxurious woolens," when in fact they consisted of some pieces of all wool, some composed of wool and rayon, some composed of wool, rayon and cotton and others composed of wool and cotton.

Tests made by the National Bureau of Standards, Washington, of 10 pieces of the fabrics in question selected at random, showed only 4 as being all wool, while the remaining 6 were composed in

large part of cotton and rayon. Other tests, both microscopic and chemical, conducted by the chief chemist of the Forstmann Woolen Company, showed that the wool contents of 3 pieces of the cloth chosen at random were only 30, 34 and 60 per cent, respectively. Finally, in tests made by Gimbel Brothers, through the Industrial By-Products and Research Corporation, only 7 out of 12 pieces tested proved to be all wool. The other 5 pieces contained from 31.1 per cent rayon to 66.2 per cent cotton and rayon.

The order against Gimbel Brothers, Inc., directs that it cease using the words "Wool" or "Woolens" or other words descriptive of wool to describe a fabric or product not composed wholly of wool, and provides for the use of qualifying language in designating fabrics or products composed in part of wool and in part of other fibers. The order also prohibits Gimbel Brothers, Inc., from representing in any manner that fabrics or products sold by it contain wool in greater quantity, percentage or degree than is actually the case.

The Commission ordered that the complaint in this proceeding be dismissed as to Morris Kaplan & Son, Inc., which was named a respondent in the complaint. Findings are that the products involved in this case were not shipped by Morris Kaplan & Son, Inc., in interstate commerce, and that that corporation retained no control of the goods after they were sold to Gimbel Brothers. (3276 & 3364)

**Universal Cordage Company, Inc.**, 312 Bridge St., Brooklyn, has been served with an order requiring it to cease and desist from certain misleading representations in the sale of its products, rope and cordage which are remade from reclaimed Manila fiber.

In the sale of its products, the respondent, according to findings, used the words "Pure Manila" as a designation when in fact such products are not rope or cordage manufactured from new and unused, pure Manila fiber.

The order directs the respondent to cease and desist from representing that rope or cordage made in whole or in part from used or reclaimed Manila fiber is made of new and unused fiber, and to discontinue using the words "Pure Manila" to refer to rope or cordage made in whole or in part from used or reclaimed Manila fiber.

The respondent is directed to cease representing, by means of the phrase "New manufacturers of pure Manila rope and fiber", or through employment of any other words implying that it is the manufacturer of the products it sells, that it manufactures the rope and cordage it sells, unless and until it actually owns and operates, or directly and absolutely controls, a plant wherein such products are manufactured in their entirety by the respondent. (3612)

**U-Need Candy Co., Inc.**, 1231 West Washington Ave., South Bend, Ind., and Louis J. Weger, Mrs. Louis J. Weger and Charles R. Hosey, individually, have been ordered to desist from use of lottery methods in the sale and distribution of candy to ultimate consumers.

The Commission finds that the respondents sold to jobbers and dealers assortments of candy so packed or assembled as to involve the use of games of chance, gift enterprises or lottery schemes.

The Commission orders the respondents to cease and desist from selling or distributing candy or other merchandise so packed and assembled that sales to the public may be made by means of a lottery; supplying or placing in the hands of others, assortments of candy or other merchandise, together with push or pull cards, punch boards or other lottery devices which may be used in selling or distributing the candy or other merchandise to the general public; supplying or placing in the hands of others, lottery devices, either with candy assortments or other merchandise, or separately, which devices may be used in selling the candy or other merchandise to the public; and selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme. (3855)

**Valmor Undergarment Company, Inc.**—See A. Schottland, Inc.

**Yardley of London, Inc.**, has been ordered to discontinue certain misleading representations in the sale of cosmetics. The respondent operates a plant in Union City, N. J. and a retail shop at 620 Fifth Ave., New York.

Findings are that many users of cosmetics and perfumes consider that such articles made or compounded in England are superior to similar articles produced in the United States, and that, in connection with the sale of its preparations, the respondent made representations which had a tendency to mislead consumers into the mistaken belief that all of its preparations are manufactured and compounded into the finished product in England and then imported into the United States.

In newspaper and other periodical advertisements, on labels and in other ways, the findings continue, the respondent corporation referred to its products as being English and imported articles, using names such as "Yardley's English Lavender," "Yardley's Famous English Lavender Soap," "English Lavender," and "Yardley's English Lavender Bath Salts."

It was found that the procedure generally followed in manufacturing the respondent's products included the receipt of certain imported ingredients in bulk from its parent company, Yardley & Co., Ltd., of London, and the mixture of these ingredients, in most cases, with certain domestic ingredients at its plant in Union City, N. J., in accordance with the parent (London) company's formulas.

The Commission's order directed that, in connection with its sale of toilet requisites and cosmetics, including, without limitation, perfumes, bath salts, facial creams, brilliantines and after shaving lotions, the respondent corporation cease representing, through use of the word "London," "English" or "Old English," or in other ways, that any of its preparations which were in fact made, compounded, diluted or bottled in the United States, or in any place other than England, were so produced in England or are

of English origin; provided, however, that the country of origin of the various ingredients thereof may be stated when immediately accompanied by an explanation that such products were made, compounded, diluted or bottled, as the case may be, in the United States or in such place other than England.

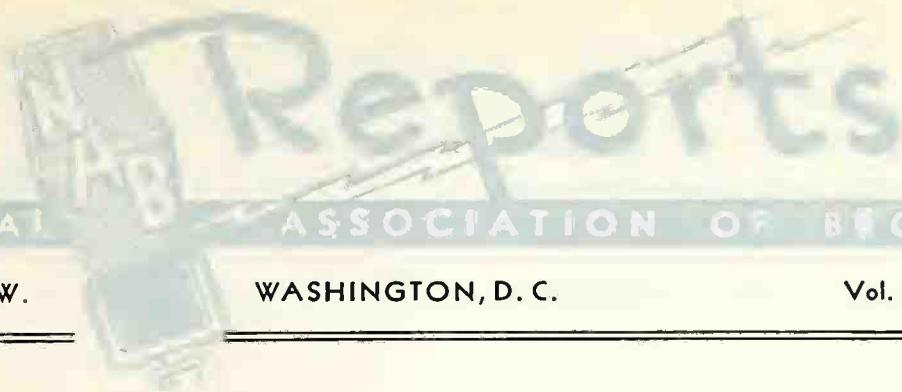
The order also prohibits use of the terms or phrases "33 Old Bond Street," "Straight from Bond Street," or any other words or phrases of similar import to describe its preparations which were in fact made, compounded, diluted or bottled in the United States or in any place other than England.

A further representation forbidden is use of the word "London" as part of the respondent's corporate name in connection with the sale of its cosmetic products which were in fact made, compounded, diluted or bottled in the United States or in any place other than England, without clearly and conspicuously stating in immediate connection therewith that such products were made, compounded, diluted or bottled, as the case may be, in the United States or in such place other than England. (2330)

#### FTC CLOSES CASE

The Federal Trade Commission has closed its case against Manuel Blattberg, trading as Monarch Hosiery & Neckwear Co., 112 South 7th St., Philadelphia, who was charged with the use of lottery methods in the sale of merchandise to ultimate consumers.

The case was closed without prejudice to the Commission's right to reopen it and resume proceedings, should future facts so warrant. (3463)



## The Week in Washington

Enthusiastic approval of Broadcast Music, Inc., was registered last week at district meetings in New Orleans and Dallas, Texas. The North Carolina Broadcasters Association also endorsed the copyright plan. Neville Miller held meetings this week in Los Angeles, San Francisco, Portland and Seattle. From the Northwest he will head for Georgia and Florida. Alabama and Georgia broadcasters are meeting in Columbus, Georgia, on January 18. The following day Florida will meet at Orlando.

All broadcasters who have agreed to sign stock subscriptions should send in their papers to NAB Headquarters at the earliest possible moment. Likewise, those who have said they would recommend subscription to their station owners should endeavor to obtain this approval as soon as possible.

The Johnson Bill to ban beer and liquor advertising on the air came before the Senate Monday, but was passed over at the request of majority leader Barkley. Already approved by the Committee on Interstate Commerce and endorsed by the Federal Alcohol Administrator, the bill is still on the calendar.

Senator Thomas (D-Utah) introduced a bill to revise the Copyright Act, drafted by the so-called "Shotwell Committee". Although mainly satisfactory to the NAB, certain clauses are objectionable, and the NAB will seek revision.

Insertion in the *Record* of a couple of Townsendite petitions calling for revocation of the licenses of all stations adhering to the NAB Code was the only other event of the week in Congress affecting broadcasting.

At the NAB's request, the FCC postponed from March 1 to April 15 the final date for filing 1939 financial reports. The NAB Accounting Committee pointed out that stations could use their tax forms, due March 15, to obtain much of the information required in the FCC report. Compiling the FCC report before the tax returns would cause a great deal of avoidable accounting, the Committee told the Commission.

Competition among stations "is the essence of the American system of broadcasting," the FCC emphasized in a decision.

"In the radio broadcast field public interest, convenience and necessity is served *not* by the establishment and protection of monopolies, but by the widest possible utilization of broadcast facilities," the Commission said.

"Experience has shown that the addition of a competitive station in a community does not bring about disastrous results sometimes predicted by the licensee of an existing station in the community. More often the protests of the existing station to the establish-



The NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAional 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## THE WEEK IN WASHINGTON

(Continued from page 3949)

ment of a new station spring not from a desire to insure its continued operation in the public interest, but rather from the purely private interest of seeking a monopoly in a field in which the interests of the public are best served by competitive operation."

### Southern Broadcasters Line Up for Broadcast Music

Enthusiastic approval of Broadcast Music, Inc., was registered last week at district meetings in New Orleans and Dallas, Texas.

After Neville Miller, NAB president, had explained the purpose of the new music corporation and how it would operate, substantial majorities of the broadcasters at both meetings voiced approval.

Meetings this week were scheduled for Los Angeles, San Francisco, Portland and Seattle, with Mr. Miller slated to speak at each.

Representatives of the following stations signed, promised to sign, or promised to recommend signing stock subscriptions to their station owners:

District 6—KARK, KALB, WJBO, WSMB, WWL, KTBS, KWKH, WJPR, WJDX, WSLI, WAML, WSKB, WQBC, WDOD, WHBQ, WMC, WMPS, WREC, WLAC, WSM.

District 13—KFDA, KGNC, KFDM, KRIS, WFAA, KGKO, WBAP, KPRC, KTRH, KXYZ, KFRO, KFYO, KIUN, KONO, KTSA, WOAI, KTEM, KGKB, KRGV, KWFT.

Those at the New Orleans meeting:

G. E. Zimmerman, KARK; W. H. Allen, C. Eddy Rogers, KALB; Chas. P. Manship, H. Vernon Anderson, WJBO; J. C. Limer, Sr., KMLB; Raymond F. Hufft, WNOE; J. H. Uhalt, WDSU; Charles C. Carlson, G. W. Oxford, WJBW; Harold Wheelahan, WSMB; Chas. I. Denechaud, W. H. Summerville, Jimmie Willson, Louis Read, F. A. Cavey, WWL; John C. McCormack, KTBS; John C. McCormack, KWKH; John R. Pepper, WJPR; Wiley Harris, WJDX; L. M. Sepaugh, WSLI; D. A. Matison, Hugh M. Smith, WAML; George Blumnestock, WSKB; O. W. Jones, Mrs. Frank Cashman, WQBC; Norman A. Thomas, WDOD; Hoyt B. Wooten, WHBQ; Henry W. Slavick, WMC; James C. Hanrahan, WMPS; Hoyt B. Wooten, WREC; S. O. Ward, WLAC; and Edwin W. Craig, WSM.

Those at the Dallas meeting:

Neville Miller, NAB; DeWitt Landis, KFYO; Burton Bishop, KTEM; James R. Curtis, KFRO; Tilford Jones, KXYZ; Edgar Bell, WKY; O. L. Taylor, KGNC; J. M. Moroney, WFAA; M. E.

Danbom, KGKB; J. M. Hayes, NBC; Sam Bennett, Lone Star Network; Jack Hawkins, KUIN; E. J. Roth, KONO; Foster Fort; Darrold Kahn, KFDM; Ken Sinson, KRGV; H. C. Southard, WBAP; George Johnson, KTSA; J. W. Runyon, Times Herald, Dallas, Texas; Clyde Rembert, KRLD; Charlie Jordan, WRR; George Cranston, KGKO; Harold Hough, Ft. Worth Star-Telegram; Herbert Denny, Standard Radio; C. B. Locke, KFDM; Alex Keese, WFAA; Irvin Gross, WFAA; Martin B. Campbell, WFAA; Hugh Half, WOAI; Kern Tips, KPRC; Earl Strandberg, KFDA; O. C. Brown and J. I. Meyerson, Oklahoma Publishing Co., Oklahoma City, Okla.; W. M. Witty, RCA-Victor Co.; Ray Nichols, KVWC; Joe B. Carrigan, KWFT; Tilford Jones, KRIS; Tilford Jones, KTRH; and Ray Barnes, KPDN, Pampa.

## NORTH CAROLINA BROADCASTERS ENDORSE BROADCAST MUSIC

The North Carolina Association of Broadcasters, at its recent annual meeting in Charlotte, unanimously endorsed Broadcast Music, Inc. The following resolution was adopted after Don Elias, WWNC, had led the discussion:

"Be it moved that this meeting heartily endorses the formation of the Broadcast Music Corporation and urges all North Carolina broadcasters to subscribe to its stock and give it their support."

## NEW COPYRIGHT BILL BEFORE CONGRESS

A bill (S. 3043) to revise the Copyright Act of 1909 was introduced in the Senate on January 8 by Senator Thomas (D-Utah) by request, and referred to the Committee on Patents. It is printed in the Congressional Record of January 8, page 134.

This bill was drafted by the so-called "Shotwell Committee," the Committee for the Study of Copyright set up by one of the foundations to study ways and means of promoting copyright relations between the United States and foreign countries, particularly Latin-America. It is the result of sixteen months' study by means of extended round-table discussions which took place in New York.

NAB, authors, publishers, motion picture producers, ASCAP, recording companies, and other interested groups, were represented and took part in the discussions. The bill is in the main satisfactory to NAB. However, certain clauses are deemed objectionable, and NAB will continue to endeavor to protect broadcasters' interests in all respects.

In its letter of explanation accompanying the bill, the Committee reported that it was unable to agree on extending the protection of copyright to renditions and mechanical transcriptions, and these subject matters, consequently, are not included in the bill.

The letter also noted that NAB is opposed to any minimum statutory damage for infringement by radio broadcasters.

## KRAMER HEADS HOUSE COPYRIGHT COMMITTEE

Representative Charles Kramer, Los Angeles Democrat, is the new chairman of the House Patents Committee

which handles copyright legislation. Mr. Kramer succeeds the late Representative William I. Sirovich (D-N. Y.). Representatives Lanham (D-Tex.) and Dunn (D-Penna.) were ahead of Mr. Kramer in seniority on the committee, but they elected to retain other committee chairmanships.

## JOHNSON BILL

Here is the text of the Johnson (D-Colo.) bill, S. 517, pending on the Senate calendar:

S. 517

### IN THE SENATE OF THE UNITED STATES

March 1 (legislative day, FEBRUARY 27), 1939

Referred to the Committee on Interstate Commerce and ordered to be printed

### AMENDMENT

(In the Nature of a Substitute)

Intended to be proposed by Mr. Johnson of Colorado to the bill (S. 517) to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio, viz: Strike out all after the enacting clause and in lieu thereof insert the following:

That section 316 of the Communications Act of 1934, as amended, is amended to read as follows:

"Sec. 316. (a) No person shall broadcast by means of any radio station for which a license is required by any law of the United States, and no person operating any such station shall knowingly permit the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes.

"(b) No person shall broadcast or directly or indirectly induce any other person to broadcast by means of any radio station for which a license is required by any law of the United States, and no person operating any such station shall permit the broadcasting of, any advertisement of or information concerning any alcoholic beverage if such advertisement or information is broadcast with the intent of inducing the purchase or use of any alcoholic beverage.

"(c) Any person violating any provision of subsection (a) or subsection (b) of this section shall, upon conviction thereof be fined not more than \$1,000 or imprisoned not more than one year, or both, for each and every day during which such offense occurs.

"(d) All basic permits heretofore or hereafter issued under the provisions of the Federal Alcoholic Administration Act, as amended, shall be deemed to be conditioned upon compliance with the provisions of subsection (b) of this section. If the Administrator of the Federal Alcoholic Administration finds that any person who holds any such basic permit has willfully violated any provision of subsection (b) of this section, the Administrator shall by order, after due notice and opportunity for hearing to such person, revoke such permit or suspend such permit for such period as he may deem appropriate, provided that for a first violation of the conditions thereof the permit shall be subject to suspension only. Subsections (f), (h), and (i) of section 4 of such Act, as amended, shall apply to any proceeding under this subsection."

Amend the title so as to read: "A bill to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio, and for other purposes."

### FAA RECOMMENDS BAN ON LIQUOR ADVERTISING

W. S. Alexander, Federal Alcohol Administrator, in his annual message to Congress, discussing the general subject of advertising, states that "the script for approxi-

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mately 425 commercial radio broadcasts is reviewed each month."

In his recommendations he asks "that radio advertising of alcoholic beverages" be prohibited.

## New Legislation

### FEDERAL

S. 3043, Senator Thomas (D-Utah) COPYRIGHTS—To revise the Copyright Act of March 4, 1909. Draft submitted by Shottwell Committee. Referred to Committee on Patents.

### STATE

#### KENTUCKY:

H 4 (Scheben) MUSICAL COMPOSITIONS—Creating a monopoly board for the regulation and sale of musical compositions.

#### NEW YORK:

A 22 (Jarema) LOTTERIES—Authorizes legislature to permit cities to operate and conduct lotteries, the net proceeds of which are to be devoted to low-rent housing and slum clearance. Referred to Judiciary.

A 30 (Ostertag) EMPLOYMENT AGENCIES—Regulates private fee-charging employment agencies. Referred to Judiciary.

A 31 (Ostertag) EMPLOYMENT AGENCIES—Provides for regulating private fee-charging employment agencies and appropriates \$17,500 to labor department. Referred to Ways and Means.

S 31 (Phelps) LOTTERIES—UNEMPLOYMENT RELIEF—Authorizes legislature to pass laws permitting lotteries to be conducted by the state for unemployment relief. Referred to Judiciary.

### DATE FOR FINANCIAL REPORT POSTPONED TO APRIL 15

The NAB Accounting Committee has held numerous meetings with Mr. Norfleet and Mr. Sutton of the Accounting Department of the FCC during the past year regarding the proposed financial report forms 705-706 to be filed for 1939. Under Rule 1.361 of the Rules and Regulations adopted August 1, the report is due March 1, 1940.

The NAB Accounting Committee and Headquarters Office pointed out that much of the information requested

could be taken from the tax forms required to be filed by March 15, and would, therefore, work a hardship on the stations to be compelled to file the report two weeks in advance of other governmental and state reports.

At the request of the NAB, the FCC at its meeting on January 9 extended the filing date until April 15. The FCC Accounting Department desires information contained on Schedule 8 at the earliest possible date and the Commission in extending the filing date of the report to April 15 did so with the understanding that the single sheet for analysis of time sales would be completed and returned promptly so that the Accounting Department could have the information contained in Schedule 8 at the earliest possible moment. Later, when the completed report forms are filed, the information can be re-copied in its regular place in the report.

The Solicitor General of the United States has ruled that reports such as 705-706 should be mailed only as first-class matter and if sent by express instead of mail, the postage must be included in addition to the express charges.

The FCC release covering the extension of the filing date follows:

The due date for 1939 annual financial reports required of standard broadcast-stations was extended from March 1 to April 15 by action of the Federal Communications Commission today. This was in compliance with request of licensees, who pointed out that these reports are made from tax returns and that a severe hardship would be involved if they were required to submit the same in advance of filing their tax returns.

The Commission will provide the stations with a single sheet form for analysis of time sales for the past year, which is to be executed and returned to the Commission immediately.

The new simplified forms for the annual financial report, along with detailed instructions, will be available in a few days.

## **EXECUTIVE ENGINEERING COMMITTEE APPOINTED BY MILLER**

Appointment of an Executive Engineering Committee by Neville Miller completes the engineering department organization of NAB. The engineering department now conforms with the other departments of NAB with a Director of Engineering, an Engineering Committee, and the newly formed Executive Engineering Committee.

The appointees were John V. L. Hogan, chairman, and E. K. Cohan, Paul de Mars, O. B. Hanson, Albert E. Heiser, and J. R. Poppele as members. Lynne C. Smeby, Director of Engineering; and Raymond Wilmotte, who was retained for a period of six months after the new director took office as an engineering adviser, will also meet with the committee.

The first Executive Engineering Committee meeting has been called by Chairman Hogan for Thursday, January 11, in New York City.

## **SUGGESTIONS ON FCC RULES ASKED BY NAB**

The Rules and Regulations on broadcasting as revised by the FCC were adopted August 1, 1939. By this time

you have had an opportunity not only to study the Rules but also to see how they work in actual practice. Your criticisms and suggestions concerning changes that you feel are needed would be helpful to Headquarters Office. The Secretary-Treasurer is now reviewing the Rules and Regulations with the thought of submitting suggestions to the recently appointed committee of the FCC which is studying this subject. Andrew Ring is chairman of this committee and the NAB is desirous of helping its members and assisting the Commission in correcting and changing any undue hardships which have developed under the Rules.

## **FCC SAYS COMPETITION IMPROVES RADIO PROGRAMS**

"Competition in radiobroadcasting means, insofar as listeners are concerned in a particular community, a wider choice of programs, and consequently a heightened listener interest which may very well result in a greater amount of advertising expenditures because of increased listener hours with consequent increased revenues for both stations," declared the FCC in denying the petition of Virgil V. Evans, licensee of station WSPA, at Spartanburg, S. C., for rehearing or reconsideration of the Commission's grant to the Spartanburg Advertising Company of a construction permit for a new broadcast station at that place. The Commission further stated:

"In the radiobroadcast field public interest, convenience and necessity is served *not* by the establishment and protection of monopolies, but by the widest possible utilization of broadcast facilities. Competition between stations in the same community inures to the public good because only by attracting and holding listeners can a broadcast station successfully compete for advertisers. Competition for advertisers which means competition for listeners necessarily results in rivalry between stations to broadcast programs calculated to attract and hold listeners, which necessarily results in the improvement of the quality of their program service. This is the essence of the American system of broadcasting."

Experience has shown that the addition of a competitive station in a community does not bring about disastrous results sometimes predicted by the licensee of an existing station in the community. More often the protests of the existing station to the establishment of a new station spring not from a desire to insure its continued operation in the public interest, but rather from the purely private interest of seeking a monopoly in a field in which the interests of the public are best served by competitive operation."

The Spartanburg Advertising Company station proposes to operate on 1370 kilocycles, with a power output of 100 watts night, 250 watts day, unlimited time. Station WSPA operates on 920 kilocycles, with power of 1 KW, daytime hours.

## **DIES COMMITTEE LISTS COMMUNISTS- FASCISTS**

The Dies Committee, in its annual report, lists the following as "Communist Front" organizations:

American League for Peace and Democracy  
International Workers Order  
American Student Union

Friends of the Soviet Union  
National Negro Congress  
Southern Negro Youth Congress  
League of American Writers  
Workers Alliance  
Spanish Refugee Relief Campaign  
North American Committee to Aid Spanish Democracy  
Friends of the Abraham Lincoln Brigade

The following organizations and individuals were listed as having taken part, in one way or another, in an attempt to create a "united Fascist movement":

Knights of the White Camellia (George Deatherage)  
Militant Christian Patriots (Mrs. Leslie Fry)  
William Dudley Pelley  
Gerald B. Winrod  
Charles B. Hudson  
James True  
National Liberty Party (Frank W. Clark)  
E. N. Sanctuary  
Robert E. Edmondson  
The American Rangers (J. H. Peyton)  
The American White Guard (Henry D. Allen)  
The Constitutional Crusaders of America.

### 1940 NAB REPORTS BINDERS

Binders for 1940 NAB REPORTS have been mailed to all NAB members. A charge of \$1.00 for each binder will be shown on the regular February 1 statement.

### DUES CLASSIFICATION BLANKS

Dues classification blanks were mailed to all members on January 1st. Stations will materially assist the NAB accounting department if they will return these to headquarters as soon as possible.

All members should return one of these forms regardless of whether or not the amount of membership dues has changed. Such procedure is required by the By-Laws of the NAB.

### PROCEDURE FOR TELEVISION HEARING OUTLINED

The FCC has announced that parties interested in the proposed television rules and regulations may appear in defense of, as well as opposition to the same at the public hearing scheduled to start at 10 o'clock next Monday morning, January 15, before the Commission en banc. Such participation will be limited, however, to evidence and argument in rebuttal to exceptions offered. Persons desiring so to participate may apply for time to the Commission at the hearing, at the close of the presentation of evidence and argument in support of objections.

The Commission also stressed that it will afford parties opportunity to be heard on specific recommendations of the Television Committee in addition to the proposed rules and regulations. The allocation table was cited as an example of such recommendations.

The following organizations have filed appearances:

Don Lee Broadcasting System, Radio Pictures, Inc., General Electric Co., Zenith Radio, Metropolitan Television, Inc., F-M Broadcasters, DuMont Laboratories, Philco, R. C. A., Inter-

national Business Machines Corp., Edwin H. Armstrong, Columbia, General Television Corp., Boston, Mass.

### ZENITH GETS HIGH FREQUENCY EXPERIMENTAL PERMIT

The FCC has announced grant of a construction permit for a new experimental high frequency broadcast station to the Zenith Radio Corporation of Chicago. The assignment is 42,800 kilocycles, 1 kilowatt, special emission for frequency modulation, unlimited time, in accordance with Commission rules and regulations for such experimental work.

The program of research and experimentation which the applicant proposes is expected to obtain data, particularly on the merits of wide band and narrow band modulation, which will be helpful at the informal engineering hearing on aural broadcasting on high frequencies, to open before the Commission on February 28th.

The Zenith corporation is licensee of television broadcast station W9XZV (42,000-56,000, 60,000-86,000 kilocycles, 1 kilowatt aural and visual power, A3 and A5 emission), already located in Chicago.

### FCC AMENDS RECORD RULES

*Amendment to Section 3.93 of Standard Broadcast Rules*

The Commission on January 4, 1940, amended Section 3.93 of the Standard Broadcast Rules, effective immediately, to read as follows:

3.93 Mechanical records. Each broadcast program consisting of a mechanical record, or a series of mechanical records, shall be announced in the manner and to the extent set out below:

(a) A mechanical record, or a series thereof, of longer duration than thirty minutes shall be identified by appropriate announcement at the beginning of the program, at each thirty minute interval, and at the conclusion of the program; Provided, however, That the identifying announcement at each thirty minute interval is not required in case of a mechanical record consisting of a single, continuous uninterrupted speech, play, religious service, symphony concert or operatic production of longer duration than thirty minutes;

(b) A mechanical record, or a series thereof, of a longer duration than five minutes and not in excess of thirty minutes shall be identified by an appropriate announcement at the beginning and end of the program.

(c) A single mechanical record of a duration not in excess of five minutes shall be identified by appropriate announcement immediately preceding the use thereof;

(d) In case a mechanical record is used for background music, sound effects, station identification, program identification (theme music of short duration), or identification of the sponsorship of the program proper, no announcement of the mechanical record is required.

(e) The identifying announcement shall accurately de-

scribe the type of mechanical record used, i.e., where a transcription is used it shall be announced as a "transcription" or an "electrical transcription", and where a phonograph record is used it shall be announced as a "record."

## TELEVISION BROADCAST STATIONS

(as of January 1, 1940)

Licensee and Location	Call Letters	Frequency (kc)		Power		Emission
		Visual	Aural	Visual	Aural	
Columbia Broadcasting System, Inc., New York, N. Y.	W2XAB	42000-56000, 60000-86000	7½kw	7½kw	A3, A5	
Allen B. Du Mont Laboratories, Inc. (area of New York, N. Y.)	W10XKT	156000-162000	50w	50w	A3, A5 (C. P. only)	
Allen B. Du Mont Laboratories, Inc., Passaic, N. J.	W2XVT	42000-56000	50w	50w	A3, A5, Special	
First National Television, Inc., Kansas City, Mo.	W9XAL	42000-56000, 60000-86000	300w	150w	A3, A5	
General Electric Co., Bridgeport, Conn.	W1XA	60000-86000	10kw	3kw	A3, A5 (C. P. only)	
General Electric Co., Albany, N. Y.	W2XB	60000-86000	10kw	3kw	A3, A5 (C. P. only)	
General Electric Co., Schenectady, N. Y.	W2XH	288000-294000	40w		A5	
General Television Corporation, Boston, Mass.	W1XG	42000-56000, 60000-86000	500w		A5	
Don Lee Broadcasting System, Los Angeles, Calif. C. P., T-Hollywood, Calif.	W6XAO	42000-56000, 60000-86000 C. P., 44000-50000 kc.	1kw	150w	A3, A5	
Don Lee Broadcasting System (area of Los Angeles, Calif.)	W6XDU	321000-327000	6.5w		A5	
National Broadcasting Co., Inc., New York, N. Y.	W2XBS	42000-56000, 60000-86000	12kw	15kw	A3, A5	
National Broadcasting Co., Inc., Portable (Camden, New Jersey and New York, N. Y.)	W2XBT	92000 and 175000-180000	400w	100w	A1, A2, A3, A5	
Philco Radio and Television Corp., Philadelphia, Pa.	W3XE	42000-56000, 60000-86000	10kw	10kw	A3, A5	
Philco Radio and Television Corp., Philadelphia, Pa.	W3XP	204000-210000	15w		A5	
Purdue University, West Lafayette, Ind.	W9XG	2000-2100	1½kw		A5	
Radio Pictures, Inc., Long Island City, N. Y.	W2XDR	42000-56000, 60000-86000	1kw	500w	A3, A5	
RCA Mfg. Co., Inc., Portable (Camden, N. J.)	W3XAD	321000-327000	500w	500w	A3, A5	

Licensee and Location	Call Letters	Frequency (kc)		Power		Emission
		Visual	Aural	Visual	Aural	
RCA Mfg. Co., Inc., Camden, N. J.	W3XEP	42000-56000, 60000-86000	30kw	30kw	A3, A5	
State University of Iowa, Iowa City, Iowa	W9XK	2000-2100	100w		A5	
State University of Iowa, Iowa City, Iowa	W9XUI	42000-56000, 60000-86000	100w		A5	
Zenith Radio Corporation, Chicago, Ill.	W9XZV	42000-56000, 60000-86000	1kw	1kw	A3, A5	

## 814 STATIONS

During the month of December, 1939, the Federal Communications Commission issued operating licenses to ten stations, and granted two permits for the construction of new stations. A comparative table by months follows:

	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1
Operating	722	727	729	732	734	735	735	738	739	743	751	755	765
Construction	42	39	37	37	38	38	43	56	59	57	58	57	49
	764	766	766	769	772	773	778	794	798	800	809	812	814

## FEDERAL COMMUNICATIONS COMMISSION

### FINAL ORDERS

The Federal Communications Commission has adopted a final order granting the applications of James R. Doss, Jr., licensee of Station WJRD, **Tuscaloosa, Alabama**, for renewal of license and for modification of license to operate unlimited time on **1200 kilocycles**, with power of 100 watts night and 250 watts local sunset (previously operated on **1200 kilocycles**, 250 watts, daytime hours).

Final order has also been adopted by the Commission granting the application of Opelika-Auburn Broadcasting Company for a construction permit to erect a new station in **Opelika, Alabama**, to operate on the frequency **1370 kilocycles**, with 250 watts during day and 100 watts at night, unlimited time, subject to approval by the Commission of transmitter site and antenna system.

The Commission also has adopted a final order granting the application of the Summit Radio Corporation for a construction permit to establish a new broadcast station at **Akron, Ohio**, to operate on **1530 kilocycles**, with 1000 watts power, unlimited time, using a directional antenna for nighttime operation.

The Commission has adopted a final order granting the application of KTSM, **El Paso, Texas**, to change its

frequency from **1310 kilocycles** to **1350 kilocycles**, increase its power from 100 watts night, 250 watts LS, to 500 watts, and from sharing time with WDAH to unlimited "upon condition that applicant surrender for cancellation the license of Station WDAH on or prior to the date on which KTSM undertakes to operate on the new assignment."

### PROPOSED FINDING OF FACT

The Commission has tentatively granted the application of the Martinsville Broadcasting Company and denied the application of the Patrick Henry Broadcasting Company, both applying for authority to erect a new station in **Martinsville, Virginia**, to operate on **1420 kilocycles**, 250 watts day, 100 watts night, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings are scheduled before the Commission in broadcast and television cases for the week beginning Monday, January 15. They are subject to change.

**Monday, January 15**

Public Hearing Before the Commission En Banc  
(Television)

In the Matter of Exceptions to the Rules and Regulations for Television Stations Tentatively Adopted by the Commission on December 21, 1939, and to Specific Recommendations of Its Television Committee.

NEW—Joe W. Engel, Chattanooga, Tenn.—C. P., **1370 kc.**, 250 watts, unlimited time.

**Tuesday, January 16**

WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Renewal of license, **1210 kc.**, 100 watts, unlimited time.

**Wednesday, January 17**

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, St. Albans, Vt.—Renewal of license, **1390 kc.**, 1 KW, daytime.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WPTF—WPTF Radio Company, Raleigh, N. C.—Granted modification of license to change hours of operation from limited to unlimited on frequency **680 kc.**, using directional antenna from sunset at San Francisco.

WJMS, Inc., Ashland, Wis.—Granted construction permit, effective January 10, 1940, authorizing erection of a new station to operate on **1370 kc.**, with 100 watts power, unlimited time, subject to approval by the Commission of exact transmitter location and antenna system. Applicant has now submitted satisfactory proof of authority to issue capital stock proposed to be issued and to do business in the State of Wisconsin.

### MISCELLANEOUS

KANS—The KANS Broadcasting Co., Wichita, Kans.—Granted license to cover construction permit as modified for changes in transmitting equipment and increase in power; frequency **1210 kc.**, power 250 watts, unlimited time.

KANS—The KANS Broadcasting Co., Wichita, Kans.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54, with certain additional power specifications.

KRLH—Clarence Scharbauer, Midland, Tex.—Granted authority to determine operating power in direct measurement of antenna input in compliance with Section 3.54, with certain additional power specifications.

WJAR—The Outlet Company, Providence, R. I.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54, with certain additional power specifications.

WTMA—Y. W. Scarborough and J. W. Orvin, d/b as Atlantic.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54, with certain additional power specifications.

W2XWF—William G. H. Finch, New York, N. Y.—Granted special temporary authority to change from A3 emission to special emission, frequency modulation **75 kc.** bend to make comparative tests on amplitude modulation, for a period not to exceed 30 days, results of test to be presented at February 28, 1940, hearing.

KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Granted special temporary authority to operate from local sunset (4:30 p. m., PST) to the conclusion of basketball games only, on January 9, 11, 16, 18, 23, and 25, 1940, and to operate from 7:15 p. m., PST, to the conclusion of basketball games only, on January 5, 6, 8, 9, 13, 16, 17, 19, 20, and 27, 1940, in order to broadcast basketball games only.

WSAL—Frank M. Stearns, Salisbury, Md.—Denied special temporary authority to operate from 7 p. m. to 7:30 p. m., EST, on January 10, 1940, in order to broadcast a speech by Governor O'Connor of Maryland.

WEJL—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to use RCA-Victor transmitter for operation under New York area license of relay broadcast station WEJL in transmitting remarks by guests from their seats in different parts of the large NBC studio to the sound distribution system utilized as a public address system in connection with demonstration for members of the American Society of Civil Engineers, on January 10, 1940.

KIDW—Lamar Broadcasting Co., Lamar, Col.—Granted special temporary authority to remain silent for the period ending not later than January 10, 1940, pending adjustment of studio lease.

Lakeland Broadcasting Co., Willmar, Minn.—Granted petition for leave to amend application for new station to request frequency **1310 kc.** instead of **680 kc.**, power of 100 watts instead of 250, and time of operation unlimited instead of daytime only.

Glenn D. Gillett and G. S. Wasser.—Granted petition to intervene in the hearing on the application for renewal of license of station WQDM, St. Albans, Vt., to operate on **1390 kc.**, 1 KW, daytime only.

WQDM—Regan & Bostwick, St. Albans, Vt., and Glenn D. Gillett and G. S. Wasser.—Granted joint motion insofar as it requests clarification of issue No. 5 of Bill of Particulars in re hearing on application for renewal of license of WQDM, and overruled motion in all other respects.

Glenn D. Gillett, Washington, D. C.—Granted petition to intervene in the hearing on the application for renewal of license of station WBAX, Wilkes-Barre, Pa., to operate on **1210 kc.**, 100 watts, unlimited time.

WRR—The City of Dallas, Texas.—Overruled petition to intervene in the hearing on the application of Chilton Radio Corp., and V. O. Stamps, both applicants for a new station in Dallas, to operate on **1370 kc.**, 250 watts, unlimited time. Exceptions to ruling noted by counsel for petitioner.

KEIL—KMTR Radio Corp., Portable-Mobile (area of Los Angeles, Calif.)—Granted modification of construction permit to increase power to 50 watts.

WEMZ—WHEC, Inc., Portable-Mobile (area of Rochester, N. Y.)—Granted license for reinstatement of high frequency relay broadcast station; frequencies **30820, 33740, 35820, 37980 kc.**, power 2 watts; to communicate as a relay broadcast

- station in accordance with Sections 4.21, 4.22(c), 4.23(b) and 4.25(b); hours of operation in accordance with Section 4.24; to be used with applicant's standard broadcast station WHEC, Rochester, N. Y.
- WSUI—State University of Iowa, Iowa City, Iowa.—Granted special temporary authority to reduce hours of operation from unlimited time to a minimum of eight hours daily for the period beginning January 20, 1940, and ending not later than January 27, 1940, in order to observe the first semester examination period at the University.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from local sunset at Abilene, Kansas (January, 5:30 p. m., CST), to 7:30 p. m., CST, on January 7, 1940, in order to broadcast football game between Greenbay Packers and Professional All Stars only, using 1 KW power.
- KFEL—Eugene P. O'Fallon, Inc., Denver, Colo.—Denied petition for rehearing in the matter of the application of F. W. Meyer for construction permit to erect a new station in Denver, to use frequency **1310 kc.**, 100 watts night, 250 watts local sunset, unlimited time, which was granted by the Commission on November 15, 1939.
- KVOD—Colorado Radio Corp., Denver, Colo.—Denied petition for rehearing in the matter of the application of F. W. Meyer for construction permit to erect a new station in Denver, to use frequency **1310 kc.**, 100 watts night, 250 watts local sunset, unlimited time, which was granted by the Commission on November 15, 1939.
- WSPA—Virgil P. Evans, Spartanburg, S. C.—Adopted decision and order denying petition of WSPA for rehearing in the matter of the application of Spartanburg Advertising Co., to erect a new station in Spartanburg to operate on **1370 kc.**, with 100 watts night, 250 watts day, unlimited time, which was granted by the Commission, October 26, 1939.
- WNYC—City of New York, Municipal Broadcasting System, New York City.—Set for hearing the application for increase in hours of operation from daytime only to unlimited, on frequency **810 kc.**
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—Ordered that hearing scheduled before Commissioner Case on January 29, in re application of WHDH for construction permit to increase power from 1 KW to 5 KW, and time of operation from daytime (KOA), to unlimited on frequency **830 kc.**, be heard before an examiner to be designated.
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—The Commission, upon its own motion, ordered the hearing in re Matheson Radio Co., Inc., Docket No. 5453, now scheduled for January 15, 1940, continued to January 29, 1940.
- WSAL—Frank M. Stearns, Salisbury, Md.—Granted special temporary authority to operate from 7:00 p. m. to 7:30 p. m., EST, on January 10, 1940, in order to broadcast a speech by Governor O'Connor of Maryland.
- KARM—Gilbert H. Jertberg, Executor of estate of George Harm (also known as Geo. Harm and Geo. G. Harm), deceased, Fresno, Calif.—Granted special temporary authority to operate radio station KARM pending receipt and action on application for involuntary assignment of license issued to George Harm, now deceased, for the period ending not later than October 1, 1940.
- WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54.
- KUIN—Southern Oregon Broadcasting Co., Grants Pass, Ore.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54.
- WNEL—Juan Piza, San Juan, P. R.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54.
- KUIN—Southern Oregon Broadcasting Co., Grants Pass, Ore.—Granted license to cover construction permit as modified for new broadcast station; frequency **1310 kc.**, power 100 watts, unlimited time.
- KWAL—Chester Howarth and Clarence Berger, Wallace, Idaho.—Granted license to cover construction permit as modified for new broadcast station; frequency **1420 kc.**; power 100 watts night, 250 watts daytime, unlimited time.
- WALA—W. O. Pape, tr/as Pape Broadcasting Co., Mobile, Ala.—Granted modification of construction permit for move of transmitter, new antenna and increase in power requesting approval of antenna and approval of transmitter site at Mobile, Ala.
- WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 7:00 p. m. to 7:30 p. m., EST, on January 10, 1940, in order to broadcast an address by Governor O'Connor of Maryland.
- WIXOJ—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to test the high frequency broadcast equipment of station WIXOJ, authorized by modification of construction permit, on frequency **43000 kc.**, with power not to exceed 2000 watts, for the period January 15, 1940, to not later than February 13, 1940, in order to make adjustments on equipment installed and for tuning and adjustments of the antenna elements which are now assembled for erection atop 400 foot mast.
- W10XR—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate transmitter of developmental (experimental) station W10XR on frequency **670 kc.**, A-0 emission, 100 watts, during daylight hours at District 7, Bethesda, Md., from January 15, 1940, to not later than February 13, 1940, in order to make field intensity measurements in connection with construction permit for radio station WMAL.
- WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m., to 10:30 p. m., CST, on January 13, 1940, in order to broadcast Joliet High School basketball game only.
- Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to locate, maintain, and/or use studios or apparatus at Dearborn and Detroit, Mich., owned by or under the control of Columbia Broadcasting System, Inc., and Ford Motor Co., for the purpose of obtaining or producing programs consisting of program of the Ford Sunday Evening Hour, to be transmitted by electrical energy by means of regular CBS network facilities to KTSA, San Antonio, Tex. From there to Mexican border by wire (American Tel. and Tel. Co.). From Mexican border by means of wire line facilities furnished by La Compania Telefonica y Telegrafica Mexicana, S.A., except to Station KEME, Merida, which will rebroadcast the program to stations identified and located in a foreign country as follows: To transmit programs to stations XEQ, XEQQ, XET, XETT, SECZ, XES, XED, XEDD, XEU, and XEME (stations in Mexico), on January 14, 1940.
- WJSV—Columbia Broadcasting System, Inc., Washington, D. C.—Granted special temporary authority to use a 50-watt oscillator on the frequencies **1460 and 1500 kc.**, from 1 a. m. to 6 a. m., EST, for a period not to exceed 10 days, in connection with antenna measurement work.
- WGTM—WGTM, Inc., Wilson, N. C.—Granted license to cover construction permit for changes in transmitting equipment and increase in power; **1310 kc.**, 250 watts, unlimited time, with certain power specifications.
- WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—Granted special temporary authority to operate from 7:30 p. m. to 10 p. m., EST, on January 14, 1940, in order to carry special church program as described in letter dated January 2, 1940.
- KVAN—Vancouver Radio Corp., Vancouver, Wash.—Granted special temporary authority to operate simultaneously with radio station KLX from 7:30 p. m., PST, to the conclusion of basketball games only on January 13, 19, and 26, February 2, 3, and 9, 1940, in order to broadcast basketball games only.
- WJMC—Walter H. McGenty, Rice Lake, Wis.—Granted special temporary authority to operate from 7:45 p. m. to 9:45 p. m., CST, on January 19 and 26, 1940, in order to broadcast basketball games only, and from 10 p. m. to 12 p. m., CST, on January 30, 1940, in order to broadcast President's Birthday Ball.

## APPLICATIONS FILED AT FCC

### 620 Kilocycles

- WSUN—St. Petersburg Chamber of Commerce, St. Petersburg, Fla.—Construction permit to increase power from 1 KW, 5 KW day, to 5 KW day and night, and make changes in directional antenna system, night use.

### 630 Kilocycles

- WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—License to cover construction permit (B1-P-2369) as modified (B1-MP-840) for increase in power, move of transmitter, install new equipment, and make changes in directional antenna.

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—License to cover construction permit (B1-P-2615) to use present licensed transmitter as an auxiliary transmitter at new site, increase power, and use antenna granted under B1-P-2369.

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Authority to determine operating power by direct measurement of antenna power (main transmitter).

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Authority to determine operating power by direct measurement of antenna power (auxiliary transmitter).

#### 680 Kilocycles

WPTF—WPTF Radio Co., Raleigh, N. C.—Construction permit to install new transmitter; increase power from 5 KW to 50 KW; change hours of operation from limited to unlimited time; move transmitter to near Morrisville, N. C. Amended re directional antenna, use night, after local sunset at St. Joseph, Mo.

#### 760 Kilocycles

WEW—The St. Louis University, St. Louis, Mo.—Authority to determine operating power by direct measurement of antenna power.

#### 860 Kilocycles

WABC-WBOQ—Columbia Broadcasting System, Inc., New York, N. Y.—Authority to determine operating power by direct measurement of antenna power.

#### 880 Kilocycles

KFKA—The Mid-Western Radio Corp., Greeley, Colo.—Modification of license to increase power from 500 watts night, 1 KW day, to 1 KW day and night.

#### 930 Kilocycles

KMA—May Seed & Nursery Co., Shenandoah, Iowa.—Voluntary assignment of license from May Seed and Nursery Co. to May Broadcasting Co.

#### 950 Kilocycles

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Modification of construction permit (B4-P-2507) for increase in power, installation of directional antenna for night use, further requesting authority to make changes in equipment.

#### 1110 Kilocycles

WRVA—Larus & Brother Company, Inc., Richmond, Va.—Construction permit to use old W.E. D-94992 transmitter as auxiliary transmitter, and move from Mechanicsville, 4¼ miles from city limits of Richmond, Va., to 12 miles southeast of Richmond, Va., on James River; use 5 KW power and directional antenna day and night.

#### 1200 Kilocycles

WTOL—The Community Broadcasting Co., Toledo, Ohio.—License to cover construction permit (B2-P-2589) for changes in equipment and increase in power.

WTOL—The Community Broadcasting Co., Toledo, Ohio.—Authority to determine operating power by direct measurement of antenna power.

WHBY—WHBY, Inc., Appleton, Wis.—License to cover construction permit (B4-P-2289) as modified for installation of new transmitter and antenna and move of transmitter and studio. Studio location changed to 600 S. Lawe St., Appleton, Wis., same as transmitter.

NEW—Puerto Rico Advertising Company, Inc., Arecibo, P. R.—Construction permit for a new broadcast station on 1200 kc., 250 watts power, unlimited time.

WSKB—McComb Broadcasting Corp., McComb, Miss.—Construction permit to make changes in transmitting equipment and increase power from 100 watts to 250 watts day and night.

#### 1210 Kilocycles

KLAH—Barney Hubbs, A. J. Crawford, Jack Hawkins, Harold Miller, d/b as Carlsbad Broadcasting Co., a partnership,

Carlsbad, N. Mex.—Authority to determine operating power by direct measurement of antenna power.

KVSO—The Ardmoreite Publishing Co., Inc., Ardmore, Okla.—Authority to determine operating power by direct measurement of antenna power.

NEW—T. Frank Smith, Houston, Tex.—Construction permit for a new station to be operated on 1210 kc., 250 watts power, unlimited time. Amended to make changes in antenna, specify transmitter site as 701 North San Jacinto, Houston, Tex.

WJTN—James Broadcasting Company, Inc., Jamestown, N. Y.—Authority to transfer control of corporation from Harry C. Wilder to Jay E. Mason, 1010 shares common stock and 120 shares preferred.

KASA—E. M. Woody, Elk City, Okla.—Authority to determine operating power by direct measurement of antenna power.

#### 1220 Kilocycles

KPAC—Port Arthur College, Port Arthur, Tex.—License to cover construction permit (B3-P-2096) as modified for installation of new transmitter, move transmitter 500 feet, change frequency, hours of operation, and install directional antenna for night use.

KPAC—Port Arthur College, Port Arthur, Tex.—Authority to determine operating power by direct measurement of antenna power.

WGNY—Courier Publishing Corp., Newburg, N. Y.—Modification of license to change corporate name to WGNY Broadcasting Company, Inc.

#### 1240 Kilocycles

WXYZ—King-Trendle Broadcasting Corporation, Detroit, Mich.—License to use old W.E. 106-B, transmitter as an auxiliary transmitter at 5057 Woodward Ave. (its present site), with power of 1 KW, emergency use only.

#### 1250 Kilocycles

WNEW—Wodaam Corporation, New York, N. Y.—Construction permit to install directional antenna for day and night use, increase power from 1 KW night, 5 KW day, to 5 KW day and night.

#### 1260 Kilocycles

WNBX—Twin State Broadcasting Corp., Keene, N. H.—Modification of construction permit (B1-P-2415) for changes in directional antenna to use both day and nighttime; move of transmitter and studio; further requesting authority to make changes in directional antenna and install new transmitter, increase power to 5 KW, extend commencement date to 30 days after grant and completion date to 180 days thereafter.

#### 1270 Kilocycles

KVOR—Out West Broadcasting Co., Colorado Springs, Colo.—Modification of license to request station classification as III-A.

#### 1310 Kilocycles

WSAV—WSAV, Inc., Savannah, Ga.—License to cover construction permit (B3-P-1714) as modified for a new broadcast station.

WSAV—WSAV, Inc., Savannah, Ga.—Authority to determine operating power by direct measurement of antenna power.

KWOC—A. L. McCarthy, O. A. Tedrick, and J. H. Wolpers, d/b as Radio Station KWOC, Poplar Bluff, Mo.—Authority to determine operating power by direct measurement of antenna power.

KWOC—A. L. McCarthy, O. A. Tedrick, and J. H. Wolpers, d/b as Radio Station KWOC, Poplar Bluff, Mo.—License to cover construction permit (B4-P-2596) for changes in equipment, increase in power, and change in hours of operation.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—License to cover construction permit (B4-P-2143) as modified for change in frequency, move of transmitter, antenna changes, increase in power and move of transmitter.

NEW—The Valley Broadcasting Co., Steubenville, Ohio.—Construction permit for a new station to be operated on 930 kc., 1 KW, daytime. Amended: Equipment changes; specify antenna to be determined; request change in frequency to 1310 kc., 250 watts power; time changed to specified hours (all hours not used by WSAJ).

KSUB—John P. Scripps, Watsonville, Calif.—Authority to determine operating power by direct measurement of antenna power.

#### 1340 Kilocycles

KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—License to cover construction permit (B4-P-2203) to increase power and make equipment changes and install new antenna.

#### 1360 Kilocycles

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Authority to transfer control of corporation from T. H. Guyon to T. H. Guyon, H. J. Guyon, L. E. Moulds, Wm. F. Moss, G. T. Dyer, and Irene M. Cowen (by gift of 10 shares of common stock from T. H. Guyon to his sister, Irene M. Cowen).

KLPM—John B. Cooley, Minot, N. Dak.—Modification of license to increase (night) power from 500 watts night, 1 KW day, to 1 KW day and night.

#### 1370 Kilocycles

WFTL—Tom M. Bryan, Fort Lauderdale, Fla.—Modification of license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

KVGB—Helen Townsley, Great Bend, Kans.—License to cover construction permit (B4-P-2581) for changes in equipment and increase in power.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Construction permit to make changes in equipment; changes in antenna; increase power from 100 watts to 250 watts; move transmitter  $\frac{1}{4}$  mile, from 821 Chillicothe St. to 1009 Gallia St., Portsmouth, Ohio.

KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—License to cover construction permit (B4-P-2166) as modified for a new broadcast station.

KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—Authority to determine operating power by direct measurement of antenna power.

WDWS—Champaign News-Gazette, Inc., Champaign, Ill.—Authority to determine operating power by direct measurement of antenna power.

KGFL—KGFL, Inc., Roswell, N. Mex.—Authority to determine operating power by direct measurement of antenna power.

WSLB—St. Lawrence Broadcasting Corporation, Ogdensburg, N. Y.—Modification of construction permit (B1-P-2246) for a new station, requesting changes in equipment, approval of antenna and approval of transmitter and studio site at 2315 Knox St., Ogdensburg, N. Y.

NEW—D. Easley Waggoner, Greenville, Tex.—Construction permit for a new broadcast station on 1370 ke., 250 watts, unlimited time.

KVGB—Helen Townsley, Great Bend, Kans.—Authority to determine operating power by direct measurement of antenna power.

#### 1400 Kilocycles

KLO—Interstate Broadcasting Corp., Ogden, Utah.—Authority to determine operating power by direct measurement of antenna power.

#### 1410 Kilocycles

KMED—Mrs. W. J. Virgin, Medford, Ore.—Authority to determine operating power by direct measurement of antenna power.

#### 1420 Kilocycles

NEW—Herbert L. Wilson, Middletown, N. Y.—Construction permit for a new broadcast station to be operated on 1420 ke., 250 watts power, unlimited time.

WFMJ—William F. Maag, Jr., Youngstown, Ohio.—License to cover construction permit (B2-P-2607) for changes in transmitting equipment and increase in power.

KLBM—Harold M. Finlay and Mrs. Eloise Finlay, LaGrande, Cre.—Construction permit to make changes in equipment.

WAZL—Hazleton Broadcasting Service, Inc., Hazleton, Pa.—License to cover construction permit (B2-P-2544) as modified for new transmitter and increase in power.

KEUB—Eastern Utah Broadcasting Co., Price, Utah.—Construction permit to make changes in equipment and increase power from 100 to 250 watts.

#### 1460 Kilocycles

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Modification of construction permit (B4-P-1828) as modified for move, new transmitter, directional antenna, and increase power, requesting extension of completion date from 1-8-40 to 3-8-40.

#### 1500 Kilocycles

WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—License to cover construction permit (B1-P-2112) as modified for new broadcast station.

WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—Authority to determine operating power by direct measurement of antenna power.

WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—Modification of license to change main studio location from Plainfield St., Ulster Twp., N. Y. to Gov. Clinton Hotel, Kingston, N. Y.

WRGA—Rome Broadcasting Corp., Rome, Ga.—Authority to determine operating power by direct measurement of antenna power.

#### 1550 Kilocycles

WQXR—Interstate Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit (B1-PSB-13) for new equipment, increase in power and move of transmitter, requesting approval of antenna, and approval of transmitter site at 56th Road & 49th St., Long Island City, (near Maspeth), New York.

### MISCELLANEOUS

WRUW—World Wide Broadcasting Co., Boston, Mass.—Modification of license to add the frequencies of 11790 and 15250 ke. to present authorized frequencies.

W1XPW—WDRC, Inc., Hartford, Conn.—Modification of license to rebroadcast over high frequency station W1XPW the transmission from high frequency broadcast station W2XMN.

WAIQ—WAVE, Inc., Louisville, Ky.—License to cover construction permit B2-PRY-187 for new relay broadcast station.

WEMW—The WGAR Broadcasting Co., Portable-Mobile.—Modification of license to increase power from 25 to 100 watts.

WCLA—Larus & Brother Co., Inc., area of Richmond, Va.—Modification of construction permit (B2-PRY-176) to change equipment and increase power to 50 watts. Amended: To request 40 watts power.

NEW—A. Bruce Fahnestock, Director, Fahnestock South Sea Expedition, Portable-Mobile.—Construction permit for a special relay broadcast station, on 4797.5, 6425, 9135, 12862.5, 17310 and 23100 ke. frequency, 1 KW power, A1, A2 and A3 emission, unlimited time, location: to be used on The Fahnestock South Sea Expedition, Portable-Mobile.

WFYB—Columbia Broadcasting System, Inc., area of Cincinnati, Ohio.—Modification of license to change type number of transmitter to agree with actual type number of present equipment.

W2XOY—General Electric Co., Albany, N. Y.—Construction permit to increase power from 150 watts to 3000 watts, move transmitter from Albany, N. Y. to New Scotland, N. Y., and install new transmitter.

NEW—The May Department Stores Co., Los Angeles, Calif.—Construction permit for a new television broadcast station on 78000-84000 ke., 1 KW power, emission A3 and A5, to be located at Wilshire Blvd., at Fairfax St., Los Angeles, Calif. Amended: To request 84000-90000 ke., changes in equipment, Class II station in accordance with Section 4.73 modified.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following

firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Baby Touch Hair Remover Company**—J. O. Davies, trading as Baby Touch Hair Remover Company, St. Louis, manufacturer and distributor of a hair removing device designated "Baby Touch Hair Remover", is charged in a complaint with misrepresentation.

The complaint alleges the respondent, in advertising in magazines, newspapers and circulars, represents, among other things: "Take your Baby Touch Hair Remover and rub lightly (a baby's touch) over the parts where the hair is to be removed, using a circular motion \* \* \* do not rub more than one-half minute in any one place \* \* \*. Repeat this operation the following day and the third day. You will find the hair will disappear and the light massaging process has given your skin a new appearance and a loveliness of youth. \* \* \*"

The complaint alleges that the respondent's product is merely an abrasive substance said to be "trimorite" and that its use according to instructions will remove portions of the skin along with any hair removed and may cause abrasive injury to the skin and local infection. Its use, the complaint continues, will not give the skin the soft, white appearance of youth and beauty and its use will have no effect upon the hair follicles and will not retard or eradicate hair growth or have any effect upon it. (3986)

**Dow Chemical Company**—A complaint has been issued against Dow Chemical Company, Midland, Mich., alleging unfair disparagement of the product of a competitor.

Engaged in the sale of chemical preparations used in dry cleaning clothes, the respondent corporation, directly and by inference, the complaint declares, has made unfairly disparaging statements concerning the preparation "Kolene," a competitive product for dry cleaning of clothes. For the purpose of inducing purchasers to use its preparation in preference to that of its competitor, the respondent is alleged to have represented, among other things, that "Kolene" is inflammable and explosive when used under the usual conditions for dry cleaning; that it is a compound composed solely of tetrachloride and benzene, and is highly corrosive of metals of the dry cleaning machinery in which it is used.

The complaint alleges that the preparation "Kolene" is neither explosive nor inflammable; is not dangerous when used under usual working conditions; is not a compound of tetrachloride and benzene only; is not highly corrosive of metals, and that the representations made by the Dow Chemical Company are false, misleading and unfairly disparaging to its competitor. (3991)

**Firestone Tire & Rubber Company**—Three Akron, Ohio, rubber tire manufacturers have been served with complaints alleging misleading representations in the sale of tires. The respondents are The Firestone Tire & Rubber Company and its subsidiary, Firestone Tire & Rubber Company, The Goodyear Tire & Rubber Company, and The B. F. Goodrich Company.

The complaints allege that the respondents conduct nation-wide tire sales through their dealers, causing advertisements to be placed in newspapers and other periodicals in which it is falsely represented that the respondents' tires are being sold at various purported discounts from the regular prices, such sales usually being conducted just prior to Memorial Day, July 4, Labor Day and at other intervals.

In the complaint against the Firestone companies, it is alleged that the respondents advertised: "Save 25% with the New Firestone Convoy Tire—New High Quality at a New Low Price—Priced to Save You Money." For example, in the advertised list of sizes and prices appears: "6.00-16 \$11.80." The complaint alleges that the standard list price of the 6.00-16 "Convoy" tire in effect at the time of the advertisement was \$11.80, and consequently the advertised price of \$11.80 represented no saving whatever.

It is alleged that the Firestone companies also advertised that their "Standard" tire was to be sold at a discount up to 50 per cent, for example, the company advertises its 6.00-16 size tire at a price of \$7.98 showing a saving of \$6.37 as compared to the "former price" of \$14.35 and "including your old tire." The complaint charges that this tire was not sold at such discount or at the saving specified because the "former price" was not the list price in effect at the time of the advertisement, and the saving was \$2.37 instead of \$6.37 on that size tire. The complaint con-

tinues that the alleged savings were further exaggerated in that they made no allowance for the customary trade-in value of the customer's old tires.

The Firestone companies allegedly represented that their "Convoy" tube was a first line tube sold at 50 per cent off, when in fact it was not their first line tube and was not sold at 50 per cent off list price of the "Convoy" tube, but instead the alleged savings were based entirely on the list price of their higher priced first line tube and the advertised savings were false and fictitious.

It is also alleged that the Firestone companies advertised their "High Speed" tire at a 25 per cent discount from the customary price with old tire, when in fact the saving to the purchaser was not 25 per cent because the customary 10 per cent discount for used tires was not given. If the customary discount had been given, the saving to the purchaser would have amounted to only 16.8 per cent rather than the advertised 25 per cent, according to the complaint.

The complaint also alleges that the Firestone companies represented that their tires were proved for safety at the annual Memorial Day race on the Indianapolis Speedway, when in fact the only Firestone tires so tested were not ordinary tires but specially built racing tires; that non-skid features of their tires make it possible for a car to stop "up to 25 per cent quicker" when in fact said tire will not stop a car 25 per cent quicker than any other non-skid tire, under all conditions, and that Wilbur Shaw and other drivers used the respondents' "Champion" tires in the 1939 Indianapolis races when in fact they used specially built Firestone racing tires which are never sold for use on passenger cars.

The Goodyear Tire & Rubber Company allegedly advertised that its "Pathfinder" tire was sold at a 50 per cent saving from the standard list price, when in fact, for example, the advertised sales price of \$7.98 for the 6.00-16 size tire represented a saving of 22.89 per cent rather than 50 per cent, and the advertised saving made no allowance for usual and customary trade-in value of used tires which would further have reduced the actual saving to 14.38 per cent instead of 50 per cent.

The complaint continues that the Goodyear company, in advertising its fourth-grade tire, the "Pathfinder", represented that a 50 per cent discount was available when in fact the discount that was granted was based not on the list price of the "Pathfinder" but on the list price of its highest grade tire. The discount on the "Pathfinder" was not 50 per cent but 14.38 per cent, after taking into consideration the customary 10 per cent allowance for trade-in value of used tire, according to the complaint.

Concerning its "Marathon" tire, the respondent allegedly advertised a discount of 40 per cent off standard list price when in fact, for example, the saving on its 6.00-16 size tire was only 20 per cent with no allowance made for used tires. If the 10 per cent used tire allowance had been made, the actual saving to the purchaser would have been 11.15 per cent instead of 40 per cent, according to the complaint.

On its "G-3 All Weather Tire", the respondent allegedly advertised a 25 per cent discount when in fact the customary used tire allowance was not granted, which would have made the saving only 16.8 per cent instead of 25 per cent.

The B. F. Goodrich Company is alleged to have advertised a saving of 50 per cent on its fourth line "Commander" tires, when in fact such saving was based on the list price of its first-line tires. The saving was 22.89 per cent rather than 50 per cent of the list price of the "Commander" tire, with no used tire allowance, and with such allowance would have been only 14.38 per cent, according to the complaint.

The respondent allegedly represented that all grades of its tires were sold upon the basis of two tires for the price of one. However, only the "Commander" tire was sold under this advertisement but not upon the basis of two tires for the price of one but instead two Commander tires were sold for the price of one first-line tire with no allowance for used tires. Consequently, the saving to the purchaser was only 14.38 per cent instead of 50 per cent as would appear from respondent's advertisement, after taking into consideration the usual and customary trade-in value of used tires.

The respondent allegedly advertised that all grades of its tires were being sold at 50 per cent off or a second tire at half price, with no trade-in allowance for used tires, when in fact only its "Commander" tires were so sold. The complaint alleges that the "Commander" tires were not sold at 50 per cent off since it was necessary for the purchaser to buy one tire at the full price in order to purchase the second tire at half price, resulting in a saving of only 25 per cent or, for example, \$5.17 on size 6.00-16 tires. If the usual and customary trade-in allowance, had been

granted, it would have made the saving \$3.10 on two tires or \$1.55 on each tire, or a saving of 16.64 per cent, according to the complaint.

The respondent company allegedly represented that all grades of its tires were sold at 40 per cent off, including old tires, when in fact only its third-line "Standard" tires were sold on that basis and they were not actually sold at 40 per cent off because it was necessary to buy one tire at the full price in order to purchase the second tire at 40 per cent off. The percentage thus saved allegedly was only 20 per cent on the total purchase price rather than 40 per cent; for example, the dollar saving on size 6.00-16 was \$4.78 on two tires rather than one. If the customary trade-in allowance had been granted, it would have reduced the actual saving to \$2.39 for two tires or \$1.19 on each tire, according to the complaint.

The "Goodrich Silvertown Tire" allegedly was advertised as selling at a 25 per cent discount when in fact no such saving was affected because no allowance was made for customary used tire trade-in value which would have brought the saving to only 16.8 per cent rather than the 25 per cent advertised. (3983-3984-3985)

**Fredmorr, Inc.**, and Morris Weitz, individually and trading as Morroco, are charged in a complaint with use of lottery methods in the sale and distribution of merchandise to ultimate consumers.

Fredmorr, Inc. is located at 110 West 42nd St., and Morris Weitz, trading as Morroco, at 107 West 41st St., New York. Weitz, the complaint charges, as secretary and treasurer of the corporate respondent, directs and controls its policies.

It is alleged that the respondents have distributed to agents and the purchasing public literature and instructions, including push cards and order blanks, with electric dry shavers, fountain pens and other merchandise, thus supplying to and placing in the hands of others the means of conducting lotteries in the sale of their products, in violation of the Federal Trade Commission Act. (3982)

**A. J. Goforth**, 285 Riverview Drive, West Asheville, N. C., engaged in the sale and distribution of medicinal preparations concocted from herbs, is charged in a complaint with misrepresentation.

The complaint alleges that in advertisements in newspapers, periodicals and other printed matter the respondent represents: "Mr. Goforth is not just a medicine agent, selling concoctions designed to deceive and defraud the public. He is a specialist, backed up by 16 years of intense study and experience in preparing from natural herbs, tonics and remedies suited to the needs of each individual sufferer."

The complaint charges that the respondent's representations are grossly exaggerated, misleading and untrue; that his preparations have no substantial therapeutic value in the treatment of the diseases listed, and that the publication "They Say" is not a book of valuable information for those who suffer. (3980)

**B. F. Goodrich Company**—See Firestone Tire & Rubber Co.

**Goodyear Tire & Rubber Company**—See Firestone Tire & Rubber Co.

**Standard Sales Company**—A complaint has been issued charging Sam Guttman, trading as Standard Sales Co., 2363 Milwaukee Ave., Chicago, with lottery methods in the sale of merchandise to ultimate consumers.

The complaint alleges that the respondent sells to dealers radios, clocks, watches, fishing tackle, billfolds, wood statuettes and other novelty articles, and distributes assortments of merchandise so packed and assembled as to involve the use of games of chance or gift enterprises. Each assortment allegedly consists of a certain amount of merchandise together with a punchboard. (3990)

**Dr. Van Vleck Company**, 168 West Michigan Ave., Jackson, Mich., engaged in the sale and distribution of medicinal preparations designated "Dr. Van Vleck's Ointment," "Dr. Van Vleck's Muco Cones" and "Dr. Van Vleck's Pills," is charged with misrepresentation in a complaint.

In advertisements in newspapers, periodicals and other printed matter, the respondent corporation is alleged to have represented that the preparations, used conjointly, are an effective and scientific cure and remedy for the treatment of piles.

The complaint alleges that the preparations, used conjointly or separately, do not constitute a competent or effective treatment for piles other than to give some small degree of relief by means of their analgesic properties and in the prevention of constipation. (3988)

**Vulean Lamp Works, Inc.**, Harrison, N. J., is charged in a complaint with misrepresentation in the sale and distribution of incandescent electric light bulbs.

The complaint charges that the respondent imports many of its bulbs from Japan and that these bulbs, when received by the respondent, have imprinted on the neck the words "Made in Japan" or "Japan".

The complaint alleges that in the manufacture of finished lamps distributed by it, the respondent places these bulbs into bases purchased from manufacturers in the United States and bearing the legend "Made in U. S. A." In this process the words "Made in Japan" are concealed, only the legend "Made in U. S. A." remaining visible.

The complaint also charges that in packing such lamps for shipment to retail dealers and for display and resale by these dealers, the respondent places them in cartons bearing the legend "Made in U. S. A." or "American Made for American Trade". (3987)

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**Civilian Preparatory Service, Inc.**—See Diesel Engineers, Associated.

**Diesel Engineers, Associated**—Orders have been issued requiring two correspondence school firms to discontinue misleading representations in the sale of their courses. Respondents in the cases are Roy E. Reed and Florence A. Reed, trading as Diesel Engineers, Associated, 805-807 South Flower St., Los Angeles, Calif., and Civilian Preparatory Service, Inc., Simms-Keller Building, Huntington, W. Va.

Roy E. Reed was found formerly to have operated under the names Diesel Engineers, Associated, and Diesel Training School. Subsequent to issuance of the Commission's complaint, he changed the name to Allied Engineering School. The respondent and his wife, Florence A. Reed, conduct both correspondence and classroom instruction, relating to Diesel engines and air-conditioning equipment. They were found to have made misleading representations in advertising their courses.

Among the practices prohibited in the Commission's order against them are the representation, through newspaper classified advertisements and other printed matter, under headings such as "Help Wanted" or "Employment", that persons responding to such advertisements may obtain an opportunity to work for pay while receiving instruction relating to Diesel engineering, air-conditioning equipment or any other subject; and the representations that either of the respondents is connected with, or that their school is an association of, engineers banded together for promoting any enterprise of mutual benefit to the members; that initial payments or other amounts paid by students for tuition in the school will be refunded, when such refunds are not in fact made; that students will receive a specified salary while studying or will be reimbursed for their tuition in any way, unless and until these are the facts; that, upon completion of the respondents' courses, positions will be made available to students, unless this be true, and that the price at which a course is offered is a special price, unless such price is lower than that charged others for the same instruction.

The order also forbids misrepresentation and exaggeration of the demand for, and the qualifications and earnings of, persons trained in the respondents' school; of the education, training and experience of the respondents' teachers, and of the equipment available to students. (3258)

Civilian Preparatory Service, Inc., conducting correspondence courses to prepare students for United States Civil Service examinations, was found to have made misrepresentations to its prospective students, both directly and through its representatives.

The order against Civilian Preparatory Service, Inc., prohibits the representation that the respondent or its representatives have any connection with or are under the supervision of the United States Government or Civil Service Commission; that the respondent is cooperating with or working in conjunction with or by authorization of that Commission in preparing pupils for examinations, or that its school has been selected by the Commission to select and prepare candidates for Civil Service examinations and positions. (3387)

**Merrill Candy Company**, Merrill, Wis., was directed to cease and desist from selling or distributing candy or other merchandise so packed and assembled that sales to the public may involve lottery; from supplying to or placing in the hands of others packages or assortments of candy or other merchandise together with push or pull cards, punchboards or other lottery devices which may be used in selling the products to the public; and from supplying to or placing in the hands of others such devices, either with assortments of candy or other merchandise, or separately. (3128)

**Milton Products Company**—Milton Meyer, doing business as Milton Products Company at 2440 Lincoln Ave., Chicago, has been ordered to cease and desist from representing that through the use of books sold and distributed by him the art of hypnotism may be acquired, future events foretold or any special ability, power or quality attained.

The Commission finds that the respondent is engaged in the business of selling books of instruction on various subjects, and other articles including watches, optical goods and skeleton keys. A catalog distributed by the respondent through the United States mails lists approximately 2,000 items. Among the articles advertised are certain books of instruction in ventriloquism, hypnotism, fortune telling, crystal gazing, mind reading and the interpretation of dreams. Among the titles of the books advertised are: "Learn to Play the Piano by Easy Method at Home", and "Play Hawaiian or Steel Guitar in Five Minutes". In advertising certain of the books of instruction, according to the findings, the respondent represented that the purchaser will acquire a power enabling him to assert influence over those with whom he comes in contact and direct the affairs of others.

The respondent advertised that his telescopes were of a fine quality and that his skeleton keys would open all sorts of door locks. The findings show that these representations were untrue; that the telescopes were not of high quality and that the keys were effective only upon locks of simplest and cheapest construction.

The respondent is ordered to desist from representing that, by use of certain of his books of instruction, one can acquire the ability to play certain musical instruments, cure one's self of the addiction to drugs, foretell future events, and divine the meaning of dreams or tell fortunes. Under the order, the respondent is also prohibited from misrepresenting the power or quality of telescopes or other optical goods, watches, metal "plating" or skeleton keys sold and distributed by him. (3825)

**Stone Bros., Inc.**, Chicago, Ill., in the sale of candy, liquor chests, utility chests or other merchandise, and **Martin Benjamin Rothman**, trading as **Esquire Products**, in the sale of radios, waffle irons, silverware, coffee tray sets, pencils, griddles or other merchandise, were directed to discontinue supplying others with lottery devices or mailing or shipping to agents, distributors or members of the public, lottery devices so prepared and printed as to enable such persons to sell merchandise by their use.

The order against Martin Benjamin Rothman also prohibited the respondent from representing as the customary price or value of his products, prices and values which are fictitious and greatly in excess of the customary and normal prices. (3878 and 3902)

## STIPULATIONS

During the past week the Commission has entered into the following stipulations:

**Barton Manufacturing Company, Inc.**, 4157 North Kingshighway, St. Louis, engaged in the sale of a shoe polish and dye

designated "Dyanshine" and a white shoe cleaner designated "Barton's White Glaze Polish," will cease and desist from representing that "Dyanshine" causes shoes to retain the appearance they had when new, take on the appearance of new shoes after being repaired one or more times, or remain in their original, new condition while being used; that it will render shoe leather impervious to water, or feed or nourish leather, and that other shoe dyes, pastes or polishes cause shoes to become marred by unsightly cracks. The respondent will also discontinue representing that "Barton's White Glaze Polish" will not rub off shoes after its application. (02484)

**Best & Co., Inc.**, New York, N. Y., in the retail sale of shoes, agrees to cease use in advertising matter of the designation "Alligator Calf" as descriptive of products not made from the hide of an alligator, or in any way having a tendency to convey the impression that the products are made from such hide, when such is not a fact. (2624)

**Coast-to-Coast Stores (Central Organization, Inc.)**, Minneapolis, has signed a stipulation to discontinue misrepresentations in the sale of chain store merchandise. The respondent is a corporation engaged in purchasing and supplying the merchandise offered for sale by some 235 stores operated by their individual owners in several Mid-Western and Western States. It has developed these stores into a chain known as "Coast-to-Coast Stores."

In connection with the sale and distribution of its merchandise or advertising matter, the respondent corporation agrees to desist from the use, or from placing in the hands of others for their use, advertising matter which contains statements such as "From Our Tire Factory," "From Our Rope Factory" or "From Our Paint Factory," the effect of which tends to convey the impression that the designated products are manufactured by Central Organizaion, Inc., or by the locally owned and operated stores or merchants named in the advertising. The stipulation points out that neither the corporation nor any of the individual stores manufactures tires, rope or paint.

The respondent corporation also agrees to discontinue use in advertising matter of phraseology such as "Annual Manufacturers Cooperative Sale" or "Hundreds of Manufacturers' Cooperative Specials in Our Store", the effect of which tends to cause purchasers to believe that all the various prices charged for the advertised products have been reduced or are special or are less than the prices customarily charged for those products, when such is not a fact. (2625)

**Evans Drug Company**—D. S., S. B., and Hattie M. Evans, trading as Evans Drug Company, sell "Kru-Gon", a medicinal preparation, and Medora Whinrey, owner, and Robert B. Whinrey, manager, trading as The Kru-Gon Company, Muncie, Ind., manufacture the product and prepare all advertising claims made to promote its sale. This advertising matter is published in each town or city where The Kru-Gon Company has a local representative. In the sale of "Kru-Gon," the respondents agree to cease advertising it as a competent remedy for indigestion, gas pains, bloating, neuritis, rheumatism, nervousness, insomnia, kidney trouble and run-down condition; as a competent remedy for constipation, unless limited to temporary constipation, and as being capable of removing poisons from the system in a natural manner, giving back health, ending indigestion attacks, correcting kidney disorders, making the stomach function properly and giving relief after other remedies have failed.

**Fog King Lamp Company**, Chicago, Ill., in the sale of a fog light or lamp having a special type of reflector and amber colored lenses, agrees that it will desist from the use in advertising matter of representations tending to convey the impression that the beam of light produced by its device will penetrate fog to any greater extent than ordinary white light or that it will successfully penetrate a dense or heavy fog or give any substantial visibility in such fog. (2626)

**Gafeo, Inc.**, New York, N. Y., wholesale dealer in furs, agrees to desist from employing in its advertisements the word "Chinchillonne" or any other word simulating the word chinchilla as

descriptive of a fur which is other than chinchilla fur. The stipulation provides that when the simulating word is so used to designate a fur other than that of the chinchilla, it shall be immediately accompanied by explanatory language in equally conspicuous type clearly indicating that the fur in question is not chinchilla fur, and clearly disclosing the actual trade name or nature of the fur, as for example, "Chinchillonette—Dyed Coney". (2633)

**Globe American Corporation**, Macomb, Ill., in connection with the sale and distribution of electric brooders or other poultry equipment, will discontinue claims in its advertising matter that its "Elect-O-Stat Brooder" or other brooder of similar construction, cuts the cost of electric current 30 to 40 per cent or by any other proportion or extent in excess of that actually ascertained and proven by means of competent and acceptable scientific tests. (2636)

**Highland Technical Institute, Inc.**, Los Angeles, Calif., selling its instructions by mail and operating a small trade school for shop training, stipulates that in the sale of its "Extension-Shop Training Course in Air Conditioning and Electric Refrigeration", it will cease using the word "Institute", either with or without the words "Highland" and "Technical" as a part of or in connection with its corporate or trade name. It will also desist from using the word "Institute" in a manner suggesting that this trade school is an organization conducted for the promotion of learning, philosophy, art or science, and has equipment and faculty such as to entitle it to be designated an institute.

Other representations to be discontinued are that the respondent pays students \$1.40 a day or provides board and room during the shop training period, unless it is clearly explained that these payments or benefits are payable from funds previously collected from the students for that purpose; that any service or commodity is free when in fact it is part of the regular course for which the student pays; that any person, though lacking in proper education, experience or aptitude, can master the respondent's study courses; that the instruction and training offered "makes it possible for your dream to come true" or enables one to cash in and begin earning money before finishing either the home work or the shop training.

The respondent also agrees to discontinue using the "Help Wanted" columns in newspapers in such manner as to deceive prospective students into the belief that jobs are offered, and to cease representing that the respondent's trade school is an engineering concern or offers engineering instruction. (2632)

**Kahnnetic Mentalism Institute**—Harry Kahne, trading as Kahnnetic Mentalism Institute and as Institute of Kahnnetic Ability, Pasadena, Calif., in the sale of a 12-lesson correspondence course prepared by the respondent and known as "Kahnnetic Mentalism," stipulates that he will cease making representations which assert or the effect of which tends to convey the impression that his course will develop the brain by awakening allegedly idle or dormant portions of it, or that it will enable all students, regardless of age, sex or congenital factors, to attain success or to realize the desires of life. The respondent will also desist from representing that the study of his course will bring forth latent ability in all cases or make it possible for a student, due to his increased brain power or mental ability acquired by such study, to accomplish any desired mental feat, immediately grasp the entire situation of any business proposition, become a mental giant, or acquire an education equivalent to a college course.

The respondent also agrees to eliminate the word "Institute" from his trade names and to cease use of that word in any manner so as to imply that his business is that of an institute or organization for the promotion of learning, philosophy, the arts or the sciences, when such is not a fact. (2635)

**Kalamazoo Canvas Boat Company**—Pauline S. Winans, trading as Kalamazoo Canvas Boat Company, Kalamazoo, Mich., in the sale and distribution of canvas boats, agrees to cease representing that the boats are puncture-proof or have "no leaks; no repairs," and to discontinue making claims of similar import to cause the belief by purchasers that the boats are impervious to penetration or piercing by sharp or pointed objects, or that no leaks will ever develop or that all repairs may be avoided, when such is not the fact. (2634)

**Kantfreeze Chemical Company**—Alfred Loveman, trading as Kantfreeze Chemical Company and Kantfreeze Laboratory, Cleveland, Ohio, distributor of "Kantfreeze" crystals for use in protecting automobile radiators from freezing temperatures, stipulates that he will cease using the words "Kantfreeze Laboratory" as a trade name, when in fact there is no such laboratory, and will discontinue representing that "Kantfreeze" or any other product of similar composition will not corrode or cause rust, or that it will protect one's car against such conditions when used in the cooling system of an automobile. (2627)

**Kantfreeze Laboratory**—See Kantfreeze Chemical Company.

**Kru-Gon Company**—See Evans Drug Company.

**Metropolis Company**—Benjamin Schlien and Harry Kramer, trading as Metropolis Company, Philadelphia, Pa., in the sale of women's wearing apparel, stipulate that they will cease advertising, branding, or selling any product composed in whole or in part of rayon unless full and nondeceptive disclosure of the fiber and other content of such product is made by clearly and nondeceptively designating and naming therein each constituent fiber in the order of its predominance by weight, beginning with the largest single constituent, and by giving the percentage of any fiber which is present in less than a substantial amount, or in any case less than 5 per cent. (2631)

**S. E. Mighton Company, Ltd.**—Agreeing to discontinue misleading representations in the interstate sale of animal foods, a Bedford, Ohio, firm has entered into a stipulation. The respondents are George A., Stanley E. and Kenneth G. Mighton, co-partners, trading as S. E. Mighton Company, Ltd.

The respondents agree to cease representing that their products are "balanced" foods for all breeds of dogs, cats, puppies and foxes, or that the foods contain yeast or that yeast is added, unless the yeast content is sufficient to satisfy the yeast requirements of an average dog or other animal for which intended.

The respondents also stipulate that they will discontinue representing that their foods are "more nourishing" or result in better bones and coat or better health, unless in connection with each such representation it is clearly explained that the benefits claimed will obtain only when there is a deficiency in the feed or ration ordinarily provided such animals.

Also to be discontinued is the representation that any of the respondents' foods are beef or beef food products when their meat content consists wholly or in part of tongue trimmings, lungs or other parts of beef animals which may be designated not as beef but as meat by-products. Where descriptions of the meat content of foods containing both beef and meat by-products are presented, the proportion or quantity of such beef and of such meat by-products is to be clearly indicated, according to the stipulation.

Other representations to be discontinued are that the respondents' foods provide necessary vitamins in proper proportions with other food elements and minerals, unless such proper proportions are scientifically ascertained and are followed; and, inferentially or otherwise, either by brand names such as "Extra Liver", "Extra Beef", or "Extra Liver and Vegetables", or by other descriptive matter, that liver, beef, or other designated foods constitute the principal ingredient of certain brands of the respondents' foods, when such is not a fact. (2637)

**Natural Foods Institute**—William G. Barnard and William G. Barnard, Jr., trading as Natural Foods Institute, 807 St. Clair Ave., N. E., Cleveland, engaged in selling a food grater and a health booklet, agree to cease and desist from representing that a carrot grated with "The Barnard Grater" will produce more juice than an orange; that use of the grater is the only certain method of getting all the elements from the raw carrot; that no other instrument grates foods properly or as well; that carrots or carrot juice are a remedy or competent treatment for any disease or disorder of the human body; that they contain more vitamins A, B, C and G than any other vegetable; that carrot juice has healing properties or unusual health value or helps counteract body toxins; that the book "Health Via The Carrot" contains tested diets or diet of proven therapeutic value in the treatment of disease; that the book publishes for the first time the facts about the health value of

carrot juice and other vegetable and fruit juices; that it outlines proper juice diets that will help correct any disease, or that purchase of the book has brought health to anyone. (02485)

**No-Stitch Manufacturing Company**—Louis Kaine, trading as No-Stitch Mfg. Company, 36-38 38th St., Long Island City, N. Y., engaged in selling a coated fabric necktie designated, "No-Stitch Ties," agrees to cease representing that the ties are made from a recently discovered fabric; that they will not stain, or that every kind of stain can be removed without injuring the ties; that prospective agents, salesmen or representatives can make profits within a specified period of time, which are in excess of the average net profits made in like periods by his active, full-time agents. (02483)

**William A. Reed Company**—Martin A. Levitt, operating as The William A. Reed Company, Philadelphia, Pa., stipulates that he will discontinue advertising that his preparation "Medrex Ointment," when used alone or in combination with "Medrex Soap," is an effective remedy for pimples in any manner other than as a relief for itching and, to a limited extent, as a skin antiseptic, fungicide and desiccant. The respondent also agrees to discontinue advertising that either product or both heals or clears the skin; that either or both constitutes an effective remedy for blackheads, open pores, eczema or other skin conditions, and that "Medrex Ointment" penetrates below the surface of the skin or acts safely or without irritation. (02487)

**Rochester Button Company**, manufacturer, Rochester, N. Y., agrees to desist from the use on its sample cards and invoices or in advertising matter of the word "Ocean" so as to imply that its products are made of ocean pearl, when such is not a fact. (2629)

**Rubber Products Company**—J. Oliver Thorp, sole trader as Rubber Products Company, New York, N. Y., in the sale of rubber cushion keys for typewriters, agrees to cease using the term "Para Rubber" or the word "Para" as descriptive of any product not actually made of Para rubber, which is known to the trade as rubber prepared from the latex of wild Hevea trees in the Amazon region of South America. The stipulation points out that the respondent's typewriter keys are made of rubber imported from cultivated plantations in the Far East. (2628)

**Charles Wicinstowski**—Charles and Sidney Wicinstowski, and David Feldman, trading as Charles Wicinstowski, New York, N. Y., engaged in the business of purchasing gray handkerchief goods and causing them to be converted by usual processes into the finished product, which they sell, agree to cease using on their letterheads and printed matter the words "Converter and Manufacturer" or the word "Factory," or representing that they have a factory at Ellenville, N. Y. The stipulation points out that the respondents do not own or control a plant or machinery for use in either the conversion or manufacture of the finished products sold by them. (2630)

**World's Dispensary Medical Association**, 665 Main St., Buffalo, N. Y., in the sale of medicinal preparations designated "Dr. Pierce's Golden Medical Discovery" and "Dr. Pierce's Favorite Prescription," agrees to desist from representing that "Dr. Pierce's Golden Medical Discovery" will keep the digestive system in tune, counteract excess acidity of the stomach, or will of itself build up the human system, relieve a weakened condition, increase weight, pep, energy, vigor or vitality, or is the one or only recognized tonic. The respondent will also discontinue representing that "Dr. Pierce's Favorite Prescription" is of any appreciable value in relieving the pain or discomfort associated with menstrual distress, unless in direct connection therewith it is stated that such results may follow only when used for some length of time. It is further stipulated that the respondent will desist from representing, by use of the word "Association" or words of similar import, that it is an Association of doctors or medical men, or that complete medical advice is given to persons writing for it. (02482)

## FCC DISMISSES CASES

The Federal Trade Commission has dismissed a complaint charging four Baltimore wholesale grocery firms with combining to restrict competition in the resale of certain products in the Baltimore trade area. The respondents were Benjamin Green and Harry L. Minch, trading as B. Green & Co., 636 West Pratt St.; Isador Rudo and Barnette H. Rudo, trading as The Atlantic Grocery Company 121 Cheapside St.; Morris Kolker, Harry Mark and Samuel Guttman, trading as The Maryland Grocery Company, 722 East Pratt St., and Michael Joffee and Reubin Joffee, trading as Joffee Brothers, 623 West Pratt St.

The Commission has also issued an order vacating and setting aside its findings as to the facts and its order to cease and desist entered November 7, 1939 in the case of C. C. Johnson, trading under the name Supreme Manufacturing Company and other names, with headquarters at 1014 City National Bank Building, Omaha, Nebr.

The cease and desist order issued in November involved representations of the respondent concerning a preservative or mending powder advertised by him as being effective for strengthening silk hosiery or lingerie.

The order vacating and setting aside the findings and the cease and desist order was made upon the respondent's request for a modification of the cease and desist order and upon the belief that both findings and order should be modified in certain respects other than those requested. Accordingly, the case was reopened for such further proceedings as may be necessary.

Also the Federal Trade Commission has closed its case against The Commonwealth Manufacturing Corporation, 4208 Davis Lane, Cincinnati, which had been charged in a complaint issued by the Commission with misrepresentation of the character, utility and merit of a welding machine manufactured and sold by it.

According to information received by the Commission, the respondent corporation has been dissolved and disposition made of all of its assets.

The case was closed without prejudice to the Commission's right to reopen it and resume prosecution, should the facts so warrant.





## The Week in Washington

A long list of new backers for Broadcast Music, Inc., came in from the Pacific Coast this week after Neville Miller had meetings in Los Angeles, San Francisco, Portland and Seattle. Mr. Miller wound up his coast-to-coast tour in Broadcast Music's behalf this week with meetings in Columbus, Ga., and Orlando, Fla.

The Senate again deferred consideration of the Johnson (D-Colo.) bill to forbid beer and liquor advertising on the air. The bill remains on the calendar.

The National Plan of Settlement between the A. F. of M. and networks and affiliates expired without either renewal or a strike. Representatives of the networks assured the union they had no intention of reducing the employment of staff musicians at their stations. IRNA suggested to affiliates on January 5 that continued employment of staff musicians "in so far as their services are reasonably compatible with program requirements and possibilities" might preserve peace.

The FCC received nearly all the money it asked for from the House Appropriations Committee. During subcommittee hearings on the appropriation, the NAB Code came in for considerable discussion. James Lawrence Fly, FCC chairman, said he believed "right now that a majority of the broadcasters and a majority of the public generally accept the (controversial issues) rule as being a wholesome one."

The FCC started hearings on its television rules, and clarified its rule on record and transcription announcements.

In search of new business for broadcasters, the Bureau of Radio Advertising this week went after department stores and cleaners and dyers.

### WEST COAST COPYRIGHT MEETINGS SUCCESSFUL

Four groups of West Coast broadcasters held meetings with Neville Miller last week, with excellent results for Broadcast Music, Inc.

Representatives of the following stations signed, promised to sign, or promised to recommend signing stock subscriptions to their station owners:

KIEM, KARM, KMJ, KDON, KLS, KLX, KROW, KFBK, KROY, KGO, KJBS, KPO, KSAN, KSFO, KQW, KSRO, KWG, KTKC, KOH, KHBC, KGMB, KSUN, KOY, KGLU, KTUC, KICA, KWEW, KGFL, KERN, KPMC, KMPC, KIEV, KFOX, KGER, KECA, KFAC, KFI, KFVD, KMTR, KNX, KRKD,

KFSD, KTMS, KUIN, KOOS, KMED, KALE, KEX, KGW, KOIN, KRNR, KJR, KOMO, KGA, KHO.

Mr. Miller met first with District 16 broadcasters in Los Angeles in January. The following were present:

Fred Palmer, KSUN-KOY-KGLU-KTUC; W. E. Whitmore, KWEW-KGFL; Robert Stoddard, KERN; L. A. Schamblin, KPMC; Leo B. Tyson, KMPC; L. W. Peters, KIEV; Lawrence McDowell, KFOX; C. Merwin Dobyns, KGER; Harrison Holliday, KECA-KFI; Calvin J. Smith, KFAC; J. F. Burke, KFVD; Harry Maizlish, KFWB; Ben S. McGlashan, KGfJ; Van Newkirk, KHJ; Victor Dalton, KMTR; D. W. Thornburgh, KNX; J. Austin Driscoll, KRKD; J. C. Lee, KFXM; Thomas E. Sharp, KFSD; Ernest L. Spencer, KVOE; and Frank V. Webb, KTMS.

On January 10, Mr. Miller met with District 15 broadcasters in San Francisco, with the following present:



The NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NATIONAL 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## WEST COAST COPYRIGHT MEETINGS

(Continued from page 3965)

Lou Keplinger, KARM; G. C. Hamilton, KMJ-KWG; Howard Walters, KDON; L. S. Warner, KLS; Preston Allen, KLX; Phil Lasky, KROW-KSFO; Howard Lane, KFBK-KOH; Will Thompson, KROY; William Pabst, KFRC; Glenn Dolberg, KGO; Ralph Brunton, KJBS; A. E. Nelson, KPO; William Grove, KSAN; C. L. McCarthy, KQW; Wilt Gunzendorfer, KSRO; C. P. Scott, KTKC; Marion Walker, KHUB; Fred G. Williams, KHBC-KGMB; Sherwood Brunton, KJBS; Gerald King, Standard Radio; W. H. Beltz, RCA Manufacturing Co.; Charles Whitmore, KTKC; R. F. Schuetz, NBC; Ray Lewis, KQW; John Brunton, KJBS; Neville Miller, NAB.

Part of District 17 met in Portland on January 12. The following were at the meeting:

Harry Spence, KXRO; Paul H. Connet, KEX; Harold M. Finlay, KLBM; Ben E. Stone, KOOS; Harry H. Burkendahl, KOIN-KALE; Ted Koorman, KALE; Gerald King, Standard Radio; W. Carey Jennings, KGW-KEX; M. J. Frey, KGW-KEX; H. Q. Cox, KGW-KEX; John Walker, KOIN; C. Roy Hunt, KALE-KOIN; H. M. Swartwood, KOIN-KALE; Frank H. Loggan, KBND; John Bauriedel, KUIN; Marshall H. Pangra, KRNR; Harris Ellsworth, KRNR; Lee Bishop, KMED; Frank L. Hill, KIDO-KONE, Boise, Idaho; C. O. Chatterton, KORE-KSLM; George Kincaid, KFJI; John H. Kendall, Attorney; C. W. Myers, KOIN-KALE; James C. Wallace, KAST; T. W. Symons, Jr., KXL; Harvev Benson, KOIN-KALE; Louis Wasmer, KHQ-KGA; Lee Davis, KWJJ; G. E. Spierston, KWJJ; C. E. Arney, Jr., KOMO-KJR; Harry Reed, KSLM; Glenn McCormick, KORE.

Other broadcasters in District 17 met in Seattle on January 13. They were:

Harry R. Spence, KXRO; J. Elroy McCaw, KELA; Florence Wallace, KXA; Vernice Erwin, KVI; J. A. Murphy, KIT-KMO; Archie Taft, KHQ-KGA-KOL; Rogan Jones, KVOS; H. J. Quilliam, KIRO; Robert E. Priebe, KRSC; Arthur L. Smith, KFIO, Birt Fisher, KOMO-KJR; R. F. Meggee, KXA.

## Shotwell Bill

For fear remarks in last week's REPORTS about the Shotwell copyright bill (S. 3043) be misunderstood, the NAB considers the bill as a whole quite unsatisfactory. Attorneys Myers, Sprague, and Kaye, who attended the Shotwell Committee meetings on behalf of the industry, have pointed out that the bill is, in most important respects, even more unfavorable to broadcasters than the present law. An extended analysis of the bill will appear in the REPORTS within a few weeks.

## FCC To Get More Money; Fly Discusses Code

The House Appropriations Committee this week recommended that the FCC get \$2,116,340 for the fiscal year starting next July 1—an increase of \$278,165 over the amount appropriated for the current year.

The only item deleted from the increase asked by the Commission was \$8,660 for increased personnel for the Interdepartmental Radio Advisory Committee.

James Lawrence Fly, FCC Chairman, Commissioners Craven and Brown, and a number of Commission officials appeared before a House Appropriations Subcommittee on December 13, to discuss the FCC appropriation for the fiscal year starting next July. First, Mr. Fly pointed out that in addition to the \$1,800,000 appropriated for the current fiscal year, the Commission wanted \$300,000 more next year. Half of the increase was to go for modernization of monitor equipment and half for increased personnel.

Representative Wigglesworth (R-Mass) asked the Commission to furnish for the record tables showing the transfer of control of stations, the valuation of physical assets of these, how much was paid for them and whether the transfer was by lease or otherwise. He also asked for a table giving experimental licenses approved during the year. These were inserted in the record.

Mr. Wigglesworth then asked for a table showing the number and disposition of complaints against programs. This also was furnished.

Mr. Wigglesworth asked about the status of the monopoly investigation. William J. Dempsey, Commission counsel, said that the committee which conducted the investigation "will probably, although not necessarily, by the middle of January have a report in the hands of the Commission."

Representative Dirksen (R-Ill) asked that Mr. Fly put in the record a list of stations owned and operated directly or indirectly by newspapers. This was done. Mr. Dirksen also asked Mr. Fly to insert "any censorship activities of the Commission in the last year, if any."

"I would state, sir, so far as my knowledge goes, there has been nothing approaching censorship," Mr. Fly replied. "We have a lot of complaints about what somebody said on the radio, but we have not gone after the station on the basis of any individual remarks. It is my theory—I am not sure it is the right one, although I do feel fairly confident in it—that all we can do is review the conduct of the station as a whole."

Mr. Dirksen then asked "what has been the general reaction from those engaged in the radio business as well as certain segments of the public with respect to the

operation of that (NAB) Code and with respect also to the possible impairment and abridgment of the first amendment of the Constitution of the United States.”

Mr. Fly replied he assumed Mr. Dirksen meant that section of the Code dealing with controversial issues, then added:

“There have been very substantial elements in the industry that have complained about it, or have declined to accept it or have followed it only in a half-hearted way. I think there have been substantial complaints from portions, goodly portions of the public. It is my best guess now, and I don't want to pass final judgment either upon the state of opinion in the industry or to the public or the wisdom of the rule. I believe right now that a majority of the broadcasters and a majority of the public generally accept the rule as being a wholesome one.”

The following discussion then took place:

“Mr. Wigglesworth: You refer to the rule that no controversial question can be discussed without the consent of the station?”

“Mr. Fly: That is not the rule, sir.”

“Mr. Dirksen: The basis of the rule is to grant free time to controversial matters so that both sides will be heard.”

“Mr. Fly: That is the way that is expressed. In fact it really provides for the nonsale of time for a one-sided discussion of a controversial subject. There is some serious question as to how you get the most freedom of speech, whether you get it by selling the time to the highest bidder or whether you get it by keeping time under control and giving time away so that both sides will be presented to the public. I don't think you can assume that freedom of speech is on one side and something else on the other.”

“Take the power to buy time. That lodges freedom of speech in an individual. That lodges freedom of speech in an individual who can buy the time. It does not give any freedom to millions of listeners. You have one man at the transmitter who is claiming some sort of right and you have millions of people at the receiving end of it and the receiving end is where the public interest is involved; it is the public interest as compared to the interest of a single man at the transmitter. Conceivably the man that does have the most money and buys the most time has gotten for himself the greatest freedom of speech. But what has the public gotten out of it? Hitler, for example, has perhaps the greatest freedom of speech of anybody because he can move in there and take control of that transmitter and millions have nothing to do but listen to it. Now, you see the test used, when it is said that because stations won't sell time for the one-sided presentation of a controversial subject there is a restriction on the freedom of speech. But it may be just as easy to suggest that a balanced discussion freely given, where both sides can be represented, gives the public something more in terms of freedom of speech.”

“Mr. Woodrum: You would be giving the public a pretty good sock in the eye if you gave free time to anybody who wanted to get it and give an argument.”

“Mr. Fly: That cannot be done. You are entirely right.”

“Mr. Woodrum: It looks to me like a matter of very great public importance if somebody can afford to pay the rather reasonable fees which would be charged by radio stations for 30 minutes' time. I can think of nothing of great widespread public importance that one side of the issue would be able to pay for an hour's time and the other side would not be able to be heard.”

“Mr. Fly: I am not sure, sir, that would be true in every case. I do not think you want a situation where a vast number of the public have no means of expression and cannot get to the transmitter and cannot buy the time. I am not at all clear you will always find the funds behind the side that needs the right to expression. I think in the average case you probably would but I do not think it is a very dependable thing. Of course—let me suggest something else, sir. I think it is important to note that under the Code, as I understand it, if you want to promote a debate which you think would be in the public interest you can do that. You can have a so-called forum type of discussion. You can buy an hour's time and take the two leaders of each side of the controversy and put them up and give each a half hour

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and let them go at it. You can always do that sort of thing. You have to pay for the time.

“There are some now, as you know, very useful types of forum. I do not mean to suggest, Congressman Wigglesworth, that that really is the ultimate in this field. It is a difficult field. It is one through which we want to be guided before we see anything crystallized in an arbitrary manner.”

“Mr. Fitzpatrick: It is a force for a good deal of good or evil if it is not controlled.”

“Mr. Fly: That is true, I think. All of the studies are considered and deliberate in any move forward in that field. If there is anything we all want it is to see the people get the fairest, in terms of expression of opinion, the fairest and best service that we can. We want to see the most freedom of speech in the true sense of freedom of speech that we can have.”

“Mr. Woodrum: A lot of sins are committed under the guise of freedom of speech.”

“Mr. Fly: Absolutely.”

“Mr. Wigglesworth: Let me ask you this: Under the present code supposing Mr. Woodrum wants to talk on the air on a controversial issue, he cannot do it by paying for the time?”

“Mr. Fly: He can if he is a candidate.”

“Mr. Wigglesworth: Supposing he is not?”

“Mr. Fly: I take it under the code he could do that on free time. The broadcaster should then permit somebody to answer him either on the same program or some other program at the same or comparable time.”

“Mr. Wigglesworth: He has got to go on free time?”

“Mr. Fly: Yes; he would need to go on free time.”

“Mr. Wigglesworth: Who decides whether or not he shall go on free time?”

“Mr. Fly: The broadcaster. The broadcasters decide all these questions. You won't let me decide it. You won't let any governmental agency decide it. And I don't blame you. You tell us to keep our hands off. You don't want us censoring the radio.”

“Mr. Wigglesworth: I certainly do not, but if I want to I can buy space in a newspaper while under this code, as I understand it. I cannot buy time on the air.”

“Mr. Dempsey: Mr. Congressman, you cannot buy a newspaper if the publisher doesn't want to sell it to you.”

“Mr. Dirksen: Mr. Fly, coming around to the point that was in my mind—whether the Commission directly or indirectly, passively or otherwise, as an individual or group of individuals or any member of the Commission has given sanction and blessing to this new NAB Code.”

“Mr. Fly: I made a speech on this sir. I think that is all that has been done. Certainly, I did not speak for the Commission, and I am only, just as I would not want to be taken as speaking for the Commission now as a whole, trying to give you my best judgment and experience on it. Now, I made a speech which roughly follows the lines I have followed in this discussion. I would be happy to send you a copy of it, sir. But I refrained from committing myself in any final sense, and certainly refrained from endeavoring to commit the Commission in any way. I think you will agree when we do occupy any position in this field, if we have any business in it at all, we want to do it right and after thorough consideration.”

"Mr. Dirksen: Of course, any public utterance you make in the field of radio, Mr. Fly, you will have great difficulty in divorcing yourself in the public mind from your official capacity.

"Mr. Fly: I appreciate that. That is the reason the speech was carefully drafted, to help preserve the right to keep the subject open.

"I can send it to you, and you can insert it in the record.

"Mr. Dirksen: I wonder if it is not too long?

"Mr. Fly: May I send it to you? I do not object to inserting it, if you like.

"Mr. Fitzpatrick: Can you send one to the members of the committee?

"Mr. Wigglesworth: Is that speech the probable basis for the statement by a distinguished democrat and former Member of Congress to the effect that 'only the other day the new Chairman of the Commission gave the new code his implied blessing?'

"Mr. Fly: Well, I think that is probably the basis, but I think you will agree when you read it it is hardly that. Although I do say, and I want to say now, it is my own best judgment the Code ought to be given an opportunity to determine in actual practice whether or not it would serve the public interest.

"Mr. Wigglesworth: There is a question of principle, as well as one of practice?

"Mr. Fly: No, sir. The principle is all involved in the practice. They are tied in together there and the question is how to get the most and best in terms of freedom of expression and in terms of the public interest. Now, we have made some study of that so-called principle. If an opponent of the code is on the freedom of speech side, then certainly in this tentative position that I am in, I am in a false position at this moment. But I do not see that the problem can be boiled down to that."

This ended discussion of the NAB Code. Mr. Wigglesworth then questioned Mr. Fly about the regulation of licenses for international broadcasting, the possibility of the Commission obtaining a New York office, an investigation to disclose "the real ownership" of all stations, the Bulova stations, the Cumberland Broadcasting Company, the average time for granting a permit, and the financial status of networks.

A transcript of the entire hearing can be obtained from the United States Government Printing Office. It is part of the "Hearings on the Independent Offices Appropriation Bill for 1941."

## FCC REPORTS ON PROGRAM COMPLAINTS LAST YEAR

The FCC reports that it received only 1,768 complaints against radio programs during the year ended last June 30.

Out of that number, 885 were dismissed without even investigation as "frivolous, unsubstantiated, or otherwise not warranting investigation," while 854 more were dismissed after investigation.

Only 29 were deemed worthy of a formal hearing.

During the year covered by the Commission's report the industry broadcast 3,250,000 hours of programs. Thus there was only one complaint for every 1,838 hours of broadcasting.

Out of the total number of complaints, 625 (or 35 per cent) were against one program—the Orson Welles "War of the Worlds." There were only 24 complaints against children's programs. There were 123 against allegedly false, fraudulent or misleading statements; 65 about medical programs; 84 about alleged propaganda; 93 against alleged obscene, indecent or profane language;

58 about failure to receive prizes from contests; and 62 about excessive advertising, excessive use of recordings and general inferior program service.

The Commission pointed out that these figures did not include duplicate complaints in all cases, or "fan mail."

This report was included in the Commission's testimony December 13 before a House Appropriations Subcommittee.

## Labor

### CIRCUIT COURT SAYS WAGNER ACT DOES NOT REQUIRE WRITTEN AGREEMENTS

The U. S. Circuit Court of Appeals in Chicago has ruled that there is nothing in the Wagner Act to force an employer to make a written agreement with a labor union.

In its opinion in the Inland Steel case, the court quoted the Supreme Court as saying that "the Act does not compel agreements between employers and employees." Both Senator Wagner and Senator Walsh also were quoted to the same effect.

It is doubtful that the Labor Relations Board will appeal this case, which grew out of the "little steel" strike of 1937. The board, it is said, is going to make its case on this point with the Art Metal Construction Company controversy, now pending in the New York Circuit Court of Appeals.

During the board hearing in the Art Metal case, counsel for the company stipulated that "at all times past, during the period in which negotiations have occurred \* \* \* Art Metal Construction Company has refused and now does refuse to enter into or sign any agreement in writing \* \* \* on the ground, among others, that it is not required to do so under the National Labor Relations Act."

### A. F. OF M.

The national plan of settlement between networks, affiliates and the American Federation of Musicians expired January 17. The plan was not renewed, nor was there a strike.

Representatives of the networks appeared before the A. F. of M. executive board at the Everglades Hotel in Miami on Tuesday, January 16, and informed the board that the networks would not reduce employment of staff musicians at either key or M. and O. stations.

It was learned from both the networks and IRNA that the networks had repeated to their affiliates the suggestions made by IRNA regarding continuation of the employment of musicians.

The musicians' board discussed the matter and concluded there would be no strike at this time. The board decided to await and observe the attitude of the stations in continuing employment.

It is generally agreed that wholesale dropping of musicians probably would precipitate trouble.

Early this month, Joe Weber, A. F. of M. president, notified all his locals that they were not to make any new local agreements with broadcasters, but that their members might continue to work for broadcasters without any agreement.

### I. B. E. W. WINS ELECTION

The International Brotherhood of Electrical Workers (A. F. of L.) defeated the American Communications Association (C.I.O.) by a vote of 3 to 0 in a Labor Board election January 8 among the technicians at Station WQXR, New York City. Two of the five eligible voters cast their ballots for "neither union." The Station had been dealing with the ACA.

### CRAWFORD NEW GUILD HEAD

Kenneth Crawford, Washington correspondent for the *New York Post*, has been elected president of the American Newspaper Guild (C.I.O.) to succeed the late Heywood Broun. Upon taking office, Mr. Crawford made the following statement about Guild policy:

"Stated generally, it is my opinion that the Guild's function is to protect and improve the wages, hours and working condition of newspaper people; that this objective should be pursued by trade union methods in cooperation with the C. I. O. and the rest of the labor movement; that it is not the Guild's business to reform the world or the world's newspapers."

The Guild has contracts with several broadcasting stations.

### AVERAGE PAY

The FCC reports that the average pay of all full-time employees, executives excluded, in broadcasting stations for the week of December 11, 1938, was \$35.84. Executives received an average of \$78.51. The average for the entire full-time personnel was \$41.17, compared with \$45.12 for the week of March 6, 1938.\*

For the week of December 11, 1938, the average pay for operating technicians (research excluded) was \$39.07; for production men, \$38.17; for writers, \$32.39; for announcers, \$32.19; for staff musicians, \$45.07; and for outside salesmen, \$48.41.

The NAB is endeavoring to get a break-down of these figures geographically and by size of station.

\*The FCC report for the week of March 6 covered 626 stations, while the report for the week of December 11 covered 660. The addition of smaller stations with comparatively low wage rates must have accounted for the decrease in the average pay. No widespread pay cuts were reported to the NAB.

## Advertising

### BUREAU OF RADIO ADVERTISING AFTER STORES, CLEANERS AND DYERS

The NAB Bureau of Radio Advertising this week went into action on two large advertising fronts important to the development of more local and regional business.

Samuel J. Henry, Jr., of the Bureau, was on hand at the National Retail Dry Goods Convention in New York, where the problems of local radio advertising were given their first major convention-wide consideration. The Bureau has arranged for a complete transcript of the radio panel discussion reported below. It will be released shortly to all member stations. Out of this, Headquarters believes will come a greater understanding and a wider use of radio by department stores and retailers.

Meanwhile, Ed Kirby presented the case of radio advertising to another large group wherein lies a tremendous new volume of potential advertising revenue. He addressed the 3,000 delegates gathered in Baltimore at the annual convention of the National Association of Cleaners and Dyers.

### RETAILERS PRAISE RADIO

"Radio has definitely established itself as a profitable medium for department stores. If it does not get the expected results, look to your program or other factors—don't blame radio generally."—Irwin D. Wolf, vice-president, Kaufman's, Pittsburgh, Pa.

"Retailers should tell the station man their problems, if they want radio to show maximum results. Open up—tell the radio man something about your business. Given a fair chance to help, he in turn can then best advise you as to the most effective use of the medium."—Willard H. Campbell, Publicity Director, G. Fox & Company, Hartford, Conn.

These were two of the many significant words of advice given to National Retail Dry Goods Association members at the radio panel discussion held January 17 at Hotel Pennsylvania, New York, where the association met in its twenty-ninth annual convention January 15-19. Several hundred department store and retail advertising executives displayed keen interest in the informative discussion, arranged by Alan Wells, NRDGA Sales Promotion Manager.

Two boards of experts, composed of eight department store officials who have used radio successfully over a period of years, answered the questions gathered from NRDGA members, and put to them in the form of an "Information Please" program. The questions covered these four general subjects:

1. Why Radio for Retailers?
2. Retail Radio Programs
3. Costs of Radio Advertising
4. Results from Radio

The experts, on panels 1 and 3 were:

Irwin D. Wolf, vice-president, Kaufman's, Pittsburgh.  
 George Slockbauer, vice-president, L. Bamberger's, Newark.  
 Miss Lois Munn, sales promotion manager, Hangerer's, Buffalo.  
 B. Louis Posen, publicity director, Hochschild, Kohn, Baltimore.

On panels 2 and 4:

Marvin Oreck, vice-president, Oreck's, Duluth.  
 C. I. Burtanger, sales promotion manager, Rike-Kumler, Dayton.  
 Kenneth Taylor, vice-president, John Taylor's, Kansas City, Mo.  
 M. Manus Roisen, sales promotion manager, Edward's Buffalo.

Willard H. Campbell, publicity director, G. Fox & Co., Hartford, and vice chairman, Sales Promotion Division, NRDGA, was chairman of the discussion, with Walter Johnson, sales manager, WTIC, Hartford, acting as master of ceremonies and firing the series of questions at the retail experts.

Among the many suggestions for successful radio advertising offered by the experts, the following were especially significant:

The entire store personnel must be kept informed on the program, items advertised each day, etc. Buyers must be sold and kept sold on the value of the radio campaign to their particular department.

The program should create a definite and distinct air personality for the store. It was recommended that the store should place an experienced radio person in complete charge, to work closely with the station on production, commercial copy, etc.

Much emphasis was given to the desirability of giving radio a full and fair chance to do the required job—with no less than 52 week contracts and daily broadcasts recommended wherever possible. Even the best program, it was pointed out, may take 10 to 20 weeks to build an audience and establish a following, while on the question of frequency of broadcast, anything less than daily use of radio places it in an unfair position as compared with newspapers.

All the usual publicity and promotion efforts should be made, particularly at the start of the campaign, to build an audience for the program. Stations, it was pointed out, are usually glad to cooperate toward that end.

Many retailers expect too much of radio, more than of any other medium, without giving it a real chance to succeed. Care should be taken to enlist the proper merchandising and store-wide cooperation so essential to the success of any advertising effort. Radio can stand on its own feet, but it is entitled to every legitimate and reasonable assistance if the store is to enjoy maximum results.

Radio's ability to build goodwill and acceptance for the entire store is especially important today, when prob-

lems of public relations are becoming more vital to all business.

Radio's superior coverage is of value in expanding the store's market, bringing in new customers, charge accounts, phone and mail orders.

Radio is a more flexible medium than any other, allowing last minute copy changes to take advantage of weather changes and other emergencies.

Through its ability to dramatize and paint "ear pictures" radio has sold fashion items as well as "price appeal" and sale merchandise. The right program can also sell high-priced products, such as refrigerators. The experts cited actual cases where radio had proved its value not only in direct selling of all types of merchandise, but in building store traffic and increasing goodwill and prestige.

### FTC RULES FOR RADIO ADVERTISING COPY

A station program manager asked the NAB this week if there were any fixed rules for radio advertising copy to insure its compliance with Federal Trade Commission standards.

Russell P. Place, NAB counsel, replied as follows:

In reply to your letter of January 5, permit me to state that yesterday I talked with Mr. James A. Horton, Chief Examiner of the Federal Trade Commission, relative to procuring standards to guide you in editing script with regard to "unfair methods of competition" and "unfair or deceptive acts or practices in commerce."

It appears that they have no printed standards for distribution. But it may be helpful in this connection to quote from a recent address of Mr. Horton's and from the Annual Report of the Federal Trade Commission for 1939.

Mr. Horton has stated, "\* \* \* The rule of construction applied to a false and misleading advertisement considers the advertisement in its entirety. The question of whether any particular statement is true or otherwise is not the wholly pertinent question; the really pertinent question is whether the advertisement as a whole is calculated to deceive." Again quoting Mr. Horton:

"The second part of the Wheeler-Lea Act adds a number of entirely new sections to the Federal Trade Commission Act and is the result of public demand for more stringent penalties for false advertising in the specific fields of food, drugs, devices, and cosmetics.

"The term false advertisement is defined as an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual.

"This provision is designed to protect the purchaser against his own lack of information. It would appear that if the advertiser truthfully represents the characteristics and ingredients of his produce in the light of the use for which the produce is intended, he may not be held responsible for consequences resulting from the use of the product under conditions not prescribed or normal. He is, however, required to tell the whole truth without deceptive concealment whenever it is required for the protection of the public."

The annual report of the FTC for 1939, at page 82, lists certain typical methods and practices condemned in orders to cease and desist. This list is not limited to orders issued during the last year, and I will quote those types that seem to apply to radio advertising.

1. The use of false or misleading advertising, calculated to mislead and deceive the purchasing public to their damage.

6. Making false and disparaging statements respecting competitors' products and business, in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific, but in fact misleading, demonstrations or tests; and making false and misleading representations with respect to competitors' products, such as that seller's product is competitor's, and through use of such practices as deceptive simulation of competitor's counter-display catalogs or trade names; and that competitor's business has been discontinued, and that seller is successor thereto or purchaser and owner thereof.

13. Using merchandising schemes based on lot or chance.

18. Various schemes to create the impression in the mind of the prospective customer that he or she is being offered an opportunity to make a purchase under unusually favorable conditions when such is not the case, such schemes including—

(a) Sales plans in which the seller's usual price is falsely represented as a special reduced price made available on some pretext for a limited time or to a limited class only, or involving false claim of special terms, equipment, or other privileges or advantages.

(b) The use of the "free goods" or service device to create the false impression that something is actually being thrown in without charge, when, as a matter of fact, it is fully covered by the amount exacted in the transaction as a whole.

(c) Use of misleading trade names calculated to create the impression that a dealer is a producer or importer, selling directly to the consumer, with resultant savings.

(d) Use of pretended, exaggerated retail prices in connection with or upon the containers of commodities, intended to be sold at lower figures as if bargains.

(e) Use of false or misleading representation that article offered has been rejected as nonstandard or is, for some other special and unusual reason, offered at an exceptionally favorable, or other than its normal, price, or that the number thereof that may be had or purchased is limited.

(f) Falsely and misleadingly representing that the goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to secure customers or for some purpose other than the customary profit.

20. Concealing business identity in connection with the marketing of a product, or misrepresenting the seller's relation to others; such as claiming falsely to be the agent or employee of some other concern, or failing to disclose the termination of such a relationship in soliciting customers of such concerns.

21. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as—

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealers he has.

(b) Making false claim of being the authorized distributor of some concern, or of being successor thereto or connected therewith, or of being the purchaser and owner of competitor's business, or falsely claiming the right to prospective customer's special consideration, through such false statements as that customer's president or chairman of its board, or the customer's friends, have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged Government connection of a concern, or endorsement of it or its product by the Government or by nationally known business organizations.

(d) False claim by a dealer in domestic products of being an importer, or by a dealer of being a manufacturer, grower, or nursery, or by a manufacturer of some product of being also the manufacturer of the raw material entering into the product.

(e) Claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice, when such is not the fact.

(f) Representing that the seller is a wholesale dealer, grower, producer, or manufacturer, or owns a laboratory in which product offered is analyzed and tested, when in fact such representations are false.

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect that it is altruistic in scope, giving work to the unemployed.

(h) Falsely claiming that business is bonded or misrepresenting its age or history, or the demand established for its products,

or the selection afforded, or the quality or comparative value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(i) Claiming falsely or misleadingly patent, trade-mark, or other special and exclusive rights.

24. Giving products misleading names so as to give them a value to the purchasing public, or to a part thereof, which they would not otherwise possess, such as names implying falsely that—

(a) The particular products so named were made for the Government or in accordance with its specifications and of corresponding quality, or are connected with it in some way, or in some way have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials, which in fact are contained only to a limited extent or not at all, or that they have qualities or properties which they do not have; or

(c) They were made in or came from some locality famous for the quality of such products; or

(d) They were made by some well and favorably known process, when as a matter of fact they were made in imitation of and by a substitute for such process; or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly, or giving such approval; or

(f) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public; or

(g) They were made in a country, place, or city considered of importance in connection with the public taste, preference, or prejudice.

29. Employing various false and misleading representations and practices to give products a standing, merit, and value to the purchasing public, or a part thereof, which they would not otherwise possess, such practices including—

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

(b) Claiming falsely unique status or advantages, or special merit therefor, on the basis of pretended, but in fact misleading and ill-founded, demonstrations or scientific tests, or pretended widespread tests, or of widespread and critical professional acceptance and use.

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to the purchasers; and

(d) Representing products falsely as legitimate, or prepared, tagged, and labeled in accordance with law, or prepared in accordance with Government or official standards or specifications; and

(e) Claiming falsely Government or official, or other acceptance, use, and indorsement of product, and misrepresenting success and standing thereof through use of false and misleading indorsements or false and misleading claims thereto, or otherwise.

At page 139, the Report states:

*Requests for advice.*—Many requests have been received from radio stations, advertisers, and advertising agencies for advice and information concerning certain advertisers and their products. The Commission cannot give the information requested in many cases either because the matter may be under investigation or it is not fully advised of all the facts and cannot render opinions therein; and, in any case, it is not the Commission policy to pass on the merits of products advertised. It treats as confidential all proceedings prior to acceptance of a stipulation or issuance of a complaint. After a stipulation has been accepted and approved, or a complaint issued, the facts concerning such proceedings are for the public record and available to anyone who may request them."

If I can be of any further help in the matter, I shall be glad to have you write me.

Very truly yours,  
RUSSELL P. PLACE,  
Counsel.

## Engineering

### HEARING ON TELEVISION RULES

The FCC met on Monday, January 15, to consider objections to the rules and regulations for television stations which were tentatively adopted by the Commission on December 21, 1939, and to specify recommendations of its television committee. The first witness called was Edwin H. Armstrong. However, Major Armstrong was confined to his hotel by a bad cold and his testimony was deferred.

The next party to be called was the committee on organization of F. M. broadcasters. Mr. Philip G. Loucks, on their behalf, asked that no action be taken which would affect the issues in the F. M. hearing scheduled for February 28. The next party to present testimony was Allen B. DuMont Laboratories, Inc., of Passaic, New Jersey, represented by Mr. Roberts. Dr. Thomas T. Goldsmith, television engineer for DuMont, gave a short historical sketch of television development. On behalf of DuMont he asked that the FCC should not freeze the standards for television at 441 lines per frame and a frame frequency of 30 per second. He asked that flexibility be provided. Dr. Goldsmith claimed that the number of lines could be increased and the number of frames decreased, and still remain within the present six megacycle channel width and yet give a better picture.

Mr. C. A. Priest, engineer in charge of transmitter engineering of the Schenectady works, appeared for the General Electric Company. Mr. Priest's testimony dealt mainly with the allocation tables as set up by the FCC. Under the FCC allocation plan, Albany and Bridgeport were assigned to channel number 7, using 1 kw. each. It was Mr. Priest's contention that Schenectady should have a 10 kw. assignment and he offered an alternate allocation proposal.

Horace Lohnes, attorney for the Don Lee Network, placed Harry R. Lubcke, director of television for Don Lee, on the witness stand. Mr. Lubcke testified that the R. M. A. standards should not be adhered to too closely, however, that he was generally in favor of them. It was his opinion that powers higher than those proposed by the Commission should be used in order to overcome interferences such as emanated from diathermy machines. Louis Ellen Weiss, vice president, continued the testimony for Don Lee. It was his opinion that the changes allowed under the proposed regulation should be more liberal. Mr. Weiss estimated that there were from four to eight hundred television receivers in their area.

The hearing was resumed on Tuesday, starting with testimony for Philco, represented by Louis Caldwell. W. D. Smith, testifying for Philco, advocated the use of vertically instead of horizontally polarized waves. He

stated that they had been experimenting with a set using a loop inside the receiver and he believed that due to the elimination of the expense and installation of a horizontal antenna, that the cost of television receivers could be forty to fifty dollars cheaper, each. Mr. Smith objected to the synchronization standards, stating that the synchronization and sound are not as good as they should be and need improvement. It was his feeling that more power was needed for the sound channel and that the use of a third carrier should be considered for carrying the synchronization impulses. Mr. Smith suggested a delay of a few months in order to bring standards up to date before freezing them.

Mr. John V. L. Hogan, president of Radio Pictures, Inc., New York City, was the next witness heard by the Commission. Mr. Hogan testified that he was working on the development of a synchronizing system which would be better and cheaper. He maintained that both class 1 and 2 stations should be allowed to charge for program production. Mr. Hogan also objected to the stipulation in rule 4.74-D as to the number of stations in large cities. It was his opinion that leeway should be left in the channel assignments so that economics would be a governing factor. He contended that for the present the FCC should not adopt any standards. He also suggested the elimination of the class 1 and 2 categories and allow all stations to experiment with both the technical and program aspects. Mr. Hogan also suggested that if the stations are allowed to charge for programs that they should also be allowed to charge for transmission. It was Mr. Hogan's feeling that the Commission should encourage more stations to experiment. Testimony was again resumed by the DuMont Company, placing R. M. Campbell on the stand. Mr. Campbell described the DuMont flexible line per inch system and claimed that synchronization was more reliable and sure, and that equalizing pulses were unnecessary. It was his contention that the DuMont system was not bothered quite as much by interferences as was a system under the R. M. A. standards; however, he admitted that a third carrier for synchronization was more satisfactory than both. The minimum size acceptable picture for home use was given as 8 x 10, and that the best size would be the same size that we now have on a home movie screen.

The testimony of John Howland for the Zenith brought out an interesting possibility and that was, that Frequency Modulation be used for the sound channel and that the synchronizing impulses be multiplexed on the same channel. Mr. Howland stated that television is not ready for the public and that more experimental work should be encouraged.

Mr. Robert Robins appearing for the Cart-Ray Electronic Laboratories, Inc., New York City, testified that the company was ready to market a radio and television receiver with a seven inch tube in the one hundred dollar

(\$100.00) price field. He asked that the present license holders be compelled to maintain a regularly scheduled program service.

The Television Hearing reconvened Wednesday morning with Mr. Paul W. Kesten taking the stand for Columbia. Mr. Kesten propounded three courses of action for the FCC to follow without committing Columbia to any of them. The three courses of action were:

1. Freeze the standards for a stated number of years, probably eight to ten, and allow regularly scheduled programs.

2. Delay standards and regular programs until some indication of a fair stability has been attained. This would take about one year.

3. If either one or two cannot be put into effect, proceed with programs as proposed without freezing the standards and tell the public that there is no guarantee for the future as to obsolescence of their sets.

Mr. Kesten estimated that with the advent of a second program source in New York City there would be sales of between ten and fifteen thousand sets in the first year and that in the second year there would be thirty to forty-five thousand. Mr. Kesten foresees that public indignation will be focused on the broadcasters and not the manufacturer of the receiving sets, should the sets suddenly become obsolete through changes in standards, it was his belief that under R. M. A. standards, pictures twice as good as we now have can be obtained through development without making present standards obsolete. Mr. Kesten does not see any threat to the sound broadcasters from television. It was his estimate that ultimately we could expect not over 30 per cent ownership and that ultimately the probable looking hours per day would be two as compared with five hours of sound now.

Dr. Peter Goldsmith replaced Mr. Kesten on the stand and gave technical testimony as to the present quality of pictures and what we might expect in the future if we freeze on the R. M. A. standards.

Several of the witnesses and several of the commissioners were apparently quite surprised to find that the Radio Manufacturers Association standards for television were not unanimously acceptable to the industry.

The main questions brought out in the hearing up to date are whether television under the R. M. A. standards can be as good as it should be and whether or not the commission should allow commercialization at this time.

The hearing was adjourned until Friday morning.

## FREQUENCY MODULATION

Frequency modulation was demonstrated before 500 members and guests of the Washington Radio Club, January 13 in the National Museum auditorium.

Major Edwin Armstrong discussed the historical and technical background of F. M.

Stewart Bailey conducted the demonstration of records, live talent, sound effects and the multiplexing of a radio typewriter. The transmission was made from the Jansky and Bailey experimental F. M. station in Georgetown. The reproduction of the live talent was so lifelike that it evoked spontaneous applause from the audience even though they were only hearing the artists thru a loud-speaker.

C. M. Jansky, Jr., took up a discussion of the F. M. allocation problem and stated that, due to the small ratio needed between the desired and undesired signal, comparatively few channels would be needed to supply a good broadcast system for the United States.

Fred W. Albertson, chairman of the Washington Radio Club presided.

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In a talk before the Washington section of the Institute of Radio Engineers, January 8, Paul A. de Mars presented his observations on Frequency Modulation transmission from the Yankee Network experimental station at Paxton.

His observations indicate a coverage of 100 miles radius, interference free and of high fidelity, when the Paxton power is raised from its present power of 2 KW up to 50 KW.

Mr. de Mars showed a map with the coverage of present broadcast stations and the F. M. 50 KW Paxton station. A marked improvement in coverage was indicated.

## FCC RECORDING RULES

As a result of numerous inquiries from member stations, the NAB this week obtained informally from the FCC an interpretation of Section 3.93 (e) of the new Record Rules. Use of the words "transcribed" or "recorded" is permissible under the new rule as heretofore.

## FCC FINANCIAL REPORT

By this time all stations have undoubtedly received FCC blanks for the annual financial report. In addition stations received a single page on which stations were asked to report as promptly as possible page 11, schedule 8. On line 23(b) of that sheet the word "from" should be changed to read "for." This was an error in the form and at the request of the FCC Accounting Department the NAB is calling this to the attention of members.

As stated in last week's REPORTS, the FCC extended the filing date of the complete financial statement until April 15, but requests that page 11, schedule 8 be returned as promptly as the figures can be assembled.

## FCC ANNUAL REPORT

The fifth annual report of the Federal Communications Commission to Congress covering its operation during the

fiscal year, July 1, 1938 through June 30, 1939, was released January 15. The report covers the entire operations of the FCC in the field of radio, telephone and telegraph, set forth under the following chapter headings: Introductory Summary, General, Regulation of Telephone and Telegraph Carriers, Regulation of Broadcast Service, Promotion of Safety of Life and Property, Licensing, Recommendations to Congress and Appendixes.

On the subject of broadcasting, the Commission reports the total number of broadcasting stations in the United States and its possessions. The following table presents this information together with an accounting of the changes during the year.

<i>Class of Station</i>	<i>New stations authorized</i>	<i>Stations deleted</i>	<i>Total number of stations June 30, 1939</i>
Broadcast .....	39	8	774
Special broadcast .....	0	0	4
Relay (low frequency) broadcast .....	64	8	199
Relay (high frequency) broadcast .....	47	38	275
High-frequency broadcast .....	6	8	46
Television broadcast .....	7	3	23
International broadcast .....	2	1	14
Facsimile broadcast .....	7	1	12
Developmental broadcast .....	3	5	12
Non-commercial educational broadcast .....	1	0	2
<b>Total .....</b>	<b>176</b>	<b>72</b>	<b>1,361</b>

Several tables are included in the report which analyze the number of standard broadcast stations by type of channel and hours of operation.

Included is a discussion of the new rules and regulations and standards of good engineering practice issued by the Commission during the year. There are reports, also, under the subjects of television, broadcast services other than standard, international broadcast stations, relay service, facsimile, high-frequency, educational broadcasts, use of broadcast facilities in emergencies, monopoly investigation, field inspections, examinations, investigations and litigation.

The latter part of the report is devoted to appendixes. Appendix F deals with the financial and statistical data on standard broadcasting stations in continental United States. Some financial material, not previously released by the Commission, is presented here. The total investment of the broadcasting industry after depreciation and exclusive of goodwill is reported at \$33,826,792 at the end of 1938.

The income of the industry from the sale of station time for the year 1938 is reported at \$117,379,459. No comparison is presented in the report with similar figures gathered by the FCC for 1937. It is not possible to present a comparison here because of accounting difference which exists between the two sets of data. The apparent loss of the industry from the figure of \$117,908,973 presented in the fourth annual report of the Commission will undoubtedly be changed to show a slight increase for the

industry when the 1937 figures are put on a comparable basis with the figures of 1938. There is also some question as to whether the entire income from the sale of station time of regional networks is included in the 1938 figures.

Income and expense figures are presented for network operations, the 23 network managed and operated stations and the 637 other reporting stations. This information is also tabulated for stations operating on the various channels under the various classifications of operating hours and also by geographic districts and states.

A tabulation by state presents population and families as of July 1, 1937; families owning radios as of January 1, 1938, showing the number, the ratio to families, and the percent of total United States; retail sales of retail stores as of 1935 with percent of total U. S.; and broadcast revenue showing the amount, the percent of total U. S. and the average revenue per radio family.

The figure of average revenue per radio family for the United States is reported at \$2.97. This figure loses its significance to a great extent when reported by state because of overlapping market areas. As an example, the District of Columbia is listed as having the highest ratio, at \$6.48. However, the physical limits of the District of Columbia is used as a criterion of Washington station coverage and does not take into account the large number of radio families in adjacent counties of Maryland and Virginia, which, if included, would materially reduce the ratio.

The Commission reports that during the week beginning December 11, 1938, the broadcasting stations of the country released 67,283 hours of radio programs. Program hour information is broken down by programs originating from national networks, regional networks and from local studios and shown separately for personal and mechanical renditions. Also included is a tabulation of the types of commercial and sustaining programs. For the week reported, 33.86 percent of programs were commercial and 66.14 percent sustaining.

During the week beginning December 11, 1938 stations and networks employed 18,358 persons full-time and 4,377 part-time. For the full year 1938, the industry employed 23,060 persons with a total payroll of \$45,663,757. A tabulation is given showing the classifications of employees, their number, total compensation and average weekly compensation.

## State Legislation

### KENTUCKY:

H. 91 (Lyon) COPYRIGHTS—TEXTBOOKS—To require copyrights on textbooks in elementary high school and state supported institutions.

NEW YORK:

A. 184 (Holley) **INSTALLMENT CONTRACTS—SELLERS**—Provides for uniform statement of terms in installment contracts for sale of goods and for licensing and regulating installment sellers, no warrant of seizure to be issued in New York City municipal court if defendant tenders all arrearages. Referred to General Laws Committee.

A. 226 (Crews) **EMPLOYMENT AGENCIES—DISCRIMINATION**—Prohibits discrimination by employment agencies on account of race, color or religion, violation being sufficient cause for suspension or revocation of license. Referred to Civil Service Committee.

A. 399 (Schwartz) **EMPLOYMENT AGENCIES**—Regulates private fee-charging employment agencies and appropriates \$40,000 to Labor Department. Referred to Ways and Means Committee.

S. 198 (Coughlin) **DISCRIMINATION—PRESS AND RADIO**—Makes it a misdemeanor to incite, advocate or promote hatred, violence or hostility against any person or group by reason of race, color, religion or manner of worship. Referred to Codes Committee.

VIRGINIA:

S. 14 (Parker) **RADIO STATIONS—COLLEGES AND UNIVERSITIES**—To authorize governing bodies of state colleges and universities to construct, equip, maintain and operate for certain purposes radio transmitting and broadcasting stations and apparatus. Referred to Public Institutions and Education Committee.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

No broadcast hearings or oral arguments are scheduled before the Commission during the week of Monday, January 22.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

#### January 30

WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Renewal of license, 1210 kc., 100 watts, unlimited time.

#### February 1

Oral Argument Before the Commission

WRTD—Times-Dispatch Radio Corp., Richmond, Va.—C. P., 590 kc., 1 KW night, 1 KW day, unlimited (DA night).

#### February 7

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, St. Albans, Vt.—Renewal of license, 1390 kc., 1 KW, daytime.

#### February 8

Further Hearing

KFIO—Spokane Broadcasting Corp., Spokane, Wash.—C. P., 950 kc., 1 KW, unlimited time. Present assignment: 1120 kc., 100 watts, daytime.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Independent Merchants Broadcasting Co., Minneapolis, Minn.—Granted construction permit, subject to approval of trans-

mitter site, authorizing a new broadcast station to operate on 1300 kc., 1 KW, unlimited time, employing directional antenna both day and night.

Marysville-Yuba City Broadcasters, Inc., Marysville, Calif.—Granted construction permit, subject to approval of transmitter site, authorizing a new broadcast station to operate on 1420 kc., 100 watts (Class IV), unlimited time.

### MISCELLANEOUS

KMAC—W. W. McAllister and Howard W. Davis, d/b as The Walmac Co., San Antonio, Tex.—Granted motion to accept amendment to application to use directional antenna and specify site. (Application requests change in frequency from 1370 kc., power from 100 watts, 250 watts local sunset, and time from shares KONO, to frequency 930 kc., power 1 KW, unlimited time).

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted petition to intervene and for consolidation of hearings on applications of Springfield Radio Service, Inc., Springfield, Ohio, for construction permit to operate on 780 kc., 250 watts, daytime, and petitioner's application for construction permit to install new transmitter and increase power to 1 KW.

Lookout Mountain Co. of Georgia, Lookout Mountain, Ga.—Referred to Commission petition to fix hearing date and to consolidate application for construction permit to operate on 1370 kc., 250 watts, unlimited time, with application of Joe W. Engel, Chattanooga, Tenn., for construction permit to operate on 1370 kc., 250 watts, unlimited time.

G. D. Gillett, Washington, D. C.—Granted motion for continuance of hearing to February 7, 1940, in re application of E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, St. Albans, for renewal of license to operate on 1390 kc., 1 KW, daytime, scheduled January 17, 1940.

G. D. Gillett, Washington, D. C.—Granted motion for continuance of hearing scheduled January 16, 1940, to January 30, 1940, in re application of John H. Stenger, Jr., Wilkes-Barre, Pa., for renewal of license to operate on 1210 kc., 100 watts power, unlimited time.

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from local sunset at Abilene, Kans. (January 5:30 p. m., CST), to 7:30 p. m., CST, on January 14, 1940, in order to broadcast football game between Green Bay Packers and Professional All Stars only, using 1 KW power.

Joe W. Engel, Chattanooga, Tenn.—Designated P. W. Seward to preside at hearing on application for construction permit for new station to operate on 1370 kc., 250 watts, unlimited time, in lieu of R. H. Hyde.

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Granted license to cover construction permit to use present licensed transmitter as an auxiliary transmitter at new site, increase power to 1 KW for auxiliary; use directional antenna at night. Also granted authority to determine operating power by direct measurement of antenna input.

KABC—Alamo Broadcasting Co., Inc., San Antonio, Texas.—Granted special temporary authority to rebroadcast transmissions between the ground and plane of Army stations at Randolph Field over radio station KABC on Thursdays for a period not to exceed thirty days.

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—Granted special temporary authority to operate from 8:00 p. m. to midnight, EST, on January 22, 1940, in order to broadcast March of Dimes program for President's Birthday Ball.

WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Granted special temporary authority to operate from 7:30 p. m. to 8:30 p. m., EST, on January 16, 1940, in order to broadcast public meeting with Governor speaking.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 2:00 p. m. to 3:00 p. m., EST, on January 13, 20, 27, February 3 and 10, 1940, in order to broadcast the following sustaining programs: 2 to 2:10 p. m. Newscast, 2:10 to 2:30 p. m.; Matinee Moods, 2:30 to 3 p. m. Suggestions in Symphony; to operate from 2:00 p. m. to 3:00 p. m., EST, on January 14, 21, 28, February 4 and 11, 1940, in order to broadcast the following programs: 2 to 2:15 p. m., Newscast, 2:15 to 2:30 p. m.; Tune Travels, 2:30 to 2:45 p. m.; Sabbath Meditations, 2:45 to 3:00 p. m.; ¼ hour in ¾ time, Musical Program; and to operate as follows on February 12, 1940: 8:30 to 9 a. m.; Breakfast Club, 9 to 9:30 a. m. Opening of Mail,

- 9:30 to 10 a. m.; Dances of the World, 2 to 2:10 p. m.; Newscast, 2:10 to 2:30 p. m.; Matinee Moods, 2:30 to 3 p. m.; Suggestions in Symphony (provided WSVS remains silent).
- WPAD—Paducah Broadcasting Co., Inc., Paducah, Ky.—Granted license to cover construction permit for installation of new transmitter; frequency **1420 kc.**, power 250 watts, unlimited time.
- KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Granted license to cover construction permit for changes in equipment, increase in power and change in hours of operation to **1210 kc.**, 250 watts, unlimited.
- WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—Granted license to cover construction permit as modified, for new broadcast station; **1100 kc.**, 1 KW, daytime.
- WNEL—Juan Piza, San Juan, P. R.—Granted special temporary authority to rebroadcast sustaining programs to be received from International Broadcast Stations WNBI and WRCA over Station WNEL for a period not to exceed 30 days.
- WRTD—The Times Dispatch Radio Corp., Richmond, Va.—Scheduled Oral Argument to be held on February 1, 1940, on Report No. B-84.
- WFMJ—William F. Maag, Jr., Youngstown, Ohio.—Granted license to cover construction permit authorizing changes in equipment and increase in power to 250 watts on **1420 kc.**, unlimited time.
- WAIQ—WAVE, Inc., Portable-Mobile (area of Louisville, Ky.).—Granted license to cover construction permit for new relay-broadcast station to be used with applicant's standard broadcast station WAVE; frequency **2790 kc.**, **1622**, **2058**, **2150 kc.**, 50 watts.
- W2XB—General Electric Co., New Scotland, N. Y.—Granted license to cover construction for new television station; frequencies **60,000-86,000 kc.**, visual 10 KW, aural, 3 KW, upon an experimental basis only.
- WPRO—General Electric Co., New Scotland, N. Y.—Granted license to cover construction permit and modification thereof, for increase in power, move of transmitter, installation of new equipment, and to make changes in directional antenna. Station operates on **630 kc.**, 1 KW night, 5 KW day, unlimited time, directional antenna at night.
- WILM—Delaware Broadcasting Co., Wilmington, Del.—Granted license to cover construction permit authorizing changes in transmitting equipment and increase in power, **1420 kc.**, 250 watts, unlimited time.
- KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Granted modification of construction permit as modified, authorizing move of transmitter, installation of new transmitting equipment and directional antenna and increase in power *requesting* extension of required completion date of construction to March 8, 1940.
- KOCY—Plaza Court Broadcasting Co., Oklahoma City, Okla.—Granted authority to determine operating power by direct measurement of antenna input.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Granted authority to determine operating power by direct measurement of antenna input.
- KOAM—The Pittsburg Broadcasting Co., Inc., Pittsburg, Kans.—Granted authority to determine operating power by direct measurement of antenna input.
- KDAL—Red River Broadcasting Co., Inc., Duluth, Minn.—Granted license to cover construction permit authorizing changes in transmitting equipment and increase in power to 250 watts LS, using 100 watts night, on **1500 kc.**, unlimited time.
- WJHL, Inc., Johnson City, Tenn. (area), Portable-Mobile.—Granted construction permit for new low frequency relay broadcast station to operate on frequencies **1622**, **2058**, **2150**, **2790 kc.**, power 40 watts, to communicate as a relay broadcast station in accordance with Sections 4.21 and 4.22(c); hours of operation in accordance with Section 4.24; to be used with applicant's standard broadcast station WJHL.
- KGGF—Hugh J. Powell, Coffeyville, Kan.—Granted special temporary authority to remain silent from 2:00 p. m. to 3:00 p. m., CST, on February 1, 6, 7, 8, 13, 14, 15, 20, 21, 22, 27, 28, and 29, 1940 and from 3:00 p. m. to 3:30 p. m., CST, on February 5, 12, 19, and 26, 1940, in order to permit WNAD to broadcast special educational programs.
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate during above periods (provided KGGF remains silent) in order to broadcast educational programs.
- KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period January 19, 1940, to not later than February 17, 1940, pending the filing of modification of license and completion of arrangements with Station KWLC.
- KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Granted special temporary authority to operate from 9:00 p. m. to midnight, PST, on January 18, 1940, in order to broadcast the meeting of the Central California League of Municipalities and to operate from 9:00 p. m. to midnight, PST, on January 20, 1940, in order to broadcast the California-Nevada Convention of Kiwanis Clubs.
- Thumb Broadcasting Co., Brown City, Mich.—Upon consideration of a petition for rehearing filed by Thumb Broadcasting Co., the Commission ordered that its Opinion and Order of November 8, 1939, denying application of applicant for a new station to operate on **880 kc.**, with 1 KW power, daytime only, be set aside, and the application remanded for further hearing to determine whether the Commission's Standards of Good Engineering Practice would be met by a grant of the application in part so as to permit the use of frequency **880 kc.**, with 250 watts power.
- Lookout Mountain Company of Georgia, Lookout Mountain, Georgia.—Granted petition only in so far as it requests petitioner's application be designated for hearing (to be held February 19, 1940) on the following issues: (1) to determine the legal, technical, financial and other qualifications of the applicant to construct and operate the proposed broadcast station; (2) to determine type and character of program service to be rendered; (3) to determine the area and population which would be expected to receive interference-free primary service both daytime and nighttime; (4) to determine whether the proposed station would render service in accordance with the Commission's Standards of Good Engineering Practice for Class IV stations; (5) to determine whether public interest, convenience and necessity will be served through a grant of the application, or through a grant of the application of Joe W. Engel (B3-P-2483), or through a denial of both applications.
- KGKO—KGKO Broadcasting Co., Fort Worth, Tex.—Denied petition for rehearing in re application of Red River Valley Broadcasting Corporation (KRRV), Sherman, Tex., for construction permit to move transmitter locally to a new site, install new equipment, including a directional antenna, and change frequency from **1310 kc.** to **880 kc.** and power output from 250 watts, daytime only, to 1 KW, unlimited time, granted by the Commission on November 8, 1939.
- KVIC—Radio Enterprises, Inc., Victoria, Tex.—Granted license to cover construction permit as modified for new broadcast station, frequency **1310 kc.**, 100 watts night, 250 watts daytime, unlimited time.
- KVOS—The Ardmoreite Publishing Co., Inc., Ardmore, Okla.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- KMED—Mrs. W. J. Virgin, Medford, Ore.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WRGA—Rome Broadcasting Corp., Rome, Ga.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WEKR—South Bend Tribune, Portable-Mobile (area of South Bend, Ind.)—Granted license to cover construction permit to install new transmitter in Relay broadcast station and increase power to 15 watts.
- WHPM—United Broadcasting Co., Portable-Mobile (area of Cleveland).—Granted license to cover construction permit for new relay broadcast station; frequencies **31620**, **35260**, **37340** and **39620 kc.**, 25 watts for relaying programs and orders in re such programs, and 50 watts on **37340 kc.** for transmission of orders only.
- WEJA—National Broadcasting Co., Inc., New York City—Granted license to cover construction permit as modified, to make changes in equipment of relay broadcast station, and increase power to 100 watts.
- WFYB—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York City).—Granted modification of license for relay broadcast station to change type number of equipment to agree with actual type number of present equipment.

WEHP—The Fort Industry Co., Portable-Mobile (area of Toledo, Ohio).—Granted modified license to increase power of relay broadcast station to 50 watts.

WEMW—The WGAR Broadcasting Co., Portable-Mobile (area of Cleveland).—Granted modification of relay broadcast station license to increase power to 100 watts.

WRCA—National Broadcasting Co., Inc., New York City.—Granted modified license to correct description of transmitter in international broadcast station.

WNBI—National Broadcasting Co., Inc., New York City.—Granted modified license to correct description of transmitter in international broadcast station.

W1XQB—Worcester Telegram Publishing Co., Inc., Holden, Mass.—Granted modification of construction permit to change equipment in high frequency broadcast station.

KWOC—Radio Station KWOC, Poplar Bluff, Mo.—Granted license to cover construction permit for changes in transmitting equipment, changes in hours of operation to unlimited, and increase power to 250 watts on 1310 kc. Also granted authority to determine operating power by direct measurement of antenna input.

WDWS—Champaign News-Gazette, Inc., Champaign, Ill.—Granted authority to determine operating power by direct measurement of antenna input.

KHUB—John P. Scripps, Watsonville, Cal.—Granted authority to determine operating power by direct measurement of antenna input.

KLO—Interstate Broadcasting Corp., Ogden, Utah.—Granted authority to determine operating power by direct measurement of antenna input.

WABC-WBOQ—Columbia Broadcasting System, Inc., New York City.—Granted authority to determine operating power by direct measurement of antenna input.

KUTA—Utah Broadcasting Co., Salt Lake City, Utah.—Granted license to cover construction permit as modified, for changes in transmitting equipment and increase in power to 250 watts.

KVNU—Cache Valley Broadcasting Co., Logan, Utah.—Granted license to cover construction permit as modified, for changes in transmitting equipment and increase in power to 250 watts.

WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—Granted modification of license to change main studio location from Plainfield St., Ulster Twp., New York, to Governor Clinton Hotel, Albany Ave., Kingston, N. Y. Also granted authority to determine operating power by direct measurement of antenna input.

WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—Granted license to cover construction permit as modified for new station to operate on 1500 kc., 100 watts, daytime.

WAZL—Hazleton Broadcasting Service, Inc., Hazleton, Pa.—Granted license to cover construction permit as modified for new transmitter, and increase in power to 250 watts, on 1420 kc.

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Granted modification of construction permit to increase night power to 5 KW, install directional antenna for night use, and make changes in equipment.

WGNY—Courier Publishing Corp., Newburgh, N. Y.—Granted modification of license to change corporate name of license from Courier Publishing Corp. to WGNY Broadcasting Co., Inc.

WEHK—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York City).—Granted construction permit to increase power in relay broadcast station to 2 watts, and make change in equipment.

WCLA—Larus & Brother Co., Inc., Portable-Mobile (area of Richmond, Va.).—Granted modification of construction permit to change equipment and increase power to 40 watts, in relay broadcast station.

WEMP—Radio Station WSOC, Inc., Portable-Mobile (area of Charlotte, N. C.).—Granted license to cover construction permit to make changes in equipment of relay broadcast station.

WAGF—John T. Hubbard, Julian C. Smith, and Fred C. Mosely, d/b as Dothan Broadcasting Co., Dothan, Ala.—Granted special temporary authority to operate from 9:00 p. m. to 10:00 p. m., CST, on January 20, 1940, in order to broadcast "A Symphony from the New South" program.

W2XWG—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate high frequency (experimental) broadcast station W2XWG to utilize amplitude modulation and frequency modulation on frequency 42600 kc. for a period not to exceed 30 days, in

order to accumulate data for direct comparison of the effectiveness of frequency modulation versus amplitude modulation for presentation at the February 28, 1940, hearing.

WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted special temporary authority to operate from 7:30 p. m., CST, to the conclusion of basketball games described in letter dated January 10, 1940, on January 25, 26, February 2, 3, 5, 6, 10, 12, 13, 16, 17, 19, 23, 24, 1940, in order to broadcast basketball games only, using 250 watts power to operate from local sunset (February 5:30 p. m., CST) to the conclusion of the Macon County Farmers Institute sessions on February 21 and 22, using 250 watts power.

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted special temporary authority to operate from 7:30 p. m. to 8:00 p. m., EST, or to the conclusion of the annual banquet of the Shenango Valley Junior Chamber of Commerce in order to broadcast proceedings on January 23, 1940.

KFRO—Voice of Longview, Longview, Texas.—Granted special temporary authority to operate from 7:00 p. m. to 8:00 p. m., CST, on January 21, 28, and February 4, 1940, in order to broadcast church services.

The Commission (by its Administrative Board) on January 17 took the following action:

WRVA—Larus & Brother Co., Inc., Richmond, Va.—Granted construction permit to use old W. E. transmitter as an auxiliary, with power of 5 KW, DA day and night, and move to site of main transmitter on James River 12 miles southeast of Richmond.

WSAV—WSAV, Inc., Savannah, Ga.—Granted license to cover construction permit as modified, authorizing new station to operate on 1310 kc., 100 watts, unlimited time. Also granted authority to determine operating power by direct measurement of antenna input.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Granted license to cover construction permit and modification thereof, for change in frequency to 1200 kc., increase power to 250 watts, move transmitter and make changes in antenna.

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

KOAC—Oregon State Agricultural College, Corvallis, Ore.—Construction permit to install new transmitter, vertical antenna, increase power from 1 KW to 1 KW night and 5 KW day, move transmitter to Granger, Oregon. Amended to request 5 KW power day and night, changes in requested transmitting equipment, installation of directional antenna for day and night use.

### 580 Kilocycles

KMJ—McClatchy Broadcasting Company, Fresno, Calif.—Extension of special experimental authority for transmission of facsimile signals, for period 4-1-40 to 4-1-41.

### 600 Kilocycles

WREC—Hoyt B. Wooten, tr/as WREC Broadcasting Service, Memphis, Tenn.—License to cover construction permit (B3-P-2361) for installation of auxiliary transmitter.

### 620 Kilocycles

WTMJ—The Journal Company (The Milwaukee Journal), Milwaukee, Wis.—Construction permit to install directional antenna for night use and increase power from 1 KW night and 5 KW day to 5 KW day and night.

### 650 Kilocycles

WSM—The National Life and Accident Insurance Co., Nashville, Tenn.—Extension of special experimental authority for transmission of facsimile signals from 12 midnight to 6 a. m., for period 2-1-40 to 2-1-41.

### 780 Kilocycles

KECA—Earle C. Anthony, Inc., Los Angeles, Calif.—Construction permit to install directional antenna for night use, increase power from 1 KW and 5 KW day to 5 KW day and night.

### 900 Kilocycles

NEW—The Fort Industry Co., Cleveland, Ohio.—Construction permit for a new station on 810 kc., 1 KW, daytime opera-

tion. Amended to request **900 kc.**, 5 KW power, unlimited time, changes in antenna and transmitting equipment.

#### 1050 Kilocycles

KFBI—The Farmers & Bankers Broadcasting Corporation, Wichita, Kans.—Modification of construction permit (B4-P-1865) as modified, for new equipment, new antenna, and move of transmitter and studio, further requesting authority to install new transmitter.

#### 1110 Kilocycles

NEW—Mosby's, Inc., Anaconda, Mont.—Construction permit for a new station on **1110 kc.**, 500 watts night, 1 KW day, unlimited time.

#### 1120 Kilocycles

WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—License to cover construction permit (B3-P-1958) for changes in equipment and increase in power.

#### 1150 Kilocycles

NEW—Helen L. Walton and Walter Bellatti, Jacksonville, Ill.—Construction permit for a new broadcast station to be operated on **1370 kc.**, 250 watts power, unlimited time. Amended to request **1150 kc.**, daytime operation, and amend sections 19(f), 30 and 33.

#### 1200 Kilocycles

WHOP—Paducah Broadcasting Co., Inc., Hopkinsville, Ky.—License to cover construction permit (B2-P-2519) for a new broadcast station.

WHOP—Paducah Broadcasting Co., Inc., Hopkinsville, Ky.—Authority to determine operating power by direct measurement of antenna power.

KVNU—Cache Valley Broadcasting Company, Logan, Utah.—License to cover construction permit (B5-P-2469) for changes in equipment and increase in power.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Construction permit to make changes in equipment and increase power from 100 to 250 watts.

#### 1210 Kilocycles

NEW—Western Gateway Broadcasting Corporation, Schenectady, N. Y.—Construction permit for a new station on **1210 kc.**, 250 watts, unlimited time.

#### 1280 Kilocycles

WIBA—Badger Broadcasting Company, Inc., Madison, Wis.—Construction permit to make changes in directional antenna for use at night, and increase power from 1 KW; 5 KW-daytime to 5 KW day and night.

#### 1310 Kilocycles

KFYO—Plains Radio Broadcasting Co., Lubbock, Texas.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.

WTEL—Foulkrod Radio Engineering Company, Philadelphia, Pa.—Construction permit to make changes in equipment, increase power from 100 to 250 watts. Amended to change frequency from **1310 kc.** to **1500 kc.**, and hours of operation from S-WHAT to unlimited.

WMBO—WMBO, Inc., Auburn, N. Y.—Authority to determine operating power by direct measurement of antenna power.

NEW—Lakeland Broadcasting Co., Willmar, Minn.—Construction permit for a new station to be operated on **680 kc.**, 250 watts power, daytime. Amended to request **1310 kc.**, 100 watts power, unlimited time.

#### 1320 Kilocycles

KGMB—Hawaiian Broadcasting System, Ltd., Honolulu, Hawaii.—Modification of construction permit (B-P-2220) as modified, for change in frequency, increase in power, new transmitter and antenna, and move of transmitter, requesting extension of completion date from 2-20-40 to 8-20-40.

WSMB—WSMB, Inc., New Orleans, La.—Authority to determine operating power by direct measurement of antenna power.

#### 1330 Kilocycles

WDRC—WDRC, Inc., Hartford, Conn.—Modification of construction permit (B1-P-2223) for installation of directional antenna and increase in power, further requesting changes in directional antenna for use day and night, and extend commencement date 30 days after grant and completion date 150 days thereafter.

#### 1370 Kilocycles

WMAN—Richland, Inc., Mansfield, Ohio.—Modification of license to change hours of operation from daytime to unlimited, using 250 watts power.

NEW—The Hampden-Hampshire Corporation, Holyoke, Mass.—Construction permit for a new station to be operated on **1370 kc.**, 250 watts power, unlimited time. Amended: equipment changes and specify antenna to be determined.

KICA—Western Broadcasters, Inc., Clovis, N. Mex.—Authority to determine operating power by direct measurement of antenna power.

#### 1380 Kilocycles

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Authority to determine operating power by direct measurement of antenna power.

#### 1400 Kilocycles

KTUL—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—Authority to determine operating power by direct measurement of antenna power.

#### 1410 Kilocycles

KMED—Mrs. W. J. Virgin, Medford, Ore.—Modification of license to increase power from 250 watts, 1 KW day, to 1 KW day and night.

#### 1420 Kilocycles

WSPB—WSPB, Inc., Sarasota, Fla.—Authority to determine operating power by direct measurement of antenna power.

KABC—Alamo Broadcasting Company, Inc., San Antonio, Tex.—Authority to determine operating power by direct measurement of antenna power.

WSPB—WSPB, Inc., Sarasota, Fla.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

#### 1450 Kilocycles

WGAR—The WGAR Broadcasting Co., Cleveland, Ohio.—Construction permit to make changes in equipment and make changes in directional antenna (for use day and night); change frequency and power from **1450 kc.**, 1 KW, 5 KW day, to **730 kc.**, 10 KW day and night; move transmitter from 1000 Harvard Ave., Cuyahoga Heights, Ohio, to Bassett Road, Dover, Ohio.

#### 1500 Kilocycles

WMEX—The Northern Corporation, Boston, Mass.—Modification of construction permit (B1-P-1167) for change in frequency, increase in power, new transmitter, directional antenna, and move of transmitter, further requesting changes in directional antenna and move of transmitter from Granite Ave., Milton, Mass., to W. Squantum St. and John St., Montclair (Quincy), Mass.; and extend commencement date 30 days and completion date 180 days. Corrected re: sections 11 b and e, and new resolution filed under section 18.

WMJM—Cordele Dispatch Publishing Co., Inc., Cordele, Ga.—Modification of construction permit (B3-P-2384) for a new station, requesting authority to make changes in equipment, and approval of antenna, and approval of studio and transmitter site at end of 23rd Ave., Cordele, Ga.

KUTA—Jack Powers, David G. Smith, Frank C. Carman and Grant R. Wrathall, d/b as Utah Broadcasting Company, Salt Lake City, Utah.—License to cover construction permit (B5-P-2513) as modified for changes in equipment and increase in power.

WKEU—Radio Station WKEU, Griffin, Ga.—Construction permit to make changes in antenna and change hours of operation from daytime to unlimited, using 100 watts power.

KNEL—G. L. Burns, Brady, Tex.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

## MISCELLANEOUS

- W1XK**—Westinghouse Electric & Manufacturing Co., Boston, Mass.—Modification of construction permit (B1-PHB-76) to change transmitter site from Hotel Bradford, 275 Tremont St., Boston, Mass., to Newport Road, Hull, Mass., and extend commencement date to 60 days after grant and completion date to 180 days thereafter.
- WBOS**—Westinghouse Electric & Manufacturing Co., Millis, Mass.—Modification of license to add the frequencies of 11870 and 17780 ke. to those already authorized (6140, 9570, 15210, 21540), sharing time on all frequencies with WPIT.
- WENH**—WJR, The Goodwill Station, Portable-Mobile.—License to cover construction permit (B2-PRY-185) to change frequencies and make changes in equipment.
- NEW**—William G. H. Finch, New York, N. Y.—Construction permit for a new high frequency broadcast station to be located at 1819 Broadway, New York, N. Y., to be operated on 117910 ke., 1 KW power, unlimited time, special emission.
- W2XWG**—National Broadcasting Co., Inc., New York, N. Y.—License to cover construction permit (B1-PHB-80) for new high frequency broadcast station.
- NEW**—God's Bible School and College, Cincinnati, Ohio.—Construction permit for a new international broadcast station to be located at 1810 Young St., Cincinnati, Ohio, on 11710 and 21610 ke., unlimited time on 21610 ke. and sharing time on 11710 ke., 60 KW power, A-3 emission.
- KBQB**—Edwin A. Kraft, area of Juneau, Alaska.—License to cover construction permit (B5-PRY-196) for new relay broadcast station.
- NEW**—Muzak Corporation, New York, N. Y.—Construction permit for a new high frequency broadcast station to be located in New York, N. Y., to be operated on 43600 and 117910 ke., 1 KW, unlimited time, special emission.
- NEW**—WIBX, Inc., area of Utica, N. Y.—Construction permit for a new relay broadcast station on 1606, 2022, 2102, 2758 ke., 100 watts, A-3 emission, unlimited time. Located in area of Utica, N. Y. Portable-Mobile.
- NEW**—Peoria Broadcasting Co., area of Peoria, Ill.—Construction permit for a new relay broadcast station to be operated on 33380, 35020, 37620, 39820 ke., 1 watt power, A-3 emission, unlimited time. Portable-Mobile, area of Peoria, Ill.
- NEW**—Peoria Broadcasting Co., Peoria, Ill.—License to cover above.
- W9XMK**—Peoria Broadcasting Co., Peoria, Ill.—Construction permit to change frequencies from Group G (33380, 35020, 37620, 39820 ke.) to Group A (1622, 2058, 2150, 2790 ke.) and make changes in equipment and operate with 50 watts power.
- NEW**—The Crosley Corporation, Cincinnati, Ohio.—Construction permit for a new high frequency broadcast station to be located at corner Vine and Fifth Streets, Carew Tower, Cincinnati, Ohio, to be operated on 43200 ke., 1 KW power, unlimited time, special emission.
- KEIT**—Midland Broadcasting Co., Portable-Mobile.—License to cover construction permit (B4-PRE-325) for changes in equipment.
- NEW**—Bamberger Broadcasting Service, Inc., New York, N. Y.—Construction permit for a new television broadcast station to be located at 1450 Broadway, New York, N. Y., on the frequency channel 84000-90000 ke., 1 KW power for both visual and aural, A-3 and A-5 emission. Amended to request Class II television station and change frequency channel to Channel 4 (78000-84000 ke.).

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Aurine Company, Inc.**, Chicago, Ill., in newspaper and periodical advertising, allegedly made representations, directly or by implication, to the effect that its preparation "Ourine" is a cure or remedy for deafness, has therapeutic value in treating it, and is competent and effective in treating ringing and buzzing head noises due to hardened or coagulated wax in the ear. The respondent also allegedly advertised that it refunds the purchase price to dissatisfied customers.

The complaint charges that the respondent's representations are misleading and constitute false advertisements. Deafness, the complaint continues, may be caused by either a central or systemic or local disorder or condition. "Ourine" allegedly is not a cure or remedy or competent or effective treatment for deafness or conditions due to hardened wax in the ear although its use may soften accumulations of wax in the ear. However, the complaint points out, without the use of an instrument to extract wax, the conditions which may result from an accumulation of wax, namely, temporary deafness, ringing or buzzing head noises, will not be materially benefited or relieved. The complaint alleges that the respondent does not uniformly make refunds to purchasers who are not satisfied with the results obtained.

Alleging violation of the Federal Trade Commission Act, the complaints grant each respondent 20 days for filing answers. (3993)

**Theodore Radin, Inc.**, New York, N. Y., distributes "Glycirenin", "Glycirenin-Forte", "Jodirenin", "Inhaledrin-Compositum", and "Aerizon", which it allegedly advertises in newspapers, testimonials and circulars as being cures, remedies or competent treatments for asthma, hay fever, sinus discomfort, bronchial asthma and other bronchial ailments. It is also alleged to represent that its preparations are absolutely harmless no matter how often used, and that their use will prevent attacks of asthma and hay fever or the recurrence of these ailments and will relieve the suffering incident to them.

The complaint charges that the respondent's assertions are exaggerated and misleading, and that its products do not constitute competent and effective treatments in excess of furnishing temporary symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchial irritations and sinus discomfort. Further, the complaint alleges, the preparations are not absolutely harmless no matter how often used because of the presence of epinephrine and ephedrine and their use over a long period is likely to produce prolonged vasoconstriction such as to cause tissue damage from anoxemia, with secondary inflammatory reactions. (3992)

### CEASE AND DESIST ORDERS

No cease and desist orders were entered into during the week.

### STIPULATIONS

The Commission has entered into the following stipulations:

**American Electrical Sales Company, Inc.**, 65 East 8th St., New York, agrees to desist from advertising or distributing used or reconditioned electrical apparatus or equipment without properly disclosing the fact that it is used or reconditioned, and from implying in its advertising or otherwise that the merchandise is new and unused. The respondent also agrees to desist from misrepresenting prices of equipment. (2644)

**Ascot Mills**—Abe D. Kasen, trading as Ascot Mills, New York, in the sale of knitted sportswear or other products, agrees to desist from use of the word "Mills" as a part of his trade name or in any manner implying that the respondent knits or manufactures the products sold by him or owns or controls a mill in which such goods are made, when this is not a fact. The stipulation points out that the respondent fills orders with products made by other concerns as to which he has no ownership or control and for which he acts only as selling agent. (2650)

**David H. Blanck & Company**—David H. Blanck, trading as David H. Blanck & Co., Philadelphia, Pa., in the sale and distribu-

tion of drugs and other merchandise, agrees to cease simulating or imitating the wrappers or containers of a competitive product in any way by design, arrangement, wording or otherwise, with a tendency to confuse purchasers into believing that the product so labeled is that of another concern. The stipulation points out that in the sale of "Femigene", a douche powder, the respondent used labels on the containers which simulated those of a competitive douche powder. (2647)

**Century Hosiery Mills, Inc.**, Burlington, N. C., distributor of hosiery, agrees to desist from use of the word "Mills", as part of its corporate or trade name, on stationery or other printed matter, in advertising or in any manner tending to convey the belief to purchasers that all the products offered for sale by it are knitted or manufactured in its own mills, or that it actually owns, operates or directly and absolutely controls the mill or factory wherein the products are manufactured, when such is not the fact. (2641)

**Ciba Pharmaceutical Products, Inc.**, Summit, N. J., agrees to cease representing that "Agomensin 'Ciba'" has the action in all cases of activating menstruation, stimulating ovarian function, or preventing hyperemia; is indicated as a proper and effective treatment or cure for certain diseases of women, regardless of the cause, and that its hormone content, estrin or progesterin, is sufficient to have therapeutic effect, except in cases where relatively low hormone potency is indicated. Further representations to be discontinued are that "Sistomensin 'Ciba'" is a competent and effective treatment for the control of hemorrhage of puberty and of menopause, in all cases; is indicated for all symptoms of hormone deficiency or for all types of climacteric disturbances, and that the estrin content of "Sistomensin 'Ciba'" is such that, when given as directed, it will be effective, except in cases where relatively low hormone potency is indicated. (2649)

**Clark's Cancellation Shoes**—David R. Schlossman, trading as Clark's Cancellation Shoes, 525 13th St., N. W., Washington, D. C., engaged in selling women's shoes at retail, agrees to discontinue use of the word "Cancellation" as part of his trade name and from use of the word or any similar words in his advertising matter which tends to convey the belief to purchasers that the shoes sold by him are of the "cancelled order" class, when such is not the fact. (2642)

**G. E. Conkey Company**, Cleveland, Ohio, in its supplemental stipulation, agrees to cease advertising, directly or by implication, that either of its products, "Conkey's Y-O Starting Feed" or "Conkey's Y-O 32% Supplement", will prevent leg weakness in poultry when that condition is not due to a deficiency of Vitamin D, and that either product is a competent treatment or effective remedy or cure for an existing leg weakness. The respondent company admitted that its products will be of no benefit in preventing leg weakness in poultry except when that condition is due to a deficiency of Vitamin D and that the preparations are not competent to treat or cure an existing leg weakness. (02269)

**Consolidated Theatre Supply Corporation**, New York, in the sale of theatre equipment, accessories and supplies, will cease employing the word "Manufacturers" as descriptive of its business or in any way except in referring to products it may actually manufacture; describing its business as that of "Distributors" or in any other manner implying that the respondent, a jobbing concern, is a duly constituted distributing agency for the producers of the goods which it sells; describing its business as that of "Exporters", unless and until a substantial part of its regular business is actually in the export trade, and representing itself to be the "Theatre Equipment Center of America" or using any assertions conveying the impression that the respondent corporation conducts a large and imposing business. Other practices to be discontinued are the advertising or selling of second-hand or rebuilt equipment without disclosure that it is such; placing a fictitious or exaggerated valuation upon certain merchandise; representing that prices quoted in the ordinary course of trade are "Special", "Introductory" or "Drastic Reductions", or that prices and quality are guaranteed, unless the language is properly qualified, and designating its method of merchandising as a "Triple Thrift Replacement Plan" or otherwise representing that advantageous transactions are offered other than the usual prices and payment terms, when such is not a fact. (2651)

**Donnelly Company**—A stipulation has been entered into to cease misleading representations in the sale of their preparations from Arthur M. Donnelly and E. R. Evans, trading as Donnelly Company, 5988 Easton Ave., St. Louis, dealers in cosmetics.

In the sale of "Roll Away Lotion", the respondents agree to discontinue advertising, directly or by implication, that their product or any other cosmetic preparation containing substantially the same ingredients or the same properties, whether sold under that or any other name, is the only new and unique skin lotion on the market, the only preparation which rolls off the skin, and the only cleanser which will not dry the skin.

The respondents also agree to cease representing that their product is efficient as a general healing preparation; that it smooths out horny, scratchy or wrinkled skin in every instance, possesses penetrating qualities, is more effective than other lotions in softening and smoothing rough skin surfaces, and whitens the skin or possesses bleaching properties. (02492)

**O. Henry Shirt Company**—Agreeing to discontinue misleading representations in the sale of men's shirts, Harry Marks, trading as O. Henry Shirt Co., Greensboro, N. C., has entered into a stipulation.

The respondent agrees to cease advertising that the shirts he sells will not shrink or are otherwise pre-shrunk, when the materials used in their manufacture have not been fully shrunk or pre-shrunk to the extent that no residual shrinkage is left in them, and to discontinue representing that the shirts he sells will not fade or are manufactured from materials the colors of which are fast, unless or until the color or dye in the materials is a true fast color and will not fade or blanch when subjected to laundering. (02491)

**K-C Optical Company**—See Specialty Optical Company.

**Kresge Department Stores, Inc.**, operating under the trade name of The Palais Royal, 11th & G Sts., N. W., Washington, D. C., has entered into a stipulation to cease making certain misleading representations in the sale of Chinese filet banquet or dinner cloths advertised as "Tuscany Lace".

The respondent corporation agrees to cease representing, directly or by implication, that any banquet cloths or other articles sold by it are "Tuscany Lace", unless they are in fact true Tuscany Lace, which is defined in the stipulation as being a hand-made filet lace of grape design produced in the Tuscany district of Italy, from linen thread.

The stipulation points out that the banquet cloths referred to by the respondent corporation as "Hand-Made Tuscany Lace" were in fact filet laces made of cotton thread in China to imitate the true Tuscany lace. (02489)

**G. L. Morris Corporation**, Cleveland, Ohio, distributor of theatrical equipment, including portable dance floor mats, agrees to desist from representing itself to be a manufacturer when it neither owns, operates nor controls a manufacturing plant and from representing itself to be the "exclusive" manufacturer of portable dance floor mats or any other product when there are similar articles on the market made and sold by others. (2643)

**Palais Royal**—See Kresge Department Stores, Inc.

**Paty Publishing Company**—William Michael, trading as The Paty Publishing Company, 618 South Western Ave., Los Angeles, engaged in selling a system for making selections in horse races designated "The Flat Wager System", agrees to discontinue representing that a booklet which he distributes gratuitously for advertising purposes contains instructions and information for making selections in horse races. (02490)

**Pritchard and Thompson Advertising Agency, Inc.**, New Orleans, La., agrees to cease disseminating advertisements which represent, directly or by implication, that "HF" is a remedy and a complete treatment or cure for athlete's foot; that other preparations are not beneficial in treating this condition or disease and will not reach the parasites causing it, and that the use of "HF"

will keep a person "rid" of this disease or condition and eradicate the germs causing it.

Other representations to be discontinued by the agency are that the use of "HF" will cause the itching accompanying athlete's foot to stop; that the product is world renowned, and that more money has been spent for advertising it in a given time than for any other athlete's foot medicine. (02488)

**Sears, Roebuck & Company**, Chicago, agrees to discontinue representations in advertising matter, by use of the words "Hand-Made" or "Hand-Stitched," to imply that merchandise is made or stitched by hand, when such is not a fact. The stipulation points out that certain machine-stitched comforters were purportedly so advertised. (2648)

**Silbermann, Kolm & Wallenstein, Inc.**, New York, N. Y., importer of diamonds and manufacturer of jewelry, agrees to desist from the use in advertisements, or from placing advertisements in the hands of others for their use, in which appear any representation directly asserting or the effect of which tends to convey the impression that an individual, firm or corporation named in the advertisements is the importer of the displayed merchandise, when in fact such person or concern is not the importer. The stipulation points out that in order to stimulate the sale of its diamonds and other jewelry, the respondent adopted a plan of causing various of its customers to receive, purportedly as importers, diamonds from a source of supply in a foreign country for the purpose of having the package containing the diamonds and the shipping documents pertaining thereto photographed and such pictures featured in newspaper or other advertisements of jewelry with diamond settings.

The respondent also agrees to cease representing in advertising matter or in any other way that prices charged for designated merchandise have been stripped of the profits of the middleman, broker or importer, when such is not a fact. (2640)

**N. G. Slater Corporation**, 3-7 West 29th St., New York, agrees to discontinue representations in catalogs or other advertising matter implying that it is the manufacturer of certain products distributed by it, or that the corporation owns or operates the plants in which such merchandise is manufactured, when such is not a fact. (2645)

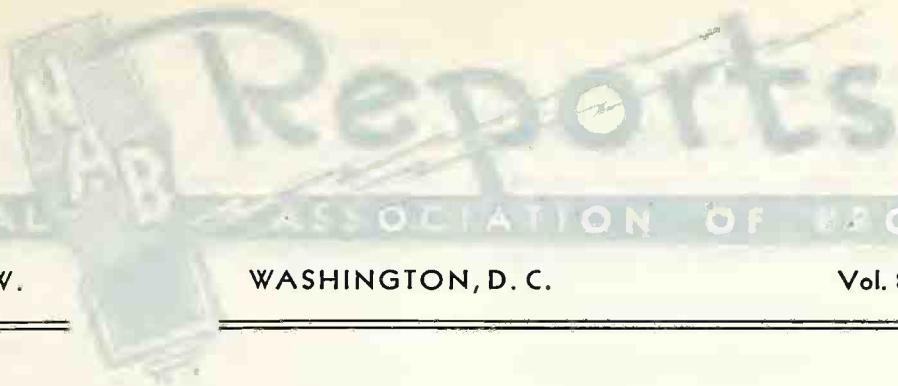
**Southwestern Distilled Products, Inc.**, West Memphis, Ark., engaged in the rectifying, bottling and sale of distilled spirits, agrees to desist from holding itself out to be, or in any way designating itself as, a distiller, in its advertising matter, trade literature, labels or otherwise, when such is not a fact; or in any manner representing that the liquors sold by it have been distilled in its own plant when it neither owns, operates nor controls the plant in which such distilled spirits are produced. The stipulation points out that the respondent described itself as "Distillers and Rectifiers" when it neither operates nor is licensed or authorized to operate a distillery, although it does conduct a rectifying and bottling plant. (2646)

**Specialty Optical Company**—John David Brock, trading as Specialty Optical Company, Superior Optical Company, and K-C Wholesale Optical Company, Kansas City, Mo., according to the stipulation, referred in catalogs to certain spectacle frames as being "Neatly Engraved Rhodium Plated—Pink Finish" or "Tan Finish", when in fact such advertising was misleading in that it tended to convey the impression to purchasers that the pink or tan finish was an inherent quality of the rhodium used in plating such products and, therefore, would not wear away or change its color. The respondent agrees to cease such use of the words "Pink Finish" or "Tan Finish". The respondent also stipulates that he will desist from using the term "Semi-Precious" as descriptive of products made from so-called "Villadium" which is not composed of the precious metals. (2638)

**Superior Optical Company**—See Specialty Optical Company.

**Ver Halen Publications**—Charles J. Ver Halen and Charles J. Ver Halen, Jr., trading as Ver Halen Publications, Los Angeles, Cal., and engaged in the publication of "Photographic Dealer", a trade paper, agree to cease representing, directly or by implication, that their journal is either the first or the only trade journal in the photographic industry. The respondent co-partners also agree to desist from the claim that their publication is the "Official Buying Guide of the Photographic Industry", when such is not a fact, and to discontinue any representation concerning the alleged cost of mailing an issue of the publication to subscribers in various zones of the United States which is not in all respects true. (2639)





## A Message from Neville Miller

I have just returned to Washington from attending District meetings in New Orleans, Dallas, Los Angeles, San Francisco, Portland, Seattle, Columbus, Georgia, and Orlando, Florida. These meetings, with the Third District recently held in Camden, complete the series of District meetings, and I believe we can feel very encouraged over the enthusiastic support which Broadcast Music received at practically all the meetings.

Now, for a few statistics—416 stations were represented at the meetings, and representatives of 358 stations have either signed or agreed to recommend approval by their directors, or have indicated approval in some manner. In a number of cases, the representative present individually approved of Broadcast Music, but felt he was unauthorized to commit his station in any way without first reporting back to his superiors. 140 stations have sent in their checks, together with signed Stock Subscriptions and License Agreements; additional ones are arriving in every mail. I believe we can now count on the support of at least 90 per cent of those stations which were represented at the meetings. That, to me, indicates a tremendous endorsement. However, there is much work yet to be done.

To those stations who have sent in their checks, Stock Subscriptions and License Agreements, we express our sincere appreciation.

We urge those which have indicated approval, but have yet to send in their checks, Stock Subscriptions and License Agreements, to attend to this at the earliest possible moment. Your immediate attention will be greatly appreciated.

To those stations which have not yet committed themselves, we urge your careful consideration of Broadcast Music now. Any additional information desired, will be furnished upon request. We want your support and cooperation. May we hear from you NOW?

Several months ago, many said the broadcasters would never show a united front, and would not contribute any substantial sum. By your recent actions, you have answered that statement more eloquently than I have done by any number of words.

Let's finish the job with a bang—may we hear from you *NOW*?

Sincerely yours,



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAional 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## Labor

### A. F. OF M. AUTHORIZES LOCAL CONTRACTS FOR AFFILIATES

Joseph N. Weber, president of the American Federation of Musicians, sent the following letter to all his locals on January 17, from the A. F. of M. executive board meeting in Miami:

"As the national agreement has expired all local unions may use their own judgment in entering into contracts with radio stations in their jurisdiction. These contracts must not contain any stipulations contrary to the laws and rules of the American Federation of Musicians and furthermore should contain the following: nothing herein shall be so construed as to interfere with the prior obligations of the musicians to the American Federation of Musicians as members thereof.

"Decisions and conclusions of the International Executive Board in the radio situation were based upon new developments and facts which in the interest of the Federation the Board conformed to. Copy of local radio contracts must be sent to the President of the American Federation of Musicians."

There is some doubt as to what the union means by the suggested clause for inclusion in all local agreements. In the opinion of some, it means that the local contracts could be abrogated at any time by the union's international office.

### WAGE AND HOUR LAW

Three broadcasting stations are in trouble with the Wage and Hour Administration. In two cases the trouble followed inspection by federal agents.. In the third, the engineering staff made a complaint.

In all three cases, failure to pay time and one-half for overtime beyond 42 hours a week led to the trouble. Inadequate records figured in two of the cases. Calling a chief engineer who took a regular trick at the transmitter an "executive" led to one complaint. Partial pay-

ment of employees in "due bills" also was involved in one case.

The NAB Labor Relations Director again urges all station managers who have any doubt about whether they are complying with the law to send in their questions.

Federal District Judge Charles E. Woodward, in Chicago, has ordered the G. and G. Genuine Majestic Refrigerator and Radio Parts Company to reinstate an employee fired, allegedly, because he supplied Wage and Hour inspectors information about law violation by the employer.

### NEW ACA CONTRACT

The *ACA News* reports a new contract between Station WPEN, Philadelphia, and the American Communications Association (C.I.O.) covering announcers, production men, telephone operators, building maintenance employees, commercial department and general office workers. The contract calls for increased wages, a 40-hour week, closed shop, and time and one-half for overtime.

### DISTRICT FIVE BROADCASTERS APPROVE BROADCAST MUSIC

District Five broadcasters, at meetings last week in Columbus, Ga., and Orlando, Fla., expressed approval of Broadcast Music, Inc. After hearing Neville Miller explain how the new corporation would operate, representatives of the following stations signed, promised to sign or said they would recommend signing subscriptions:

WAPI, WBRC, WSGN, WCOV, WSFA, WFTL, WFTM, WMBR, WIOD, WQAM, WDBO, WSUN, WTSP, WTAL, WDAE, WFLA, WJNO, WGPC, WAGA, WATL, WSB, WRBL, WMAZ, WTOC, WPAX, WPRP.

Present at District 5 meeting in Columbus, Ga.:

Thad Holt, WAPI; K. G. Marshall, WBRC; Henry P. Johnson, WSGN; G. W. Covington, Jr., WCOV; Howard E. Pill, WSFA; Stewart Watson, WGPC; Maurice C. Coleman, WATL; Paula Wilbrite, John Fulton, WGST; Lambdin Kay, WSB-WAGA; William J. Davis, WRDW; James Woodruff, Jr.; Wilton Cobb, WMAZ; Ben Williams, William O. Knight, WTOC; H. Wimpy, WPAX; Jack Williams, John J. Tobola, WAYX; Walter Tison, WFLA.

Present at District 5 meeting in Orlando, Fla.:

W. Wright Esch, WMFJ; James H. Knox, WFTL; W. E. Eenns, Jr., WFTM; Jack Hopkins, WJAX; Frank King, Glenn Marshall, Jr., WMBR; Hal Leyshon, WIOD; F. W. Borton, WQAM; H. P. Danforth, WDBO; R. M. Tigert, WFOY; Harold H. Meyer, WSUN; Fred Bugg, WTSP; L. S. Mitchell, WDAE; Walter Tison, WFLA; Reggie Martin, WJNO; Robert Feagin, Mrs. Marjorie B. Willis, WTOC.

### FREE OFFERS

Several new and even subtler forms of time-chiseling have been reported to NAB Headquarters by member stations during the past two weeks.

MacFadden Publications offers to let stations and their listeners in on its \$100 weekly reward (for apprehension of wanted criminals) if they will broadcast the "True Detective Mysteries" half-hour show, dramatized from True Detective Mysteries Magazine.

American Boy Magazine asks stations to broadcast advance publicity of articles and features appearing in its February issue.

The Bureau of Industrial Service is allowing stations to broadcast "free of charge" a script describing the advantages of new woven glass fabrics for home decoration.

The Spector-Goodman Advertising Agency, Chicago, offers daily transcribed programs on behalf of its client, Winn Publishing Company, (Race-Track Publications). The transcriptions are available, free of charge, (if on a sustaining basis) and "at actual cost of production—only \$8.25 per program," if station obtains a sponsor. This offer is made further appealing by the agency's announcement that "inasmuch as Winn Publishing Company is contemplating an advertising campaign in newspapers in your city, this is an opportune time to feature Willie Winn on your station." Thus stations will be allowed to help the time-chiseler sell form charts and tips to listeners who want to play the races, the profits from said sales to be spent in newspapers.

The Institute of American Meat Packers is requesting stations to broadcast recipes recommending pork sausage as an excellent menu item for breakfast on Ground Hog day, or any other day.

As usual, the Bureau of Radio Advertising has advised these concerns that NAB members consider acceptance of their generous offers bad business practice. The companies have been invited to use radio advertising on a regular paid basis.

The National Chemical and Manufacturing Company, Chicago, in reply to a recent letter from the Bureau, has disclaimed any intention of time-chiseling. Their offer on behalf of Luminall was for "sampling purposes" only, they stated. The successful results of this sampling have now made it possible for them to produce a series of transcribed programs, "the time for which will be paid for in full by either our dealers or ourselves."

### Cost-Per-Inquiry

The following advertising agencies have recently sought to place cost-per-inquiry accounts on member stations:

- Sterling Beeson, Inc., Toledo, Ohio
- F. Arthur Caso, Inc., New York City

The Bureau of Radio Advertising has advised them that such propositions are contrary to accepted business practice among NAB member stations. In reply, the Sterling Beeson Company has agreed to withdraw its percentage request as far as NAB members are con-

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cerned. The Bureau has again invited the company to consider a regular radio advertising campaign.

### NAB ACCOUNTING COMMITTEE

Neville Miller congratulated the NAB Accounting Committee this week for its work with the FCC Accounting Department in obtaining simplification of the annual financial report broadcasters must make to the Commission. The Committee has held seven meetings during the last year. Numerous conferences have been held with William J. Norfleet, chief accountant, and de Quincy Sutton, his assistant, who cooperated in presenting the industry's view to the Commission.

The Committee's object was to have a report form that would give the Commission the information they request and were required to secure under the Radio Act and at the same time in keeping with the manner in which most stations kept their books and records. The Committee also recommended to the FCC Accounting Department that the program portion of the previous reports be eliminated and that a sample week be adopted rather than a detailed week by week report. The amount of details required to be filed by stations doing less than \$25,000 per year was kept to a minimum. The date for filing the return also was postponed to allow the use of tax returns in compiling it.

The members of the Accounting Committee during 1938-39 were: Harry C. Wilder, WSYR, Chairman; L. A. Benson, WIL; E. E. Hill, WORC; E. M. Stoer, Hearst Radio, Inc.; Harold Wheelahan, WSMB; Frank White, CBS; Mark Woods, NBC; P. M. Thomas, WJR; and Edwin M. Spence, Secretary to the Committee.

The new Committee, appointed after the July convention consists of C. T. Lucy, WRVA, Chairman; H. W. Batchelder, WFBR; S. R. Dean, CBS; E. J. Gluck, WSOC; N. L. Kidd, WSYR; and Harry F. McKeon, NBC.

Members of both committees devoted many hours of time to this work.

## LIBEL INSURANCE

The NAB has been informed of the possibility of broadcasters' taking out libel and slander insurance through Employers Reinsurance Corporation, Kansas City, Missouri. So far as the NAB knows this is the only company in the country writing this coverage at present.

Under their policy form, the station usually assumes liability up to \$2,500 or \$5,000 in respect of each loss, and they cover for the excess. With regard to rates, they state:

"Since each risk is underwritten separately and individually it is most difficult, if not impossible, to advise a blanket rate which would be applicable in all cases but you may keep in mind that the basic rate from which we start is the published advertising charge of each station, that is the charge for one hour after 6:00 p. m., exclusive of talent and other charges. This charge is presumed to reflect the power of the station, time on the air, population reached, and popularity, together with other phases of the situation. This basic charge is then taken into consideration with other factors such as territory served, personnel, etc.

"This basic charge is usually considered applicable to either of two proposals: \$50,000 excess of \$5,000, or \$25,000 excess of \$2,500. Should a prospective assured desire higher limits up to \$100,000 there is an increased rate applicable in the amount of 15% to 35%.

"Our minimum premium for any radio station is \$150.00 and in order to get a fairly accurate idea as to the cost of this insurance you might well take the published advertising charge as above described, for usually such charge is not increased materially, except in some peculiar circumstance such as where the station involved is a key station of a network or there is involved some other extenuating circumstances."

## Engineering

### FREQUENCY MODULATION

NAB REPORTS for December 29, 1939, told of the scheduled FCC hearing on "High Frequency." This hearing has been called in order that the facts concerning Frequency Modulation, as best we know them today, can be correlated to give an indication as to the ultimate value of Frequency Modulation.

Many claims have been made for F. M. such as "static free reception," great coverage with low power, and high fidelity.

Modulation is the process of controlling the radio signal caused by the sound desired to be transmitted. In the present day *amplitude modulation* this control produces

a change in the *amplitude* of the transmitter power. In the *Frequency Modulation* system the amplitude of the transmitter power is maintained constant but the *frequency* is varied.

When modulating with A. M. the transmitter power is varied from the extremes of zero to four times the carrier power at 100 per cent modulation, while with F. M. this power remains constant for all modulation. F. M. then has an advantage over A. M. so far as transmitter power is concerned, in that only the carrier power used need be provided for, while in the A. M. system provision must be made to handle four times this power.

In A. M. the carrier frequency is maintained constant and in F. M. the carrier frequency may be varied over a desired band. At present F. M. stations are licensed to operate on a band width of 200 kc. A. M. then has an advantage in that 20 of our present A. M. channels could be provided for in the space required for one wide band F. M. channel. It should be pointed out that if we should make an A. M. allocation in the U. H. F. band with channel separations the same as we have in the present broadcast band, namely, 10 kc., we would not be able to extend the band of audio frequencies transmitter such as is proposed by the sponsors of F. M. Another important factor is that it is difficult to build an A. M. U. H. F. receiver with a small enough drift so that the receiver does not detune. On the other hand it takes a comparatively large receiver drift to have appreciable effect on F. M. signals. It is claimed that the signal from the desired station need be only twice as strong as that from an undesired station operating on the same frequency for good reception with F. M., while A. M. requires that the signal from the desired station be 20 times as strong. This then would allow a smaller spacing between F. M. stations for the same protection from interferences. In connection with the allocation problem it may be possible to place F. M. stations on adjacent channels, although it might be more satisfactory to put them on alternate channels in the same locality.

The F. M. system inherently does not respond as readily to noise and static as does A. M. in the same frequency band and there is claimed an advantage for F. M. of 20 to 1 up to 50 to 1 in signal strength. If these ratios are correct, using the 20 to 1 figure, it will require 400 times the power with A. M. to give as clear a signal as with F. M. on the same frequency and 2500 times using the 50 to 1 value.

The various advantages of F. M. are dependent on the width of band used. One of the important questions which needs answering is, if we adopt F. M., what band width should be used? The narrower the band the more power is required to give the same results but a narrower band of frequencies is required.

Much experimental work has been done on the Paxton station of the Yankee Network. New England has favor-

able conditions for F. M. in that the conductivity of the land is very low reducing the coverage of standard broadcast band stations, and that there are available high mountains which are suitable for F. M. antennas. The height of the F. M. antenna is important in that the signal from an ultra high frequency station is directly proportional to the height of the antenna. Also the horizon of the antenna is important in the use of U. H. F., in that beginning at about that point tropospheric effects start to set in. These fading effects are similar to the effects we now experience in the present broadcast band due to the ionosphere and are due to the lower atmosphere of the earth. The tropospheric effects are present both day and night. According to the C. C. I. R. committee's report on the "study of the propagation of radio waves" at distances of the order of 2 horizons and greater, these troposphere waves probably represent the predominant part of the received field at the U. H. F.

The effects of fading on A. M. signals in the U. H. F. are known to a certain extent and cause trouble at some point not very far beyond the horizon. According to Mr. Paul de Mars, technical director of the Yankee Network, fading has little effect on the results when using F. M. According to Mr. de Mars, the Yankee Network F. M. station at Paxton will have a good reliable range of about 100 miles when the power is stepped up to 50 kw. from its present power of 2 kw. If his predictions are borne out then the station will have good coverage to almost two horizons. Going over the horizon from a U. H. F. station there is a gradual increase in the attenuation of the waves. This has two effects, one detrimental, and the other good. The detrimental effect, of course, is a relatively small increase in area covered with a power increase. The good effect is that with the greater attenuation the stations can be placed closer together with a smaller waste area between them. The distance in miles to the horizon from a transmitting antenna over spherical earth equals 1.22 times the square root of the height in feet. If the receiving antenna is elevated, its horizon should be calculated, with the same formula, and this distance added to the transmitting antenna's horizon.

The Paxton antenna is 1800 feet above sea level. This height gives a sea level horizon of 51.7 miles. Two horizons then would be 103.4 miles. If we take a case in the plains of the middle west the height above surrounding country will be of the order of 600 feet, we have a horizon at 30 miles or 60 miles for two horizons. These figures are given merely for a relative comparison and probably are an index to A. M. coverage using the horizon value but not F. M. in as much as we still have not determined at what point beyond the horizon coverage will cease, regardless of power. Major Armstrong and Mr. de Mars claim that due to the slight effect of fading on F. M. signals, that the optical horizon is not so important as it is with A. M., therefore they predict ranges of the order of

100 miles over most conditions of terrain. It also should be pointed out that the height of the receiving antenna has an effect on the effective horizon. Assuming an average height for residential antennas of 30 feet the horizon will be extended 6.7 miles approximately. The height of the receiving antenna has a direct bearing on the signal received. As with the transmitting antenna, the field strength is proportional to the height of the antenna.

No one can tell at present what will be the future of F. M. as far as the broadcasting industry is concerned. Its development involves the general use of special receivers. None of the regular receivers now in use are suitable for receiving F. M. and there are some forty-four million receivers in the United States. On the other hand, there are indications of considerable developments both from the transmitting angle as well as the receiver manufacturing angle. It is not impossible that we may find in the not too distant future that broadcasting has developed into two bands—one the regular broadcast band and the other the F. M. band. No doubt, for some time it will be necessary to have a certain number of stations in the regular broadcast band to provide service to much of the rural and sparsely settled sections of the country, particularly in the plains states. Of course, the use of two bands for receiving broadcasting would increase the cost of receivers. It is not impossible either that F. M. may be generally adopted in years to come, and if such is the economic and technical trend of this new development, there will be required a transition period during which the auxiliary F. M. station gradually changes to the main station and the A. M. station fades into an auxiliary to be ultimately abandoned. However, the information available at this time is insufficient for any reliable prophesies to be made.

Some of the advantages of Frequency Modulation transmission and reception are so marked that it should command the greatest attention from the broadcast industry, in order that the full "system" possibilities might be determined. Many of the questions concerning Frequency Modulation undoubtedly will be answered during the Federal Communication Commissions hearing on "High Frequency" February 28.

## FREQUENCY MODULATION IN NON-BROADCAST SERVICE

To obtain more factual data about frequency modulation for services other than broadcast, the FCC has announced that it will accept applications for such experimental authorizations on the frequencies allocated to those services above 30,000 kilocycles.

This applies to such services as emergency, aviation, and those miscellaneous radio services not directly involved by the Commission's informal engineering hearing, scheduled to begin February 28, primarily to consider

frequency modulation as applied to the standard broadcast service.

Frequency modulation is claimed to offer definite advantages over existing amplitude modulation systems in the police and aviation services. In the police service, each system is under the direct control of one licensee who can plan and control the installation and operation of both the transmitting and receiving systems. There are approximately 1,000 police radio systems with more than 6,000 transmitters (including headquarters and patrol cars) now using amplitude modulation.

On the basis of the reports required to be submitted under the experimental rules, and after observation of operation by Commission personnel, decisions will be reached as to whether and under what conditions frequency modulation can be regularly authorized for use in the non-broadcast services.

### TELEVISION HEARING

The last NAB reports carried the testimony in the FCC television hearing up to Wednesday night, January 17. The hearing was then adjourned until Friday.

Chairman James L. Fly resumed the television hearing on Friday, January 19 with the request that a demonstration be arranged for the FCC by the proponents of the various systems. The various respondents invited the Commission to inspect their television.

Dr. Peter Goldmark, in resuming testimony for Columbia, reiterated his statement of Wednesday, that we could improve the present picture quality by 100 per cent adhering to the R. M. A. standards. He said that he thought that if different stations did transmit with a different number of lines that it could be handled in the receiver either with a push button or manual control. Dr. Goldmark remarked that a contrast of 15 to 1 is the best television is doing now and that he expects that we can go to a contrast of 30 to 1 by developments in the technique of transmitting and receiving, even though we adhere to the fixed R. M. A. standards. In respect to the question; if two stations on the same channel could operate without interferences if one used horizontal and the other vertical polarization, he answered that this should be the subject of further tests. It was his opinion that a station in New York and a station in Philadelphia would be spaced about the right distance for making such a test.

Mr. Adrian Murphy, Executive Director of Television, continued testimony for Columbia. Mr. Murphy contended that the cost of operation and experimentation in television is so high that some degree of monopoly is justified. He also maintained that a station should be given full time on a channel even though it was not now prepared to operate during all the available hours. Mr. Murphy said that at present the most desirable viewing

hours were between 7:30 and 9:30 P. M. He testified that it usually takes three men to produce a sound program as against twenty-three for a television program. Mr. Murphy suggested that semi-annually instead of quarterly reports to the Commission be required on television experiments. He also suggested that the proposed rule No. 4.74-D be changed so that at least two competitive signals can be provided in each city.

The hearing was continued with Dr. W. R. G. Baker, Director of Engineering for the Radio Manufacturers Association, giving testimony concerning the methods used in arriving at the RMA Television standards. Dr. Baker said that the RMA Television Committee was appointed two years ago although RMA has been working for four years on television matters. He said that the committee was instructed to entirely neglect patent considerations and that the RMA standards were accepted by the committee, with two dissenting votes on the synchronization standards. It was Dr. Baker's opinion that television would go ahead only if the RMA rules were allowed to go into effect.

John C. Bolte a motion picture theatre owner and operator, of Yonkers, New York, presented additional testimony for the Cath-Ray Electronic Laboratories, concerning the installation of a television receiver in his home. Mr. Bolte said that it took less than three-fourths of an hour to install the television receiver. The receiver used a 7 inch tube and Mr. Bolte testified that 22 people at one time and 18 people at another had viewed television programs at the same time. It was his opinion that television sets could readily be sold to the people who go to motion picture shows and that ultimately television would replace much of the present theatre going. His set cost him \$149.50 completely installed, in contrast to the testimony of Mr. Robert Robins of the Cath-Ray Electronic Laboratories, last week when he said that the receiver was in the \$100 price field.

Mr. Frank W. Wozencraft, attorney for the Radio Corporation of America, opened their testimony by stating that television was here and ready for the public. He said that they now had a 4½ x 6 foot television picture in their Camden laboratory and that they hope before the end of the year to have a picture large enough for theatres.

Mr. Alfred H. Morton, vice president of NBC in charge of television, carried on the RCA testimony with the statement that NBC, beginning April 30, 1939, started providing in New York City, ten to twelve hours of television service per week and that this time was augmented by transmission of test patterns, bringing the total weekly time up to approximately 28 hours. The program time was divided into 38 per cent studio, 32 per cent pickup of spot news, and sports, and the remainder of the time using motion picture films.

Mr. Morton estimated that there are 2,000 homes

equipped with television in the New York area and that on the average 4 to 5 people view each set. Mr. Morton described a survey made which showed that 100 per cent of the set owners looked in 2 hours per week, 87 per cent looked in from 5 to 6 hours per week, 60 per cent looked in from 7 to 8 hours per week, and 21 per cent looked in at the total weekly schedule. Mr. Morton stated that limited commercialization would be very helpful and that it couldn't possibly do any harm. During Mr. Morton's testimony Chairman Fly requested that the various television experimenters present to the FCC figures on expenditure for television development up to date.

Thomas F. Joyce, vice president and member of the Managers Committee of RCA Manufacturing Company, testified that RCA had sold 650 television sets in and around New York and Los Angeles, and that about 100 more were out on loan. Mr. Joyce said that the RCA television dealers were asked what was needed to promote television and their answers fell into five general classifications. Namely, (1) More and better programs were needed. (2) More stations are needed. (3) There should be a substantial lowering of the price of television receivers. (4) Time payments were necessary, and (5) A larger trade discount should be allowed. Mr. Joyce stated that on a basis of a production of 35,000 sets he thought that there could be a substantial reduction in the cost of television receivers, something on the order of 35 per cent. Mr. Joyce thought that the industry could sell in 1940 a minimum of 25,000 television sets if more program services were made available and if limited commercialization were allowed. When asked what the effect would be of adding a second television service in New York City, Mr. Joyce said that he thought that probably 40,000 sets could be sold within a year.

Elmer W. Engstrom presented technical material for RCA. It was his opinion that a field frequency of 48 or better was required for flickerless pictures. It was also his opinion that persistency screens were impractical in eliminating flicker with a lower field frequency. Mr. Engstrom was of the opinion that a driven synchronization impulse was more susceptible to noise than was a loose coupled one. It was his opinion that horizontally polarized waves were slightly better than vertically polarized waves for television. He was of the opinion that the present pictures can be improved at least 100 per cent without going outside of the RMA standards.

At this time Mr. Wozencraft stated that RCA did not ask the FCC to freeze on the RMA standards, but that anyone who could show a good set of standards should be allowed to go ahead with those standards. He said that RCA believes that the RMA standards are the best that can be arrived at at this time and that RCA asks to be allowed to go ahead under those standards. Mr. Engstrom gave his opinion that the additional expense

in a receiver in order to receive from two stations using two different synchronizing impulses would be on the order of 10 to 15 dollars on \$400.00 receivers and that if a station using a third type of synchronizing impulse was to be accommodated by the receiver it would probably add \$10.00 more to the price of the set. Mr. Engstrom did not think that television would ever become a complete substitute for the present sound broadcasting. Mr. Engstrom closed his testimony with a statement that if we were allowed to have limited commercialization and the use of RMA standards that progress would be greatest.

The next witness to be called was Otto Schairer, vice president in charge of patent department of RCA. Mr. Schairer discussed the patent situation and said that probably between 20 and 25 RCA basic patents were needed in order to manufacture a good receiving set for sound broadcasting, and that it would probably be necessary to take out an RCA patent license in order to manufacture receivers under the RMA standards. Mr. Schairer said that the source of RCA's patents was as follows: (1) Outright purchase of patents from others. (2) Patents developed in their own laboratories. (3) Rights under A. T. and T., G. E., Westinghouse, Hazentine, Farnsworth and foreign companies. Mr. Schairer said that Farnsworth and RCA hold fundamental television patents which are necessary in order to manufacture television equipment under RMA standards.

Mr. Philo T. Farnsworth, vice president in charge of research of Farnsworth Television Company, testified that acceptance of the RMA standards would aid his research. He stated that decreasing the picture rate was undesirable, and believes that retention screens will not help any in eliminating flicker when decreasing the number of picture frames in order to increase the number of lines. Mr. Farnsworth said that television is now ready for the public and he thinks that the RMA standards are the best that can be arrived at at this time.

Major Edwin Armstrong asked that the FCC delay freezing television channels until after the Frequency Modulation hearing on February 28. Major Armstrong suggested that one television channel be taken for Frequency Modulation.

Chairman Fly suggested that a Manufacturers Committee be formed, in order to review the RMA standards. Chairman Fly also indicated that the FCC Commissioners would make an inspection trip about the first part of February to view recent developments in television.

The hearing was concluded on Tuesday, January 23.

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Most witnesses saw no threat of television replacing sound broadcasting but rather that it would be an additional service.

Opinions differed widely as to the merits of the RMA standards in spite of the fact that they were presented to the FCC as representing the opinion of the television industry. The differences of opinion mainly concerned the method of synchronizing, the number of lines per frame and the number of frames per second.

There was some divergence of opinion as to whether television had progressed far enough so that a set of engineering standards could be put into effect without hindering television technical development and without running too big a risk that, with partial commercialization and the encouragement of the public to buy sets, a large number of people would have their sets obsoleted over night by a change in standards later.

Practically all the witnesses were in favor of partial commercialization and some were in favor of allowing all television licensees to experiment in program production and charge for it. Some opinion was expressed for permission to charge for more than the program production.

Figures presented indicated that the ultimate television receiver ownership would fall probably around 30 per cent as against approximately 85 per cent family ownership of sound broadcast receivers today and that the average daily hours spent looking-in would be around 2 as against something between 4 and 5 hours of listening at present.

Due to the divergent opinions expressed on certain important factors, Chairman Fly of the FCC asked that arrangements be made for the FCC commissioners to view the work of the various television experimenters and he suggested that a Television Manufacturers Committee be formed by the industry to study the RMA standards. It is probable that there will be some delay before the FCC passes on the proposed television rules.

## COLUMBUS ENGINEERING CONFERENCE

The Ohio State Broadcast Engineering Conference was first held in 1938 and was such a success that it has become an annual affair. Professor W. L. Everitt, author of "Communication Engineering", is a recognized leader in communication engineering education and his splendid efforts along this line were expanded into national importance in 1938 when he sponsored the first Broadcast Engineering Conference.

The conference this year will be held between February 12 and 23 at Ohio State University in Columbus, Ohio. This annual conference gives the broadcast engineers an opportunity to keep up to date under classroom conditions. The past and presently scheduled speakers reads almost like a who's-who in radio engineering.

The speakers and lecturers of the third annual conference will be:

Major Edwin H. Armstrong, Professor of Electrical Engineering, Columbus University, Subject: Frequency Modulation. Mr. Laurence B. Arguimbau, General Radio Company and Massachusetts Institute of Technology, Subject: Audio-Frequency Testing by Means of Square Waves. Mr. A. B. Chamberlain, Columbia Broadcasting System, Inc., Subject: CBS Broadcasts from Europe. Mr. William F. Cotter, Stromberg Carlson Telephone Manufacturing Company, Subject: Round Table on Receivers. Mr. Paul Alva de Mars, The Yankee Network, Subject: Yankee Network Experience with Frequency Modulation. Mr. R. A. Lynn, Engineer, National Broadcasting Company, Subject: Transcription Recording and Reproduction. Mr. Robert N. Marshall, Communication Engineer, Bell Telephone Laboratories, Inc., Subject: Microphones—Theory and Practice. Mr. Robert M. Morris, Engineer, National Broadcasting Company, Subject: The W2XBS Television Service of N.B.C. Mr. Harold O. Peterson, R.C.A. Communications, Inc., Subject: Ultra-High-Frequency Propagation. Mr. Andrew D. Ring, Engineer, Federal Communications Commission, Subject: General Discussion and Question Box. Mr. John H. DeWitt, Jr., Chief Engineer, Radio Station WSM, Subject: Studies of Noise. Mr. T. L. Gottier, Research Engineer, RCA Manufacturing Company. Mr. Gerald C. Gross, Chief, International Division, Federal Communications Commission, Subject: Foreign Relations in Broadcasting. Mr. Raymond F. Guy, National Broadcasting Company, Subject: The W2XBS Television Service of N.B.C. and Some Engineering Aspects of International Broadcasting. Mr. Dorman D. Israel, Chief Engineer, Emerson Radio and Phonograph Corporation, Subject: Round Table on Receivers. Mr. Arthur W. Scharfeld, Attorney, Loucks and Scharfeld, Subject: The Lawyer and the Engineer. Mr. H. J. Schrader, Engineer, R.C.A. Manufacturing Company, Subject: Broadcast Station Measurements and Measurement Methods. Mr. R. F. Shea, Engineer, General Electric Company, Subject: Frequency Modulation Receivers. Mr. Henry P. Thomas, Radio Transmitter Department, General Electric Company, Subject: General Electric Experience with Frequency Modulation, and Mr. I. R. Weir, Radio Transmitter Department, General Electric Company, Subject: General Electric Experience with Frequency Modulation. The conference will be under the direction of Professor W. L. Everitt, Professor of Electrical Engineering of Ohio State, with Raymond M. Wilmotte, consulting engineer to NAB, and Lynne C. Smeby, Director of Engineering of NAB assisting Dr. Everitt in conducting the meetings.

The conference this year assumes greater importance to NAB because NAB is officially cooperating in the conference. There will be held during the conference, a meeting of the NAB Engineering Committee and a meeting of the NAB Executive Engineering Committee.

The growth of the conference is illustrated by the following figures:

Attendance—		
	1938	96
	1939	146
Number of directors and lecturers—		
	1938	9
	1939	16
	1940	20
Number of subjects treated—		
	1938	12
	1939	13
	1940	18

Probably the subject of widest interest to broadcast engineers at present is Frequency Modulation. There will be four FM conference periods, the first entitled "Frequency Modulation" conducted by E. H. Armstrong, the second "Yankee Network Experience with FM" by Paul deMars of the Yankee Network, the third "General Electric Experience with FM" by H. P. Thomas and I. R. Weir, and the fourth "FM Receivers" by R. F. Shea of the General Electric Co.

Another highlight of the conference will be a General Discussion and Question Box conducted by Mr. Andrew D. Ring, assistant Chief Engineer of the FCC. Topics of general interest will be discussed, and anyone who wishes to suggest topics is urged to submit them to the Director of the conference, Professor Everitt.

Another outstanding feature of the conference will be an inspection trip to station WHAS at Louisville, Kentucky.

The recreational facilities of the University will be extended to the conference.

Full details on the conference can be secured by writing to Director of the conference, Dr. W. L. Everitt, The Ohio State University, Columbus, Ohio.

### MOVIE MANAGERS COMPLAIN ABOUT POT OF GOLD

Cooperative Theatres of Michigan, Inc., Detroit, a group of 100 independent movie theatres, on January 17 complained to Representative Tenerowicz (D-Mich.) that the Pot of Gold program is causing people to stay away from theatres to the extent of \$1,000,000 a week. They have filed formal protest with the FCC, pointing out the alleged lack of "public convenience and necessity" in the program, as well as alleged lottery features, and asking that the program be banned. The matter is said to be still pending before the Commission. (Congressional Record, Jan. 23, p. 989.)

### CONNERY AND WIGGLESWORTH ATTACK RADIO

Representative Connery (D-Mass.) has charged that there is need for an immediate Congressional investigation of the entire subject of radio. He bases this particularly on "the apparent inability of the members of this Com-

mission (FCC) to protect the public and to eliminate or set aside the present radio monopoly." (Congressional Record, Jan. 17, p. 661.)

Representative Wigglesworth (R.-Mass.) echoed these sentiments in his remarks on the appropriation for the FCC. Speaking on the question of censorship, he stated:

"We are still confronted by the threat of censorship. A year ago complaint was made against the regulation imposed upon licensees for international broadcasting limiting broadcasts to those 'reflecting the culture of the country and promoting international good will, understanding, and cooperation.' That regulation was withdrawn under pressure of public opinion. Today, however, we are confronted by the Code of the National Association of Broadcasters, apparently having the implied blessing of the Commission, as a result of which it is impossible to discuss any controversial issue on the air in time purchased for the purpose. Discussion is possible only on free time and the use of free time is of course in the absolute control and discretion of the broadcasting station. The danger of abuse of this discretion, in the hands of broadcasting stations, is self-evident." (Congressional Record, Jan. 24, p. 1041)

Both representatives are perennial critics of the industry.

## State Legislation

### NEW YORK:

A 470 (Goldstein) LOTTERIES—Permits the state to operate and conduct lotteries, net proceeds of which shall be devoted to carrying out long-range health program to safeguard health of people and distribute public medicines. Referred to Judiciary Committee.

A 584 (Recommended by Law Revision Commission) LIBEL—Same as S. 421. Clarifies provisions relating to libel, renumbers sections for more logical arrangement and eliminates overlapping and conflicting provisions. Referred to Judiciary Committee. Joint hearing 1-23-40.

A 612 (Dwyer) DISCRIMINATION—PRESS AND RADIO—Same as S. 198. Makes it a misdemeanor to incite, advocate or promote hatred, violence or hostility against any person or group by reason of race, color, religion or manner of worship by means of book, speech, photograph, radio, flag or emblem. Referred to Judiciary Committee.

A 621 (Ostertag) EMPLOYMENT AGENCIES—Provides for licensing or private fee-charging employment agencies by local authorities. Referred to Judiciary Committee.

A 720 (Hill) RADIO TECHNICIAN—VILLAGES—Permits village trustee to appoint a radio technician to perform duties of radio operator in manner imposed by the trustees. Referred to Villages Committee. Same as S. 551.

S. 421 (Feinberg) LIBEL—Same as A. 584. Clarifies provisions relating to libel, renumbers sections for more logical arrangement, and eliminates overlapping and conflicting provisions. Referred to Judiciary Committee.

S. 445 (Perry) RADIO—RECORDINGS—Prohibits the recording or offering for sale a recording of any radio broadcast without consent of performer or the person broadcasting same, violation being made larceny. Referred to Codes Committee.

S. 551 (Williamson) RADIO TECHNICIAN—VILLAGES—Permits village trustee to appoint a radio technician to perform duties of radio operator in manner imposed by the trustees. Referred to Villages Committee.

### KUMA LICENSE REVOCATION MADE FINAL

The FCC made final its order of revocation in the case of radio station KUMA at Yuma, Arizona, after allowing Albert H. Schermann, licensee, to withdraw

application for hearing. The revocation order is effective February 1, 1940.

Revocation proceedings were instituted February 20, 1939. The matter came up for hearing December 1 last at Phoenix, Arizona. The evidence shows that Schermann violated the law in that he failed to operate his station in accordance with the terms of the license, having transferred station control to E. B. Sturdivant. Schermann was shown to have visited Yuma but three times in five years.

KUMA operates on 1420 kilocycles, 100 watts, specified hours.

## FEDERAL COMMUNICATIONS COMMISSION

### FINAL ORDERS

The Federal Communications Commission has adopted a final order granting the application of the Union Broadcasting Company to establish a new station at **Seranton, Pennsylvania**, to operate on **1370 kilocycles**, 100 watts night, 250 watts LS, unlimited time.

The application of Clarence H. Frey and Robert O. Greever to establish a new broadcast station at **Logan, West Virginia**, has been granted by the Commission in a final order. The application was for a frequency of **1200 kilocycles** with 100 watts, daytime only, on the express condition that the permittees file an application for modification of the construction permit specifying the exact transmitter location and antenna system.

### PROPOSED FINDING

The Commission has tentatively adopted a proposed finding of fact proposing to grant the application of the Presque Isle Broadcasting Company for a construction permit to erect a new station at **Erie, Pennsylvania**, to operate unlimited time on **1500 kilocycles**, 100 watts night, 250 watts LS.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases during the week beginning Monday, January 29. They are subject to change.

Monday, January 29

WHDH—Matheson Radio Co., Inc., Boston, Mass.—C. P., 830 ke., 5 KW, unlimited time (DA night). Present assignment: 830 ke., 1 KW, daytime (KOA).

Tuesday, January 30

WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Renewal of license, 1210 ke., 100 watts, unlimited time.

Thursday, February 1

Oral Argument Before the Commission

WRTD—Times-Dispatch Radio Corp., Richmond, Va.—C. P., 590 ke., 1 KW night, 1 KW day, unlimited (DA night).

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

February 19

NEW—Lookout Mountain Co. of Ga., Lookout Mountain, Ga.—C. P., 1370 ke., 250 watts night, 250 watts LS, unlimited time.

March 4

WINS—Hearst Radio, Inc. (Assignor), Metropolitan Broadcasting Corp. (Assignee), New York, N. Y.—Voluntary assignment of license, 1180 ke., 1 KW, limited time (KEX and KOB).

March 6

KXL—KXL Broadcasters, Portland, Ore.—C. P., 1420 ke., 250 watts LS, unlimited time, directional antenna.

KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—C. P., 740 ke., 1 KW night, 1 KW LS, limited to WSB, Atlanta, Ga.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WHBE—Granite State Broadcasting Corp., Portsmouth, N. H.—Granted construction permit to move studio and transmitter sites from 39 Congress St., Portsmouth, N. H., and Bean's Hill, Newington, N. H., to U. S. Highway No. 1, Portsmouth, N. H., respectively; install new equipment and vertical radiator, and increase power from 250 watts daytime to 1 KW daytime; frequency 740 ke.

KFVD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Granted modification of construction permit to increase night power from 100 watts to 250 watts (original permit and modification thereof authorized erection of new station in Fort Dodge, Iowa, to operate on 1370 ke., 100 watts night, 250 watts day, specified hours).

KXOX—Sweetwater Rado, Inc., Sweetwater, Tex.—Granted modification of license to change hours of operation from daytime to unlimited, frequency 1210 ke., power 250 watts.

WLW—The Crosley Corp., Cincinnati, Ohio.—Granted extension of special experimental authority to transmit facsimile signals experimentally over the regular broadcast transmitter of station WLW between 12 midnight and 6 a. m., EST, for the period February 1, 1940, to February 1, 1941.

WGN—WGN, Inc., Chicago, Ill.—Granted extension of special experimental authority to transmit facsimile signals experimentally over the regular broadcast transmitter of station WGN between the hours of 1 a. m. and 6 a. m., CST, for the period February 1, 1940, to February 1, 1941.

Symons Broadcasting Co., Spokane, Wash.—Granted construction permit for new facsimile broadcast station to operate on 25150 ke., 100 watts, unlimited time.

W1XPW—WDRC, Inc., Meriden, Conn.—Granted modification of license of high frequency broadcast station W1XPW to include permanent authority under its experimental license to rebroadcast high frequency broadcast station W2XMN; 43400 ke., 1000 watts, unlimited time, in accordance with Section 4.4.

MISCELLANEOUS

- Columbia Broadcasting System, Inc., New York, N. Y.—Granted authority to transmit from Detroit and Dearborn, Mich., through KTSA, San Antonio, Tex., to stations in Mexico, the Ford Sunday Evening Hour program, for a period of one year beginning January 14, 1940.
- KROD—Dorrence D. Roderick, El Paso, Tex.—Granted modification of construction permit to change authorized transmitter site and increase power from 100 watts to 250 watts, install new transmitter, increase authorized height of antenna, and change studio location locally; frequency **1500 kc.**
- KFBK—McClatchy Broadcasting Co., Sacramento, Calif.—Granted extension of special experimental authority to transmit facsimile signals on an experimental basis between the hours 12 midnight and 6 a. m., PST, for the period February 1, 1940, to February 1, 1941.
- General Electric Company, New Scotland, N. Y.—Granted construction permit for new television broadcast station to be used for relay purposes in conjunction with television broadcast station W2XB; and to operate on **156000-162000 kc.**, 100 watts power, unlimited, in accordance with Section 4.4.
- KPLT—A. G. Mayse, Paris, Tex.—Granted authority to transfer control of the North Texas Broadcasting Company, licensee of station KPLT, from A. C. Mayse to Mary Joe Mayse; **1500 kc.**, 250 watts, unlimited time.
- WADC—Allen T. Symmons, Akron, Ohio.—Granted construction permit to install directional antenna for day and night use; increase power from 1 KW night, 5 KW day, to 5 KW unlimited time; and move studio and transmitter sites from Cuyahoga Falls Road, Village of Tallmadge, Ohio, to State Road No. 8, R.F.D., North of Akron, Ohio; frequency **1320 kc.**

DESIGNATED FOR HEARING

- WLLH—Merrimac Broadcasting Co., Inc., Lawrence, Mass.—Application for extension of special experimental authority to operate a synchronous station in Lawrence, Mass., to operate synchronously with station WLLH, Lowell, Mass., on **1370 kc.**, with variable power of 10 to 100 watts, for the period ending December 1, 1940. (Present assignment: **1370 kc.**, 100 watts night, 250 watts day, unlimited time.)
- WGRC—North Side Broadcasting Corp., New Albany, Ind.—Application for modification of license to move studio from New Albany, Ind., to Louisville, Ky. (Present assignment: **1370 kc.**, 250 watts, unlimited time.)

RENEWAL OF LICENSES

Licenses for the following stations were granted on a temporary basis only, and for the period ending in no event longer than February 1, 1941, said temporary licenses are to contain the following clause: "This license is granted on the express condition that it be on a temporary basis only and subject to such action as the Commission may take upon the licensee's pending application for renewal of license. Nothing contained herein shall be construed as a finding by the Commission that the operation of this station is or will be in the public interest beyond the express terms hereof."

KIEV, Glendale, Calif.; WJAG, Norfolk, Nebr.

License for the following station was granted on a temporary basis only, and for the period ending in no event later than February 1, 1941, said temporary license is to contain the following clause: "This license is granted on the express condition that it be on a temporary basis only and subject to the right of the Commission to make effective any changes or modifications herein which may be necessary in order to comply with any decision of the Commission which may be entered after hearing in any proceeding of which licensee was duly notified or in which licensee participated. Nothing contained herein shall be construed as a finding that the operation of the station is or will be in the public interest beyond the express terms hereof."

KWJJ, Portland, Ore.

- WSAL—Frank M. Stearns, Salisbury, Md.—Present license extended to not later than October 1, 1940, on a temporary basis only in conformity with and subject to all the terms and conditions of the separate order of revocation entered October 24, 1939, and, further, subject to the final determination of the Commission on said order.
- KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Granted renewal of license for the period ending April 1, 1940.

- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Granted special temporary authority to operate from 7:15 p. m., PST, to the conclusion of basketball games described in letter dated January 11, 1940, on January 23, February 2, 3, 9, 10, 12, 13, 16, 17, 19, and 20, 1940, in order to broadcast basketball games only.
- WEJJ—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate relay broadcast station WEJJ as a sound channel in conjunction with experimental television station W3XAD, for the period beginning January 19, 1940, and ending in no event later than February 17, 1940.
- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Granted special temporary authority to operate from 7:15 p. m., PST, to the conclusion of the Montana University v. Washington State College basketball game on January 22, 1940, in order to broadcast basketball game only.
- WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted special temporary authority to operate from 9 a. m. to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday, and Sunday mornings, for a period not to exceed thirty days or until the Saginaw Broadcasting Company is in a position to use said time, in order to broadcast special non-commercial educational programs.
- KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—Granted modification of construction permit for new equipment, new antenna, and move of transmitter and studio, for authority to install new transmitter.
- A. Bruce Fahnstock, Director, Fahnstock South Sea Expedition, Portable-Mobile (area of Fahnstock South Sea Expedition).—Granted construction permit for new special relay broadcast station (portable-mobile), frequencies **4797.5, 6425, 9135, 12862.5, 17310 and 23100 kc.**, power 1000 watts, unlimited hours of operation, in accordance with Sections 4.04 and 4.24, to be operated as a relay broadcast station on an experimental basis.
- KLAH—Barney Hubbs, A. J. Crawford, Jack Hawkins, Harold Miller, d/b as Carlsbad Broadcasting Co., Carlsbad, N. Mex.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- KASA—E. M. Woody, Elk City, Okla.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WHOP—Paducah Broadcasting Co., Inc., Hopkinsville, Ky.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54. Also granted license to cover construction permit for new broadcast station, frequency **1200 kc.**, 250 watts, unlimited time.
- Edward J. Doyle, Rochester, N. Y.—Granted motion to accept amendment to application for construction permit for new station to change frequency from **1270 kc.** to **1340 kc.**, power from 500 watts to 1 KW, and time of operation from daytime to unlimited.
- Cuyahoga Valley Broadcasting Co., Cleveland, Ohio.—Granted petition for leave to amend application for construction permit for new station to change frequency from **1500 kc.** to **1270 kc.**, and power from 100 watts to 1 KW.
- WUTK, Inc., Utica, N. Y.—Granted motion to dismiss without prejudice application for construction permit for new station to operate on **1420 kc.**, 100 watts night, 250 watts day, unlimited time.
- Metropolitan Broadcasting Corp., New York City.—Granted motion to continue hearing for at least 30 days on application for voluntary assignment of license of Hearst Radio, Inc. (WINS), to Metropolitan Broadcasting Corp. (Hearing was scheduled for January 29th.)
- WWRL—Long Island Broadcasting Corp., Woodside, L. I., N. Y.—Granted motion for continuance to February 13, 1940, for all parties to extend time to file proposed findings of fact and conclusions in re applications of WWRL, WMBQ, WCNW, Lillian E. Kiefer and Paul J. Gollhofer, Brooklyn.
- KNX—Columbia Broadcasting System, Inc., Los Angeles, Calif.—Granted special temporary authority to eliminate the half hour station identification, as required by Rule 3.92, during a Presidential Birthday Infantile Paralysis broadcast from 11 to 12 midnight, EST, on January 20, 1940.
- W3XAD—RCA Manufacturing Co., Inc., New York, N. Y.—Granted special temporary authority to operate transmitter

of television broadcast (experimental) station W3XAD on television bands 18 and 19, frequency 282 and 294 mc., for the period January 19, 1940, to not later than February 17, 1940.

Edwin H. Armstrong, New York, N. Y.—Granted extension of special temporary authority to operate a 1 KW frequency modulated transmitter on 43 mc. at the site of the transmitter of station W2XMN, Alpine, N. J., to be operated simultaneously with station W2XMN (40 KW on 42.8 mc.), in order to secure data on adjacent channel operations in preparation for the February 28, 1940, hearing on frequency modulation, for the period January 28, 1940, to not later than February 26, 1940.

Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to locate, maintain, and/or use studios or apparatus at Dearborn and Detroit, Mich., owned by or under the control of Columbia Broadcasting System, Inc., and Ford Motor Co., for the purpose of obtaining or producing programs consisting of program of the Ford Sunday Evening Hour, to be transmitted by electrical energy by means of regular CBS network facilities to station KTSA, San Antonio, Tex.; from there to Mexican border by wire (American Telephone and Telegraph Co.); from Mexican border by means of wire line facilities furnished by LaCompania Telefonica y Telegrafica Mexicana, S.A., except to station KEME, Merida, which will rebroadcast the program to stations identified and located in foreign country as follows: To transmit programs to stations XEQ, XEQQ, XET, XETT, XECZ, XES, XED, XEDD, XEU, and XEME (stations in Mexico), on January 21, 1940.

WKST—WKST, Inc., New Castle, Pa.—Granted special temporary authority to operate from 6:30 p. m. to 8 p. m., EST, February 12, 1940, in order to broadcast proceedings of Boy Scout annual dinner, and to operate from 8 p. m. to the conclusion of a patriotic pageant of Finnish and Polish music sponsored by the Lawrence County Chapter of the American Red Cross for the purpose of building up a relief fund, on February 12, 1940.

WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 10:45 p. m., CST, on February 6 and 13, 1940, in order to broadcast basketball games only.

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 4 p. m. to 6 p. m., and from 7:45 p. m. to 10 p. m., CST, on January 27, 1940, in order to broadcast the Tippecanoe County Basketball Tournament games only.

Columbia Broadcasting System, Inc., National Broadcasting Co., Inc., Mutual Broadcasting System.—Granted special temporary authority to eliminate the half hour station identification, as required by Rule 3.92, during a Presidential Birthday Infantile Paralysis broadcast from 11 p. m. to 12 midnight, EST, on January 20, 1940.

KIEV—Cannon System, Ltd., Los Angeles, Calif.—Granted extension of time to February 5, 1940, in which to file proposed findings of fact in re application for renewal of license (Docket No. 5786).

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Denied petition to reconsider and grant without hearing the application for renewal of license. Station operates on 1200 kc., 100 watts, unlimited.

KUMA—Albert H. Schermann, Yuma, Ariz.—Granted motion requesting permission to withdraw the written application for hearing on the Order of Revocation of station license entered by the Commission on February 20, 1939, effective April 1, 1939, said Order of Revocation being made final, effective February 1, 1940.

## APPLICATIONS FILED AT FCC

### 570 Kilocycles

WSYR-WSYU—Central New York Broadcasting Corporation, Syracuse, N. Y.—Construction permit to install new transmitter, make changes in directional antenna (use day and night), and increase power from 1 to 5 KW.

### 600 Kilocycles

WCAO—Monumental Radio Co., Baltimore, Md.—Authority to determine operating power by direct measurement of antenna power (main transmitter).

WCAO—Monumental Radio Co., Baltimore, Md.—Authority to determine operating power by direct measurement of antenna power (auxiliary transmitter).

### 710 Kilocycles

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Authority to determine operating power by direct measurement of antenna power.

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—License to cover construction permit (B5-P-2388) as modified for increase in power, change in hours of operation and new transmitter and antenna, and move of transmitter (use transmitter, antenna and former site of KECA).

### 760 Kilocycles

KXA—American Radio Telephone Co., Seattle, Wash.—Modification of construction permit (B5-P-1702) as modified for increase in power, move of transmitter, changes in equipment, new antenna, further requesting an extension of completion date from 2-20-40 to 5-20-40.

### 780 Kilocycles

KGHL—Northwestern Auto Supply Co., Inc., Billings, Mont.—Construction permit to install directional antenna for night use, increase power from 1 KW, 5 KW day, to 5 KW day and night.

### 940 Kilocycles

WAAT—Bremer Broadcasting Corporation, Jersey City, N. J.—Construction permit to install transmitter and directional antenna for night use; change hours of operation from day-time to 6 p. m., to unlimited time; increase power from 500 watts to 1 KW day and night; and move transmitter from 26 Journal Square, Jersey City, N. J., to Kearney, N. J.

### 1120 Kilocycles

KTBC—State Capital Broadcasting Association, Inc., Austin, Tex.—Authority to transfer control of corporation from R. B. Anderson, R. A. Stuart, and A. W. Walker, Jr., to J. M. West, J. Marion West, and P. M. Stevenson, 250 shares common stock.

### 1200 Kilocycles

KVCV—Golden Empire Broadcasting Co., Redding, Calif.—License to cover C. P. (B5-P-2621) for new equipment and increase in power.

KVCV—Golden Empire Broadcasting Co., Redding, Calif.—Authority to determine operating power by direct measurement of antenna power.

KWBD—W. B. Dennis, Plainview, Tex.—Modification of construction permit (B3-P-2381) as modified for new station, requesting new transmitter and frequency monitor, and extend commencement date one day after grant and completion date 60 days thereafter.

### 1310 Kilocycles

WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Authority to determine operating power by direct measurement of antenna power.

KFH—Radio Station KFH Co., Wichita, Kans.—Construction permit to increase power from 1 KW, 5 KW day, to 5 KW day and night; install directional antenna for night use. Amended to make changes in antenna system, and move transmitter 1.6 miles northwest of present site.

NEW—Capital Broadcasting Co., Washington, D. C.—Construction permit for a new station to be operated on 1430 kc., 250 watts power, unlimited time. Amended to request frequency of 1310 kc.

KBND—The Bend Bulletin, Bend, Ore.—Authority to determine operating power by direct measurement of antenna power.

### 1330 Kilocycles

KMO—Carl E. Haymond, Tacoma, Wash.—Construction permit to install new transmitter and increase power from 1 to 5 KW.

### 1370 Kilocycles

KMAC—W. W. McAllister and Howard W. Davis, d/b as Walmac Co., San Antonio, Tex.—Construction permit to make

changes in equipment and in antenna system; change frequency from 1370 kc. to 930 kc.; increase in power from 100 watts, 250 watts day, to 1 KW day and night, and hours of operation from shares with KONO to unlimited time. Amended to give transmitter site as 200 Fig St., San Antonio, Tex.; and install directional antenna for day and night use.

KONO—Eugene J. Roth, tr/as Mission Broadcasting Co., San Antonio, Tex.—Authority to determine operating power by direct measurement of antenna power.

#### 1410 Kilocycles

WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Construction permit to install new transmitter, make changes in antenna, and increase power from 500 watts, 1 KW day, to 1 KW, 5 KW day.

#### 1420 Kilocycles

NEW—Utica Observer-Dispatch, Inc., Utica, N. Y.—Construction permit for a new broadcast station on 1420 kc., 250 watts, unlimited time.

WPAR—Ohio Valley Broadcasting Corporation, Parkersburg, W. Va.—Construction permit to install new transmitter and increase power from 100 to 250 watts.

#### 1430 Kilocycles

KGNF—Great Plains Broadcasting Company (a corporation), North Platte, Nebr.—Construction permit to make changes in equipment.

#### 1450 Kilocycles

WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Authority to transfer control of corporation from Norman K. Winston to James M. Cox, Jr., 150 shares common stock and 600 shares preferred stock.

#### 1480 Kilocycles

KOMA—KOMA, Inc., Oklahoma City, Okla.—Construction permit to install new transmitter, and directional antenna for night use; increase power from 5 to 50 KW; move transmitter from 7½ miles northeast of Oklahoma City, Okla., on U. S. Highway No. 66, to Deer Creek Township, Okla.

#### 1490 Kilocycles

WCKY—L. B. Wilson, Inc., Cincinnati, Ohio.—Authority to transfer control of corporation from George L. Hill (75 shares common stock), and from C. D. Seiler (125 shares common stock) to L. B. Wilson.

#### 1500 Kilocycles

WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.—Authority to determine operating power by direct measurement of antenna power.

WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.—Construction permit to make changes in equipment and increase power from 100 watts to 250 watts.

WGTC—J. J. White, d/b as Greenville Broadcasting Company, Greenville, N. C.—Modification of construction permit (B3-P-2053) for a new station, requesting change in type of transmitter, approval of antenna and approval of studio site at Falkland Highway, Greenville, N. C., and transmitter site on Falkland Highway, 1½ miles west of town, near Greenville, N. C.

NEW—MSB Broadcast Co., Omaha, Nebr.—Construction permit to erect a new station on 1500 kc., 250 watts power, unlimited time.

#### MISCELLANEOUS

W2XWE—WOKO, Inc., Albany, N. Y.—License to cover construction permit (B1-PFB-14) as modified for new facsimile station.

W2XAB—Columbia Broadcasting System, Inc., New York, N. Y.—Modification of license to change frequency assignment from 42000-56000 and 60000-86000 kc. to 50000-56000 kc. (Channel 2, Group A).

NEW—WJR, The Goodwill Station, Detroit, Mich.—Construction permit for a new high frequency broadcast station to

be located at 2nd and West Grand Blvds., Fisher Building, Detroit, Mich., to be operated on 42800 kc., 1 KW power, unlimited time, special emission.

WENN—WPTF Radio Co., area of Raleigh, N. C.—License to cover construction permit (B3-PRE-298) for changes in equipment.

W9XAZ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Modification of construction permit (B4-PHB-67) as modified, requesting changes in equipment.

KEHR—Donald C. Treloar, Kalispell, Mont.—License to cover construction permit (B5-PRE-235) as modified for a new relay broadcast station.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Lake Shore Seed Company**—Charging misrepresentation in the sale of vegetable seed, a complaint has been issued against David S. Wright, trading as Lake Shore Seed Company, Dunkirk, N. Y.

Representations allegedly were made in violation of the Federal Trade Commission Act, having a tendency to deceive buyers into the belief that the respondent's seed will germinate in the percentages represented by him in certain designations attached to packages, and that such seed has a higher percentage of germination than its actual germination under recognized tests and within recognized tolerance or allowances.

The complaint points out that in some of the States in which the respondent sells his seed, the law requires that vegetable seed must contain a statement on the package as to the approximate percentage of germination and the month and year of the test on which the percentage is based, unless the germination percentage is equal to or higher than the percentage established for that particular variety of seed by the State authorities.

It is alleged that the respondent caused to be stamped upon or attached to certain packages of seed distributed by him statements which in fact represented that the seed would meet or exceed the published standard percentage of germination permitted by the respective States for a particular year, and it is charged that many packages of the respondent's product so sold did not possess the percentage of germination stated but contained seed of a much lower percentage of germination. (3994)

**Zeen Chemical Company**—Alleging misleading representations in the sale of "Zeen Dry Cleaner," a complaint has been issued against David H. Goldman, trading as Zeen Chemical Company, 1311 West 11th St., Cleveland.

In advertising matter the respondent allegedly represented that his product "will moth-proof or de-moth woolen materials in upholstery or rugs with one operation." The complaint charges that the product does not, when used as directed, reach deep-seated infestations of moths and will not render fabrics moth-proof, but that, after a short period, due to evaporation, it loses any moth-repellant properties it may have.

The complaint alleges that the respondent also advertised that "Zean Dry Cleaner" cleans and removes dirt, spots and stains from all fabrics, is non-explosive and "is used exclusively by leading furniture and department stores everywhere." These representations are alleged to have been misleading, in that the product will not remove certain types of spots and stains from fabrics, and that it is made of petroleum distillates which vaporize and mix with the air to form an explosive gas, potentially capable of causing an explosion. The complaint also alleges that the claim of exclusive use of the product by leading furniture and department

stores everywhere is misleading, because the respondent sells his preparation in not more than 5 or 6 States. (3995)

## STIPULATIONS

During the week the Commission entered into the following stipulations:

### CEASE AND DESIST ORDERS

The following cease and desist orders have been issued during the week:

**M. L. Clein & Company**—See Mentho-Mulsion, Inc.

**Mentho-Mulsion Incorporated**, Atlanta, and Max L. and Sadie B. Clein, its president and vice president, respectively, have been ordered to discontinue certain misleading representations in the sale of "Mentho-Mulsion," advertised as a remedy for coughs, and "Malco Cold Tablets." The respondent corporation was formerly known as M. L. Clein & Co.

The order directs that the respondents cease disseminating advertisements which represent, directly or through implication, that their product "Mentho-Mulsion" is a cure or remedy for coughs, or that it will stop cough spasms or have any therapeutic value in the treatment of coughs due to physical disorders of a systemic character, or that it has any therapeutic value in the treatment of coughs in excess of providing temporary relief in cases of coughs due to common colds.

In advertising their "Malco Cold Tablets," the respondents are ordered to cease representing that this preparation will drive common colds out of the system or that it constitutes a cure or remedy for colds or has any therapeutic value in their treatment in excess of providing a palliative relief from some of the symptoms commonly encountered in colds. (3674)

**National Pen Company**—An order prohibiting misleading representations in the sale of fountain pens, pencils, necklaces and rings or other products, has been issued against Louis G. Meyers, trading as National Pen Company and Phoenix Sales Company, Birmingham, Ala.

Among typical representations found to have been made by the respondent in newspaper and other periodical advertising, were: " \* \* \* This certificate and 59¢ entitles the bearer to one of our Genuine Indestructible \$5.00 Vacuum Filler Sackless Fountain Pens. A lifetime guarantee with each pen. \* \* \* " "Manufacturer's Introductory Offer. This coupon worth \$4.41 Toward This Ring Purchase. \* \* \* " "These facsimile diamonds have practically the same blue-white color, the same perfect cutting, the same dazzling brilliance as genuine diamonds costing 100 times as much. \* \* \* are not merely imitations but represent the utmost skill of modern science."

The order directs that the respondent cease representing as the customary or regular prices or values for any of his products, prices and values fictitious and greatly in excess of the customary prices; that he desist from advertising that articles customarily sold through use of purported certificates or coupons have any value in excess of the actual money price required to be paid; that any certificate, coupon or similar device has any monetary value in the purchase of an article regularly sold at a given price with or without the device, and that the respondent is conducting a special or introductory advertising offer or that the price he charges, in addition to the coupon, is only to cover cost of advertising and sales expense.

Other representations to be discontinued are that any of the products sold by the respondent are different from and superior to other similar products of comparable price; that the number of the respondent's articles which may be purchased by any customer is limited or that they may be purchased for a limited time only; that fountain pens he sells will last a lifetime, are unbreakable, will never need repair, or have greater ink capacity than ordinary fountain pens, and that the respondent's rings or necklaces are set with diamonds or facsimile diamonds or possess color or brilliance in any way comparable to diamonds, or that they can be worn a lifetime or any appreciable period of time and remain free from tarnish, loss of brilliancy or loss of stones. (3796)

**Phoenix Sales Company**—See National Pen Company.

**California Luggage and Leather Coat Company, Inc.**, agrees to discontinue employing the words "Genuine Leather" or "Genuine Cowhide" as a mark, stamp, brand or label for products not manufactured from the top or grain cut of the leather; and to desist from use of the word "Leather" or the word "Cowhide", alone or in connection with other words, so as to imply that the products so designated are made from the top or grain cut of the leather, when such is not a fact. The stipulation provides that if the products are composed of leather made from the inner or flesh cut of the hide and either of the words "Leather" or "Cowhide" is used as descriptive thereof, such word shall be immediately accompanied by some other word, as "Split", printed in equally conspicuous type so as to indicate clearly that the products are not composed of leather made from the top or grain cut or layer of the cowhide. (2653)

**Exchange Publishing Company**—J. E. Hershner, trading as Exchange Publishing Company, Kansas City, Mo., in the sale of lists of names, memberships and information in operating a matrimonial agency, will desist from representing, directly or by implication, that his facilities for placing persons in correspondence or bringing about marriages are greater or better than those of any other matrimonial bureau or offer any better chances of success; that any offer is "special" unless it is less in price than the usual or regular price charged and is limited in time, and that his statements relating to the financial or other standing, education, character, occupation or profession of those whose names appear on such lists are other than the mere statements of those persons themselves, in the absence of some reasonable investigation into the truth or falsity of such statements. (02495)

**Frostilla Company, Inc.**, Elmira, N. Y., agrees to desist from representing, directly or by implication, that the ingredients in "Frostilla Fragrant Lotion" are definitely known to be more costly than those employed in competitive lotions generally, when such is not, in fact, definitely known; that competitive lotions in general leave a sticky or gummy residue, and that "Frostilla Fragrant Lotion" or any similar preparation sold under that or any other name, excels other hand lotions in general, prevents the nail cuticle from becoming rough or ragged, is effective for every case of parched skin or reddened hands, tones or stimulates the skin or does more than aid in conditioning it, and that it is "the" perfect hand lotion or is most always preferred where hand lotions are tested side by side. (02494)

**Hain Pure Food Company**—Harold Hain, trading as Hain Pure Food Company, Los Angeles, Calif., agrees to discontinue representing that "Hain Col-Lax" is a laxative food or a natural laxative; will effect a change in intestinal flora, or is efficacious or harmless in all cases of intestinal disorders. He further agrees to cease representing that "Hain Col-Lax" will do more than relieve constipation; that the use of "Hain Colon Food" will completely eliminate putrefaction or clear the blood stream of toxic wastes, and regulate the entire system. He further stipulates that he will cease designating in any way that his lactose dextrin product is a colon food. (02498)

**National Apartment House & Hotel Schools**—Alvin Lovingood, operating under the names National Apartment House & Hotel Schools or National School of Instruction in Apartment House Management, is president of Los Angeles National Apartment & Hotel School, Inc. The respondents conducted residence and correspondence courses, Lovingood also selling textbooks and so-called franchises to various persons authorizing them to operate similar schools in different localities under the name National Apartment House & Hotel School. In their stipulation, the respondents agree to cease using representations, either printed or oral, the effect of which may tend to convey the impression to students or prospective students that Lovingood or the corporation will undertake to obtain employment for graduates and

that any services rendered by Lovingood or the corporation in obtaining such employment is "free" when in fact an extra charge is required.

The respondents also stipulate that they will cease representing that they conduct an employment bureau, unless such is a fact, or representing any existent reciprocal service with other schools, unless such representation be accompanied by a clear, unequivocal statement indicating the nature of such service, and the cost or price of it, if there is any. The stipulation relates that letterheads of the Los Angeles National Apartment & Hotel School, Inc., bore the names of a dozen American cities and the statement, "Reciprocal privileges at all our schools", when in fact no such schools, granting reciprocal privileges one to the other, were in operation in a majority of the cities named during substantially the entire period such stationery was in use by the corporation. (2652)

**Quality Ink & Carbon Company**—See Quality Ink & Manifold Company.

**Quality Ink & Manifold Company**—Sol Neelman, who formerly conducted business as Quality Ink & Manifold Company, but now trades as Quality Ink & Carbon Company, Chicago, Ill., agrees to cease employing the word "Manufacturers" in advertising matter with the effect or tendency to convey the impression that he manufactures a designated product, when such is not a fact. Neelman, the stipulation points out, did not manufacture the carbon paper he sold, although he circulated printed matter advertising such product and indicating that he was a manufacturer. (2654)

**Sampson Medicine Company**—A. C. and W. F. Stonestreet, trading as Sampson Medicine Company, Winston-Salem, N. C., agree to cease representing that "Cook's C. C. C.," or any medicinal preparation containing substantially the same ingredients, is of therapeutic value in cases of kidney trouble, diarrhea, flux, ague, female weakness, phthisic, or cuts and burns, or in any condition where the skin is lacerated, or is of any therapeutic value for any condition unless expressly limited to temporary symptomatic relief and then only where the symptoms may be relieved by use of a counter-irritant for external conditions or a carminative for internal conditions. (02496)

**B. Frank Senseman**, Philadelphia, Pa., agrees to cease representing that a medicinal preparation designated "Dr. Senseman's Calf Scours Remedy" and "Dr. Senseman's Calf Scour Powder" is an effective treatment or competent remedy for the disease known as white scours, or restores to normal the intestines of calves afflicted with that disease. (02497)

**Service Extension Institute**—Wilbur O. Boren, sole trader as Service Extension Institute, Linton, Ind., in the sale of home

study correspondence courses, agrees to discontinue use of the word "Extension" or the word "Institute", either together or independently, in the trade name of his business or to describe his school, and to cease representing, directly or by reasonable inference, either in his advertising matter or by statements made by himself or by his salesmen, that either he or his correspondence school has any connection with the United States Civil Service Commission or other Governmental agency, or that he or any of his employees are employed by or represent any Governmental agency or are charged with the responsibility of obtaining or selecting employees for the Government; that his students or graduates will receive preferential treatment in Civil Service examinations or appointments, and that his school has been in existence for a longer period of time than is actually the fact. Other representations to be discontinued are exaggerations of the number of Civil Service employees in the Government; the assertion that educational advantages are not needed by applicants for Civil Service positions and incorrect or misleading statements as to the nature of any Civil Service examination or as to eligibility of an applicant therefor. The respondent also agrees to cease using, directly or indirectly, any so-called "money-back" agreement or similar guarantee with the effect of misleading students or prospective students by reason of concealment of pertinent facts or of other circumstances or conditions of its use. (2655)

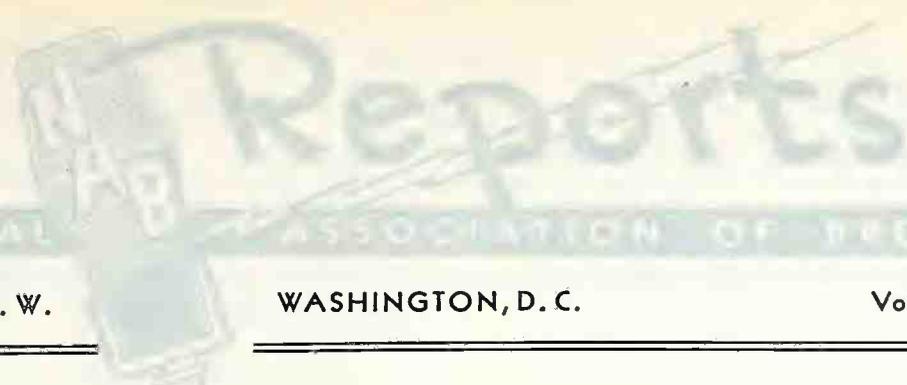
**Superior Feed Mills**—K. Eddie, B. D. Eddie, Bedar Eddie and Pauline Eddie, trading as Superior Feed Mills, Oklahoma City, Okla., stipulate that they will cease representing, directly or by implication, that "Superior Chick-to-Pullet All-in-One Mash" or any other feed preparation containing substantially the same ingredients or the same properties, will guard against all common chick troubles, is the only feed of its type, and will insure profits or the lives of chicks. The respondents also agree to cease advertising that "Superior Egg Mash" will produce more eggs or more eggs cheaply than any other feed; that it can be relied upon to double the egg production of the average flock, and that, through its cod liver oil content or otherwise, it supplies all the benefits of sunshine. The respondents agree to cease representing that one bag of "Superior Pig and Hog Meal" is equal in feeding value to 12 bushels of corn, or excels every other feed in promoting the growth and development of swine; that Superior feeds give the best and cheapest results and are always the first with new feeds. (02493)

#### FTC CLOSES CASE

The Federal Trade Commission has ordered its case closed against Charles E. Herchenroeder, trading as Premium Sales Service, Chicago, a dealer in electric dry shavers, who had been charged in a Commission complaint with misleading representation through unauthorized use of a well known trade name.

The respondent had moved from his last known address and could not be located after a thorough inquiry. The Commission closed the case without prejudice to its right to reopen it, should future facts so warrant.





**Broadcast Music, Inc., Passes Million Mark**

Neville Miller made the following statement Thursday about the progress of Broadcast Music, Inc.:

"The Board of Directors of Broadcast Music met in New York on Tuesday, January 30. The response from the stations had been so encouraging that we decided to make a special effort to secure contracts from the remaining stations and start operation at the earliest possible date. Therefore, the Board will meet again the middle of next week and it is hoped that by then we shall have received sufficient additional checks and contracts to justify immediately declaring Broadcast Music, Inc., a going concern.

"We have passed the million dollar mark and are on our way to the million and a half mark. With the money in sight, it is extremely important that we save all the time possible and get under way at once. It would be a tremendous help if those who have not sent in their checks and contracts would do so now. It would certainly be a grand feeling to lay down a big bunch of contracts and checks before the Board at the meeting next week and to announce in the Bulletin next week that Broadcast Music, Inc., was in operation."

**JOHNSON INTRODUCES NEW LIQUOR BILL—WORSE THAN FIRST**

Senator Johnson (D.-Colo.) on Monday introduced an amendment in the nature of a substitute intended to be proposed to the bill (S. 517) to prohibit the advertising of alcoholic beverages by radio. The proposed bill is much more drastic than the bill reported by the Committee on Interstate Commerce in its effect on broadcasters. Its language in subsections (a) and (b) broadens the prohibition on broadcasters and advertisers of the Committee's bill and further prohibits "any advertisement of, or information concerning, . . . any person engaged in the business of manufacturing or selling any alcoholic beverages, if the purpose of such advertisement

or information is to induce the purchase or use of any alcoholic beverage." Subsection (d) would make station licenses conditioned upon compliance with the provisions of subsection (a); it provides that if the FCC "finds that any licensee has wilfully violated any provision under subsection (a), the Commission shall have the same power to revoke such license as it has to revoke licenses for violation of, or failure to observe any of the restrictions and conditions imposed by the Communications Act of 1934 as amended."

S. 517 is on the Senate calendar and might come up at any time. Doubtless, Senator Johnson will move his proposed amendment when the bill is called up for consideration. We print below S. 517 as reported by the Committee followed by the amendment intended to be proposed:

S. 517

(Report No. 338)

To amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 316 of the Communications Act of 1934, as amended, is amended to read as follows:

"Sec. 316. (a) No person shall broadcast by means of any radio station for which a license is required by any law of the United States, and no person operating any such station shall knowingly permit the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes.

"(b) No person shall broadcast or directly or indirectly induce any other person to broadcast by means of any radio station for which a license is required by any law of the United States, and no person operating any such station shall permit the broadcasting of, any advertisement of or information concerning any alcoholic beverage if such advertisement or information is broadcast with the intent of inducing the purchase or use of any alcoholic beverage.

"(c) Any person violating any provision of subsection (a) or subsection (b) of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both, for each and every day during which such offense occurs.

"(d) All basic permits heretofore or hereafter issued under the provisions of the Federal Alcoholic Administration Act, as amended, shall be deemed to be conditioned upon compliance with the provisions of subsection (b) of this section. If the Administrator of the Federal Alcoholic Administration finds that any person who holds any such basic permit has wilfully violated any provision of subsection (b) of this section, the Administrator shall by order, after due notice and opportunity for hearing to such person, revoke such permit or suspend such permit for such period as he may deem appropriate, provided that for a first



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

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Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## JOHNSON INTRODUCES NEW LIQUOR BILL— WORSE THAN FIRST

*(Continued from page 3999)*

violation of the conditions thereof the permit shall be subject to suspension only. Subsections (f), (h), and (i) of section 4 of such Act, as amended, shall apply to any proceeding under this subsection."

S. 517

AMENDMENT

*(in the nature of a substitute)*

That (a) no radio station for which a license is required by any law of the United States, and no person managing or operating any such radio station or financially interested therein, shall directly or indirectly charge to or receive from, or attempt to charge to or receive from, any person any money or other valuable consideration in full or part payment for the service of broadcasting by radio any advertisement of, or information concerning, any alcoholic beverage or any person engaged in the business of manufacturing or selling any alcoholic beverage, if the purpose of such advertisement or information is to induce the purchase or use of any alcoholic beverage.

(b) No person shall directly or indirectly contribute or pay to, or offer to contribute or pay to, any person or any radio station for which a license is required by any law of the United States any money or other valuable consideration in full or part payment for the service of broadcasting by radio any advertisement of, or information concerning, any alcoholic beverage, or any person engaged in the business of manufacturing or selling any alcoholic beverage, if the purpose of such advertisement or information is to induce the purchase or use of any alcoholic beverage.

(c) Any person violating any provision of subsection (a) or subsection (b) shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

(d) All radio-station licenses heretofore or hereafter issued or continued in force under the provisions of the Communications Act of 1934, as amended, shall be deemed to be conditioned upon compliance with the provisions of subsection (a) of this section. If the Federal Communications Commission finds that any holder of any such license has willfully violated any provision of subsection (a) of this section, the Commission shall have the same power to revoke such license as it has to revoke licenses for violation of, or failure to observe, any of the restrictions and conditions imposed by the Communications Act of 1934, as amended.

(e) All basic permits heretofore or hereafter issued under the provisions of the Federal Alcohol Administration Act, as amended, shall be deemed to be conditioned upon compliance with the provisions of subsection (b) of this section. If the Administrator of the Federal Alcohol Administration finds that any holder of any such basic permit has willfully violated any provision of subsection (b) of this section, the Administrator shall by order, after due notice and opportunity for hearing to such holder, revoke such permit or suspend such permit for such period as he may deem appropriate: Provided, That for a first violation of the conditions thereof the permit shall be subject to suspension only. Subsections (f), (h), and (i) of section 4 of such Act, as amended, shall apply to any proceeding under this subsection.

(f) As used in this Act, the term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

## FCC Record Rules

Section 3.93 (e) of the FCC rules, dealing with recorded and transcribed programs, says:

"The identifying announcement shall accurately describe the type of mechanical record used, i.e., where a transcription is used it shall be announced as a 'transcription' or an 'electrical transcription,' and where a phonograph record is used it shall be announced as a 'record.'"

The FCC informed the NAB this week that the rule means just what it says.

This must be construed to mean that only the words used in the rule are permissible. "Transcribed" and "recorded" are out. When a transcription is used it must be announced as "a transcription." The same goes for records.

Last week the NAB was erroneously informed that the present custom of the industry could be continued.

It would be advisable at this time for broadcasters to review the record and transcription rules printed in the NAB REPORTS of January 12, 1940 (p. 3953).

## RADIO COMPETITION ESSENTIAL, FCC ARGUES IN COURT

"The Federal Communications Commission is under no duty to protect licensees of existing radio broadcasting stations from competition, in passing upon an application for a permit for a new station," asserts the FCC in a brief filed with the United States Supreme Court contesting judgment of the United States Court of Appeals for the District of Columbia in the case of Sanders Brothers radio station WKBB, Dubuque, Iowa, v. FCC.

"The basic theory upon which broadcast licenses have always been allocated is that competition is essential to the maintenance of high-quality programs," avers the Commission, explaining: "This is because competition among stations for advertisers means competition among stations for listeners and this in turn means rivalry to present the highest quality programs. Thus the character of radio presentations, and therefore the public interest, is largely dependent on competition."

The Commission points out that this view was stressed by the former Federal Radio Commission in an early report to Congress and more recently was expressed in the case of the Spartanburg Advertising Company when the Commission declared that "neither the license now enjoyed by petitioner nor any provision of the Com-

munications Act of 1934 confers upon petitioner a monopoly of the radio-broadcast facilities in the community which it is now serving.”

Quoting the brief:

“There is nothing in the nature of the license held by an existing station which confers, expressly or by implication, a right to protection from competition. Such a license is an authorization to operate radio-transmitting equipment and is in no sense a franchise to engage in any type of business. The rights conferred by the license are neither absolute nor exclusive. The maximum term of a standard broadcast license under the Act is three years, but the Commission by regulation has fixed the term at one year. The license confers no property right in the frequency authorized to be used.

“Section 309 (b) (1) expressly provides that a ‘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.’ Section 301 declares that the purpose of the Act, among other things, is to provide for the use of the channels of interstate and foreign radio transmission, but not the ownership thereof, for limited periods of time under licenses granted by the Commission. The license may not be transferred or assigned without the written consent of the Commission. The license may be modified by the Commission on its own motion if such action will promote the public interest, convenience, and necessity. And applicants for licenses under the Act are required to sign a ‘waiver of any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.’

“It is clear, therefore, that the rights which are granted by the license are restricted solely to the use of the facilities licensed for operation. There is no difference between the rights conferred by a license to operate a radio broadcast station and the rights conferred by a license to operate any other of the 38 or more types of radio stations.”

Sanders Brothers contested the right of the Commission to authorize the Dubuque Telegraph Herald to establish a rival radio station. On January 23, 1939, the Court of Appeals reversed and remanded the case to the Commission upon the following grounds: (1) that an “issue of ‘economic injury to an existing station through the establishment of an additional station’ . . . is sufficient to furnish proper grounds for an appeal”; and (2) that the Commission erred in failing to make findings on the issue.

As to the first consideration, the Commission contends in part:

“As a licensee authorized to use radio transmitting equipment, respondent has the right only to the use of the frequency assigned to it; its license confers on it no franchise to carry on any business, much less to be protected from competition in the conduct of its business. Consequently, the mere fact that respondent, in connection with its business, operates radio-transmitting equipment under license from the Commission gives it no legal right or interest which it does not otherwise possess to question the validity of competition by the Telegraph Herald. And clearly, as a person engaged in the advertising business, respondent has no such legal right or interest. No person engaged in furnishing an advertising medium, whether it be through the sale of newspaper or periodical space or of radio time, may question a competitor’s right to engage in that business. The legality of the permit issued to the Telegraph Herald to operate transmitting equipment may no more be questioned by respondent as a competitor in the advertising business than a power company could question the legality of a loan to competing companies, essential to enable them to engage in the electric power business.

“The fundamental consideration which the court below disregarded is that the status of respondent as a licensee authorized to use radio transmitting facilities is not changed because it is also engaged in the advertising business. In the conduct of its

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advertising business, it clearly has no right to freedom from competition from anyone else furnishing an advertising medium, whether it be a newspaper, a magazine, or another broadcast station. For example, insofar as this business is concerned, respondent has no more right to be protected from competition by the Telegraph Herald as a radio station than Telegraph Herald, as a newspaper, has a right to be protected from competition by the respondent either as a radio station or if it should propose to enter the newspaper field. As a licensee authorized to use radio transmitting facilities, respondent has a right to protection from undue interference in the operation of its equipment. But the important fact is that the injury with which respondent claims to be threatened here is loss of its advertising revenues and not invasion of its right to use its transmitting facilities. This is injury with which, under the Act, the Commission is not required to concern itself.”

In denying the assumption that detailed findings of fact are required, the brief says:

“Neither the Commission nor its predecessor, the Federal Radio Commission, has ever assumed, in acting upon an application for a new license or for the renewal or modification of an existing license that any detailed findings of fact were required. Hundreds of thousands of such applications have been granted without any detailed findings having been made, only an entry on the Commission’s minute book evidencing the action taken. If the Commission were obligated to make detailed findings with respect to every application made for a new license or for the renewal or modification of a license, an almost intolerable burden would be placed on it. This practical consideration is doubtless the reason why Congress did not write into the Act any requirement for detailed findings, and was certainly a determining factor in molding the consistent administrative practice.”

## MILLER ENDORSES RELIGIOUS TOLERANCE CAMPAIGN

Declaring that “anti-sectarianism and anti-racial propaganda weakens both religion and the liberties of our country by divisive tactics of propagandists attempting to arouse Americans against themselves,” Neville Miller this week pledged the cooperation of the radio industry in a nation-wide campaign with the Federal Council of the Churches of Christ in America, wherein local ministers will use local radio stations “for the purpose of creating

a better understanding between the various races and religious groups.”

In a letter sent to all radio stations in the United States, Mr. Miller further declared: “There is no greater public service a station can render than to give its facilities to bring its listeners closer together in the bonds of understanding, based upon truth and fact. This, to me, is one of the root-principles of the American system of broadcasting.”

Mr. Miller pointed out that from its knowledge of past history, the Federal Council of Churches, representing some 143,000 individual Protestant congregations in the United States, “knows that the germs of intolerance cannot easily be controlled, once let loose,” and that “the time is at hand for a constructive campaign of tolerance and understanding.”

In a statement by the Federal Council of Churches, the aims of the campaign were detailed as follows:

“The primary aim of this radio campaign is to lay essential facts before the American public, in order that, through an educated public opinion, we, as a people, may profit from the example of many less fortunate European peoples living in countries where democracy has been destroyed by tactics that included the fomenting of racial and religious hatred and oppression.

“Leading Christian clergymen in hundreds of American cities, over their own local radio stations, are being asked by the Federal Council of Churches, to “lead the way” in this radio campaign in the common interest of all racial and religious groups in America and for due recognition of the contributions of minorities in the life of society as a whole.

“The Christian church is showing a great awareness of the issues presented. It is interested in healing, conciliation, understanding, mutual aid and peace. The clergymen will present information and discuss the contributions which all interested citizens can make to the American democracy.”

Mr. Miller’s letter to the broadcasters follows:

“The Federal Council of the Churches of Christ in America is sending one of its local contacts to your station, with the sincere request that facilities be granted to a local minister, for the purpose of creating a better understanding between the various races and religious groups who comprise your listening audience.

“The Federal Council of Churches, representing approximately 143,000 churches in the United States, feels that the time is at hand for a constructive campaign of tolerance and understanding, lest the spread of intolerance by hate-mongers, both at home and abroad, sweep over the country as it has elsewhere.

“From its knowledge of past history, this national church body knows that the germs of intolerance cannot easily be controlled once let loose; that anti-sectarianism and anti-racial propaganda weakens both religion and the liberties of our country by divisive tactics of propagandists attempting to arouse Americans against themselves.

“We have had the opportunity of examining the material upon which the Council’s new effort for tolerance will be made. It is factual and impartial. It is informative and it is “good” radio. It is material which men of good will in all faiths will welcome. And it is vitally important that this message, educational in scope and patriotic in purpose, be gotten across now.

“The Federal Council of Churches has again turned to radio to do this job. It feels that no other medium of communication can reach the minds and hearts of men so effectively. I feel sure that all stations will wish to take part in this important, worthwhile project. Its spokesmen will no doubt be outstanding clergymen in each city. Certainly there is no greater public service a station can render than to give its facilities to bring its listeners closer together in the bonds of understanding, based upon truth and fact. This, to me, is one of the root-principles of the American system of broadcasting.”

## GROSS REVENUE FOR 1939

The gross time-sale revenue of the industry for 1939 is estimated by Dr. Herman S. Hettinger for Broadcasting Magazine at \$171,113,813. This represents an increase of 14 percent over 1938.

Broadcasting increased its lead over national magazine advertising as reported by Publishers’ Information Bureau. Magazines grossed \$151,484,530 for the year, an increase of 7.1 percent over 1938.

Newspaper lineage reported by Media Records for the year 1939 is 1.5 percent above the figure for 1938. Applying this increase to their estimated 1938 figure, newspaper gross revenue would be \$552,000,000.

National farm paper revenue for 1939 was estimated at \$10,085,880, an increase over 1938 of 2.6 percent.

The January 26th issue of *Printers Ink* carries an article titled “1939 Advertisers” in which is given a comparison of gross revenue of magazines, major network radio and farm papers for those advertisers spending more than \$100,000 during 1939 in all three of these media. It should be borne in mind in reviewing this analysis that the advertisers listed are not credited with any national spot advertising they have placed. The comparison is confined to the business carried by the three major networks, Columbia Broadcasting System, Mutual Broadcasting System and National Broadcasting Company. Gross revenue to stations from national spot business for the 342 advertisers is not available from any source.

The figures are presented here because of the superior gains of radio in the rising advertising market during the year.

Here is how \$100,000 Advertisers spent their money:

	Totals	Magazines	Radio	Farm
342 Advertisers for 1939	\$204,361,906	\$112,779,665	\$82,055,797	\$9,526,444
Same Advertisers for 1938	180,064,904	101,938,159	68,999,406	9,127,339
Amount of Change	24,297,002	10,841,506	13,056,391	399,105
Percent of Change	13.5	10.7	18.9	4.4

Radio’s increase of 18.9 percent indicates that it is continuing its progress to close the gap in competition.

Radio has arrived in competition with magazines in the matter of \$1,000,000 advertisers in the three media, magazines, radio and farm papers, as is indicated in the following table.

Here is how the \$1,000,000 Advertisers spent their money:

	Totals	Magazines	Radio	Farm
41 Advertisers for 1939	\$116,388,067	\$51,558,450	\$59,903,312	\$4,926,305
Same Advertisers for 1938	101,389,948	46,971,270	49,762,573	4,656,105
Amount of Change	14,998,119	4,587,180	10,140,739	270,200
Percent of Change	14.8	9.8	20.4	5.8

It is significant also that of the first 10 in amount spent for advertising in the three media, 8 devoted more to network radio advertising than to other media. In 1938, 6 devoted their major expenditure to radio. Of last year’s list of 10 leaders, one of those, which in 1938 spent most of its appropriation in magazines, in 1939 placed most of its advertising in network radio.

## Labor

### WAGE AND HOUR LAW

The NAB has asked the Wage and Hour Administration further to clarify its definition of "executive."

Under the Wage and Hour law, bona fide executives are exempt from the provision limiting the work week to 42 hours unless time and one half is paid for overtime.

When the law went into effect, the Administration defined an executive as an employee who made \$30 or more a week; who had the power to hire and fire, or was influential in hiring and firing; who directed the work of others; and *who did no substantial amount of work of the same character as that performed by those under him.*

What amount of work was a *substantial* amount of work? Did *regularity* play any part in the picture?

These are questions that have arisen, especially about chief engineers. In small and medium sized stations, the chief engineer often relieves one of his operators daily during lunch hour, or takes one regular trick each week at the controls or transmitter.

Discussion of this question with Wage and Hour officials has indicated that a chief engineer who *regularly* does the work of a subordinate is not a "bona fide executive."

However, the Administration's reply to a formal request for an opinion should be enlightening.

A small, midwestern station has agreed with the Wage and Hour Administration to give its employees \$384 due for overtime. This amount was distributed among nine employees.

### I. B. E. W. STRIKES IN SEATTLE

Four Seattle stations now have contracts with the International Brotherhood of Electrical Workers (A. F. of L.) covering their technicians.

The union called a strike at one of these (KIRO) before the agreement was signed, and a strike was still in progress at a fifth station (KOL) on January 26.

The union moved into Seattle last October. Negotiations were begun with KRSC almost immediately, and a closed shop contract resulted. The closed shop was the principal issue in subsequent negotiations with four other stations. On January 18, the union called a strike at KIRO and KOL. Both stations were off the air less than half an hour. Negotiations with the union were resumed at KIRO and the union technicians went back to work. The strike continued at KOL, although the station went back on the air 20 minutes after the walk-out. Union musicians refused to go through the picket line.

On January 25, KOMO-KJR signed a contract calling for a preferential union shop.

An I. B. E. W. strike at KFSD, San Diego, Calif., was still in progress on January 24. It started last fall. A closed shop was the principal issue. Negotiations are being continued. The station is on the air.

### WGXR ELECTION

The Labor Relations Board has certified Local No. 913, Radio Broadcast Technicians & Engineers Union, International Brotherhood of Electrical Workers (A. F. of L.), as the sole collective bargaining agency selected by a majority of the radio broadcasting operators, engineers, and technicians of the Interstate Broadcasting Company, Inc. (WQXR), New York City, upon the basis of a secret ballot election held January 8, 1940, resulting in a count of three votes for Local No. 913; no votes for the American Communications Association (CIO); and two votes in favor of neither organization.

## Engineering

### FCC TO WITNESS TELEVISION DEMONSTRATIONS THIS WEEK

Having heard oral argument on the proposed tentative television standards, members of the FCC will spend the period of February 1 to 5 witnessing television demonstrations by various firms interested.

On February 1 the Commissioners will visit Albany and Schenectady, N. Y., to view General Electric Company rebroadcast of television signals originating in New York City. That evening, in the Poughkeepsie-Newburgh area, the Radio Corporation of America will show home reception of a telecast from the Empire State Building.

On February 2 there will be National Broadcasting Company studio and reception television demonstrations in New York City.

On February 3, also in New York, the Commissioners will see operation of Cath-Ray Electronic Laboratories receivers and, that afternoon or evening, witness demonstration of flexible system of transmission by the Allen B. DuMont Laboratories, Passaic, N. J.

On February 5 the Commissioners will visit the RCA plant at Camden, N. J., to witness a new large screen projection and other television developments. That afternoon, in Philadelphia, there will be demonstration by Philco Radio and Television Corporation of polarization mitigation of interference.

Because the Don Lee Broadcasting System is located at Los Angeles, the Commission has designated its local inspector-in-charge to view a demonstration there.

## RCA SAYS TELEVISION RADIO RELAY TECHNICALLY READY

Development of the radio relay method of transmitting television signals between cities has been advanced by RCA Laboratories to the point where it is technically ready for the first step of application in a public service, the Radio Corporation of America announced this week.

"This new development, different from any other system so far devised, makes possible the establishment of inter-city television networks similar in effect to the wire networks of sound broadcasting," said an RCA statement. It is feasible, according to RCA engineers, to set up a radio relay system for television linking New York City, for example, with the nation's capital, Washington, D. C., and with Boston, Mass., and other intermediate cities. Similar radio relay networks could be established in other sections of the country.

"Even such a limited network could make television programs immediately available to approximately 20,000,000 persons, or, roughly, one-sixth of the nation's population. Programs could originate as well as be received at any city which is part of the radio relay system. . . .

"The new RCA television relay system is regarded by engineers as one of the most remarkable advances in the development of radio transmission in many years, because of the success achieved in dealing with frequency channels of extreme width. It differs from other methods of radio relay in that it makes use of specially designed relay stations operating on frequencies many times higher than those used by regular television broadcasting stations.

"RCA has had an experimental radio relay system in test operation for nearly a year between the National Broadcasting Company's Empire State Building transmitter and Riverhead, Long Island. The relay points are located at Hauppauge, 45 miles from the Empire State Building, and at Rocky Point, 15 miles from Hauppauge. The Rocky Point station boosts the signal another 15 miles to Riverhead.

"Each relay station contains both receiving and transmitting devices, and is mounted on a 100-foot steel tower. The antennas are of the parabolic type necessary for the highly directional, or beam-like, transmission, which the system uses. The power required for operation is 10 watts or less. The distance between each relay point, in practical operation, would vary according to the terrain. The average distance would probably work out at approximately 30 miles.

"The station operates unattended. The receiver is on at all times, and when a control signal is transmitted from a terminal point the relay receiver picks it up and delivers it to the companion transmitter. This action is repeated at each relay point until the circuit is in full operation. The frequency used is approximately 500,000 kilocycles. In the case of NBC's Empire State Building transmissions, the signal starts out on a frequency of 45,250 kilocycles and is changed to 500,000 k.c. at Hauppauge, the first relay point, remaining at approximately the latter frequency throughout the relay system. When another terminal station receives the signal it is reconverted to a lower broadcasting frequency.

"The new system is the product of years of research in the R.C.A. Communications, Inc., division of RCA Laboratories. Work in the 500,000 k.c. section of the radio wave spectrum began more than ten years ago. An experimental television relay system using a much lower frequency, was set up between New York and Camden, N. J., about seven years ago, and pictures of low-definition were successfully transmitted over it. The relay station was located at Mt. Arney, N. J., 64 miles from New York. It boosted the signal another 23 miles to Camden.

"Four years ago, a radio relay for the transmission of telegraph, teletype, and experimental facsimile was installed by the RCA between New York and Philadelphia. Operating on frequencies ranging from 85,000 to 105,000 kilocycles, this system was incapable of carrying high-definition television images; however, much was learned from its operation. It became apparent that if high-definition television were to be relayed, new-type reception and transmission tubes must be developed. Starting more than three years ago, the work of developing the new tubes progressed rapidly and, by early 1939, it became possible to use them in the building of the experimental New York-Riverhead system. Operation of the system for nearly a year in all sorts of weather and atmospheric conditions has proved its effectiveness."

## NEW TOWER LIGHT RULES

The Civil Aeronautics Authority has issued a new bulletin entitled "Aeronautical Lights and Obstruction Marking Manual."

Heretofore the CAA has not specified standards for the type of lighting on towers of over 300 feet. However, the new recommended standards include towers up to 800 feet in height. One of the most interesting recommended standards is that on towers from four to six hundred feet an electric code beacon is specified for the top and the middle of the tower, and for towers of six hundred to eight hundred feet, an electric code beacon is specified at the one third, two thirds levels, and the top of the tower.

The recommendations and specifications set forth in the manual have been prepared as a general guide for the marking and lighting of obstructions to air commerce. Specific recommendations for each particular problem will be given upon request directed to any Regional Office or the Washington Office of the Civil Aeronautics Authority.

The section of the Manual of the most interest to broadcasters reads as follows:

### *Radio Obstruction Markers*

Where a serious hazard to air commerce is presented by a structure located on or near a civil airway, the installation and operation of an effective radio marker of a type approved by the Authority may be necessary for the proper protection of air commerce.

### *Night Marking (Lighting) General*

The purpose of night marking a structure which presents a hazard to air commerce is to warn airmen during the hours of darkness of the presence of such a structure. To accomplish this objective, it is necessary to provide on such a structure adequate obstruction lighting in a manner to insure visibility of such lighting from aircraft at any angle of approach. No standards for night marking, however, can be given more than general application as a structure of any height which is so located as to present a serious hazard to air commerce may require special or additional marking. (See structures requiring special study on page 17.) On the other hand, such a structure may be removed from the general flow of air traffic to make obstruction lighting unnecessary, or it may be so located in reference to other structures or to the contour of the ground that the hereinafter described standards should be applied to the upper part of the structure only.

### *Temporary Warning Lights*

Where a hazard to air commerce is presented by a structure during its period of construction, red warning lights should be displayed on top of the structure from sunset to sunrise until permanent obstruction lights are installed and in operation.

### *Operation of Obstruction Lighting*

In areas of poor visibility, it is recommended that obstruction lighting be controlled by a light sensitive control device adjusted so that the lights will be turned on at a north sky light intensity level of 20-foot candles and turned off at a north sky light intensity level of 40-foot candles. Where obstruction lighting is accomplished by lights which are not equipped with spare lamps and automatic lamp changers, and it is extremely difficult to service such lights, consideration should be given to the installation of adequate auxiliary lights and automatic relays for instant switch-over to these auxiliary lights in the event of lamp failure in the main obstruction lighting.

### *Obstruction Lighting by Lights Not Described*

Obstruction lighting installations may be produced by gaseous tubes such as neon tubes or by any method other than the con-

ventional incandescent lights, provided such lighting installations offer equal or greater range intensity, afford equal dependability of operation and possess characteristics similar to those hereinafter specified or described in the recommended standards for obstruction lighting.

#### *Towers and Poles*

Towers and poles which present a hazard to air commerce should be lighted nightly from sunset to sunrise in accordance with the following specifications:

*Specification "A".* Where the overall height of such structures does not exceed 200 feet, there should be installed at the top of each such structure two 100-watt lamps enclosed in aviation red prismatic obstruction light globes. If only one lamp is operated, the circuit should be equipped with a relay for instant automatic switchover to the other lamp in case of lamp failure. (See typical obstruction light fittings on page 22.)

On levels at approximately two-thirds and one-third of the overall height of such structure, there should be installed two 100-watt lamps enclosed in aviation red prismatic obstruction light globes. Each light should be placed on diagonally, or diametrically, opposite positions of the structure at each level. (See typical arrangement on page 25.)

In the case of a triangular shaped tower, the lights at the two-thirds and one-third levels should be mounted so as to insure visibility of at least one light on each level from aircraft at any angle of approach.

*Specification "B".* Where the overall height of such structure exceeds 200 feet but does not exceed 400 feet, there should be installed at the top of such structure a 300m/m electric code beacon equipped with two 500-watt lamps (both lamps to burn simultaneously) and aviation red color shades. This type of beacon is shown on page 23.

The 300m/m electric code beacon should be equipped with a flashing mechanism producing not more than 40 flashes per minute with a luminous period of one second and a period of darkness of one-half second, but not less than 20 flashes per minute with a luminous period of two seconds and a period of darkness of one second. In the event the beacon is not readily accessible for periodic inspections of the lamps, a tell-tale light circuit should be installed to indicate failure of either lamp.

On levels at approximately two-thirds and one-third of the overall height of such structure, there should be installed two 100-watt lamps enclosed in aviation red prismatic obstruction light globes. Each light should be placed on diagonally, or diametrically, opposite positions of the structure at each level. (See typical arrangement on page 25.)

In the case of a triangular shaped tower, the lights at the two-thirds and one-third levels should be mounted so as to insure visibility of at least one light on each level from aircraft at any angle of approach. If it is necessary to locate the flashing mechanism, described in a preceding paragraph, in such a manner on the towers or poles as to cause the lights at the two-thirds and one-third levels to be affected thereby, such lights may flash.

*Specification "C".* Where the overall height of such towers exceeds 400 feet but does not exceed 600 feet there should be installed at the top of each such tower a 300m/m electric code beacon equipped with two 500-watt lamps (both lamps to burn simultaneously) and aviation red color shades. This type of beacon is shown on page 23.

On a level at approximately three-fourths of the overall height of such tower, a 100-watt lamp enclosed in an aviation red prismatic obstruction light globe should be installed on each outside corner of the tower at such level.

At approximately one-half of the overall height of such tower, a 300m/m electric code beacon, as previously described, should be installed in such a position within the tower proper that the structural members will not impair visibility of this beacon from aircraft at any angle of approach. In lieu of this electric code beacon, 100-watt lamps enclosed in aviation red prismatic obstruction light globes should be installed on each outside corner of the tower on a level at approximately one-half of the overall height of the tower, provided a 24-inch rotating beacon, equipped with an automatic lamp changer and at least a 1000-watt lamp or a 500-watt lamp and an auxiliary reflector, is installed about 50 feet above the ground on a suitable structure and is located within 500 feet of the subject tower. The beam adjustment of this rotating beacon should be approximately 10 degrees above the horizon.

On a level at approximately one-fourth of the overall height of such tower, a 100-watt lamp enclosed in an aviation red prismatic obstruction light globe should be installed on each outside corner

of the tower at such level. The 300m/m electric code beacon should be equipped with a flashing mechanism producing not more than 40 flashes per minute with a luminous period of one second and a period of darkness of one-half second, but not less than 20 flashes per minute with a luminous period of two seconds and a period of darkness of one second. In the event these beacons are not readily accessible for periodic inspection of the lamps, a tell-tale light circuit should be installed at each beacon to indicate failure of either lamp.

If it is necessary to locate the flashing mechanism, described in the preceding paragraph, in such a manner on the tower as to cause the lights at the three-fourths and one-fourth levels to be affected thereby, such lights may flash.

*Specification "D".* Where the overall height of such towers exceeds 600 feet but does not exceed 800 feet, there should be installed at the top of each such tower a 300m/m electric code beacon equipped with two 500-watt lamps (both lamps to burn simultaneously) and aviation red color shades. This type of beacon is shown on page 23.

On a level at approximately five-sixths of the overall height of such tower, a 100-watt lamp enclosed in an aviation red prismatic obstruction light globe should be installed on each outside corner of the tower at such level.

At approximately two-thirds of the overall height of such tower, a 300m/m electric code beacon, as previously described, should be installed in such a position within the tower proper that the structural members will not impair visibility of this beacon from aircraft at any angle of approach.\*

On a level at approximately one-half of the overall height of such tower, a 100-watt lamp enclosed in an aviation red prismatic obstruction globe should be installed on each outside corner of the tower at such level.

At approximately one-third of the overall height of such tower, a 300 m/m electric code beacon, as previously described, should be installed in such a position within the tower proper that the structural members will not impair visibility of this beacon from aircraft at any angle of approach.\*

On a level at approximately one-sixth of the overall height of such tower, a 100-watt lamp enclosed in an aviation red prismatic obstruction light globe should be installed on each outside corner of the tower at such level. The 300m/m electric code beacon should be equipped with a flashing mechanism producing not more than 40 flashes per minute with a luminous period of one second and a period of darkness of one-half second, but not less than 20 flashes per minute with a luminous period of two seconds and a period of darkness of one second. In the event these beacons are not readily accessible for periodic inspection of the lamps, a tell-tale light circuit should be installed at each beacon to indicate failure of either lamp.

If it is necessary to locate the flashing mechanism, described in the preceding paragraph, in such a manner on the tower as to cause the lights at the five-sixths, one half and one-sixth levels to be affected thereby, such lights may flash.

\* Note: In lieu of these electric code beacons, 100-watt lamps enclosed in aviation red prismatic obstruction light globes should be installed on each outside corner of the tower on levels at approximately two-thirds and one-third of the overall height of the tower, provided a 24-inch rotating beacon, equipped with an automatic lamp changer and at least a 1000-watt lamp or a 500-watt lamp and an auxiliary reflector, is installed about 50 feet above the ground on a suitable structure and is located within 500 feet of the subject tower. The beam adjustment of this rotating beacon should be approximately 10 degrees above the horizon.

The manual deals comprehensively with the subject of aeronautical lighting and the recommended standards for lighting other hazards to air commerce have been expanded. Copies of the 26-page manual may be secured by writing to Mr. William J. MacKenzie, Civil Aeronautics Authority, Washington, D. C.

#### OHIO UNIVERSITY CONFERENCE

One of the important subjects of discussion at the Ohio State Broadcast Engineering Conference, to be held between February 12 and 23 at Ohio State University, Columbus, Ohio, will be "General Discussion and Question Box," conducted by Mr. Andrew D. Ring, Assistant

Chief Engineer of the FCC. Mr. Raymond M. Wilmotte, consulting engineer for NAB, will be chairman of this discussion group. Mr. Wilmotte is compiling a list of questions to be discussed during this meeting and he asks that those who have questions which they would like to have considered, write him at 730 Fifth Avenue, New York City.

## FCC MODIFIES LICENSES FOR HAVANA REALLOCATION

As a preliminary to reallocating channels assigned to broadcast stations within the standard broadcast band of the United States to conform to the now ratified North American Regional Broadcast Agreement, the Federal Communications Commission has definitely suspended the rule fixing the broadcast license period at one year and providing for a staggered system of license renewing; and has modified all outstanding licenses whose expiration date falls beyond August 1, 1940, by ordering that all such licenses terminate as of that date.

It now appears to the Commission that such reallocation of facilities as may be required to carry out the Agreement can be effectuated by August 1.

In addition, and upon suspension of this rule, the Commission granted the applications for renewal pending before it to expire next August 1, for the following stations:

KFBI, Abilene, Kans.; KFBK, Sacramento, Cal.; KFEQ, St. Joseph, Mo.; KFVD, Los Angeles; KGDM, Stockton, Cal.; KGU, Honolulu; KIRO, Seattle, Wash.; KJBS, San Francisco, Cal.; KMMJ, Grand Island, Neb.; KMPC, Beverly Hills, Cal.; KNX, Los Angeles; KOAM, Pittsburgh, Kans.; KOB, Albuquerque, N. Mex.; KOMA, Oklahoma City, Okla.; KOWH, Omaha, Neb.; KPO, San Francisco; KRLD, Dallas, Tex.; KSL, Salt Lake City; KSTP and auxiliary, St. Paul, Minn.; KTRB, Modesto, Cal.; KVOO, Tulsa, Okla.; KWKH, Shreveport, La.; KXA, Seattle; KYOS, Merced, Cal.; KMOX, St. Louis, Mo.; WABC-WBOQ, New York City; WBAL, Baltimore; WBAP, Fort Worth, Tex.; WBBM, Chicago; WBT, Charlotte, N. C.; WCAL, Northfield, Minn.; WCAU and auxiliary, Philadelphia; WCAZ, Carthage, Ill.; WCBD, Chicago; WCCO, Minneapolis; WCFL, Chicago; WCKY, Cincinnati; WDGY, Minneapolis; WDJ, Tuscola, Ill.; WEAU, Eau Claire, Wis.; WEEU, Reading, Pa.; WEW, St. Louis, Mo.; WFAA, Dallas; WGAN, Portland, Me.; WGN, Chicago; WHAM and auxiliary, Rochester, N. Y.; WHAS, Louisville, Ky.; WHB, Kansas City, Mo.; WHDH and auxiliary, Boston; WHEB, Portsmouth, N. H.; WHKC, Columbus, Ohio; WIBC, Indianapolis, Ind.; WIBG, Glenside, Pa.; WINS, New York City; WJJD, Chicago; WJR and auxiliary, Detroit; WJSV, Washington, D. C.; WKAR, E. Lansing, Mich.; WLAC, Nashville, Tenn.; WLAW, Lawrence, Mass.; WLS, Chicago; WMAZ and auxiliary, Macon, Ga.; WMBI, Chicago; WNYC and auxiliary, New York City; WOAI and auxiliary, San Antonio, Tex.; WOI, Ames, Ia.; WOR and auxiliary, Newark, N. J.; WPTF and auxiliary, Raleigh, N. C.; WRUF, Gainesville, Fla.; WRVA, Richmond, Va.; WSAZ, Huntington, W. Va.; WSM, Nashville, Tenn.; WSPR, Springfield, Mass.; WSM auxiliary, Nashville; WTAM, Cleveland, Ohio; WTBO, Cumberland, Md.; WTIC, Hartford, Conn.; WWVA and auxiliary, Wheeling, W. Va.; WMFR, High Point, N. C.; WSOC, Charlotte, N. C.; WTOL, Toledo, Ohio; KGFI, Brownsville, Tex.; KTEM, Temple, Tex.; WFOR, Hattiesburg, Miss.; WLLH, Lowell, Mass.; WSVS, Buffalo, N. Y.; WGIL, Galesburg, Ill.; KCRJ, Jerome, Ariz.; KRE, Berkeley, Cal.; WMSD, Muscle Shoals City, Ala.; WPRP, Ponce, P. R.; WTMC, Ocala, Fla.; KSOO, Sioux Falls, S. Dak.; WMAQ, Chicago; WENR, Chicago; WEA, New York City; WJZ, New York City; WLW, Cincinnati; KFAB, Lincoln, Neb.; WOWO, Fort Wayne, Ind.; WHIP, Hammond, Ind.; WKBW, Buffalo, N. Y.; KFI, Los Angeles; KFI, auxiliary;

KJR and auxiliary, Seattle; KGA, Spokane, Wash.; KOA, Denver, Colo.; KGO and auxiliary, San Francisco; KEX, Portland, Ore.; WEA, auxiliary; WJZ, auxiliary.

Licenses for the following stations were extended upon a temporary basis only until March 1, 1940, pending receipt of and determination upon application for renewals:

WSB and auxiliary, Atlanta, Ga.; KGKY, Scottsbluff, Neb.

Licenses for the following stations were extended on a temporary basis for the period ending March 1, 1940, pending determination upon applications for renewal:

KTHS, Hot Springs National Park, Ark.; WCFL, auxiliary, Chicago; WHO, Des Moines, Ia.; WLB, Minneapolis; WMFJ, Daytona Beach, Fla.; KGBU, Ketchikan, Alaska; WKAT, Miami Beach, Fla.

KSUB—Leland M. Perry, Cedar City, Utah.—Special temporary authorization to Leland M. Perry, surviving partner of Johnson & Perry, a partnership, to operate station KSUB, was extended upon a temporary basis only to March 1, 1940, subject to whatever action may be taken upon formal application for regular authorization that may be submitted with respect to station KSUB.

WSM—National Life & Accident Ins. Co., Nashville, Tenn.—Special temporary experimental authority to operate regular broadcast transmitter for transmission of facsimile signals 12 midnight to 6 a. m., using 50 KW, was extended for a period of 1 month from February 1 to March 1, 1940.

WHO—Central Broadcasting Co., Des Moines, Ia.—Special temporary experimental authority to operate regular broadcast transmitter for transmission of facsimile signals 12 midnight to 6 a. m., using 50 KW, was extended for a period of 1 month from February 1 to March 1, 1940.

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Special temporary experimental authority to operate regular broadcast transmitter for transmission of facsimile signals 12 midnight to 6 a. m., using 50 KW, was extended for a period of 1 month from February 1 to March 1, 1940.

The following applications for renewal of television broadcast station licenses were renewed for the regular period:

W2XAB, New York City; W2XVT, Passaic, N. J.; W2XH, Schenectady, N. Y.; W6XAO, Los Angeles; W2XBS, New York City; W2XBT, New York City; W3XAE, Philadelphia; W3XP, Philadelphia, and W9XZV, Chicago.

Licenses for the following television stations were extended upon a temporary basis only, for the period ending March 1, 1940:

W9XAL, Kansas City, Mo.; W1XG, Boston; W9XG, W. Lafayette, Ind.; W2XDR, Long Island City; W3XAD, Portable (Camden, N. J.); W3XEP, Camden, N. J.; W9XK, Iowa City, Ia.; W9XUI, Iowa City, Ia.

## FM BROADCASTERS ELECT SHEPARD PRESIDENT

The Board of Directors of FM Broadcasters, Inc., met in New York on Monday, January 29, to perfect the organization of the FM Broadcasters and to make plans for the FM hearing on February 28. At the meeting John Shepard, 3d, Yankee Network, was elected President, John V. L. Hogan, WQXR, Vice President, and Robert Bartley, Yankee Network, Secretary-Treasurer. The Board adopted by-laws, approved for membership applications from about 25 organizations, and instructed Philip G. Loucks, Washington attorney for the group, to

file an appearance for the February 28 High Frequency Hearing before the FCC. Plans for correlating and presenting the available information on FM were discussed. Paul de Mars, engineer for the Yankee Network, was appointed engineering counsel for the group and he has opened headquarters at the Willard Hotel in Washington in order to prepare the engineering testimony.

The Executive Engineering Committee of the FM Broadcasters also met on Monday to perfect plans for the technical presentation. The members of the Executive Engineering Committee are: Paul de Mars, Yankee Network; S. L. Bailey, Jansky & Bailey; Professor Daniel E. Nobel, Connecticut State College; I. R. Weir, General Electric; Jack Poppele, WOR; and John De Witt, WSM.

## COMMISSION TO INQUIRE INTO MANAGEMENT CONTRACTS

To determine whether broadcast licensees are themselves discharging the rights, duties, and obligations under their licenses or whether, on the other hand, such rights have been turned over to and are being exercised by outside operating companies under so-called management contracts, the FCC has ordered hearing on certain pending applications for renewal of radio station licenses, and for other and similar renewal applications as they come before it.

Those stations already designated for hearing under this move, at a date to be set later, are Westinghouse Electric & Manufacturing Company, licenses for WBZ and WBZA, both at Boston; KYW, Philadelphia, and KDKA, Pittsburgh; WGY, General Electric Company, Schenectady, N. Y.; WESG, Cornell University, Elmira, N. Y.; WWL, Loyola University, New Orleans; and WAPI, Alabama Polytechnic Institute and University of Alabama, Birmingham, Ala.

## FCC SUSTAINED IN TWO COURT CASES

In two decisions handed down Monday—FCC vs. Pottsville Broadcasting Co. and Fly vs. Heitmeyer—the Supreme Court reversed the Court of Appeals for the District of Columbia and sustained the FCC's contention that under the Communications Act of 1934 as amended, the Commission was vested with power to decide on the merits of competing applications for licenses irrespective of priority of filing and intervening judicial determination of questions of law. In the Heitmeyer case the court further held, according to the principles enunciated in the Pottsville case, that the Commission was empowered to reopen the record and take new evidence on the comparative ability of all the rival applicants to satisfy "public convenience, interest, or necessity" after previous erroneous denial of license to one of them.

The decisions are of far-reaching importance in delineating the proper spheres of activity of administrative

commissions and the courts. They emphasize the large measure of administrative discretion vested by Congress in the FCC. To quote from the opinion:

"The present case makes timely the reminder that 'legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.' . . . Congress which creates and sustains these agencies must be trusted to correct whatever defects experience may reveal."

The opinions of the court follow:

### SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 265

FEDERAL COMMUNICATIONS COMMISSION, *Petitioner*,

*vs.*

THE POTTSVILLE BROADCASTING COMPANY

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia

(January 29, 1940)

Mr. Justice Frankfurter delivered the opinion of the Court.

The court below issued a writ of mandamus against the Federal Communications Commission, and, because important issues of administrative law are involved, we brought the case here. 308 U. S. —. We are called upon to ascertain and enforce the spheres of authority which Congress has given to the Commission and the courts, respectively, through its scheme for the regulation of radio broadcasting in the Communications Act of 1934, c. 652, 48 Stat. 1064, as amended by the Act of May 20, 1937, c. 229, 50 Stat. 189; 47 U. S. C. Sec. 151.

Adequate appreciation of the facts presently to be summarized requires that they be set in their legislative framework. In its essentials the Communications Act of 1934 derives from the Federal Radio Act of 1927, c. 169, 44 Stat. 1162, as amended, 46 Stat. 844. By this Act Congress, in order to protect the national interest involved in the new and far-reaching science of broadcasting, formulated a unified comprehensive regulatory system for the industry.<sup>1</sup> The common factors in the administration of the various statutes by which Congress had supervised the different modes of communication led to the creation, in the Act of 1934, of the Communications Commission. But the objectives of the legislation have remained substantially unaltered since 1927.

Congress moved under the spur of a widespread fear that in the absence of governmental control the public interest might be subordinated to monopolistic domination in the broadcasting field. To avoid this Congress provided for a system of permits and licenses. Licenses were not to be granted for longer than three years. Communications Act of 1934, Title iii, Sec. 307(d). No license was to be "construed to create any right, beyond the terms, conditions, and periods of the license." *Ibid.* Sec. 301. In granting or withholding permits for the construction of stations, and in granting, denying, modifying or revoking licenses for the operation of stations, "public convenience, interest, or necessity" was the touchstone for the exercise of the Commission's authority. While this criterion is as concrete as the complicated factors for judgment in such a field of delegated authority permit, it serves as a supple instrument for the exercise of discretion by the expert body which Congress has charged to carry out its legislative policy. Necessarily, therefore, the subordinate questions of procedure in ascertaining the public interest, when the Commission's licensing authority is invoked—the scope of the inquiry, whether applications should be heard contemporaneously or successively, whether parties should be allowed to intervene in one another's proceedings, and similar questions—

<sup>1</sup> For the legislative history of the Act of 1927, see H. Rep. No. 464, S. Rep. No. 772, 69th Cong., 1st Sess.; 67 Cong., Rec. 5473-5504, 5555-86; 5645-47; 12335-59; 12480, 12497-12508; 12614-18; 68 Cong., Rec. 2556-80, 2750-51, 2869-82, 3025-39, 3117-34, 3257-62, 3329-36, 3569-71, 4109-55. A summary of the operation of previous regulatory laws may be found in Herring and Gross, *Telecommunications*, pp. 239-45.

were explicitly and by implication left to the Commission's own devising, so long, of course, as it observes the basic requirements designed for the protection of private as well as public interest. *Ibid.*, Title I, Sec. 4(j)). Underlying the whole law is recognition of the rapidly fluctuating factors characteristic of the evolution of broadcasting and of the corresponding requirement that the administrative process possess sufficient flexibility to adjust itself to these factors. Thus, it is highly significant that although investment in broadcasting stations may be large, a license may not be issued for more than three years; and in deciding whether to renew the license, just as in deciding whether to issue it in the first place, the Commission must judge by the standard of "public convenience, interest, or necessity." The Communications Act is not designed primarily as a new code for the adjustment of conflicting private rights through adjudication. Rather it expresses a desire on the part of Congress to maintain, through appropriate administrative control, a grip on the dynamic aspects of radio transmission.<sup>2</sup>

Against this background the facts of the present case fall into proper perspective. In May, 1936, The Pottsville Broadcasting Company, respondent here, sought from the Commission a permit under Sec. 319 *Ibid.*, Title iii, for the construction of a broadcasting station at Pottsville, Pennsylvania. The Commission denied this application on two grounds: (1) that the respondent was financially disqualified; and (2) that the applicant did not sufficiently represent local interests in the community which the proposed station was to serve. From this denial of its application respondent appealed to the court below. That tribunal withheld judgment on the second ground of the Commission's decision, for it did not deem this to have controlled the Commission's judgment. But, finding the Commission's conclusion regarding the respondent's lack of financial qualification to have been based on an erroneous understanding of Pennsylvania law, the Court of Appeals reversed the decision and ordered the "cause . . . remanded to the . . . Communications Commission for reconsideration in accordance with the views expressed." *Pottsville Broadcasting Co. v. Federal Communications Commission*, 98 F. (2d) 288.

Following this remand, respondent petitioned the Commission to grant its original application. Instead of doing so, the Commission set for argument respondent's application along with two rival applications for the same facilities. The latter applications had been filed subsequently to that of respondent and hearings had been held on them by the Commission in a consolidated proceeding, but they were still undisposed of when the respondent's case returned to the Commission. With three applications for the same facilities thus before it, and the facts regarding each having therefore been explored by appropriate procedure, the Commission directed that all three be set down for argument before it to determine which, "on a comparative basis" "in the judgment of the Commission will best serve public interest." At this stage of the proceedings, respondents sought and obtained from the Court of Appeals the writ of mandamus now under review. That writ commanded the Commission to set aside its order designating respondent's application "for hearing on a comparative basis" with the other two, and "to hear and reconsider the application" of The Pottsville Broadcasting Company" on the basis of the record as originally made and in accordance with the opinions" of the Court of Appeals in the original review (98 F. (2d) 288), and in the mandamus proceedings. *Pottsville Broadcasting Co. v. Federal Communications Commission*, 105 F. (2d) 36.

The Court of Appeals invoked against the Commission the familiar doctrine that a lower court is bound to respect the mandate of an appellate tribunal and cannot reconsider questions which the mandate has laid at rest. See *In Re Sanford Fork & Tool Co., Petitioner*, 160 U. S. 247, 255-56. That proposition is indisputable, but it does not tell us which issues are laid at rest. Cf. *Sprague v. Ticonic Bank*, 307 U. S. 161. Nor is a court's interpretation of the scope of its own mandate necessarily conclusive. To be sure the court that issues a mandate is normally the best judge of its content, on the general theory that the author of a document is ordinarily the authoritative interpreter of its purposes. But it is

<sup>2</sup> Since the beginning of regulation under the Act of 1927 comparative considerations have governed the application of standards of "public convenience, interest, or necessity" laid down by the law. . . . the commission desires to point out that the test—"public interest, convenience, or necessity"—becomes a matter of a comparative and not an absolute standard when applied to broadcasting stations. Since the number of channels is limited and the number of persons desiring to broadcast is far greater than can be accommodated, the commission must determine from among the applicants before it which of them will, if licensed, best serve the public. In a measure, perhaps, all of them give more or less service. Those who give the least, however, must be sacrificed for those who give the most. The emphasis must be first and foremost on the interest, the convenience, and the necessity of the listening public, and not on the interest, convenience, or necessity of the individual broadcaster or the advertiser." Second Annual Report, Federal Radio Commission, 1928, pp. 169-70.

not even true that a lower court's interpretation of its mandate is controlling here. Cf. *United States v. Morgan*, 307 U. S. 183. Therefore, we would not be foreclosed by the interpretation which the Court of Appeals gave to its mandate, even if it had been directed to a lower court.

A much deeper issue, however, is here involved. This was not a mandate from court to court but from a court to an administrative agency. What is in issue is not the relationship of federal courts *inter se*—a relationship defined largely by the courts themselves—but the due observance by courts of the distribution of authority made by Congress as between its power to regulate commerce and the reviewing power which it has conferred upon the courts under Article III of the Constitution. A review by a federal court of the action of a lower court is only one phase of a single unified process. But to the extent that a federal court is authorized to review an administrative act, there is superimposed upon the enforcement of legislative policy through administrative control a different process from that out of which the administrative action under review ensued. The technical rules derived from the interrelationship of judicial tribunals forming a hierarchical system are taken out of their environment when mechanically applied to determine the extent to which Congressional power, exercised through a delegated agency, can be controlled within the limited scope of "judicial power" conferred by Congress under the Constitution.

Courts, like other organisms, represent an interplay of form and function. The history of Anglo-American courts and the more or less narrowly defined range of their staple business have determined the basic characteristics of trial procedure, the rules of evidence, and the general principles of appellate review. Modern administrative tribunals are the outgrowth of conditions far different from those.<sup>3</sup> To a large degree they have been a response to the felt need of governmental supervision over economic enterprise—a supervision which could affectively be exercised neither directly through self-executing legislation nor by the judicial process. That this movement was natural and its extension inevitable was a quarter century ago the opinion of eminent spokesmen of the law.<sup>4</sup> Perhaps the most striking characteristic of this movement has been the investiture of administrative agencies with power far exceeding and different from the conventional judicial modes for adjusting conflicting claims—modes whereby interested litigants define the scope of injury and determine the data on which the judicial judgment is ultimately based. Administrative agencies have power themselves to initiate inquiry, or, when their authority is invoked, to control the range of investigation in ascertaining what is to satisfy the requirements of the public interest in relation to the needs of vast regions and sometimes the whole nation in the enjoyment of facilities for transportation, communication and other essential public services.<sup>5</sup> These differences in origin and function preclude wholesale transplantation of the rules of procedure, trial and review, which have evolved from the history and experience of courts. Thus, this Court has recognized that bodies like the Interstate Commerce Commission, into whose mould Congress has cast more recent administrative agencies, "should not be too narrowly constrained by technical rules as to the admissibility of proof," *Interstate Commerce Commission v. Baird*, 194 U. S. 25, 44, should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.<sup>6</sup> Compare *New England Divisions Case*,

<sup>3</sup> See Maitland, *The Constitutional History of England*, pp. 415-18; Landis, *The Administrative Process*, *passim*.

<sup>4</sup> See, for instance, the address of Elihu Root as President of the American Bar Association;

"There is one special field of law development which has manifestly become inevitable. We are entering upon the creation of a body of administrative law quite different in its machinery, its remedies, and its necessary safeguards from the old methods of regulation by specific statutes enforced by the courts. . . . There will be no withdrawal from these experiments. . . . We shall go on; we shall expand them, whether we approve theoretically or not, because such agencies furnish protection to rights and obstacles to wrong doing which under our new social and industrial conditions cannot be practically accomplished by the old and simple procedure of legislatures and courts as in the last generation." 41 A. B. A. Rep. 355, 368-69.

<sup>5</sup> See *United States v. Lowden*, *ante*, p. — decided Dec. 4, 1939; Herring *Public Administration and the Public Interest*, *passim*.

<sup>6</sup> The Communications Commission's Rules of Practice, Rule 106.4, provided that "the Commission will, so far as practicable, endeavor to fix the same date . . . for hearing on all applications which . . . present conflicting claims . . . excepting, however, applications filed after any such application has been designated for hearing." Respondent contends, and the court below seemed to believe that this rule bound the Commission to give respondent a non-comparative consideration because its application had been set down for hearing before the later and rival applications were filed. The Commission interprets this rule simply as governing the order in which applications shall be heard, and not touching upon the order in which they shall be acted upon or the manner in which they shall be considered. That interpretation is binding upon the courts. *A. T. & T. Co. v. United States*, 299 U. S. 232.

361 U. S. 184. To be sure, the laws under which these agencies operate prescribe the fundamentals of fair play. They require that interested parties be afforded an opportunity for hearing and that judgment must express a reasoned conclusion. But to assimilate the relation of these administrative bodies and the courts to the relationship between lower and upper courts is to disregard the origin and purposes of the movement for administrative regulation and at the same time to disregard the traditional scope, however far-reaching, of the judicial process. Unless these vital differentiations between the functions of judicial and administrative tribunals are observed, courts will stray outside their province and read the laws of Congress through the distorting lenses of inapplicable legal doctrine.

Under the Radio Act of 1927 as originally passed, the Court of Appeals was authorized in reviewing action of the Radio Commission to "alter or revise the decision appealed from and enter such judgment as to it may seem just." Sec. 16 of the Radio Act of 1927, 44 Stat. 1169. Thereby the Court of Appeals was constituted "a superior and revising agency in the same field" as that in which the Radio Commission acted. *Radio Comm. v. General Electric Co.*, 281 U. S. 464, 467. Since the power thus given was administrative rather than judicial, the appellate jurisdiction of this Court could not be invoked. *Radio Comm. v. General Electric Co.*, *supra*. To lay the basis for review here, Congress amended Sec. 16 so as to terminate the administrative oversight of the Court of Appeals. c. 788, 46 Stat. 844. In "sharp contrast with the previous grant of authority" the court was restricted to a purely judicial review. "Whether the Commission applies the legislative standards validly set up, whether it acts within the authority conferred or goes beyond it, whether its proceedings satisfy the pertinent demands of due process, whether, in short, there is compliance with the legal requirements which fix the province of the Commission and govern its action, are appropriate questions for judicial decision." *Radio Comm'n v. Nelson Bros. Co.*, 289 U. S. 266, 276.

On review the court may thus correct errors of law and on remand the Commission is bound to act upon the correction. *Fed. Power Comm'n v. Pacific Co.*, 307 U. S. 156. But an administrative determination in which is imbedded a legal question open to judicial review does not impliedly foreclose the administrative agency, after its error has been corrected, from enforcing the legislative policy committed to its charge. Cf. *Ford Motor Co. v. Labor Board*, 305 U. S. 364.

The Commission's responsibility at all times is to measure applications by the standard of "public convenience, interest, or necessity." The Commission originally found respondent's application inconsistent with the public interest because of an erroneous view regarding the law of Pennsylvania. The Court of Appeals laid bare that error, and in compelling obedience to its correction, exhausted the only power which Congress gave it. At this point the Commission was again charged with the duty of judging the application in the light of "public convenience, interest, or necessity." The fact that in its first disposition the Commission had committed a legal error did not create rights of priority in the respondent, as against the later applicants, which it would not have otherwise possessed. Only Congress could confer such a priority. It has not done so. The Court of Appeals cannot write the principle of priority into the statute as an indirect result of its power to scrutinize legal errors in the first of an allowable series of administrative actions. Such an implication from the curtailed review allowed by the Communications Act is at war with the basic policy underlying the statute. It would mean that for practical purposes the contingencies of judicial review and of litigation, rather than the public interest, would be decisive factors in determining which of several pending applications was to be granted.

It is, however, urged upon us that if all matters of administrative discretion remain open for determination or remand after reversal, a succession of single determinations upon single legal issues is possible with resulting delay and hardship to the applicant. It is always easy to conjure up extreme and even oppressive possibilities in the exertion of authority. But courts are not charged with general guardianship against all potential mischief in complicated tasks of government. The present case makes timely the reminder that "legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts." *Missouri, Kansas & Texas Ry. Co. v. May*, 194 U. S. 267, 270. Congress which creates and sustains these agencies must be trusted to correct whatever defects experience may reveal. Interference by the courts is not conducive to the development of habits of responsibility in administrative agencies. Anglo-American courts as we now know them are themselves in no small measure the product of a historic process.

The judgment is reversed, with directions to dissolve the writ of mandamus and to dismiss respondent's petition.

*Reversed.*

Mr. Justice McReynolds concurs in the result.

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SUPREME COURT OF THE UNITED STATES

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OCTOBER TERM, 1939

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No. 316

J. LAWRENCE FLY, ET AL., Petitioners

vs.

PAUL R. HEITMEYER

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia

(January 29, 1940)

Mr. Justice Frankfurter delivered the opinion of the Court.

On March 25, 1935, Heitmeyer, respondent here, applied for a permit from the Federal Communications Commission under Sec. 319 of the Communications Act of 1934, c. 652, 48 Stat. 1089, 47 U.S.C. 319, to construct a broadcasting station at Cheyenne, Wyoming. His application and a competing one were heard by an examiner. The Commission, on May 1, 1936, denied respondent's application on the sole ground that he was financially disqualified. He appealed to the United States Court of Appeals for the District of Columbia and the Commission's decision was reversed. *Heitmeyer v. Federal Communications Commission*, 95 F. (2d) 91. To proceed in conformity with this opinion, the case was remanded to the Commission.

After Heitmeyer's appeal two other applications for the same facilities were filed with the Commission. Following intermediate litigation, needless here to recount, the Commission directed that respondent's case be reopened in conjunction with the pending rival applications. Before this hearing could be had, respondent obtained from the Court of Appeals a writ of mandamus directing the Commission to restrict consideration of his application to the record originally before it. *McNinch v. Heitmeyer*, 105 F. (2d) 41. Because important questions of administrative law were involved, we granted certiorari. 308 U. S. —.

This case is controlled by our decision No. 265, *Federal Communications Commission v. Pottsville Broadcasting Co.*, decided this day.

The only relevant difference between the two cases is that here the Commission proposed on remand not only to reconsider respondent's application on oral argument with subsequently filed rival applications, but to reopen the record and take new evidence on the comparative ability of the various applicants to satisfy "public convenience, interest, or necessity." But the Commission's duty was to apply the statutory standard in deciding which of the applicants was to receive a permit after it fell into legal error as well as before. If, in the Commission's judgment, new evidence was necessary to discharge its duty, the fact of a previously erroneous denial should not, according to the principles enunciated in the *Pottsville* case, *ante*, bar it from access to the necessary evidence for correct judgment.

The judgment is reversed, with directions to dissolve the writ of mandamus and to dismiss respondent's petition.

*Reversed.*

Mr. Justice McReynolds concurs in the result.

### FCC APPROPRIATION CUT

Senate Committee on Appropriations this week cut \$40,000 from the Federal Communications Commission appropriation. The \$40,000 was for the establishment of a radio monitoring station at Anchorage, Alaska.

The Commission's total appropriation as it passed the House was for \$2,116,340 and as reported by the Senate Committee is \$2,076,340.

## NAB THANKS STATIONS, SPONSORS, FOR "MARCH OF DIMES" SUPPORT

The NAB through Neville Miller desires to extend its heartfelt thanks to stations, networks, sponsors, and radio artists who so generously gave of their time and talent to move along the March of Dimes, in celebration of the President's birthday, so that the scourge of infantile paralysis may be wiped from the homes of the nation.

Mr. Miller's statement:

"Again, American radio was the backbone of the March of Dimes. Again, American radio gave the March of Dimes tempo, scope, results. Again, American radio reached into the hearts of its millions of listeners for a contribution so that those who dance may help others to walk.

"The results are more than a tribute to radio. They are a tribute to the responsive heart of the American people, who have never yet failed to answer a radio call for neighborly help."

### SESAC ADDITION

SESAC has notified its licensees that it has added the catalogue of Leopoldo Orduña, Barcelona, Spain.

### CARTER—JACK TAYLOR

The NAB would like to know the whereabouts of Eddie Carter, piano marathon king, who has been broadcasting on the Pacific Coast. Anyone knowing his whereabouts, please advise headquarters.

The whereabouts of Jack Taylor and his Rail Splitters, a hillbilly radio show, is requested. Anyone knowing the location of this troupe should communicate with WJHL, Johnson City, Tennessee, or headquarters office.

### FEDERAL LEGISLATION

S. 517 (Sen. Johnson, Colo.) LIQUOR ADVERTISING—Amendment (in the nature of a substitute) to the committee amendment to the bill (S. 517) to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio. Ordered to lie on the table and to be printed.

### STATE LEGISLATION

#### KENTUCKY:

S. 73 (Keenon) LOTTERY—An act to amend and re-enact section 2573 of the statutes relating to lottery. Referred to Ways and Means Committee.

#### MISSISSIPPI:

H. 43 (Woodliff) OPTOMETRY—To completely revise Chapter 140 "Optometry" of the Code of 1930 by combining certain pertinent features of the act as it now exists into new sections; by revising old sections to meet present conditions and problems; by eliminating duplicate provisions. Being an act defining optometry; providing for the licensing of persons to practice Optometry and the issuance of branch office licenses. Referred to Public Health and Quarantine Committee.

#### NEW YORK:

A. 786 (Goldstein) RADIO ADVERTISEMENTS—Makes it a misdemeanor to broadcast over a radio station, untrue and misleading advertisements and requires the advertiser to file with

owner or operator of a station, his true name and name under which business is transacted. Referred to Codes Committee.

#### NEW YORK:

S. 802 (Williamson) POLICE RADIO CARS—Authorizes village trustees to appoint radio technician who shall keep in repair all police radio cars and equipment owned and operated by the village and perform such other duties as may be imposed. Referred to Villages Committee.

### FCC ASSIGNMENTS

The FCC announces that the work, business and functions of the Commission for the month of February have been assigned as follows:

Commissioner Case	Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.
Commissioner Brown	Designated to hear and determine, order, certify, report or otherwise act upon; (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of a final order made by the Commission; <i>provided</i> , however, that such matters shall be handled in accordance with the provisions of Sections 1.251 and 1.256, inclusive, of the Commission's Rules of Practice and Procedure; (b) the designation pursuant to the provisions of Sections 1.231 to 1.232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral arguments are scheduled before the Commission in broadcast cases for the week beginning Monday, February 5. They are subject to change.

#### Monday, February 5

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—C. P., 780 kc., 1 KW, daytime. Present assignment: 780 kc., 250 watts, daytime.

#### Wednesday, February 7

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, St. Albans, Vt.—Renewal of license, 1390 kc., 1 KW, daytime.

#### Thursday, February 8

Further Hearing

KFIO—Spokane Broadcasting Corp., Spokane, Wash.—C. P., 950 kc., 1 KW, unlimited time. Present assignment: 1120 kc., 100 watts, daytime.

#### Thursday, February 8

Oral Argument Before the Commission

WRTD—The Times Dispatch Radio Corp., Richmond, Va.—C. P., 590 kc., 1 KW, unlimited time (DA night). Present assignment: 1500 kc., 100 watts, unlimited time.

## FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

March 5

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Renewal of license, 1200 kc., 100 watts, unlimited time.

March 6

KXL—KXL Broadcasters, Portland, Ore.—C. P., 740 kc., 10 KW, 10 KW LS, limited time (DA day and night). Present assignment: 1420 kc., 250 watts, shares KBPS.

KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—C. P., 740 kc., 1 KW, 1 KW LS, limited to WSB, Atlanta, Ga. Present assignment: 740 kc., 250 watts, daytime.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WCKY—L. B. Wilson, Inc., Licensee George L. Hill & C. D. Seiler, Cincinnati, Ohio.—Granted authority to transfer control of station WCKY, from George L. Hill and C. D. Seiler, to L. B. Wilson. Station operates on 1490 kc., with 50 KW, unlimited time.

KADA—C. C. Morris, Ada, Okla.—Granted construction permit for changes in equipment and increase in power from 100 to 250 watts on 1200 kc.

### DESIGNATED FOR HEARING

Guy S. Cornish (Cincinnati, Ohio), Portable-Mobile.—Application for construction permit for new public address relay station to operate on frequency 310,000 kc.; emission A3, power 1 watt; unlimited time in accordance with Sections 5.15 and 5.18. The proposed station would provide a voice circuit between the announcer and the public address amplifying equipment under conditions where wire facilities are not available or are impractical to install.

Miami Broadcasting Co., Miami, Fla.—Application for construction permit for new broadcast station to operate on 1420 kc., 250 watts, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval.

West Virginia Newspaper Publishing Co., Morgantown, W. Va.—Application for construction permit for a new broadcast station to operate on 1200 kc., 250 watts, unlimited time. Exact studio and transmitter site and type of antenna to be determined with Commission's approval.

### MISCELLANEOUS

WEAN-WAAB-WNAC-WICC—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to pick up and rebroadcast programs being broadcast by FM Stations W1XOJ, W1XPW, W2XMN, W2XAG, or High Frequency Broadcast Station W1XER, for a period not to exceed 30 days, in order to secure information for the high frequency hearing on February 28, 1940.

WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted special temporary authority to operate from 7:30 p. m., CST, to the conclusion of basketball games on February 26, and March 2, 1940, and from 7:15 p. m., CST, to the conclusion of a basketball game on March 4, 1940, in order to broadcast basketball games only using 250 watts power.

M. C. Reese, Phoenix, Arizona.—Adopted final order, effective January 26, 1940, granting the application for a new station to operate on 1200 kc., 100 watts night, 250 watts local sunset, subject to approval of transmitter and antenna system.

WRTD—The Times Dispatch Radio Corp., Richmond, Va.—Postponed oral argument on application for construction permit to change frequency and install new equipment, now scheduled for February 1, to February 8.

W2XWG—National Broadcasting Co., Inc., New York, N. Y.—Granted license to cover construction permit for new high frequency station; frequency 42600 kc., power 100 watts, granted on experimental basis only, conditionally.

WSPB—WSPB, Inc., Sarasota, Fla.—Granted authority to determine operating power by direct measurement of antenna input.

Lookout Mountain Co. of Georgia, Lookout Mountain, Ga.—Granted motion for order to take depositions in re its application for construction permit for new station to operate on 1370 kc., 250 watts night, 250 watts LS, unlimited time.

KGMB—Hawaiian Broadcasting System, Inc., Honolulu, Hawaii.—Granted modification of construction permit for change in frequency, increase in power, and new transmitter and antenna and move of transmitter, for extension of completion date from February 20, 1940, to August 20, 1940.

KVGB—Helen Townsley, Great Bend, Kansas.—Granted license to cover construction permit for changes in transmitting equipment and increase in power to 1370 kc.; power 250 watts, unlimited time.

KVGB—Helen Townsley, Great Bend, Kansas.—Granted authority to determine operating power by direct measurement of antenna input.

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with station WGBF, with reduced power of 250 watts, from 7:30 p. m. to 9:00 p. m., CST, on January 24, 1940, in order to permit WGBF to broadcast proceedings at Farmers Business Men Banquet, Vincennes, Indiana.

WGBF—Evansville on the Air, Evansville, Ind.—Granted special temporary authority to operate simultaneously with station KFRU as above in order to broadcast proceedings at Farmers Business Mens Banquet, Vincennes, Indiana.

KFAH—A Bruce Fahnstock, Fahnstock South Sea Expedition, Portable mobile, aboard *Director II* (area of Fahnstock South Sea Expedition).—Granted license to cover construction permit for new special relay broadcast station; frequencies 4797.5, 6425, 9135, 12862.5, 17310 and 23100 kc.; power 1000 watts; granted on an experimental basis only, conditionally.

Anthracite Broadcasting Co., Inc., Scranton, Pa.—Designated for hearing application for construction permit to erect a new station to operate on 1370 kc., 250 watts, unlimited time; exact transmitter site and type of antenna to be determined with Commission's approval.

WMIP—Northwest Airlines, Inc., Washington, D. C.—Granted special temporary authority to operate aircraft station KHDIW on 2790 kc., January 27, 1940, in order to relay broadcast program material in connection with Winter Carnival of Twin Cities, Minnesota to Radio Station WMIN.

WJNP—Jack R. Butler, Palm Beach, Fla.—Granted special temporary authority to operate the radio transmitter aboard the Motor Yacht *Dutchess II*, bearing call letters WPYW, as a relay broadcast station utilizing the frequency 2790 kc., from 5:15 p. m. to 5:30 p. m., EST, for the period ending not later than February 4, 1940, in order to relay broadcast the Sailfish Derby programs to radio station WJNO.

Metropolitan Broadcasting Corp., New York, N. Y.—Granted request to withdraw without prejudice the application for voluntary assignment of license of station WINS from Hearst Radio, Inc., assignor, to Metropolitan Broadcasting Corp., assignee. Hearing scheduled for March 4 cancelled.

Radiomarine Corp. of America.—Granted motions to take depositions in Buffalo, N. Y., February 14; Cleveland, Ohio, February 16; Detroit, Mich., February 17; and New York, N. Y., February 19; in re applications for Radiomarine Corp. of America for construction permit for coastal harbor stations WCY and WBL.

WHBY—WHBY, Inc., Appleton, Wis.—Granted license to cover construction permit as modified for installation of new transmitter and antenna and move of transmitter and studio; 1200 kc., 250 watts, unlimited time.

WMBO—WMBO, Inc., Auburn, N. Y.—Granted authority to determine operating power by direct measurement of antenna input.

WTOL—The Community Broadcasting Co., Toledo, Ohio.—Granted license to cover construction permit for changes in transmitting equipment and increase in power to 250 watts; frequency 1200 kc., unlimited.

WTOL—The Community Broadcasting Co., Toledo, Ohio.—Granted authority to determine operating power by direct measurement of antenna input.

- KPAC—Port Arthur College, Port Arthur, Tex.—Granted license to cover construction permit as modified for installation of new transmitter; move transmitter 500 feet; change frequency; change hours of operation, and install directional antenna for night use; frequency **1220 kc.**, power 500 watts, unlimited time; also granted authority to determine operating power by direct measurement of antenna input.
- KTOL—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—Granted authority to determine operating power by direct measurement of antenna input.
- KICA—Western Broadcasters, Inc., Clovis, N. Mex.—Granted authority to determine operating power by direct measurement of antenna input.
- KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—Granted license to cover construction permit as modified for new broadcast station, **1370 kc.**, 100 watts night, 250 watts daytime, unlimited time; also granted authority to determine operating power by direct measurement of antenna input.
- KABC—Alamo Broadcasting Co., Inc., San Antonio, Tex.—Granted authority to determine operating power by direct measurement of antenna input.
- KLMS—Harold M. Finlay and Mrs. Eloise Finlay, LaGrande, Ore.—Granted construction permit to make changes in equipment.
- WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Granted license to cover construction permit for changes in equipment and increase in power to 1 KW; frequency **1120 kc.**, unlimited time.
- Woodmen of the World Life Insurance Society, Portable-Mobile (area of Omaha, Nebr.)—Granted construction permit for new relay (low frequency) broadcast station to be used with applicant's standard broadcast station WOW, Omaha, Nebr.; frequencies **1622, 2058, 2150 and 2790 kc.**, power 10 watts.
- Albert S. and Robert Drohlich, d/b as Drohlich Brothers, Portable-Mobile (area of Sedalia, Mo.)—Granted construction permit for new relay (high frequency) broadcast station to be used with applicant's standard broadcast station KDRO; frequencies **30820, 33740, 35820, 37980 kc.**, power 25 watts.
- National Broadcasting Co., Inc., Portable-Mobile (area of Washington, D. C.)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast stations WRC and WMAL; frequencies **31220, 35620, 37020 and 39260 kc.**, power 25 watts.
- National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast stations WENR and WMAQ; frequencies **31220, 35620, 37020, 39260 kc.**, power 25 watts.
- National Broadcasting Co., Inc., Portable-Mobile (area of San Francisco, Calif.)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast stations KGO and KPO; frequencies **31220, 35620, 37020, 39260 kc.**, power 25 watts.
- National Broadcasting Co., Inc., Portable-Mobile (area of Cleveland, Ohio)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast station WTAM; frequencies **31220, 35620, 37020, 39260 kc.**, power 0.25 watt.
- National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast stations WENR and WMAQ; frequencies **31220, 35620, 37020, 39260 kc.**, power 0.25 watt.
- National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast stations WENR and WMAQ; frequencies **31220, 35620, 37020, 39260 kc.**, power 2 watts.
- National Broadcasting Co., Inc., Portable-Mobile (area of Denver, Colo.)—Granted construction permit for new high frequency relay broadcast station to be used with applicant's standard broadcast station KOA; frequencies **31220, 35620, 37020, 39260 kc.**, power 25 watts.
- National Broadcasting Co., Inc., Portable-Mobile (area of Cleveland, Ohio)—Granted construction permit for a new high frequency relay broadcast station to be used with applicant's standard broadcast station WTAM; frequencies **31220, 35620, 37020, 39260 kc.**, power 25 watts.
- WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Granted license to use old W.E. 106-B transmitter which is located at 5057 Woodward Ave., Detroit, Mich., as auxiliary transmitter for emergency use only, with power of 1 KW; **1240 kc.**
- Springfield Radio Service, Inc., Springfield, Ohio.—Continued without date the hearing now scheduled for February 5, 1940, in re application for new broadcast station.
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 9:00 a. m. to 11:00 a. m., and from 2:00 p. m. to 6:00 p. m., AST, on February 4, 11, 18, 22 and 25, 1940, in order to broadcast baseball games only; to operate from 10:00 p. m. to 12:00 p. m., AST, on February 22, 1940, in order to broadcast festivities pertaining to Washington's Birthday.
- WAGM—Aroostook Broadcasting Corp., Presque Isle, Maine.—Granted special temporary authority to operate from 7:00 p. m. to 9:00 p. m., EST, on February 16 and 23, 1940, in order to broadcast basketball games only.
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted special temporary authority to operate with power of 250 watts from 8:00 p. m. to 9:30 p. m., CST, on February 10, 12, 13, 17, 19, and 24, 1940, for broadcasts of University of Kentucky basketball games only.
- WHJB—Pittsburgh Radio Supply House, Greensburg, Pa.—Granted special temporary authority to operate from 9:00 p. m., January 30, 1940 to 1:00 a. m., EST, January 31, 1940, in order to broadcast program in connection with the "Fight Infantile Paralysis Campaign".
- WKAQ—Radio Corp. of Porto Rico, San Juan, Puerto Rico.—Granted extension of special temporary authority to re-broadcast sustaining programs to be received from International broadcast stations WCBX and WCAB over WKAQ, on non-commercial basis only, from January 29, 1940, pending consideration and reply to Commission's letter of January 19, 1940, but not beyond February 27, 1940.
- WMBQ—Metropolitan Broadcasting Corp., Brooklyn, N. Y. (and four other Brooklyn stations.)—Extended effective date of Provision (3) of the Commission's order of December 5, 1938, for a period of 30 days from January 30, 1940, in re applications involving the operating time previously utilized by station WMBQ.
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Denied petition for reconsideration, reopening of proceeding, and setting for hearing the application of Portorican American Broadcasting Co., Inc., for a new station to operate on **1340 kc.**, with power of 1 KW, unlimited time, which was granted by the Commission on December 12, 1939.
- WPRP—Julio M. Conesa, Ponce, P. R.—Denied protest and request to vacate Commission's action of December 12th and set application of Portorican American Broadcasting Co., Inc., for hearing.
- Samuel M. Emison, Vincennes, Ind.—Denied petition for rehearing in re application of Vincennes Newspapers, Inc., Vincennes, Ind., for a construction permit to erect a new station to operate on frequency **1420 kc.**, 100 watts, unlimited time, which was granted by the Commission on November 22, 1939.
- WNYC—City of New York, Municipal Broadcasting System, New York City.—The application of WNYC requesting authority to increase time of operation from daytime, local sunset to WCCO, Minneapolis, to specified hours (6 a. m. to 11 p. m., EST), on frequency **810 kc.**, which has been designated for hearing, will be heard on the following issues at a date to be set: (1) To determine whether or not the Commission's rules governing standard broadcast stations, particularly Secs. 3.22 and 3.25 (Part III), properly applied, preclude the granting of the application; (2) to determine the nature, extent, and effect of any interference which would result should the applicant's proposed station operate simultaneously with WCCO and WGY; (3) to determine the nature, extent, and effect of any interference which would result should applicant's proposed station operate simultaneously with WGY, operating as proposed in its pending application, or with WHAS, operating as proposed in its pending application; and (4) to determine whether the DA system will comply in all respects with Sec. 3.45 of Standard Broadcast Rules and requirements of good engineering practice.
- Peoria Broadcasting Co., Portable-Mobile (area of Peoria, Ill.)—Granted construction permit for new relay broadcast station to operate on frequencies **33380, 35020, 37620, 39820 kc.**, power 1 watt.
- Peoria Broadcasting Co., Portable-Mobile (area of Peoria, Ill.)—Granted license to cover construction permit for above relay broadcast station.
- WSAJ—Grove City College, Grove City, Pa.—Granted special temporary authority to operate from 8 p. m. to 10:30 p. m.,

## 680 Kilocycles

EST, on February 8, 16, 22, 27 and March 1, 1940, in order to broadcast basketball games only.

WAGM—Aroostook Broadcasting Corp., Presque Isle, Maine.—Granted special temporary authority to operate from 7:00 p. m. to 8:00 p. m., EST, on February 14 and 15, 1940, in order to broadcast special events of the Caribou Winter Carnival.

KUMA—A. H. Schermann, Yuma, Ariz.—Denied authority to continue operation of Station KUMA until the new station which has been authorized to be constructed at Yuma is ready for operation.

W2XVT—Allen B. DuMont Laboratories, Passaic, N. J.—Granted special temporary authority to operate experimental television broadcast station W2XVT from 9:00 a. m. to 7:00 p. m., EST, (provided W2XBS remains silent) for the period beginning January 29, 1940 to not later than February 3, 1940, in order to permit necessary adjustments for demonstration to be given to the Commission.

WILL—University of Illinois, Urbana, Ill.—Granted special temporary authority to operate simultaneously with Stations WIBW and WCHS, with power of 1,000 watts, from 7:25 p. m. to 9:25 p. m., CST, on February 3, 10, 12, 17, 19, 24, and 26, 1940, in order to broadcast University of Illinois basketball games only.

KWJJ—KWJJ Broadcast Company, Inc., Portland, Ore.—Granted special temporary authority to operate simultaneously with stations WTIC and KRLD on 1040 kc., from 7:25 p. m. to 9 p. m., PST, on February 3, 9, 10, 12, 13, 17, 23, 27, and 28, 1940, in order to broadcast basketball games only.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate from 7:00 p. m. to 10:30 p. m., CST, on February 2, 3, 9, 12, 16, 17, 23, 28, 29, 1940, in order to broadcast basketball games only, and from 7:00 p. m. to 10:30 p. m., CST, on February 20, 1940, in order to broadcast proceedings of civic dinner sponsored by the Rotary Club of the City of Aurora; using 100 watts only.

WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 10:30 p. m., CST, on February 2, 9, 16, 21, and 23, 1940, in order to broadcast basketball games only.

WAOG—New York State Conservation Dept., Albany, N. Y.—Granted extension of special temporary authority to operate portable radiophone forestry station WRAI on frequencies 31620, 35260, 37340 and 39620 kc., for the period February 5, 1940, to not later than March 5, 1940, as a relay broadcast station to relay programs from the Olympic Bobsled Run to Standard Broadcast Station WNBZ.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to operate from 8:00 p. m. to 9:30 p. m., EST, on February 6, 1940, in order to broadcast a special dinner meeting with U. S. Senator Millard E. Tydings as the principal speaker.

Mutual Broadcasting System, Washington, D. C.—Granted special temporary authority to eliminate station identification as required by Sec. 3.92 of the Rules and Regulations from 11:15 p. m. to 12:15 p. m., EST, on January 30, 1940, during the President's Birthday Ball Program broadcast.

Columbia Broadcasting System, Inc., New York City.—Granted special temporary authority to eliminate station identification as required by Sec. 3.92 of the Rules and Regulations from 11:15 p. m. to 12:15 p. m., EST, on January 30, 1940, during the President's Birthday Ball Program broadcast.

National Broadcasting Co., Inc., New York City.—Granted special temporary authority to eliminate station identification as required by Sec. 3.92 of the Rules and Regulations from 11:15 p. m. to 12:15 p. m., EST, on January 30, 1940, during the President's Birthday Ball program.

## APPLICATIONS FILED AT FCC

### 610 Kilocycles

KFRC—Don Lee Broadcasting System, San Francisco, Calif.—Modification of construction permit (B5-P-335) for increase in power, further requesting authority to use present licensed site and antenna.

### 630 Kilocycles

NEW—R. E. Troxler, High Point, N. C.—Construction permit for a new station to be operated on 630 kc., 500 watts, daytime operation.

WLAW—Hildrcth & Rogers Co., Lawrence, Mass.—Construction permit to install new transmitter and directional antenna, for night use, increase power from 1 to 5 KW, change hours of operation from daytime to unlimited time.

### 1120 Kilocycles

WCOP—Massachusetts Broadcasting Corp., Boston, Mass.—Construction permit to install directional antenna for night use, change hours of operation from daytime to unlimited time, using 500 watts power.

WTAW—Agricultural & Mechanical College of Texas, College Station, Texas.—Construction permit to install new vertical antenna and move transmitter from E. E. Bldg., College Station, Texas, to College Station, Texas.

### 1200 Kilocycles

WSOO—Hiawathaland Broadcasting Co., Sault Ste. Marie, Mich.—Modification of construction permit (B2-P-2423) for a new station, for approval of antenna, new transmitter, studio site at Sault Ste. Marie, Mich., and transmitter located at South of town, Sault Ste. Marie, Mich. Amended: Re: antenna and studio site as 107 W. Portage St., Sault Ste. Marie, Mich.

NEW—The Peninsula Broadcasting Co., Salisbury, Md.—Construction permit to erect a new broadcast station to be operated on 1200 kc., 250 watts, unlimited time. Requesting facilities of station WSAL.

### 1270 Kilocycles

NEW—Edward J. Doyle, Rochester, N. Y.—Construction permit to erect a new broadcast station to be operated on 1270 kc., 500 watts, daytime. Amended: To request 1340 kc., 1 KW power, unlimited time, install directional antenna for day and night use, make changes in equipment, give studio site as site to be determined, Rochester, N. Y., and transmitter site as Clinton Ave. & Henrietta, Town Line Road, near Ridgeland, N. Y.

NEW—Cuyahoga Valley Broadcasting Co., Cleveland, Ohio.—Construction permit for a new broadcast station to be operated on 1500 kc., 100 watts, daytime operation. Amended: To request 1270 kc., 1 KW power, and make changes in equipment.

### 1310 Kilocycles

KSUB—Harold Johnson & Leland M. Perry, d/b as Johnson & Perry, Cedar City, Utah.—Voluntary assignment of license from Harold Johnson and Leland M. Perry, d/b as Johnson & Perry, to Southern Utah Broadcasting Co.

WSAV—WSAV, Inc., Savannah, Ga.—Modification of license to increase power from 100 watts to 250 watts.

### 1340 Kilocycles

WFNC—W. C. Ewing & Harry Layman, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Modification of construction permit (B3-P-1926) as modified, for a new station, requesting extension of completion date from 2-20-40 to 5-20-40.

WCOA—Pensacola Broadcasting Co., Pensacola, Fla.—Construction permit to install new transmitting equipment.

### 1370 Kilocycles

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—License to cover construction permit (B4-P-2042) as modified, for new broadcast station.

KVFD—Northwest Broadcasting Co., Ft. Dodge, Iowa.—Authority to determine operating power by direct measurement of antenna power.

WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—Authority to transfer control of corporation from Sam H. Mann, McKinney Barton & Dorothy Line, to Nelson P. Poynter, 50 shares common stock.

### 1420 Kilocycles

WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Construction permit to install new transmitter, and directional an-

tenna, for night use, change frequency from 1420 to 590 kc., and increase power from 250 watts to 1 KW.

#### 1430 Kilocycles

KGNF—Great Plains Broadcasting Co., North Platte, Nebr.—Modification of license to change hours of operation from daytime to unlimited time, using 1 KW power day and night.

#### 1500 Kilocycles

NEW—E. W. Williams, Corbin, Ky.—Construction permit for a new broadcasting station to be operated on 1500 kc., 100 watts power, unlimited time. Amended: Re: antenna, and to specify transmitter and studio site as on U. S. Highway 25-E, Corbin, Ky.

KWEW—W. E. Whitmore, Hobbs, N. Mex.—Authority to determine operating power by direct measurement of antenna power.

KNEL—G. L. Burns, Brady, Texas.—Authority to determine operating power by direct measurement of antenna power.

#### MISCELLANEOUS

NEW—Cherry & Webb Broadcasting Company, Providence, R. I.—Construction permit for a new high frequency broadcast station to be located in or near Providence, R. I., to be operated on 42800 kc., 1 KW power, unlimited time, special emission.

WEKD—Onondaga Radio Broadcasting Corporation, Portable-Mobile.—License to cover construction permit (B1-PRE-254) to install new equipment and increase power.

NEW—The Cincinnati Times-Star Company, Cincinnati, Ohio.—Construction permit for new high frequency broadcast station to be located between Highland Avenue and Reading Road and Dorchester St., Cincinnati, Ohio, to be operated on 43400 kc., 1 KW power, unlimited time, special emission.

NEW—A. Bruce Fahnstock, Director, Fahnstock South Sea Expedition, Portable-Mobile.—License to cover construction permit (B-PRE-335) for new special relay broadcast station.

W2XQR—John V. L. Hogan, New York, N. Y.—Modification of license to add A4 emission.

WBAR—Bamberger Broadcasting Service, Inc., Newark, N. J.—License to cover construction permit (B1-PRE-319) for new relay broadcast station.

WBAS—Bamberger Broadcasting Service, Inc., Newark, N. J.—License to cover construction permit (B1-PRE-320) for new relay broadcast station.

NEW—Peoria Broadcasting Co., Peoria, Ill.—Construction permit for a new high frequency broadcast station to be located at 200 Alliance Life Bldg., Peoria, Ill., to be operated on 43400 kc., 1 KW, unlimited time, special emission.

## FEDERAL TRADE COMMISSION ACTION

#### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Best Gardens**—See Middle West Supply Company.

**Davidson Enamel Company**, Clyde, Ohio, is charged, in a complaint with misrepresentation in the sale and distribution of its products. The respondent manufactures and distributes an interior wall covering described in advertisements in magazines and newspapers as "tile" and "porcelain tile."

The complaint charges that the word "tile" is generally understood in the trade and by the general public as meaning a hard, homogeneous clay product which has been baked in kilns and, in its final form, shaped into comparatively small sized units; and that "porcelain" is similarly understood to mean a fine, baked, homogeneous earthenware product. The respondent's product, the complaint continues, is a vitreous or glassy enamel applied to a steel base. Respondent's product is not "tile" as that word, unaccompanied by other descriptive words, is generally understood in various trades and by the general public, nor is it a "porcelain tile." (4001)

**F. W. Fitch Company**—See Thomsen-King & Company, Inc.

**Joseph Hagn Company**, Chicago, Ill., in the sale of jewelry, clocks, wearing apparel, knives and other articles, is alleged to have sold to dealers assortments of merchandise so packed and assembled as to involve the use of a gift enterprise or lottery scheme when the articles were distributed to ultimate consumers. It is alleged that clocks were sold by means of a punchboard device, pocket knives by means of a push card and other articles by means of pull cards. (3997)

**Ladies Aid Company**—See Progressive Medical Company.

**Middle West Supply Company**—Charles T., Elbert C., and Ernest C. Pike, trading as Middle West Supply Company and The Best Gardens, are alleged to have advertised and distributed so-called "free" offers of merchandise in a manner misleading buyers into accepting them and purchasing the respondents' products by paying the full value in the belief that such payment was merely the cost of mailing and packing.

Allegedly the respondents addressed postal cards to individuals in various States stating that "This card was addressed to you by your friend so that you can also receive a \$1.00 box of our new 'Velve-Ritz' Face Powder FREE. \* \* \* Just tell us what shade you use and enclose 6 postal cards each addressed to friends of yours who use powder \* \* \* together with a dime for postage, packing and handling \* \* \*." When such offers were accepted by recipients of the cards, the complaint continues, the respondents duplicated the same offer on the backs of the 6 postal cards sent with each dime and mailed them to the addressees, thus establishing an endless chain of prospective customers.

The complaint charges that in a large number of cases no face powder was sent to customers on receipt of their dimes and that in instances where powder actually was sent, it was not reasonably worth \$1.00 or more than the 10 cents paid by the customer. In cases where the powder actually was sent, the complaint continues, and the customer was entitled to a "promptness" prize for sending in the postal cards, the respondents did not send such prize with the powder, but made a further offer of other so-called "free" merchandise. The respondents allegedly made additional similar offers involving either cosmetics, flowers or flower seed, including a proposition for customers to earn money by addressing cards. (3996)

**Progressive Medical Company**—Blanche Kaplan, trading as Progressive Medical Company and as Ladies Aid Company, 3944 Pine Grove Ave., Chicago, engaged in the sale and distribution of medicinal preparations consisting of two formulae known as "Ladies' Aid No. 2, Ordinary Strength," and "Ladies' Aid No. 3, Extra Strength," is charged, in a complaint issued, with the dissemination of false advertisements concerning the preparations.

The complaint charges that the respondent represents her medicinal preparations as cures or remedies for delayed menstruation, and as being non-irritating, mild, efficient and specific treatments.

It is alleged in the complaint that the preparations do not constitute such treatments; will not accomplish the results claimed by the respondent, and that they are not safe and harmless, but contain powdered aloes, powdered extract cotton root bark, iron sulphate dried, powdered extract black hellebore, ergotin, and oil Savin, and that the drugs are present in the preparations in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in the advertisements or under conditions that are customary or usual.

In the United States District Court for the Northern District of Illinois, Eastern Division, a restraining order was granted last

month on petition of the Federal Trade Commission, restraining Blanche Kaplan and all other persons participating with her having notice, from disseminating any advertisements for the purpose of inducing the purchase of the preparations. The restraining order prohibits further dissemination of such advertising pending the issuance of a complaint by the Federal Trade Commission under its regular procedure, and until such complaint is dismissed, set aside by United States Courts on review, or until the order of the Commission to cease and desist has become final. The Court ruled that the advertisements failed to reveal that the preparations, when taken under conditions prescribed by the advertisements or conditions that are customary and usual, may result in serious or irreparable injury to health. (4002)

**Sheffield Silver Company**—A complaint has been issued against The Sheffield Silver Company, Jersey City, N. J., charging misrepresentation.

The complaint charges that the respondent, by use of its corporate name "The Sheffield Silver Company" on its letterheads, invoices, labels and other printed matter in the sale of its ware, represents and implies that it is engaged in the sale of silver plated ware manufactured and fabricated in Sheffield, England, and that its product had its origin in that city and is fabricated by skilled artisans located there.

In fact, the complaint continues, all its ware offered for sale is manufactured by the respondent at its place of business in New Jersey.

The name "Sheffield", the complaint alleges, employed in the designation of silver plated hollow ware, has been used for a long period of time to refer to such ware manufactured in Sheffield, England, where, nearly two hundred years ago, a type of silver plated ware designated "Sheffield" plate was originated. Sheffield, England, has been the seat of manufacture of silver plated ware as well as of cutlery of various kinds. Its artisans in these lines of production have achieved a reputation for skill wherever such ware and cutlery are sold. The name "Sheffield", when used in connection with such products, immediately suggests the City of Sheffield, England, to a substantial part of the purchasing public and use by the respondent of the word "Sheffield" allegedly has a tendency to mislead and deceive purchasers. (4000)

**Thomsen-King & Company, Inc.**—A complaint has been issued charging three cosmetic corporations and 44 individuals with violation of the Federal Trade Commission Act in the conduct of a series of prize contests to promote the sale of cosmetics.

The corporate respondents are Thomsen-King & Co., Inc., 710 South Plymouth Court, Chicago, and the Winship Corporation, 112-114 West Eleventh St., Des Moines, both engaged in the sale of cosmetics, and F. W. Fitch Company, 304 Fifteenth St., Des Moines, cosmetics manufacturer.

Preliminary injunctions against Thomsen-King & Co., Inc., and George Thomsen and Merrold Johnson and the Winship Corporation and Don Parmelee were obtained by the Commission January 11 and 19 in United States District Courts of Northern Illinois and Southern Iowa, respectively. Both concerns and the individuals named were restrained from further dissemination of false advertising in connection with prize contests for promoting the sale of cosmetics pending issuance of and final action on a complaint to be issued by the Federal Trade Commission.

In the Commission's complaint now issued the respondents are charged with (1) entering into unlawful agreements and conspiracies to render ineffectual the orders and other processes of the Federal Trade Commission and (2) dissemination of false advertisements with respect to prize contests and the effectiveness of the use of their various cosmetics. (3998)

**Tone Company**—Michael S. Chiolak, trading as Tone Company, 64 West Randolph St., Chicago, engaged in the sale and distribution of medicinal preparations designated "Silver Label Formula No. 6," and "Gold Label Formula No. 8," both of which are also known as "Tone Periodic Compound," is charged, in a complaint with the dissemination of false advertising.

In advertisements in periodicals, circulars and other printed matter, the complaint charges, the respondent represented that the preparations distributed by him are cures or remedies for delayed menstruation, and that the preparations are safe and harmless. Among such advertisements were: "Take one capsule every 4 hours. Continue Persistently until desired results are

obtained. The important thing to remember is to keep up the treatment without a break or lapse until desired results are evident. \* \* \*"

It is alleged in the complaint that the preparations contain ergotin, aloes, extract black hellebore, and extract cotton root bark. These drugs are present in the preparations, the complaint charges, in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in the advertisements or under such conditions as are customary or usual. Gastro-intestinal disturbances such as catharsis, nausea and vomiting may result, and their use, when used to interfere with the normal course of pregnancy, may result in uterine infection and in the condition known as septicemia or blood poisoning. (4003)

**Winship Corporation**—See Thomsen-King & Company, Inc.

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders during the past week:

**Frye Company**—Prohibiting certain misleading representations in the sale of a medicinal preparation designated "Pancreobismuth," "Pancreo Bismuth," or "Pancreobismuth and Pepsin," an order has been issued against the Frye Company, distributor, 36 Pleasant St., Watertown, Mass.

Findings are that in newspaper, periodical and circular advertising matter the respondent company, by using the name it gives to its preparation, tended to mislead prospective purchasers into believing that they would obtain some physiological effect from the presence of pancreatin and pepsin, when in fact these substances are only minor ingredients which are rendered physiologically inert when taken internally in the respondent's preparation, the active ingredients being bismuth subnitrate, sodium bicarbonate and ginger.

The findings continue that while the respondent's preparation possesses the therapeutic value of a simule antacid and carminative, which tends temporarily to neutralize excess acid and to relieve the symptoms of distress from gastric hyperacidity, it has no effect on the causative factors of gastric hyperacidity or the systemic causes of excess acid in the system.

In the sale of its preparation, the respondent company is directed to cease and desist from representing that it has therapeutic value in the treatment of upset stomach, or in the relief of indigestion due to acid stomach, or in the neutralization of excess acid and allaying of irritation, over and above being a simple antacid and carminative tending to give temporary relief from distress caused by such symptoms.

Other representations to be discontinued are that the preparation is beneficial in aiding the digestion of, or in relieving distress caused by, starchy foods, and that it possesses physiological or therapeutic value due to the presence of pancreatin or pepsin, when such ingredients are not present in such amounts and such form as to be active ingredients.

The order prohibits use of the trade names "Pancreobismuth," "Pancreo-Bismuth," or "Pancreobismuth and Pepsin," or other trade names containing the words "Pancreatin" or "Pepsin," or any other adaptation of such words, to describe or refer to the respondent's present product or any similar preparation which does not possess pancreatin and pepsin in such amounts and in such form as to be active ingredients.

Under the order, the respondent company is to cease disseminating advertisements which represent, directly or through implication, by use of the trade name "Pancreobismuth" or any other trade name containing the word "Pancreatin," or any adaptation thereof, that the preparation contains pancreatin as an active ingredient. (3741)

**Southern Art Stone Company**—Prohibiting certain misleading representations in the sale of imitation marble and granite tombstones and memorials, an order to cease and desist has been issued against Roy D. Burnsed, trading as Southern Art Stone Company, 1927 Piedmont Road, N. E., Atlanta.

In the sale of his products designated "Marbletexture" and "Granitexture," which were found to have been produced from a

mixture of crushed marble or granite, cement and other ingredients, and known as cast stone, the respondent was directed to cease representing them as being natural marble or granite, as being capable of retaining as high a polish as marble or granite, or as being superior to or lasting longer than natural marble or granite.

The respondent was ordered to desist from the representation that his products will not crack, crumble or disintegrate from natural causes or that they are everlasting. He was also directed to discontinue using the term "free" to refer to merchandise regularly included in a combination offer and to cease representing that his products are from 33 $\frac{1}{3}$  per cent to 50 per cent or any extent lower in price than similar products of comparable quality and weight sold by competitors, unless the prices are in fact lower to such extent, the quality and weight being considered. (3697)

## STIPULATIONS

The following stipulations have been entered into by the Commission:

**General Mills, Inc.**, trading as Sperry Flour Company, Minneapolis, agrees to cease advertising that the amount of wheat germ in a package of "Wheat Hearts" is equivalent to that in any specified quantity of wheat when the wheat germ content of such a quantity of wheat is greater than that of a package of "Wheat Hearts"; that "Wheat Hearts" has a Vitamin B 1 content greater than any other cereal; that its caloric value is directly transmissible into or is an equivalent of bodily energy or vitality, and that any amount of "Wheat Hearts" will supply a quota of Vitamin B 1, unless the amount stated is in accord with scientific determinations. (02500)

**S. H. Hamm & Son**—Misleading representation in the sale of slate used for building purposes will be discontinued under a stipulation entered into by Seba H. and John D. Hamm, trading as S. H. Hamm & Son, Bangor, Pa.

The stipulation relates that in connection with their sale of "Stoddard Albion Certificate Slate," quarried in the Pen Argyl district of Pennsylvania, the respondents disseminated to the trade a circular containing statistics purporting to be the results of tests conducted by independent testing agencies showing the respondents' Albion slate to be superior to "Genuine Bangor Certificate Slate," a competitive product quarried in the Bangor, Pa., district, both in physical strength and in resistance to moisture absorption. The stipulation continues that in fact no original reports or other data have been furnished showing a basis for the respondents' statements, which are inaccurate and contrary to the weight of scientific evidence, and misleading and deceptive insofar as they indicate superior qualities in Albion slate not actually present.

Under their stipulation, the respondents agree to desist from publishing comparative tests purporting to show that slate distributed by them is of higher quality than competitive products when, in fact, the figures given and assertions made are not warranted by the weight of scientific evidence. They also agree to cease representing in any other way that their slate has greater strength, or greater resistance against absorption of moisture, than specified competitive products, when such is not a fact, or that it possesses any other superior quality not actually present. (2656)

**H. Korach Company**—Herman Korach, trading as H. Korach Company, Chicago, Ill., stipulates that in the sale of women's coats he will cease using the word "Pony" or any other word simulating it in sound or spelling; the words "Lamed" or "Lambled" or words containing the letters "Lam" or simulating the word "Lamb"; the word "Persian" or other words imitating it; the word "Koracal" or any word simulating "Karacul" or "Caracul"; the words "Seal" or "Seal Plush" or any terms containing the word "Seal" or imitation of it; or the name of any animal, pelt or fur to designate any cloth coat or garment not made of the pelt or fur of the animal designated, unless such terms are immediately preceded by the words "Cloth Imitation of" in conspicuous type. The respondent also agrees to desist from the representation that his salespersons purchase his coats at a price permitting them to charge a customer an excessive price and at the time have the customer believe that she is obtaining a bargain. The stipulation

relates that the respondent advertised: "Even though you were to charge \$45.00 for this coat that will only cost you \$9.75 at wholesale prices, your customers will swear that they are buying the bargain of their lives." (02502)

**Henry D. Mack**, New York City, agrees to cease representing that the "Tasco Arithmometer" does the work of higher priced adding machines; that the "Tasco Arithmometer" is as accurate, fast or dependable as more expensive machines used for the same purpose; that the price charged for it or other articles or devices offered for sale is either "low" or "special" so long as the figure quoted is the regular price or more than the regular price for which the devices have been sold or offered for sale by him, or that the advertised offer is special or unusual, so long as no price reduction or other trade concession is made therewith. (2657)

**McAlester Fuel Company**, McAlester, Okla., agrees to cease representing that "Paranay Motor Oil" possesses qualities never before known in any oil; has the toughest film in oil and the longest life; prevents the excessive friction and wear in the motor caused by other oils, especially while breaking in the motor, and will keep an automobile, tractor, truck or any other machine running just as smoothly, powerfully or economically the second, third or fourth year as it ran the first year. Other representations which the respondent agrees to discontinue are that the so-called "Miracle Test" is the best test ever devised for determining the lubricating qualities of motor oils; that the strength of the oil film alone on motor bearings determines the quality of lubrication obtained from any oil and the ability of any oil to prevent excessive friction, and that use of the respondent's oil will cause a motor to produce more pep, mileage, horsepower and speed than all other motor oils. (02501)

**George A. Morhard Company**, Philadelphia, agrees to cease representing that its "Kauri-Congo Varnish" contains a high percentage of Kauri-Congo gum or tung oil, unless such is a fact, or in any other way over-stating or misrepresenting the gum or tung oil content actually present in the product. The respondent also agrees to discontinue representing that the product is water-resistant or has a low acid number or that it is non-reactive to zinc oxide, and that the product can be used as an all-purpose spar varnish when such are not the facts. (2658)

**Ohio Truss Company**, 12 East Ninth St., Cincinnati, agrees to cease labeling or otherwise designating a shoulder brace or similar product offered for sale as "Long-Life Health Brace" or to cease representing in any other way that the user may expect thereby to attain health and other desirable conditions, or that such results are to be obtained through correct breathing or erect posture, in and of themselves. (2661)

**Plast-O-Dent Company**—J. D. Hagey, trading as Plast-O-Dent Company, Detroit, Mich., agrees to desist from advertising that plates can be refitted by using "Plast-O-Dent"; that this product is healing or kindly to the tissues and will perfect the fit of dental plates; that the simplicity of its application assures its success; that "Plast-O-Dent" will eliminate in every instance the discomfort and embarrassment due to loose plates, and that it is an amazing, new discovery. (02504)

**Imis, Speiden & Co.**, New York, agrees to cease representing that "Larvacide" is a safer fumigant than other similar products, unless conspicuous notice is given with every claim for safety that all fumigants are a deadly poison but that "Larvacide", by its capacity to produce tears, warns persons to get away from it. The respondent also stipulates that it will cease advertising that "Larvacide" provides complete control of pests; that, when used on lumber or other forest products, it will effect a permanent or continued freedom from insect life; that it is the most powerful fumigant yet developed; that it penetrates every berry in every bushel of wheat, and that one fumigation a year with "Larvacide" will provide protection from moths, unless it is clearly stated in direct connection with such representation that usually general spot treatment is needed. (02503)

**Sperry Flour Company**—See General Mills, Inc.

**E. H. Tate Company**, 251 Causeway St., Boston, dealers in merchandise including upholstery nails or tacks, agrees to cease employing the words "Boston, Massachusetts" or the letters "U. S. A." or such words and letters in connection to indicate that the products so marked are of domestic manufacture, when such is not a fact; and to discontinue causing the brands or marks on imported products, which indicate their foreign origin or manufacture, to be omitted, erased or concealed so as to mislead or deceive purchasers with respect to the foreign origin or manufacture of the products. The stipulation relates that the respondent packed certain of its products in cartons on which appeared the wording: "Bull Dog Thumb Tacks—50—E. H. Tate Co., Boston, Mass., U. S. A.," when in fact such products were not of domestic manufacture but were made in Germany. The original cartons in which the products were imported were marked to indicate the country of origin but this did not appear on the cartons in which the products were ultimately sold to consumers in this country, according to the stipulation. (2660)

**Vadco Sales Corporation**, New York, agrees to cease representing that "Quinlax Cold Tablets" are a competent or effective treatment to stimulate circulation or to eliminate acids through the pores, and that the preparation treats seven symptoms or phases of a cold, is a complete treatment or effective remedy for colds, a new preparation, a new method for treating colds or their symptoms, and especially suitable for children. (02499)

**Watertown Mattress Company**—Leon T. and Lawrence R. Clickner, trading under the firm name of Watertown Mattress

Company, 139 Mill St., Watertown, N. Y., agree to cease supplying customers with mattresses for resale, such products being tagged or marked with fictitious or misleading prices which are in excess of the regular, customary prices. (2659)

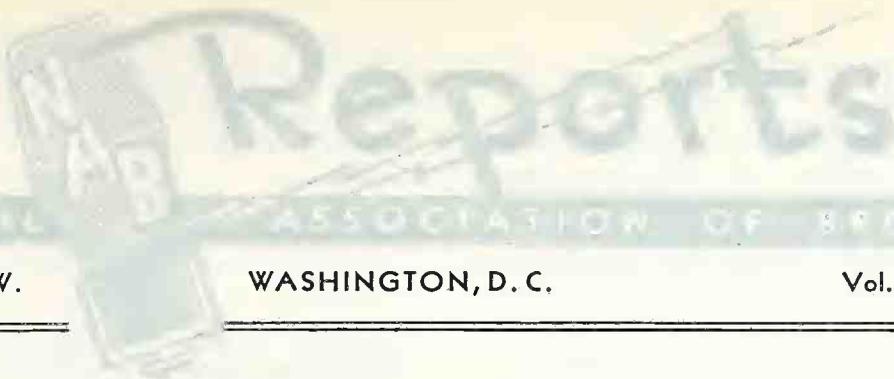
## FTC DISMISSES COMPLAINTS

The Federal Trade Commission has dismissed complaints against 6 of some 14 companies which had been charged with unfair competition through sale of Philippine hardwood as "Philippine Mahogany." Dismissal was ordered as to proceedings against Sea Sled Corporation, New York; Louis Bossert & Sons, Inc., Brooklyn; Pacific Door & Sash Company, Los Angeles; Chicago Warehouse Lumber Company, Chicago; Dart Boats, Inc., Toledo; and Boyd-Martin Boat Company, Delphi, Ind.

These respondents were found to be no longer in the business of selling Philippine hardwoods under the name "Philippine Mahogany." The Commission's dismissal action was taken without prejudice to the reopening of these cases if any or all of the respondent parties should resume the practice charged.

Similar charges against 8 other companies are in process of being tried under an order reopening these cases, before a Commissioner trial examiner.





## Broadcast Music, Inc., Now a "Going Concern" As Board Declares Plan Operative

Broadcast Music, Inc., was declared a "going concern" by its Board of Directors, meeting yesterday in the company's new offices at 580 Fifth Avenue, New York City.

The total amount of funds actually received or pledged was \$1,140,357.50. Members of the Board expressed confidence that as other station commitments are received the figure will exceed the \$1,500,000.

Stock certificates and license agreements will be issued in the very near future. It was also announced that the selection of personnel for the staff of BMI will be completed shortly. Meanwhile, Neville Miller will continue to serve as President of the corporation, and Sydney M. Kaye as Vice President and General Counsel.

Members of the Board present at yesterday's meeting were: John Elmer, Edward Klauber, Lenox R. Lohr, Samuel R. Rosenbaum, John Shepard, III, and Neville Miller, President, and Sydney Kaye, Vice President and General Counsel. Also present was Everett E. Revercomb, acting Secretary and Treasurer of the corporation.

### FTC RULES ON COMMERCIAL COPY

Several members have recently asked NAB for information and guidance in checking advertisers' commercial copy, with particular reference to FTC rules and regulations on food, drugs and cosmetics.

There are several sources for this information, all of which may be helpful. Stations should write the FTC for a copy of their Annual Report for the fiscal year ending June 30, 1939, which was recently released. The subject is further covered in NAB REPORTS for December 29, 1939 and January 19, 1940. Page 3970 of January 19 issue will be of particular interest.

Each issue of NAB REPORTS covers current Federal Trade Commission action, including complaints, stipulations, and cease and desist orders. *Advertising & Selling* (January 1940 issue, p. 25) cites some actual cases where food and drug copy was changed to conform to FTC regulations.

### "POT O' GOLD" PROGRAM REFERRED TO JUSTICE DEPT. BY FCC

The Federal Communications Commission has transmitted to the Department of Justice the facts concerning the Tums "Pot o' Gold" program, broadcast over the National Broadcasting Company network, and a program advertising Mead's Bakery, recently broadcast by stations KWFT and KBST at Wichita Falls and Big Springs, Texas, respectively, it was announced yesterday.

The Commission had received complaints that these programs, which involve gifts of money by chance, violate Section 316 of the Communications Act which prohibits the broadcasting of ". . . any advertisement, or information concerning any lottery, gift enterprise, or similar scheme . . ."

In turning these cases over to the Department of Justice for such action as that department deems necessary and warranted, the Commission offered "any cooperative assistance desired."



1266 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## 5 TEXAS LICENSES ORDERED REVOKED; REASON: UNDISCLOSED OWNERSHIP

The Federal Communications Commission issued orders of revocation for licenses of five Texas radio broadcast stations—KSAM, Huntsville; KAND, Corsicana; KRBA, Lufkin; KTBC, Austin, and KNET, Palestine—effective February 24.

The order resulted from investigation instigated January 26th, of undisclosed interests of Dr. James G. Ulmer and Roy G. Terry in the stations mentioned.

In its announcement, released yesterday, the Commission said:

"It is indicated that original construction permits and licenses for these stations were issued by the Commission upon false and fraudulent statements and representations and because of the failure of the applicants to make full disclosure to the Commission concerning the financing of station construction and operation, as well as the ownership, management and control thereof, in violation of the law, and that, had the actual facts in this connection been made known to the Commission it would have been warranted in refusing to license these stations.

"KSAM is licensed by the Sam Houston Broadcasting Association, H. G. Webster, president, and operates on 1500 kilocycles with 250 watts, daytime; KAND is licensed by the Navarro Broadcasting Association, J. C. West, president, and operates on 1310 kilocycles with 100 watts, unlimited time; KRBA is licensed by the Red Lands Broadcasting Association, Ben T. Wilson, president, and operates on 1310 kilocycles with 250 watts, daytime; KTBC is licensed by the State Capitol Broadcasting Association, Inc., and operates on 1120 kilocycles with 1 KW, specified hours (D-WTAW), and KNET is licensed by John Calvin Welch, William M. Keller and Bonner Frizell as the Palestine Broadcasting Association, and operates on 1420 kilocycles with 100 watts, daytime.

"The licensees have 15 days in which to ask hearing, in which case the revocation order will be stayed pending the outcome of the hearing."

## FEDERAL LEGISLATION

H. R. 8263 (Mr. O'Brien, N. Y.) TO AMEND THE COPYRIGHT ACT—Provides that the damages for infringement of copyright of musical compositions played in hotels or restaurants when no entrance fee is charged, or cover or its equivalent charge made, shall not exceed \$10 for each performance, unless greater damages are shown. Referred to the Committee on Patents.

## STATE LEGISLATION

### CALIFORNIA:

A 71-X (Meehan) LOTTERIES—Creates state managed lotteries.

### NEW YORK:

A 1108 (Goldstein) LIBEL AND SLANDER—DEFINITION—Includes in definition of libel, malicious publications which expose persons to hatred, contempt or ridicule by reason of race, color, religion or manner of worship or causes them to be shunned or avoided; and defines as slander any oral announcement effecting or tending to effect same result. Referred to Codes Committee.

A 1199 (Casey) EMPLOYMENT AGENCIES—Provides that no licensed person conducting an employment agency shall divulge name or address of applicant for employment to person or firm without first investigating character of employer. Referred to Judiciary Committee.

### RHODE ISLAND:

H. 680 (Curvin *et al.*) LIBEL—Defining criminal libel and providing penalties therefor. Referred to Judiciary Committee.

## NAB Jointly Sponsors 11th Institute for Education by Radio at Ohio State Uni- versity, April 29, 30, May 1

### *Stations Invited Submit Recordings of Educational Programs for Awards*

In cooperation with the NAB, Ohio State University is sponsoring the eleventh in the series of Institutes of Education by Radio.

At the same time, the University will conduct an exhibition of recordings of educational broadcasts, submitted by stations and networks. Awards of national distinction in eight program classifications will be made.

Headquarters invites each member to send station representatives and program directors to Columbus to attend these important educational radio conferences.

While the full program is in process of formation this week, Ed Kirby, NAB Director of Public Relations, has arranged for a joint conference of leading educators, educational stations, representatives of government and member broadcasters during the session.

Stations desiring to make registrations at the conference or desiring to submit specimen educational broadcasts on records are asked to communicate direct with Dr. I. Keith Tyler, Ohio State University, Columbus, Ohio. The dates for the Institute are April 29, 30 and May 1. Entries of recorded educational programs close on March 15. Early registration for station representatives is urged.

A description of the educational recording exhibit follows:

### PURPOSE OF EXHIBITION

The purpose of this exhibition is to further the broadcasting of valuable educational programs by calling attention to the most meritorious ones of each type.

### EXHIBITORS

The Exhibitors are classified into two groups upon the basis of program resources. In general, these two major classifications are: 1. Networks, national organizations, and clear-channel stations; 2. Local and regional stations and organizations. The purpose of these two major classifications is to promote fairness in judging the programs of an organization with limited resources of budget and personnel in contrast to organizations with large budgets and personnel. Each entrant should take this into account and enter programs in the major classification which most nearly fits the conditions. The jury reserves the right to change the classification if, in its judgment, such a change will be fairer to other entries. As examples of the two major classifications, programs entered by the United States Office of Education would fall in classification 1, as a national organization. So, likewise, would a sustaining educational program entered by Station KFI, Los Angeles, a clear-channel station. Programs entered by the Detroit Public Schools,

a local organization, or by Station WHA, a regional station, would be entered in classification 2. The exhibit is open to any organization or individual upon payment of an entry fee of one dollar for each program entered.

#### CLASSES OF PROGRAMS

In general, programs submitted must be those whose primary purpose is to educate rather than to entertain. Awards will be made for the best of each of eight different program types:

##### For General Use by Adults:

- a. Lecture, talk, speech.
- b. Demonstration or participation program.
- c. Dialog, round-table conversation, interview, debate, question and answer.
- d. All forms of dramatization.

##### For General Use by Children:

- e. Any type of out-of-school children's program.

##### For Use in School:

- f. By primary children (approximately Grades I-III).
- g. By elementary children (approximately Grades IV-VI).
- h. By junior and/or senior high-school pupils (approximately Grades VII-XII).

Each program entered in the exhibit must be entered under one of these program types, but the jury may, if it sees fit, change the class in which a program is entered.

#### SINGLE PROGRAM IN A SERIES

Contentants may enter as many series as are desired in the exhibit, but only a single program may be entered from any one series. This restriction has been made necessary by the large number of programs which have been entered in the three previous exhibitions. In order to keep the number of entries within the limitations of the time of the judges, only one program may be entered from any series. Exhibitors, therefore, will need to make their own selection of the program in any series which has greatest merit.

#### ENTRY BLANKS

The contestants who plan to enter recordings should request additional entry blanks by writing at once to I. Keith Tyler, Ohio State University. The contestants will have until March 15, 1940, for selecting and recording the programs which are to be entered in the exhibition.

#### EXHIBIT FEE

An exhibit fee of one dollar for each program is charged to cover the costs of the exhibition. A check or money order for the total fee for the programs entered should be sent, with the entry blanks for the programs, to I. Keith Tyler, Ohio State University, Columbus, Ohio, at the time that the recordings are shipped. Make checks payable to I. Keith Tyler, Secretary.

#### JUDGES' REPORTS

For each program entered, a report of the preliminary judges will be returned. This new feature enables each contestant to benefit from the exhibition by obtaining impartial evaluations of educational content and radio quality. These reports will be sent out at the close of the Institute.

#### ENTRY CLOSING DATE

All records must be shipped prepaid to the Institute for Education by Radio, Ohio State University, Columbus, Ohio, to arrive on or before March 15, 1940. All programs entered must have been broadcast later than March 15, 1939, and previous to March 15, 1940.

#### PHYSICAL SPECIFICATIONS FOR RECORDS

All programs must be recorded in entirety for the full time the program is broadcast. The programs need not be recorded directly from the air, however, but may be specially staged for recording purposes. Any type of recording will be acceptable, and the jury will endeavor to consider only the character of the program and not the quality of the recording. Records must be on disks laterally cut at 33 RPM or 78 RPM.

#### AWARDS AND HONORABLE MENTIONS

The Institute for Education by Radio, upon recommendation from the jury, will make "First Awards" and "Honorable Mentions" on the basis of the eight classes of programs in each of the two major classifications. In general, this provides for sixteen "First Awards" and sixteen "Honorable Mentions." However, the

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judges may, at their discretion, withhold awards and honorable mentions in those classes in which no programs appear worthy of this recognition. Similarly they may, in unusual circumstances, give more than one "First Award" or "Honorable Mention" in a single class when the programs entered seem to justify such recognition. Programs and organizations receiving awards or honorable mentions will be given special notice in *Education on the Air*, the proceedings of the Institute for Education by Radio, which will be published by the Ohio State University. The awards will be announced at the 1940 meeting of the Institute, and the programs given awards will be played in special sessions during the Institute.

#### JUDGING COMMITTEE

The final jury on awards will consist of prominent persons selected because of their ability to judge program production, educational objectives, and audience interest.

#### COMMUNICATIONS

Address all communications regarding the Fourth American Exhibition of Recordings of Educational Radio Programs to I. Keith Tyler, Institute for Education by Radio, Ohio State University, Columbus, Ohio.

#### "EDUCATION ON THE AIR"

The proceedings of the ten previous Institutes for Education by Radio—1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, and 1939 may be obtained from the Ohio State University Bookstore at \$3 a volume. Special reduced prices are made when yearbooks of more than one year are purchased in sets.

### BUREAU'S FOURTH TRADE STUDY COVERS FURNITURE STORES

The NAB Bureau of Radio Advertising has released to all members Vol. 1, No. 4 of "Results from Radio," its series of success stories covering various fields of local advertising.

The new study is on the subject of furniture stores, outlining the case history of Breslaw Brothers, Schenectady, N. Y., who have used radio for ten years with outstanding success. Mr. Jay Breslaw, president of the New York furniture chain, states, "Yes, radio sold furniture. Above all other factors, it is responsible for our tremendous growth."

Extra copies of the "Results from Radio" folders are available on request to the Bureau of Radio Advertising. Previous releases covered department stores, laundries, and miscellaneous.

Member stations who have not yet ordered their supply of the Bureau studies are urged to do so at once. Order forms for this purpose accompany the sample copy of the No. 4 trade study. NAB is anxious to have all members partake of the benefits of the Bureau's promotion efforts.

## COMING CONVENTIONS OF INTEREST TO MEMBER STATIONS

- Feb. 29-March 1.* Insurance Advertising Conference, Hotel Biltmore, New York.
- April 23-25.* Annual convention, American Newspaper Publishers Association, Waldorf-Astoria Hotel, New York.
- May 3-4.* Annual convention, Advertising Affiliation, Hotel Statler, Buffalo, New York.
- June 23-27.* Annual convention, Advertising Federation of America, Chicago.
- July 7-10.* Annual convention, Pacific Coast Advertising Clubs Association, Vancouver, B. C.

Insofar as possible, the Bureau of Radio advertising plans to attend or have representation at the above conventions, and in every case to report to the members any developments affecting the broadcasting industry.

## ADVERTISING NOT TO BE SINGLED OUT IN FTC SURVEY

Federal Trade Commission in a pending appropriation bill has been granted \$88,000 with which to make a survey of methods and costs of distribution in industry. There appeared to be some misunderstanding in connection with this survey with especial emphasis on the amount of money to be expended by the Commission for its survey of the advertising appropriation used by industry in its methods and costs of distribution.

In this connection the Commission has issued the following statement:

"From inquiries to the Commission and articles appearing in certain periodicals, there appears to be misconception concerning the character and scope of the Commission's proposed inquiry into the 'Methods and Costs of Distribution.'"

"The purpose of the inquiry is to ascertain and assemble pertinent facts concerning the whole subject of distribution in a number of industries. This will involve examining different methods of distribution and, necessarily, the more important items of costs. Some industries will be included in which expenditures for advertising no doubt, will be unsubstantial; in others the advertising costs may be substantial. There is no purpose or intention of singling out advertising any more than any other item of the cost of distribution and no more emphasis will be placed on advertising costs in this inquiry than was done in such recent inquiries as Agricultural Income, Farm Implements and Motor Vehicles.

"In the numerous general inquiries conducted by the Commission and in the many thousands of cases in which it has made investigations and taken corrective action the Commission has never made any declaration or taken any position against advertising as such. Furthermore, no such action is contemplated. Its action with respect to this subject has been confined to the elimination of false and misleading advertising under the Federal Trade Commission Act, and of unlawful advertising allowances under the Robinson-Patman Act. Even under the latter act no attempt has been made to prevent the granting of such allowances provided that when offered they were made available on proportionally equal terms to all customers."

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearing is scheduled before the Commission in a broadcast case during the week beginning Monday, February 12. It is subject to change.

Monday, February 12

NEW—L. J. Duncan, Leila A. Duncan, Josephine A. Keith, Effie H. Allen, Aubrey Gay, d/b as Valley Broadcasting Co., West Point, Ga.—C. P., 1310 kc., 250 watts, unlimited time.

## FUTURE HEARINGS

During the week the Commission has announced the following tentative date for oral arguments. It is subject to change.

March 7

Oral Argument Before the Commission

Report No. B-75:

NEW—William C. Barnes and Jonas Weiland, tr/as Martinsville Broadcasting Co., Martinsville, Va.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

NEW—J. R. Walker, S. S. Walker and C. F. Walker, co-partners, tr/as Patrick Henry Broadcasting Co., Martinsville, Va.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Governor E. D. Rivers, Valdosta, Ga.—Granted construction permit to erect a new station to operate on 1420 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.

WMCA—Knickerbocker Broadcasting Co., Inc., New York City.—Granted construction permit to move transmitter site locally 14 miles (from College Point Causeway, Flushing, N. Y., to Belleville Turnpike, Kearney, N. J.), install new equipment, make changes in DA pattern, and increase day power from 1 KW to 5 KW on 570 kc., employing DA day and nighttime.

WKNY—Kingston Broadcasting Corp., Ulster Township, N. Y.—Granted construction permit to make changes in equipment, increase power from 100 to 250 watts, and time of operation from daytime to unlimited, on 1500 kc.

W1XA—General Electric Co., Bridgeport, Conn.—Granted reinstatement of construction permit which expired September 16, 1939, requesting reduction in aural power of television station to 100 watts and in visual power to 175 watts.

### LICENSES REVOKED

KSAM—Sam Houston Broadcasting Assn., Huntsville, Texas; KAND—Navarro Broadcasting Assn., Corsicana, Texas; KRBA—Red Lands Broadcasting Association, Lufkin, Texas; KTBC—State Capitol Broadcasting Association, Inc., Austin, Texas; KNET—Palestine Broadcasting Association, Palestine, Texas.—Issued orders for revocation of licenses of five Texas stations, effective February 24, 1940, because of applicants' failure to make full disclosure to the Commission concerning ownership, management, financing and control of stations. Applicants may request hearing within 15 days, in which case revocation orders will be stayed pending outcome of hearing.

### MISCELLANEOUS

W2XWF—William C. H. Finch, New York, N. Y.—Granted extension of special temporary authority to change from A3 emission to special emission frequency modulation 75 kc. swing to make comparative tests on amplitude modulation, for the period February 4, 1940, to not later than March 4, 1940, results of test to be presented at high frequency hearing.

WARM—Union Broadcasting Co., Scranton, Pa.—Granted special temporary authority to operate a 100-watt portable transmitter on 1370 kc. during daylight hours in the vicinity of Scranton, Pa., for a period not to exceed 7 days, in order to conduct site survey in connection with construction permit.

- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with station KTHS on 1060 kc., from 9 p. m. to 9:30 p. m., EST, on February 19, 1940, in order to broadcast program in connection with celebration of the fiftieth anniversary of the founding of the patent system in the United States.
- WMAN—Richland, Inc., Mansfield, Ohio.—Granted special temporary authority to operate with power of 250 watts from 6 p. m., EST, to midnight on February 6, 1940, in order to broadcast primary election results.
- WJMC—Walter H. McGenty, Rice Lake, Wis.—Granted special temporary authority to operate from 7:45 p. m. to 9:45 p. m., CST, on February 9 and 13, 1940, in order to broadcast basketball games only.
- KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from 6:45 p. m. to 8:15 p. m., CST, on February 11, 18, 25, and March 3, 1940, in order to broadcast church services.
- W1XOJ—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to test the transmitting equipment of station W1XOJ, authorized by modification of construction permit on frequency 43000 kc., with power in the range of 2000 and 50000 watts, for the period February 14, 1940, to not later than March 14, 1940, in order to make adjustments on equipment installed and for tuning and to make adjustments of the antenna elements which are now assembled for erection atop 400-foot mast.
- WAVE—Vee Bee Corp., Portable-Mobile (area of Portsmouth, Ohio).—Granted license to cover construction permit for new relay broadcast station to operate on frequencies 1622, 2058, 2150 and 2790 kc., power 25 watts.
- KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Granted authority to determine operating power by direct measurement of antenna input.
- KBND—The Bend Bulletin, Bend, Ore.—Granted authority to determine operating power by direct measurement of antenna input.
- KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Granted license to cover construction permit as modified for increase in power from 500 watts to 1 KW night, 5 KW LS, and hours of operation from limited to unlimited; install new transmitter and antenna; and move of transmitter (use former transmitter of KECA, also antenna), and move to site formerly licensed to KECA. Also granted authority to determine operating power by direct measurement of antenna input.
- KXA—American Radio Tel. Co., Seattle, Wash.—Granted modification of construction permit authorizing increase in power from 250 watts night, 500 watts day, to 1 KW day and night; move transmitter, make changes in equipment, and extend completion date to May 20, 1940.
- WREC—WREC Broadcasting Service, Memphis, Tenn.—Granted license to cover construction permit to install auxiliary transmitter at present location, using 1 KW power, directional antenna day and night, for emergency use only (600 kc.).
- WICA—WICA, Inc., Ashtabula, Ohio.—Granted license to cover construction permit as modified for installation of new transmitting equipment and increase in power from 250 watts to 500 watts on 940 kc., daytime only.
- KGNF—Great Plains Broadcasting Co., North Platte, Nebr.—Granted construction permit to make changes in equipment.
- WEXH—Peoria Broadcasting Co., Portable-Mobile (area of Peoria, Ill.).—Granted construction permit to make changes in equipment in relay broadcast station, change frequencies to 1622, 2058, 2150, 2790 kc.; 50 watts.
- WAAB—The Mayflower Broadcasting Co. and The Yankee Network, Inc., Boston, Mass.—Upon Commission's own motion extended date for filing Proposed Findings in Docket Nos. 5618 and 5640 from February 14, 1940, to March 14, 1940.
- W1XKB—Westinghouse Electric & Mfg. Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with high frequency experimental station W1XSN on 42400 kc., with special (F-M) emission, from 8 a. m. to 5 p. m., EST, daily for the period February 6, 1940, to not later than February 9, 1940, for the purpose of checking adjacent channel operation.
- WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Granted authority to determine operating power by direct measurement of antenna input.
- WCAO & (Aux.).—Monumental Radio Co., Baltimore, Md.—Granted authority to determine operating power by direct measurement of antenna input.
- KONO—Mission Broadcasting Co., San Antonio, Tex.—Granted authority to determine operating power by direct measurement of antenna input.
- KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Granted license to cover construction permit authorizing increase in day power from 250 watts to 1 KW, on 1340 kc.
- WINS—Hearst Radio, Inc., New York, N. Y.—Granted special temporary authority to operate from 7:45 p. m., EST, to midnight on February 3, 1940, in order to broadcast the Melrose Track Meet to be held at Madison Square Garden.
- KVAN—Vancouver Radio Corp., Vancouver, Wash.—Granted special temporary authority to operate simultaneously with Station KLX from 7:30 p. m., PST, to the conclusion of basketball games on February 17, 23, March 1, 1940, in order to broadcast basketball games only.
- WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted extension of special temporary authority to operate from 9:00 a. m. to 10:00 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday, and Sunday mornings, for the period beginning February 18, 1940, and ending not later than March 18, 1940, or until the Saginaw Broadcasting Company is in a position to use said time, in order to broadcast special non-commercial educational programs.
- WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Granted order to take depositions in re application for renewal of license scheduled to be heard March 5, 1940.
- WTAW—Agricultural & Mechanical College of Texas, College Station, Tex.—Granted construction permit to install new antenna and move transmitter from E. Z. Bldg., College Station, to College Station, Tex.
- W9XAZ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted modification of construction permit as modified, to make changes in equipment of high frequency broadcast station.
- KNEL—G. L. Burns, Brady, Texas.—Granted authority to determine operating power by direct measurement of antenna input.
- WCSC—S. C. Broadcasting Co., Inc., Charleston, S. C.—Granted authority to determine operating power by direct measurement of antenna input.
- WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.—Granted authority to determine operating power by direct measurement of antenna input.
- KWEW—W. E. Whitmore, Hobbs, N. Mex.—Granted authority to determine operating power by direct measurement of antenna input.
- KVFD—Northwest Broadcasting Co., Ft. Dodge, Iowa.—Granted license to cover construction permit and modifications thereof authorizing a new station to operate on 1370 kc., 100 watts night, 250 watts day, specified hours. Also granted authority to determine operating power by direct measurement of antenna input.
- KVCV—Golden Empire Broadcasting Co., Redding, Cal.—Granted license to cover construction permit for new equipment, increase in power from 100 to 250 watts, unlimited time, on 1200 kc. Also granted authority to determine operating power by direct measurement of antenna input.
- WFNC—Cumberland Broadcasting Co., Fayetteville, N. C.—Granted modification of construction permit covering new station, authorizing extension of completion date to May 20, 1940.
- WKIP—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—Granted modification of construction permit for new broadcast station, for approval of antenna, transmitter and studio sites at 42 S. Market St., Poughkeepsie, and change in type of transmitting equipment.
- WMJM—Cordele Dispatch Publishing Co., Inc., Cordele, Ga.—Granted modification of construction permit for new broadcast station, for approval of antenna, changes in equipment, and studio and transmitter sites.
- WSUI—State University of Iowa, Iowa City, Iowa.—Retired to the closed files the construction permit authorizing installation of new transmitter and antenna, and move transmitter, granted May 1, 1939, since station was granted increase in power, move of transmitter etc., on November 8, 1939.
- Gateway Broadcasting Co., Louisville, Ky.—Denied petition for rehearing in the matter of application for new station to

operate on 880 kc., with 500 watts, unlimited time, which was denied by the Commission on November 30, 1939.

## APPLICATIONS FILED AT FCC

### 590 Kilocycles

WEEL—Columbia Broadcasting System, Inc., Boston, Mass.—License to cover construction permit (B1-MP-358) for increase in power from 1 KW, 5 KW day, to 5 KW day and night, and use present daytime directional antenna patterns for day and night.

### 620 Kilocycles

WSUN—St. Petersburg Chamber of Commerce, St. Petersburg, Fla.—Voluntary assignment of license from St. Petersburg Chamber of Commerce, to City of St. Petersburg, Florida.  
WFLA—Florida West Coast Broadcasting Co., Inc., Tampa, Fla.—Construction permit to make changes in directional antenna system, and increase power from 1 KW night, 5 KW day to 5 KW day and night.

### 650 Kilocycles

KIRO—Queen City Broadcasting Co., Seattle, Wash.—Construction permit for new transmitter, changes in frequency from 650 to 710 kc., increase power from 250 watts to 10 KW, change hours of operation from limited to unlimited, and move transmitter to site to be determined. Amended: Install directional antenna day and night use, give transmitter site as RFD, Maury Island, near Chautauqua, Washington.

### 660 Kilocycles

KOWH—World Publishing Co., Omaha, Nebr.—Construction permit to install new transmitter, and directional antenna for night use, increase power from 500 watts to 5 KW, change frequency from 660 to 890 kc., hours of operation from daytime to unlimited time, move transmitter from 60th & Girard Sts., Omaha, Nebr., to S. E. corner 72nd and L Sts., Omaha, Nebr. Request facilities of KUSD & KFNF.

### 710 Kilocycles

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—License to use RCA 1001-C transmitter as an auxiliary transmitter with power of 1 KW for emergency use only.  
KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Authority to determine operating power by direct measurement of antenna power for auxiliary transmitter.

### 890 Kilocycles

KUSD—University of South Dakota, Vermillion, S. Dak.—Construction permit to install new vertical antenna, change frequency from 890 to 660 kc., hours of operation from shares with KFNF to daytime. (Contingent on KOWH being granted unlimited time on 890 kc.)

### 920 Kilocycles

WSPA—Virgil V. Evans, tr/as Voice of South Carolina, Spartanburg, S. C.—Construction permit to install auxiliary transmitter at Evanston Heights, Spartanburg, S. C., using 500 watts power.

### 950 Kilocycles

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Modification of construction permit (B1-P-1332) as modified, for a new station, requesting extension of completion date from 2-27-40 to 8-27-40.

### 1180 Kilocycles

WDGY—Dr. George W. Young, Minneapolis, Minn.—Construction permit for installation of directional antenna for night use, increase power from 1 KW, 5 KW day to 5 KW day and night, change in hours of operation from limited to unlimited time.

### 1200 Kilocycles

WBAB—Press Union Publishing Co., Atlantic City, N. J.—Authority to determine operating power by direct measurement of antenna power.

WBAB—Press Union Publishing Co., Atlantic City, N. J.—License to cover construction permit (B1-P-1611) as modified for a new station; move studio from 1900 Atlantic Ave. to Convention Hall, Georgia Ave. and Boardwalk, Atlantic City, N. J.

WMOB—S. B. Quigley, Mobile, Ala.—Modification of license to increase power and change hours of operation from 100 watts daytime to 100 watts, 250 watts day, unlimited time.

### 1210 Kilocycles

KDON—Monterey Peninsula Broadcasting Co., Monterey, Calif.—Construction permit to install new transmitter, vertical antenna; increase power from 100 watts to 500 watts, 1 KW day; change frequency from 1210 kc. to 1440 kc.; and move transmitter. Amended to make changes in antenna and give transmitter site as site to be determined, near Monterey, Calif.

### 1230 Kilocycles

KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Construction permit to install new transmitter, antenna to be determined; change frequency from 1230 kc. to 600 kc.; increase power from 1 KW to 1 KW, 5 KW day; and move transmitter from west city limits, Albuquerque, N. Mex., to site to be determined, Albuquerque, N. Mex.

### 1300 Kilocycles

KALE—KALE, Inc., Portland, Ore.—Construction permit to install directional antenna for night use, and increase power from 1 KW, 5 KW day, to 5 KW day and night.

### 1310 Kilocycles

WFIG—J. Samuel Brody, Sumter, S. C.—Modification of construction permit (B3-P-2171) as modified for a new station, requesting change in type of transmitting equipment, and extend commencement date 30 days after grant and completion date 90 days thereafter.

### 1320 Kilocycles

KRNT—Iowa Broadcasting Co., Des Moines, Iowa.—Construction permit to install new transmitter; move transmitter from north of Des Moines, Iowa, to E. 36th and Granger Sts., Des Moines, Iowa; install new directional antenna for night use; and increase power from 1 KW, 5 KW day, to 5 KW day and night.

### 1340 Kilocycles

WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Construction permit to install new transmitter and increase power from 500 watts, 1 KW day, to 5 KW day and night (directional antenna night).

### 1350 Kilocycles

WAWZ—Pillar of Fire, Zarepath, N. J.—Construction permit to make changes in transmitting equipment.

### 1370 Kilocycles

WORD—Spartanburg Advertising Co., Spartanburg, S. C.—Modification of construction permit (B3-P-2261) for a new station, requesting change in frequency from 1370 kc. to 1380 kc.; increase in power from 100 watts, 250 watts day, to 1 KW day and night; install new transmitter, and directional antenna for night use; move studio from 178 West Main St., Spartanburg, S. C., to site to be determined, Spartanburg, S. C., and transmitter site from 2½ miles north-northwest of center of Spartanburg, S. C., to U. S. Highway 176, 1.3 miles north of city limits, near Spartanburg, S. C.; extend commencement date 120 days after grant and completion date 180 days thereafter.

WMSL—The Tennessee Valley Broadcasting Co., Inc., Decatur, Ala.—License to cover construction permit (B3-P-2555) for increase in power, change in hours of operation, and changes in transmitter and antenna and move transmitter and studio locally.

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Modification of license to move studio from R.F.D., Fort Dodge, Iowa, to Warden Bldg., Fort Dodge, Iowa.

WHUB—M. L. Medley, Cookeville, Tenn.—Voluntary assignment of construction permit (B3-P-2298) as modified (B3-MP-829) from M. L. Medley to WHUB, Inc.

#### 1380 Kilocycles

WNBC—State Broadcasting Corporation, New Britain, Conn.—Construction permit to make changes in equipment; increase power from 1 KW to 1 KW, 5 KW day, using directional antenna both day and night.

WKBH—WKBH, Inc., La Crosse, Wis.—Construction permit to move transmitter from R.F.D. No. 1, La Crosse, Wis., to Highway No. 33, Shelby Twp., Wis.; install new transmitter; install directional antenna for night use; and increase power from 1 to 5 KW.

#### 1420 Kilocycles

WMFJ—W. Wright Esch, Daytona Beach, Fla.—License to cover construction permit (B3-P-2580) for equipment changes, and increase in power.

#### 1430 Kilocycles

KSO—Iowa Broadcasting Co., Des Moines, Iowa.—Construction permit to install new transmitter; move transmitter from north of Des Moines, Iowa, to E. 36th St. and Granger St., Des Moines, Iowa; install new directional antenna for night use; and increase power from 1 KW, 5 KW day, to 5 KW day and night.

#### 1440 Kilocycles

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Construction permit to install directional antenna for night use; increase power from 1 KW night, 5 KW day, to 5 KW day and night; and make changes in vertical antenna for day use.

#### 1500 Kilocycles

KTOH—Garden Island Publishing Company, Ltd., Lihue, Hawaii.—Modification of construction permit (B-P-1970) as modified for a new station, requesting increase in power from 100 watts, 250 watts day, to 250 watts day and night; extend commencement date from 2-12-40 to 60 days after grant and completion date 180 days thereafter.

KROD—Dorrance D. Roderick, El Paso, Tex.—Construction permit to install new transmitter; change frequency from 1500 kc. to 600 kc.; increase power from 250 watts to 500 watts, 1 KW day.

#### MISCELLANEOUS

NEW—WIBX, Inc., Utica, N. Y.—Construction permit for a new relay broadcast station to be operated on 1606, 2022, 2102, 2758 kc., 100 watts, emission A-3, unlimited time, located in area of Utica, N. Y. Amended to request frequencies 1622, 2038, 2150 and 2790 kc.

NEW—The Ohio Broadcasting Co., Canton, Ohio.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1 KW power, special emission, to be located on Lakeside Avenue, approximately 3 miles west of Canton, Ohio.

NEW—KUA, Inc., area of Siloam Springs, Ark.—Construction permit for a new relay broadcast station to be operated on 30820, 33740, 35820, 37980 kc., 7.5 watts, A-3 emission, unlimited time, located in area of Siloam Springs, Ark.

NEW—Greater New York Broadcasting Corp., New York, N. Y.—Construction permit for a new high frequency broadcast station to be operated on 43800 kc., 1 KW power, unlimited time, special emission, to be located in New York, New York, exact site to be determined.

NEW—The Fort Industry Co., Toledo, Ohio.—Construction permit for a new high frequency broadcast station to be located at 505 Jefferson Ave., Toledo, Ohio, to be operated in 43200 kc., 250 watts, unlimited time, special emission.

NEW—Jerome Raymond Popkin-Clurman, Philadelphia, Penna.—Construction permit for a new high frequency broadcast station to be located in Philadelphia, Penna. (exact site to be determined), to be operated on 43000 kc., 1 KW, unlimited time, special emission.

NEW—Isle of Dreams Broadcasting Corp., Miami, Fla.—Construction permit for a new relay broadcasting station to be

operated on 1606, 2022, 2102, 2758 kc., 2 watts, A-3 emission, unlimited time, located in area of Miami, Florida.

NEW—Isle of Dreams Broadcasting Corp., Miami, Fla.—License to cover above.

WEHK—Columbia Broadcasting System, Inc., Portable-Mobile.—License to cover construction permit (B1-PRE-334) to change equipment and increase power to 2 watts.

NEW—Marcus Loew Booking Agency, New York, N. Y.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1 KW power, unlimited time, special emission, to be located in New York, N. Y., exact site to be determined.

NEW—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, President, area of Visalia, Calif.—Construction permit for new relay broadcast station on 1622, 2059, 2150 and 2790 kc., 25 watts power, unlimited time, A-3 emission. Portable-Mobile, located in area of Visalia, Calif.

NEW—The Evening News Association, Detroit, Mich.—Construction permit for a new high frequency broadcast station to be located at 645-647 Griswold St., Detroit, Michigan, to be operated on 43000 kc., 1 KW, unlimited time, special emission.

NEW—American Broadcasting Corporation of Kentucky, Lexington, Ky.—Construction permit for a new high frequency broadcast station to be located at Main and Esplanade Sts., Walton Bldg., Lexington, Ky., to be operated on 43200 kc., 1 KW power, unlimited time. Special emission.

NEW—WJJD, Inc., Chicago, Ill.—Construction permit for a new high frequency broadcast station to be located at 20 North Wacker St., Chicago, Ill., to be operated on 43100 kc., 250 watts, unlimited time, special emission.

W9XYH—Head of the Lakes Broadcasting Co., Superior, Wisc.—Modification of construction permit (B4-PHB-75) as modified, requesting extension of completion date from 3-12-40 to 5-12-40.

W9XAO—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—License to cover construction permit (B4-PHB-79) for new high frequency broadcast station.

WDAC—University of Wisconsin, Madison, Wisc.—Modification of license to change name to State of Wisconsin, University of Wisconsin.

NEW—Nichols and Warinner, Inc., Portable-Mobile.—Construction permit to make changes in equipment. Amended: To increase power from 2 to 10 watts.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Chapman Health Products Company**, 4618 Euclid Ave., Cleveland, and John W. and Nellie C. Chapman, individually and as officers of the corporation, engaged in the sale and distribution of medicinal preparations including two formulae designated "N.A.R. Tablets" and "Faid," otherwise known as "Daintee," are charged, in a complaint with misrepresentations.

The preparation designated "N.A.R. Tablets," recommended as a treatment for rheumatism, neuritis and arthritis, and "Faid," otherwise known as "Daintee," recommended as a treatment for obesity, have been advertised in newspapers and periodicals as being safe and effective remedies for the ailments designated.

The complaint charges that "N.A.R. Tablets" is not a cure or remedy for rheumatism, neuritis or arthritis, and does not possess any therapeutic value in the treatment of these ailments except so far as the analgesic properties of the preparation may afford temporary relief.

"Faid," otherwise known as "Daintee," the complaint continues, is represented as a competent, safe and scientific treatment for

obesity, and that its use will have no ill effect upon the human body.

The United States District Court for the Northern District of Ohio last month enjoined The Chapman Health Products Company, and John W. and Nellie C. Chapman, individually and as officers of the corporation, on petition of the Federal Trade Commission, from further dissemination of false advertisements concerning "Faid," other wise known as "Daintee." The Commission's bill of complaint alleged that the preparation is composed of desiccated thyroid, sodium baborate, powdered extract phytolacca berries, berberine hydrochloride and apocynoid. Use of this preparation, the bill of complaint charged, might result in injury to the heart muscle and other serious and irreparable injury to health. The defendants waived hearing and consented to the decree being entered forthwith. The decree was granted pending the issuance of a complaint charging defendants with violation of the Federal Trade Commission Act under the regular procedure of the Federal Trade Commission.

Injunctive action of the Commission was taken under authority of the Federal Trade Commission Act, as amended by the Wheeler-Lea Act, which provides such relief in cases involving an advertised drug which may be injurious to health. (4004)

**Distillers Products Corporation of Kentucky, Inc.**, with its principal office and place of business at Shively, Ky., is charged in a complaint with misrepresentation.

The complaint alleges that by use of the word "Distillers" in its corporate name, which appears on its labels, stationery, invoices and in various other ways, the respondent falsely represents itself to be a distiller of the products it offers for sale. The word "Distillers," the complaint continues, when used in connection with the liquor industry and its products, has a definite significance and meaning to the minds of members of the industry and the purchasing public, implying the manufacture of alcoholic beverages by an original and continuous distillation process from mash, wort or wash, through continuous closed pipes or vessels until the manufacture is complete.

The complaint charges that the respondent has upon its premises a still which it uses in the production of gin by a process of rectification whereby alcohol, purchased but not produced by the respondent, is distilled over juniper berries and other aromatics. Such rectification the complaint continues does not make or constitute the respondent a distiller as defined by Section 3247 of the revised statutes regulating internal revenue, nor as commonly understood by the public or the liquor industry. The respondent does not own, operate or control a place where alcoholic beverages are manufactured by a process of original and continuous distillation from mash, wort or wash. (4010)

**Erwin Feather Quilt Company**—Herbert S. and Mabel T. Erwin, individually and trading as Erwin Feather Quilt Company, 1598 East Livingston Ave., Columbus, Ohio, manufacturers and distributors of quilts, comforts, bedspreads and like products, are charged, in a complaint with misrepresentation.

In advertising folders, pamphlets, letters, and other printed matter circulated throughout the United States, the complaint charges, the respondents have solicited orders for their products, representing, among other things: "Return this card at once for our SPECIAL OFFER FOR THIS WEEK ONLY.", and "Mail this card today for complete information on this outstanding Summer Purchase Plan. One week only is the limit we must place on our special offer \* \* \*."

Upon inquiry received from prospective purchasers procured through advertisements, the complaint continues, prices were quoted for the products which were represented to be reduced prices or special prices limited as to time and one-half the usual, customary and regular selling prices.

The complaint charges that these representations are deceptive and misleading, and that the respondents' products never had a retail sales prices greater than those quoted, and that the prices at which the products are sold are the regular, ordinary and customary sales prices therefor, are not one-half the usual price, and are not reduced or special prices.

Use by the respondents of these false and misleading statements, the complaint alleges, constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act. (4011)

**Indestro Manufacturing Corporation**—A complaint has been issued charged Indestro Manufacturing Corporation, 2649 North

Kildare Ave., Chicago, manufacturers and distributors of automobile tools and wrenches, with misrepresentation.

The complaint alleges that the respondent issues and distributes among prospective purchasers catalogs, price lists and other advertising material. Among products so advertised are certain wrenches which are represented and described as being manufactured from "Forged Alloy Steel," "Drop Forged Alloy Steel," "Special Alloy Steel," and "Carbon Alloy Steel." The respondent also causes such descriptive terms to be stamped or embossed upon the wrenches.

The term "Alloy Steel," the complaint continues, is understood by the steel industry, the trade, and the purchasing public as denoting carbon steel to which have been added certain other elements such as nickel, tungsten, molybdenum, vanadium and chromium. Such elements are added to give the finished product certain additional properties and attributes, such as hardness and toughness.

The complaint alleges that none of these elements or similar elements is added to the steel by the respondent, and that products made from such steel cannot properly be represented as having been manufactured from alloy steel. (4006)

**Monite Waterproof Glue Company**, Minneapolis, engaged in the manufacture and distribution of a glue product known as Monite Waterproof Glue, is charged in a complaint with misrepresentation.

In periodicals and trade journals and other advertising material, and on packages and containers in which the product is offered for sale, the respondent has placed such representations as: "Monite Waterproof Glue," and "Weatherproof" Glue. Through use of such representations, as above and in its corporate name, the complaint alleges, the respondent has represented that its product is waterproof and weatherproof and is impervious to water and the effects thereof. In truth, the complaint continues, the respondent's product, while capable of resisting or repelling water to a limited degree, is not impervious to water and is not waterproof or weatherproof in the sense in which such terms are understood by the purchasing public and can not properly be represented or designated as waterproof and weatherproof. (4013)

**National Folio Service**—George W. Haylings, trading as National Folio Service, 1071 West 30th St., Los Angeles, is charged, in a complaint with misrepresentation in the sale and distribution of books and pamphlets containing so-called treatises purporting to disclose and portray unusual business opportunities.

In advertisements in newspapers, periodicals and by means of letters and circulars, the respondent has represented, among other things: "We went to considerable trouble and expense purchasing this unusual plan from a gentlemen 6,000 miles away in Australia." . . . "Our Treatise No. 2, a workable 'business plan' that tells you how the originator earned a remarkable wage 'every month' the year round, no slack seasons. And—from a heretofore 'hidden source' that will surprise, fascinate and Delight you!—there are few business worries—no long waits for money—no long hours of unpleasant working—no similar competition—no office or store overhead—and no equipment needed in such a service of this kind—a service needed badly in this modern age."

Through these representations and others of similar import, the complaint alleges that the respondent represents that his so-called treatises present business opportunities which possess exceptional merit and which offer prospects of high earnings and profits, with the expenditure of little or no effort; that the operation of such businesses involves no peddling or canvassing; that such plans are original, and in many cases include valuable formulas which have been acquired by the respondent at great expense and which are owned exclusively by the respondent.

The complaint charges that these representations are false and misleading; that many of the plans set forth in the treatises are without substantial merit; that many of them are neither original nor new, nor do they include formulas which have any substantial value. The earnings and profits which the respondent represents may be obtained from operation of the plans are far in excess of any amounts which have been or may be earned through them, while many of them do require peddling and house-to-house canvassing. (4008)

**Northwest Film Ad Service, Inc.**, Portland, Ore., and Frank D. Atkins, an individual, distributors of advertising films and moving picture trailers with unfair methods of competition and unfair and deceptive acts and practices.

Frank D. Atkins is president of the corporation, and formulates and directs its policies.

For the purpose of inducing the purchase of their advertising films and trailers, the complaint charges, the respondents have made false and misleading statements and representations, among which are that they are producers as well as distributors of advertising films and trailers; that their business is nation-wide in its scope and that they maintain offices in numerous cities throughout the United States; that they have contacted manufacturers or distributors of various products sold by prospective purchasers of the films and that these manufacturers and distributors have agreed to cooperate in the film advertising of their respected products and pay a portion of the costs; that the respondents have negotiated contracts with local theaters to show their films and trailers, and that the advertising films supplied by them will be of the kind and quality designated by the purchaser.

The respondents are also alleged to have represented that certain of their competitors are out of business.

The complaint charges that the respondents' business is not nation-wide in scope, but is confined largely to Oregon, Washington and California, that they have no offices other than their office in Portland, Oreg., and that other representations made by them are false and misleading. (4007)

**Paramount Institute**—D. Victor Wallace, trading as Paramount Institute, 1095 Market St., San Francisco, selling and distributing courses of instruction for civil service examinations, is charged in a complaint with misrepresentation.

Advertising folders and pamphlets distributed throughout the country contain, the complaint alleges, misleading representations concerning the respondent's course of study and also concerning the Civil Service of the Government of the United States. Among these are assertions that examinations for Civil Service are held at frequent intervals from year to year for all types of positions; that Civil Service employees are never discharged or lose their positions except for gross inefficiency or misconduct and that promotion in position and advancement in salary are the inevitable results of efficiency.

In truth, the complaint declares, Civil Service examinations are held only at infrequent intervals, many years sometimes elapsing between such examinations; many Civil Service employees are discharged for reasons other than inefficiency or misconduct, as, for example, insufficient appropriations; efficient employees are not certain to obtain promotion in position or advancement in salary, and persons passing a Civil Service examination with a high rating are not certain of obtaining a position at an early date, or at all. The complaint also charges that persons do not require special coaching of the kind offered by respondent, and the coaching is not the kind to prepare students for the positions sought and is of little value to them unless they are otherwise qualified by prior education and experience. The complaint also charges that the respondent is not constantly or otherwise in touch with the Civil Service Commission or its examiners, except as a casual correspondent, and has no advance information concerning Civil Service examinations. (4009)

**Dr. Pierre Chemical Company**—A complaint has been issued against Dr. Pierre Chemical Co., 162 North Franklin St., Chicago, engaged in the sale and distribution of medicinal preparations designated "Dr. Pierre's BORO-PHENO-FORM Vaginal Suppositories" and "Dr. Pierre's BORO-PHENO-FORM Vaginal Creme," charging the respondent company with falsely advertising its products in violation of the Federal Trade Commission Act.

In advertisements in newspapers and periodicals and in other printed matter, the complaint alleges, the respondent has represented directly or by implication that the preparations are competent and effective preventatives of conception; are effective antiseptics and germicides; possess substantial therapeutic agents which heal and soothe irritated tissues and membranes, and that the products have been approved and accepted and are recommended by a substantial number of reputable physicians.

All these representations, the complaint continues, are false and misleading. While the products possess antiseptic ingredients of a low toxicity, they are not competent or effective antiseptics or germicides, and they have not been approved or recommended by any substantial number of reputable physicians. (4005)

**Pioneer Merchandise Company, Inc.**, 928 Broadway, New York, distributor of cigarette holders and other products, is charged, in a complaint, with misrepresentation.

The complaint alleges that the respondent has offered for sale and sells as cigarette holders certain products composed of cellulose acetate, and has caused such holders to be placed on display cards on which appear the statement "Cigarette Holders for a cool and agreeable smoke", and on others the statement "Extra Fine Cigarette Holders." These cards and holders, the complaint charges, are distributed throughout the various states.

Through the similarity in appearance of the material to amber, non-burning bakelite and other materials used in the manufacture of cigarette holders, it is alleged, the purchasing and consuming public is led to believe that the holders are made from amber, non-burning bakelite or other materials suitable for use in cigarette holders, and are of superior quality. In truth, the complaint continues, the holders are composed of material which is unfitted by composition to be used in a cigarette holder and which disintegrates readily when exposed to heat, and conveys to smoke coming in contact with it an unpleasant taste or flavor.

The respondent further, the complaint charges, has distributed among purchasers in various states, circulars bearing the phrase: "Pioneer Merchandise Company, Inc., manufacturers and importers," and containing such statements as "When buying from you buy from the manufacturer." It is alleged that the respondent does not make or manufacture the holders or other products distributed by it. (4012)

**Seaboard Paint & Varnish Company**—Samuel Swimmer, doing business as Seaboard Paint and Varnish Company, 275 Russell St., Brooklyn, is charged, in a complaint, with misrepresentation.

The complaint alleges that the paint offered for sale and sold by respondent is commonly known as "spray booth off fall" paint, which is paint that is lost in the painting of various products with spray guns. This paint is reconditioned by the respondent and sold as an outside paint.

In the course of his business the respondent is alleged to have mailed to purchasers located in various States, letters containing such representations as "In a warehouse near you we have 100 one-gallon cans, packed in cartons, of our Outside White Paint, guaranteed to be clean fresh stock in perfect condition which we will sacrifice for \$1.55 per gallon, delivered, freight prepaid; original price was \$2.65 per gallon. This material is superior in quality and composition to the most expensive made well known brands of Outside White and is far superior to White Lead as to whiteness and durability." These representations, the complaint continues, are false and misleading, as in truth the usual and customary price of the paint referred to in the letters is not \$2.65 per gallon but \$1.55, and the respondent does not have 100 gallons of paint or any other quantity at a warehouse in the vicinity of the recipients of the letters, as all his paint is warehoused at his place of business in New York, from which all shipments are made.

The complaint charges that the paint was not manufactured for use on outside or exposed surfaces, but for use in the painting of ice boxes and other articles of merchandise not exposed to the weather. The respondent's paint is not of clean, fresh stock, the complaint continues, but is made from paint lost or wasted in the painting of various products with spray guns, and does not "last practically a life time" or any other such extended period of time. (4014)

## STIPULATIONS

During the week the Commission entered into the following stipulations:

**Franklin Knitting Mills, Inc.**, New York, in connection with the distribution of its neckties, agrees to cease and desist from selling or offering for sale any silk or silk product which contains any metallic weighting, without full and nondeceptive disclosure of the presence of such metallic weighting, together with the proportion or percentage thereof, made in the labels, tags or brands attached to the merchandise, and in the invoices and all advertising matter, sales promotional descriptions or representations, however disseminated or published. (2662)

**Gruen Watch Company**, Cincinnati, in connection with the advertisement, sale and distribution of its "Gruen Curvex" wrist watches, agrees to cease and desist from use of any statement, or

pictorial or other representation, the effect of which is to convey the belief to purchasers that the principle involved in the "Gruen Curvex" wrist watches is the only way ever found to put a full-sized movement in curved wrist watches, or that the Gruen method of construction is the only way to make the movement big enough to give true pocket-watch accuracy in a wrist watch. (2664)

**Lo-Well Company**—James R. Kaye, trading as Lo-Well Company, New York, agrees to discontinue use in advertising matter of representations that the pen points of his fountain pens are tipped with iridium; of the phrases "Fine Quality" or "First Quality" or any other words or phrases descriptive of his pens or pencils so as to imply that the products are of a quality higher than is actually the fact, and from pictorial or other representations of products which do not accurately and definitely depict the products offered for sale or distributed as premiums, or the effect of which representations may imply that the products are of a value greater than represented. (2663)

### CEASE AND DESIST ORDERS

The following cease and desist orders have been issued during the past week:

**Charles V. Herron Company**—An order has been issued prohibiting an Indiana buyer and two Michigan distributors from violating the brokerage paragraph of the Robinson-Patman Act in the interstate sale of beans. The respondents are Charles V. Herron, trading as Charles V. Herron Company, 101 North Governor St., Evansville, Ind., Ryon Grain Company, 428 Mutual Building, Lansing, Mich., and McLaughlin, Ward & Co., 200 East Pearl St., Jackson, Mich.

Commission findings are that the respondent Herron purchased beans outright and for his own account from the two Michigan concerns and received from them an allowance on each bag of beans in lieu of brokerage.

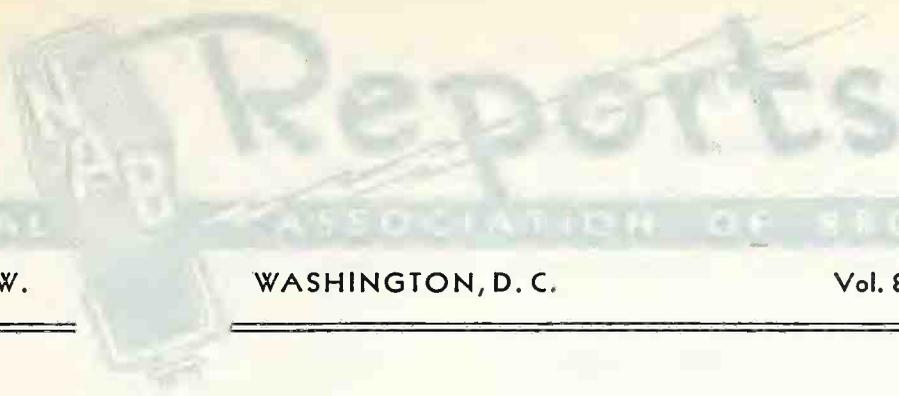
The respondents admitted all the other allegations of the complaint but denied the allegation that no services were rendered by the respondent Herron to the seller companies in connection with these transactions. The Commission on the basis of the facts as found, concluded as a matter of law that no services had been rendered by Herron to the two respondent companies in connection with his purchases from them. The Commission concluded that Herron, by accepting, and the two respondent companies, by granting, the allowances, had violated the act.

In connection with its conclusions the Commission refers to three cases in which its orders to cease and desist have been affirmed by the United States Circuit Courts of Appeals under the brokerage paragraph of the Robinson-Patman Act. These were the cases of the Commission against Biddle Purchasing Company, Oliver Brothers and The Great Atlantic & Pacific Tea Co., all of New York.

The Commission order directs that Charles V. Herron, trading as Charles V. Herron Company or under any other name, in connection with his purchase of beans in interstate commerce, cease and desist from receiving or accepting from Ryon Grain Company and McLaughlin, Ward & Co., any commission, brokerage or other compensation or any allowance or discount in lieu thereof upon such purchases made by him outright and for his own account, and that the two respondent companies cease and desist from making, granting or allowing such payments to the respondent Herron. (3916)

**McLaughlin, Ward & Company**—See Charles V. Herron Company.

**Ryon Grain Company**—See Charles V. Herron Company.



## 260 Stations Join Broadcast Music

There has been much activity in Broadcast Music, Inc., during the past week. A total of 260 stations have sent in their checks and signed license agreements totaling \$1,159,467.50.

At present there are 115 additional stations which indicated approval of BMI at the District meeting which have yet to forward their checks and signed agreements. In many cases, the delay is due to absence from the office of the chief executive because of illness, vacations or business trips. Our total will be raised to \$1,250,000 by the arrival of these checks and license agreements which we expect shortly. The response to date has been industry-wide and we believe it should convince the remaining stations that the success of BMI is definitely assured and we urge all who have not as yet forwarded their checks and license agreements to do so immediately.

A meeting of the NAB Board of Directors will be held Monday and Tuesday, February 19-20, at which time the entire subject will be discussed. We want to include your station as a subscribing station in the report to the Directors so hope you will mail in the papers now if you have not already done so.

The office at 580 Fifth Avenue, New York City, has become a most active place. The staff is being selected. Engraved stock certificates will be mailed shortly to all stations which have sent in their checks. The signed license agreement also will be mailed in the next few days. Complete information concerning the staff, plans and various activities will be carried in an early number of the NAB BULLETIN.

The success of BMI depends to a large extent upon the support it receives from the industry. The 260 stations by subscribing for \$1,159,467.50 have more than met our minimum requirements but after examining the list of stations we believe our ultimate goal of 400-odd stations subscribing \$1,500,000 is easily within reach if those who have not as yet sent in their checks will do *now* what we know they plan to do eventually. Here's hoping we hear from those stations this week.

A complete list of stations from which checks and license agreements have been received follows.



The NATIONAL ASSOCIATION OF BROADCASTERS  
1266 K St., N. W. WASHINGTON Phone NAional 2080

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## Broadcast Music Subscribers

### DISTRICT 1

#### CONNECTICUT

WICC—Bridgeport  
WDRG—Hartford  
WTHT—  
WTIC—  
WNBC—New Britain  
WELI—New Haven  
WATR—Waterbury

#### MAINE

WCSH—Portland

#### MASSACHUSETTS

WAAB—Boston  
WBZ—  
WCOP—  
WEEI—  
WMEX—  
WNAC—  
WORL—  
WHAI—Greenfield  
WLLH—Lowell  
WBRK—Pittsfield  
WBZA—Springfield  
WMAS—  
WORC—Worcester  
WTAG—

#### NEW HAMPSHIRE

WFEA—Manchester

#### RHODE ISLAND

WEAN—Providence  
WJAR—

### DISTRICT 2

#### NEW YORK

WABY—Albany  
WOKO—  
WBEN—Buffalo  
WGR—  
WKBW—  
WABC—New York City  
WBNX—  
WEAF—  
WJZ—  
WOV—  
WQXR—  
WHAM—Rochester  
WHEC—  
WGY—Schenectady  
WFBL—Syracuse  
WSYR—  
WFAS—White Plains

### DISTRICT 3

#### DELAWARE

WDEL—Wilmington  
WILM—

#### NEW JERSEY

WOR—Newark

#### PENNSYLVANIA

WEST—Easton  
WKBO—Harrisburg  
WAZL—Hazleton  
WJAC—Johnstown  
WGAL—Lancaster  
KYW—Philadelphia  
WCAU—  
WDAS—  
WFIL—  
WHAT—  
WPEN—  
WDKA—Pittsburgh  
WCAE—  
WEEU—Reading  
WRAW—  
WKOK—Sunbury  
WRAK—Williamsport  
WORK—York

### DISTRICT 4

#### DISTRICT OF COLUMBIA

WJSV—Washington  
WMAL—  
WOL—  
WRC—

#### MARYLAND

WCAO—Baltimore  
WCBM—  
WFBR—  
WTBO—Cumberland

#### NORTH CAROLINA

WWNC—Asheville  
WBT—Charlotte  
WSOC—  
WDNC—Durham  
WBIG—Greensboro  
WPTF—Raleigh  
WSTP—Salisbury  
WSJS—Winston-Salem

#### SOUTH CAROLINA

WCSC—Charleston  
WIS—Columbia

#### VIRGINIA

WGH—Newport News  
WTAR—Norfolk  
WMBG—Richmond  
WRNL—  
WRTD—  
WRVA—  
WDBJ—Roanoke

#### WEST VIRGINIA

WJLS—Beckley  
WCHS—Charleston  
WBLK—Clarksburg  
WMMN—Fairmont  
WSAZ—Huntington  
WPAR—Parkersburg  
WWVA—Wheeling

### DISTRICT 5

#### ALABAMA

WBRC—Birmingham  
WSGN—

#### FLORIDA

WMBR—Jacksonville  
WIOD—Miami  
WQAM—  
WJNO—West Palm Beach

#### GEORGIA

WGPC—Albany  
WATL—Atlanta  
WGST—

WSB—  
 WRBL—Columbus  
 WMAZ—Macon  
 WTOC—Savannah  
 WPAN—Thomasville

**DISTRICT 6**

ARKANSAS  
 KARK—Little Rock

LOUISIANA  
 KALB—Alexandria  
 WJBO—Baton Rouge  
 WNOE—New Orleans  
 WWL—  
 KTBS—Shreveport  
 KWKH—

MISSISSIPPI  
 WJPR—Greenville  
 WAML—Laurel

TENNESSEE  
 WNOX—Knoxville  
 WHBQ—Memphis  
 WMC—  
 WMPS—  
 WREC—  
 WSM—Nashville

**DISTRICT 7**

KENTUCKY  
 WCMI—Ashland  
 WLAP—Lexington  
 WAVE—Louisville  
 WHAS—

OHIO  
 WICA—Ashtabula  
 WHBC—Canton  
 WCPO—Cincinnati  
 WGAR—Cleveland  
 WTAM—  
 WBNS—Columbus  
 WCOL—  
 WHIO—Dayton  
 WLOK—Lima  
 WPAY—Portsmouth  
 WSPD—Toledo  
 WFMJ—Youngstown  
 WHIZ—Zanesville

**DISTRICT 8**

INDIANA  
 WTRC—Elkhart  
 WEOA—Evansville  
 WGBF—  
 WGL—Fort Wayne  
 WOWO—  
 WIBC—Indianapolis  
 WIRE—  
 WFAM—South Bend  
 WSBT—  
 WBOW—Terre Haute

MICHIGAN  
 WJBK—Detroit  
 WJR—  
 WFDF—Flint  
 WKZO—Kalamazoo  
 WKBZ—Muskegon

**DISTRICT 9**

ILLINOIS  
 WBBM—Chicago  
 WENR—  
 WMAQ—  
 WMBI—  
 WDAN—Danville  
 WMBD—Peoria  
 WROK—Rockford  
 WHBF—Rock Island

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 WDZ—Tuscola

WISCONSIN  
 KFIZ—Fond du Lac  
 WCLO—Janesville  
 WTMJ—Milwaukee  
 WRJN—Racine  
 WHBL—Sheboygan  
 WSAU—Wausau

**DISTRICT 10**

IOWA  
 WOC—Davenport  
 KWLC—Decorah  
 WHO—Des Moines  
 KGLO—Mason City  
 KMA—Shenandoah

MISSOURI  
 KMBC—Kansas City  
 KFEQ—St. Joseph  
 KMOX—St. Louis

**DISTRICT 11**

MINNESOTA  
 KATE—Albert Lea  
 WCCO—Minneapolis  
 WTCN—  
 KROC—Rochester  
 KFAM—St. Cloud  
 KWNO—Winona

NORTH DAKOTA  
 KFYZ—Bismarck  
 KDLR—Devils Lake  
 WDAY—Fargo  
 KGCU—Mandan

SOUTH DAKOTA  
 KABR—Aberdeen

**DISTRICT 12**

KANSAS  
 KFBI—Abilene  
 KGGF—Coffeyville  
 KANS—Wichita  
 KFH—

OKLAHOMA  
 KCRC—Enid  
 KOCY—Oklahoma City  
 KTOK—  
 WKY—  
 KVOO—Tulsa

**DISTRICT 13**

TEXAS  
 KFDA—Amarillo  
 KGNC—

KRIS—Corpus Christi  
 WFAA—Dallas  
 KGKO—Fort Worth  
 WBAP—  
 KPRC—Houston  
 KTRH—  
 KXYZ—  
 KFRO—Longview  
 KFYO—Lubbock  
 KPAC—Port Arthur  
 KTSA—San Antonio  
 WOAI—  
 KGKB—Tyler  
 KRGV—Weslaco  
 KWFT—Wichita Falls

#### DISTRICT 14

##### COLORADO

KVOR—Colorado Springs  
 KFEL—Denver  
 KLZ—  
 KOA—  
 KIUP—Durango  
 KFXJ—Grand Junction

##### IDAHO

KFXD—Nampa  
 KSEI—Pocatello  
 KTFI—Twin Falls

##### UTAH

KSL—Salt Lake City

##### WYOMING

KDFN—Casper  
 KWYO—Sheridan

#### DISTRICT 15

##### CALIFORNIA

KIEM—Eureka  
 KMJ—Fresno  
 KLS—Oakland  
 KFBK—Sacramento  
 KROY—  
 KGO—San Francisco  
 KJBS—  
 KPO—  
 KSAN—  
 KQW—San Jose  
 KWG—Stockton

##### NEVADA

KOH—Reno

##### HAWAII

KHBC—Hilo  
 KGMB—Honolulu

#### DISTRICT 16

##### ARIZONA

KSUN—Lowell

##### NEW MEXICO

KICA—Clovis

##### CALIFORNIA

KERN—Bakersfield  
 KPMC—  
 KFSG—Los Angeles  
 KNX—  
 KFSD—San Diego  
 KTMS—Santa Barbara

#### DISTRICT 17

##### OREGON

KUIN—Grants Pass  
 KALE—Portland  
 KEX—  
 KGW—  
 KOIN—  
 KRNR—Roseburg

##### WASHINGTON

KIRO—Seattle  
 KJR—  
 KOMO

## DYERS ASSOCIATION OFFERS TRANSCRIPTION FOR LOCAL SPONSORSHIP

The Bureau of Radio Advertising is pleased to announce that the National Association of Dyers and Cleaners has prepared a syndicated radio feature which will be offered to one firm in each city or locality, for broadcast over local stations at regular rates.

The announcement sent out from the Cleaners and Dyers Headquarters stated:

"The National Association of Dyers and Cleaners has approved a series of electrically transcribed, three minute dramatized commercial spots. All you have to do is buy the time on your local radio station and the transcriptions will be mailed direct to that station. These short dramas are high-lighted incidents which could occur in business, home or social life. They move quickly to a dramatic climax in which a reliable dry cleaner's services are needed, then the local announcer jumps in and finishes the job by driving home a commercial plug. The printed commercial copy for each broadcast (to be read by the local announcer) will be sent to the station with the transcriptions. All you have to do is insert your firm name in the blank spaces left for that purpose.

"The five shows per week and the printed commercial copy are all included in the weekly price of \$10.00. This astonishingly low figure is made possible only because of syndication. To repeat: the total expense (exclusive of station time) for five shows per week is \$10.00, thirteen weeks for \$130.00. Think of it! Of course, you, yourself, contract for the time on your local radio station.

"In order to avoid duplication of the program on the air in any district, it is necessary to limit this privilege to one firm in a town or locality. In case duplicate orders for the program should be received from two members in the same town or locality, the Association shall accept the order which bears the earliest postmark. ACT NOW!"

Ed Kirby addressed the Dyers and Cleaners Association in their annual convention in Baltimore last month.

### FREE OFFERS

The problem of "free offers" and "cost-per-inquiry" continued to plague member stations last week, though with somewhat lessened intensity. While the great majority of broadcasters are firm in their opposition to the chiselers, the problem is prolonged and even enlarged by the indifferent and occasionally open-armed attitude of certain stations toward such tactics. As a result, the entire industry suffers for the sins of the few.

Not to fight back against "free offers" and "cost-per-inquiry," the NAB believes, is simply to encourage more parasites to try their "publicity" or "educational" ideas out on radio. The best and simplest long-run solution, in the opinion of those who have studied the problem carefully, is to take a stand, stick to it, fight for it and let the time-chiselers know about it.

To experienced observers, cost-per-inquiry requests simply amount to guaranteed advertising, placing the entire burden of proof on the radio station rather than on the advertiser, his program or his commercial copy. If the station does not produce the required number of orders, even though through no fault of its own, that station is immediately branded as a poor producer by the advertiser, his agency, and who knows how many honest and legitimate prospective sponsors who may happen to hear about it. This is an angle that every broadcaster ought to consider.

What is bad for one station, is all too often bad for all. That is why the Bureau of Radio Advertising has been very definite in its denunciation of the time-chiselers. The Bureau has informed the following firms that their free time requests or percentage advertising propositions are out of order:

#### FREE OFFERS

Flower Industries Council, New York.  
Hammond Instrument Company, Chicago.

#### COST-PER-INQUIRY

Popular Music Instruction Company, New York.  
Rushmore Mutual Insurance Company, North Dakota.  
Westheimer & Company, St. Louis.

Replying to recent letters from the Bureau of Radio Advertising, the Institute of American Meat Packers state they will soon use radio advertising, pointing out that many of their members already buy time. Spector-Goodman Agency states that "no radio station accepted the proposal to which you object" (on behalf of Winn Publishing Company) "therefore the proposition died its own natural death."

## Labor

### WAGE AND HOUR ACT

The broadcaster who hands over "talent charges" to his announcers must include these in calculating the announcers' regular rate of pay.

The Wage and Hour Administration gave the NAB this opinion in reply to a question.

Here is a typical case:

A station pays an announcer a salary of \$37 for a 42-hour week. During this 42-hour week, this announcer reads a weekly commercial newscast. The station bills the sponsor for the time and also \$5 for "talent charge." The station gives this \$5 to the announcer.

The Wage and Hour Administration says that the announcer's regular hourly rate is \$1 and that overtime must be paid for at the rate of \$1.50 per hour.

It appears that, in this situation, the increased hourly rate can be avoided only if the sponsor or his advertising

agency hires and pays the announcer directly. This would involve payment of social security taxes by the sponsor or advertising agency.

The exchange of correspondence:

#### NATIONAL ASSOCIATION OF BROADCASTERS

WASHINGTON, D. C.

February 1, 1940.

Mr. Rufus Poole,  
Associate General Counsel,  
Wage and Hour Division,  
Labor Department,  
Washington, D. C.

DEAR MR. POOLE:

A member of our Association presents the following situation:

As is a custom in the broadcasting industry he sells a half hour time to a sponsor (an advertiser), say, a news broadcast. In addition to the charge for the time he charges the sponsor for "talent". He does not retain this "talent charge" but passes it on to the announcer who reads the news reports.

Is this a "production bonus" and thus to be figured in the computation of the regular hourly rate?

To make the picture complete I must add that in many instances the sponsor hires and pays his own talent. In many others, an advertising agency which handles the account hires and pays the talent.

It does not appear to us to be fair to penalize the station on its overtime rate charges because it gets more money for its employees or saves them the deduction which advertising agencies make from their pay when the advertising agencies handle talent.

Very truly yours,

JOSEPH L. MILLER,  
*Director of Labor Relations.*

#### U. S. DEPARTMENT OF LABOR

Wage and Hour Division  
WASHINGTON, D. C.

February 7, 1940.

In reply refer to:  
LE:CAA:GMS

Mr. Joseph L. Miller,  
Director of Labor Relations,  
National Association of Broadcasters,  
Normandy Building,  
1626 K Street, N. W.,  
Washington, D. C.

DEAR MR. MILLER:

This will reply to your letter of February 1, 1940.

The Fair Labor Standards Act, a copy of which is enclosed, requires that every employee subject to its provisions (engaged in interstate commerce or in the production of goods for interstate commerce) receive at least 30 cents an hour and overtime compensation for all hours worked in excess of 42 hours in any work-week, at a rate at least one and one-half times the regular rate of pay at which such employee is employed.

In our opinion, the "talent charge" passed on to the announcer is really part of his regular compensation and must be included in determining his regular rate of pay, on which he must be paid time and a half.

Very truly yours,

For the General Counsel,  
By S/ Milton C. Denbo,  
MILTON C. DENBO,  
*Chief Opinion Attorney.*

### KOL STRIKE SETTLED

The technicians strike at Station KOL, Seattle, was settled February 1 when the station signed a contract with the International Brotherhood of Electrical Workers (A. F. of L.). The contract called for a preferential

union shop and a minimum weekly wage of \$42.50 for a 40-hour week.

The union previously had signed with KRSC, KIRO, and KOMO-KJR. There was a short strike at KIRO.

### A. F. OF L. EXECUTIVE COUNCIL VOTES TO FIGHT ARNOLD

The American Federation of Labor's executive council announced last week that it would fight Thurman Arnold through the Supreme Court—and into Congress if the court fight failed.

"The Executive Council wishes to emphasize that it does not condone nor does it attempt to shield any wrongdoing or illegitimate activity by unions or union officials. On the contrary, we urge the public authorities of the cities, States and nation to prosecute and punish to the full extent of the law any malefactors in labor organizations. There are thousands of laws on the statute books to cover any possible offenses. We ask that the criminal laws properly applicable to each case be applied, but we insist that it is highly improper, through a tortured and distorted construction of the language of the Clayton Act, to use the anti-trust laws as a club over organized labor.

"These are the reasons for our position:

"1. The Clayton Act forbids the very thing the Department of Justice is now doing.

"2. Legitimate as well as illegitimate activities of unions already have been proscribed by the Department of Justice.

"3. Application of anti-trust laws to unions inevitably would result in Government dictatorship over unions and kill free, democratic trade-unionism.

Other highlights of the meeting:

The council voted to start this Spring an intensive organization drive in the South and Far West "concentrating on white-collar workers and miscellaneous trades that are largely unorganized." The southern campaign will open with a mass meeting March 2 in Atlanta.

Continuation of the federation's "non-partisan" political policy was ordered. Members will be urged to support "labor's friends" and oppose "labor's foes" regardless of political party. The federation will not endorse any presidential candidate but will send the "labor record" of each to all locals.

*(Two members of the council and a number of other federation leaders signed a statement blasting the New Deal, however, while Dan Tobin (Democrat—truck drivers) and Bill Hutcheson (Republican—carpenters) almost came to blows after Tobin angrily remarked that the council was doing everything within its power to help the Republicans, or words to that effect.)*

The council also ordered all central bodies to kick out local typographical unions. The A. F. of L. previously had suspended the I. T. U. for failure to contribute to the fund to fight the C. I. O.

### BROADCASTERS FIGHT PERRY BILL IN NEW YORK

The New York Senate Committee on Codes will hold a hearing in the State Capitol at Albany, Tuesday, Feb. 20, at 2 p. m., on the Perry Bill (S. 449). Mr. Sydney Kaye will appear to oppose the bill at the instance of the New York State Broadcasters Association. The Perry

Bill, printed in full below, would require written consent of all performers to the recording of a broadcast. It is understood that NAPA is back of the bill, and that Local 802 of A. F. of M. in New York City has passed a resolution in support of it.

New York—S. 449

"An act to amend the penal law, in relation to unauthorized recording of radio broadcast.

"Section 1. The penal law is hereby amended by inserting therein a new section, to follow section twelve hundred and ninety, to be section twelve hundred and ninety-a, to read as follows:

"§1290-a. Unauthorized recording of radio broadcast.

Any person who, for the purpose of pecuniary gain, shall (a) Record in this state any broadcast emanating from any broadcasting station without the consent in writing of the performer or performers broadcasting the same; or

"(b) Offer for sale, sell, lease or license any recording of any broadcast obtained and taken without the consent and permission in writing of the said person or persons broadcasting the same; or

"(c) Have in his possession for the purpose of sale, lease or license any recording of any broadcast obtained and taken without the consent and permission in writing of the said person or persons, broadcasting the same;

is guilty of larceny and punishable accordingly; and any records of any recording made in violation of this section may be seized on a warrant issued as provided by the code of criminal procedure, and the court or any judge or justice thereof may, on proper cause shown, order the destruction of such records.

"§2. This act shall take effect September first, nineteen hundred and forty."

### STATE LEGISLATION

#### KENTUCKY:

H. 354 (Stengel) POLICE RADIOS—An act relating to the use of police radios.

#### NEW YORK:

A. 1264 (Canney) COPYRIGHTED MUSICAL ROYALTIES—LICENSES—Provides for licenses to be issued by tax commission for privilege of collecting royalties from copyrighted musical compositions, music books, recorded music for mechanical reproduction, or for radio programs, fixes annual license fee at \$1,000 and appropriates \$10,000. Referred to Ways and Means Committee.

#### VIRGINIA:

H. 210 (Fitzpatrick et al) RADIOS—IN AUTOS—Requires any person, firm, co-partnership, association or corporation selling, transferring or installing radios designed for motor vehicles, capable of receiving signals of frequency assigned for police services, to report same to the Director of the Division of Motor Vehicles and to require the registration of any such radio receiver by the owner of the motor vehicle so equipped. Referred to Roads and Internal Navigation Committee.

### HAVANA FREQUENCY CHANGES

The FCC issued an order on January 29 setting August 1, 1940, as the date for frequency changes in line with the Havana treaty.

## CHARLES COOK CORPORATION

Information pertaining to the Charles Cook Corporation formerly located at 1560 Broadway, New York City, which sold piano lessons by mail over radio stations, is desired. Any information should be sent to WSPD, Toledo, or NAB Headquarters Office in Washington.

## WILLARD C. MONROE

Anyone knowing the whereabouts of Willard C. Monroe, formerly connected with WCLS, Joliet, Illinois, is requested to communicate with that station or NAB Headquarters Office in Washington.

## "FM" HEARING POSTPONED

At the request of a number of interested parties for more time in which to complete their material, the informal hearing before the Federal Communications Commission in the matter of aural broadcasting on frequencies above 25,000 kilocycles, which was scheduled for February 28, 1940, has been postponed to March 18, 1940.

The final date for the filing of written statements, sketches, drawings, etc., in connection with argument, has been extended to March 11. In order to expedite the proceedings, witnesses will not be permitted to read prepared statements into the record during the hearings.

## WSAL LICENSE REVOKED

The FCC has affirmed its order of October 24, 1939, in revoking the license of radio station WSAL, Salisbury, Maryland, held by Frank M. Stearns.

The Commission said in explanation:

"Where, as here, a license is obtained as a direct result of false statements and representations under oath, involving among other things an applicant's financial responsibility, and made to the Commission in the application itself as well as in the evidence submitted at public hearing in support thereof, the Commission has only one course of action and that is to make final its order of revocation upon that ground alone. The Commission is specifically empowered by Section 312(a) to revoke a license 'for false statements either in the application or in the statement of fact which may be required by Section 308 hereof or because of conditions revealed by such statements of fact as may be required from time to time which would warrant the Commission in refusing to grant a license on an original application.' If the real facts had been known to the Commission with respect to applicant's finances the Commission could not have legally authorized the issuance of a license to an applicant who at best had available to him not to exceed \$340.00.

"Any contention that satisfactory service has been rendered and that the community in question would be without service in the future is not controlling in this case. However important the present service is, the Commission cannot escape the responsibility fixed by statute to ascertain the qualifications of applicants by considering truthful statements and to act accordingly in the granting or refusal of licenses. In requiring that applicants for licenses be found legally, technically, financially and otherwise qualified, Congress recognized that communities will be better served by those who truthfully show themselves to be qualified in all such respects than by persons who are willing to be used as mere figureheads for others who for reasons best known to themselves desire to conceal their interest.

"The applicant for a permit to construct and operate Broadcast Station WSAL made false statements under oath both in the original application and at the hearing thereon. Many of such statements involve matters of fact concerning the applicant's financial qualifications which, if the truth had been revealed, would have shown applicant not financially qualified and would have

compelled the Commission to refuse to grant the license upon the original application.

"The revocation order heretofore entered in this matter on the 24th day of October, 1939, should be affirmed."

## KGKB LICENSE REVOKED

Evidence of hidden management, operation and control of radio station KGKB, Tyler, Texas, caused the FCC on February 13 to order revocation of the license issued to the East Texas State Broadcasting Company to operate same, effective March 1, 1940.

An investigation conducted by the Commission revealed that actual control has been in the hands of James G. Ulmer and that the East Texas Broadcasting Company has never filed with the Commission an application for transfer or assignment of its license, as required by law.

## NAVY TIME SIGNALS

The Federal Communications Commission with the approval of the Navy Department will hereafter handle requests to rebroadcast the Naval Observatory time signals without the necessity of licensees applying to the Navy Department.

In this connection the Commission has sent the following notice to all standard broadcast station licensees:

It is the policy of the Navy Department to consent to the rebroadcasting of the Naval Observatory time signals in all cases where satisfactory assurance has been given that the following conditions will be complied with by the broadcast station concerned:

- (1) Announcement of the time signal must be made without reference to any commercial activity;
- (2) The time signal to be rebroadcast must be obtained by direct reception from a Naval radio transmitter which is broadcasting the time signal;
- (3) The Naval Observatory time signals are intended to be sufficiently accurate for astronomical and other scientific purposes. No time may, therefore, be announced as a Naval Observatory time signal if any time lag has been introduced.

In order to avoid hereafter the necessity for each individual licensee to make application to the Navy Department for the consent to rebroadcast the Naval Observatory time signals, requests therefor may be made direct to the Commission under the provisions of Section 3.94 without being submitted to the Navy Department, provided appropriate representation is made with the request that the above conditions will be complied with in full. Representations of compliance with conditions 2 and 3 shall include such diagrams, descriptions and data as necessary to show that no time lag in excess of 0.04 second<sup>1</sup> has been introduced.

In addition to the above conditions, requests for such authorizations must be made for the full license term when accompanying an application for renewal of license or for the balance of the unexpired license period when made after the application for license has been granted.

## FCC TO EXPEDITE ROUTINE BROADCAST AUTHORIZATIONS

To facilitate routine broadcast authorizations, the FCC has empowered its Chief Engineer to grant permission for special operation to facilitate other tests to comply with technical orders and has authorized its Administrative Board to pass upon requests for permission to rebroadcast routine programs.

<sup>1</sup> This includes the time of transmission from the originating station to the point of reception by the rebroadcasting station assuming the speed of transmission to be 186,000 miles per second.

The routine is further simplified to eliminate entering separate orders in cases heard by individual Commissioners. Administrative Order No. 2 as revised is as follows:

Under the authority of the Communications Act of 1934, as amended, IT IS ORDERED, That Administrative Order No. 2, adopted July 12, 1939, as amended, be and the same is hereby further amended to provide as follows:

IT IS ORDERED: That there be and there is hereby assigned and referred to the respective boards and individual Commissioners hereinafter designated, for action thereon, that portion of the work, business or functions of the Federal Communications Commission hereinafter specified:

(1) (A) The Secretary of the Commission is hereby designated to determine, order, certify, report or otherwise act, upon:

- (a) all applications for operator licenses or renewals thereof; and
- (b) all applications for amateur and ship stations or renewals thereof; and
- (c) all applications for aircraft station licenses or renewals thereof where the applicant is or has been the holder of a station license within the preceding year;

(B) The Secretary of the Commission is hereby designated to enter the appropriate final order of the Commission in all cases involving applications for radio station authorizations in which proposed findings and conclusions of the Commission have been issued pursuant to the provisions of Section 1.231 of the Commission's Rules of Practice and Procedure and in which no exceptions have been filed within the time prescribed in said section.

(2) The Chief Engineer of the Commission is hereby designated to determine and act upon all applications and requests and to make appropriate order in letter form for the signature of the Secretary of the Commission in the following matters:

- (a) temporary operation without specified items of equipment, or with temporary, substitute or auxiliary equipment:
  - (1) operation without an approved frequency monitor;
  - (2) operation without an approved modulation monitor;
  - (3) operation without thermometer in automatic temperature control chamber;
  - (4) operation without antenna ammeter, plate voltmeter or plate ammeter;
  - (5) operation with substitute ammeter, plate voltmeter or plate ammeter;
  - (6) operation with temporary antenna system;
  - (7) operation with auxiliary transmitter as main transmitter;
- (b) operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application;
- (c) where formal application is not required, application for new or modified equipment or antenna system;
- (d) change of specifications for painting and lighting antenna towers where formal application is not required;
- (e) operation to determine power by direct method during program test period;
- (f) relocation of transmitter in same building;
- (g) operation with reduced power or time under Sections 3.57 and 3.71;
- (h) approval of types of equipment as to compliance with outstanding rules and standards;
- (i) all authorizations for equipment and program tests, or extensions thereof, where it appears that compliance has been had with the terms of the construction permit;
- (j) denial of requests for equipment and program tests where specifications of construction permit have not been met;
- (k) withdrawal of authorizations for equipment and program tests where subsequent to the issuance of the original authorizations it appears that the terms of the construction permit have not been met;
- (l) extensions of time within which to comply with technical requirements specified in authorizations, orders and rules or releases of the Commission;
- (m) representations of compliance with technical requirements specified in authorizations, orders, rules or releases (except formal applications);
- (n) operation with licensed, new or modified equipment at a temporary location with a temporary antenna system

in case of an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating at the licensed location;

(o) all authorizations for special operation necessary to facilitate equipment, program and service tests or to comply with technical requirements specified in authorizations, orders, rules or releases.

(3) The Chief Accountant of the Commission is hereby designated to determine, order, certify, report or otherwise act upon:

- (a) administration, interpretation and application of regulations promulgated by the Commission pursuant to Section 220 of the Act, relating to accounts, records, and memoranda to be kept by carriers subject to the jurisdiction of the Commission;
- (b) applications for extensions of time in which to file annual, monthly, and special reports required by the Commission pursuant to Section 219 of the Act;
- (c) administration, interpretation and application of orders or rules of practice and procedure promulgated by the Commission relating to financial and statistical data of standard broadcast stations and broadcast networks or chains, including applications for extensions of time in which to file financial and statistical statements and reports;
- (d) all matters arising in connection with the administration of tariff regulations promulgated by the Commission pursuant to Section 203 of the Act, and in connection with the administration of this section in so far as it relates to the modification of requirements thereof or made pursuant thereto, as authorized in particular instances by subsection (b) thereof, and to the rejection of tariffs as authorized by subsection (d) thereof;

and, where appropriate in carrying out the foregoing, to make orders in letter form for the signature of the Secretary of the Commission.

(4) A board, to be called "The Administrative Board," consisting of the General Counsel, Chief Engineer, Chief Accountant, and Secretary of the Commission is hereby designated to determine, order, certify, report or otherwise act upon the following matters; *provided*, however, that said Board may act in such matters only in accordance with established policies of the Commission; *provided further* that three members of said Board shall constitute a quorum:

- (a) all applications for the Coastal, Marine Relay, Aviation, Emergency, and Miscellaneous services, except those falling under paragraphs (1), (2), and (3) of this Order;
- (b) upon all radio matters of every character (except broadcast, and cases falling under paragraphs (1), (2) and (3) of this Order) within the Territory of Alaska;
- (c) upon all applications for experimental authorizations except: Class II experimental stations to authorize experimentation directed toward the establishment of new services;
- (d) upon all broadcast service applications as follows: for licenses following construction which comply with the construction permit; applications for construction permit and modification of construction permit involving only a change in equipment; applications for extensions of time within which to commence and complete construction; applications to install frequency control equipment; applications relating to auxiliary equipment; applications for authority to determine operating power of broadcast stations by direct measurement of antenna power; applications for modification of licenses involving only change of the name of the licensee, where the ownership or control is not affected; applications for construction permit or modification of license involving relocation locally of a studio, control point or transmitter site not involving any substantial change in service area; applications for relay broadcast stations; and requests for authorization to rebroadcast under the provisions of Section 3.94 of the Rules and Regulations;
- (e) upon all applications or requests for special temporary authorization other than those falling under paragraphs (1), (2), (3) or (5) of this Order;
- (f) all applications or requests for emergency and renewal exemptions from the provisions of Section 352(b) of the Act;

- (g) upon all uncontested proceedings involved in:
- (1) the issuance of certificates of convenience and necessity and the authorization of temporary or emergency wire service, as provided in Section 214 of the Act;
  - (2) applications from existing licensees for instruments of authorization for the Fixed Public or Fixed Public Press radio services, except applications involving (1) new points of communication, (2) changes in transmitter location other than local in character, (3) assignment of additional frequencies, or (4) involving change of policy by the Commission, or the establishment of a new type of service;
- (h) upon requests for inspection of records under the provisions of Section 1.5(c) of the Commission's Rules of Practice and Procedure;

Actions taken by the Board shall be reported in writing each week to the Commission at its regular meeting.

(5) All applications or requests for special temporary standard broadcast authorizations shall be referred to the Administrative Board which shall make appropriate recommendation thereon and refer the same to a Commissioner to be named by subsequent supplements to this Order, who is hereby designated to determine, order, report or otherwise act upon all such applications or requests in accordance with established policies of the Commission.

(6) A Commissioner, to be named by subsequent supplements to this Order, is hereby designated to hear and determine, order, certify, report or otherwise act upon;

- (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission, and those requesting change or modification of a final order made by the Commission: *provided*, however, that such matters shall be handled in accordance with the provisions of Sections 1.251 to 1.256, inclusive, of the Commission's Rules of Practice and Procedure; *provided further* that when one or more members of the Commission have been designated to preside at a hearing such Commissioner or Commissioners shall be authorized and empowered to fix the time and place such hearing shall be held; and such motions, petitions, or matters arising in connection with such hearing shall be handled by the Commissioner or Commissioners designated to preside, subject to the provisions of Sections 1.232, 1.252, 1.254, 1.255, and 1.256 of the Rules of Practice and Procedure; *provided further* that in the absence of the individual Commissioner designated to preside at a hearing, or his inability to act or pass upon such preliminary matters, they shall be referred to the presiding officer of the Motions Docket.

- (b) the designation pursuant to the provisions of Sections 1.231 to 1.232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings.

(7) Any party affected by any order, decision, or report of any individual, board, or individual Commissioner, to whom authority is delegated under the provisions hereof, may file a petition for rehearing, as provided by Section 1.271 of the Commission's Rules of Practice and Procedure, before the Commission, and every such petition shall be passed upon by the Commission.

IT IS FURTHER ORDERED, That this Order shall become effective February 7, 1940.

## FCC ANNUAL FINANCIAL REPORT

At the request of the NAB Accounting Committee the FCC extended the time for filing the 1939 financial report until April 15, 1940. However, the FCC Accounting Department desired information contained on Schedule 8, Page 11, of the report as soon as possible. A single sheet was mailed with the request that it be filled in and returned promptly. Approximately 200 stations have failed to comply with the request and it is hoped that

NAB members—if any are among this number—will return the information at once, as this cooperation on the part of the membership will assist headquarters in asking to have the April 15 date made permanent by amending the rule which now requires it to be filed March 15.

## 817 STATIONS

The FCC issued operating licenses to eight stations, granted seven permits for the construction of new stations, and deleted four stations during the month of January, 1940. A comparative table by months follows:

	Feb. 1	Mar. 1	April 1	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1
Operating .....	727	729	732	734	735	735	738	739	743	751	755	765	769
Construction .....	39	37	37	38	38	43	56	59	57	58	57	49	48
	766	766	769	772	773	778	794	798	800	809	812	814	817

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearing is scheduled before the Commission in a broadcast case for the week beginning Monday, February 19. It is subject to change.

Monday, February 19

NEW—Lookout Mountain Co. of Ga., Lookout Mountain, Ga.—  
C. P., 1370 kc., 250 watts night, 250 watts LS, unlimited time.

## FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

March 12

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—  
Renewal of license, 1310 kc., 100 watts, 250 watts LS, unlimited time.

March 18

Informal Hearing Before the Commission En Banc

In the Matter of Aural Broadcasting on Frequencies Above  
25,000 kc. (An inquiry into the possibilities of frequency  
and amplitude modulation.)

## FEDERAL COMMUNICATIONS COMMISSION ACTION

## APPLICATIONS GRANTED

KTUC—Tucson Motor Service Co., Tucson, Ariz.—Granted voluntary assignment of license from Tucson Motor Service Company to the Tucson Broadcasting Co., Inc.; station operates on 1370 kc., 100 watts night, 250 watts day, unlimited time.

Lawrence J. Heller, Washington, D. C.—Granted construction permit to erect a new station to operate on 1310 kc., 250 watts, unlimited time, employing in addition a 50-watt synchronous

amplifier; exact transmitter sites, studio location and type of antennas to be determined with Commission's approval.

C. P. Edwards, Jr., and Howard Long, d/b as Kingsport Broadcasting Co., Kingsport, Tenn.—Granted construction permit to erect a new station to operate on **1370 kc.**, 250 watts, unlimited time, exact transmitter site and type of antenna to be determined subject to approval of the Commission.

WRUL—World Wide Broadcasting Corp., Boston, Mass.—Granted construction permit to make changes in equipment and increase power from 20 KW to 50 KW at international broadcast station WRUL; present assignment **6040, 11730, 11790, 15130, 15250, and 21460 kc.** (shares **6040 kc.** with WDJN, **11730 and 15130 kc.** with WRUW, unlimited time on **11790, 15250, and 21460 kc.**)

W2XQR—John V. L. Hogan, Long Island City, N. Y.—Granted modification of license of high frequency broadcast station W2XQR to add A4 (special) emission, upon an experimental basis only, conditionally; present assignment is **43200 kc.**, 1 KW, special emission for frequency modulation with maximum band width of not in excess of **200 kc.**, time of operation in accordance with Section 4.4.

KWEW—W. E. Whitmore, Hobbs, N. Mex.—Granted modification of license to increase time of operation from daytime to unlimited, using 100 watts, frequency **1500 kc.**

WGES—T. H. Guyon, Chicago, Ill.—Granted transfer of control of corporation by gift of 10 shares common stock from T. H. Guyon to his sister, Irene M. Cowen; thus transferring control to T. H. Guyon, H. J. Guyon, L. E. Moulds, Wm. F. Moss, G. T. Dyer and Irene M. Cowen; station operates on **1360 kc.**, 500 watts night, 500 watts day, 1 KW day Sundays only, shares time with WSBT.

#### LICENSE REVOKED

KGKB—East Texas Broadcasting Co., Tyler, Tex.—Issued order for revocation of license of station KGKB, effective March 1, 1940, because actual control of station has been in the hands of James G. Ulmer and the East Texas Broadcasting Company has never filed with the Commission an application for transfer or assignment of its license, as required by law.

#### MISCELLANEOUS

WRCA-WNBI—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate international broadcast stations WNBI and WRCA simultaneously on **9670 kc.**, utilizing the Central American beam on the WNBI transmitter and the South American Stearable Beam on the WRCA transmitter, for February 8 and 9, in order to obtain maximum South American coverage for broadcast of Louis-Godoy heavyweight boxing contest on Friday, February 9.

Edwin H. Armstrong, New York City.—Granted special temporary authority to operate FM transmitter with power of 10,000 watts on **43 mc.** at the site of the transmitter of W2XMN, Alpine, N. J., to be operated simultaneously with station W2XMN (40 KW on **42.8 mc.**), in order to secure data on adjacent channel operations and data on overlapping of services between this transmitter and that of the Yankee Network, Inc., high frequency station W1XOJ, in preparation of the February 28 hearing, for the period ending no later than February 28.

W1XOJ—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to test transmitting equipment of station W1XOJ, authorized by modification of construction permit on frequency **43000 kc.**, with power in the range of 2000 and 50,000 watts, for the period ending no later than February 13, in order to make adjustments on equipment installed and for tuning and to make adjustments of antenna elements which are now assembled for erection atop 400-foot mast, and to secure date for high frequency hearing.

Martinsville Broadcasting Co., Martinsville, Va.—Scheduled oral argument for March 7.

Patrick Henry Broadcasting Co., Martinsville, Va.—Scheduled oral argument for March 7.

WFIG—J. Samuel Brody, Sumter, S. C.—Granted modification of construction permit and modification thereof for new broadcast station, for change in type of transmitting equipment and extension of commencement date 30 days after grant and completion date 90 days thereafter.

J. D. Falvey, Ottumwa, Iowa.—Granted petition for order to take depositions in re application for new station to operate on **1210 kc.**, 100 watts, unlimited time.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Denied motion to set aside order to take depositions in re application for renewal of license operating on **1200 kc.**, 100 watts, unlimited time, counsel noting exceptions to ruling.

WEJJ—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate relay broadcast station WEJJ as a sound channel in conjunction with experimental television Station W3XAD for the period February 18, 1940, to not later than March 18, 1940.

W3XAD—RCA Manufacturing Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate transmitter of television broadcast (experimental) station W3XAD on television bands 18 and 19, frequency **282 and 294 megacycles**, for the period February 18, 1940, to not later than March 18, 1940.

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 7:15 p. m. to 10:00 p. m., CST, on February 10, 12, 17, 19, 24, 26, 1940; and from 7:00 p. m., to 11:00 p. m., CST, on February 21, 1940; and from 6:45 p. m., to 10:30 p. m., CST, on February 29, 1940, in order to broadcast basketball games and Golden Gloves Tournament only.

WNEL—Juan Piza, San Juan, Puerto Rico.—Granted special temporary authority to rebroadcast the Louis-Godoy boxing match to be received from International Broadcast Station WNBI and WRCA over Station WNEL on February 9, 1940.

W10XR—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate transmitter of developmental (experimental) station W10XR on frequency **670 kc.**, A-O emission, 100 watts during daylight hours at District 7, Bethesda, Md., for the period February 14, 1940, to not later than March 14, 1940, in order to make field intensity measurements in connection with construction permit for radio station WMAL.

WOI—Iowa State College of Agricultural & Mechanic Arts, Ames, Iowa.—Granted special temporary authority to operate from 7:00 p. m. to 9:45 p. m. CST, on March 16, 1940, in order to broadcast State High School Basketball Tournament games only.

WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate from 3:00 p. m. to 4:00 p. m. EST, on February 18 and 25, 1940, in order to broadcast program prepared by the American Association of University Women, St. Lawrence County Branch.

KFUO—Evangelical Lutheran Synod of Missouri, Ohio and other States, Clayton, Mo.—Granted special temporary authority to operate from 1:00 a. m. to 3:00 a. m. CST, with power of 1000 watts on March 9, 1940, in connection with a DX program.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 2:00 p. m. to 3:00 p. m., EST, on February 17, 24, March 2, 9, 16, 1940, in order to broadcast the following sustaining programs; 2 to 2:10, Newscast, 2:10 to 2:30 Matinee Moods, 2:30 to 3:00, Suggestions in Symphony; to operate from 2:00 p. m. to 3:00 p. m. EST, February 18, 25, March 3, 10, 17, 1940, in order to broadcast the following sustaining programs; 2 to 2:15, Newscast, 2:15 to 2:30, Tune Travels, 2:30 to 2:45, Sabbath Meditations, 2:45 to 3:00,  $\frac{1}{4}$  hour in  $\frac{3}{4}$  time; to operate as follows on February 22, 1940: 8:30 to 9 a. m., Breakfast Club, 9 to 9:30 a. m., Opening the Mail, 9:30 to 10 a. m., Dances of the World, 2 to 2:10 p. m., Newscast, 2:10 to 2:30 p. m., Matinee Moods, 2:30 to 3 p. m., Suggestions in Symphony (provided WSVS remains silent).

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Granted modification of construction permit for new station, for changes in equipment, approval of antenna and approval of transmitter and studio site at 2315 Knox St., Ogdensburg, N. Y.; **1370 kc.**, 250 watts power, unlimited time.

WCOA—Pensacola Broadcasting Co., Pensacola, Fla.—Granted construction permit to install new transmitting equipment.

WNEL—Juan Piza, San Juan, Puerto Rico.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from International Broadcast Stations WNBI and WRCA over Station WNEL, for the period February 11, 1940, to not later than March 11, 1940.

WSOO—Hiawatheland Broadcasting Co., Sault Ste. Marie, Mich.—Granted modification of construction permit for new broadcast station for approval of antenna and approval of studio and transmitter site and install new transmitter.

WAXG—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Denied as in case of default application for renewal of license. (Docket 5807)

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to operate from 8:00 p. m. to 9:30 p. m. EST, on February 22, 1940, in order to broadcast the speech by Congressman Robert Lewis Rodgers at the Republican Club dinner.

W2XWG—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate high frequency (experimental) broadcast station W2XWG to utilize amplitude modulation on frequency 42600 kc. for the period February 16, 1940, to not later than March 16, 1940, in order to accumulate data for direct comparison of the effectiveness of frequency modulation versus amplitude modulation for presentation at the high frequency hearing.

KEIV—Nichols and Warinner, Inc., Portable-Mobile (area of Long Beach, Calif.)—Granted construction permit to make changes in equipment and increase power to 10 watts.

WDAC—University of Wisconsin, Portable-Mobile (area of Madison, Wis.)—Granted modification of license to change name to State of Wisconsin, University of Wisconsin.

WSMB—WSMB, Inc., New Orleans, La.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54.

KMPC—The Station of the Stars, Beverly Hills, Calif.—Same as above (for auxiliary transmitter); also granted license to use old RCA 1001-C transmitter as an auxiliary transmitter, using 1 KW power, emergency use only; 710 kc.

### APPLICATIONS FILED AT FCC

#### 550 Kilocycles

KTSA—Sunshine Broadcasting Co., San Antonio, Tex.—Modification of license to increase power from 1 KW, 5 KW day, to 5 KW day and night, and request station classification as III-A.

#### 580 Kilocycles

WDBO—Orlando Broadcasting Company, Inc., Orlando, Fla.—Construction permit to increase power from 1 KW, 5 KW day, to 5 KW day and night, and install directional antenna for night use; make changes in equipment.

#### 590 Kilocycles

WEEL—Columbia Broadcasting System, Inc., Boston, Mass.—Authority to determine operating power by direct measurement of antenna power.

#### 630 Kilocycles

NEW—William H. Amesbury, Minneapolis, Minn.—Construction permit for a new broadcast station to be operated on 630 kc., 500 watts, unlimited time, using directional antenna day and night.

#### 660 Kilocycles

WEAF—National Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit (B1-P-2339) for move of transmitter, and new antenna, requesting extension of required date of completion from 3-6-40 to 9-6-40.

#### 780 Kilocycles

WTAR—WTAR Radio Corporation, Norfolk, Va.—Construction permit for changes in directional antenna system, and increase power from 1 KW, 5 KW day, to 5 KW day and night.

WMC—Memphis Commercial Appeal Company, Memphis, Tenn.—Modification of license to change name of licensee to Memphis Publishing Company.

WMC—Memphis Commercial Appeal Co., Memphis, Tenn.—Construction permit to make changes in directional antenna for night use and increase power from 1 KW night, 5 KW day, to 5 KW day and night.

#### 880 Kilocycles

KVAN—Vancouver Radio Corp., Vancouver, Wash.—Transfer of control of corporation from Sheldon F. Sackett to Walter L. Read, 100 shares common stock.

#### 890 Kilocycles

KTKC—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, Pres., Visalia, Calif.—Construction permit to make changes in transmitting equipment.

#### 900 Kilocycles

NEW—Don LeRoy, Ketchikan, Alaska.—Construction permit for a new broadcast station to be operated on 900 kc., 1 KW, unlimited time, requests facilities KGBU.

#### 940 Kilocycles

NEW—Carl Sholtz, Fort Pierce, Fla.—Construction permit to erect a new broadcast station to be operated on 940 kc., 250 watts, unlimited time.

#### 970 Kilocycles

WIBG—Seaboard Radio Broadcasting Corporation, Glenside, Pa.—Construction permit to install new transmitter; increase power from 100 watts to 1 KW; change hours of operation from daytime to limited. Amended: antenna to be determined, transmitter site to be determined, Hill Crest, Pa.

#### 1020 Kilocycles

WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Authority to determine operating power by direct measurement of antenna power.

#### 1060 Kilocycles

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Modification of license to change frequency from 1060 kc. to 1040 kc., and hours of operation from share WBAL to unlimited time, using directional antenna night.

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Authority to determine operating power by direct measurement of antenna power.

#### 1100 Kilocycles

WDGY—Dr. George W. Young, Minneapolis, Minn.—Construction permit to install directional antenna for night use; increase power from 1 KW, 5 KW day, to 5 KW day and night; change time from limited to unlimited. Amended to request change in frequency from 1180 kc. to 1100 kc., power of 5 KW, 10 KW day; changes in directional antenna, new transmitter, move of transmitter from Wayzata Blvd. and Louisiana Ave., Minneapolis, Minn., to Richfield Twp., Minn.

WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—Authority to determine operating power by direct measurement of antenna power.

#### 1110 Kilocycles

NEW—Symons Broadcasting Co., Ellensburg, Wash.—Construction permit for a new broadcast station to be operated on 1110 kc., 1 KW, unlimited time.

#### 1200 Kilocycles

WSAM—Saginaw Broadcasting Company, Saginaw, Mich.—Modification of construction permit (B2-P-794) for new station requesting approval of antenna, transmitter and studio sites at Bay and Weiss Sts., Saginaw, Mich., and change type of transmitter.

NEW—Hunt Broadcasting Assn., Paul E. Horton, Pres., Greenville, Tex.—Construction permit for a new broadcast station to be operated on 940 kc., 1 KW, daytime. Amended to change frequency to 1200 kc., power to 100 watts and unlimited time, and change transmitter site and equipment changes.

NEW—Mohawk Radio, Inc., Schenectady, N. Y.—Construction permit for a new broadcast station to be operated on 1200 kc., 250 watts power, unlimited time.

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Voluntary assignment of license from Hammond-Calumet Broadcasting Corp. to O. E. Richardson and Fred L. Adair.

#### 1210 Kilocycles

KGY—KGY, Inc., Olympia, Wash.—Authority to transfer control of corporation from Louis Wasmer to Tom Olsen, 52½ shares common stock.

#### 1230 Kilocycles

KGBX—Springfield Broadcasting Co., Springfield, Mo.—Construction permit to install new transmitter, increase power from

500 watts to 5 KW, make changes in directional antenna (night use). Amended re directional antenna.

#### 1240 Kilocycles

KFJZ—Tarrant Broadcasting Company, Fort Worth, Tex.—Construction permit to install new transmitter, increase power from 1 to 5 KW, and install directional antenna for day and night use. Amended re directional antenna.

#### 1260 Kilocycles

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—License to cover construction permit (B5-P-2538) for new equipment and increase in power.

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Authority to determine operating power by direct measurement of antenna power.

#### 1290 Kilocycles

WJHP—The Metropolis Company, Jacksonville, Fla.—Modification of construction permit (B3-P-917) for a new station, requesting approval of antenna and new transmitter, approval of studio site at 125 West Church St., Jacksonville, Florida, and transmitter site at Jacksonville, Fla.

KDYL—Intermountain Broadcasting Corporation, Salt Lake City, Utah.—Construction permit to install directional antenna for day and night use. Increase power from 1 KW; 5 KW-day to 5 KW day and night.

#### 1310 Kilocycles

WLBC—Donald A. Burton, Muncie, Ind.—Authority to determine operating power by direct measurement of antenna power.

WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Authority to determine operating power by direct measurement of antenna power.

WCMI—Ashland Broadcasting Co., Ashland, Ky.—Construction permit to install new antenna and move transmitter from Ashland to Catlettsburg, Ky.

WJPF—Orville W. Lyerla, Herrin, Ill.—Modification of construction permit (B4-P-2097) for a new broadcast station, requesting new transmitter, increase power from 100 watts night, 250 watts day to 250 watts day and night, approval of antenna and approval of studio and transmitter site 2 miles north of Herrin, Ill.

WNBH—E. Anthony & Sons, Inc., New Bedford, Mass.—Modification of construction permit (B1-P-2543) for new equipment, increase in power, vertical antenna and move of transmitter, requesting approval of antenna and transmitter site at Crow Island, Fairhaven, Mass.

KARM—George Harm, Fresno, Calif.—Involuntary assignment of license from George Harm (deceased) to Gilbert H. Jertberg, Executor of Estate of George Harm, Deceased.

#### 1370 Kilocycles

WATW—WJMS, Inc., Ashland, Wis.—Modification of construction permit (B4-P-2160) for a new station, requesting approval of antenna and approval of new transmitting equipment, approval of studio site at 212 Second St., West, Ashland, Wisconsin, and approval of transmitter site at .8 mile south of corner Second Street & Ellis Avenue, (Northland College Campus), Ashland, Wisconsin.

WISE—Harold H. Thoms, Asheville, N. C.—Voluntary assignment of license from Harold H. Thoms to Radio Station WISE, Inc.

KLUF—The KLUF Broadcasting Co., Inc., Galveston, Tex.—Construction permit to install new transmitting equipment.

KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Authority to determine operating power by direct measurement of antenna power.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Authority to determine operating power by direct measurement of antenna power, of auxiliary transmitter.

NEW—Herbert L. Wilson, Middletown, N. Y.—Construction permit for a new station on 1420 kc., 250 watts power, unlimited time. Amended: To request 1370 kc.

KEEN—KVL, Incorporated, Seattle, Wash.—Voluntary assignment of license from KVL, Incorporated, to Evergreen Broadcasting Corporation.

#### 1400 Kilocycles

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Authority to determine operating power by direct measurement of antenna power.

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Authority to determine operating power of auxiliary transmitter by direct measurement of antenna power.

#### 1420 Kilocycles

KORE—Frank L. Hill, & C. G. Phillips, d/b as Eugene Broadcasting Station, Eugene, Oregon.—Authority to determine operating power by direct measurement of antenna power.

WLEU—WLEU Broadcasting Corp., Erie, Pa.—Authority to determine operating power by direct measurement of antenna power.

WAPO—W. A. Patterson, Chattanooga, Tenn.—Modification of construction permit (B3-P-1939) for increase in power, change in frequency, installation of new transmitter and directional antenna, further requesting changes in directional antenna system, increase in power from 500 watts night, 1 KW day to 1 KW night, 5 KW day, new transmitter and move transmitter from Chattanooga to Pineville, Tenn., and extend commencement date to 90 days after grant and completion date to 180 days thereafter.

KWAL—Chester Howarth & Clarence Berger, Wallace, Idaho.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.

#### 1440 Kilocycles

NEW—J. Leslie Doss, Bessemer, Ala.—Construction permit to erect a new broadcast station to be operated on 1500 kc., 250 watts, unlimited time. Amended: To request 1440 kc.

#### 1450 Kilocycles

KCMO—KCMO Broadcasting Co., Kansas City, Mo.—License to cover construction permit (B4-P-2534) for installation of new transmitter and increase in power from 1 KW to 1 KW night, 5 KW day.

#### 1460 Kilocycles

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Construction permit to move auxiliary transmitter and use directional antenna (as authorized under B4-MP-759 for main) with auxiliary transmitter.

#### 1500 Kilocycles

KDAL—Red River Broadcasting Company, Inc., Duluth, Minn.—Construction permit to install new transmitter and vertical antenna, change frequency from 1500 to 900 kc., increase power from 100 watts; 250 watts day to 1 KW day and night. Move transmitter location from 16th Street and St. Louis Ave., Minnesota Point, Duluth, Minn., to site to be determined.

KBKR—Louis P. Thornton, Baker, Ore.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.

NEW—The Textile Broadcasting Company, Greenville, S. Car.—Construction permit for a new broadcast station to be operated on 1500 kc., 250 watts, unlimited time.

KPQ—Wescoast Broadcasting Co., Wenatchee, Wash.—Construction permit to make changes in transmitting equipment, antenna and change frequency from 1500 to 1230 kc., increase power from 250 watts to 500 watts; 1 KW day.

#### MISCELLANEOUS

W2XAB—Columbia Broadcasting System, Inc., New York, N. Y.—Modification of license to move studio locally and insert Serial No. 3001 for both aural and visual transmitting apparatus.

WNCU—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B1-PRE-311) for a new relay broadcast station.

WEQA—Edwin H. Armstrong, Portable-Mobile.—Modification of construction (B1-PRE-277) permit for new relay broadcast station to extend completion date from 4-7-40 to 10-7-40.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**American Technical Society**—Alleging misleading representations in the sale of the "Automotive Engineering Cyclopedias" and "Diesel Engineering Cyclopedias," a complaint has been issued against R. T. Miller, Jr., trading as American Technical Society, 850 East 58th St., Chicago.

The complaint charges the respondent with advertising that both sets are offered at special prices, when in fact the prices charged are the customary prices; that the American Technical Society is a society, group or assembly of engineers or scientists organized for scientific purposes, and that purchasers of cyclopedias have the privilege of consulting the society free and without cost, when in fact American Technical Society is not a society of engineers or scientists organized for scientific purposes but merely a firm name used by the respondent in conducting his business, and the consultation service is not given free but its cost is included in the price of the books.

Other alleged misrepresentations are that the automotive cyclopedias provides the owner a course of study equal to that provided by a residence school; that the automotive cyclopedias are the most authoritative books on the subject ever published; that by use of the books a person is enabled to do any and every automobile repair job right the first time, and that anyone purchasing the books can learn automotive engineering without study or memorizing. (4019)

**Automobile Body Supply Company**—See New Method File Grinders, Inc.

**Henry Bergman**—Alleging the use of unfair and deceptive acts and practices in the interstate sale of instruments intended for locating gold and silver and in the distribution of a booklet a complaint has been issued against Henry Bergman, of 2004 Milton Ave., Springfield, Mo., dealer in such products.

The respondent allegedly inserted in newspapers, circulars and magazines various advertizements. One of them read as follows: "Wanted—Hear from parties interested gold or silver ores, buried or hidden treasures. Bergman's instrument, \$5.00. Particulars free. \* \* \*"

Through the use of various similar assertions, the respondent is alleged to have represented to purchasers that the instrument offered for sale will enable a person to locate gold, silver and hidden treasures, and that persons giving testimonials published by the respondent have actually located treasure by using the respondent's instrument.

It is also alleged that the respondent represented that his booklet called "Jacob's Rod" imparts information which will enable a person to ascertain his psychic powers, make his own goldometer and locate hidden treasure; that the booklet is rare and that the directions given therein were practiced by Jacob of old and many other ancient patriarchs.

The complaint also alleges misrepresentation in the sale of a so-called "Fortune Telling Crystal Ball," "Universal Good Luck Coins," and lists of names and addresses of concerns selling devices used in searching for treasures or minerals.

The respondent's representations are alleged to be false, misleading and deceptive because the use of his commodities will not enable one to locate treasures or invoke the powers and benefits advertised. (4026)

**Carter Sales Company**—Alleging violation of the Federal Trade Commission Act in the sale of a preparation advertised as

- WNEQ—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B2-PRE-314) for a new relay broadcast station.
- NEW—WPTF Radio Co., near Cary, N. C.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts, special emission for frequency modulation.
- NEW—KGKL, Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 20 watts, A3 emission.
- W9XEN—Zenith Radio Corp., Chicago, Ill.—Construction permit to move transmitter from 6001 Dickens Ave., Chicago, to 505 N. Michigan Ave., Chicago, Ill.
- NEW—Tri-City Broadcasting Co., Davenport, Iowa.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1000 watts, special emission for frequency modulation.
- NEW—Central Broadcasting Co., Mitchellville, Iowa.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts, special emission for frequency modulation.
- W1XSO—The Travelers Broadcasting Service Corp., Avon, Conn.—License to cover construction permit (B1-PHB-72) for new high frequency broadcast station.
- W2XOY—General Electric Co., Albany, N. Y.—Construction permit to increase power from 150 watts to 3000 watts, move transmitter from Albany, N. Y., to New Scotland, N. Y., and install new transmitter. Amended to request 1000 watts.
- W9XEN—Zenith Radio Corp., Chicago, Ill.—License to cover construction permit for a new high frequency broadcast station (B4-PHB-85).
- WNEP—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B4-PRE-312) for a new relay broadcast station.
- WNJC—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B4-PRE-315) for a new relay broadcast station.
- WNKF—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B4-PRE-316) for a new relay broadcast station.
- KEJQ—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B5-PRE-317) for a new relay broadcast station.
- KEJP—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B5-PRE-313) for a new relay broadcast station.
- NEW—Doughty & Welch Electric Co., Inc., So. Somerset, Mass.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1 KW, unlimited time, special emission. Exact site to be determined, So. Somerset, Mass.
- NEW—W. A. Patterson, Chattanooga, Tenn.—Construction permit for a new high frequency broadcast station to be operated on 43400 kc., 1 KW, unlimited time, special emission. Exact site to be determined, Chattanooga, Tenn.
- WNTJ—National Broadcasting Co., Inc., Portable-Mobile.—License to cover construction permit (B2-PRE-318) for a new relay broadcast station.
- NEW—Agricultural Broadcasting Co., Chicago, Ill.—Construction permit for a new high frequency broadcast station to be operated on 43400 kc., 1000 watts, special emission for frequency modulation.
- NEW—Amarillo Broadcasting Corporation, Amarillo, Tex.—Construction permit for a new high frequency broadcast station to be located at 109 East Fifth Street, Amarillo, Tex., 43200 kc., 1 KW power, unlimited time, special emission.
- KEHI—WDAY, Inc., Fargo, N. Dak.—License to cover construction permit (B4-PRE-329) changing transmitter location from portable-mobile to fixed location.
- KQHS—Mason City Globe Gazette Co., Mason City, Iowa.—License to cover construction permit (B4-PRY-191) for new relay broadcast station.
- NEW—Radio Service Corporation of Utah, Salt Lake City, Utah.—Construction permit for a new high frequency broadcast station to be operated on 42800 kc., 250 watts power, unlimited time, special emission, to be located at 10 South Main St., Salt Lake City, Utah.
- NEW—Radio Service Corporation of Utah, Antelope Island, Utah.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1 KW power, unlimited time, special emission, to be located Antelope Island, Utah.

a treatment for alcoholism and the liquor habit, a complaint has been issued against George C. and Mina D. Huskins and Howard W. Ellison, trading as Carter Sales Company, 208 West Eighth St., Los Angeles.

Through newspaper, circular and radio advertisements, the respondents are alleged to have represented their preparation, "Carter's Special Formula," as a cure, remedy or competent treatment for alcoholism and the liquor habit. They are also alleged to have advertised that by its use the desire for alcoholic stimulants will be eradicated, and that the preparation is absolutely harmless and contains no harmful drugs.

The complaint alleges that the respondents' representations are exaggerated and misleading; that use of their preparation will not accomplish the results as claimed, and that the product is not absolutely harmless because it may, in some cases, cause skin rashes, dermatitis, and injury to the liver and the intestinal mucosa. (4028)

**Ralph Corn Underwear, Inc.**, 36 East 31st St., New York, engaged in the sale and distribution of women's wearing apparel, including slips, gowns and pajamas, is charged, in a complaint with misrepresentation.

The complaint alleges that by means of descriptive circulars, by labels attached to the garments, and by use of letterheads used in correspondence with purchasers and prospective purchasers throughout the States, the respondent has made false representations concerning the character and quality of its products. Typical of false representations alleged to have been made in its circulars are: "Ralph Corn Underwear, Inc., the King of Satins, Satin and Pigment Crepe Slips, Gowns and Man-tailored Pajamas." . . . "Pigment Crepe Heavy Quality Satin Striped Gown."

The respondent is also alleged to have used on its advertising material and letterheads the words "Manufacturers of Silk Undergarments."

Through use of the foregoing representations and others of similar import, the complaint continues, the respondent has represented that its products are made entirely of silk. The complaint charges that none of the garments sold by the respondent is made entirely of silk, but of rayon and other material, or a mixture of rayon and silk.

The respondent, through use of the word "Manufacturers," the complaint alleges, has represented itself as the manufacturer of the garments sold by it, when in fact it does not manufacture them but buys the material on the open market and has the garments manufactured by other parties. (4017)

**Excel Merchandise and Novelty Company**, Omaha, Nebr., is alleged to have sold to dealers push cards and punch boards so prepared and arranged as to involve games of chance or lottery schemes when used in making sales of merchandise to the consuming public. It is alleged that because of the element of chance inherent in connection with the sale of merchandise by means of these devices, many members of the purchasing public have been induced to deal with retail dealers selling their merchandise by means thereof.

The Omaha respondent, who also deals in merchandise such as saucepans, dripolators, coffee percolators, pillows, smoking stands, electric table lamps and other pieces, is alleged to have supplied his customers with assortments of merchandise together with certain paraphernalia known as "Bingo" sets by means of which merchandise is sold and distributed to the consuming public in a manner involving operation of a lottery scheme. (4029)

**Exhibit Sales Company**—Samuel Mickelberg, trading as Exhibit Sales Company, 423 Market St., Philadelphia, is engaged in the sale and distribution of radios and other articles of merchandise. The complaint charges that the respondent sells to wholesale dealers, jobbers and retail dealers, assortments of merchandise so packed and assembled as to involve the use of games of chance, gift enterprises or lottery schemes when sold to the ultimate consumer. (4024)

**Globe Rummage Mart**—Charging misrepresentation in the sale and distribution of second-hand clothing and other merchandise, a complaint has been issued against Louis Goldman, trading as Globe Rummage Mart, 3238 South State St., Chicago.

In a catalog listing and describing articles of merchandise sold by him and distributed throughout the States, the complaint

charges, the respondent represents that his merchandise is only slightly used; that all articles listed are reclaimed or slightly used and are in good saleable condition, and that the articles are reasonable merchandise of the most popular styles and latest creation. It is also represented that merchandise not entirely satisfactory may be returned for replacements.

The complaint charges that these representations are false and misleading; that the respondent buys his stock on the open market from other second-hand dealers and junk dealers and at rummage sales, and that when orders are shipped to customers the packages frequently contain merchandise that is old, out of style, dirty, worn out, unsaleable, and of different size, color, style and condition from that ordered by respondent's customers. The respondent, the complaint continues, does not generally make satisfactory replacements or refunds for merchandise that is not satisfactory, as advertised by him. (4016)

**Great Buckeye Candies, Inc.**—See M. Linkman & Company.

**Hastings Manufacturing Company**—Violation of the Federal Trade Commission Act in the sale of piston rings and other replacement parts for use in motor vehicles, is alleged in a complaint issued against Hastings Manufacturing Company, Hastings, Mich.

The respondent is charged with practices having a tendency to create monopoly and unreasonably restrain manufacturers of competitive products in disposing of their merchandise to jobbers and wholesale distributors of automotive parts and equipment, who have acquired or may acquire such products from the manufacturers. (4030)

**Howell Company**—Misrepresentation of a plain carbon steel tubing product as chromium is alleged in a complaint against The Howell Company, St. Charles, Ill., manufacturer of household and office furniture.

It is alleged that through use of the term "Chromsteel" the respondent corporation represents certain of its furniture as being made of steel alloy containing chromium when in fact it is made of plain carbon steel tubing.

Chromium or chrome steel, the complaint points out, is more expensive than plain carbon steel. It combines intense hardness with a high elastic limit. (4022)

**Journal of Living Publishing Corp.**—See Purity Products, Inc.

**M. Linkman & Company**—Complaints have been issued against M. Linkman & Company, 1150 West Fullerton Ave., Chicago, manufacturer and distributor of smoking pipes, and Great Buckeye Candies, Inc., 567 East South St., Akron, Ohio, manufacturer and distributor of candy, charging them with sale and distribution of merchandise so packed and assembled as to involve use of a game of chance, gift enterprise or lottery scheme when the merchandise is sold and distributed to the ultimate consumer.

An assortment distributed by M. Linkman & Company consists of a number of "Dr. Grabow" pipes, together with punch boards, by means of which pipes and in some cases cigarettes supplied by the dealer operating the punch board are given as prizes.

Great Buckeye Candies, Inc., distributes assortments of candy commonly known as all day suckers. In some instances, it is alleged, the end of the stick imbedded in the candy contains certain words which are concealed from the purchaser until the candy is consumed. Those receiving sticks with the words thereon are entitled to extra pieces of candy without additional cost.

Use by the respondents of these methods in the sale of their products, the complaints allege, is contrary to public policy and is in violation of criminal laws. (4018-4015)

**New Method File Grinders, Inc.**—A complaint alleging misrepresentation in the sale of used, reconditioned and resharpened files has been issued against New Method File Grinders, Inc., also trading as Automobile Body Supply Company, 5120 South Halsted St., Chicago.

Used or second-hand files purchased from automobile manufacturers, garages and automobile body repair establishments, allegedly were advertised as being new and unused except for damage by water in a fire or other water damage. Such products, the

complaint alleges, had been used by others and reconditioned by the respondent corporation. (4020)

**Nassif Candy Company**, 2004 Main St., Wheeling, W. Va., is engaged in the sale and distribution of candy and confectionery products to wholesale dealers, jobbers and retailers located in various States. The merchandise is so packed, the complaint charges, as to involve games of chance or lottery schemes in its distribution to ultimate consumers. (4025)

**Novelty Home Furnisher**—Jack Puzes, trading as The Novelty Home Furnisher, 53 West Jackson Boulevard, Chicago, is engaged in the sale and distribution of clocks, cameras, coffee makers and other articles of merchandise. The complaint charges that the respondent has distributed to the purchasing public in several States literature and instructions together with push cards, order blanks and illustrations of his plan of selling merchandise and of allotting it as premiums or prizes, by means of the push cards, to the purchasing public. (4023)

**Purity Products, Inc.**—Charged with misrepresentation in the sale of "V-Bev," a medicinal preparation, Purity Products, Inc., 1060 Broad St., Newark, N. J., The Journal of Living Publishing Corporation, 1819 Broadway, New York, and Victor H. Lindlahr, have been served with a complaint. Lindlahr controls the advertising practices of Purity Products, Inc., with respect to "V-Bev," and is editor of "The Journal of Living," published by the New York corporation and used for advertising the Purity company's preparation.

Advertisements disseminated by the respondents in newspapers and periodicals and by radio allegedly represented that "V-Bev" possesses substantial therapeutic value in treating numerous ailments, including loss of sleep, nervousness, poor digestion, tired feeling, lack of energy and run-down condition and that it supplies the necessary amounts of vitamins B1 and G to persons deficient therein.

The complaint alleges that the preparation is without therapeutic value in the treatment of the ailments listed, and that it is a mixture of ordinary foods and does not supply any vitamin deficiencies. (4021)

**Robert J. Thompson Company**, Philadelphia, Pa., through its representatives, is alleged to solicit purchasers of its suits or overcoats under a so-called "Club" plan which the complaint describes as follows: The respondent supplies each purchaser participating in the plan with a contract of purchase providing for the sale of a suit or overcoat for \$40. One dollar is paid when the contract is delivered and one dollar in advance each week thereafter until the full amount of the contract has been paid. On the contracts the weekly payments are recorded and each contract bears a "ledger" number. Should such number correspond with the last three numerals included in the total number of shares of stock sold on the Philadelphia Stock Exchange for the preceding week (provided all the purchaser's weekly payments have been made up to date), the purchaser receives a suit or overcoat without additional cost. At the close of the contract period, should the ledger number have failed to correspond with the last three numerals in the stock exchange weekly total at any time during the period, the customer will have paid \$40, the normal retail price of the suit or overcoat.

The complaint alleges that the amount paid by the ultimate consumer for a suit or overcoat is thus determined wholly by lot or chance. (4027)

#### CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders during the past week:

**Exclusive Retail Liquor Dealers Assn.**—See Milton S. Kronheim & Son, Inc.

**Globe Distributing Company, Inc.**—See Milton S. Kronheim & Son, Inc.

**International Distributing Corp.**—See Milton S. Kronheim & Son, Inc.

**Milton S. Kronheim & Son, Inc.**—Resale price maintenance by agreement and threats of boycott are among practices prohibited in an order to cease and desist issued against six Washington wholesale liquor dealers, a wholesale and a retail trade association, and the secretary of the latter association.

The respondents are: Milton S. Kronheim & Son, Inc., 3301 K St., N.W.; Marvin & Snead Sales Corporation, 219 G St., N.W.; International Distributing Corporation, 917 E St., N.W.; Washington Wholesale Liquor Corporation, 1119 Twenty-first St., N.W.; Globe Distributing Company, Inc., 2410 Eighth Place, N.E.; Philip Hurwitz and Leon Samet, trading as Roma Wine & Liquor Company, 1006 Fifth St., N.W.; Wholesale Liquor Dealers of Washington, 15 and K Sts., N.W.; D. C. Exclusive Retail Liquor Dealers Association, 829 Woodward Building, and Manuel J. Davis, secretary and attorney for the retailers' association.

The D. C. Exclusive Retail Liquor Dealers Association, Woodward Building, is an incorporated trade association of retail liquor dealers with approximately 175 members, operating licensed retail liquor stores selling packaged liquors. Wholesale Liquor Dealers of Washington, Investment Building, is a voluntary mutual association which had, when the complaint was issued, a membership of 14 wholesale liquor dealers, including the respondent wholesalers. Each organization is found to have been engaged in attempting to procure national legislation and other regulations deemed to be beneficial to its members, and in enforcing observance by its members and others of price maintenance policies with respect to the sale of alcoholic beverages.

The Commission finds that to carry out their resale price maintenance policies, the respondent wholesale dealers entered into unlawful contracts, agreements and understandings with the retail dealers, and that, pursuant to such contracts and agreements, for the purpose of maintaining uniform minimum resale prices of alcoholic beverages sold by various retail dealers in the District of Columbia, the respondent wholesalers, their association, the retailer association and its members, and Manuel J. Davis, have: Appointed committees and joint committees to confer with the respondent associations, and by means of unlawful pressure, influence, coercion, boycotts and threats of boycotts, demanded and obtained from distiller-sellers and distributors outside the District of Columbia, and from each other, the adoption and maintenance of systems or policies of merchandising, fixing standard uniform minimum resale prices, discounts and "mark-ups" at which alcoholic beverages were resold by wholesalers and retail dealers in commerce in the District of Columbia. (3400)

**Marvin & Snead Sales Corporation**—See Milton S. Kronheim & Son, Inc.

**Roma Wine & Liquor Co.**—See Milton S. Kronheim & Son, Inc.

**Washington Wholesale Liquor Corp.**—See Milton S. Kronheim & Son, Inc.

**Wholesale Liquor Dealers of Washington**—See Milton S. Kronheim & Son, Inc.

#### STIPULATIONS

The following stipulations have been entered into by the Commission:

**American Automatic Devices Company**, Harrison, Throop and Congress Sts., Chicago, in the sale of a so-called fog lamp for use as an auxiliary driving light for motor driven vehicles under the trade designation "Hy-Power No. 19" stipulates that it will discontinue use in advertising matter of representations the effect of which may tend to convey the impression that the beam of light produced by the device is such that it will illuminate the road in a dense fog so as to assure safe driving for 1,100 feet ahead or that it will penetrate, go under or undermine such fog or give any substantial visibility in fog or thick mist. (2670)

**Holland Manufacturing Company**—See Waterbury Tack Company.

**George J. Kelly, Inc.**, Lynn, Mass., manufacturer of shoe polish pastes, liquids and dyes, stipulates that it will discontinue representations in advertisements tending to convey the impression that its paste product is composed of Carnauba wax and turpentine, pure or otherwise, when such is not a fact. The stipulation provides that if the product contains these substances in substantial part, the words "Carnauba Wax and Turpentine," when used as descriptive of the wax and turpentine content, shall be accompanied by other words in equally conspicuous type to indicate clearly that the product contains other ingredients as well as wax and turpentine. The respondent also agrees to cease representing that a self-service package, or container it furnishes dealers who purchase its product, is patented, when such is not a fact. (2666)

**Martin Studios**—Misleading representations in the interstate sale of photographs are to be discontinued under a stipulation entered into by George Edward Martin, trading as Martin Studios, 6505 Second Boulevard, Detroit, a photographer specializing in children's and babies' pictures. The respondent's pictures were sold through photographers stationed in department stores.

The respondent agrees to cease representing that photographs or pictures made by him are of the highest quality and will compare favorably with samples displayed to the customer at the time of taking the order, when such are not the facts. The respondent also stipulates that he will discontinue use of statements or representations the effect of which may tend to convey the belief to purchasers that a finished photograph, portrait or picture of a particular person, subject, thing or object will be given free, that the customer's order will be promptly filled and delivered, or that the customer's money will be refunded or suitable adjustment made in case of dissatisfaction, unless and until such statements or representations are bona fide and the promises made or implied thereby actually are fulfilled. (2668)

**Morgan Packing Company**—J. S., I. C., and I. H. Morgan, trading as Morgan Packing Company, Austin, Ind., agree to cease representing that their prepared dog and cat food is a "Balanced Ration" or is a balanced food suitable for dogs and cats of every breed and age; that any of the food's ingredients are meat by-products, unless the food consists of meat by-products, properly so-called; that the food contains 50 per cent protein meat and bone scraps or any percentage thereof in excess of the correct amount or ratio; and to discontinue omitting any substantial ingredient such as the water content from the printed formula of the food, or continuing to list therein molasses, tomatoes or other ingredients which are no longer included in such products. (2669)

**Nahm Photogravure Company**—Horace H. Nahm and Jack S. Heller, trading as Nahm Photogravure Company, New York, designers of letterheads for business stationery, agree to cease representing that their business includes the manufacture of letterheads or other articles so long as they neither own, operate nor control the plant in which such products are made. (2665)

**Odo-Ro-No Company, Inc.**, 191 Hudson St., New York, distributor of a deodorant designated "Odorono", agrees to cease representing in any manner that the results to be obtained from the use of Odorono are unqualified, immediate and absolute, as implied by such words and phrases as "no possibility", "insure", "stop", "instantly" and "always". The Odo-Ro-No Company further agrees not to publish or cause to be published any testimonials containing representations contrary to the foregoing agreement. (02508)

**Packer's Tar Soap, Inc.**, 101 West 31st St., New York, in connection with the sale of a medicinal preparation for the hair designated "Scalptone," agrees to cease representing that all dandruff is due or usually due to an infection with *Pityrosporon ovale* or any other organism; that the respondent's product, used either alone or in combination with any other product, will eradicate, prevent, cure, or rid the scalp of dandruff permanently, arrest

falling of hair or increase its growth, except when limited to such results as may be achieved by its action in cleansing the scalp and stimulating the circulation of the hair follicles; that "Scalptone" disinfects the scalp and constitutes a complete scalp treatment; that experts generally are of the opinion that baldness is due to wetting of the hair; that dandruff is generally the cause of baldness, or that any organism is recognized as "the dandruff germ."

The respondent further agrees not to publish any testimonials containing representations contrary to the foregoing agreement. (02507)

**Paty Company**—Joseph Paty, trading as The Paty Company, Cambridge, Mass., in the sale of sewing needles, agrees to desist from selling imported articles not distinctly marked to show the country of origin and to discontinue using on the book or other container, of such products the phrase "Printed in U. S. A.," or the letters "U.S.A.," alone or in connection with other words so as to imply that such articles are of domestic origin, or the effect of which tends to confuse buyers with respect to the identity of the country of origin of the products. (2667)

**Printwell Company**—See U. S. Name Plate Company.

**Roebing Fur Shop**—David Borenstein and Samuel Mesgar, trading as Roebing Fur Shop, 118 West 27th St., New York, agree to desist from use in advertisements or on labels, tags, brands or otherwise, of any designation of a fur which deceptively conceals the true name or nature of the fur with the tendency or effect of misleading buyers or consumers; from using any trade name such as "Sealine," "Beaverette," "Marmink," "Squirrelette" or "Minkollette" in a manner calculated to mislead purchasers as to the character, name, nature or geographical or zoological origin of any fur or fur product or an article made partly of fur, and from the use, falsely or deceptively, in advertisements, tags, labels or brands of any trade name or coined name such as "Cocoalette" or other words descriptive of a fur as being the fur of an animal which is in fact non-existent.

The respondents also stipulate that they will cease the sale, through advertisements or otherwise, of fur-trimmed garments the fur of which is composed of pieces and not of full skins, or of fur garments made in whole or in part of pieces, tails, paws, throats, heads or scraps, or of plate or mats composed of pieces and not of full skins, without fully disclosing such fact. (2671)

**Scientific Instruments, Inc.**, 3410 West Sixtieth Place, Chicago, has accepted a stipulation to end misleading representations in the sale of a birth control device designated "The Rule of Life."

The respondent's device has been advertised as "a slide rule which calculates accurately the sterile and fertile cycles according to the Ogino-Knaus-Rhythm Theory."

However, in its stipulation, the respondent corporation admits that according to the weight of reliable medical opinion at present, no method of calculating such periods can always be relied upon. The respondent agrees to cease representing that the "Rule of Life" or "O-K Calendar," or any other device operating upon the same theory, provides a method of complete, or any definitely stated percentage of birth control. (02506)

**Shelton Tack Company**—See Waterbury Tack Company.

**U. S. Name Plate Company**—Maurice Willens, trading as U. S. Name-Plate Company or United States Name-Plate Company, and as The Printwell Company, Shelton, Conn., in the interstate sale of metal "Social Security" plates, agrees to cease representing that agents, dealers or others engaged in the sale or resale of such products make commissions of \$10 to \$25 every day or 400 per cent profit, and that prospective agents, dealers or others can make profits or earnings within a specified period of time which are in excess of the average net profits or earnings which have theretofore been consistently made in like periods of time by the respondent's active, full-time agents, dealers or others in the usual course of business. (2672)

**Waterbury Tack Company, Inc.**, Shelton Tack Company, and Holland Manufacturing Company, Baltimore, Md., all owned and officered by Herbert S. and Howard E. Holland, in the interstate sale of thumb tacks, agree to desist from use of the words "Made in U. S. A." as a mark, stamp, brand or label for such articles or to otherwise advertise them in a manner implying that the products are of domestic origin. The stipulation provides that if products of foreign origin or make are treated to improve their appearance or for other purpose in the United States and reference is made to such treatment, then suitable words are to be employed to indicate clearly that the commodities are merely treated or processed in the United States but are not manufactured here. (2673)

**Wild Drug Company**, 405 Ninth St., Huntington, W. Va., has entered into a stipulation to end certain misleading representations in the sale of "Wild's Cold Capsules" and "Wild's Cough Syrup."

The respondents agree to cease advertising that they manufacture either product; that the cold capsules have a tonic effect

or have value in building up body resistance; that they will stop colds or prevent their development; that they will provide relief from colds, unless this is expressly limited to relief of certain symptoms, or that all ingredients of the capsules are harmless.

Under their stipulation, the respondents agree to cease representing that the cough syrup will prevent the development of colds; that it will relieve bronchial troubles or colds, unless the relief is expressly limited to certain symptoms, and that it will stop any cough or afford relief from a cough regardless of its severity. (02505)

#### FCC DISMISSES COMPLAINT

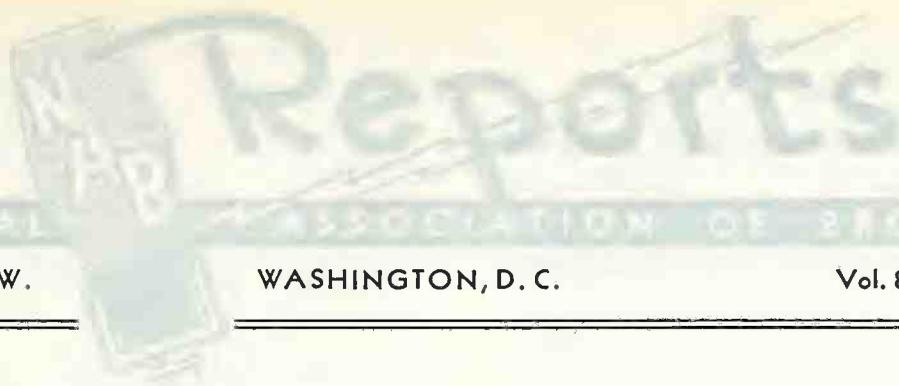
The Federal Trade Commission has dismissed without prejudice a complaint charging The Sperry Corporation, 30 Rockefeller Plaza, New York, a holding corporation, with violating Section 7 of the Clayton Act by acquiring the capital stock of two competing corporations, the Waterbury Tool Company, Waterbury, Conn., and Vickers, Inc., Detroit. The Sperry Corporation owns several subsidiary companies which manufacture nautical and aviation instruments and mechanisms.

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The first part of the book is devoted to a general introduction to the subject of the history of the world, and to a description of the various nations and peoples which have inhabited the globe from the earliest times to the present day. The author has endeavored to give a concise and accurate account of the progress of civilization, and to show the influence of the various causes which have operated upon it.

The second part of the book is devoted to a detailed account of the history of the various nations and peoples which have inhabited the globe. The author has endeavored to give a concise and accurate account of the progress of civilization, and to show the influence of the various causes which have operated upon it.

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## Convention August 4 in San Francisco

The NAB convention is set for August 4-5-6-7 in San Francisco. The hotel will be announced later.

The Board of Directors fixed these dates at its meeting this week after it was determined that the political conventions probably would be out of the way by August 1 at the latest.

Within a few weeks, the NAB will ask all Eastern and Midwestern members whether they would be interested in an all-expense tour from Chicago, that would include a circle trip through the principal scenic areas of the West. If sufficient interest is shown, such a tour will be arranged for members and their families.

Howard Lane, KFBK, Sacramento, District 15 Director, will be in charge of arrangements for activities outside the convention.

The progress of Broadcast Music, Inc., and pending legislation were thoroughly discussed at the Board's two day meeting. Neville Miller's report on Broadcast Music, Inc., was enthusiastically received and approved. The Legislative Committee, headed by John A. Kennedy, WCHS, met with the Board to discuss the Johnson (D-Colo.) bill to ban radio advertisement of alcoholic beverages; the new Ditter (R-Penna.) radio bill, copyright, and other legislation.

Among important plans approved by the Board were the following:

1. The development of a unit plan for the measurement of radio advertising and various classifications thereof in local markets. Since the Board abandoned the measurement of radio advertising in terms of dollar volume, the industry has been in need of some uniform measuring method. In the past few months a new unit plan has been under development by the NAB Research Department and the Bureau of Radio Advertising. With the Board's approval, this will be brought to completion and will be presented to the Board for final consideration at its next meeting.

2. A national survey of children's programs, jointly sponsored by the NAB and the newly formed Radio Council on Children's Programs. Representatives of the Council will visit stations, advertisers, program builders and women's groups in 44 states in the next eight months. Information uncovered will be made available to stations, sponsors and program building agencies.

3. A coordinated industry-wide effort to inform the listening public of improvements to be expected in the switch-over of stations called for in the reallocations to be made this



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Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## CONVENTION AUGUST 4 IN SAN FRANCISCO

(Continued from page 4047)

year in conformity with the Havana Treaty. As soon as definite instructions are received from the Commission, Headquarters will proceed with its plans to assist in an orderly switch-over which will prevent listener confusion and loss of audience.

4. The development of a consumer-relations program in cooperation with representative industries and business groups.

5. The development of an institutional campaign during the presidential election year, around the theme "Listen Before You Vote."

6. A new schedule of dues for associate members was adopted.

## DITTER SEEKS "FREE SPEECH" IN NEW RADIO BILL

A bill (H. R. 8509) to amend the Communications Act which was introduced in the House last Friday by Representative J. William Ditter (R-Penna) is of great interest to broadcasters.

In explaining its purposes, Representative Ditter said:

"This bill consists of a series of amendments designed, so far as possible, to protect broadcasting against any encroachment on liberty of expression, including freedom of speech and of the press guaranteed by the First Amendment to our Constitution and freedom from censorship generally. It is unnecessary that I point out how vitally important it is that the public be afforded this protection. Broadcasting rivals the press as an agency of mass-communication. Freedom of expression is the cornerstone of representative government. Censorship of radio is a characteristic of autocracy and totalitarianism.

"Contrary to the clearly expressed intent of Congress, the Federal Communications Commission is claiming the power to censor radio programs. It appears to have found a gap in the present law in the phraseology 'public interest, convenience or necessity', which, together with the device of short-term licenses and a procedure built on applications for renewal of license, enables it to force broadcasters to comply with its own conception of what

programs should or should not be, under threat of having to go through hearings and with the hazard of losing their right to continue in business.

"The law also gives altogether too much power to the President to reach the same result. He may put a station out of existence or severely cripple it by simply assigning its frequency to a government station without any statement of reasons or hearing. Also, he may do about anything he chooses with a station, even including taking it over and letting a government department operate it, by simply declaring that there exists a 'national emergency or in order to preserve the neutrality of the United States'.

"In this bill, I am seeking to cure the defects in the existing law.

"Section 1 inserts a clear statement of the purpose of Congress to secure liberty of expression for radio so there may be no doubt in the matter.

"Section 2 places a limitation on the power of the President to assign a frequency used by a privately-owned station, to a government station, by requiring that either an equally desirable frequency be given to the privately-owned station or that there be a hearing.

"Section 3 prescribes a minimum license period of three years for broadcasting stations, with a maximum of five years, and eliminates a clause which might otherwise be susceptible of an interpretation giving the Commission power to consider program service on renewal applications.

"Section 4 removes an ambiguity in the hearing provisions of the Act under which the Commission is now claiming the power to take action adversely affecting existing stations without giving their owners any right to be heard.

"Section 5 eliminates an unduly harsh section of the provisions governing revocation of license so as to make it clear that the hearing is to be held *before* and not after the order of revocation.

"Section 6 is the most important provision of this bill. It states in language which I hope is too clear to be misunderstood that the Commission is not to refuse renewal applications or take any other action against licensees on the ground that a station's programs do not meet the Commission's ideas of what constitutes 'public interest, convenience or necessity'.

"Section 7 limits the power of the President to take over stations to cases of imperative military need during actual war or a state of insurrection equivalent to war.

"I need not dwell on how vitally important it is that freedom of speech be preserved for radio. It is the public platform of today and should have a protection corresponding to that given to the press. At least, it should be for Congress to determine, and not for a bureaucratic board in Washington, whether any types of utterance, further than those already specifically forbidden by the law, should be prohibited."

Broadcasters' attention is directed to Representative Ditter's remarks on the bill printed in the Congressional Record, February 16, 1940, page 2450.

The text of the bill follows:

H. R. 8509

A BILL

To amend the Communications Act of 1934 in order to preserve and protect liberty of expression in radio communication.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Communications Act of 1934 is hereby amended by inserting after the words, "It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission;" the words, "to preserve to radio communication, and to persons subject to the provisions of this Act, freedom from governmental abridgement of, or interference with, liberty of expression, including freedom of speech and of the press, and other rights guaranteed under the Constitution of the United States and the amendments thereof;"*

SEC. 2. Section 305 (a) of the Communications Act of 1934 is hereby amended by adding thereto the following:

"The President may not, however, either permanently or temporarily assign a frequency to any Government station or class of Government stations if the use of such assignment will make impossible the further operation of, or cause objectionable interference to, any radio station duly licensed or authorized to be constructed by the Commission under this Act unless (a) another frequency assignment of substantially equal or superior desirability is made immediately available for use by such licensed or authorized radio station or (b) the Commission, after notice and hearing pursuant to the procedure prescribed in section 312 (b) of this Act, shall have determined that public interest, convenience, or necessity will be promoted by such assignment and shall have entered an order modifying the permit or license accordingly."

SEC. 3. Section 307 (d) of the Communications Act of 1934 is hereby amended to read as follows:

"No license granted for the operation of any class of station shall be for a longer term than five years, and any license granted may be revoked for cause as hereinafter provided. No license granted for the operation of a station regularly engaged in broadcasting (other than a station of experimental, auxiliary, or temporary character) shall be for a term less than three years. 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 five years and, in the case of stations regularly engaged in broadcasting, not less than three years."

SEC. 4. Section 309 (a) of the Communications Act of 1934 is hereby amended to read as follows:

"If upon examination of any application for a construction permit, for a station license, or for the renewal or modification of a construction permit or a station license and the securing of full information with respect thereto, the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance of such construction permit or station license, or of such renewal or modification thereof, in accordance with said finding. In the event the Commission does not reach such a decision with respect thereto, or in the event that the issuance of a construction permit or a station license or of any modification thereof would aggrieve or adversely affect the interests of the holder of any permit or license or any applicant therefor, the Commission shall notify the applicant and other interested parties, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant and other interested parties an opportunity to be heard under such rules and regulations as it may prescribe."

SEC. 5. Section 312 (a) of the Communications Act of 1934 is hereby amended to read as follows:

"SEC. 312. (a) Any station license may be revoked for false statements either in the application or in the statement of fact which may be required by section 308 hereof, or because of conditions revealed by such statements of fact as may be required from time to time which would warrant the Commission in refusing to grant a license on an original application, or for

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failure to operate substantially as set forth in the license, or for violation of or failure to observe any of the restrictions and conditions of this Act or of any regulation of the Commission authorized by this Act or by a treaty ratified by the United States: *Provided however*, That no such order of revocation shall be entered unless the Commission shall first have given the licensee written notice stating clearly and definitely the charges against the licensee and fixing a time and place for a hearing thereon, and shall have given the licensee an opportunity for hearing. Such hearing shall be held not less than fifteen days after service of such notice on the licensee, and the Commission shall sustain the burden of proving the truth of the charges."

SEC. 6. Section 326 of the Communications Act of 1934 is hereby amended by adding thereto the following:

"No construction permit or station license shall be revoked, modified, or otherwise adversely affected by any action of the Commission, and no application for construction permit, station license, renewal, or modification of station license, or other instrument of authorization required or authorized by the Act shall be refused in whole or in part, because of the character or contents of any program or other communication transmitted or proposed to be transmitted by a radio station, unless such program or other communication contains matter expressly forbidden by specific provision of this Act or by regulation of the Commission authorized by this Act and then only after the licensee has been finally adjudged guilty by a Federal court of one or more violations of such provision or provisions and the offense is of so serious or repeated a nature as to show clearly that the licensee or applicant is not qualified in character to operate or to continue to operate a radio station."

SEC. 7. Section 606 (c) of the Communications Act of 1934 is hereby amended by adding thereto the following:

"Nothing in this section, however, shall be construed to modify or affect section 326 of this Act. No station regularly engaged in broadcasting shall be closed, nor shall its apparatus or equipment be removed, nor shall the use or control of any such station or of its apparatus or equipment by any department of the Government be authorized in whole or in part because of the character or contents of any program or other communication transmitted or proposed to be transmitted by such station, or in order to permit the Government or any department or agency thereof to engage in or control broadcasting or otherwise to communicate with the public, or for any cause other than imperative military need for such radio communication facilities on the part of the armed forces of the United States and then only upon proclamation by the President that there actually exists war in which the United States is engaged or a state of insurrection within the United States equivalent to war."

CLARK BLOCKS JOHNSON BILL  
CONSIDERATION

Monday afternoon Senator Clark (D-Missouri) blocked consideration of the bill (S. 517) to prohibit radio advertising of alcoholic beverages. Senator Johnson (D-Colo), proponent of the measure, which is strongly opposed by NAB, had intended to move consideration of his bill. In

anticipation of the motion, Senator Clark six times made the point of "no quorum" after Senate action on various bills, before S. 517 was reached on the calendar. He later said that he had intended to continue doing so under his constitutional right to the end that no time would remain for Senator Johnson to make his motion. Senator Johnson objected to the "obstructionist policy" as not in keeping with the dignity of the Senate. He said that as it was not his purpose to work any hardship upon the Senate, he would not move consideration at the time, but would do so at a future date. Senator Clark thereupon introduced an amendment which he intends to propose to the bill. The amendment is the anti-lynching bill.

After consideration of Senator Johnson's proposed amendment to the bill (NAB REPORTS, February 2, 1940, p. 3999) by the NAB Directors and Legislative Committee at a joint meeting in Washington on Monday, President Neville Miller stated:

The National Association of Broadcasters is opposed to this bill as an unnecessary and unwise restriction on the American system of broadcasting. That system has resulted in the most entertaining, educational and informative radio programs in the world. It owes its preeminent place today to the sensitivity of broadcasters and advertisers to the wishes of their listening public in a highly competitive field, and to its freedom from censorship of program content. It is not perfect, but it is incomparably the best.

Broadcasters have continued to demonstrate that they are keenly mindful of the demands of the American audience. Since this bill was introduced, the NAB, representing about 90% of radio advertising income, has adopted a Code of Program Standards which has met with the enthusiastic approval of important organized groups active in the public interest in the fields of religion, education and child welfare. That Code prohibits the advertising of hard liquor. If the country is opposed to advertising beer and wine by radio, the broadcasters will be the first to recognize it and act accordingly.

The alleged abuses sought to be corrected are minor and infrequent. The Code has banned hard liquor advertising on which only slightly more than \$23,000\* was spent in 1938, the year before its adoption. The distilled spirits industry does not use radio as an advertising medium. Revenue to broadcasters from advertising malt beverages in 1938 was \$1,268,000,\* and from wine advertising about \$101,000.\* It has been urged upon this Committee that Congress alone has the power to regulate radio advertising of alcoholic beverages for the protection of the several states. It is legal to sell beer in every state of the union. In South Carolina and West Virginia the state legislatures have declared that 5% beer is not an intoxicating beverage. We submit that the small amount of beer advertising on the radio cannot seriously interfere with the exercise of the police power of the states. Surely the object of the bill cannot be prohibition of about \$100,000 of wine advertising in those states where wine above certain alcoholic content cannot be bought. Broadcasters' revenue from liquor advertising in 1938 was less than one per cent of their indicated revenue.\* They can and will meet the public wishes in this matter when those wishes become articulate, just as they have in the matter of hard liquor.

We believe it is unwarranted and dangerous to interfere by Congressional mandate with the content of broadcast programs. Prohibitions are the rule in Europe today with the results known to all of us. The inherent nature of competitive American broadcasting in the public interest as operated under the present law would best serve the interests of all the people.

The bill is special legislation, grossly unfair to radio in that it discriminates against radio in favor of other advertising media. It cannot fairly be said that an occasional spot advertisement of beer can influence a child's mind to as great an extent as pages of beautifully colored pictures in magazines and Sunday newspapers depicting gentlemen in pink coats around the flowing bowl or blaring billboards on every highway when the family goes out for a Sunday drive. Passage of this bill would merely result in diverting the relatively small sum spent on beer and wine advertising by radio to these other media.

We object to the way the bill is drawn. It makes compliance a condition of the license and in the event of non-compliance it becomes mandatory on the Commission to revoke the license. Under the Communications Act compliance with the prohibition against profane, indecent and obscene language is not made a condition of the license, nor is compliance with the requirement of equal treatment of political candidates before the microphone. To be sure, in those cases the Commission has authority to revoke the license after notice and hearing, but it is not mandatory. The Commission is vested with discretion, after hearing all the facts and any extenuating circumstances, to act as best serves the public interest. Do we want the seal of Congress upon the proposition that a spot advertisement of beer is more reprehensible and dangerous to public morals than profanity and obscenity?

In conclusion, we submit that Congress can safely leave the matter where it has lain for 20 years. We are opposed on principle to legislation of this kind, seeking as it does to regulate program content. We are confident that the American people do not want what may well be the entering wedge of censorship driven into the American system of broadcasting by passage of this bill. We doubt the wisdom of taking the risk of burning the barn in order to get a mouse, or rather to chase that mouse into the other fellow's barn.

\* \* \* \* \*

**\* RESULTS OF A SURVEY OF BROADCASTING STATIONS ON THE ADVERTISING OF ALCOHOLIC SPIRITS**

Distribution of questionnaire

(Questionnaire was mailed to 691 broadcasting stations; replies were received from 438 broadcasting stations; percentage of replies to total, 63 per cent.)

Revenue from alcoholic spirits (year 1938)	Amount	Estimated total advertising revenue (year 1938)	Percentage of alcoholic advertising to total
Liquor .....	\$ 23,212.36	.....	
Beer .....	1,268,638.29	.....	
Wine .....	101,279.77	.....	
Total .....	\$1,393,120.42	<sup>1</sup> \$150,118,400	<sup>1</sup> / <sub>10</sub> of 1 per cent

<sup>1</sup> 1931 Yearbook, Broadcasting Publications, Inc.

NOTE.—This questionnaire was sent by the National Association of Broadcasters to all commercial stations on March 17, 1939.

## NAB Asks FCC to Relax Recording Rules

The NAB has requested the FCC to give a measure of relief to broadcasters under the new Record Rules. Members will be advised as soon as word is received from the Commission.

The NAB letter:

February 16, 1940.

Mr. T. J. Slowie, Secretary,  
Federal Communications Commission,  
Washington, D. C.

DEAR MR. SLOWIE:

Permit me to direct your attention to the amendment of Section 3.93 (e) of the Standard Broadcast Rules effective January 4, 1940, pertaining to the identifying announcement of mechanical records.

A literal construction of the rule would require that thousands of one-minute and five-minute transcriptions now on hand using the word "transcribed" instead of "transcription" would have to be made over with great difficulty, and at considerable expense.

These were manufactured at the expense of advertisers at a time when use of the word "transcribed" was permissible. We believe it harsh and unjust if their use be barred under the new rule. It is believed that by August 1, 1940, those electrical transcriptions not in compliance with the rule will have become obsolete.

Because of the burden involved in this connection, it is respectfully requested that as to such transcriptions the operation of the rule may be suspended until August 1, 1940.

It is further requested that Section 3.93 (e) be amended to include appropriate use of the words "transcribed," "electrically transcribed" and "recorded." In support of this request it is submitted (1) that the public has become familiar with their meaning and consequently would not be deceived by their use, and (2) that the interests of the listening public would in reality be served by using such an intelligible variation of the announcement to prevent monotonous repetition.

Respectfully yours,

NATIONAL ASSOCIATION OF BROADCASTERS  
RUSSELL P. PLACE, Counsel.

## Labor

### WAGE AND HOUR ACT

Questions and answers about the application of the Wage and Hour Act to broadcasting station employees, gathered from the Act, subsequent rules and regulations, opinions of the enforcement agency, and correspondence with member stations:

*Q. What, in brief, does the Act provide?*

A. That all employees, except those exempt, shall receive at least 30 cents an hour, and shall be paid time and one-half for overtime above 42 hours a week.

*Q. What employees are exempt?*

A. Executives, professional workers and outside salesmen.

*Q. What is an executive?*

A. To be an executive, an employee must (a) receive \$30 or more a week, (b) regularly direct the work of others, (c) have authority to hire and fire or be consulted seriously about hiring and firing, (d) do no substantial amount of work of the same nature as that performed by those under him, and (e) regularly make decisions of his own.

*Q. What is a professional?*

A. The ordinary station has none, except musicians and actors. Research engineers usually could be called professionals, as long as they confined their work to research and experimenting.

*Q. What is an outside salesman?*

A. A salesman who ordinarily does his work away from the office and who does no substantial amount of work of the same character as that done by non-exempt employees.

*Q. Is a "chief engineer" or "program director" ordinarily exempt?*

A. Not in small and medium-sized stations, because the "chief engineer" usually takes a regular trick at the transmitter or in the studio, while the "program director" usually does quite a bit of announcing and writing.

*Q. What records must be kept?*

A. For those employees covered by the Act, records must show (a) name in full, (b) home address, (c) date of birth if under 19, (d) hours worked each workday and each workweek, (e) regular rate of pay, (f) amount paid each week at the regular rate, (g) amount paid each week for overtime, (h) any deductions, (i) total wages paid for each workweek, and (j) date of payment.

*Q. How do you determine the "regular rate of pay" in (e) above?*

A. For those employees who regularly work the same number of hours each week, divide the weekly wage by the number of hours regularly worked. For those employees who customarily work a different number of hours each week, divide the weekly wage by the number of hours worked each week to determine that week's regular rate.

For instance, the regular rate of the employee who ordinarily works 40 hours for \$40 is \$1 an hour, and his overtime rate, for hours above 42, is \$1.50.

If an employee works 38 hours one week, 43 the next, 52 the next, and 25 the next, for \$50 a week—divide \$50 by 43 to determine his overtime rate for that week; divide \$50 by 52 to determine his overtime rate for that week.

*Q. Can an employee be compensated for overtime one week by time off the next week?*

A. Yes, if he is paid once every two weeks and the overtime comes during the first week of the pay period. Say he ordinarily works 42 hours for \$42. During the first week of the pay period he works three hours overtime. Credit him with \$46.50 for that week (3 hours overtime at \$1.50 per hour). Next week give him time and one half off, making him work 37.5 hours. Credit him with \$37.50 pay. His total pay will be his usual \$84 for the two weeks. The Administration has ruled that all overtime is due and payable each payday. That makes it impossible to give time off for overtime if (a) employees are paid every week or (b) the overtime comes during the second week of a pay period.

*Q. Is it advisable to obtain pay receipts from employees?*

A. Yes. They should state the number of hours worked, the amount of regular pay, and the amount of overtime, as well as the total.

*Q. What are the penalties for violation of the Act?*

A. Criminal penalties are fines up to \$10,000 and jail sentences up to six months for second offenders. Employees may sue for double the amount of unpaid wages due them.

*Q. Can Wage and Hour inspectors demand a station's payroll records at any time?*

A. Yes.

*Q. If an employee works more than eight hours a day, must he be paid overtime?*

A. No. The Act places no limit on the number of hours he may work without overtime in a day. It merely limits the work week, without overtime, to 42 hours.

*Q. How does the employer compute the number of hours worked by the employee?*

A. Hours worked include all time during which an employee is required to be on duty, or to be on the employer's premises, or to be at a prescribed workplace.

*Q. Should an announcer or an engineer, enroute to or from a remote control job, be paid for traveling time?*

A. The rule of common sense should be used in computing time in such cases. If an announcer leaves the station at 8 a. m. for a remote job and returns at 10 p. m. the same day, he should be credited with 14 hours. If he goes away for three days, spends all the first day traveling, works a few hours the second day, and spends all the third day returning, credit him with a normal three days work. He needn't be paid for sleeping or sitting in hotel lobbies out of town.

*Q. How about engineers who live at the transmitter?*

A. The fact that the employee makes his home at the employer's place of business in this case does not mean that the employee is necessarily working 24 hours a day. If the engineer has a normal night's sleep, ample time for meals, and a certain amount of time for relaxation and private pursuits, and freedom to come and go as he pleases during certain periods, a "reasonable" computation of hours will be acceptable.

*Q. Are talent charges passed on to the announcer to be considered as part of his base wage, in computing overtime?*

A. Yes, if paid to the announcer by the station. Bonuses also must be included.

The NAB Labor Relations Director would be glad to discuss any of the above questions and answers further with any member. Any other questions would be appreciated.

### WAGE AND HOUR EXEMPTION FOR SOME CHIEF ENGINEERS

The Wage and Hour Administration says that an employee, to be a bona fide executive and thus exempt from the overtime provisions of the Act, must do no "substantial" amount of work of the same character as that performed by those under him.

Many "chief engineers" in the broadcasting industry meet all the other requirements for a "bona fide execu-

tive" but do a certain amount of work of the same character as that performed by their subordinates.

The NAB Labor Relations Department asked the Administration to set up guide posts for determining whether "chief engineers" were "executives" within the meaning of the Act.

The following correspondence was exchanged:

NATIONAL ASSOCIATION OF BROADCASTERS  
WASHINGTON, D. C.

February 1, 1940.

Mr. Rufus Poole,  
Associate General Counsel,  
Wage and Hour Division,  
Department of Labor,  
Washington, D. C.

DEAR MR. POOLE:

I have been besieged with requests from the managers of broadcasting stations as to whether their chief engineers, under certain conditions, were bona fide executives and thus exempt from the hours limitations of the Fair Labor Standards Act.

In all instances these chief engineers customarily and regularly direct the work of other employees, have the authority to hire and fire or are highly influential in hiring and firing, customarily and regularly exercise discretionary powers and receive \$30 a week or more.

However, there is some question as to whether they do any "substantial amount of work of the same nature as that performed by non-exempt employees of the employer". Below are three typical instances. If we could have your opinion as to whether these would be exempt, it would be extremely helpful to an industry that is endeavoring to comply with the Act in every respect.

Chief Engineer X—relieves a subordinate at the studio controls one hour each day while his subordinate goes to lunch.

Chief Engineer Y—acts in a purely executive capacity four days a week but does the work of a subordinate on the fifth day which is the subordinate's day off.

Chief Engineer Z—does no "regular" work of the same character as that done by a subordinate, but, irregularly relieves subordinates in an emergency, in cases of illness, etc.

Very truly yours,

S/JOSEPH L. MILLER,  
*Director of Labor Relations.*

U. S. DEPARTMENT OF LABOR

Wage and Hour Division

WASHINGTON, D. C.

February 15, 1940.

Mr. Joseph L. Miller,  
Director of Labor Relations,  
National Association of Broadcasters,  
Normandy Building,  
1626 K Street, N. W.,  
Washington, D. C.

DEAR MR. MILLER:

This is in reply to your letter of February 1, 1940 in which you inquire as to whether or not three chief engineers of broadcasting companies are engaged in doing a "substantial amount of work of the same nature as that performed by nonexempt employees of the employer" in the three examples given by you.

You state that Chief Engineer X "relieves a subordinate at the studio controls one hour each day while his subordinate goes to lunch". I am enclosing a copy of the Act, together with Regulations, Part 541, dealing with the executive and administrative exemption provided by Section 13(a)(1). If the only "nonexempt" work performed by Chief Engineer X is four or five hours in a 42 hour week, it is our opinion that such non-exempt work does not constitute a "substantial amount of work". However, the caution should be stated that the requirement that an executive and administrative employee must not do a substantial amount of work of the same nature as that performed by the nonexempt employees of an employer is only one of several requirements contained in section 541.1. All of the requirements of the section must be met in order for the exemption to apply. We have refrained from making definite rulings as to the applicability of the exemption in particular cases because we are not in possession of the facts in such cases.

You state that Chief Engineer Y spends one day out of five in doing the work of a subordinate. It is our opinion that the courts will probably consider 20 per cent of an employee's work to be a "substantial amount", in which event, Chief Engineer Y would be considered to be performing a substantial amount of work of the same nature as that performed by non-exempt employees of the employer.

You state that Chief Engineer Z "does no 'regular' work of the same character as that done by his subordinate, but, irregularly relieves subordinates in an emergency, in cases of illness, etc." It is a question of fact whether or not the "irregularity" of the substitute work performed by Chief Engineer Z constitutes a substantial amount of nonexempt work, and we are unable to add to what has been said in the preceding two paragraphs.

Very truly yours,

S/RUFUS G. POOLE,  
*Associate General Counsel.*

## ARBITRATE AFRA DISPUTE

The dispute between Chicago stations and AFRA as to whether announcers should be given fees for local commercial programs is to be submitted to arbitration. This was the decision of a three-man arbitration board, picked to determine whether the dispute should be arbitrated.

## FOUR A'S CONVENTION

The 1940 Convention of the American Association of Advertising Agencies will be held May 16-17 at the Waldorf-Astoria, New York.

Sessions for members only are scheduled for Thursday, May 16. On Friday, May 17, advertiser and media guests will be invited to join the agency men in morning and afternoon meetings, and at dinner in the evening.

## FCC NOTIFIES STATIONS TO APPLY FOR LICENSES BY JUNE 1

The FCC sent the following notices to all broadcast licensees on February 21:

The Commission having under consideration the carrying out of the provisions of the North American Regional Broadcasting Agreement, on January 29, 1940, issued an order of modification of all outstanding licenses and instruments of authorization for standard broadcast stations, bearing expiration dates after August 1, 1940, and providing that holders thereof should have until February 15, 1940, to show cause why such licenses and authorizations should not be modified so as to expire at 3 a. m., EST, August 1, 1940. No returns to the order to show cause, requests for hearing or protests of any kind have been received by the Commission. Accordingly, the Commission has entered an order making the order of modification final, effective March 1, 1940.

Under the provisions of Sec. 1.360 of the Rules of Practice and Procedure applications for renewal of licenses are required to be filed with the Commission at least 60 days prior to the expiration date of the license sought to be renewed. Accordingly, to comply with the rule, the holders of all standard broadcast station licenses or authorizations which expire August 1, 1940, including those which are modified by the Commission's order of January 29, 1940, are required to file applications for renewal prior to June 1, 1940.

## NO RESERVATIONS TO MEXICAN AGREEMENT

The Department of State has advised the FCC that no reservations have been made by Mexico in approving the North American Regional Broadcasting Agreement as

published in the "Diario Oficial" of February 15. It was expected that Cuba, as the depository government, would be notified February 16.

The North American Regional Broadcasting Agreement was signed at Habana, Cuba, at the conclusion of the First Inter-American Radio Conference on December 13, 1937. It was signed by representatives of Canada, Cuba, the Dominican Republic, Haiti, Mexico, and the United States.

The agreement was not to become effective until ratified by Canada, Cuba, Mexico, and the United States. The ratification by Mexico is the last required to make the agreement valid, and permits starting the necessary engineering measures to carry out its provisions.

As pointed out in the Commission's release of January 22, the assignment of some 730 standard broadcast stations may be affected. However, it is not possible to determine definitely any individual assignments until the entire plan is worked out with respect to stations in all the countries which are parties to the agreement. A shift in any one assignment may affect materially the entire plan. Accordingly, all assignments must be worked out in relation to the entire pattern and can be announced only concurrently. The Commission will give due notice to all licensees when the general plan is determined.

### NEW UNIVERSITY OF KENTUCKY STATION LICENSED

Proposal by the University of Kentucky to bring mountain people radio programs of cultural and educational value was speeded by the FCC in granting that university a construction permit for a new non-commercial educational broadcast station to operate from Beattyville, Ky., on 41900 kilocycles, 100 watts power, A-3 emission, unlimited time.

Program service of value to both schools and adults is contemplated by the University of Kentucky. Operation will be two hours daily—from noon to 2 o'clock—Mondays through Fridays, and as emergencies and special events warrant. The period from noon to 1 o'clock will be devoted to adult interests, and the remaining period will be intended for the county schools, but will be patterned to appeal to adults as well. Programs will be of a civic, educational, agricultural, and entertaining nature.

The applicant plans to equip the between 50 and 60 mountain schools in Lee County with receivers. The university will bear the cost of the transmitter and receivers, will retain ownership of the equipment, and will supervise the operation through the Lee County Board of Education. The board, for its part, will pay operating expenses including the salary of a supervisor who will promote the use of the service by communities and schools adjacent to the area.

In 1933 the University of Kentucky established a sys-

tem of remote listening centers where people could hear educational radio programs of standard broadcast stations. On the basis of results, the university feels that there is need for establishment of a system by which localized education and information, both for school children and adults, should be provided for in each of the mountain communities.

This makes only three institutions which have taken advantage of the 25 amplitude modulated channels (41020 to 41980 kilocycles) set aside for non-commercial educational broadcast purposes. The others availing themselves of these frequencies are WBOE, operated by the Cleveland, Ohio, Board of Education, and WNYE, by the New York City Board of Education.

## Legislation

### FEDERAL LEGISLATION

H. R. 8509 (Mr. Ditter, R., Pa.) TO AMEND THE COMMUNICATIONS ACT OF 1934 IN ORDER TO PRESERVE AND PROTECT LIBERTY OF EXPRESSION IN RADIO COMMUNICATION—Prohibits Federal Communications Commission's taking adverse action for alleged program offenses; establishes for broadcast stations minimum license period of 3 years and maximum of 5 years; requires hearing where the Commission's action would adversely affect the interest of any holder of a license or any applicant therefor; requires a hearing prior to any order of revocation of license; limits powers of the President in time of peace and war. Referred to Interstate and Foreign Commerce Committee.

### STATE LEGISLATION

#### KENTUCKY:

H. 359 (Barry) ELECTRICAL ADMINISTRATIVE BOARD—An act to create an electrical administrative board.

#### VIRGINIA:

H. 333 (Long) LOTTERIES—To amend and re-enact Section 4694 of the Code, relating to forfeiture of money and things of value drawn or received or proposed to be drawn in a lottery, so as to include money and personal property used in connection with the promotion, operation and conduct of a lottery or attempted lottery. Referred to Courts of Justice.

#### VIRGINIA:

S. 217 (Wright) ELECTRICAL WIRING—To regulate and control the installation and alteration of electrical wiring, fixtures, appliances and equipment, to this end to require certain permits to be obtained, to prescribe the fees therefor and to establish standards for electrical equipment. Referred to Finance Committee.

### CONGRESSIONAL COMMITTEES

The following are the members of the principal Congressional Committees dealing with Legislation affecting broadcasters:

#### *Senate Committee on Interstate Commerce*

Burton K. Wheeler, of Montana, Dem., Chairman.  
Ellison D. Smith, of South Carolina, Dem.  
Robert F. Wagner, of New York, Dem.  
Alben W. Barkley, of Kentucky, Dem.  
Matthew M. Neely, of West Virginia, Dem.  
Homer T. Bone, of Washington, Dem.  
Vic Donahey, of Ohio, Dem.

Sherman Minton, of Indiana, Dem.  
 Harry S. Truman, of Missouri, Dem.  
 Charles O. Andrews, of Florida, Dem.  
 Edwin C. Johnson, of Colorado, Dem.  
 H. H. Schwartz, of Wyoming, Dem.  
 Lister Hill, of Alabama, Dem.  
 Tom Stewart, of Tennessee, Dem.  
 Ernest Lundeen, of Minnesota, F-Labor.  
 Wallace H. White, Jr., of Maine, Rep.  
 Warren R. Austin, of Vermont, Rep.  
 Henrik Shipstead, of Minnesota, F-Labor.  
 Charles W. Tobey, of New Hampshire, Rep.  
 Clyde M. Reed, of Kansas, Rep.  
 Chan Gurney, of South Dakota, Rep.

*Senate Committee on Patents*

Homer T. Bone, of Washington, Dem., Chairman.  
 Ellison D. Smith, of South Carolina, Dem.  
 Claude Pepper, of Florida, Dem.  
 Bennett Champ Clark, of Missouri, Dem.  
 Scott W. Lucas, of Illinois, Dem.  
 Wallace H. White, Jr., of Maine, Rep.  
 John A. Danaher, of Connecticut, Rep.

*House Committee on Interstate and Foreign Commerce*

Clarence F. Lea, of California, Dem., Chairman.  
 Robert Crosser, of Ohio, Dem.  
 Alfred L. Bulwinkle, of North Carolina, Dem.  
 Virgil Chapman, of Kentucky, Dem.  
 William P. Cole, Jr., Maryland, Dem.  
 Edward A. Kelly, of Illinois, Dem.  
 Herron Pearson, of Tennessee, Dem.  
 Lyle H. Boren, of Oklahoma, Dem.  
 Martin J. Kennedy, of New York, Dem.  
 Elmer J. Ryan, of Minnesota, Dem.  
 Charles L. South, of Texas, Dem.  
 James P. McGranery, of Pennsylvania, Dem.  
 Donald L. O'Toole, of New York, Dem.  
 Luther Patrick, of Alabama, Dem.  
 Rudolph G. Tenerowicz, of Michigan, Dem.  
 Charles A. Wolverton, of New Jersey, Rep.  
 James Wolfenden, of Pennsylvania, Rep.  
 Pehr G. Holmes, of Massachusetts, Rep.  
 B. Carroll Reece, of Tennessee, Rep.  
 James W. Wadsworth, of New York, Rep.  
 Charles A. Halleck, of Indiana, Rep.  
 Oscar Youngdahl, of Minnesota, Rep.  
 Carl Hinshaw, of California, Rep.  
 Clarence J. Brown, of Ohio, Rep.  
 Charles F. Risk, of Rhode Island, Rep.

*House Committee on Patents*

Charles Kramer, of California, Dem., Chairman.  
 Fritz G. Lanham, of Tex., Dem.  
 Matthew A. Dunn, of Pennsylvania, Dem.  
 Frank W. Boykin, of Alabama, Dem.  
 Lawrence J. Connery, of Massachusetts, Dem.  
 Charles A. Buckley, of New York, Dem.  
 John M. Coffee, of Washington, Dem.  
 Francis J. Myers, of Pennsylvania, Dem.  
 Thomas D'Alesandro, Jr., of Maryland, Dem.  
 Albert S. Camp, of Georgia, Dem.  
 Fred A. Hartley, Jr., of New Jersey, Rep.  
 Leslie C. Arends, of Illinois, Rep.  
 Ralph E. Church, of Illinois, Rep.  
 Charles A. Wolverton, of New Jersey, Rep.  
 Robert Luce, of Massachusetts, Rep.  
 L. L. Marshall, of Ohio, Rep.

**CALENDAR OF MARCH EVENTS**

The following dates will be of interest to members in connection with plans for special programs, promotions, etc. NAB REPORTS will publish a similar list each month.

March 3—Alexander Graham Bell, born 1847.  
 March 12-18—Girl Scout Anniversary Week.  
 March 14—Eli Whitney patented cotton gin, 1794; Albert Einstein, born 1879.

March 17—Palm Sunday; St. Patrick's Day.  
 March 17-23—Wild Life Week.  
 March 20—Spring begins today.  
 March 22—Good Friday.  
 March 24—Easter Sunday.  
 March 30-April 6—Baseball Week.

**FEDERAL COMMUNICATIONS  
 COMMISSION DOCKET**

The following hearing is scheduled before the Commission in a broadcast case during the week beginning Monday, February 26. It is subject to change.

**Monday, February 26**

NEW—William F. Huffman, Wisconsin Rapids, Wisc.—C. P., 1310 kc., 100 watts, 250 watts LS, unlimited time.

**FUTURE HEARINGS**

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

**March 11**

NEW—Lookout Mountain Company of Georgia, Lookout Mountain, Ga.—C. P., 1370 kc., 250 watts, unlimited time.

**March 14**

NEW—J. D. Falvey, Ottumwa, Iowa.—C. P., 1210 kc., 100 watts, unlimited time.  
 NEW—Louis R. Spiwak & Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

**FEDERAL COMMUNICATIONS  
 COMMISSION ACTION**

**APPLICATIONS GRANTED**

Hazlewood, Inc., Orlando, Fla.—Granted construction permit for new station to operate on 1200 kc., 250 watts, unlimited time, Class IV; exact transmitter site and antenna to be determined subject to Commission's approval.  
 KICA—Western Broadcasters, Inc., Clovis, N. Mex.—Granted modification of license to change hours of operation from unlimited daytime and specified hours night, to unlimited time; station operates on 1370 kc., 100 watts power.  
 University of Kentucky, Beattyville, Ky.—Granted construction permit for new non-commercial educational broadcast station to operate on 41900 kc., 100 watts power, A-3 emission, unlimited time.

**DESIGNATED FOR HEARING**

Grand Rapids Broadcasting Corp., Grand Rapids, Mich.—Application for construction permit for new station to operate on 1200 kc., 250 watts, unlimited time, Class IV station.  
 Worcester Broadcasting Corp., San Diego, Calif.—Application for construction permit for new station to operate on 1420 kc., 250 watts, unlimited time.

**MISCELLANEOUS**

W9XEH—Zenith Radio Corp., Chicago, Ill.—Granted license to cover construction permit for new high frequency broadcast

- station; frequency 42500 kc., power 1000 watts; granted upon an experimental basis only, conditionally.
- W1XKB—Westinghouse Electric & Mfg. Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with high frequency (experimental) station W1XSN on 42.6 mc., for a period not to exceed 30 days in order to obtain data for the hearing on aural broadcasting on frequencies above 25 mc.
- Louis R. Spiwak & Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—Granted petition for intervention in re application of J. D. Falvey, Ottumwa, Iowa, for construction permit for new station to operate on 1210 kc., 100 watts, unlimited time.
- J. D. Falvey, Ottumwa, Iowa.—Granted petition to intervene in re application of Louis R. Spiwak and Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa, for construction permit for new station to operate on 1210 kc., 100 watts, 250 watts LS, unlimited time; also, the Commission, on its own motion, consolidated the L & M Broadcasting Co. case and the Falvey case.
- WKAQ—Radio Corp. of Porto Rico, San Juan, P. R.—Denied petition to reopen hearings in re applications of Enrique Abarca Sanfeliz, San Juan, P. R., for construction permit for new station to operate on 580 kc., 1 KW, 5 KW LS, unlimited time, and of United Theatres, Inc., San Juan, P. R., for construction permit for new station to operate on 580 kc., 1 KW, unlimited time, DA day and night.
- WCNW—Arthur Faske, Brooklyn, N. Y.—Granted motion for extension of time to file proposed findings of fact and conclusions, to February 27, 1940, in re applications of Lillian E. Kiefer, Metropolitan Broadcasting Corp. (WMBQ), Long Island Broadcasting Corp. (WWRL), Paul J. Gollhofer, and Arthur Faske (WCNW), all of Brooklyn, N. Y.
- Lookout Mountain Co. of Georgia, Lookout Mountain, Ga.—Granted petition for continuance of hearing from February 19 to March 11, 1940, in re application for construction permit for new station to operate on 1370 kc., 250 watts, unlimited time.
- WGBF—Evansville On the Air, Inc., Evansville, Ind.—Granted motion to accept amendment so as to designate a new site and to slightly modify the proposed directional antenna, in re application for construction permit to change from 630 kc., 500 watts, 1 KW LS, simultaneous day, shares KFRU night, to 1250 kc., 1 KW, 5 KW LS, unlimited time (DA night).
- WFDF—Flint Broadcasting Co., Flint, Mich.—Continued for one week consideration of petition to intervene in re application of Thumb Broadcasting Co., Brown City, Mich., for construction permit for new station to operate on 880 kc., 250 watts, daytime.
- E. E. Krebsbach, Miles City, Mont.—Continued for one week consideration of petition to intervene in re application of Star Printing Co., Miles City, Mont., for construction permit for new station to operate on 1310 kc., 250 watts, unlimited time.
- Louis R. Spiwak & Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—Granted motions for order to take depositions on March 4 and 5, 1940, re application for construction permit for new station to operate on 1210 kc., 100 watts, 250 watts LS, unlimited time.
- WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 10:45 p. m., CST, on February 20, 1940, in order to broadcast finals of Joliet Gloves Tournament.
- Edwin H. Armstrong, New York, N. Y.—Granted extension of special temporary authority to operate frequency modulated transmitter with power of 10000 watts on 43 mc. at the site of the transmitter of Station W2XMN, Alpine, N. J.; to be operated simultaneously with Station W2XMN (40 kc. on 42.8 mc.), in order to secure data on adjacent channel operations and to obtain data on the overlapping of services between this transmitter and that of the Yankee Network, Inc., high frequency station W1XOJ, in preparation of the high frequency hearing, for the period February 29, 1940, to not later than March 18, 1940.
- KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period beginning February 18, 1940, to not later than March 18, 1940, pending the filing of modification of license and completion of arrangements with Station KWLC.
- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Granted special temporary authority to operate from 7:15 p. m., PST, to the conclusion of basketball games on February 24, 27, 28, March 1, and 2, 1940, in order to broadcast basketball games only.
- WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted special temporary authority to operate from 6:30 p. m., CST, to the conclusion of basketball games on February 21, 22, 23, 24, 28, 29, March 6, 7, 8, 9, 1940, in order to broadcast basketball games only, using 250 watts power.
- W2XOY—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to operate high frequency (experimental) station W2XOY, using 250 watts power, frequency modulated on 43200 kc., at the site of television broadcast station W2XB (New Scotland, N. Y.), for a period not to exceed 30 days, in order to obtain data for Hearing Docket 5805.
- WAID—Onondaga Radio Broadcasting Corp., Portable-Mobile (area of Syracuse, N. Y.).—Granted license to cover construction permit for new relay broadcast station, frequencies 1646, 2090, 2190, 2830 kc., power 20 watts.
- WIBX, Inc., Portable-Mobile (area of Utica, N. Y.).—Granted construction permit for new relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., power 100 watts.
- KBQB—Edwin A. Kraft, Portable-Mobile (area of Juneau, Alaska).—Granted license to cover construction permit for new relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., power 50 watts.
- WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- KORE—Frank L. Hill and C. G. Phillips, d/b as Eugene Broadcast Station, Eugene, Oregon.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Granted modification of construction permit and modification thereof for new station, for extension of time of completion from February 27, 1940 to August 27, 1940.
- WDRG—WDRG, Inc., Hartford, Conn.—Granted modification of construction permit for installation of directional antenna for day and night use, and increase in power, for changes in directional antenna and extension of commencement date to 30 days after grant and completion date 150 days thereafter.
- WMFJ—W. Wright Esch, Daytona Beach, Fla.—Granted license to cover construction permit for new equipment and increase in power from 100 watts to 250 watts; frequency 1420 kc., 250 watts, unlimited time; granted conditionally.
- WEEI—Columbia Broadcasting System, Inc., Boston, Mass.—Granted license to cover construction permit for increase in power from 1 KW, 5 KW day, to 5 KW day and night, and use present daytime directional antenna patterns for both day and night; 590 kc., 5 KW, unlimited time, directional antenna for day and night use; also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WBAB—Press Union Publishing Co., Atlantic City, N. J.—Granted license to cover construction permit and modification thereof for new broadcast station, for move of studio location locally; frequency 1200 kc., 100 watts night, 250 watts day power, unlimited time; also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WEKD—Onondaga Radio Broadcasting Corp., Portable-Mobile (area of Syracuse, N. Y.).—Granted license to cover construction permit to install new equipment and increase power to 20 watts.
- KEHR—Donald C. Treloar, Portable-Mobile (area of Kalispell, Mont.).—Granted license to cover construction permit for new relay broadcast station, frequencies 30820, 33740, 35820 and 37980 kc., power 10 watts.
- WENH—WJR, The Goodwill Station, Portable-Mobile (area of Detroit, Mich.).—Granted license to cover construction permit to change frequencies and make changes in equipment, frequencies 1646, 2090, 2190, 2830 kc., power 150 watts.
- WLBC—Donald A. Burton, Muncie, Ind.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WGTC—J. J. White, d/b as Greenville Broadcasting Co., Greenville, N. C.—Granted modification of construction permit for new broadcast station, for change in type of transmitter, approval of antenna, and approval of studio site at Falkland Highway, Greenville, N. C., and transmitter site on

Falkland Highway, 1½ miles West of town, near Greenville, N. C.

KEX—The Oregonian Publishing Co., Portland, Ore.—Granted special temporary authority to operate a portable 100 watt transmitter on frequency **1190 kc.**, in the vicinity of Portland, Ore., for a period not to exceed 30 days, in order to make tests for a suitable transmitter location.

W9XYH—Head of the Lakes Broadcasting Company, Superior, Wis.—Granted modification of construction permit as modified, for new station, to extend date of completion to May 12, 1940.

WEHK—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York, N. Y.).—Granted license to cover construction permit to change equipment and increase power to 2 watts.

WAUW—J. T. Ward, tr/as WLAC Broadcasting Service, Portable-Mobile (area of Nashville, Tenn.).—Granted license to cover construction permit for new relay broadcast station; frequencies **30820, 33740, 35820 and 37980 kc.**, power 2 watts.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Denied petition for hearing before a Commissioner in re application for renewal of license; station operates on **1200 kc.**, 100 watts, unlimited time.

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from 7:45 p. m. to 9:15 p. m., CST, on March 10, 17, 24, and 31, 1940, in order to broadcast church services only, using 250 watts power.

WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted special temporary authority to operate from 8:00 p. m. to 9:00 p. m., EST, on February 24, 1940, in order to broadcast an address by the National President of Exchange.

WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted special temporary authority to operate with power of 250 watts from 5:15 p. m. to 5:30 p. m., CST, on February 22, 23, 24, and 29, 1940, and from 8:00 p. m. to 9:30 p. m., CST, on February 22, 23, 29, March 1 and 2, 1940, in order to broadcast basketball games only to listeners within WLAP's coverage not adequately served by 100 watts power.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 7:00 p. m. to 10:30 p. m., CST, on February 24, 1940, in order to broadcast basketball game only.

W1XKB—Westinghouse Electric & Manufacturing Co., Boston, Mass.—Granted special temporary authority to operate on frequency of **42.4 mc.**, using both A-3 and special emission, the special emission being frequency modulation, for a period not to exceed 30 days, in order to obtain additional data for the forthcoming hearing on aural broadcasting on frequencies above **25 mc.**

KQRS—Mason City Globe-Gazette Co., Portable-Mobile (area of Mason City, Iowa).—Granted license to cover construction permit for a new relay broadcast station, frequencies **1622, 2058, 2150, 2790 kc.**, power 2 watts.

KEHI—WDAY, Inc., Fargo, N. D.—Granted license to cover construction permit to change location of transmitter from portable-mobile to fixed location.

KGKL, Inc., Portable-Mobile (area of San Angelo, Tex.).—Granted construction permit for new relay broadcast station, frequencies **1622, 2058, 2150, 2790 kc.**, power 20 watts.

WEAF—National Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit for move of transmitter and changes in antenna, for extension of completion date from March 6, 1940 to September 6, 1940.

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

KCMO—KCMO Broadcasting Co., Kansas City, Mo.—Granted license to cover construction permit for installation of new transmitting equipment and increase in power from 1 KW to 1 KW night, 5 KW daytime; frequency **1450 kc.**, unlimited time, directional antenna night.

WLEU—WLEU Broadcasting Corp., Erie, Pa.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Granted authority to determine operating power of main transmitter and of auxiliary transmitter by direct measurement of antenna input in compliance with Section 3.54.

WAWZ—Pillar of Fire, Zarephath, N. J.—Granted construction permit to make changes in transmitting equipment.

WEPA—Edwin H. Armstrong, Portable-Mobile (area of New York, N. Y.).—Granted modification of construction permit for new special relay broadcast station for extension of completion date to October 7, 1940.

## APPLICATIONS FILED AT FCC

### 560 Kilocycles

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—Construction permit to increase power from 1 KW; 5 KW day to 5 KW day and night. Make changes in directional antenna. Amended: changes in antenna system.

### 570 Kilocycles

WMCA—Knickerbocker Broadcasting Co., Inc., New York, N. Y.—Authority to determine operating power by direct measurement of antenna power.

WSYR-WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—Authority to transfer control of corporation from M. S. Wilder to H. C. Wilder, 1500 shares common stock.

### 580 Kilocycles

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—License to cover construction permit (B5-P-2277) as modified for increase in power, move transmitter and install new transmitter and antenna.

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Authority to determine operating power by direct measurement of antenna power.

WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Construction permit to install directional antenna for night use and increase power from 500 watts night 5 KW day to 5 KW day and night.

### 820 Kilocycles

WHAS—The Louisville Times Co., Louisville, Ky.—Modification of license to change corporate to Courier-Journal and Louisville Times Company.

### 860 Kilocycles

WHB—WHB Broadcasting Co., Kansas City, Mo.—Construction permit to install new transmitter, new antenna, increase power from 1 KW to 50 KW and move transmitter from North Kansas City to in or near Kansas City, Mo. Amended re equipment.

### 890 Kilocycles

WBAA—Purdue University, W. Lafayette, Ind.—Construction permit to install new transmitter, make changes in antenna, change hours from specified to unlimited time, increase power from 500 watts night, 1 KW day to 1 KW night, 5 KW day and move transmitter. Amended re transmitter site.

KTKC—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, Pres., Visalia, Calif.—Construction permit to make changes in equipment. Amended re equipment.

### 920 Kilocycles

WSPA—Virgil V. Evans, tr. as Voice of South Carolina, Spartanburg, S. C.—Construction permit to install auxiliary transmitter at Evanston Hts., Spartanburg, S. C., using 500 watts. Amended re equipment.

### 930 Kilocycles

NEW—Granite District Radio Broadcasting Co., Murray, Utah.—Construction permit for a new broadcast station to be operated on **930 kc.**,\* 250 watts, unlimited time.

### 1050 Kilocycles

WIBC—Indiana Broadcasting Corp., Indianapolis, Ind.—Authority to determine operating power by direct measurement of antenna power.

### 1100 Kilocycles

WOV—Greater New York Broadcasting Corp., New York, N. Y.—Construction permit to install new transmitter, directional

\* 960 kc. requested if Havana treaty effective.

antenna for day and night use, and increase power from 5 KW to 10 KW.

#### 1120 Kilocycles

WDEL—WDEL, Inc., Wilmington, Del.—Construction permit to install directional antenna for night use; increase power from 250 watts, 1 KW day, to 1 KW day and night.

#### 1130 Kilocycles

KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—License to use old licensed transmitter as auxiliary.

KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—License to cover construction permit (B5-P-2427) for installation of new transmitter.

#### 1190 Kilocycles

WOAI—Southland Industries, Inc., San Antonio, Tex.—Construction permit to make changes in equipment.

#### 1200 Kilocycles

WMOB—S. B. Quigley, Mobile, Ala.—Modification of license to increase power and hours of operation from 100 watts daytime to 100 watts night, 250 watts day, unlimited time. Amended to request 100 watts power day and night.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Authority to determine operating power by direct measurement of antenna power.

#### 1210 Kilocycles

WJLS—Joe L. Smith, Jr., Beckley, W. Va.—Construction permit to install new transmitter; install directional antenna for night use; change frequency from 1210 ke. to 900 ke.; and increase power from 250 watts to 1 KW.

KWJB—Sims Broadcasting Co. (Bartley T. Sims, Mgr.), Globe, Ariz.—Voluntary assignment of license from Sims Broadcasting Co. (Bartley T. Sims, Mgr.) to Bartley T. Sims, d/b as Sims Broadcasting Co.

WJTN—James Broadcasting Co., Inc., Jamestown, N. Y.—Authority to determine operating power by direct measurement of antenna power.

WJBY—Gadsden Broadcasting Co., Inc., Gadsden, Ala.—Authority to determine operating power by direct measurement of antenna power.

#### 1220 Kilocycles

KPAC—Port Arthur College, Port Arthur, Tex.—Modification of license to increase power from 500 watts to 500 watts night, 1 KW day.

#### 1250 Kilocycles

KXOK—Star-Times Publishing Co., St. Louis, Mo.—Construction permit to install new transmitter; make changes in directional antenna (for use day and night); change frequency from 1250 ke. to 630 ke.; increase power from 1 KW to 5 KW; and move transmitter (contingent on B4-P-2321, WGBF, and B4-P-2322, KFRU). Amended re directional antenna and transmitter site (near Granite City, Ill.).

#### 1270 Kilocycles

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Authority to determine operating power by direct measurement of antenna power. Main transmitter.

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Authority to determine operating power by direct measurement of antenna power. Auxiliary transmitter.

#### 1330 Kilocycles

NEW—General Broadcasting, Inc., Miami, Fla.—Construction permit for a new broadcast station to be operated on 1330 or 1360 ke., when Havana treaty goes into effect, 500 watts night, 1 KW day, unlimited.

#### 1350 Kilocycles

WMBG—Havens and Martin, Inc., Richmond, Va.—Modification of construction permit (B2-P-1912) as modified for changes in equipment and increase in power from 500 watts to 1 KW night, 5 KW day, requesting extension of completion date from 2-28-40 to 4-28-40.

#### 1360 Kilocycles

KSLM—Oregon Radio, Inc., Salem, Ore.—Modification of license to increase power from 500 watts night, 1 KW, to 1 KW day and night.

#### 1370 Kilocycles

WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—Authority to determine operating power by direct measurement of antenna power.

NEW—Harbenito Broadcasting Co., Cameron County, Tex.—Construction permit for a new broadcast station to be operated on 1370 ke., 250 watts, unlimited.

#### 1380 Kilocycles

WALA—W. O. Pape, tr. as Pape Broadcasting Co., Mobile, Ala.—Modification of construction permit (B3-P-2242) as modified for move of transmitter, new antenna, increase in power, requesting extension of commencement date from 3-8-40 to 6-8-40, and completion date from 9-8-40 to 12-8-40.

#### 1420 Kilocycles

NEW—Kingsul Broadcasting Corp., Kingsport, Tenn.—Construction permit for a new broadcast station to be operated on 1420 ke., 250 watts, unlimited time.

#### 1500 Kilocycles

WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—Modification of construction permit (B1-P-2100) for new station requesting approval of antenna, approval of transmitter and studio sites and change type of transmitter.

WNLC—Thames Broadcasting Corp., New London, Conn.—Construction permit to make changes in equipment and increase power from 100 watts to 250 watts. Amended: re equipment.

KYSM—F. B. Clements & Co., a co-partnership composed of F. Braden Clements, Clara D. Clements and C. C. Clements, d/b as Southern Minnesota Supply Co., Mankato, Minn.—Authority to determine operating power by direct measurement of antenna power.

#### 1530 Kilocycles

WBRY—American Republican, Inc., Waterbury, Conn.—Construction permit to install new transmitter, directional antenna for day and night use, increase power from 1 to 5 KW.

### MISCELLANEOUS

NEW—WKBN Broadcasting Corp., Youngstown, Ohio.—Construction permit for a new high frequency broadcast station to be operated on 43400 ke., 1000 watts special emission for frequency modulation.

NEW—The Louisville Times Co., N. E. of Eastwood, Ky.—License for a new high frequency broadcast station to be operated on 25300 ke., 500 watts, emission A-3. (Using transmitter of facsimile station W9XWT).

WCLA—Larus & Brother Co., Inc., Portable-Mobile.—License to cover construction permit (B2-PRY-176) as modified, for a new relay broadcast station.

W9XWT—The Louisville Times Co., N. E. of Eastwood, Ky.—License to cover construction permit (B2-PFB-12) as modified for a new facsimile broadcast station.

NEW—Jerome Raymond Popkin-Clurman, New York, N. Y.—Construction permit for a new high frequency broadcast station to be operated on 42000 to 42400 ke., 1000 watts, unlimited time, special emission for frequency modulation. Amended: To request 42400 ke.

NEW—The Fort Industry Co., Toledo, Ohio.—Construction permit for a new high frequency broadcast station to be operated on 43200 ke., 250 watts, unlimited time, special emission for frequency modulation. Amended: To change power to 1000 watts and change type of transmitter.

NEW—The May Department Stores Co., Los Angeles, Calif.—Construction permit for a new television broadcast (experimental) station to be operated on 84000-90000 ke., aural and visual power, 1 KW, emission A-3 and A-5. Amended: To add Model No. of sound transmitter.

NEW—Frequency Broadcasting Corp., Brooklyn, N. Y.—Construction permit for a new high frequency broadcast station on 42200 ke., 50,000 watts, unlimited time. Special emission. Location: 1 Hansom Place, Brooklyn, N. Y.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Cup and Container Institute, Inc.**, 420 Lexington Ave., New York, 10 of its officers and directors and 12 corporations controlling more than 60 per cent of the national output and sale of products of the paper drinking cup and paper food container industry, have been served by the Federal Trade Commission with a complaint alleging a combination and conspiracy to restrain trade through the fixing and maintaining of uniform minimum prices. Eleven of the 12 respondent corporations are or have been members of the institute.

The respondents include Granville P. Rogers, president and executive director of the institute; Dale H. Eckerman, vice president and director; K. L. Stoler, secretary and director, and Alexander Herz and Henry Nias, directors, all of New York; Robert J. Kieckhefer, Milwaukee; William S. Bacon, Kensington, Conn.; Robert C. Fenner, Chicago; E. W. Skinner, Fulton, N. Y., and R. L. Allison, Springfield, Mass., directors; Dixie-Vortex Company, Chicago and Easton, Pa.; Lily-Tulip Cup Corporation, New York and its subsidiary, Crystal Paper Service Corporation, Los Angeles; Herz Cup Company, a division of Herz Manufacturing Corporation, New York; American Lace Paper Company and Milwaukee Lace Paper Company, both of Milwaukee; Eagle Cup Corporation, Brooklyn; The American Paper Goods Company, Kensington, Conn.; Logan Drinking Cup Company, a division of the United States Envelope Company, Springfield and Worcester, Mass.; Sutherland Paper Company, Kalamazoo, Mich.; Sealright Company, Inc., a division of the Oswego Falls Corporation, Fulton, N. Y., and Cupples-Hesse Envelope and Lithographing Company, St. Louis. The last named company, while not a member, allegedly cooperated with the institute in its activities.

Beginning with the formation of the respondent institute in January, 1933, the corporate respondents, through the respondent institute, are alleged to have effectuated agreements and understandings for suppression of all price competition by fixing and maintaining uniform prices of paper drinking cups, paper food containers, ice cups, ice tubs and related products.

Among specific methods used, the complaint continues, were: (1) adherence to a schedule of minimum prices and uniform discounts, terms and conditions of sale, including maximum discounts and classification of customers; (2) maintenance of identical price lists on comparable products, and simultaneous changing of prices at which comparable products are to be sold in the United States; (3) filing with the institute of a schedule of prices including discounts and the terms and conditions of all sales; maintenance of an agreement not to deviate therefrom, and notification of the institute of any deviations therefrom; (4) publication and issuance of their franchised distributors, wholesalers, and jobbers of "Public Business Price Lists" and "Public Business Policy Sheets" in which the prices and terms of sale were uniform as to comparable products; (5) operation of a procedure for the introduction of new products by any member respondent or other manufacturer cooperating with the institute whereby, among other things, prices and terms of sale were furnished the institute in advance of sale, and (6) offering uniform and identical bids on comparable products either directly or through their distributor agents to Municipal, State or Federal purchasing departments.

In order to better effectuate their understandings and agreements the corporate respondents and those manufacturers cooperating with the institute are alleged to have agreed upon a division of the products of the industry into 9 different groups and to have classified their respective products falling within each group, and to have filed with the institute, daily, weekly, monthly, or periodic statistics, including, among other things contracts, invoices,

and gross or net sales in both dollars and in units for the previous month's operations.

Through its president and executive director, Granville P. Rogers, and its vice president, Dale H. Eckerman, the institute is alleged to have so supervised the activities of the corporate respondents and cooperating manufacturers that adherence to the agreed prices and terms of sale has been obtained. According to the complaint, this was accomplished by collecting from and disseminating among them information as to prices, discounts and conditions of sale and other useful information.

The effect of the respondents' acts and practices is alleged to have been unlawful restriction of trade, artificial enhancement of prices and elimination of competition, with a tendency to create a monopoly in the member respondents and those cooperating with them and the institute. (4036)

**Le Flor Company**—Leland F. Benham, trading as Le Flor Company, 620 North Orleans St., Chicago, distributor of a medicinal preparation for the treatment of obesity, is charged in a complaint with misrepresentation.

The medicinal preparation is described as "Le Flor Weight Reduction Tablets" and is sold under the name "Le Flor Method". Prior to August, 1937, the respondent conducted his business under the trade name Dixie Products Company, and subsequent to that time as Le Flor Company.

In advertisements in newspapers and periodicals, the complaint continues, the respondent has represented:

"We do not ask you to believe, we merely ask you to try the Le Flor Method and judge for yourself. You may have become skeptical after trying other highly advertised methods that were not suited to you, but we ask that you do yourself the favor of trying the Le Flor Method with the certain knowledge that if you are not entirely satisfied with the results you obtain, your money will be refunded."

\* \* \* \* \*

"The usual price is \$2.00 per box. As an introductory feature we are offering the LE FLOR method as a six weeks' treatment at the price of 6 boxes for \$5.00. If you are skeptical, we offer a one week's supply of 84 tablets (one box) at the astoundingly low price of only \$1.00."

Through these advertisements and other representations, the complaint continues, the respondent represents that the treatment and a so-called "deficient element" diet is a cure or remedy for obesity and a competent and scientific treatment which does not contain any dehydration drugs.

In truth, the complaint continues, the preparation is not a cure or remedy for obesity, and is of no therapeutic value in its treatment. Among other drugs contained in the tablets is phenolphthalein, a dehydration drug. The only therapeutic value in the tablets, the complaint alleges, is a laxative or cathartic. The price of \$1.00 per box or 6 boxes for \$5.00, is alleged to be the regular, customary and usual price at which the tablets are offered for sale by the respondent and not a special, reduced or introductory price. (4031)

**Oxol Laboratories**—A complaint has been issued charging William S. McClymonds, trading as Oxol Laboratories and Western Research Laboratories, 1046 Santa Fe St., Denver, with misrepresentation in the sale of "Quinox Capsules."

In periodical advertising matter the respondent allegedly represented the preparation as a cure, remedy and competent treatment for delayed menstruation. The complaint alleges that the representation is untrue and that the preparation is without substantial therapeutic value aside from its effect as an ordinary laxative. (4035)

**Robinson Clay Products Company**—Alleging a combination and conspiracy in restraint of trade to fix and maintain uniform prices for building materials, including vitrified sewer pipe, in the Rochester, N. Y. area, a complaint has been issued against The Robinson Clay Products Company, Akron, Ohio, and its sales subsidiary, The Robinson Clay Product Company of New York, the Universal Sever Pipe Corporation, Cleveland, the Rochester Builders Supply Association and its secretary, Edwin C. Kaelber, and 32 builders' supply dealers selling in the Rochester area.

It is alleged that pursuant to their agreement and combination the respondent manufacturers and dealers, in cooperation with each other and their association and its officers, fixed and maintained uniform delivered prices to consumers, including municipalities and other Government agencies and projects; maintained minimum prices at which building materials, including vitrefied pipe, were sold by the respondent jobbers, dealers or contractors; induced certain of the respondents to raise the prices quoted by them to the uniform delivered prices as fixed; interfered with or prevented competitors of the respondent dealers from obtaining building supplies from manufacturers located in States other than New York, and established and maintained uniform terms, discounts and conditions of sale.

The complaint also alleges that the respondents held meetings among themselves or with their association, its members and officers, to devise methods of exerting influence, pressure, coercion, or other means to require manufacturers and producers to fix and maintain delivered prices to consumers, including municipalities and other Government agencies or projects, and to establish, publish and adhere to such fixed uniform delivered prices.

The respondents' practices are alleged to have had the effect of monopolizing in the respondents or some of them the business and industry of manufacturing, dealing in and distributing building materials, including vitrified sewer pipe, ultimately consumed in the Rochester vicinity, and of unreasonably eliminating and suppressing competition and depriving purchasers of the advantages in price, service and other considerations which they would receive under normal competitive conditions, all in violation of the Federal Trade Commission Act. (4034)

**Rochester Builders Supply Association**—See Robinson Clay Products Co.

**Sears, Roebuck & Co.**, Chicago, has been served with a complaint alleging unfair and deceptive acts and practices in the sale of automobile tires and tubes.

The complaint alleges that in conducting nation-wide tire sales through its retail stores, the respondent company misrepresented that its tires and tubes were being sold at various purported discounts and savings from the regular and usual prices.

It is alleged that the respondent advertised its "Crusader" tires as being sold at a saving or discount of 30 to 35 per cent when in fact such purported savings were exaggerated because not computed on the regular list price in effect at the time of the advertisements. Based upon the regular list price, the advertised sale prices allegedly would have provided for percentage savings ranging from 9.45 per cent to 10.8 per cent rather than the advertised saving of 30 to 35 per cent.

According to the complaint, a 25 per cent trade-in allowance for old tires allegedly was advertised as a 25 per cent discount and as an extra trade-in allowance when in fact a 25 per cent trade-in allowance for old tires is always allowed and therefore does not provide a 25 per cent discount or extra trade-in allowance but represents only the regular selling price.

"Allstate" tires are alleged to have been advertised at half-price when in fact it was necessary for the purchaser to buy one tire at the full price in order to get one at half-price and the advertised price, contrary to the advertisement, represented no saving to the purchaser since no allowance was made for old tires. Taking the 6.00 x 16 tire as an example, the complaint alleges that the advertised sale price for two tires was \$20.25; that the regular list price for two tires of this size as shown in the advertisement was \$27, and that, giving effect to the customary old tire allowance of 25 per cent, the usual selling price was \$20.25 for two tires, or exactly the advertised sale price for the two tires.

Again, in advertising its "Allstate Standard Tires," the respondent company is alleged to have represented that the list price designated in its advertisement was the regular list price and the lowest price of all time for such tires; that by paying the designated price, with old tire, the purchaser was paying only 10 cents for a tube. However, the complaint alleges that the designated sales price required the purchaser to pay practically the full price for the tube in each instance, because the various prices shown in the advertisement were higher than the correct list price in effect at the time of the advertisement and because the purchaser received no credit for his old tires, although he was required to turn them in at the time of sale. The complaint charges that the customer, instead of paying 10 cents for a tube, would be required to pay amounts ranging from \$1.10 to \$1.31. (4033)

**Universal Sewer Pipe Corporation**—See Robinson Clay Products Co.

**John A. Wathen Distillery Company**—Misrepresentation which involves misuse of the name of one of the oldest distilling families in the country, is charged in a complaint issued against John A. Wathen Distillery Company, 133-135 South Fourth St., Louisville, Ky.

The complaint recites that since the year 1788, five generations of the Wathen family have been engaged in the distillery business, and since about 1875 members of the family have engaged in the distillery business in the State of Kentucky. The name has been publicized through use of advertisements, labels and otherwise, so that a substantial part of the purchasing public has identified it with liquors distilled by or under the direction of some member of the family and by methods of distilling used for more than a century by them.

The John A. Wathen Distillery Company was incorporated in 1933 under the laws of Missouri, and since that time has engaged in distilling liquor in Kentucky. The complaint alleges that the respondent has used the name Wathen in its corporate name, advertised literature, labels and letterheads, and that use of the name has caused confusion in the trade and among the liquor-buying public.

In advertisements in newspapers, magazines and other periodicals, the complaint continues, the respondent has caused the following representations to be made: "John A. Wathen, Distillers for 148 years. . . . Over a CENTURY of Distilling Experience. . . . JOHN A. WATHEN DISTILLERY CO. Before George Washington was President of the United States a Wathen was making whiskey in Kentucky. Backed by the proud traditions and EXPERIENCE OF 150 years, it is natural that Wathen produces a bourbon of the highest excellence."

The complaint declares that the respondent's liquor is not distilled by the Wathen family nor under its supervision. John A. Wathen, the complaint continues, from whom the respondent acquired its name, was never a distiller nor engaged in the distilling business with any member of the Wathen family, nor has the respondent anyone connected with it who from actual experience through connection with members of the Wathen family, obtained knowledge of the formula and method used by the Wathen family in distilling liquor.

The acts and practices of the respondent, the complaint alleges, constitute unfair and deceptive acts and practices and unfair methods of competition within the intent and meaning of the Federal Trade Commission Act. (4032)

**Western Research Laboratories**—See Oxol Laboratories.

## CEASE AND DESIST ORDER

The following cease and desist order has been issued during the past week:

**Steel Office Furniture Institute**, Cleveland, and 12 member companies which manufacture more than 50 per cent of the industry's products, have been served with an order requiring them to cease and desist from agreeing or combining to fix and maintain identical delivered prices, uniform discounts and terms and conditions of sale, and other practices deemed to be in violation of the Federal Trade Commission Act.

Manufacturing and selling steel vertical filing cabinets, steel horizontal sections, bookcases and other steel furniture for offices, the respondent companies are Art Metal Construction Company, Jamestown, N. J.; Bentson Manufacturing Company, Aurora, Ill.; Browne-Morse Company, Muskegon, Mich.; Corry-Jamestown Manufacturing Corporation, Corry, Pa.; The General Fireproofing Company, Youngstown, Ohio; The Globe-Wernicke Co., Norwood, Cincinnati; Invincible Metal Furniture Company, Manitowoc, Wis.; Metal Office Furniture Company, Grand Rapids, Mich.; Remington Rand Inc., Buffalo, N. Y.; The Shaw-Walker Company, Muskegon, Mich.; Victor Safe & Equipment Company, Inc., North Tonawanda, N. Y.; and Yawman and Erbe Manufacturing Company, Rochester, N. Y.

During its existence, including the period from about June 15, 1935, to March 9, 1938, the respondent institute, according to find-

ings, collected and compiled statistical information which it made available to its members and the public; collected from its members and other members of the industry the published price lists of their products and distributed them among those of its members who requested this data, and performed other services. During the same period, the findings continue, the respondent manufacturing companies, through and by means of the Institute and by agreement among themselves, fixed and maintained identical delivered prices, uniform discounts and uniform terms and conditions of sale, and, in some instances, induced their dealers and customers purchasing the industry products for resale to maintain resale prices fixed by the manufacturing companies and to join and form local associations of dealers having for an objective the maintenance of such resale prices. During this period, the findings continue, the respondent companies many times in accordance with an agreement among themselves abided by and did not deviate from the identical delivered prices, uniform discounts and terms and conditions of sale filed by them with the respondent institute.

The Commission order directs that the institute, the 12 respondent manufacturing companies and their officers, agents and employees, directly or through any corporate or other device, or through the respondent institute, cease and desist from agreeing, combining or conspiring among themselves to fix and maintain identical delivered prices, uniform discounts and terms and conditions of sale; cease and desist, pursuant to agreement, from inducing their dealers and customers to join or form local associations having for their objective the maintenance of resale prices, from requiring such dealers and customers to maintain resale prices fixed by the respondent manufacturers, and from abiding by and not deviating from prices, discounts and terms of sale filed by the respondent manufacturers with the institute; and cease and desist from filing prices with the institute for the purpose of fixing and maintaining such prices arrived at by agreement among themselves, and from disseminating such prices among the respondents.

The Commission directed that its proceeding be dismissed as to Columbia Steel Equipment Company, Philadelphia, and Tidewater Office Equipment Dealers' Association, Norfolk, Va., and its former respondent members without prejudice to the Commission's right, should the facts so warrant, to reopen the case and resume prosecution insofar as these respondents are concerned.

Under a stipulation of the facts entered into January 15, 1940, the respondent institute and the 12 manufacturing companies stated that they do not contest this proceeding, and that their statement of facts as stipulated might be accepted in lieu of testimony. (3319)

## STIPULATIONS

During the week the Commission entered into the following stipulations:

**Alto Products Company**—See Santo Alioto & Sons.

**Automatic Sealing Vault Company**, 25 Riverside Drive, Peru, Ind., agrees to cease representing that concrete burial vaults manufactured in molds or forms sold by the respondent and containing materials sold by the respondent, will afford or assure enduring or permanent protection to the caskets or bodies encased in them, or that the vaults will remain permanently waterproof, or that application of the respondent's so-called waterproofing paints or other preparations to the vaults will prevent permanently the intrusion of water. (2678)

**Bodie-Hoover Petroleum Corporation**, Chicago, Ill., agrees to cease representing itself to be a refiner of petroleum or advertising that the products it sells are sealed at the refinery when in fact it neither owns, operates nor controls a plant in which the oil products sold by it are refined. The respondent company also stipulates that it will desist from representing that the oils processed and sealed in its own plant are "Refinery Sealed" or "Sealed at Refinery", when such is not a fact. (2676)

**Dagmar Plant Industries**—Emil Bergman, trading as Dagmar Plant Industries, New York, who formerly operated at 1123 Broadway, New York, agrees to cease representing that his

chemical product "Quik-Gro", for soilless plant growing, has been endorsed or approved by the National Resources Committee, Washington, or any other authoritative body, when such is not a fact, or that such body is authority for a claim that potatoes, tomatoes or much of the household food may be produced by use of the respondent's product; that reports from any agency of the Soviet Government indicate successful tests made with "Quik-Gro"; that by the "Quik-Gro" method one can have a beautiful flower or vegetable garden in the basement or other place where sunlight is not available, or that fruits and vegetables grown by such soilless method will be free from insects or insecticides. (2674)

**Federal Instrument Corporation**, 7919 Exchange Ave., Chicago, a dealer in fountain pens, electric shavers and cameras, has entered into a stipulation to discontinue misrepresentations in the sale of its products.

The respondent company agrees to cease representing its regular method of sale is a "close-out sale" or offers "reduced close-out prices"; that its customers receive their goods "direct from factory" or that it manufactures the goods it sells, when such are not the facts. It also agrees to desist from price misrepresentations and to discontinue issuance of so-called "cash discount vouchers" so long as the prices charged for articles are the same with or without the alleged coupon, voucher or certificate.

Under its stipulation, the respondent also agrees to desist from advertising that an article is given free to the purchaser of another article, when the cost of the alleged gift is included, either in whole or in part, in a deceptive price charged for the article offered for sale; to cease advertising or issuing a "Lifetime Guarantee" for any of its merchandise; to discontinue using the language "Genuine Duotone Durium Point" to convey the impression that its pen points are made of or tipped with any purported substance, when such is not a fact, and to cease representing that a fountain pen which it offers for sale "Writes 3 Months on One Filling" or in any other way exaggerating the actual qualities or capacity. (2681)

**Iod-Ise Manufacturing Company, Inc.**, Clifton, N. J., agrees to cease representing that the preparation designated "Iod-Ise" is an "iodine" corn remover or an "iodine" discovery or preparation; that the product "ends" or "stops" soreness or pain, will afford permanent relief, or that it will rid one of corns or prevent their return, or that the product heals tissue. The respondent also agrees to cease representing that the actual removal of corns is due in any way to the iodine content of its product. (02510)

**Mamary Brothers, Inc.**, 330 Fifth Ave., New York, manufacturer of lingerie and men's and women's handkerchiefs, agrees to desist from representing that it owns or operates a factory in Shanghai or Swatow, China, or that it manufactures goods which it imports from China or owns or controls the plant in which such products are made, when such is not the fact. (2680)

**Santo Alioto & Sons**—Santo, Joseph, Christopher, Frank, John, Samuel and Dominick Alioto, trading as Santo Alioto & Sons and Alto Products Company, 9th and Catherine Sts., Philadelphia, dealers in canned foods, including tuna fish, stipulate that they will cease employing on labels affixed to containers of their products the word "Tonno" in connection with any other Italian word, picture, insignia or otherwise, implying that such products were obtained from the coasts of Italy or were packed in and imported from that country, when such is not a fact. (2679)

**Scott Paper Company**, Chester, Pa., in the sale of "Waldorf Brand" tissue, agrees to desist from representations to the effect that all products, regardless of their quality, which are sold in competition with "Waldorf Brand" contain splinters, rough or thin spots, dirt or other defects, and from use of any representation unfairly disparaging competitive products. (2675)

**Wonder-Tone Laboratories**—M. Maltz, trading as Wonder-Tone Laboratories, Chicago, Ill., agrees to cease representing that

mechanical devices designated "Wonder-Tone Line Noise Eliminator" and "Wonder-Tone Aerial Eliminator," or any similar devices constructed on similar mechanical principles, will improve radio reception on all kinds of receiving sets; that the noise eliminator will eliminate or have any effect in doing away with audible interference coming in over the antenna or power line, under all conditions, or coming in over the ground system; that either device is a new invention or different from other devices used for the same purposes, or that their use will insure clear tone reception of broadcasts from distant radio stations. The respondent also agrees to discontinue representations that the aerial eliminator is given free, or that any other item of merchandise regularly included in a combination offer is given free, when the price or cost of the item is included in the selling price charged for the combination offer. He also agrees to discontinue use of the word "Laboratories" in his trade name until he owns or operates a laboratory under the supervision of a person or persons competent to conduct scientific research and experiments. (02509)

#### FTC CLOSES CASE

Distillers Products Corporation of Kentucky, Inc., Shively, Ky., having entered into a stipulation as to the facts and an agreement to cease and desist from certain enumerated practices, the Federal Trade Commission has ordered that the case growing out of the complaint issued February 1, 1940, charging misleading use of the word "Distillers," be closed without prejudice to the right of the Commission, should the facts so warrant, to reopen the case and resume prosecution in accordance with its regular procedure.

Under its stipulation, the respondent company agrees to cease using the word "Distillers" as part of or in connection with its corporate or trade name and from using this word or other words of similar meaning on its letter-heads or printed matter or in advertisements in any way to convey the belief to purchasers that the corporation is a distiller or actually owns and operates a distillery or that the products which it sells are distilled by it, when such is not a fact.





## FCC Adopts Rules For Television Stations

The present state of flux of television does not warrant confining standards, but development of the industry does merit limited commercial operations in the near future, the FCC holds unanimously on the basis of its recent public hearing and subsequent study of the situation.

Accordingly, the Commission has adopted the rules recommended by its Television Committee, with revisions including provision for limited commercial operations beginning September 1. The Commission declined, pending further study, to take any steps to crystallize the allocation of frequencies to television and other competing services. The channels already assigned to television remain unchanged pending consideration of testimony at the Commission's hearing, scheduled to begin March 18, on aural broadcasting on frequencies above 25,000 kilocycles.

"That research should not halt and that scientific methods should not be frozen in the present state of the art is fairly to be deduced from the engineering testimony of representatives of the companies represented at the hearing," points out the Commission's report, adding:

"Actual demonstrations to members of the Commission indicate the need for further improvement in the technical quality of television. The evidence before the Commission reveals a substantial possibility that the art may be on the threshold of significant advance. Research in fact does and should continue in significant phases of the field."

The Commission asserts that nothing said in the report should "be construed as a lack of confidence in the future of television." It hails television as "a mighty achievement" and credits pioneers in the field with making "great advances." Continues the Commission:

"We feel that potentially television is of tremendous value to the public generally. Even now, there is no reason apparent why those members of the public to whom regular television programs are available, who are conscious of the fluid state of the art, and who are willing to assume the financial risks

involved for the obvious benefits of current programs, should not acquire receivers. Nor is it suggested that television broadcasters should be barred from going forward in program production and sponsorship. The progress made by the industry is worthy of recognition, and the present state of the art renders appropriate the further steps permitted by the rules being established."

In general, the rules being issued are based substantially on the rules proposed by the Commission's Television Committee on November 15th last. Two classes of television stations are set up. Class I stations will carry forward technical investigations and may be assigned to more than one channel. Class II stations are designed to experiment in program production and technique and will operate on one channel only. Under proper showing, a license may incorporate provisions for both classes.

Beginning September 1, Class II television stations may begin limited commercial operations under which advertising will be permitted in connection with programs the cost of which is borne by sponsors. The rules stress, however, that emphasis on the commercial aspects of the operation at the expense of program research is to be avoided.

In not attempting to impose standards at this time, the Commission recommends that the industry itself eschew such restrictions. The report explains:

"Enough has been said to indicate the present state of flux of television and the fact that its progress still continues. The issuance or acceptance of transmission standards by the Commission, especially in combination with the more extensive experimental program service which will in all probability develop under these rules, would have a tendency to stimulate activity on the part both of manufacturers and the public in the sale and purchase of receivers for home use. It is inescapable that this commercial activity inspired and then reinforced by the existence of Commission standards would cause an abatement of research. To a greater or less extent the art would tend to be frozen at that point.

"Even more important, nothing should be done which will encourage a large public investment in receivers which, by reason of technical advances when ultimately introduced, may become obsolete in a relatively short time. The Commission has not overlooked the significant sums invested by pioneers in making possible our present knowledge of television, and it is not unsympathetic with their desire to recoup their investment in the process of bringing television's benefits to the public. It will be realized, however, that the loss to the public by premature purchase in a rapidly advancing field might in a relatively short period exceed many times the present total cost of research. Such an economic loss in the long run can rebound only to the harm of the industry. In view of the apparent proximity of improvements and of the resolution of disputed technical questions, these risks should not be taken. The Commission is, therefore, reserving the matter of issuing standards for consideration at some future time."



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NATIONAL 2080

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

### FCC ADOPTS TELEVISION RULES

(Continued from page 4063)

The Commission hopes that the members of the industry "will make every effort to obtain and maintain informal unanimity of opinion among themselves so that their now proven valuable assistance may be available to the Commission in serviceable form" when the time comes to consider standards. In this connection, the Commission suggests attention to marketing of receivers capable, insofar as consistent with reasonable cost, of receiving or of being adjusted to receive any reasonable change in methods of synchronization or changes in number of frames or lines which may be found to be practical and licensed in the future operation of Class II stations. Increased size of receiving set screens, it feels, is essential to widespread public acceptance of television. The Commission is also of the opinion that continued experiments in the staging and studio aspects of television performances are necessary.

The new rules are printed on page 4070 of the REPORTS.

### EIGHT MORE STATIONS JOIN BROADCAST MUSIC, INC.

Eight additional stations have subscribed to Broadcast Music, Inc., by sending in stock and license agreements together with their checks in payment of their stock subscriptions. With the addition of these stations, 268 stations have now subscribed and paid for stock in BMI. A list of 260 stations were printed in the NAB REPORTS (Feb. 16, 1940, p. 4030).

The latest subscribers to BMI are as follows:

- District 2
- WENY—Elmira, New York
- District 3
- WBRE—Wilkes Barre, Pa.
- District 6
- WJDX—Jackson, Mississippi
- District 12
- KSAL,—Salina, Kansas
- District 15
- KSFO—San Francisco, Cal.
- KTKC—Visalia, California
- District 17
- KMED—Medford, Ore.
- KXA—Seattle, Wash.

The 268 stations which have already paid their stock subscriptions will pay into BMI the sum of approximately \$1,173,000 in stock and license fees. In addition, there

are another 107 stations that have committed themselves to Broadcast Music.

### RESEARCH COMMITTEE APPOINTED

Mr. Miller announced this week the appointment of a Research Committee. Mr. H. K. Carpenter of Radio Stations WHK—WCLE, Cleveland, was asked to serve as Chairman of the committee consisting of H. M. Beville, Jr., Research Manager of the National Broadcasting Company; Scott H. Bowen, President of Radio Station WIBX, Utica, New York; Arthur B. Church, President of Radio Station KMBC, Kansas City, Missouri; James D. Shouse, Vice President of Radio Stations WLW—WSAI, Cincinnati, Ohio; Dr. Frank N. Stanton, Research Director of the Columbia Broadcasting System; and, Theodore C. Streibert, Vice President of Radio Station WOR, Newark, New Jersey.

The first meeting of the newly appointed Research Committee will be called in mid March at a date not yet set.

### FCC CONSIDERS NAB REQUEST FOR RECORD RULES CHANGE

Below is the FCC's reply to NAB's request for modification of the Record Rules (NAB REPORTS, Feb. 23, p. 4050):

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

February 28, 1940

National Association of Broadcasters,  
Normandy Building,  
1626 K Street, N. W.,  
Washington, D. C.

Attention: Mr. Russell P. Place, Counsel.

Gentlemen:

This will acknowledge receipt of your letter of February 16, 1940, with respect to Section 3.93(e) of the Commission's Rules and Regulations, as amended, effective January 6, 1940. As presently worded, the rule is to be interpreted as requiring the precise words which are specified in the rule to be used in making the identifying announcement.

The Commission will give consideration to your request for modification of the requirements of this rule, as well as to the request that as to certain transcriptions the rule be suspended until August 1, 1940, and you will be informed as soon as practicable as to any action taken. In the meantime, of course, stations are required to comply with the provisions of Section 3.93(e), as amended.

Very truly yours,

T. J. Slowie,  
Secretary.

## Legislation

### JOHNSON LIQUOR AD BILL AGAIN AMENDED

On February 26, Senator Johnson (D-Colo) introduced another amendment in the nature of a substitute

to his bill (S. 517) to prohibit the advertising of alcoholic beverages by radio. It is identical with the amendment which he introduced January 29 (NAB REPORTS, Feb. 2, 1940, p. 3999), with the following exceptions. The prohibition is limited to broadcasts of liquor advertising received or receivable by means of radio receiving sets "located in any State, or any political subdivision of a State, in which the purchase or sale of such alcoholic beverage for use as a beverage is not permitted," and to such broadcasts received or receivable by radio receiving sets "located in any State of the United States or any Province of the Dominion of Canada, during such hours as the broadcasting of a similar advertisement or similar information by a radio station located in such State or Province is prohibited by the laws or regulations of such State or Province."

In view of the language of the amendment pertaining to political subdivisions of a state, for all practical purposes this amendment is about as objectionable as the previous one.

Here is a list of those states which limit the alcoholic content of malt beverages, with the permissible alcoholic content indicated.

Arkansas—No limit, but malt beverages containing less than 5% alcohol by weight and stronger malt beverages are regulated by different laws.

California—Draught beer—3.2% by weight, bottled beer—4% by weight.

Colorado—3.2% for 3.2% licensees. No limit for beer under Heavy Beer, Wine and Liquor Law.

Florida—No limit but beer is classified as containing more or less than 3.2% by weight.

Georgia—6% alcohol by volume.

Idaho—4% alcohol by weight.

Iowa—4% by weight.

Kansas—3.2% by weight.

Louisiana—No limit, but 6% by volume beverages and stronger regulated by Alcoholic Beverage Law. (Acts 1934, No. 15.)

Maryland—No limit in General Laws, however Alleghany County has a separate license for light beer which is defined as beer not over 5% by volume. Only 3.2% by weight may be sold in Carolina county. 6% beer by volume and wine and other beverages not exceeding 14% only may be sold in Hartford County. (Includes Havre de Grace.)

Massachusetts—12% by weight.

Michigan—16% by volume.

Minnesota—No limit but beer over 3.2% by weight is intoxicating under the law and is subject to different control.

Mississippi—4% by weight.

Missouri—No limit but 3.2% by weight beer and stronger malt beverages controlled by different licensing systems.

Montana—4% by weight.

New Hampshire—6% by volume.

North Carolina—5% by weight.

North Dakota—No limit but beer over 4% alcohol by weight sold by liquor licensees.

Ohio—7% by weight. 3.2% by weight and stronger beverages controlled differently.

Oklahoma—3.2% by weight.

Oregon—Over 4% and all over 8% by weight sold only through state stores.

South Carolina—5% by weight. Stronger malt beverages subject to heavy tax penalties.

South Dakota—Non intoxicating beer—3.2% by weight. High point beer between 3.2% and 6% by weight.

Tennessee—5% by weight.

Texas—No limit but beer containing not more than 4% alcohol by weight and beer containing over 4% alcohol by weight are sold under different licensing systems and taxed at different rates.

Utah—3.2% by weight. Stronger beverages may theoretically be sold by the Utah Liquor Control Commission.

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Vermont—6% by volume at 60 degrees Fahrenheit. Stronger malt beverages sold only through the Liquor Control Board.

Washington—4% by weight. Stronger sold by the State Liquor Control Board.

West Virginia—5% by weight. Stronger sold through state stores only.

Wisconsin—5% by weight. Stronger sold under liquor licenses.

## FEDERAL LEGISLATION

S. 517 (Johnson, Colo.) LIQUOR ADVERTISING—Amendment (in the nature of a substitute) to the committee amendment to the bill (S. 517) to amend the Communications Act of 1934 to prohibit the advertising of alcoholic beverages by radio. Ordered to lie on the table and to be printed.

## STATE LEGISLATION

### MISSISSIPPI:

H. 139 (Porter et al.) EGGS—To regulate the sale of eggs; to require registration by dealers; to impose an inspection fee. Referred to Committee on Agriculture.

### NEW YORK:

A. 1672 (Holley) (Same as S. 1323) CONDITIONAL SALES—PERSONAL PROPERTY—Imposes certain requirements in relation to contracts for conditional sale of personal property for personal use or consumption including furniture, radio, oil burners, etc., obligating buyer to pay \$1,000 or less on any time payment plan under which seller retains title or security interest. Referred to Judiciary Committee.

### NEW YORK:

S. 1323 (Williamson) (Same as A. 1672) CONDITIONAL SALES—PERSONAL PROPERTY—Imposes certain requirement in relation to contracts for conditional sale of personal property for personal use or consumption including furniture, radio, oil burners, etc., obligating buyer to pay \$1,000 or less on any time payment plan under which seller retains title or security interest. Referred to Judiciary Committee.

### RHODE ISLAND:

S. 139 (Algren) OPTOMETRISTS AND OPTICIANS—LICENSING—In amendment of sections 1, 2, 3, 5, 9, 11, 12 and 13 of chapter 277 of the general laws, entitled "Licensing and regulation of optometrists and opticians," as amended. Referred to Judiciary Committee.

### VIRGINIA:

S. 310 (Hillard et al.) FOODS—To provide for the control of the manufacture, sale, advertising of and traffic in certain foods; to define adulterated or misbranded food, and to prohibit the manufacture and sale of and traffic in such food; to confer upon the Commissioner of Agriculture and Immigration and the Board

of Agriculture and Immigration certain powers and duties with respect to certain foods, and to provide penalties for violations of this act. Referred to Committee on Agriculture.

## Labor

### WAGE AND HOUR ACT

The Wage and Hour Administration's ruling that "talent charges" must be included in calculating the basic pay of broadcasting station employees is not as far-reaching as it might seem at first glance.

Talent charges need not be included when the broadcasting station is not the employer of the talent.

The Internal Revenue Bureau, in its Social Security tax rulings, has defined when the broadcaster is the employer, and when he is not. An official summary of these rulings was printed in the December 31, 1938, issue of *The Billboard*. In part, the summary said:

"As a part of the service provided in connection with the purchase of physical facilities (by advertisers or their agents) the broadcasting companies supply announcers, production men, et cetera, selected at the discretion of the broadcasting companies from their regular staffs. However, if an advertiser desires to have a particular announcer appear on his program he negotiates a contract with the broadcasting company for the services of the announcer at a specified sum per broadcast. This sum, minus the regular management commission of the broadcasting company's artists' service, is paid to the announcer in addition to his regular compensation from the company. Under such an arrangement the broadcasting company retains no direction or control over the manner in or the method by which the announcer performs his services, acting merely as his agent in procuring the engagement, and is therefore not considered to be the employer of the announcer with respect to those services. . . .

"In some cases the broadcasting company agrees with the sponsor to furnish a program of a particular type designed to occupy the time which the sponsor has purchased in order to advertise his products or services. Under this arrangement the broadcasting company agrees to deliver to the sponsor what might be designated as a 'complete package' or a finished product for a pre-determined price. In such cases the sponsor has nothing to do with the selection of the artists, the presentation of the program or the direction and control exercised over the talent appearing therein, these matters being solely within the province of the broadcasting company. Such programs, termed 'studio-built' programs, are formulated by the broadcasting company on its own account, produced under its own direction and control, without interference from the sponsor, and furnished to the latter as a complete package for a lump-sum payment. The individuals performing services on such studio-built programs may generally be said to be employees of the broadcasting company."

In other words, if the broadcaster makes a talent charge, passes it on to, say, an announcer, but is not the announcer's employer in the above sense as far as the particular program goes, then the talent charge need not be included in basic pay.

The NAB Labor Relations Director has notified the Wage and Hour Administration that he has sent out the above opinion.

(Note: *The NAB Labor Relations Director was wrongly informed when he said in NAB REPORTS of February 16 that a sponsor had to pay talent directly to qualify as "the employer."*)

A federal district judge in North Carolina has ruled that watchmen in industries covered by the Wage and Hour Act were included in the coverage.

"Watchmen are just as much engaged in the production of goods that are going into commerce as the man sawing logs," the judge said. "It would have been cruel of Congress to have legislated otherwise."

The Wage and Hour Administration has amended its regulations regarding the keeping of records. If the complete records are filed in an office away from the place of employment, an abbreviated record showing total hours worked and total wages paid each week must be filed "at the place of employment." A strict interpretation of this would mean that an abbreviated record should be kept for transmitter engineers at the transmitter. However, this seems to be unreasonable, and the NAB Labor Relations Director is asking for an opinion from the Administration. The new regulations also provide that complete records must be kept on file for four years, and abbreviated records, if any, for two years.

The Act requires every employer subject to any provisions of the Act or any order issued under the Act to "make and preserve records" showing the full name of the person employed, home address, date of birth if under 19, hours worked each workday and each workweek; regular rate of pay and basis upon which wages are paid; wages at the regular rate of pay for each workweek excluding extra compensation attributable to the excess of the overtime rate over the regular rate; extra wages for each workweek attributable to the excess of the overtime rate over the regular rate; additions to cash wages at cost, or deductions from stipulated wages in the amount deducted or at the cost of the item for which deduction is made, whichever is less; total wages paid for each workweek, and date of payment.

The success of a group of track workers in suing the Atlantic Coast Line railroad for double the amount illegally withheld from them in wages indicates that employees' suits may be a major factor in the enforcement of the Wage and Hour Act, said Colonel Philip B. Fleming of the Wage and Hour Division, U. S. Department of Labor, shortly after his appointment as Administrator was confirmed by the Senate.

"I am calling attention to this in the hope that the management of establishments covered by the Wage and Hour Law—that is, those engaged in interstate commerce or in the production of goods for interstate commerce—who have not yet put their houses in order under the Act, will do so before situations like this accumulate to serious proportions," he added.

"Any employer who has been violating the law by failing to pay the minimum wage of 30 cents an hour and at least one and one-half times the worker's regular rate for work in excess of 42 hours a week, will find the Wage and Hour Division field personnel in our 30 branch offices ready and willing to cooperate with him in coming into compliance with the Law."

### LABOR NOTES

The Federal Circuit Court of Appeals in New York on February 26 held that collective bargaining as required by the Wagner Act entailed the signing of a written agreement if an agreement is reached (NLRB vs. Art Metals Construction Co.).

The Federal Circuit Court of Appeals in Chicago on January 9 held that the Wagner Act did not require any agreement at all and that whether an agreement, if any, should be written was a subject for bargaining (NLRB vs. Inland Steel).

It is generally expected that the New York case will be appealed to the Supreme Court.

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The cost of living for wage earners and lower-salaried workers decreased 0.6 per cent during the quarter ended last December 15, the Labor Department reports. Chicago and Milwaukee were the only cities to report slight increases. Further details will be supplied to members upon request.

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The Supreme Court of New York, Appellate Division, has upheld the legality of the joint action by the A. F. of M. and the I. A. T. S. E. (stagehands) to try to force Opera on Tour, Inc., to use "live" instead of recorded music for accompaniment.

The court said, in part:

"Summing up the situation presented to us, we find that the defendants (unions), in order to secure what they believed to be their economic betterment, are endeavoring to prevent the use of a mechanical contrivance which is in the nature of a labor saving device. This device is used to reproduce an essential element of the plaintiff's business, viz., music played to accompany plaintiff's operatic performances. The case is not one where the defendants are trying to force plaintiff to use an additional feature in connection with their business, which plaintiff has determined it could do without. Plaintiff wishes to have musical accompaniment for its opera. It says it can get along with mechanical music and save the cost of musicians' salaries. The defendants say that, unless 'live' musicians are hired, they will have less chance for work, and, therefore, are endeavoring, by stopping work, to prevent plaintiff's performances until plaintiff agrees to use a 'live' orchestra.

"It would seem to us that such conduct on defendants' part is justified as a legitimate endeavor of labor, even though it results in some injury to plaintiff."

Presiding Justice Francis Martin and Justice Edward J. Glennon dissented. An appeal is expected.

## Engineering

### COLUMBUS CONFERENCE

The third annual Broadcast Engineering Conference which opened February 12 closed at Ohio State University, Friday, February 23, sending the 250 members of the conference back to their stations throughout the country, with a better and more thorough knowledge of the current engineering problems facing the broadcasting industry.

The subject of greatest interest to the industry at present, Frequency Modulation, occupied more time on the conference agenda than did any other subject. The series of Frequency Modulation conference periods was opened with a general discussion of wide band FM by Major Edwin H. Armstrong, of Columbus University, the inventor of wide band FM, in which he reiterated his statements as to the ability of wide band FM to deliver to the listeners a signal of high fidelity, free of interference. Major Armstrong also gave a brief technical explanation of the operation of FM.

Paul deMars, technical director of the Yankee Network, continued the FM discussions with a review of the Yankee Network experiences with FM. The experiences with FM of the General Electric Company were related by H. P. Thomas and I. R. Weir, of the General Electric Company. Of particular interest was their relation of an experiment performed involving Major Armstrong's station at Alpine, New Jersey, operating with 30 KW on 42.8 megacycle and the General Electric station at Albany, New York, 117 miles away operating on the same frequency with a power of 150 watts and both stations transmitting with Frequency Modulation. It was explained that a test car driven from Albany received the Albany transmission clear of all interferences from Alpine out to a distance of about 27 miles and there a distance of 5 miles long was encountered over which sharp transitions were noted. Beyond this transitional area the Alpine transmission was received free and clear of interference from Albany. Mr. Weir pointed out that in narrowing the FM band down in order to conserve space in the frequency spectrum the full conservation possibility cannot be realized because in order to keep the distortion in the receiver low, it is necessary that the band width of the receiver be not reduced in the same proportion. For those who did not attend the conference it is suggested that they write to the General Electric Company, Radio and Television Department, Schenectady, New York, and ask for the pamphlet entitled "And Now Frequency Modulation." Frequency Modulation receivers were discussed by R. F. Shea of the General Electric Company.

The "General Discussion and Question Box" conducted by Mr. Andrew D. Ring, Assistant Chief Engi-

neer of the FCC, with Mr. R. M. Wilmotte as Chairman, was highlighted by Mr. Ring's statement that there might be an increase to 1,000 to 1,200 stations on the present band before saturation and that the country could economically support many more stations than this. Mr. Ring continued that this factor brought out the possibility of using the Ultra High Frequencies. The use of the U.H.F. has taken three turns of mind: 1—Amplitude Modulation, 2—Narrow Band Frequency Modulation, and 3—Wide Band Frequency Modulation. It was Mr. Ring's opinion that for practical purposes there is no difference in quality between AM in the standard band, AM on UHF, and FM on UHF. He pointed out that if we did change over to the FM system that approximately forty million receiving sets would need to be replaced. There are, either operating, or applications in for operation, for between 50 and 60 FM stations, and that no further grants will be made until after the March 18 hearing on the use of UHF. Mr. Ring stated that the quality received now is limited mainly by the microphone and loud speaker. He also pointed out that distortion was the main factor in the majority of listeners turning the tone control down on the receivers and that while the listener would lose high frequencies in doing this, he also lost the more undesirable distortions. Mr. Ring stated that FM transmitters are less expensive and the FM receivers more expensive and that in view of public interest this is not the right trend for the industry to follow. Mr. Ring said that there is some question as to whether television is technically far enough along to be put in regular service and that the FCC is making a detailed study of the situation and would probably have a decision on television within a few weeks. In regard to the Havana Agreement, Mr. Ring said that approximately 730 stations must change their frequencies and that the FCC tentatively expects to make the change on August 1. Two methods of making the change-over have been discussed. One was to do it piecemeal on the theory that it would be easier for manufacturers to supply crystals and the other that the change-overs all be done at the same time. Mr. Ring pointed out that the total time consumed would probably be about the same in both cases and that there more likely would be more confusion by the piecemeal method than by making the change all at once. Mr. Ring said that within a few weeks after the Mexican Government advises the Cuban clearing house that it has ratified the treaty, all licensees will be notified to show cause why they should not be changed to their new frequencies and then the United States Government will file with the Havana clearing house the changes contemplated in the United States and then any inter-country allocation problems will be ironed out in a conference. Further study was being made by the FCC to determine how long it will take to get new crystals, retune

transmitters, retune antennas and change directional arrays; and that there will be at least 2 months from the time of notification to the time of change in order to allow the stations to prepare for the switch-over. In connection with the change-over, Mr. Ring stated that the FCC requirement that power be measured directly in the antenna, would be postponed until about 2 months after the change. It was Mr. Ring's belief that it is desirable to reduce detailed regulation of broadcasting stations as soon as the FCC feels that the broadcasters will operate their stations properly without supervision or spasmodic supervision. This is in line with the recent FCC relaxation of its stringent rule concerning the substitution of antenna and plate meters, and is in line with a request made by NAB in the June 6, 1938 hearing on new rules and regulations.

One of the most significant conference periods was that devoted to the study of noise, made by Mr. J. H. DeWitt, Chief Engineer of Radio station WSM, of Nashville, Tennessee. Mr. DeWitt described the extensive research problem carried on under his direction at WSM, in determining the amount of noise background which the average person can be subject to and still consider the service received as being good. He also described the equipment developed for measuring noise and the extensive measurements made in the WSM area. Mr. DeWitt said that there were about 1,800 thunder storms on earth at any given time and he pointed out that thunder storm disturbances were better propagated at night, such as are regular radio signals. Mr. DeWitt pointed out that to get noise measurements comprehensively enough to indicate coverage, that a large amount of work was involved. It is rather strange that throughout the history of broadcasting we have worried a great deal about the strength of interfering signals and the limitations they have placed on coverage and yet we have never developed a real engineering basis for the limits of coverage placed on us by atmospheric and man made interference. It is the opinion of the Director of Engineering that Mr. DeWitt has started a too long delayed phase of our work and that the industry should be encouraged to further the investigation of this phase. The difficulties in carrying out such work as pointed out by Mr. DeWitt are great and undoubtedly have been the deteriorating force, however, Mr. DeWitt has now laid a good foundation on which to continue such studies and it is hoped that in the course of the next few years we might have as complete knowledge on this subject as we now have on the effects of interfering signals. Frequency Modulation development should be accompanied by extensive studies on noise.

As in the first 2 conferences the "Roundtable on Receivers," conducted by D. D. Israel, of the Emerson Radio Company and William F. Cotter of the Stromberg-Carlson Company was of great interest. Mr. R.

M. Wilmotte, Engineering Advisor to NAB, was Chairman of these discussions. The engineers present were pretty well in agreement that our radio system was of quite high quality from the input of the studio amplifier to the output of the radio receiver chassis and that a great deal of our poor quality could be traced to the acoustic systems associated therewith, namely, the studios, their microphones, the loud speakers and the room in which the program was reproduced. It was pointed out that the transformation from acoustic, to electric energy in the studio, and the retransformation of the electric energy back into acoustic energy introduced much of the distortion we now experience. It was pointed out that distortions of one kind or another usually accompany the expansion into the high audio frequencies and that these distortions were quite annoying and therefore the average listener finds it more pleasing to do away with the high frequency and the high distortion by turning down the tone control on his receiver. It was also pointed out that for background music it was more pleasing to reduce the high frequencies but that where the program was actually to be listened to the effect was more pleasing if the high frequencies were also present. In this discussion it was pointed out that the listeners did not differentiate as fully as they should between the use of a primary high fidelity receiver in the living room of the home and the use of small secondary receivers for places other than the living room. It was the opinion of one member of the conference that for one reason or another the public has never really heard high fidelity and therefore has not been able to readily determine whether it likes a wide audio-band or not. It was pointed out in this discussion that even though high quality transmission was available and high quality receivers are available that economically a big per cent of the population could not afford real highgrade receivers, and therefore for economic reasons a great many listeners are forced to content themselves with reproduction of a degraded nature.

On Sunday, February 18, the members of the conference were taken by special train, to Louisville in order to inspect WHAS and Mr. Orrin Towner, Chief Engineer of WHAS, was given a vote of thanks at the banquet closing the convention, for the splendid way in which he organized and carried out this inspection trip.

The Ohio State Conference on Broadcast Engineering is a striking example of how a university can coordinate its academic work with industry and the broadcasting industry owes a big vote of thanks to the administration of Ohio State University and to Professor W. L. Everitt, director of the conference, for carrying out this splendid work.

Professor W. L. Everitt's book entitled "Communication Engineering" is now used as a textbook in some 60 odd schools and his selection of subjects for the third

annual conference has shown that he is attuned to the present day radio engineering trend.

The third conference was the first one in which NAB officially cooperated. The NAB Engineering Committee held a meeting in conjunction with the conference on Friday afternoon, February 16.

## ENGINEERING QUESTIONS

The "General Discussion and Question Box" conducted by Mr. Andrew D. Ring, Assistant Chief Engineer of the FCC, at the Broadcast Engineering Conference at Ohio State University last week, pointed out an apparent need for an engineering question box throughout the year on questions concerning FCC rules and regulations. It was apparent that there are many questions coming up from time to time concerning the interpretation and application of certain FCC rules and regulations. Mr. Ring has kindly offered to cooperate with the Director of Engineering of NAB in conducting an engineering question box and therefore if there are any questions concerning the FCC rules and regulations, it is requested that you send your questions to the Director of Engineering of NAB. The questions will be answered individually except where the question might seem to have a broader interest, in which case an explanation will be given in the NAB REPORTS.

During the conference many questions were asked concerning the application of certain of the rules on operators' licenses. This will be the subject of an article in the NAB REPORTS in the immediate future, and the Director of Engineering would like to have those who have questions concerning these rules send them in as soon as possible.

## BUREAU OF RADIO ADVERTISING

Owing to a change in plans, the transcript of the radio panel discussion held last month in connection with the National Retail Dry Goods convention will not be available to NAB members until some time in the spring, when the NRDGA plans to publish a complete Radio Manual for Retailers. Alan Wells, manager of the Sales Promotion Division of NRDGA, has resigned effective March 1 to join Kaufman's, Pittsburgh. His successor will be named shortly.

The NAB Research Department is preparing a comprehensive survey to gain up-to-date information on department store use of radio. The cooperation of all stations is earnestly requested in filling out and returning the questionnaire forms, which will be issued soon.

Along with its bulletin of February 28, the Bureau has sent to all members a reprint of an article by Kenneth Taylor, vice president of John Taylor Dry Goods Company, Kansas City, Mo., on the subject of radio for retailers. The article appeared in a recent issue of *The*

*Retail Executive.* Extra copies of the reprint are available on request to the Bureau.

## INSURANCE ADVERTISING CONFERENCE

Representing the Bureau of Radio Advertising at the Insurance Advertising Conference at Hotel Biltmore, New York, February 29 and March 1, are Ed Kirby and William R. Cline, commercial manager, WLS, Chicago, and chairman of the NAB Sales Managers' Committee.

## NO FREE OFFERS

The Bureau is glad to report that no new free offers were reported by members during the past two weeks. The following, however, sought to place "cost-per-inquiry" business, and have been advised of NAB policy on such proposals:

Beach Cities Advertising, Long Beach, California; Lifetime Photo Plaque Company, 295 Madison Avenue, New York City; National Classified Advertising Agency—Air Conditioning Training Corp., Youngstown, Ohio; Nu-Matic Arch Massage, Ltd., St. Joseph, Missouri; Amogen Company, 147 North Street, San Antonio, Texas.

## ADVERTISING VOLUME

*Printers' Ink* released in this week's issue an estimate of the total volume of advertising in the United States for the year 1939 at \$1,602,000,000. This figure is divided between the various media as follows:

Newspaper .....	\$525,000,000
Magazine .....	150,000,000
Direct Mail .....	300,000,000
Radio .....	170,000,000
Out Door .....	50,000,000
Business Publications .....	50,000,000
Farm Publications .....	17,000,000
Miscellaneous .....	340,000,000

## VETERAN OPERATORS ASSOCIATION HONORS INDUSTRY

A handsome bronze plaque inscribed to the American Broadcasting Industry, "Finest In The World," was received by Neville Miller last week from the Veteran Wireless Operators Association at the association's fifteenth anniversary dinner in New York. Mr. Miller also was made an honorary member.

## WALKER'S MOTHER DIES

The broadcasting industry extends its sympathy to FCC Commissioner Paul Walker whose mother died last week.

## PRIVATE RADIO SERVICE DENIED BY FCC

The FCC is receiving an increasing number of requests for authorizations permitting the use of radio for com-

munications between offices and automobiles. While such service would be a private convenience, it has not been shown to be in the public interest to grant such restricted facilities.

There have been many requests for such service on behalf of business concerns and individuals, but in no case within the continental United States has a station of this class been authorized except for emergency radio communications involving the safety of life and property, in which cases the facilities are required to be available to the general public for emergency communication.

## TEXAS STATION REVOCATION HEARINGS SET BY FCC

Public hearings have been ordered by the FCC in the cases of six Texas radio stations involved in revocation proceedings. Commissioner George Henry Payne has been designated to sit at the separate hearings which are scheduled as follows: KTBC, State Capitol Broadcasting Association, Inc. (Austin), at Austin, on March 5; KNET, Palestine Broadcasting Association (Palestine), at Dallas, March 7; KRBA, Red Lands Broadcasting Association (Lufkin), at Dallas, March 11; KSAM, Sam Houston Broadcasting Association (Huntsville), at Dallas, March 12; KAND, Navarro Broadcasting Association (Corsicana), at Dallas, March 11; KGKB, East Texas Broadcasting Company (Tyler), at Dallas, March 14.

In ordering these hearings, the Commission denied motion for continuance of hearing filed on February 26 in behalf of stations KTBC, KNET, KRBA, KSAM, and KGKB.

## FEDERAL COMMUNICATIONS COMMISSION RULES AND REGULATIONS

### Part 4. Visual Broadcast Service

#### *Television Broadcast Stations*

Sec. 4.71 *Defined.* The term "television broadcast station" means a station licensed for the transmission of transient visual images of moving or fixed objects for simultaneous reception and reproduction by the general public. The transmission of synchronized sound (aural broadcast) is considered an essential phase of television broadcast and one license will authorize both visual and aural broadcast as herein set forth.

(a) There shall be two types of experimental television stations, namely, "Experimental Research Stations" and "Experimental Program Stations" which shall be known as Class I and Class II stations, respectively.

#### *Sec. 4.72 Licensing requirements, necessary showing*

(a) A license for a television Class I station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a program of research and experimentation in the technical phases of television broadcasting, which indicates reasonable promise of substantial contribution to the development of the television art.
2. That the transmission of signals by radio is essential to the proposed program of research and experimentation.
3. That the program of research and experimentation will be conducted by qualified personnel.
4. That the applicant is legally, financially, technically, and otherwise qualified to carry forward the program.

5. That public interest, convenience or necessity will be served through the operation of the proposed station.

(b) A license for a Class II station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a definite plan of experimentation in the television broadcast program service which indicates reasonable promise of substantial contribution to the advancement of television broadcasting as a service to the public.
2. That the program of experimentation will be conducted by qualified personnel.
3. That program material is available and will be utilized by the applicant in rendering broadcast service to the public.
- \*4. That a minimum scheduled program service of ten hours per week will be maintained throughout the license period.
5. That the applicant will install and operate transmitting and studio equipment technically adequate to render a service suitable for reception by the public.
6. That the operation with respect to the suppression of spurious emissions and carrier noise, safety provisions, etc., will be in accordance with good engineering practice.
7. That the applicant's technical facilities will be adequate to serve an area appropriate for the program of experimentation.
8. That a competent engineering study has been made of the nature, extent and effect of interference which may result from the simultaneous operation of the proposed station and other Class II television stations.
9. That the applicant is legally, financially and otherwise qualified to render a satisfactory service to the public.
10. That public interest, convenience or necessity will be served through the operation of the proposed station.

#### Sec. 4.73 Charges

(a) No charges either direct or indirect shall be made by the licensee of a television station for the production or transmission of either aural or visual programs transmitted by such station, except as provided in subsection (b).

(b) Beginning September 1, 1940, Class II television licensees may make charges against program sponsors to cover the cost of programs produced for the respective sponsors; and such sponsored programs, including advertising material, may be transmitted as part of the station's experimental program service but without charge for such transmission.

(c) The limited commercialization permitted under subsection (b) above shall not take precedence over the experimental service, but shall be subordinated to it.

#### Sec. 4.74 Reports by Class II Stations

Quarterly reports on forms prescribed by the Commission shall be made by Class II television broadcast stations of their charges and costs as well as of other pertinent information which may be of assistance to the Commission in evaluating the economic feasibility of television broadcasting as a regular service to the public on a commercial basis.

#### Sec. 4.75 Announcements

At the time station identification announcements are made, there shall be added the following:

"This is a special television broadcast made by authority of the Federal Communications Commission for experimental purposes."

#### Sec. 4.76 Scope of Experimentation, Limitations and Restrictions

(a) Class I stations shall operate to conduct research and experimentation for the development of the television broadcast art in its technical phases but shall not operate to render a regularly scheduled television broadcast service to the public.

(b) No Class I station shall operate when objectionable interference would be caused by such operation to the regularly scheduled broadcast service of a Class II station.

(c) Class II stations shall operate to conduct television broadcast research and experimentation for the development of the art in its program phases and in connection therewith may carry out experiments with respect to power and antenna requirements for a satisfactory service to the public.

(d) Class II stations shall make all equipment changes necessary for rendering such external transmitter performance as the Commission may at any time require.

\* This provision modifies Section 4.4(d) in so far as that Section applies to Class II television broadcast stations.

(e) Class II stations shall maintain a minimum scheduled program service of ten hours per week throughout the license period.

#### Sec. 4.77. Frequency assignment.

(a) The following groups of channels are allocated for assignment to television broadcast stations licensed experimentally:

##### Group A

Channel #1	44,000- 50,000 kc.
2	50,000- 56,000
3	66,000- 72,000
4	78,000- 84,000
5	84,000- 90,000
6	96,000-102,000
7	102,000-108,000

##### Group B

Channel #8	156,000-162,000 kc.
9	162,000-168,000
10	180,000-186,000
11	186,000-192,000
12	204,000-210,000
13	210,000-216,000
14	234,000-240,000
15	240,000-246,000
16	258,000-264,000
17	264,000-270,000
18	282,000-288,000
19	288,000-294,000

##### Group C

Any 6000 kc. band above 300,000 kc.  
excluding band 400,000 to 410,000 kc.

(b) Each Class II television broadcast station will be assigned only one channel. Class I television stations may be assigned one or more channels as the program of experimentation requires. Both aural and visual carriers with side bands for modulation are authorized for both Class I and Class II stations but no emission shall result outside the authorized channel. The assignment of a channel to a Class II television broadcast station does not preclude the assignment of that channel for use by Class I stations, but such a Class II television station shall have priority for the use of the channel for its scheduled program service. Licenses for both a Class I and a Class II station may be issued to a single licensee only upon a showing that the development of the television art will be assisted thereby, particularly where authority to operate on channels in Group B and C is requested for the Class I operations.

(c) Channels in Groups B and C may be assigned to television stations to serve auxiliary purposes such as television relay stations. No mobile or portable station will be licensed for the purpose of transmitting television programs to the public directly.

(d) For the present no Class II television broadcast station will be assigned a channel for time sharing operation.<sup>1</sup>

#### Sec. 4.78 Power.

The operating power of a Class I station shall not be in excess of that necessary to carry forward the program of research and in no case in excess of the power specified in its license.

#### Sec. 4.79 Supplemental report with renewal application.

A supplemental report shall be filed with and made a part of each application for renewal of license and shall include comprehensive reports on the following:

##### (a) For Class I Television Broadcast Stations.

1. Number of hours operated.
2. Full data on research and experimentation conducted, including the power employed.
3. Conclusions, tentative and final.
4. Program for further developments of the television broadcast service.
5. All developments and major changes in equipment.
6. Any other pertinent developments.

##### (b) For Class II Television Broadcast Stations.

1. Number of hours operated during which programs were transmitted classified as studio performances, special events (with appropriate description), films, etc.

<sup>1</sup> This provision modifies Section 4.4(a) in so far as it applies to television broadcast stations.

2. Studio equipment used and any developments made during the license period.
3. Progress made in the advancement of television broadcasting as a service to the public.
4. Financial data on cost of operation during the license period.
5. Power employed, field intensity measurements and visual and aural observations to determine the service area of the station.

## FCC RULE AMENDMENTS

Following is a list of all amendments to the Rules and Regulations since the printing of the FCC's rules in pamphlet form.

<i>Amendment No.</i>	<i>Subject</i>
1.	Amending Part 1.—Rules of Practice and Procedure (Sec. 1.142 <i>Copies</i> )
2.	Amending Part 3.—Rules Governing Standard Broadcast Station (Sec. 3.93 <i>Mechanical Records</i> )
3.	Amending Part 7.—Rules Governing Coastal and Marine Relay Services (Sec. 7.58 <i>Coastal Service</i> )
4.	Amending Part 10.—Rules Governing Emergency Radio Services. (Sec. 10.47 <i>Forestry Stations</i> )
5.	Amending Part 10.—Rules Governing Emergency Radio Services. (Sec. 10.252 <i>Modulation</i> )
6.	Amending Appendix B of Part 2.—General Rules and Regulations.
7.	Amending Part 8.—Rules Governing Ship Service. (Sec. 8.81 <i>Ship Service</i> )

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases for the week beginning Monday, March 4. They are subject to change.

### Tuesday, March 5

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Renewal of license, 1200 ke., 100 watts, unlimited time.

### Tuesday, March 5

Hearing to be held before Commissioner George Henry Payne, at Austin, Texas

KTBC—State Capitol Broadcasting Association, Inc., Austin, Tex.—In re: Revocation of station license of KTBC.

### Wednesday, March 6

KXL—KXL Broadcasters, Portland, Oregon.—C. P., 740 ke., 10 KW, 10 KW LS, limited time (DA—day and night). Present assignment: 1420 ke., 250 watts, shares with KBPS.

KTRB—Thomas R. McTammany & William H. Bates, Jr., Modesto, Calif.—C. P., 740 ke., 1 KW, 1 KW LS, limited to WSB, Atlanta, Ga. Present assignment: 740 ke., 250 watts, daytime.

### Thursday, March 7

Oral Argument before the Commission

Report No. B-75:

NEW—William C. Barnes & Jonas Weiland, tr/as Martinsville Broadcasting Co., Martinsville, Va.—C. P., 1420 ke., 100 watts, 250 watts LS, unlimited time.

NEW—J. R. Walker, S. S. Walker & C. F. Walker, co-partners, tr/as Patrick Henry Broadcasting Co., Martinsville, Va.—C. P., 1420 ke., 100 watts, 250 watts LS, unlimited time.

March 1, 1940

Thursday, March 7

Hearing to be held before Commissioner George Henry Payne, in the County Probate and Commissioners Court Rooms, Dallas, Tex.

KNET—John Calvin Welch, William M. Keller & Bonner Frizzell, d/b as Palestine Broadcasting Assn., Palestine, Texas.—In re: Revocation of station license of KNET.

## FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

### March 19

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Modification of license, 810 ke., 1 KW, specified hours (6 a. m. to 11 p. m., EST), (DA-daytime). Present assignment: 810 ke., 1 KW daytime—WCCO, directional antenna.

### March 26

NEW—William F. Huffman, Wisconsin Rapids, Wisc.—C. P., 1310 ke., 100 watts, 250 watts LS, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

J. Winfield Crew, Jr., Roanoke Rapids, N. C.—Granted construction permit for new broadcast station to operate on 1200 ke., power 250 watts, unlimited time.

WJBW—Charles C. Carlson, New Orleans, La.—Granted construction permit to make changes in equipment and increase power from 100 watts to 250 watts; frequency 1200 ke., unlimited time.

WSKB—McComb Broadcasting Corp., McComb, Miss.—Granted construction permit to make changes in equipment and increase power from 100 watts to 250 watts; frequency 1200 ke., unlimited time.

WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted construction permit to install new transmitter, increase power from 500 watts to 1 KW, move transmitter site from 5 miles south of corporate limits, east of Valley Pike, to a site to be determined, and install vertical radiator; frequency 550 ke.

WOR—Bamberger Broadcasting Service, Inc., Carteret, N. H.—Granted extension of special experimental authority to operate Standard Broadcast Station WOR as a facsimile broadcast station between 1 a. m. to 6 a. m., EST, to August 1, 1940; station operates on 710 ke., 50 ke., unlimited time, using directional antenna.

WGPC—Albany Broadcasting Co., Inc., Albany, Ga.—Granted construction permit to move studio and transmitter site, increase power from 100 watts to 250 watts, and install new transmitter and antenna; station operates with 1420 ke., unlimited time.

### DESIGNATED FOR HEARING

KGDM—E. F. Peffer, Stockton, Calif.—Application for modification of license to change frequency from 1100 ke. to 1530 ke., and increase time of operation from daytime only to unlimited; station operates with 1 KW power.

### RENEWAL OF LICENSES

WTAL—Florida Capitol Broadcasters Inc., Tallahassee, Fla.—Granted renewal of license on temporary basis only until August 1, 1940 pending action on application for renewal of license.

The following stations were granted renewal of licenses for the period ending August 1, 1940:

WCFL (auxiliary), Chicago, Ill.; WHO, Des Moines, Iowa; WKAT, Miami Beach, Fla.; WLB, Minneapolis, Minn.; WSB and auxiliary, Atlanta, Ga.; KGKY, Scottsbluff, Nebr.

KGBU—Alaska Radio & Service Co., Inc., Ketchikan, Alaska.—Granted further extension of license upon a temporary basis only to April 1, 1940, pending determination upon application for renewal of license.

KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Granted further extension of license upon a temporary basis only to April 1, 1940, pending determination upon application for renewal of license.

KSUB—Leland M. Perry, Cedar City, Utah.—Special temporary authorization to Leland M. Perry, surviving partner of Johnson & Perry, a partnership, to operate station KSUB. was further extended upon a temporary basis only to April 1, 1940, subject to whatever action may be taken upon formal application for regular authorization that may be submitted with respect to Station KSUB.

WMFJ—A. Wright Esch, Daytona Beach, Fla.—Granted further extension of license upon a temporary basis only to April 1, 1940, pending determination upon application for renewal of license.

WHO—Central Broadcasting Co., Des Moines, Iowa, and WSM—National Life & Accident Insurance Co., Nashville, Tenn.—Granted further extension of special experimental authorization to operate a regular broadcast transmitter for the experimental transmission of facsimile signals to April 1, 1940.

The following applications for renewal of facsimile broadcast station licenses were renewed for the regular period:

W2XUP, New York, N. Y.; W5XGR, Dallas, Tex.; W8XUJ, Cincinnati, Ohio; W2XBF, New York, N. Y.; W4XIH, Nashville, Tenn.; W9XZY, St. Louis, Mo.; W8XUF, Jackson, Mich.; W8XE, Cleveland, Ohio; W8XA, Buffalo, N. Y.; W8XUM, Columbus, Ohio.

W3XAD—RCA Manufacturing Co., Inc., Portable (Camden, N. J.).—Granted renewal of television broadcast station license for the period ending February 1, 1941.

W3XEP—RCA Manufacturing Co., Inc., Portable (Camden, N. J.).—Granted renewal of television broadcast station license for the period ending February 1, 1941.

W2XR—Radio Pictures, Inc., Long Island City, N. Y.—Granted extension of facsimile broadcast station license upon a temporary basis only, to April 1, 1940, pending determination upon application for renewal of license.

W9XSP—Star-Times Publishing Co., St. Louis, Mo.—Granted extension of facsimile broadcast station license upon a temporary basis only, to April 1, 1940, pending determination upon application for renewal of license.

Licenses for the following television broadcast stations were further extended upon a temporary basis only, to April 1, 1940, pending receipt and/or determination upon application for renewal of licenses:

W9XAL, Kansas City, Mo.; W1XG, Boston, Mass.; W9XG, West Lafayette, Ind.; W2XDR, Long Island City, N. Y.; W9XK, Iowa City, Iowa; W9XUI, Iowa City, Iowa.

#### Miscellaneous

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Granted construction permit to move auxiliary transmitter approximately 5.8 miles from North Snelling Ave., approximately 4½ miles northwest of St. Paul, Minn., to St. Paul, Minn.; use directional antenna as authorized, with auxiliary transmitter.

WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate from 3 p. m. to 4 p. m., EST, on March 3 and 10, 1940, in order to broadcast program prepared by the American Association of University Women, St. Lawrence County Branch.

WMAN—Richland, Inc., Mansfield, Ohio.—Granted special temporary authority to operate from 6 p. m. to 12 midnight, EST, on February 27, 1940, in order to broadcast election returns and incidental sustaining music.

E. E. Krebsbach, Miles City, Mont.—Denied petition to intervene in hearing on application of Star Printing Co., Miles City, Mont., for construction permit for new station to operate on 1310 kc., 250 watts, unlimited time.

Star Printing Co., Miles City, Mont.—Granted petition for consolidation of hearings in re applications of E. E. Krebsbach, Miles City, Mont., for construction permit for new station

to operate on 1310 kc., 100 watts night, 250 watts local sunset, unlimited time, and of Star Printing Co., Miles City, Mont., for construction permit for new station to operate on 1310 kc., 250 watts, unlimited time.

WFDF—Flint Broadcasting Co., Flint, Mich.—Continued for one week petition to intervene in re hearing on application of Thumb Broadcasting Co., Brown City, Mich., for construction permit for new station to operate on 880 kc., 250 watts, daytime.

William F. Huffman, Wisconsin Rapids, Wis.—Granted motion for continuance of hearing now scheduled for February 26, 1940, to new date to be fixed by Office of the Secretary, in re application for construction permit for new station to operate on 1310 kc., 100 watts night, 250 watts local sunset, unlimited time.

J. D. Falvey, Ottumwa, Iowa.—Granted supplemental petition for order to take depositions in re application for construction permit for new station to operate on 1210 kc., 100 watts night, 100 watts local sunset, unlimited time.

WHDH—Matheson Radio Co., Inc., Boston, Mass.—Granted motion for extension of time to file proposed findings due February 25, 1940, to March 15, 1940, in re application for construction permit to change assignment from 1 KW, local sunset, daytime only, to 830 kc., 5 KW, 5 KW local sunset, unlimited time (DA night).

Thumb Broadcasting Co., Brown City, Mich.—Continued for one week opposition to petition of Flint Broadcasting Co. (WFDF) to intervene with proposals of alternate relief in re application of Thumb Broadcasting Co. for construction permit for new station to operate on 880 kc., 250 watts, daytime.

WSPA—Virgil V. Evans, tr/as the Voice of South Carolina, Spartanburg, S. C.—Granted construction permit to install auxiliary transmitter, using 500 watts power, at Evanston Heights, Spartanburg, S. C.

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Granted license to cover construction permit for new equipment and increase in power from 250 watts to 500 watts night and 1 KW day, frequency 1260 kc., unlimited time; also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WJBY—Gadsden Broadcasting Co., Inc., Gadsden, Ala.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

KYSM—F. B. Clements & Co., d/b as Southern Minnesota Supply Co., Mankato, Minn.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

W2XWE—WOKO, Inc., Albany, N. Y.—Granted license to cover construction permit as modified for new facsimile broadcast station, frequency 25050 kc., power 500 watts, granted upon an experimental basis only, conditionally.

W2XAB—Columbia Broadcasting System, Inc., New York, N. Y.—Granted modification of license to move studio locally and insert serial number of both aural and visual transmitters, 3001.

W9XAO—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted license to cover construction permit for new high frequency broadcast station, frequency 42600 kc., power 1000 watts, special emission for frequency modulation, maximum band width of not over 200 kc.; granted upon an experimental basis only, conditionally.

WSPA—Virgil V. Evans, tr/as the Voice of South Carolina, Spartanburg, S. C.—Granted special temporary authority to operate from 6:15 p. m., EST, to 11:00 p. m., EST, on February 23, 1940, in order to broadcast Finnish relief program.

Harry Jackson, Harrisburg, Pa. (T-4).—Adopted final order denying the application of Harry Jackson, Harrisburg, Pa., for a permit to construct a general experimental station; order to become effective February 24, 1940.

WILL—University of Illinois, Urbana, Ill.—Granted special temporary authority to operate simultaneously with Stations WIBW and WCHS, with power of 1000 watts, from 7:30 to 9:30 p. m., CST, on March 2, 1940, from 7:25 p. m. to 9:25 p. m., CST, on March 4, 1940, and from 7:00 p. m. to 11:00 p. m., CST, on March 14, 15, and 16, 1940, in order to broadcast basketball games only.

WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate from 2:00 to 3:00 p. m., CST, on March 5, 6, 7, 12, 13, 14, 19, 20, 21, 26, 27, and 28.

- 1940; from 3:00 to 3:30 p. m. CST, on March 4, 11, 18, and 25, 1940, and from 8:00 to 10:30 p. m., CST, on March 8, 1940 (provided KGGF remains silent) in order to broadcast special educational programs; to remain silent from 7:15 p. m. to 9:15 p. m., CST, on March 21, 1940, in order to observe Easter vacation.
- KGGF**—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to remain silent during above periods in order to permit WNAD to broadcast special educational programs; to operate from 7:15 p. m. to 9:15 p. m., CST, on March 21, 1940, in order to allow WNAD to remain silent during Easter vacation (provided WNAD remains silent).
- WEAN-WAAB-WNAC-WICC**—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to pick up and rebroadcast programs being broadcast by FM stations W1XOJ, W1XPW, W2XMN, W2XAG, or High Frequency Broadcast station W1XER, for the period February 25, 1940, to not later than March 25, 1940, in order to secure information for the high frequency hearing.
- KTSM**—Tri-State Broadcasting Co., Inc., El Paso, Texas.—Granted special temporary authority to operate test transmitter with power not to exceed 100 watts, on 1350 kc., day and night, in order to select transmitter site in accordance with construction permit, for a period not to exceed 30 days.
- WBAA**—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 10:00 to 11:00 a. m., from 5:00 to 5:30 p. m., and from 6:45 to 10 p. m., CST, on March 1, 1940, to operate from 4:00 to 6:00 p. m. and from 7:15 to 10:00 p. m., CST on March 2, 1940, to operate from 7:15 to 10:00 p. m. CST on March 4, 1940, to operate from 4:00 to 6:00 p. m. and from 7:45 to 10:30 p. m., CST on March 9, 1940, and from 4:00 to 6:00 p. m. and from 7:45 to 10:30 p. m. CST on March 16, 1940, in order to broadcast basketball games only.
- KWLC**—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 10:45 a. m. to 11:00 a. m. CST on February 29, March 7, 14, and 21, 1940, in order to broadcast lectures by Prof. Frings; to operate from 2:00 to 2:30 p. m. CST on March 2, 1940, in order to broadcast speeches in connection with Lutheran Students' Union Convention; to operate from 10:30 to 12:00 a. m. CST on March 3, 1940, in order to broadcast the LSU convention church service (provided KGCA remains silent).
- KWJJ**—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted special temporary authority to operate on 1040 kc., from 7:25 p. m. to 9:00 p. m. PST on March 1, 2, 15, 16, and 18, 1940, in order to broadcast basketball games only.
- WWAE**—Hammond-Calumet Broadcast Corp., Hammond, Ind.—Granted special temporary authority to operate simultaneously with radio station WFAM from 5:15 p. m. to 8:00 p. m. CST on February 29, 1940, and from 6:00 p. m. to 8:00 p. m. CST on March 1, 2, 9, and 16, 1940, in order to broadcast basketball games only.
- WKAQ**—Radio Corp. of Porto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from International Broadcast Stations WCBX and WCAB over Station WKAQ on a non-commercial experimental basis only, from February 28, 1940, to not later than March 28, 1940.
- W2XVT**—Allen B. DuMont Laboratories, Inc., Passaic, N. J.—Granted special temporary authority to operate experimental television broadcast station W2XVT from 9:00 a. m. to 7:00 p. m. EST (provided W2XBS remains silent), in order to make tests and conduct demonstrations for the RMA Committee on television and to conduct demonstration for Commissioner Craven on February 26, 1940.
- WMRO**—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 7:00 p. m. to 10:30 p. m. CST on March 1, 2, 6, 7, 8, 9, 13, 14, 15, and 16, 1940, in order to broadcast basketball games only.
- KFDY**—South Dakota State College, Brookings, S. D.—Granted special temporary authority to operate from 2:00 p. m. to 4:45 p. m. CST on March 8, 1940, and from 9:30 a. m. to 12:30 p. m., from 2:00 p. m. to 4:45 p. m., and from 8:00 p. m. to 11:00 p. m. CST on March 9, 1940, in order to broadcast basketball games only.
- KMJ**—McClatchy Broadcasting Co., Fresno, Calif.—Granted license to cover construction permit and modification thereof for increase in power from 1 KW to 1 KW, 5 KW day, move of transmitter and install new transmitter and antenna; frequency 580 kc., unlimited time; also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WMBG**—Havens and Martin, Inc., Richmond, Va.—Granted modification of construction permit as modified for changes in transmitting equipment and increase in power from 500 watts to 1 KW, 5 KW local sunset, for extension of required date of completion from February 28, 1940 to April 28, 1940.
- WTSP**—Pinellas Broadcasting Co., St. Petersburg, Fla.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- KTKC**—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, President, Visalia, Calif.—Granted construction permit to make changes in transmitting equipment.
- WIBC**—Indiana Broadcasting Corp., Indianapolis, Ind.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WJTN**—James Broadcasting Co., Inc., Jamestown, N. Y.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WAGM**—Aroostook Broadcasting Corp., Presque Isle, Maine.—Granted special temporary authority to operate from 2 p. m. to 4 p. m. and from 8 p. m. to 10 p. m., EST, on February 29, March 1 and 2, 1940, in order to broadcast basketball games only; to operate from 8 p. m. to 9 p. m., EST, on February 26, 1940, in order to broadcast celebration of University of Maine 100th Anniversary.
- KFRU**—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with station WGBF, with power of 250 watts, from 7:30 p. m. to 9:30 p. m., CST, on February 29, 1940, and from 7 p. m. to 8 p. m., CST, on March 1, 1940, in order to permit WGBF to broadcast basketball games.
- WGBF**—Evansville on the Air, Inc., Evansville, Ind.—Granted special temporary authority to operate simultaneously with station KFRU as above in order to broadcast basketball games only.
- WJMC**—Walter H. McGenty, Rice Lake, Wis.—Granted special temporary authority to operate from 7 p. m. to 11:30 p. m., CST, on March 6, 7, 8 and 9, 1940, in order to broadcast basketball games only.
- W2XOY**—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to relay through high frequency station W2XOY the frequency modulated programs of high frequency station W2XMN, for a period not to exceed thirty days.
- WSOY**—Commodore Broadcasting, Inc., Decatur, Ill.—Granted special temporary authority to operate from 6:30 p. m., CST, to the conclusion of basketball games on March 1 and 2, 1940, in order to broadcast basketball games only, using 250 watts power.
- W2XB**—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to relay through television broadcast station W2XB the television programs to be received from the NBC, Inc., transmitter located atop the Empire State Building, for a period not to exceed thirty days.
- WCLS**—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 10:45 p. m., CST, on March 6, 7, and 9, 1940, and from 10:30 p. m. to 10:45 p. m., CST, on March 8, 1940, in order to broadcast basketball games only.
- WKAQ**—Radio Corp. of Porto Rico, San Juan, P. R.—Granted special temporary authority to rebroadcast program to be received from international broadcast station WGEO over station WKAQ from 8:30 p. m., AST, to the conclusion of Professor Vincent Tovar's discussion on "Meditaciones de un Misanthrope," written by Rene Jimenez Malaret, on March 7, 1940.

#### APPLICATIONS FILED AT FCC

##### 560 Kilocycles

- WFIL**—WFIL Broadcasting Co., Philadelphia, Pa.—Authority to determine operating power by direct measurement of antenna power.

##### 570 Kilocycles

- WSYR-WSYU**—Central New York Broadcasting Corp., Syracuse, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 580 Kilocycles

KSAC—Kansas State College of Agriculture and Applied Science, Manhattan, Kans.—Authority to determine operating power by direct measurement of antenna power.

### 700 Kilocycles

WLW—The Crosley Corp., Cincinnati, Ohio.—Modification of construction permit (B2-P-2460) for changes in equipment, requesting extension of completion date from 4-22-40 to 10-22-40.

### 780 Kilocycles

WEAN—The Yankee Network, Inc., Providence, R. I.—Construction permit to make changes in directional antenna for day and night use and change power from 1 KW; 5 KW-day to 5 KW day and night. Amended: re: antenna.

### 880 Kilocycles

KFKA—The Mid-Western Radio Corp., Greeley, Colo.—Modification of license to increase power from 500 watts; 1 KW-day to 1 KW day and night. Amended to request class III-A station.

### 890 Kilocycles

WBAA—Purdue University, W. Lafayette, Ind.—Construction permit to install new transmitter, make changes in antenna, change hours of operation from specified hours to unlimited time, increase power from 500 watts, 1 KW to 1 KW; 5 KW day, move transmitter from Northwestern Ave., W. Lafayette, Ind. to 1 mile East of No. 43 and 6 miles North of Romeny, Wea Township, Ind. Amended: re: antenna changes (directional antenna at night).

### 900 Kilocycles

WBEN—WBEN, Incorporated, Buffalo, N. Y.—Construction permit to install directional antenna for night use, increase power from 1 KW; 5 KW-day to 5 KW day and night, move transmitter from R.F.D. No. 2, Shawnee Road, near Martinsville, N. Y., to Bush road, Grand Island, N. Y.

### 950 Kilocycles

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Modification of construction permit (B1-P-1332) as modified for a new station, requesting authority to change type of transmitter, and extend commencement date to 30 days after grant and completion date 120 days thereafter.

### 1040 Kilocycles

NEW—Mid-America Broadcasting Corp., Louisville, Ky.—Construction permit for a new station on 1040 kc. (request 1080 kc. when Havana Treaty effective), 1 KW, 5 KW day, unlimited time, directional antenna day and night use.

### 1120 Kilocycles

KSAL—KSAL, Inc., Salina, Kans.—Construction permit to increase power from 500 watts; 1 KW-day to 1 KW day and night, changes in directional antenna system.

WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Construction permit to increase power from 1 KW to 5 KW, install new equipment, and directional antenna for night use.

### 1200 Kilocycles

KBTM—Jay P. Beard, tr/as Regional Broadcasting Co., Jonesboro, Ark.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.

### 1210 Kilocycles

KALB—Alexandria Broadcasting Company, Inc., Alexandria, La.—Authority to determine operating power by direct measurement of antenna power.

NEW—LaGrange Broadcasting Co., LaGrange, Ga.—Construction permit for a new station on 1210 kc., 100 watts, unlimited time, site to be determined, LaGrange, Ga.

### 1230 Kilocycles

WFBM—WFBM, Inc., Indianapolis, Ind.—Modification of license to change power from 1 KW; 5 KW-day to 5 KW day

and night, using directional antenna at night, change name from Indianapolis Power and Light Co., to WFBM, Inc. Amended: re: directional antenna.

WNAC—Yankee Network, Inc., Boston, Mass.—Modification of construction permit (B1-P-1083) for increase in power from 1 KW; 5 KW-day to 5 KW day and night, changes in antenna system. Amended to make changes in directional antenna, for use day and nighttime.

### 1240 Kilocycles

NEW—Pan-American Broadcasting System, Inc., Hollywood, Fla.—Construction permit for a new station on 1240 kc., 250 watts, unlimited time.

### 1290 Kilocycles

WNEL—Juan Piza, San Juan, Puerto Rico.—Construction permit to make changes in transmitter, make changes in antenna, increase power from 1 KW, 2½ KW-day to 5 KW day and night, and move transmitter from 99 Sol St., San Juan, Puerto Rico to Kilometer 3.6, Carolina, Puerto Rico.

### 1300 Kilocycles

KALE—KALE, Inc., Portland, Ore.—Modification of construction permit (B5-P-2344) as modified for increase in power, move of transmitter, new transmitter and changes in antenna, requesting extension of completion date from 3-10-40 to 5-1-40.

### 1350 Kilocycles

WMBG—Havens & Martin, Inc., Richmond, Va.—Modification of construction permit (B2-P-1912) as modified for increase in power, equipment changes, installation of directional antenna for day and night use, requesting further increase in power to 5 KW day and night.

### 1370 Kilocycles

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—License to cover construction permit (B4-MP-895) for increase in power from 100 watts, 250 watts day, to 250 watts day and night.

NEW—Greensboro Broadcasting Co., Inc., Greensboro, N. C.—Construction permit for a new broadcast station to be operated on 1380 kc., 500 watts power, daytime operation. Amended to request 1370 kc., 100 watts, unlimited time. Change applicant from Ralph M. Lambeth to Greensboro Broadcasting Company, Inc., and equipment changes.

WSVS—Elmer S. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Modification of license to change hours of operation from daily 8:30 a. m. to 10 a. m. and 2 to 3 p. m., EST, to Monday through Friday 8:30 a. m. to 10 a. m., EST.

### 1380 Kilocycles

WING—WSMK, Inc., Dayton, Ohio.—Construction permit to install new transmitter, frequency monitor, and make changes in directional antenna system (night use only), and increase power from 250 watts, 500 watts day, to 5 KW day and night.

WALA—W. O. Pape, tr/as Pape Broadcasting Co., Mobile, Ala.—Modification of construction permit (B3-P-2242) as modified for 1 KW power, new antenna, move transmitter, requesting increase in power from 1 to 5 KW, install new equipment and directional antenna for night use, move transmitter from Mobile, Ala., to Mobile County, Ala., and extend commencement date to 30 days after grant and completion date to 90 days thereafter.

### 1420 Kilocycles

WAOV—Vincennes Newspapers, Inc., Vincennes, Ind.—Modification of construction permit (P4-P-1243) for new station, requesting approval of antenna, new transmitter, studio site at 320 Busseron St., Vincennes, Ind., and transmitter at 6th St., U. S. Highway No. 41, Vincennes, Ind.

NEW—Capital Broadcasting Co., Washington, D. C.—Construction permit for a new station on 1310 kc., 250 watts power, unlimited time. Amended to request 1420 kc.

WGPC—Albany Broadcasting Company, Inc., Albany, Ga.—Construction permit to make changes in equipment and increase power from 100 to 250 watts. Amended to install new

antenna and move studio and transmitter from 125½ N. Jackson St., Albany, Ga., to Gillionville Road, near Albany, Ga.

#### 1460 Kilocycles

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Modification of license to change corporate name to KSTP, Inc.

#### 1500 Kilocycles

KBIX—Oklahoma Press Publishing Co., Muskogee, Okla.—Authority to determine operating power by direct measurement of antenna power.

NEW—MSB Broadcast Co., Omaha, Nebr.—Construction permit for a new broadcast station on 1500 kc., 250 watts, unlimited time. Amended: Re: Corporate structure.

NEW—WISH, Inc., Tupelo, Miss.—Construction permit for a new station on 1500 kc., 250 watts, unlimited time.

WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—License to cover construction permit (B2-P-2652) to use old RCA 250-W transmitter as auxiliary transmitter at new site.

#### Miscellaneous

NEW—WDOD Broadcasting Corp., Chattanooga, Tenn.—Construction permit for a new high frequency broadcast station, site to be determined, near Chattanooga, Tenn., to be operated on 42600 kc., 1 KW, unlimited time, special emission.

WRCA—National Broadcasting Co., Inc., Bound Brook, N. J.—Modification of license to use both amplifiers (Type NRA-25B and Type NRA-25A) simultaneously on two directional antennas on 9670 kc.

NEW—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1000 watts, special emission for frequency modulation, site to be determined at or near Philadelphia, Pa.

NEW—The Ashland Broadcasting Co., Ashland, Ky.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1000 watts, unlimited time, special emission for frequency modulation, to be located at 20th and Front Streets, Ashland, Kentucky.

NEW—A. Frank Katzentine, area of Miami Beach, Fla.—Construction permit for a new relay broadcast station on 1646, 2090, 2190, 2830 kc., 50 watts, A-3 emission.

WENL—Station WIS, Inc., Portable-Mobile.—Voluntary assignment of license from Station WIS, Incorporated, to The Liberty Life Insurance Company.

KABE—National Battery Broadcasting Co., St. Paul, Minn.—Modification of license to change name only to KSTP, Inc.

KAIE—National Battery Broadcasting Co., St. Paul, Minn.—Modification of license to change name only to KSTP, Inc.

KIGH—National Battery Broadcasting Co., Minneapolis, Minn.—Modification of license to change name only to KSTP, Inc.

W6XAO—Don Lee Broadcasting System, Hollywood, Calif.—Modification of construction permit (B5-PVB-38) to move transmitter and specify frequencies 44000-50000 to comply with new rules, requesting extension of commencement date and completion date from 9-30-39 and 3-31-40, to 3-31-40 and 9-30-40, respectively.

NEW—Don Lee Broadcasting System, Los Angeles, Calif.—Construction permit for a new high frequency broadcast station, 42600 kc., 1 KW, special emission. Located on top Mt. Lee, Hollywood Hills, Los Angeles, Calif.

NEW—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Construction permit for a new high frequency broadcast station, 43000 kc., 1 KW power, special emission. Located at Ralston Road, Indianapolis, Ind.

W9XAZ—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—License to cover construction permit (B4-PHB-67) as modified, for reinstatement of station: 42260 kc., 500 watts power, A-3 emission. Located: 606 W. Wisconsin Ave., Milwaukee, Wisc.

W2XD—General Electric Co., Schenectady, N. Y.—Construction permit to reinstate station. Frequency 156000-162000 kc., 400 watts power, emission A-5. Visual transmission. Located at No. 1 River Road, Schenectady, N. Y.

W2XOY—General Electric Co., Albany, N. Y.—Construction permit to increase power from 150 watts to 1 KW, move transmitter from Albany, N. Y., to New Scotland, N. Y., and install new transmitter. Amended to change maximum rated power of transmitter.

W8XAD—WHEC, Inc., Rochester, N. Y.—License to cover construction permit (B1-PHB-81) as modified for new high frequency broadcast station.

NEW—The Metropolis Co., Jacksonville, Fla.—Construction permit for a new high frequency broadcast station, 42800 kc., 1 KW, special emission; located in Jacksonville, Fla., exact site to be determined.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Eileen-Joy Fashions, Inc.**—Charging misrepresentation in the sale of women's wearing apparel, a complaint has been issued against two New York corporations, Eileen-Joy Fashions, Inc., 1375 Broadway, and Teen Frocks, Inc., 520 Eighth Ave., and Morris Scharf and Henry Dudkin, individually and as officers of the two corporations, who formerly were co-partners trading as Eileen-Joy Fashions.

It is alleged that the respondents advertised as silk articles composed entirely of rayon by means of terms such as "Taffeta" and "Pure Dye" placed on tags, labels, price lists and in advertising matter; that products composed entirely of rayon were advertised as "Celanese" and "Celanese Clairanese Taffeta", and that these words, when used to designate rayon, are not sufficiently well known and understood by the purchasing public to inform them that they are buying rayon or anything other than silk.

It is alleged that the respondents' practice of furnishing misleading labels, tags and other advertising material to jobbers, retailers and other customers for attachment to the respondents' products, and the use of designations which fail to disclose the rayon content of their products, provide uninformed or unscrupulous dealers with a means of misleading buyers into believing they are purchasing silk instead of rayon garments. (4038)

**Novelty Sales Company**—Simon and Morris Aron and Louis Broudo, trading as Novelty Sales Company, 806 Walnut St., Philadelphia, are charged, in a complaint with use of lottery methods in the sale and distribution of merchandise.

The complaint alleges that the respondents, who are engaged in selling and distributing clocks, knives, flashlights and similar merchandise, sell to dealers assortments of their merchandise so packed and assembled as to involve the use of a game of chance, gift enterprise or lottery scheme when the articles are sold to ultimate consumers. Such sales plans or methods, the complaint continues, have a tendency to induce the purchasing public to buy the respondents' merchandise in preference to that of competitors who do not use similar methods, and constitute unfair methods of competition within the meaning of the Federal Trade Commission Act. (4039)

**Hamilton Ross Factories, Inc.**, 666 Lake Shore Drive, Chicago, a dealer in chinaware, glassware, plated silverware and cutlery, has been served with a complaint alleging misrepresentation in the sale of its products.

Through the use of advertising mats and color plates supplied to its department store and other retailer customers for insertion in newspaper advertisements, the respondent company is alleged to represent that silverware sold by it is "heavily plated," a term implying to the purchasing public that such silverware is of a quality and grade superior to the lower grades of plated silverware. The complaint alleges that the silverware sold by the respondent is not heavily plated but corresponds approximately to Grade A-1 of household silverware, the lowest grade to which quality marks are regularly applied.

The complaint also alleges that through the use of the word "Factories" in its corporate and trade name and in letterheads, invoices and other printed matter, the respondent implies that it owns, controls or operates factories where the products it sells are manufactured, when such is not a fact. (4040)

**Teen Frocks, Inc.**—See Eileen-Joy Fashions, Inc.

**Trippe Manufacturing Company**—Misrepresentation in the sale of an electric auxiliary light designed for use on motor vehicles, is alleged in a complaint issued against Trippe Manufacturing Company, 564 West Adams St., and Trippe Sales Company, 600 West Jackson Boulevard, Chicago, both of which have branch offices in Toronto, Canada, and Halifax, England.

The respondents are alleged to represent that the light rays from their "Trippe Safety Light" or "Trippe Speed Light" will penetrate and conquer fog regardless of its density; that fog is thin and less dense close to the ground and that the light rays from their light will cut under and stay under the fog blanket to give greater visibility; that the light will provide adequate illumination in fog, rain, mist or snow regardless of density, and to the extent of 1,000 feet ahead; that a person using the light will have 1,000 feet distance of visibility between the user and danger and that the respondents' light has been officially purchased or used by the United States Coast Guard.

The complaint alleges that the respondents' representations are misleading and in excess of their product's accomplishments. (4037)

**Trippe Sales Company**—See Trippe Manufacturing Company.

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders during the past week:

**Affiliated Products, Inc.**, 257 Cornelison Ave., Jersey City, N. J., has been ordered to cease and desist from misleading representations in the sale of cosmetics designated "Edna Wallace Hopper's Special Restorative Cream" and "Edna Wallace Hopper's White Youth Pack (Clay)."

Findings are that "Edna Wallace Hopper's Restorative Cream," through use of various advertisements and of the word "Restorative" in the trade name, was represented as a discovery of a great French scientist or a famous beauty expert and as being capable of rejuvenating the skin, restoring the oils of youth and a youthful appearance to aged skin and preventing and erasing wrinkles. However, the findings continue, the preparation is not a discovery of a great French scientist, but is made from a formula developed by Dr. A. B. Pacini, a cosmetician and graduate chemist, and it will not accomplish the results claimed.

It was found that much of the advertising involved in this proceeding was prepared and placed by the respondent's predecessor in business.

The respondent is ordered to cease use of advertisements which employ the word "Restorative" in the trade name of the special restorative cream and which represent that this preparation is a restorative cream or the discovery of a great French scientist; that its use will rejuvenate the skin or restore the oils of youth or youthful appearance to aged skin or make one's face appear 10 or any number of years younger or keep the skin young and prevent or erase wrinkles or age lines.

Under the order, the respondent company is also directed to desist from disseminating advertisements which represent that the white youth pack is of French origin, will nourish or revivify the skin, remove blackheads or eliminate large pores or have any beneficial effect other than loosening blackheads and thereby aiding in their removal. (3734)

**Buford & Owens College**, 812 North East Third St., Oklahoma City, Okla., distributor of preparations for the hair and scalp, and three of its officers, have been served with an order to cease and desist from misrepresentations in the sale of their preparations. The respondent officers of the corporation are Gussie and George Buford and Mary Owens Boone Wellingham.

According to the findings, the respondents represented their preparations as constituting cures or remedies for dandruff, falling hair, and scalp diseases and as being capable of promoting the growth of hair, when such were not the facts. It was also found that by use of the word "College" in the corporate name of their organization the respondents represented that they conducted an institution of higher learning, when in fact the respondent corporation is not a college.

The order directs the respondents to cease advertising that "Buford & Owens Hair Oil", "Buford & Owens Pressing Oil", "Buford & Owens Special Oil", and "Buford & Owens Shampoo" are cures or remedies for dandruff, falling hair or scalp diseases, or will promote hair growth or prevent hair from falling out, and to discontinue using the word "College" as part of the corporate name or representing that the respondents conduct an institution of higher learning. (3790)

**Carl-O-Wave Company**—An order has been issued requiring J. W. Cooper and James J. Cooper, trading as Curl-O-Wave Company, 201 North Wells St., Chicago, to cease and desist from certain misrepresentations in the sale of a hair curling preparation.

In their advertising matter the respondents are found to have represented that their preparation, "Curl-O-Wave", will make the straightest hair naturally curly, transform obstinate hair into dainty curls, and improve the texture of the hair, and that their product is odorless, beneficial to the hair and not an ordinary hair curling fluid but a new discovery.

Findings are that the product will not accomplish the results claimed, and that it is an ordinary curling fluid and not a new discovery. Under the order, the respondents' representations as made in the aforesaid advertising matter are prohibited. (3524)

**Economy Men's Hat Company, Inc.**, and Rosalind Nissenbaum, Lena Nissenbaum and Nat Gilman, individually and as officers of the corporation, have been ordered to cease and desist from certain misrepresentations in the sale of their products.

The Commission finds that the respondents, with their office and principal place of business located at 5 Elizabeth St., New York, buy old, worn and previously used felt hats, the bodies of which are cleaned, steamed, ironed and shaped by the respondents and fitted with new trimmings, sweat bands and size labels and sold to retailers. The respondents cause the words "De Luxe Quality" or similar words to be embossed on the sweat bands of the hats, preceded by the words "Made Over Hat".

Findings are that it is the practice of various manufacturers of hats to manufacture finished hats from new felt material, from hat bodies obtained from shop-worn hats that have not previously been worn or used, and from old, previously used hat bodies. By use of the words "Made Over Hat", and by failure to properly mark its products as having been made from second-hand hat bodies, the respondents fail to disclose that hats sold by them are made from old, worn or previously used hat bodies, as distinguished from hats made from shop-worn hat bodies which had never been worn or used.

The respondents are ordered to cease and desist from representing that hats composed in whole or in part of used or second-hand materials are composed of new materials by failure to stamp on the sweat bands in conspicuous the legible terms which cannot be removed or obliterated without mutilating the sweat bands a statement that the products are composed of second-hand or used material and provided that if sweat bands are not affixed to the hats, the bodies of the hats must be stamped with such explanation in conspicuous or legible terms which cannot be removed or obliterated without mutilating said bodies. (3837)

**Thomas Quilt Factories**—Chester L. Thomas, trading as Thomas Quilt Factories, Denver, Colo., has been ordered to discontinue certain misleading representations in the sale of quilts or other bed coverings.

Findings are that in advertising matter the respondent made statements implying or representing that "Thomas Feather Quilts" were of a value of \$37.50 and that \$18.75 was an introductory or special price limited as to time and was one-half the usual or customary price, when in fact the respondent did not sell his quilts for \$37.50, and \$18.75 was not a special or introductory price but the regular and customary price.

The order prohibits the respondent from representing as the customary or regular prices or values of quilts or other bed coverings prices and values which are in excess of the prices at

which the products are customarily sold and from representing that the prices at which he sells his articles constitute a discount to the purchaser or that such prices are special, reduced or introductory prices or are applicable for a limited time only, when in fact they are the usual and customary prices. (3375)

**I. Sekine Company, Inc.**, of New York and Baltimore, has been ordered to discontinue certain misleading representations in the interstate sale of toothbrushes.

The respondent company is found to have imported handles and bristles for its brushes and, in the process of preparing the commodity for sale, to have bored holes for the bristles in the handles in the precise location of marks denoting Japanese origin of the handles, thus obliterating the words "Japan" or "Made in Japan" when the bristles were inserted. When the commodity was finally assembled, the findings continue, the sentence, "This brush is made in U. S. A.", was stamped in bold gold letters in a conspicuous place elsewhere on the handles of the brushes.

This practice was misleading, the findings continue, as the toothbrushes were not wholly "Made in U. S. A." It is pointed out that a substantial portion of the buying public has indicated a decided preference for American-made products, including toothbrushes.

The Commission order directs the respondents to cease and desist from using the words, "This brush is made in U. S. A.", or words of similar import, on toothbrushes made from imported handles, or on containers in which they are packed, or in any other manner. The order also prohibits the representation, directly or by implication through use of the foregoing phraseology or other words of similar meaning, or by unnecessary obliteration or concealment of the words indicating the foreign origin of the handles in processing the brushes, that toothbrushes made from imported handles are of domestic manufacture. (3624)

**W. T. Wagner's Sons Company**—Prohibiting use of the word "English" to designate a soda water made in the United States from domestic ingredients. A order to cease and desist has been issued against W. T. Wagner's Sons Company, 1920-26 Race St., Cincinnati.

The order also directs that the respondent cease representing that its product, which has been designated "Wagner English Club Soda", is imported from, or made of ingredients imported from, England, or that only soda waters made in England have the properties possessed by the respondent's soda water.

The findings point out that a substantial number of American purchasers have a preference for soda waters made in England or from ingredients imported from that country.

According to findings, the respondent, in advertising its "Wagner English Club Soda", made use of pictures of typical British institutions accompanied by phraseology such as "British as the Buckingham Guards" and "British as Big Ben". (3932)

## STIPULATIONS

The following stipulations have been entered into by the Commission:

**Apex Tire, Inc.**, 505 Central Ave., Pawtucket, R. I., has entered into a stipulation to discontinue misleading representations in the sale of rebuilt automobile tires.

In the sale of its "Apex Rebuilt Tires," the respondent corporation agrees to cease advertising that it is the world's largest builder of tires or America's largest quality tire rebuilder, until such are the facts established by competent evidence.

Other representations to be discontinued, under the stipulation, are that Apex Tire, Inc. is the pioneer of the tire rebuilding industry; that its tires are guaranteed against all road hazards, or are unconditionally guaranteed for six months, and that they

are as safe or durable as new tires, or will save their owners 50 or nearly 50 per cent of new tire costs, or will give the same trouble-free service as first line new tires. (02515)

**Kirkwood Laboratories, Inc.**, Clifton, N. J., stipulates that it will cease advertising "Har-Ex Capsules" as a competent or effective remedy for hay fever, rose fever or asthma, as a new medicine or method of treatment, as quick to ease suffering or sneezing from hay fever or rose fever or to give relief from trouble due to local irritation. The respondent also agrees to desist from the representation that the misery of rose fever, hay fever or asthma is ended by use of its preparation. (02512)

**Likely Luggage Company**—Sam Skuller, trading as Likely Luggage Company, Columbus, Ohio, in the sale of luggage, stipulates that he will desist from quoting, in his catalogs, price lists, labels, tags or in any other way, fictitious or misleading figures purporting to be the regular sale or list prices of merchandise, or figures which are in excess of the prices at which such articles are normally sold. The respondent also agrees to discontinue representing in any way in catalogs, trade literature or otherwise, that a discount of 50 per cent or any other fictitious reduction from his customary prices is offered to the purchaser, when such is not a fact. (2683)

**Macksoud Importing Company**—James S. Macksoud, trading as Macksoud Importing Company, New York, N. Y., agrees to desist from representing himself in any way to be a manufacturer of handkerchiefs or other merchandise, when he neither owns, operates nor directly controls the factory in which the goods he sells are made; from representing that he has manufacturing plants of his own at Swatow, Shanghai or Chefoo, China, or elsewhere, for the production of these or other goods, when such is not a fact, or from representing that he has an office or place of business in Shanghai, Chefoo or other place where he does not maintain such an establishment. (2682)

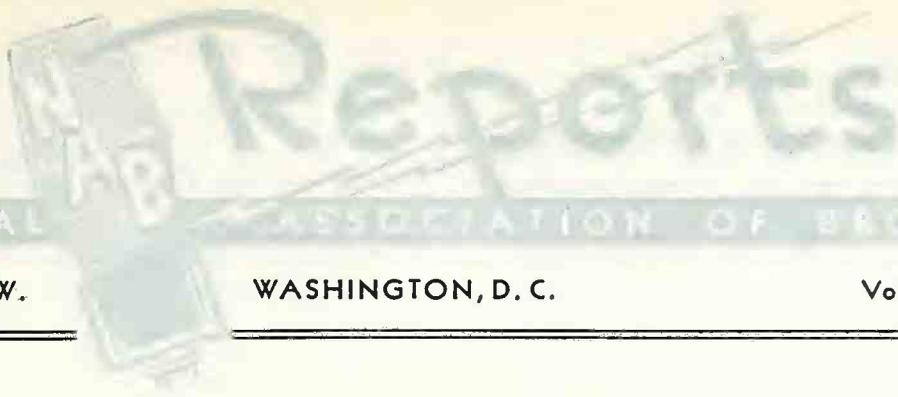
**C. E. Twombly**, Medford, Mass., agrees to discontinue representing "Cankerine", a preparation for poultry, as being sure in action, a cure for canker in pigeons or poultry, and as being capable of removing a canker without bleeding or soreness. The respondent also stipulates he will cease advertising that the product is prepared by him, unless and until he actually compounds it.

**M. Williams**—Ada Roehr, trading as M. Williams, Jersey City, N. J., sells a medal designated "Success Emblem", and printed instructions entitled "The Lifetime Guide." The respondent agrees to cease making various representations in the sale of these products, among which are the following: that the alleged psychological teachings embodied in "The Lifetime Guide", if followed, will enable one to attain love, success, prosperity, a new start in life, increased income, the mastery of difficult occupations, an easy living, and power to overcome jealousy, banish sickness, overthrow evil influence, stop others from taking advantage of one's kind disposition and cause undesirable persons to leave, move or go away, or that these teachings do other than offer instructions designed to influence the mental attitude of the student. (02511)

## FTC CLOSES CASE

The Federal Trade Commission has closed its case against Ardell Razor Blade Corporation, Newark, N. J., and its selling agent, Fuller Blade Company, Inc., New York, which were charged with unauthorized use of well-known trade names in the sale of razor blades.

The case was closed without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.



### Eight More for BMI

With the addition of eight more subscribers to BMI this week, the total amount now paid for stock subscriptions and pledged on license agreements was swelled to \$1,226,225.00. These additions brings to 276 the number of stations that have now subscribed and paid for BMI stock. Another 102 stations have indicated their approval and are expected to subscribe.

The latest subscribers are as follows (previous lists were printed in NAB REPORTS February 16, 1940, p. 4030 and March 1, 1940, p. 4064).

- District 4
- WGNC, Gastonia, North Carolina
- District 7
- WCKY, Cincinnati, Ohio
- WKRC, Cincinnati, Ohio
- District 9
- WGN, Chicago, Illinois
- District 12
- WIBW, Topeka, Kansas
- District 15
- KROW, Oakland, California
- District 17
- KGA, Spokane, Washington
- KHQ, Spokane, Washington

### TOMPKINS HEADS BMI

Merritt E. Tompkins, president of the Associated Music Publishers, Inc., and former vice president and general manager of G. Schirmer, Inc., will become general manager of Broadcast Music, Inc., radio's new music enterprise.

Mr. Tompkins, as head of Associated Music Publishers, has directed the building of a catalog of more than 500,000 musical compositions and has had extensive experience in providing both popular and classical music suitable for radio programs.

Mr. Tompkins said that he had been attracted by the

opportunity presented by the new undertaking to create a reservoir of music designed particularly for the radio public, as he had had this thought in mind for many years.

"The present situation in the broadcast industry in respect to the supply of music," he said, "is neither in the interest of the listener or in the interest of the composer. Broadcasters have been drawing their music from an ever-narrowing, instead of widening, circle of composers. This has led to the repetitious performance of a relatively small number of compositions and has failed to encourage creative talent throughout the country. Through Broadcast Music, Inc., the industry has the means of offering to creative artists, on terms profitable to them, an opportunity to use radio to obtain public acceptance of their works.

"The ability to write music with popular appeal is not, in my opinion, limited to those few hundred composers who today have the full benefit of popularization by radio, and who are selected, not on the basis of inherent merit, but because their works have been published by a small group of popular music publishers.

"To diversify our program content and to add interest to radio programs, we intend to draw on classical and standard works, many of which have hitherto been neglected. We feel that the musical taste of the American people is already high, and that public standards are consistently being raised through the medium of radio. In addition to the encouragement of the popular field, we believe that the encouragement of sound standards of musical taste and of writers who gratify such tastes is one of our duties.

"Up to the present time broadcasters have been in the unfortunate position of being compelled to secure one of their most important raw materials, namely, popular music, almost entirely from a single source. The constructive job of Broadcast Music, Inc., lies in uncovering and fostering fresh sources of music which will continue to supply broadcasters, irrespective of whether or not a contract is entered into with the American Society of Composers, Authors and Publishers (ASCAP) at the end of the present year. The agreement of broadcasters to invest more than a million and a quarter dollars in Broadcast Music, Inc., is an assurance of the company's effective and permanent operation."



1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

## TOMPKINS HEADS BMI

*(Continued from page 4079)*

In outlining the plans of the new company, Mr. Tompkins explained that it would deal not only with individual writers, but also with publishing houses, transcription companies, groups and associations here, in Europe and South America, and with everyone who has music available for public performance. Both full and part time employment will be afforded by the company to arrangers and others engaged in the popular music field, and in making its music available in published and in recorded form. Cooperation will be carried on to the fullest extent with all other industries offering music to the public.

"I view my task as a constructive one," Mr. Tompkins said, "which should have the backing not only of the broadcasting industry and of other users of music, but also that of the great body of the American people which is interested in the encouragement of the art of music and the development of creative talent."

## BMI LICENSE AMENDMENT

As the plan of Broadcast Music was declared effective on February 7, 1940, and the commencement date on the performing right licenses fixed at April 1, 1940, it is necessary for stations now wishing to subscribe to BMI to amend the license agreement somewhat to reflect these facts.

Paragraphs IV and IX should be changed to read as follows:

IV. The term of this license should commence on April 1, 1940, and shall continue for such period of time as may be designated in writing by MUSIC, provided, however, that the term of this license shall be for not less than one year from the commencement date thereof. This license shall be non-assignable, except to the person, firm, or corporation legally acquiring the Federal Communications Commission license of the broadcasting station designated in Article I hereof.

IX. This agreement shall become effective as a license agreement upon the execution and delivery of a copy hereof by MUSIC. In consideration of MUSIC using its best efforts to obtain the signature of agreements similar to this by other broadcasters, and in consideration of the signature of agreements similar to this by other broadcasters, BROADCASTER agrees that this instrument shall constitute a continuing offer which cannot be revoked by BROADCASTER for twenty days from the date of the receipt of this agreement by MUSIC.

*These changes affect only those stations whose agreements were not accepted before March 2, 1940.*

March 8, 1940

## FCC AMENDS RECORD RULES

The FCC on February 29, 1940, amended Section 3.93(e) of the Standard Broadcast Rules, effective immediately, to read as follows:

"(e) The identifying announcement shall accurately describe the type of mechanical record used, i.e., where an electrical transcription is used it shall be announced as a 'transcription' or an 'electrical transcription', or as 'transcribed' or 'electrically transcribed', and where a phonograph record is used it shall be announced as a 'record'."

It will be noted that this amendment modifies the amendment to this rule adopted January 4, 1940, so as to permit the use of the word "transcribed" or "electrically transcribed" in announcing the use of electrical transcriptions. However, no change has been made in the provision with respect to the announcement of phonograph records.

The FCC expects all broadcast station licensees to comply strictly with the requirements set forth above.

## CHILDREN'S PROGRAM SURVEY STARTED BY MRS. LEWIS

The national survey on children's programs which was approved by the NAB Board of Directors at its last meeting, gets under way next week. The survey is jointly sponsored by the NAB and the Radio Council on Children's Programs.

Mrs. Edwin C. Lewis, vice-chairman of the Council, and radio chairman of the National Society of New England Women, will be the field representative of the Council. She will visit stations, sponsors, and teacher and women's club groups in forty-four states in the next six months. She was formerly connected with a radio station and was in the advertising agency business before devoting her full time to club work. She is nationally known in several fields and brings a rich background of practical and social knowledge to the problem.

In March and April her itinerary is as follows:

March 12—Chicago  
March 13, 14, 15, 16—Michigan  
March 17, 18, 19, 20—Chicago area  
March 21—Racine, Wisc.  
March 22, 23—Milwaukee, Wisc.  
March 24, 25—Madison, Wisc.  
March 26—La Crosse  
March 27—Rochester, Minn.  
March 28—Minneapolis and St. Paul  
April 1, 2—Omaha  
April 3, 4—Des Moines  
April 5—Ames and Cedar Rapids  
April 6, 7—Davenport  
April 8—Chicago  
April 9, 10, 11—Pittsburgh  
April 12—Altoona  
April 13—Harrisburg  
April 14—Lancaster  
April 15, 16—Philadelphia

Carrying out the intent of the children's program section of the Code "to establish acceptable and improving standards for children's programs," the Radio Council was voluntarily set up by outstanding women's leaders

and organizations last fall, to cooperate with the NAB in this important field.

Fully appreciative of the social as well as the economic foundation of the American system of broadcasting, the Council is available for consultation with sponsors, advertising agency people and broadcasters, in the development and preparation of contemplated children's programs, in an advisory capacity.

The Council has no commercial interest whatever; no scripts or programs are for sale. Its address is 45 Rockefeller Plaza, New York City.

In a statement of policy, Mrs. Harold V. Milligan, radio chairman of the General Federation of Women's Clubs, and head of the Council, said:

"While the Council will do all in its power to make the present system of broadcasting effective in America, and deplors any move calculated to destroy it, the Council has determined that children, as future consumers, should develop high standards of buying ethics.

"Working in cooperation with the Council, broadcasters, sponsors and advertisers will find that in radio, as in other industries, the principle of adhering to the highest standards of good taste and ethical integrity will make for better business.

"The Council is prepared to undertake practical measures for the attainment of this end, even to encouraging the purchase of products of sponsors providing approved children's programs."

In order to coordinate all efforts for improving children's programs in line with the policy of the NAB Code, the following vice-chairmen serve under Mrs. Milligan as chairman: Mary Gould Davis, American Library Association, public libraries and librarians; Miss Rita Hochheimer, National Education Association, schools; Dr. Alice V. Keliher, Progressive Education Association, teachers' organizations; Mrs. Dorothy Lewis, New England Colony of Women, patriotic women's organizations; Mrs. Dorothy L. MacFadden, founder-director of Junior Programs, Inc., children's program producers; Mrs. Nathaniel Singer, United Parents' Associations, parents' groups.

The Code Committee is happy to report that several agencies and advertisers have already availed themselves of the benefits of this influential consultative service.

### EDUCATIONAL RECORD EXHIBIT

The deadline is near for entries in the Fourth American Exhibition of Recordings of Educational Radio Programs. Records must be in the hands of I. Keith Tyler at Ohio State University, Columbus, Ohio, not later than March 15. The exhibition is held at the university in connection with the Eleventh Institute for Education by Radio, scheduled this year for April 29 to May 1.

Two general classes of records may be entered in the exhibition: those intended for adult listening and programs intended for the use of children, either in or out of school.

Adult programs are classified also by type of presentation. Lectures, talks and speeches will be judged together, with demonstration and participation programs

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in another class. A third division includes dialog, round table conversation, interview, debate and question and answer programs. All forms of dramatization are grouped together in a fourth classification.

School broadcasts are classified as follows: (1) any type of out-of-school program for children of any age; (2) programs intended for use in school, in Grades one to three; (3) In-school programs aimed at Grades four to six, and (4) programs intended for use in junior and senior high schools.

The entry fee is one dollar per program.

### FDR PRAISES RADIO

President Roosevelt said this week that radio was making an "ever-increasing contribution . . . to a better understanding of public affairs."

This statement was included in a letter to William S. Paley, CBS president, congratulating Columbia on completion of a new 50,000 watt transmitter for WJSV.

## Pepper, Bailey, Introduce New Radio Bills

On Monday, Senator Pepper (D-Fla) introduced a bill (S. 3512) to amend section 309 of the Communications Act by adding a requirement that no station license shall be granted, modified or renewed until after four weeks' notice published by the FCC. A hearing on the applications must be held by the Commission if any person so requests, and an opportunity to be heard afforded to "all interested persons."

Senator Bailey (D-NC) on Tuesday introduced a bill (S. 3515) to amend the Communications Act in order to preserve and protect liberty of expression in radio communication. It differs from the bill (H. R. 8509) introduced by Representative Ditter (R-Penna) (NAB REPORTS, Feb. 23, 1940, p. 4048) only in providing a ten

year maximum term for licenses instead of five—both provide three-year minimums—and in limiting the President's powers to take over broadcast stations to actual war in which the United States is engaged. The Ditter bill would give this power to the President also in event of armed insurrection equivalent to war. Section 4 of this bill and Section 4 of the Ditter bill seek to accomplish the same result as the Pepper bill.

The NAB is carefully studying all this proposed legislation. It is generally understood, however, that no bills of this kind will come to a vote at this session.

Here are the bills:

76TH CONGRESS  
3D SESSION  
S. 3512

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1940

Mr. PEPPER introduced the following bill; which was read twice and referred to the Committee on Interstate Commerce

A BILL

To provide for public hearings on applications for licenses under the Communications Act of 1934.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309 of the Communications Act of 1934, as amended, is amended by adding at the end thereof the following new subsection:*

"(c) No application for a station license or for the renewal or modification of a station license shall be approved prior to the expiration of four weeks after the first notice of such application is published. The Commission shall cause such notice to be published once a week for four consecutive weeks in a newspaper of general circulation in the town or city in which the station is or is to be located, or if it is not located or is not to be located in a town or city, in a newspaper of general circulation in the county in which it is or is to be located. The expense incident to such publication shall be paid for by the applicant at the time such application is filed. Such notice shall contain a statement that objections in writing to any such application may be filed with the Commission prior to the expiration of the four weeks' publication period and that a public hearing will be held if a request is made therefor prior to the expiration of such period. If any person so requests a hearing on any such application, the Commission shall hold a public hearing in such town, city, or county or in the District of Columbia, as the Commission may determine. Notice of such hearing, including the time and place thereof, shall be given to the applicant and to any such person requesting a hearing, and an opportunity to be heard at such hearing shall be afforded to all interested persons. Such hearing may be held by the Commission, by an individual commissioner, or by any officer or employee of the Commission designated by it for that purpose."

76TH CONGRESS  
3D SESSION  
S. 3515

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, MARCH 4), 1940

Mr. BAILEY introduced the following bill; which was read twice and referred to the Committee on Interstate Commerce

A BILL

To amend the Communications Act of 1934 in order to preserve and protect liberty of expression in radio communication.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section*

March 8, 1940

301 of the Communications Act of 1934 is hereby amended by inserting after the words "It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission" the words "To preserve to radio communication, and to persons subject to the provisions of this Act, freedom from governmental abridgment of, or interference with, liberty of expression, including freedom of speech and of the press, and other rights guaranteed under the Constitution of the United States and the amendments thereof".

SEC. 2. Section 305 (a) of the Communications Act of 1934 is hereby amended by adding thereto the following:

"The President may not, however either permanently or temporarily assign a frequency to any Government station or class of Government stations if the use of such assignment will make impossible the further operation of, or cause objectionable interference to, any radio station duly licensed or authorized to be constructed by the Commission under this Act unless (a) another frequency assignment of substantially equal or superior desirability is made immediately available for use by such licensed or authorized radio station or (b) the Commission, after notice and hearing pursuant to the procedure prescribed in section 312 (b) of this Act, shall have determined that public interest, convenience, or necessity will be promoted by such assignment and shall have entered an order modifying the permit or license accordingly: *Provided, however,* That nothing in this section shall be construed to limit the powers conferred on the President by this Act during the continuance of a war in which the United States is engaged."

SEC. 3. Section 307 (d) of the Communications Act of 1934 is hereby amended to read as follows:

"No license granted for the operation of any class of station shall be for a longer term than ten years, and any license granted may be revoked for cause as hereinafter provided. No license granted for the operation of a station regularly engaged in broadcasting (other than a station of experimental, auxiliary, or temporary character) shall be for a term less than three years. 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 ten years, and, in the case of stations regularly engaged in broadcasting, not less than three years."

SEC. 4. Section 309 (a) of the Communications Act of 1934 is hereby amended to read as follows:

"If upon examination of any application for a construction permit, for a station license, or for the renewal or modification of a construction permit or a station license and the securing of full information with respect thereto the Commission shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance of such construction permit or station license, or of such renewal or modification thereof, in accordance with said finding. In the event the Commission does not reach such a decision with respect thereto, or in the event that the issuance of a construction permit or a station license or of any modification thereof would aggrieve or adversely affect the interests of the holder of any permit or license or any applicant therefor, the Commission shall notify the applicant and other interested parties, shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant and other interested parties an opportunity to be heard under such rules and regulations as it may prescribe."

SEC. 5. Section 312 (a) of the Communications Act of 1934 is hereby amended to read as follows:

"SEC. 312. (a) Any station license may be revoked for false statements either in the application or in the statement of fact which may be required by section 308 hereof, or because of conditions revealed by such statements of fact as may be required from time to time which would warrant the Commission in refusing to grant a license on an original application, or for failure to operate substantially as set forth in the license, or for violation of or failure to observe any of the restrictions and conditions of this Act or of any regulation of the Commission authorized by this Act or by a treaty ratified by the United States: *Provided, however,* That no such order of revocation shall be entered unless the Commission shall first have given the licensee written notice stating clearly and definitely the charges against the licensee and fixing a time and place for a hearing thereon, and shall have given the licensee an opportunity for hearing. Such hearing shall be held not less than fifteen days after service of such notice on the licensee, and the Commission shall sustain the burden of proving the truth of the charges."

Sec. 6. Section 326 of the Communications Act of 1934 is hereby amended by adding thereto the following:

"No construction permit or station license shall be revoked, modified, or otherwise adversely affected by any action of the Commission, and no application for construction permit, station license, renewal or modification of station license, or other instrument of authorization required or authorized by the Act shall be refused in whole or in part, because of the character or contents of any program or other communication transmitted or proposed to be transmitted by a radio station, unless such program or other communication contains matter expressly forbidden by specific provision of this Act or by regulation of the Commission authorized by this Act and then only after the licensee has been finally adjudged guilty by a Federal court of one or more violations of such provision or provisions and the offense is of so serious or repeated a nature as to show clearly that the licensee or applicant is not qualified in character to operate or to continue to operate a radio station."

SEC. 7. Section 606 (c) of the Communications Act of 1934 is hereby amended by adding thereto the following:

"Nothing in this section, however, shall be construed to modify or affect section 326 of this Act. No station regularly engaged in broadcasting shall be closed, nor shall its apparatus or equipment be removed, nor shall the use or control of any such station or of its apparatus or equipment by any department of the Government be authorized, in whole or in part because of the character or contents of any program or other communication transmitted or proposed to be transmitted by such station, or in order to permit the Government or any department or agency thereof to engage in or control broadcasting or otherwise to communicate with the public, or for any cause other than imperative military need for such radio-communication facilities on the part of the armed forces of the United States and then only upon proclamation by the President that there actually exists war in which the United States is engaged."

### NAB CHOOSES SALES MANAGERS' COMMITTEE FOR 1940

Neville Miller has announced the selection of a new Sales Managers' Committee of the NAB for 1940, under the national chairmanship of William R. Cline, Commercial Manager of WLS, Chicago.

The Committee consists of seventeen District Chairmen, one for each NAB District, appointed by the NAB Director in that District. Also chosen was a Steering Committee, consisting of both present and retiring National Chairmen, three District Chairmen and one other commercial manager, who will meet occasionally with Samuel J. Henry, Jr., of the Bureau of Radio Advertising and other NAB staff members, to discuss industry sales problems and the work of the recently organized bureau. Mr. Cline is expected to call a meeting, probably in Chicago, within the next few weeks.

The Steering Committee members are:

William R. Cline, WLS, Chicago, Ill., Chairman; Craig Lawrence, KSO, Des Moines, Iowa; Ellis Atteberry, KCKN, Kansas City, Kansas; Charles Caley, WMBD, Peoria, Illinois; Barney Lavin, WDAY, Fargo, North Dakota, and Owen Uridge, WJR, Detroit, Michigan.

The District Chairmen are as follows:

#### District

1. William Malo, WDRC, Hartford, Connecticut
2. Clifford M. Taylor, WBEN, Buffalo, New York
3. Lester W. Lindow, WCAE, Pittsburgh, Pennsylvania
4. John H. Dodge, WRC, Washington, D. C.
5. Maurice Coleman, WATL, Atlanta, Georgia
6. Vernon Anderson, WJBO, Baton Rouge, Louisiana
7. Edward Y. Flanigan, WSPD, Toledo, Ohio

8. Ford Billings, WOWO-WGL, Fort Wayne, Indiana
9. Charles Caley, WMBD, Peoria, Illinois
10. Karl Koerper, KMBC, Kansas City, Missouri
11. Barney Lavin, WDAY, Fargo, North Dakota
12. Ellis Atteberry, KCKN, Kansas City, Kansas
13. Sam Bennett, KGKO, Fort Worth, Texas
14. W. E. Wagstaff, KDYL, Salt Lake City, Utah
15. Wilt Gunzendorfer, KSRO, Santa Rosa, California
16. Wilbur Eickelberg, KHJ, Los Angeles, California
17. Loren B. Stone, KIRO, Seattle, Washington

### BUREAU OF RADIO ADVERTISING

The Bureau of Radio Advertising this week mailed an order blank, and sample copy of the most recent "Results from Radio" study, to all members who have not ordered their supply of these success stories. Releases to date cover department stores, laundries, miscellaneous, and furniture stores. Several new studies are now in production.

Stations are again earnestly requested to send in their orders, so that future printing requirements may be accurately gauged.

## Labor

### WAGE AND HOUR AMENDMENTS

Representative Kramer (D-Calif) has introduced a Wage and Hour Act amendment which would remove the restrictions on the working hours of some broadcasting employees. First, it would exempt from the overtime provisions all employees regularly paid \$50 or more a week, or \$200 or more a month (if paid on a monthly basis). Secondly, it would define "executive" and "professional." The "executive" definition would be about the same as that issued by the Administration, except that the salary qualification would be raised from \$30 to \$50 a week. It would also exempt assistant executives and administrators if they did no substantial amount of work of the same character as that performed by those under them. The "professional" definition would be slightly liberalized, but not sufficiently to exempt very many broadcasting employees.

Certain types of bonuses, for example, Christmas gifts and bonuses for being on time to work regularly, need not be included in regular wages for the purposes of computing overtime. Bonuses "computed on the basis of measured work," however, must be included.

The A. F. of L.'s campaign to stop Thurman Arnold from prosecuting labor unions under the Sherman Act is in full swing. At a federation mass meeting in Atlanta

last week, Joseph Padway, chief A. F. of L. counsel, said Arnold was in for "the damndest fight he ever had." At a meeting here early this week, building union leaders accused Arnold of having fascist ideas, and urged Congress to trim his sails.

The American Association of Advertising Agencies says that advertising agencies "do not, in the vast majority of cases, deduct from the pay of talent when they handle talent." The Four-A's took exception to a statement on page 4033 of NAB REPORTS.

### SAMPLE WAGE AND HOUR RECORD FORM

(Suggested by Wage and Hour Division, U. S. Department of Labor)

Work Week Ended..... 19..... Date of Payment..... 19.....

Name	Hours of Work							Total Hours	Regular Rate of Pay <sup>1</sup>	Earnings at Regular Rate for Total Hours Worked	Extra for Overtime	Total	Deductions		Total Cash Wages Paid
	M	T	W	T	F	S	S						Soc. Sec. Tax	Other	
1. John Jones	8	8	8	8	8	-	-	40	\$1 per hour (\$40 for 40 hour week)	\$40.00	....	\$40.00	\$ .40	....	\$39.60
2. Jim Smith	10	8	8	6	8	10	-	50	\$1 per hour (\$50 by custom for 50 hour week)	\$50.00	\$4.00	\$54.00	\$ .54	....	\$53.46

<sup>1</sup> If the employee is hired on any other basis than a straight hourly rate, this column should include a brief explanation of how the "regular rate" is arrived at.

## Legislation

### FEDERAL LEGISLATION

S. 3512 (Pepper, D-Fla) COMMUNICATIONS ACT—To provide for public hearings on applications for licenses under the Communications Act of 1934. Referred to Committee on Interstate Commerce.

S. 3515 (Bailey, D-NC) TO AMEND THE COMMUNICATIONS ACT OF 1934 IN ORDER TO PRESERVE AND PROTECT LIBERTY OF EXPRESSION IN RADIO COMMUNICATION—Prohibits Federal Communications Commission's taking adverse action for alleged program offenses; establishes for broadcast stations minimum license period of 3 years and maximum of 10 years; requires hearing where the Commission's action would adversely affect the interest of any holder of a license or any applicant therefor; requires a hearing prior to any order of revocation of license; limits powers of the President in time of peace and war. Referred to Committee on Interstate Commerce.

### STATE LEGISLATION

#### KENTUCKY:

H. 289 (Waterfield) LIBEL—An act relating to libel and to actions for libel. Provides that punitive damages may be recovered only when the plaintiff proves malice in fact and that retraction or correction has been requested and refused. Referred to Judiciary Committee.

#### KENTUCKY:

H. 553 (Ennis) LOTTERIES—An act relating to legalizing lotteries to finance and pay old age pensions and needy blind. Referred to Rules Committee.

#### NEW JERSEY:

A. 264 (Herbert) MUSIC COPYRIGHTS—MONOPOLY LICENSES—To license and regulate pools and monopolies selling rights to use copyrighted musical works. Referred to Corporations Committee.

#### NEW YORK:

A. 1821 (Gugino) LEVY AND EXECUTION—EXEMPTIONS—Exempts from levy and execution a wedding ring, engagement ring, man's watch valued at not more than \$35, radio valued at not more than \$25, automobile valued at not more than \$200

when used for business and motor truck used in connection with the earning of a livelihood and valued at not more than \$200. Referred to Codes Committee.

#### NEW YORK:

A. 1878 (Goldstein) LIBEL AND SLANDER—Includes in definition of libel, malicious publications which expose persons to hatred, contempt or ridicule by reason of race, color, religion or manner of worship or causes them to be shunned or avoided; defines slander; double penalty is imposed on a member of National guard, police department, state trooper or person in civil service for such offenses. Referred to Codes Committee.

#### NEW YORK:

A. 1995 (Goldberg) (Same as S. 445) RADIO RECORDINGS—Prohibits the recording or offering for sale a recording of any radio broadcast without consent of performer or the person broadcasting same, violation being made larceny. Referred to Codes Committee.

#### NEW YORK:

S. 1603 (Mahoney) (Same as A. 1821) LEVY AND EXECUTION—EXEMPTIONS—Exempts from levy and execution a wedding ring, engagement ring, watch valued at more than \$35, radio valued at not more than \$25, automobile valued at not more than \$200 when used for business and motor truck used in connection with the earnings of a livelihood and valued at not more than \$200. Referred to Codes Committee.

#### RHODE ISLAND:

H. 801 (DiSandro) LOTTERIES—Proposing an amendment to the constitution of the state. Would allow lotteries for relief purposes only. Referred to Committee on Special Legislation.

## E. M. MATHEWS

An individual, E. M. Mathews, has called at several stations representing himself as an inspector of the Federal Communications Commission Field Division. He has offered to sell supplies and equipment. The FCC Field Division has had numerous complaints concerning the activities of this person, and advises that he is not connected with the FCC.

All members of the Field Division of the FCC can

properly identify themselves. They have a certificate showing their name and address, with a photograph attached with the seal of the Secretary of the Commission embossed over the photograph. In addition they have a badge which they are required to wear while on active duty and it is suggested that if the individual claiming to be an inspector of the FCC is not known personally as such to the Station Manager that he require proper identification and be satisfied that the person representing himself is properly authorized before allowing an inspection of his books, records or equipment.

This notice is being placed in the REPORTS at the request of the Field Supervisor's Office.

## FCC MAILBAG

The FCC has issued the following release on letters it has received recently:

From Pittsburgh comes a letter asking the Federal Communications Commission to bar all "Confucius Says" jokes from the air. However, the Commission does not have authority under the law to direct radio station licensees to broadcast or to refrain from broadcasting such programs.

A New York man complains that a local station declined to give him time on the air to broadcast a particular speech. Under the Communications Act, broadcast station licensees are not deemed to be common carriers and they may therefore, with the exception of certain broadcasts by legally qualified candidates for public office, refuse to accept material offered.

Another New Yorker inquires whether it will be permissible to broadcast a particular program. The Commission does not have authority to censor programs, and it is not the policy of the Commission to render such advance opinions. It is the duty of each station to determine whether the broadcasting of a certain program will be in the public interest and in accordance with the law.

A Shickshinny, Pa., woman charges that a certain station broadcast two musical compositions similar to those composed by herself. This is a matter of private concern between the woman and the station, and the Commission has no jurisdiction.

Several letters imply that the Commission has "ruled" various persons off the air. The Commission has entered no order denying any individual the right to broadcast, nor would it have authority under its statute to do so.

A McGuffy, Ohio, firm inquires if it can use telegraph facilities in connection with the proposed gift of a carload of onions to the holder of a lucky number. Though the Communications Act prohibits broadcast of "any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance," the Act does not contain a similar prohibition with respect to the use of wire facilities of common carriers engaged in communication service.

A Purdin, Mo., letter inquires as to the cost of construction permit and license for a broadcast station, also for radio operator. The Commission makes no charge for these authorities. Likewise, the Commission advises a London, Ohio, inquirer that no Federal license is required to cover the ownership of radio receivers in the United States.

A Jerome, Ariz., writer asks the Commission to recommend a radio receiver. The Commission does not maintain facilities for the testing of radio receiving equipment and is not in a position to advise with respect to the relative merits of receivers of different manufacture.

Regarding Government station assignments, an inquirer is advised that the Commission merely assigns blocks of frequencies, as well as certain call letters, to the Government departments, and that these facilities are in turn allocated various activities at the discretion of the department having jurisdiction.

A New York corporation is advised that although vessels of Philippine registry fly the United States flag, they are registered in the Philippines, and their radio equipment is licensed by the Philippine authorities. Various sections of the Communications Act exclude the Commission from jurisdiction in those islands.

Bethany College makes application for modified license for amateur station W8PME with a view to making it a memorial to Amos Dolbear in recognition of his radio pioneering and work at that college.

## FCC WORK ASSIGNMENTS

FCC has announced that the work, business and functions of the Commission for the month of March have been assigned as follows:

Commissioner Thompson	Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.
Commissioner Walker	Designated to hear and determine, order, certify, report or otherwise act upon; (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of final order made by the Commission; <i>provided</i> , however, that such matters shall be handled in accordance with the provisions of Sections 1,251 and 1,256, inclusive, of the Commission's Rules of Practice and Procedure; (b) the designation pursuant to the provisions of Sections 1,231 to 1,232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings.

## WITNESSES FOR FM HEARING

Following named parties have requested time at the informal engineering hearing to be held before the FCC beginning Monday, March 18:

Edwin H. Armstrong, Alpine, N. J.  
Columbia Broadcasting System, Inc., New York City  
Commercial Radio Equipment Co., Kansas City, Mo.  
FM Broadcasters, Inc., New York City  
International Business Machines Corp., New York City  
William G. H. Finch, New York City  
John V. L. Hogan, New York City  
Jansky & Bailey, Washington, D. C.  
McNary & Chambers, Bethesda, Md.  
Muzak Corporation, New York City  
National Life & Accident Insurance Co., Inc., Nashville, Tenn.  
Carman R. Runyon, Jr., Yonkers, N. Y.  
Radio Pictures, Inc., New York City  
Radio Corporation of America, New York City  
Stromberg-Carlson Telephone Mfg. Co., Rochester, N. Y.  
WDRC, Inc., Meriden, Conn.  
Westinghouse Electric & Manufacturing Co., East Springfield, Mass.  
Zenith Radio Corp., Chicago  
Association of State Foresters; (States of Pennsylvania, New Jersey, and New York), and Northeastern States Forest Protection Radio Association.  
Brown Bay Phones, San Francisco  
Department of Forests and Waters, State of Pennsylvania  
Office of Education, Federal Security Agency  
Mackay Radio & Telegraph Co., New York  
National Association of Educational Broadcasters  
National Congress of Parents and Teachers, Chicago  
National Committee on Education by Radio, New York City  
National Council of Chief State School Officers, Atlanta  
National Education Association, Washington  
Ohio State University, Columbus.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases during the week beginning Monday, March 11. They are subject to change.

### Monday, March 11

NEW—Lookout Mountain Company of Georgia, Lookout Mountain, Ga.—C. P., 1370 kc., 250 watts, unlimited time.

Hearing to Be Held Before Commissioner George Henry Payne, in the County Probate and Commissioners Court Rooms, Dallas, Texas

KRBA—Red Lands Broadcasting Assn. (Ben T. Wilson, Pres.), Lufkin, Tex.—In re: Revocation of station license of KRBA.

### Tuesday, March 12

Hearing to Be Held Before Commissioner George Henry Payne, in the County Probate and Commissioners Court Rooms, Dallas, Texas

KSAM—Sam Houston Broadcasting Assn. (H. G. Webster, Pres.), Huntsville, Tex.—In re: Revocation of station license of KSAM.

### Wednesday, March 13

Hearing to Be Held Before Commissioner George Henry Payne, in the County Probate and Commissioners Court Rooms, Dallas, Texas

KAND—Navarro Broadcasting Assn. (J. C. West, Pres.), Corsicana, Tex.—In re: Revocation of station license of KAND.

### Thursday, March 14

#### Oral Argument Before the Commission

Report No. B-75:

NEW—William C. Barnes and Jonas Weiland, tr/as Martinsville Broadcasting Co., Martinsville, Va.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

NEW—J. R. Walker, S. S. Walker and C. F. Walker, co-partners, tr/as Patrick Henry Broadcasting Co., Martinsville, Va.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

### Thursday, March 14

Hearing to Be Held Before Commissioner George Henry Payne, in the County Probate and Commissioners Court Rooms, Dallas, Texas

KGKB—East Texas Broadcasting Co., Tyler, Tex.—In re: Revocation of station license of KGKB.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

#### April 1

NEW—E. E. Krebsbach, Miles City, Mont.—C. P., 1310 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Star Printing Co., Miles City, Mont.—C. P., 1310 kc., 250 watts, unlimited time.

#### April 3

NEW—Harold Thomas, Bridgeport, Conn.—C. P., 1420 kc., 250 watts, unlimited time.

March 8, 1940

April 4

(Consolidated Hearing)

NEW—J. D. Falvey, Ottumwa, Iowa.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Louis R. Spiwak and Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

April 15

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

There was no regular meeting of the Commission this week.

### MISCELLANEOUS

WWRL—Long Island Broadcasting Co., Woodside, Long Island, N. Y.—Adopted order extending effective date of Provision (3) of Commission order of December 5, 1938, till 30 days from February 29, 1940, thus continuing temporary authority to station WWRL to operate during the hours formerly used by station WMBQ.

WCLA—Larus & Brother Co., Inc., Portable-Mobile (area of Richmond, Va.)—Granted license to cover construction permit as modified for new relay broadcast station, frequencies 1646, 2090, 2190, 2830 kc., power 40 watts.

WFDF—Flint Broadcasting Co., Flint, Mich., and Thumb Broadcasting Co., Brown City, Mich.—Continued for two weeks petition to intervene of WFDF, Flint Broadcasting Co., and opposition with proposals of alternate relief of Thumb Broadcasting Co., in the hearing of Thumb Broadcasting Co., Brown City, Mich., application for construction permit for new station to operate on 880 kc., 250 watts, daytime.

WSB—Atlanta Journal Co., Atlanta, Ga.—Dismissed without prejudice to the filing of a proper petition to enlarge the issues, the petition to intervene in the hearing of KXL Broadcasters (KXL), Portland, Ore., on the application for construction permit to change frequency from 1420 kc., 250 watts, shares KBPS, to 740 kc., 10 KW night, 10 KW local sunset, limited time, directional antenna for day and night.

WSB—Atlanta Journal Co., Atlanta, Ga., and Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Dismissed without prejudice to the filing of a proper petition to enlarge the issues, the petition to intervene of WSB and the opposition thereto of McTammany and Bates, in the hearing of Thomas R. McTammany and William H. Bates, Jr. (KTRB), Modesto, Calif., application for construction permit to change power from 250 watts, daytime only, to 1 KW night, 1 KW local sunset, limited to WSB, Atlanta, Ga., using 740 kc.

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (for main transmitter).

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (for auxiliary transmitter).

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

Tulare-Kings Counties Radio Associates, Portable-Mobile (area of Visalia, Calif.)—Granted construction permit for new relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., power 25 watts.

KUOA, Inc., Portable-Mobile (area of Siloam Springs, Ark.)—Granted construction permit for new relay broadcast station, frequencies 30820, 33740, 35820, 37980 kc., power 7.5 watts.

Isle of Dreams Broadcasting Corp., Portable-Mobile (area of

- Miami, Fla.)—Granted construction permit for new relay broadcast station, frequencies 1606, 2022, 2102, 2758 kc., power 2 watts; also granted license to cover above construction permit.
- WBAR—Bamberger Broadcasting Service, Inc., Portable-Mobile (area of Newark, N. J.)—Granted license to cover construction permit for new relay broadcast station, frequencies 31620, 35260, 37340, 39620 kc., power .2 watt.
- WDAS—Bamberger Broadcasting Service, Inc., Portable-Mobile (area of Newark, N. J.)—Granted license to cover construction permit for new relay broadcast station, frequencies 31620, 35260, 37340, 39620 kc., power .2 watt.
- WENN—WPTF Radio Co., Portable-Mobile (area of Raleigh, N. C.)—Granted license to cover construction permit for changes in equipment.
- WOAI—Southland Industries, Inc., San Antonio, Tex.—Granted construction permit to make changes in equipment.
- WHAS—The Louisville Times Co., Louisville, Ky.—Granted modification of license to change corporate name of licensee from The Louisville Times Co. to Courier-Journal and Louisville Times Co.
- W9XAZ—The Journal Company (The Milwaukee Journal), Milwaukee, Wis.—Granted license to cover construction permit as modified for reinstatement of station, frequency 42260 kc., power 500 watts, granted upon an experimental basis only, conditionally.
- WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- KSAC—Kansas State College of Agriculture & Applied Science, Manhattan, Kans.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WWRL—Long Island Broadcasting Corp., Woodside, Long Island, N. Y.—Granted motion for extension of time to March 12 to file proposed findings of fact and conclusions in the matters of Lillian E. Kiefer, Metropolitan Broadcasting Corp. (WMBQ), Long Island Broadcasting Corp. (WWRL), Paul J. Gollhofer, and Arthur Faske (WCNW), all of Brooklyn, N. Y.
- W1XSO—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted license to cover construction permit for new frequency broadcast station; frequency 43200 kc.; power 1000 watts; granted upon an experimental basis only, conditionally.
- W9XWT—The Louisville Times Co., Eastwood, Ky.—Granted license to cover construction permit as modified for new facsimile broadcast station; frequency 25250 kc.; power 500 watts; granted upon an experimental basis only, conditionally.
- WNCU—National Broadcasting Co., Inc., Portable-Mobile (area of Washington, D. C.)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; power 25 watts.
- WNEP—National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; power 25 watts.
- L & M Broadcasting Co., Ottumwa, Iowa.—Granted motion for continuance of hearings of Louis R. Spiwak and Maurice R. Spiwak, d/b as L & M Broadcasting Co., and of J. D. Falvey, both of Ottumwa, Iowa; new date to be fixed by the Office of the Secretary.
- WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Continued without date, on Commission's own motion, the hearing on the application for renewal of license of WTAL scheduled for March 12, 1940.
- The Mayflower Broadcasting Corp., Boston, Mass.—Extended time for the filing of proposed findings of fact in Docket No. 5618 to April 6, 1940.
- The Yankee Network, Inc., Boston, Mass.—Extended time for the filing of proposed findings of fact in Docket No. 5640 to April 6, 1940.
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 9:00 a. m. to 11:00 a. m. and from 2:00 p. m. to 6:00 p. m. AST on March 10, 17, 24, and 31, 1940, in order to broadcast a series of semi-pro baseball games only.
- WNEL—Juan Piza, San Juan, P. R.—Granted special temporary authority to rebroadcast commercial programs to be received from International Broadcast Stations WNBI and WBCA over Station WNEL, as sustaining programs, for the period ending in no event later than March 11, 1940.
- WMOB—S. B. Quiglev, Mobile, Ala.—Granted special temporary authority to operate from local sunset (March 6:00 p. m. CST) to 10:00 p. m. CST on March 9 and 11, 1940, in order to broadcast election returns and matters incident thereto.
- WDGY—Dr. George W. Young, Minneapolis, Minn.—Granted special temporary authority to operate from 8:00 p. m. to 9:00 p. m. CST on April 18, 1940, in order to broadcast a lecture by James G. Rowell of Kansas City.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with Station KTHS on 1060 kc., from 9:00 p. m. to 10:00 p. m. EST on March 7, 1940, in order to broadcast a meeting of the Young Democrats Club of Baltimore County.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from 7:15 p. m. to 11:00 p. m. CST on March 8 and 9, 1940, in order to broadcast the Regional High School Basketball Tournament only.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from local sunset at Abilene, Kans. (March, 6:30 p. m. CST), to 8:30 p. m. CST on March 11, 1940, in order to broadcast political talks of various candidates for public office.
- WOI—Iowa State College of Agriculture and Mechanical Arts, Ames, Iowa.—Granted special temporary authority to operate from 7:45 p. m. to 10:30 p. m. CST on March 16, 1940, instead of from 7:00 p. m. to 9:45 p. m. CST, as authorized by grant of February 9, 1940, in order to broadcast basketball games only.
- WAGM—Aroostook Broadcasting Corp., Presque Isle, Maine.—Granted special temporary authority to operate from 8:00 p. m. to 10:00 p. m. EST on March 9, 1940, in order to broadcast the State Championship basketball game only.
- KIIS—Houston Printing Corp., Houston, Tex.—Granted special temporary authority to use Relay Broadcast Station KIIS on March 2, 1940, in order to relay broadcast events incident to the celebration of Texas Independence Day to Radio Station KPRC.
- Martinsville Broadcasting Co., Martinsville, Va., and Patrick Henry Broadcasting Co., Martinsville, Va.—Postponed oral argument scheduled for March 7, 1940, in re applications for construction permits, and directed that said oral arguments be held on March 14, 1940. (Dockets Nos. 5425 and 5497.)
- KALE—KALE, Inc., Portland, Ore.—Granted modification of construction permit for increase in power from 1 KW to 1 KW night, 5 KW day; new transmitter, changes in antenna and move of transmitter, extending completion date from March 10 to May 1, 1940.
- KEJP—National Broadcasting Co., Inc., Portable-Mobile (area of San Francisco)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; 25 watts; to be used with applicant's broadcast stations KGO and KPO.
- WNEQ—National Broadcasting Co., Inc., Portable-Mobile (area of Cleveland, Ohio)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; 0.25 watts, and to be used with applicant's broadcast station WTAM.
- WNJC—National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; 0.25 watts, and to be used with applicant's stations WENR and WMAQ, Chicago.
- WNKF—National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; 2 watts, and to be used with applicant's broadcast stations WENR and WMAQ, Chicago.
- KEJQ—National Broadcasting Co., Inc., Portable-Mobile (area of Denver, Colo.)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; 0.25 watts, and to be used with applicant's station KOA.
- WNTJ—National Broadcasting Co., Inc., Portable-Mobile (area of Cleveland, Ohio)—Granted license to cover construction permit for new relay broadcast station; frequencies 31220, 35620, 37020, 39260 kc.; 25 watts; to be used with applicant's station WTAM, Cleveland.

APPLICATIONS FILED AT FCC

560 Kilocycles

WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted special temporary authority to operate from 5:45 to 6:30 p. m., EST, on March 16, in order to broadcast an Evacuation Day Parade.

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Granted license to cover construction permit for increase in power from 100 watts night, 250 watts day to 250 watts day and night.

KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—Granted license to use formerly licensed Western Electric, Type D-94995 transmitter for auxiliary purposes only (1130 kc., 50 KW, auxiliary purposes only).

KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—Granted license to cover construction permit for installation of new transmitter.

WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—Granted license to cover construction permit for authority to use old RCA 250-W transmitter as auxiliary transmitter for emergency use only, at new site (1500 kc., 250 watts power, auxiliary purposes only).

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Granted modification of construction permit for new broadcast station for approval of antenna, transmitter and studio sites at Bay and Weiss Sts., Saginaw, Mich., and change in type of transmitter.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted authority to determine operating power of main transmitter by direct measurement of antenna input in compliance with Section 3.54.

KBIX—Oklahoma Press Publishing Co., Muskogee, Okla.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WJRD—James R. Doss, Jr., Tuscaloosa, Ala.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

KALB—Alexandria Broadcasting Co., Inc., Alexandria, Va.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

KSTP—National Battery Broadcasting Co., St. Paul, Minn.—Granted modification of license to change corporate name from National Battery Broadcasting Co. to KSTP, Inc.

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Granted modification of license to move studio from R.F.D., Fort Dodge, Iowa, to Warden Bldg., Fort Dodge, Iowa.

KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted special temporary authority to operate on 1040 kc. from 7:25 p. m. to 9 p. m., PST, on March 8, 9, and 11, 1940, instead of March 15, 16, and 18, 1940, as authorized by grant of February 24, 1940, in order to broadcast basketball games only.

WLW—The Crosley Corp., Cincinnati, Ohio.—Granted modification of construction permit for equipment changes, for extension of completion date from April 22, 1940, to October 22, 1940.

W6XAO—Don Lee Broadcasting System, Los Angeles, Calif.—Granted modification of construction permit for move of transmitter and specify frequencies in accordance with new rules, for extension of commencement date from September 30, 1939, to March 31, 1940, and completion from March 31, 1940, to September 30, 1940; granted upon an experimental basis only, conditionally.

KXL—KXL Broadcasters, Portland, Ore.; KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Granted petition of KXL Broadcasters for consolidation of applications for construction permits, and consent of McTammany and Bates thereto.

KIOA-KAIE-KABE—National Battery Broadcasting Co., Portable-Mobile (area of St. Paul, Minn.)—Granted modification of license to change name to KSTP, Inc.

KADA—C. C. Morris, Ada, Okla.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WCOU—Twin City Broadcasting Co., Inc., Lewiston, Maine.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WKNY—Kingston Broadcasting Corp., Kingston, N. Y.—Granted license to cover construction permit for equipment changes, increase in power from 100 to 250 watts, and change in hours of operation; frequency 1500 kc., 250 watts, unlimited time.

KSFO—The Associated Broadcasters, Inc., San Francisco, Calif.—Construction permit to change frequency from 560 kc. to 740 kc.; increase power from 1 KW, 5 KW day, to 50 KW day and night; move transmitter from approximately southeast corner Seawall Lot No. 344, San Francisco, Calif., to 2½ miles southwest of Alvarado, Calif.; install new equipment and directional antenna for day and night use.

630 Kilocycles

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Construction permit to install new transmitter and directional antenna for night use; change frequency from 630 kc. to 1250 kc., power from 500 watts and 1 KW, to 1 KW night and 5 KW day; change time from simultaneous day, shares with KFRU night, to unlimited; move transmitter from 10 miles north of Evansville, Ind., on U. S. Highway No. 41, to near Evansville, Ind. (contingent on KXOK and KFRU). Amended: changes in directional antenna.

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Modification of construction permit (B1-MP-831) for changes in equipment, changes in directional antenna, and increase in power, requesting extend commencement date to 30 days after grant and completion date 90 days thereafter, and changes in directional antenna.

850 Kilocycles

WKAR—Michigan State College, East Lansing, Mich.—Construction permit for reinstatement of construction permit (B2-P-1767) as modified for new transmitter, changes in antenna, and increase in power and move of transmitter.

1020 Kilocycles

WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Modification of license to change hours of operation from daytime to 5 a. m. to local sunset.

1040 Kilocycles

NEW—Mid-America Broadcasting Corporation, Louisville, Ky.—Construction permit for new broadcast station to be operated on 1040 kc., 1 KW, 5 KW day, unlimited time. Use directional antenna day and night. Amended to specify transmitter site as 1½ miles north-northeast of New Albany, Ind.

1080 Kilocycles

WMBI—The Moody Bible Institute of Chicago, Chicago, Ill.—Modification of license to change hours of operation from limited, shares with WCBD, to limited time only, contingent on WCBD going to new frequency. Amended to request limited WBT and KFAB, contingent on KFAB going to 1080 kc.

1100 Kilocycles

WOV—Greater New York Broadcasting Corporation, New York, N. Y.—License to cover construction permit B1-P-2198, for a new station.

1120 Kilocycles

NEW—Robert V. Lee, Bradenton, Fla.—Construction permit for a new station on 1120 kc., 250 watts, unlimited time. Request Class IV Station.

1180 Kilocycles

WDGY—Dr. George W. Young, Minneapolis, Minn.—Construction permit to install directional antenna for night use; increase power from 1 KW, 5 KW day, to 5 KW, 10 KW day; change in hours of operation from limited to unlimited time; change frequency from 1180 kc. to 1100 kc.; changes in equipment; move transmitter from Wayzate Blvd. and Louisiana Ave., Minneapolis, Minn., to Richfield Twp., Minn. Amended to make changes in transmitting equipment.

### 1200 Kilocycles

- WJRD—James R. Doss, Jr., Tuscaloosa, Ala.—Authority to determine operating power by direct measurement of antenna power.
- KADA—C. C. Morris, Ada, Okla.—Authority to determine operating power by direct measurement of antenna power.
- WBAB—Press Union Publishing Co., Atlantic City, N. J.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.
- NEW—Dalton Broadcasting Corporation, Dalton, Ga.—Construction permit for a new broadcast station to be operated on 1200 kc., 250 watts, unlimited.

### 1210 Kilocycles

- NEW—Grady Lee Hall, Bethel, Ala.—Construction permit for a new station on 1210 kc., 100 watts, unlimited time, transmitter and studio at U. S. 31 Highway, Bethel, Ala. (Sections 15c, 15d, 19, 21, 22, 24, 25, 28dl, 28d2, 30, 33a and jurat.)
- WHAI—John W. Haigis, Greenfield, Mass.—Authority to determine operating power by direct measurement of antenna power.
- NEW—John Memolo, Wilkes-Barre, Pa.—Construction permit for a new broadcast station to be operated on 1210 kc., 250 watts, unlimited time. Facilities of WBAX if WBAX license revoked.
- WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—License to cover construction permit (B1-P-2639) for increase in power and equipment changes.
- KWAT—Midland National Life Insurance Co., Watertown, S. D.—Authority to determine operating power by direct measurement of antenna power.
- KWAT—Midland National Life Insurance Co., Watertown, S. D.—License to cover construction permit (B4-P-2614) as modified, for a new station.
- WCOU—Twin City Broadcasting Co., Inc., Lewiston, Maine.—Authority to determine operating power by direct measurement of antenna power.
- KWAT—Midland National Life Insurance Co., Watertown, S. D.—Modification of construction permit (B4-P-2614) for a new station requesting new transmitting equipment and changes in antenna.

### 1240 Kilocycles

- WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Construction permit to install directional antenna for night use, increase power from 1 KW; 5 KW day to 5 KW day and night. Amended: Re antenna.

### 1260 Kilocycles

- KGVO—Mosby's Inc., Missoula, Mont.—Authority to determine operating power by direct measurement of antenna power.

### 1300 Kilocycles

- WLWL—Independent Merchants Broadcasting Co., St. Paul, Minn.—Modification of construction permit (B4-P-2482) for a new station, requesting approval of transmitter site at Myrtle Ave. & Emerald St., St. Paul, Minn.
- KFH—Radio Station KFH Co., Wichita, Kans.—Construction permit to increase power from 1 KW; 5 KW day to 5 KW day and night and install directional antenna for night use. Move transmitter 1.6 miles NW of present site. Amended: changes in directional antenna.

### 1310 Kilocycles

- NEW—Keys Broadcasting Co., Key West, Fla.—Construction permit for a new station on 1310 kc., 250 watts, unlimited time, studio at La Concha Bldg., Duval St. at Fleming, Key West, Fla., and transmitter at foot of Duval St., Key West, Fla.
- KSRO—The Press Democrat Publishing Co., Santa Rosa, Calif.—Voluntary assignment of license from The Press Democrat Publishing Company to Ernest L. Finley.
- WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Authority to determine operating power by direct measurement of antenna power.

### 1320 Kilocycles

- KRNT—Iowa Broadcasting Co., Des Moines, Iowa.—Construction permit to install new transmitter, move transmitter from North of Des Moines, Iowa to E. 36th Street and Granger Street, Des Moines, Iowa. Install directional antenna for night use and increase power from 1 KW; 5 KW-day to 5 KW day and night. Amended to give transmitter location as S. E. 22nd St. & Park Ave., Des Moines, Iowa.

### 1370 Kilocycles

- WATW—WJMS, Inc., Ashland, Wisc.—Modification of construction permit (B4-P-2160) for a new station, requesting approval of antenna and approval of new transmitter, approval of studio site at 212 Second St., West, Ashland, Wisconsin, and approval of transmitter at .8 miles South of corner Second St. & Ellis Ave. (Northland College Campus), Ashland, Wisconsin. Amended to change transmitter site to 24th St. & Highway No. 13, Ashland, Wisconsin.
- WJHO—Yetta G. Samford, C. S. Shealy, Thomas D. Samford, Jr., and J. H. Orr, d/b as Opelika-Auburn Broadcasting Company, Opelika, Ala.—Modification of construction permit (B3-P-2373) for a new station, requesting approval of transmitter and studio sites at 1400 Opelika-Auburn Road, Opelika, Ala., and installation of new equipment and approval of antenna.

### 1380 Kilocycles

- WNBC—State Broadcasting Corp., New Britain, Conn.—Authority to determine operating power by direct measurement of antenna power.

### 1400 Kilocycles

- WLTH—Voice of Brooklyn, Inc., New York, N. Y.—Construction permit to make changes in equipment, and increase power from 500 watts to 1 KW.

### 1420 Kilocycles

- KRLH—Clarence Scharbauer, Midland, Texas.—Construction permit to change frequency from 1420 kc. to 630 kc., increase power from 100 watts to 500 watts, 1 KW day, install new transmitter and vertical antenna. Move transmitter from 2125 W. Wall St., Midland, Texas, to west of City on U. S. 80, Midland, Texas, and change in class of station from IV to III-B.
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Construction permit to install new transmitter, directional antenna for night use, change frequency from 1420 to 590 kc., and increase power from 250 watts to 1 KW. Amended: Re: antenna.
- KBPS—Benson Polytechnic School, R. T. Stephens, Agent, Portland, Ore.—Authority to determine operating power by direct measurement of antenna power.
- NEW—Allegheny-Kiski Broadcasting Co., Inc., New Kensington, Pa.—Construction permit for a new station on 1420 kc., 100 watts, unlimited time, studio and transmitter to be determined, New Kensington, Pa.

### 1430 Kilocycles

- KSO—Iowa Broadcasting Co., Des Moines, Iowa.—Construction permit to install new transmitter, move transmitter from North of Des Moines, Iowa to E. 36th St. and Granger St., Des Moines, Iowa. Install directional antenna for night use and increase power from 1 KW; 5 KW-day to 5 KW day and night. Amended to give transmitter site as S. E. 22nd St., & Park Ave., Des Moines, Iowa.

### 1500 Kilocycles

- NEW—Caribbean Broadcasting Association, Inc., San Juan, P. R.—Construction permit to erect a new station on 1500 kc., 250 watts, unlimited time.
- WKNY—Kingston Broadcasting Corporation, Kingston, N. Y.—License to cover construction permit (B1-P-2651) for equipment changes, increase in power and change in hours of operation.
- NEW—George F. Meyer, Medford, Wis.—Construction permit for a new station on 1310 kc., 250 watts, daytime. Amended to

request 1500 kc., 100 watts, unlimited time, changes in equipment.

## MISCELLANEOUS

- W2XVP—City of New York, Municipal Broadcasting System, New York, N. Y.—License to cover construction permit (B1-PHB-53) as modified for a new high frequency station.
- WPIT—Westinghouse Electric & Manufacturing Co., Saxonburg, Pa.—Construction permit to move transmitter from 1.2 miles south of Saxonburg on Saxonburg-Culmerville Road, Pa., and studio from Grant Building, Pittsburgh, Pa., to Newport Road, Hull, Mass.; increase power from 40000 watts to 50000 watts, and make changes in equipment.
- NEW—Boston Edison Company, Boston, Mass.—Construction permit for new Class II television broadcast station, frequencies 78000-84000 kc., power 10 KW, A-3 and A-5 emission, located at 182 Tremont St., Boston, Mass.
- NEW—Central States Broadcasting Company, Omaha, Nebr.—Construction permit for a new relay broadcast station on 1606, 2022, 2102, 2758 kc., 2 watts, A-3 emission. Located: Portable-Mobile, area of Omaha, Nebr.
- NEW—Central States Broadcasting Company, Omaha, Nebr.—Construction permit relay broadcast station: 1606, 2022, 2102, 2758 kc., 10 watts, A-3 emission, area Omaha, Nebr., Portable-Mobile.
- NEW—Central States Broadcasting Company, Omaha, Nebr.—Construction permit for relay broadcast station on 1606, 2022, 2102, 2758 kc., 100 watts, A-3 emission. Located: Omaha, Nebr., area, Portable-Mobile.
- NEW—WKZO, Inc., Kalamazoo, Mich.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1 KW power, special emission. Site to be determined, Kalamazoo, Mich.
- NEW—WKZO, Inc., Grand Rapids, Mich.—Construction permit for a new high frequency broadcast station to be operated on 43400 kc., 1 KW power, special emission. To be located at or near Grand Rapids, Mich.
- WHMA—Harry M. Ayers, Anniston, Ala.—License to cover construction permit (B3-P-2548) for changes in equipment and increase in power (signature and jurat).
- NEW—Robert G. LeTourneau, Toccoa, Ga.—Construction permit for a new station on 1420 kc., 250 watts, unlimited time, to be located at Toccoa, Georgia. (Sections 15c, 25, 26, 28dl, 28d2, 29 and 33a.)
- NEW—Harry K. Hirashima, San Francisco, Calif.—Construction permit for new high frequency broadcast station on 43000 kc., 100 watts, special emission for frequency modulation, to be located at 2020 Pine St., San Francisco, Calif. (Filed on wrong form).
- NEW—The National Life and Accident Insurance Co., Inc., Nashville, Tenn.—Construction permit for a new high frequency broadcast station on 42800 kc., 1 KW, special emission, located at 1501 Western Ave., Nashville, Tenn.
- NEW—Everett L. Dillard, tr/as Commercial Radio Equipment Co., Kansas City, Mo.—Construction permit for new high frequency broadcast station, on 43200 kc., 500 watts, special emission, located at 7134-36 Main St., Kansas City, Missouri.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**A1 Viola Products**—Engaged in the interstate sale of a preparation for tightening dental plates, Garey Carr, trading as A1 Viola

Products, 1225 Keniston Ave., Los Angeles, has been served with a complaint alleging misrepresentation.

In the sale of his "A1 Viola Dental Plate Tightener and Reliner", the respondent is alleged to represent that use of his product constitutes a competent and effective method of tightening dental plates; that its use is certain to result in a perfect fit of such plates; that the product may be applied effectively by any person, and that no expert assistance is required in its use, when such are not the facts. (4045)

**Crown Distributing Company**—Alleging violation of the Federal Trade Commission Act, in the sale of merchandise by methods involving lottery, a complaint has been issued against Marvin Alan Koolish, trading as Crown Distributing Company and Crown Sales Company, 8742 Holloway Drive, Los Angeles.

Selling radios, cameras, pen and pencil sets and other articles, the respondent is alleged to furnish to operators and the purchasing public various devices and plans of merchandising which involve the operation of games of chance when the merchandise is sold to the ultimate consumer. Among the devices allegedly so distributed are push cards bearing feminine names. The purchaser selecting the name corresponding to that under a master seal allegedly receives, wholly by lot or chance, an article of merchandise as a prize. (4041)

**Crown Sales Company**—See Crown Distributing Company.

**A. & G. Karl Company**—Adolph Karl and Gertrude Karl, trading as A. & G. Karl Company, engaged in the manufacture, sale and distribution of a cosmetic preparation intended for application to the nails and designated "Never Break", formerly located at 179 North 7th Street, Newark, N. J., are charged in a complaint with misrepresentation.

In advertising circulars, folders and other printed matter, the complaint alleges, the respondents have represented, among other things, that their product is "The ONLY Nail-Root Food" and that "All Nails Need Calcium. This product is scientifically compounded of the finest oils and chemicals needed to correctly nourish, preserve and strengthen the nails."

Through use of these statements and others, the complaint alleges, the respondents have represented that the product supplies food and nourishment to the nails; that it will preserve and strengthen them, and that it is a tonic for the nails and will promote the health thereof.

The complaint declares that these representations are false and misleading; that the respondents' product is wholly incapable of supplying any food or nourishment to the nails, and that it possesses no therapeutic value and is without any substantial value except as a covering or polish for the nails. (4044)

**Conrad Schickerling Research Laboratory**—A complaint has been issued against Conrad Schickerling, an individual trading as Conrad Schickerling Research Laboratory, 589 Central Ave., Orange, N. J., alleging misrepresentation in the sale of incandescent lamps.

Among representations allegedly employed in the respondent's advertisements were that his "Mushroom Bulb Photo Flood Lamp", sometimes described as "Schickerling Full Sun Spectrum Photo Flood Krypton Lamp", is 8 amperes and has a lumen output of 38,000 lumens; that, as an exclusive feature not to be found in ordinary lamps, it contains a cooling coil between the wire and filament, and that it contains krypton gas, has a 10-hour peak performance, brings about color balance, and is protected by patent rights owned by the respondent, when such are not the facts. The complaint points out that the respondent's lamp does not contain krypton gas except for the small amount found in argon gas as used in incandescent lamps of this kind or type.

The respondent allegedly represented, among other things, that his "Schickerling Photo Enlarging Lamp" contains a cooling coil arrangement not to be found in ordinary lamps; that his "'1000 Flash' Photo-Flash-Flood Lamp" is a flash bulb and has Dufay color correction, and that his "'200 Flash' Photo Lamp" will flash 200 times and replace 200 ordinary flash light bulbs and is covered by patent, when such are not the facts. The respondent's advertised flash lamps are not flash lamps but primarily flood lamps, according to the complaint.

It is alleged that by use of the name "Conrad Schickerling Research Laboratory", the respondent represents that he owns, controls and directs a laboratory for research work in connection with the production of his lamps, when such is not a fact. (4042)

### CEASE AND DESIST ORDERS

The following cease and desist orders have been issued during the past week:

**Rathjen Bros., Inc.**—Prohibiting misleading use of the word "distilling" in the sale and distribution of liquor, an order to cease and desist has been issued against Rathjen Bros., Inc., 135 Berry St., San Francisco. The respondent, a rectifier and wholesaler, sells part of its liquor under the trade name United States Distilling Company.

Through the use of representations on labels and letterheads, including use of the word "Distilling" in its trade name, United States Distilling Company, the respondent is found to have represented its business as that of a distiller, and that its whiskies, gins and other alcoholic beverages were manufactured by it through the process of distillation from mash, wort or wash.

Findings are that the respondent is not a distiller and does not operate or control a place where alcoholic beverages are manufactured by a distillation process.

The order directs the respondent corporation to cease using the word "distilling" on labels, letterheads or any advertising matter, or in its corporate or trade name, unless it actually is engaged in the manufacture of alcoholic beverages by original and continuous distillation from mash, wort or wash, through continuous closed pipes and vessels, until the manufacture thereof is complete. The order also prohibits the representation, through use of the word "distilling", that the respondent is a distiller, that its beverages are manufactured by it through a process of distillation, or that it owns, operates or controls a place where such products are manufactured by a process of distillation, unless and until it actually does own and operate such a place. (3909)

**United States Distilling Company**—See Rathjen Bros., Inc.

**Universal Studios, Inc.**—An order prohibiting the use of misleading sales representations in connection with a mail order photography business, has been issued against Universal Studios, Inc., 187 East Seventh St., St. Paul, and Harry I. and Sander R. Smith, who, since 1938, have conducted the business as a partnership under the name Universal Studios. They maintain studios in Minneapolis and in Flint and Holland, Mich.

Findings are that the respondents, through advance agents or crew managers, distributed coupons free to various local merchants, and that the coupons were redistributed free by the merchants to their own customers, who were granted an opportunity to acquire photographs of themselves represented variously as "portraits in oil colors", "oil portraits", "gold tone oil paintings", and "oil colored portraits", for only 59 or 69 cents upon presentation of a coupon. Such advertising coupons, the findings continue, were represented as having a value of \$4.41, and the "oil colored portraits" or "gold tone paintings" to be obtained through the medium of the coupons were represented as having a \$5 value.

The Commission finds that the respondents' pictures described as oils worth \$5 with coupon were not reasonably worth more than the 59 or 69 cents charged, which amounts were approximately the regular prices for pictures of that class, and that the advertising coupons, used solely as devices for inducing customers to have their pictures taken, were not worth \$4.41 or any other amount.

The Commission order directs the respondents to cease representing that colored or tinted photographs or enlargements are hand-painted or are paintings, and to discontinue using the terms "gold tone oil painting", "oil portrait", "portrait in oil colors" or "oil colored portrait" in any way to refer to colored or tinted photographs or enlargements.

The order also prohibits the respondents from representing as the customary or regular prices or values for pictures, amounts which are fictitious and greatly in excess of the normal prices; from representing that any merchandise regularly sold in connection with a purported certificate has any value in excess of the actual

money price required to be paid, and that any coupon has a monetary value in the purchase of an article which is regularly sold by the respondents with the coupon at the price required to be paid.

The Commission ordered that its proceeding be closed as to the respondent Lorraine H. Smith, named in the complaint. Findings are that this respondent has had no financial or other interest in the recent partnership. (3684)

### STIPULATIONS

During the week the Commission entered into the following stipulations:

**Anchor Manufacturing Company**—Henry and Miller Bronshter, trading as The Anchor Manufacturing Company, New York, N. Y. manufacture glassware and glass and metal novelties. They agree to desist from branding, or otherwise designating as "Sterling Silver" or "Sterling" any product or the metal content thereof which is not in fact throughout a homogenous alloy containing not less than 92.5 per cent pure silver. The stipulation recites that the respondents marketed glassware filigreed or decorated with metal branded by them as "Guaranteed Sterling Silver" and "Guaranteed Untarnishable Sterling," when in fact the metal was not of the standard implied by use of the designation "Sterling," but instead was made up of four separate layers of metals, the silver layer constituting approximately 67 per cent of the whole content. (2689)

**Bastian Brothers Company**, Rochester, N. Y., agrees to cease and desist from stamping, branding or otherwise designating articles manufactured from any alloy of gold of less than 10 karat fineness as "gold" or, by the use of any other "quality mark", indicating or purporting to indicate that any such article is gold. The stipulation points out that "Commercial Standard CS67-38 for Marking Articles Made of Karat Gold", as adopted by representative manufacturers, distributors and users of karat-gold articles, states, among other things, that "'Gold' includes any alloy of the element gold of not less than 10 karat fineness"; that "'karat gold' means an alloy of the element gold of not less than 10 karat fineness", and that "no gold article of less than 10 karat fineness shall have applied to it any quality mark." A "quality mark" it is explained means any mark "indicating or purporting to indicate that any article is composed of gold, or indicating or purporting to indicate the quality, fineness, quantity, weight, or kind of gold in an article". (2694)

**Cambridge Handkerchief Works, Inc.**—See Embassy Handkerchief Co., Inc.

**Dairy Association Company, Inc.**, Lyndonville, Vt., engaged in the distribution of stock preparations designated "Bag-Balm" and "Kow-Kare", agrees to discontinue representing that "Bag-Balm" is completely antiseptic, or that it is healing, unless the latter representation is limited to its aid to nature in the process of healing; that it is a competent treatment or effective remedy for acute mastitis or inflamed or caked udders, unless limited to its value as a massage and counter-irritant, or that it cannot taint milk. The respondent also agrees to cease representing that "Kow-Kare" will prepare a cow for freshening or prevent calving disasters, unless limited to such aid as it may afford these conditions when cows are not assimilating or digesting feed properly, or that "Kow-Kare" will assure any specific increase in milk production or profits. (02518)

**Embassy Handkerchief Company, Inc.**—Four New York companies engaged in the interstate sale and distribution of handkerchiefs have entered into stipulations to cease misrepresentations in the sale of their products. The respondents are Embassy Handkerchief Company, Inc., 9 East 38th St.; Cambridge Handkerchief Works, Inc., 325 Fifth Ave.; Henry Goldberg and Murray Van Praag, trading as Goldberg & Van Praag, 2 West 37th St., and Samuel Franco, sole trader as S. Franco Company, 19 West 30th St.

Embassy Handkerchief Company, Inc., and Goldberg & Van Praag agree to cease misleading use of the word "Manufacturer" in their trade representations to represent or imply that they manufacture, or own or control factories for the manufacture of, their products, when such are not the facts.

Cambridge Handkerchief Works, Inc. stipulates that it will cease representing that it maintains foreign offices at Shanghai or Swatow, China, or offices and stock rooms in Chicago, or a factory at Passaic, N. J.; Goldberg & Van Praag, that they own or maintain factories at Mayaguez, Puerto Rico, or at Swatow or Chefoo, China, and Samuel Franco, trading as S. Franco Company, that he operates offices or establishments at Swatow or Chefoo, China, when such are not the facts. (2686-2687-2690-2693)

**E. O. Eshelby Tobacco Company**—James and Isabel S. Eshelby, executors of the estate of Fanny L. Eshelby and as such executors trading under the name E. O. Eshelby Tobacco Company, Covington, Ky., in the sale of their product, "Colonial Smoking Mixture," agree to cease using on packages or containers either the words "British Office" or the purported address, "2 Wembley Road, Northumberland," so as to imply that their business has connected with it a British office or one which is located at the address specified, when such is not a fact. (2685)

**Farmco Chemicals**—C. A. Blair, Jr., trading as Farmco Chemicals, Joplin, Mo., agrees to cease representing that his preparation, "Farmco Poultry Tablets", is an effective or competent treatment to prevent or fight fowl cholera, diarrhea, flu, coccidiosis, roup, typhoid or blackhead; or to stop poultry losses, build healthy flocks or strengthen growing chicks. The respondent also stipulates that he will cease advertising that the preparation is the very best poultry antiseptic tablet. (02514)

**S. Franco Company**—See Embassy Handkerchief Co., Inc.

**General Electric Company**, Schenectady, N. Y., has entered into a stipulation to discontinue certain misrepresentations in the sale of radios.

The stipulation relates that one of the respondent corporation's dealers, Vim Electric Co., Inc., of Brooklyn, published advertisements of General Electric radios showing that a certain 8-tube set would be sold for \$39.95 or at a saving of \$30 from what was the regular or "manufacturer's list" price of \$69.95; that certain radios were "made to sell for 50 per cent more", and that the buyer of a certain set with automatic tuning would save \$25 by paying \$44.95 when the regular price was \$69.95.

In its stipulation, the General Electric Company admits that its practice is to suggest, approve and share the cost of some but not all of the advertising published by its dealers to promote the sale of its radios; that it suggested the list price set out in the Vim Electric Company's advertisement of a \$69.95 radio for \$39.95, and that it paid a share of the cost of publication of the other two advertising items, and that the radios referred to as having a list price of \$69.95 were never regularly sold for that price but at the customary retail prices of \$39.95 and \$44.95 respectively.

The respondent corporation agrees to cease and desist from representing that prices for radios made by or for it and specified in catalogs or advertising literature, are the prices at which such radios are currently sold or intended by it to be sold, unless such stated prices are the true and correct prices employed in the regular course of current business, or that stated prices are the regular prices at which such radios were formerly sold, unless such is a fact.

The General Electric Company further agrees that it will not supply to its distributors, wholesalers, retail dealers, or others, any information, data, advertising copy or suggestions, calculated to induce such dealers to incorrectly state the former price or list or regular price of any of the radios sold by it, and that it will not approve or pay any portion of the cost of advertising prepared or published by or for its distributors or dealers, which, to its knowledge, incorrectly states or misrepresents the former, list or regular price of such radios. (02520)

**Goldberg & Van Praag**—See Embassy Handkerchief Co., Inc.

**Jamaica Milling Company**—Warren E. Lair, trading as Jamaica Milling Company, and Ralph D. Schultz and Arthur J. Reeder, who formerly were in business under the name of Min-Ro-Lac Sales Company, in the sale of "Min-Ro-Lac" a prepared yeast culture feed offered as a supplement to grain for the growing and fattening of cattle, hogs, poultry and other domestic animals, agree to desist from the representation that use of this product will reduce or cut feeding costs one-half; is a remedy for infectious diseases of the digestive tract; will remove the blackhead or cholera hazard from turkey raising, and will cause the production of larger eggs or appreciably increase egg production. Other representations which the respondents agree to discontinue are that the addition of one tablespoonful of the product to each grain ration feed for milk cows will result in a marked difference in the milk flow or condition of the cows so fed or that the addition of such quantity of the product to the feed rations of horses or mules will act as a wonderful conditioner or will renew the life and vigor of such livestock; that the respondents' product is a new discovery; that 96 pounds of properly balanced feed or any other quantity of such feed in excess of 32 1/3 pounds is obtainable from the admixture of water to 1/3 pound of the product and one bushel or 32 pounds of ground oats; that the respondents' yeast concentrate product will produce a sweet culture instead of an ordinary or usual fermentation of feeds, and that the normal vitamin content of the average ordinary home grown rations is so supplemented by the addition of the respondents' product as to assure more rapid daily gains by beeves fed therewith. (2691 and 2692)

**Manhattan Soap Company, Inc.**, 441 Lexington Ave., New York, engaged in selling a soap designated "Sweetheart Toilet Soap," agrees to cease representing that research experts or laboratories have tested, in connection with their quality rating of soaps, all brands of soap; that beauty experts endorse the use of Sweetheart Toilet Soap, or that doctors prescribe its use; that use of the soap will cause the skin to become healthy or keep it healthy, or that its use will cause one to become or stay young; or, by use of such terms as "skin diet" or other similar words or phrases, that Sweetheart Toilet Soap contains anything that will nourish or feed the skin; and that any premium is gold plated, when in fact it is gold electroplated. (02516)

**Irving L. Odman Company**, Chicago, Ill., in the sale of corrugated shipping boxes, stipulates that it will cease marking or stamping its products with its corporate or trade name together with the phrase, "Certificate of Box Maker," or the word "Maker," or any words of similar meaning so as to imply that it manufactures such containers or owns and operates a factory in which they are made, when such is not a fact. (2688)

**Oskamp Nolting Company**, Cincinnati, Ohio, stipulates that it will cease representing its business as that of "Wholesale Jewelers" or its merchandise as "Wholesale Jewelry" and will desist from use in advertisements of the words "Wholesale Jewelers" or "Wholesale Jewelry" or other words of similar meaning so as to imply that the merchandise it sells is obtainable by the purchaser at wholesale prices. The respondent company also agrees to desist from representations the effect of which may convey the idea that merchandise bought from the corporation under an alleged 50 per cent discount is purchasable at the price at which such goods or comparable competitive articles are sold to the jobbing or retail trade in the usual course of business, when such is not a fact. The stipulation recites that the respondent arbitrarily fixed alleged list prices, purportedly allowing a fixed discount of 50 per cent to the purchasing consumer so as to imply that he was able to obtain merchandise at regular wholesale prices, when in fact he paid the customary or even greater than the customary retail price. (2695)

**Plymouth Hosiery Company**—H. J. Esch, doing business under the trade names of Plymouth Hosiery Company and Plymouth Sales Company, Minneapolis, and engaged in the sale of hosiery, agrees to cease representing that Plymouth hosiery is new, improved hosiery, stronger in the foot, possesses a built-in quality, more stretch, or wears longer than any other hose offered for sale, and

that hosiery all parts of which are not knitted entirely from the thread manufactured from the cocoon of the silkworm, is silk or pure silk; that hosiery knitted on a bar less than 15 inches in size, is outside of regular hosiery; that certain of the respondent's hosiery, made with a mock seam, has a fashion seam up the back; that Plymouth socks will outwear two pairs of ordinary socks; that no retail store can possibly compete with Plymouth prices, and to desist from misrepresentations concerning the profits or earning capacity of agents, salesmen or dealers.

H. J. Esch further agrees that in computing the period of time during which specified earnings or profits were made by salesmen, he will include all of the time actually used for demonstrations, solicitations and other services performed in connection with the sale, delivery or collection of the purchase price by agents, salesmen, distributors or dealers alleged to have made such earnings or profits. (02517)

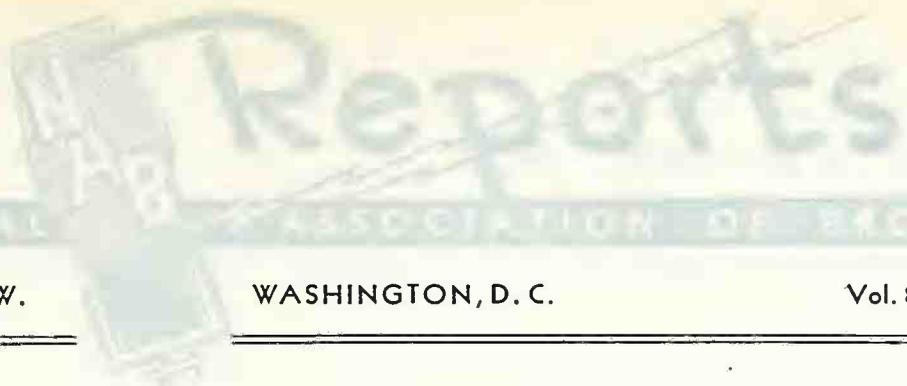
**Plymouth Sales Company**—See Plymouth Hosiery Company.

**F. A. Salamy Company, Inc.**, 330 Fifth Ave., New York, N. Y., agrees, in connection with the sale and distribution of its merchandise, to cease and desist from representing that it is a "manufacturer" of handkerchiefs or other merchandise, or in any other way importing or implying that it owns or controls the plant or factory in which the products sold by it are made, when such is not a fact. (2698)

**C. Tischhauser, Inc.**, 66 Worth St., New York, N. Y., agrees to cease describing or referring to itself as a "manufacturer" of handkerchiefs or other merchandise, when it neither owns nor controls the plant or factory in which the goods sold by it are made, or in any manner representing that it has a manufacturing plant of its own for the production of these or other goods, when such is not a fact. (2697)

**John C. Welwood Corporation**, New York, N. Y., in the sale of ribbons, agrees to cease using the words "Moire Taffeta," "Satin Taffeta" or any other word connoting silk in a manner implying that the fabrics to which such designations refer are composed of silk, when such is not a fact. The stipulation provides that if any of the words "Moire," "Taffeta," or "Satin" is used properly as descriptive of the construction of a fabric containing fiber other than pure silk, then the word so used shall be accurately and non-deceptively qualified by conspicuous language clearly disclosing the constituent fibers in the order of their predominance by weight, beginning with the largest single constituent. The respondent corporation also stipulates that it will desist from selling products made of rayon without clear disclosure of such rayon content in all published representations, and that it will discontinue advertising, branding or selling any product composed in whole or in part of rayon unless full and non-deceptive disclosure of the fiber and other content is made by clearly naming each constituent fiber in the order of its predominance by weight, beginning with the largest single constituent, and by giving the percentage of any fiber which is present in less than a substantial amount (2684)





## Campaign Use of Radio

Repeated requests for information as to the use of broadcast facilities for discussion of political issues and by candidates for public office prompts the FCC to explain:

Broadcast stations are licensed to serve the "public interest, convenience and necessity." This carries with it obligation on the part of stations to provide opportunity for well-rounded rather than one-sided discussion of public controversial issues and to render a program service in the general public interest. However, there is no requirement, express or implied, that the broadcast facilities must be afforded for the use of any particular individual or organization.

Section 3(h) of the Communications Act of 1934, as amended, expressly provides that a person engaged in radio broadcasting shall not be deemed a common carrier. In this respect broadcasting is unlike telephone, telegraph, or cable service. Accordingly, a broadcast station may refuse the use of its facilities to any particular person or group, even though offer is made to pay for the time.

However, Section 315 of the Act stipulates:

"If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate."

This provision does not apply to persons other than the legally qualified candidates themselves but does require that, if a broadcast station permits the use of its facilities by a candidate, equal opportunities in the use of the station shall be afforded all other legally qualified candidates for the same office.

The Commission's Rules Governing Standard Broadcast Stations more specifically define broadcasts by candidates for public office in the following language:

"Section 3.101 *General requirements*.—No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities, provided that such licensee shall have no power of censorship over the material broadcast by any such candidate.

"Section 3.102 *Definitions*.—The following definitions shall apply for the purpose of Section 3.101:

"(a) 'A legally qualified candidate' means any person who has met all the requirements prescribed by local, state, or federal authority, as a candidate for the office which he seeks, whether it be municipal, county, state, or national, to be determined according to the applicable local laws.

"(b) 'Other candidates for that office' means all other legally qualified candidates for the same public office.

"Section 3.103 *Rates and practices*.—The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means, directly or indirectly; no licensee shall make any discrimination in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to these rules, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

"Section 3.104 *Records; inspection*.—Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted."

The Commission's Rules and Regulations do not impose any requirements as to the rendering of free service by broadcast stations. This is a matter to be determined by the individual stations themselves.

With respect to program content, Section 326 of the Communications Act provides:

"Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication."

The express prohibitions contained in the Communications Act with respect to program content are: the prohibition against the broadcasting of lottery information contained in Section 316, and the provision of Section 326 that no person "shall utter any obscene, indecent, or profane language" on the air.



**The NATIONAL ASSOCIATION OF BROADCASTERS**

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

*Neville Miller, President*

*Edwin M. Spence, Secretary-Treasurer*

*Edward M. Kirby, Director of Public Relations; Joseph L. Miller, Director of Labor Relations; Paul F. Peter, Director of Research; Russell P. Place, Counsel; Lynne C. Smeby, Director of Engineering; Andrew W. Bennett, Special Copyright Counsel*

## Four More Stations Join in BMI

Completed stock and license agreements to Broadcast Music, Inc., were received from four additional stations during the past week. This brings the total number of stations that have subscribed and paid for stock in BMI to 280. Another 99 stations have committed themselves to subscribe.

The latest four stations to subscribe are as follows:

District 3  
WIP—Philadelphia, Pennsylvania

District 5  
WSFA, Montgomery, Alabama  
WJHP, Jacksonville, Florida

District 14  
KGVO, Missoula, Montana

With the addition of these stations, the total amount which has now been paid for in stock and pledged as license fees is \$1,238,620.00.

## Code Manual Goes to All Members

The NAB Code Manual, containing Code interpretations and an interchange of program and operating experiences gathered from various stations throughout the country, is being mailed to member stations.

The Code Committee, which has compiled the material, believes it will be a valuable source of useful information for management, the station program director, and the sales department.

The book itself is divided into six sections to correspond with the six sections of the NAB Code. The material is in loose-leaf form and bound in a stiff-back cover. As new information is developed, it will be promptly sent out for insertion in the Manual in the proper section.

In a foreword, Edgar Bill, WMBD, Peoria, Illinois, chairman of the Committee, declares:

"Few businesses are confronted with such a complex intermingling of social, public and economic interest as is the business

of broadcasting. Of necessity, then, the NAB Code must be a continuous evolution of interpretation and policy to meet changing conditions of taste and circumstance. Moreover, in an industry which may be revolutionized overnight by new technical discoveries from the laboratory, a social-minded vigilance is needed at all times, and in all directions.

"The development of the broadcasters' Code has won the greatest degree of public confidence the industry has ever enjoyed. The public declarations of those organized groups in many diverse and oft-times competing fields bear witness to this. Here is an industry Code which has won support of both liberal and conservative, press and government, business and consumer, Catholic and Protestant. It is, in effect, an insurance policy for the American system of private and competitive broadcasting. It is an insurance policy whose beneficiary is, as well, the American public itself.

"In this Code Manual, the Committee has collected significant experiences and program policies, gathered from stations in all parts of the country confronted by many problems similar to those confronting each station. It believes that from this interchange of information, a broader concept of "public interest" will continuously emerge.

"The work of the Committee is advisory and interpretative. It has not been—nor will it ever be—dictatorial or arbitrary. It has endeavored to be helpful to each station which has asked its advice. It has been mindful of the delicate responsibility entrusted to it by the entire industry. It has not sought to assume responsibility delegated solely to the broadcast licensee. It has sought to place at his disposal information and accepted industry policy as it developed. It has recognized at all times those geographic, economic and operating differences characteristic of American radio. Such authority as it may possess comes only as favorable public opinion is earned in support of industry policy."

The Code Compliance Committee will meet in Washington, April 11, at the call of Chairman Bill. Problems of political broadcasting during the coming election campaign will be among the more important subjects to be discussed.

## Labor

### ABT CERTIFIED AT WCPO; AFRA ELECTION ORDERED

The National Labor Relations Board today announced certification of Associated Broadcast Technicians Unit of the International Brotherhood of Electrical Workers (A. F. of L.) as the sole collective bargaining agency for the broadcast technicians of Scripps-Howard Radio, Inc., Station WCPO, Cincinnati, upon the basis of documentary evidence submitted by the union, and an admission of the company that its four technicians were members.

At the same time, the Board announced that a secret ballot election would be held within 30 days among all the company's announcers and radio artists, excepting the "hillbillies," to determine whether or not they desire to be represented for collective bargaining purposes by American Federation of Radio Artists (A. F. of L.).

The Board ruled that Andre Carlon, the station's program director and chief announcer, and Glen A. Davis, chief engineer, should be included in the appropriate units in view of the time each devotes to non-supervisory functions. The Board excluded, however, a group of unpaid

musicians known as "hillbillies" and Albert Stephan, a writer in the program department.

Although the AFRA introduced evidence to show that it represented a substantial number of the company's employees, it nevertheless conceded that an election by secret ballot is necessary to resolve the question concerning representation.

No election was necessary among the technicians in view of the company's admission and the documentary proof presented by the ABTU, the Board said.

### WAGE AND HOUR RECORDS FOR TRANSMITTER ENGINEERS

Col. Philip B. Fleming, Wage and Hour Administrator, rules that abbreviated wage and hour records for transmitter engineers must be kept at the transmitter when the transmitter is away from the station offices.

These abbreviated records need show only two items: total hours worked and total wages paid each week.

"Since you state no executive or clerical assistance is available at such transmitter station, it is suggested that each employee keep an individual wage and hour book showing the required abbreviated information," Col. Fleming says in his ruling, requested by the NAB Labor Relations Director.

The information required for the complete record of each employee covered by the Act was listed in the NAB REPORTS, February 23, page 4051.

### COST OF LIVING

The NAB Labor Relations Director now has available Labor Department statistics showing how the cost of living compares among the 31 largest cities in the country. Such figures sometimes are useful in collective bargaining.

### FREE OFFERS

Only one "free offer" and one "cost-per-inquiry" proposal were reported to the Bureau of Radio Advertising by member stations during the past week. Driver & Company, advertising agency of Omaha, Nebraska, has asked stations to run free publicity as a "test" on behalf of its client, Miller Cereal Mills. The implication is that if the test is successful, stations may get considerable advertising. National Vocational Institute, New York City, offers to pay stations fifty cents for every one dollar order they produce for the Institute. The Bureau has sent the usual letter to these concerns, implying that if they want real results from radio, they can't do better than buy time at regular rates, as so many thousands of successful advertisers are doing.

### ACCOUNTING COMMITTEE

The NAB Accounting Committee is meeting in New York on Tuesday, March 19. At this time the final draft

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of the proposed program log will be submitted to the Committee for adoption. The Committee also will adopt standardized accounting forms, copies of which will be sent to members by April 1.

The proposed new accounting manual will enable station accountants to adjust their accounting system so that the information requested by the FCC Accounting Department in the financial forms 705-6 will readily be available and help in answering the questionnaire.

### FM HEARING

The High Frequency hearing, originally scheduled for February 28, will open Monday, March 18, before the whole FCC. The notice of hearing was in NAB REPORTS, December 29 (page 3922).

Lynne C. Smeby, Director of Engineering, will attend the hearing as NAB observer and will report the proceedings in "REPORTS."

### CENSUS REQUESTS

The following communication was received by Mr. Neville Miller from Roscoe Wright, Chief of Public Relations, Bureau of the Census, Department of Commerce under date of March 8:

DEAR MR. MILLER:

I thought you might be interested in the fact that the Bureau of the Census is asking the cooperation of radio stations conducting programs in foreign languages, in relaying information about the 1940 Census to their listeners.

For your information I am enclosing a copy of a letter we have written to the radio stations which conduct foreign language programs.

It is our thought that you might wish to give notice to this in the Bulletin of the National Association of Broadcasters. If you see your way clear to doing so, we will be grateful if you will urge the hearty cooperation of all station managers and foreign language program directors.

Very sincerely yours,

(Signed) ROSCOE WRIGHT,  
Chief of Public Relations.

The Census this year includes a question on radio ownership which will be of great value to the broadcasting industry.

### Clifford Taylor

Clifford M. Taylor, commercial manager of station WBEN, Buffalo, N. Y., and a member of the NAB Sales Managers Division, died of a heart attack March 11 in Jacksonville, Fla. Mr. Taylor was on his way home with Edgar Twamley, WBEN manager, from a fishing trip when stricken.

### CLUBWOMEN LEAVE COMMITTEE

The NAB has been informed by Mrs. Saidie Orr Dunbar, President of the General Federation of Women's Clubs, that the General Federation and Mrs. Harold V. Milligan, radio chairman of the Federation, have withdrawn from the Women's National Radio Committee.

### NEW RECORDER

A new film recorder developed by RCA was demonstrated to the NAB staff last week. The recording is made on "Leader Stock" film, costing 1¢ a foot and using 13 feet of film per hour. The machine will record for 24 hours without reloading. The machine demonstrated had a frequency range up to 3,000 cycles and therefore is not suitable for rebroadcast purposes. However, Mr. Payne said that the machine probably would be developed for such purposes later. The machine in its present form was developed for information recording purposes only. The film is fed around a mandrill and the mandrill with the film reels rotate. An engraving then occurs diagonally across the film. The machine features instantaneous play back and has one button for spacing back a short time and two other buttons which will advance or rewind the film at the rate of one hour per 15 seconds. There are numbers on the film so that records can be kept and the film can be wound back to any section desired. Mr. Payne said that the machine will be available in about six months, probably on rental basis of about \$50 per month. The fee will include all maintenance and normal replacement but not the cost of the film.

### RECORD COMPANIES

The NAB has been asked about the United States Record Corporation, 1780 Broadway, New York City, and the Aurora Record Company, 145 West 45th Street, New York City. Both companies manufacture and release for sale, phonograph records. Anyone interested in receiving further information concerning these two companies may obtain it from headquarters.

### FCC APPROVES FM EXPERIMENTS

The Crosley Corporation has been granted a construction permit by the FCC for a new experimental high

frequency broadcast station to employ frequency modulation, to be located in Cincinnati. The applicant proposes a broad investigation of the relative merits of frequency modulation and the present standard broadcast system, and of wide and narrow band frequency modulation in transmitting high fidelity programs, with attention to receivers suitable for dual operation.

The station proposes to operate on 43200 kilocycles, 1 kilowatt special emission for FM, unlimited operation. The antenna is planned atop the Carew Tower, Cincinnati. The permit is granted upon an experimental basis only, subject to change or cancellation by the Commission at any time, without notice or hearing, if need for such action arises.

This application was filed by the Crosley Corporation pursuant to announcement by the Commission on December 19, 1939, that, pending outcome of the informal engineering hearing on aural broadcasting to begin March 18, it would grant the following classes of applications:

(a) Applications for permission to carry out programs of fundamental research not authorized in the past and which show satisfactory promise of being able to contribute substantially toward the development of aural broadcasting service, and

(b) Applications filed by existing licensees to experiment with aural broadcasting on frequencies above 25000 kilocycles, provided the request to operate additional stations involved a program of experimentation directly related to the existing station.

At the same time the Crosley application was granted, the Commission authorized Westinghouse Electric & Manufacturing Co. high frequency broadcast station WIXK to move its transmitter from Boston to Hull, Mass., for operating on 42,600 kilocycles, 1,000 watts, special emission for FM, and approved request by General Electric Co. to move the transmitter of its high frequency broadcast station W2XOY from Albany, N. Y., to New Scotland, N. Y., to increase its power from 150 to 1,000 watts and install new equipment for operating on 43,200 kilocycles, special emission for FM.

### ANTENNA POWER MEASUREMENT

The FCC has sent the following notice to licensees of all standard broadcast stations:

Under date of January 25, 1940, Mexico ratified the North American Regional Broadcasting Agreement. In order to place the allocation plan set forth in this Agreement in effect, the frequency assignments of a majority of standard broadcast stations must be changed. Resistance measurements made in accordance with the Standards of Good Engineering Practice for the presently assigned frequencies will not be sufficiently accurate for the frequencies assigned under the Agreement.

The time within which existing standard broadcast stations shall have made the necessary measurements and obtained authority to determine the operating power by direct measurement of the antenna power as required by Section 3.51(a) (2) is hereby extended from July 1, 1940, to December 1, 1940.

This in no way affects the requirements as now set forth in Section 3.51 with respect to new standard broadcast stations, nor does it affect the requirements of the Standards of Good Engineering Practice in that the power shall be determined by the direct method when making field intensity measurements.

## KWBD ORDER ISSUED

On the ground that he apparently made false and misleading statements relative to his financial condition, the Federal Communications Commission has ordered W. B. Dennis to show cause on or before March 29, why the construction permit issued to him July 12 last for a radio broadcast station at Plainview, Texas, should not be cancelled.

The call letters KWBD were assigned to the station, which proposed to operate on 1200 kilocycles, 100 watts power, daytime only.

## NEW FORM APPROVED

The FCC has approved a revised form of application for admission to practice before it, prescribed pursuant to Section 1.34 of the Rules of Practice and Procedure, which includes a provision for statement by the applicant as to whether or not he has been suspended or disbarred from practice before any governmental agency.

## RULES AMENDED

Section 3.51(a) (2) of the Rules Governing Standard Broadcast Stations of FCC was amended extending the time within which existing stations are required to determine the operating power by the direct method, from July 1 to December 1, 1940.

## NEW JERSEY COPYRIGHT BILL

A bill introduced in the New Jersey Assembly March 4 (Assembly Bill No. 264), is intended to control licensing of performing rights in copyrighted works when two or more owners of separate copyrights pool their interests for the purpose of fixing prices, collecting fees or issuing blanket licenses. Such pools are prohibited unless their license fees are based on per piece usage and in proportion to the use made of their works. A complete list of their copyrighted works and prices is required to be filed annually with the Secretary of State, with additions or revisions made monthly. A 5 per cent tax on gross receipts from sale of performing rights is imposed.

## STATE LEGISLATION

### NEW YORK:

A. 2251 (Fite) **SMALL LOANS—MISLEADING ADVERTISING**—Empowers banking supt. to revoke licenses of any small loan lender, on conviction for violations relating to false, misleading or deceptive advertising, displaying, publishing or broadcasting of statements; no license so revoked may be reinstated or new license issued for three years following revocation. Referred to Rules Committee.

### RHODE ISLAND:

H. 862 (Shein) (same as S. 139) **OPTOMETRISTS AND OPTICIANS—LICENSING**—In amendment of sections 1, 2, 3, 5, 9, 11, 12 and 13 of chapter 277 of the general laws, entitled "Licensing and regulation of optometrists and opticians," as amended. Referred to Committee on Judiciary.

## 821 STATIONS

The FCC issued operating licenses to two stations and granted four permits for the construction of new stations during the month of February, 1940. A comparative table by months follows:

	Mar. 1	April 1	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1
Operating .....	729	732	734	735	735	738	739	743	751	755	765	769	771
Construction .....	37	37	38	38	43	56	59	57	58	57	49	48	50
	766	769	772	773	778	794	798	800	809	812	812	817	821

## FEDERAL COMMUNICATIONS COMMISSION

## DECISIONS

Federal Communications Commission has affirmed a finding of fact authorizing the Salt River Broadcasting Company, licensee of Station KOY, of **Phoenix, Ariz.**, to change that station's frequency from **1390 to 550 kilocycles**; the present 1000 watts power to remain. Opposition to the grant was presented to the Commission by KOAC, **Corvallis, Oregon**, operating with 1000 watts on 550 kilocycles.

Presque Isle Broadcasting Company has been granted a construction permit for a new station at **Erie, Penn.**, to operate unlimited time, **1500 kilocycles**, daytime power 250 watts, nighttime 100 watts. Commission granted the permit this week following adoption of its proposed findings of fact.

## PROPOSED FINDING

The Commission has tentatively denied the application of C. T. Sherer Company, Inc., for a construction permit to erect a new station at **Worcester, Mass.**, to use 100 watts night, 250 day, unlimited time, on **1200 kilocycles**.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings are scheduled before the Commission in broadcast cases during the week beginning Monday, March 18. They are subject to change.

### Monday, March 18

Informal Hearing Before the Commission En Banc

In the Matter of Aural Broadcasting on Frequencies Above **25,000 kc.** (An inquiry into the possibilities of Frequency and Amplitude Modulation).

Tuesday, March 19

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Modification of license, 810 kc., 1 KW, specified hours (6 a. m. to 11 p. m. EST), (DA-Daytime). Present assignment: 810 kc., 1 KW, daytime-WCCO, directional antenna.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings and oral argument. They are subject to change.

March 28

Oral Argument Before the Commission

WSAL—Frank M. Stearns, Salisbury, Md.—In re: Revocation of Station License of WSAL.

April 1

NEW—E. E. Krebsbach, Miles City, Mont.—C. P., 1310 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Star Printing Co., Miles City, Mont.—C. P., 1310 kc., 250 watts, unlimited time.

NEW—Lookout Mountain Co. of Georgia, Lookout Mountain, Ga.—C. P., 1370 kc., 250 watts, unlimited time.

April 16

NEW—Miami Broadcasting Co., Miami, Fla.—C. P., 1420 kc., 250 watts, unlimited time.

April 19

WGRC—Northside Broadcasting Corp., New Albany, Ind.—Modification of license to move main studio to Louisville, Ky.—1370 kc., 250 watts, unlimited time.

April 22

NEW—West Virginia Newspaper Publishing Co., Morgantown, W. Va.—C. P., 1200 kc., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

KARK—Arkansas Radio & Equipment Co., Little Rock, Ark.—Granted construction permit to install new equipment, increase power from 1 KW to 5 KW day and night, employing DA at night, on 890 kc.

WRUW—World Wide Broadcasting Corp., Scituate (Boston), Mass.—Granted modification of license of international station WRUW to add frequencies 11790 and 15250 kc. to the presently licensed frequencies.

WMOB—S. B. Quigley, Mobile, Ala.—Granted modification of license to add power of 100 watts for nighttime operation, and increase hours from daytime only to unlimited time.

KYCA—Southwest Broadcasting Co., Prescott, Ariz.—Granted modification of construction permit for change in studio and transmitter sites, new equipment and antenna changes, increase in night power from 100 to 250 watts, extending commencement date to 30 days after date and grant and completion date to 180 days thereafter.

W2XD—General Electric Co., Schenectady, N. Y.—Granted construction permit to reinstate television broadcast station W2XD, which expired September 16, 1939, on the assignment 156000-162000 kc., 40 watts, A5 emission, hours of operation in accordance with Sec. 4.4(a).

WEAF—National Broadcasting Co., Inc., New York City.—Granted modification of construction permit to install directional antenna system for day and nighttime operation on 660 kc.

Puerto Rico Advertising Co., Inc., San Juan, P. R.—Granted construction permit for new station to operate on 1500 kc., 250 watts, unlimited time; exact transmitter and studio site and type of antenna to be determined with Commission's approval.

KMA—May Seed & Nursery Co., Shenandoah, Ia.—Granted voluntary assignment of license from May Seed & Nursery Company to May Broadcasting Company.

WHO—Central Broadcasting Co., Des Moines, Ia.—Granted extension of special experimental authority to operate standard broadcast station WHO as a facsimile broadcast station from 12 midnight to 6 a. m., CST, using 50 KW, for the period ending August 1, 1940.

W1XK—Westinghouse Electric & Mfg., Co., Hull, Mass.—Granted modification of construction permit of high frequency broadcast station authorizing move of transmitter from Boston to Hull, Mass.

The Crosley Corp., Cincinnati, Ohio.—Granted construction permit for new high frequency broadcast station to operate on 43200 kc., 1 KW, special emission for frequency modulation; hours of operation in accordance with Sec. 4.4 of the Comm. rules.

W2XOY—General Electric Co., New Scotland, N. Y.—Granted construction permit to increase power, and install new equipment for high frequency broadcast station and move station from Albany to New Scotland, N. Y.

### DESIGNATED FOR HEARING

Abraham Binneweg, Jr. (World Peace Foundation), Oakland, Calif.—Application for construction permit for new developmental broadcast station to operate on 1614, 2398, 6425, 8655, 9135, 17310 and 12862.5 kc., 250 watts, unlimited time. Applicant proposes to conduct research on various types of directional antenna systems.

WJHL—WJHL, Inc., Johnson City, Tenn.—Application for construction permit to make changes in equipment; install directional antenna for night use; increase power from 250 watts to 1 KW; change frequency from 1200 kc. to 880 kc.; and move transmitter 500 feet east of present site.

WFDF—Flint Broadcasting Co., Flint, Mich.—Application for construction permit to install new transmitter and directional antenna for night use; increase power from 100 watts to 1 KW; change frequency from 1310 kc. to 880 kc.; and move transmitter locally; application to be heard jointly with that of Thumb Broadcasting Co. for a new station to operate on 880 kc., 1 KW, daytime only, and WJHL listed above, all applying for 880 kc.

### RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the period April 1 to August 1, 1940:

KARK, Little Rock, Ark.; KFKA, Greeley, Colo.; KFDY, Brookings, S. Dak.; KFEL, Denver, KFPY, Spokane, Wash.; KFRC and auxiliary, San Francisco; KFRU, Columbia, Mo.; KFSD, San Diego; KFYZ, Bismarck, N. Dak.; KGFX, Pierre, S. Dak.; KGHL, Billings, Mont.; KGKO, Fort Worth, Tex.; KLLX, Oakland, Cal.; KLZ, Denver; KMJ, Fresno, Cal.; KOAC, Corvallis, Ore.; KPOF, Denver; KPRC, Houston, Tex.; KSD, St. Louis; KSEI, Pocatello, Ida.; KTKC, Visalia, Cal.; KTSA, San Antonio; KVI, Tacoma, Wash.; KWTO, Springfield, Mo.; WAAF, Chicago; WBEN and auxiliary, Buffalo; WCHS, Charleston, W. Va.; WCLE, Cleveland, Ohio; WDAF, Kansas City, Mo.; WDBO and auxiliary, Orlando, Fla.; WDEV, Waterbury, Vt.; WEAN, Providence, R. I.; WEEL, Boston; WFIL and auxiliary, Philadelphia; WGBI and auxiliary, Scranton, Pa.; WIBW, Topeka, Kans.; WILL, Urbana, Ill.; WIND, Gary, Ind.; WIP and auxiliary, Philadelphia; WIS, Columbia, S. C.; WKBN, Youngstown, Ohio; WKRC, Cincinnati, Ohio; WKY and auxiliary, Oklahoma City; WLBC, Bangor, Me.; KMTR, Los Angeles; KTAR, Phoenix, Ariz.

Renewal of licenses were also granted for the following high frequency stations:

W5XAD, Dallas, Tex.; W6SDA, Los Angeles; W9XHW, Minneapolis; W9XA, Kansas City, Mo.; W2XWF, New York; W2XQR, Long Island City; W3XO, Georgetown, D. C.; W4XA, Nashville; W9XPD, St. Louis, Mo.; W9XH, South Bend, Ind.; W8XVB, Rochester, N. Y.; W1XPW, Meriden, Conn.; W1XEQ, Fairhaven, Mass.; W9XER, Kansas City, Mo.; W3XIR, Philadelphia.

W2XR—Radio Pictures, Inc., Long Island City, N. Y.—Granted renewal of facsimile broadcast station license for the period ending March 1, 1941.

W9XAL—First National Television, Inc., Kansas City, Mo.—Granted renewal of television broadcast station license for the period ending February 1, 1941.

W9XUI—State University of Iowa, Iowa City, Ia.—Granted renewal of television broadcast station license for the period ending February 1, 1941.

### MISCELLANEOUS

WINS—Hearst Radio, Inc., New York, N. Y.—Granted special temporary authority to operate from 8:15 p. m., March 12, 1940, to 1:00 a. m., EST, March 13, 1940, in order to broadcast a performance of the Metropolitan Opera to be given for the benefit of the New York City Milk Fund.

WSUI—State University of Iowa, Iowa City, Iowa.—Granted special temporary authority to reduce hours of operation from unlimited time to a minimum of nine hours daily for the period beginning March 21, 1940 and ending not later than March 25, 1940, in order to observe the Easter vacation period at the University.

W2XWF—William G. H. Finch, New York, N. Y.—Granted extension of special temporary authority to change from A-3 emission to special emission frequency modulation 75 kc. swing to make comparative tests on amplitude modulation for the period ending in no event later than April 3, 1940, in order to complete installation of FM unit.

WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted special temporary authority to operate with power of 250 watts from 8:30 p. m. to 10:00 p. m., CST, on March 7, 1940, from 7:30 p. m. to 10:00 p. m., CST, on March 8, 1940, and from 8:00 p. m. to 10:00 p. m., CST, on March 9, 1940, during broadcast of basketball games only.

WSOY—Commodore Broadcasting Inc., Decatur, Ill.—Granted special temporary authority to operate with power of 250 watts from 7:00 p. m., CST, to the conclusion of basketball games on March 14, 15, and 16, 1940, in order to broadcast basketball games only.

WBBC—Brooklyn Broadcasting Corp., Brooklyn, N. Y.—Granted petition to intervene in the hearing on the application of Harold Thomas for a new station in Bridgeport, Conn., to operate on 1420 kc., 250 watts, unlimited time.

WCCO—Columbia Broadcasting System, Inc., Minneapolis, Minn.—Granted petition to intervene in the hearing on the application of WNYC for modification of license to change hours of operation from daytime to specified hours (6 a. m. to 11 p. m., EST), on 810 kc.

KFJB—Marshall Electric Co., Marshalltown, Iowa.—Granted petition to intervene in the hearing on the application of J. D. Flavey, for a new station in Ottumwa, Iowa, to operate on 1210 kc., 100 watts, unlimited time.

KFJB—Marshall Electric Co., Marshalltown, Iowa.—Granted petition to intervene in the hearing on the application of L & M Broadcasting Co., for a new station in Ottumwa, Iowa, to operate on 1210 kc., 100 watts, 250 watts LS, unlimited time.

Lookout Mountain Co. of Ga., Chattanooga, Tenn.—Granted petition for continuance of hearing on application for new station to operate on 1370 kc., 250 watts, unlimited time, from March 11 to April 1.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted authority to determine operating power of auxiliary transmitter by direct measurement of antenna input in compliance with Section 3.54.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 9:00 a. m. to 11:00 a. m. and from 2:00 p. m. to 6:00 p. m., AST, on March 16, 1940, in order to broadcast athletic meet of the College of Agriculture and Mechanical Arts and the University of Puerto Rico only.

WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—Granted special temporary authority to operate from local sunset (March 6:45 p. m., EST) to 10:30 p. m., EST, on March 29, 1940, in order to broadcast the annual concert of the Pontiac High School Band and Orchestra.

WRUW—World Wide Broadcasting Corp., New York, N. Y.—Granted special temporary authority to operate on frequency 11790 kc. for a period not to exceed 10 days, in order to eliminate the interference supposedly caused by character beat frequency resulting from simultaneous operation of WRUW on 11730 kc., and WRUL on 6040 kc.

KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to operate from 9:00 p. m. to 9:15 p. m.,

CST, on March 20, 1940, (provided WNAD remains silent) in order to broadcast a concert from Bethany College, Lindsborg, Kans.

WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to remain silent from 9:00 p. m. to 9:15 p. m., CST, on March 20, 1940, in order to permit KGGF to broadcast a concert from Bethany College, Lindsborg, Kans.

WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted special temporary authority to operate with power of 250 watts, from 7:30 p. m. to 10:15 p. m., CST, on March 15, 16, and 17, 1940, during broadcasts of basketball games only.

KFGQ—Boone Biblical College, Boone, Iowa.—Denied special temporary authority to operate from 4:00 p. m. to 5:00 p. m., 6:00 p. m. to 6:30 p. m. and 7:30 p. m. to 8:30 p. m., CST, for the period beginning March 31, 1940, and ending not later than April 7, 1940, in order to broadcast programs in connection with Fiftieth Anniversary (provided KVF D remains silent).

WLOW—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Granted modification of construction permit for new station, for approval of transmitter site at Myrtle Ave. and Emerald St., St. Paul, Minn.

KWAT—Midland National Life Insurance Co., Watertown, S. D.—Granted modification of construction permit for new station, for authority to install new transmitting equipment and make changes in antenna.

KWAT—Midland National Life Insurance Co., Watertown, S. D.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

KWAT—Midland National Life Insurance Co., Watertown, S. D.—Granted license to cover construction permit and modification thereof, for new station; frequency 1210 kc., power 250 watts, unlimited time.

WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—Granted modification of construction permit for new broadcast station, for approval of antenna, transmitter site, and change type of transmitter.

W1XOJ—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to test high frequency broadcast equipment of Station W1XOJ authorized by modification of construction permit, on 43000 kc., power in the range 2000 watts to 50000 watts, from March 15, 1940, to not later than April 13, 1940, in order to make adjustments on equipment installed and for tuning and adjustments of the antenna elements which are now assembled for erection atop 400 foot mast.

WLAW—Hildreth & Rogers, Lawrence, Mass.—Denied petition for rehearing in re application of WPTF, Raleigh, N. C., for modification of license to operate on 680 kc. with 5 KW power, unlimited time, granted by the Commission January 9, 1940.

KFI—Earl C. Anthony, Los Angeles, Calif.—Denied petition for rehearing in the matter of the applications of McClatchy Broadcasting Co. (KERN), Bakersfield, Calif., for construction permit to install new equipment, change operating assignment from 1370 kc. to 1380 kc., and power from 100 watts to 1 KW, unlimited time, and The Bee, Inc. (KOH), Reno, Nevada, for construction permit to move locally and change operating assignment from 1380 kc. with 500 watts power, unlimited time, to 630 kc., 1 KW, unlimited time, using a directional antenna at night, which applications were granted by the Commission on December 20, 1939.

William Amesbury, Minneapolis, Minn.—Dismissed petition for hearing, protest and request to vacate the Commission's action of January 17 in granting the application of Independent Merchants Broadcasting Co., for a new station in Minneapolis, Minn., to operate on 1300 kc., with 1 KW power, unlimited time.

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Denied petition insofar as it requests immediate grant of application for construction permit to increase power from 250 watts to 1 KW, on 780 kc., and extended for ten days from date of order, the time for filing proposed findings herein.

KWBD—W. B. Dennis, Plainview, Tex.—Ordered applicant to show cause, by written answer duly verified, filed at the offices of the Commission on or before March 29, 1940, why the order of the Commission of July 12, 1939, granting the application for a new station to operate on 1200 kc.,

100 watts power, daytime only, should not be rescinded and construction permit cancelled, because of alleged misleading statements made by applicant in re his financial status.

- WEVD—Dobs Memorial Fund, Inc., New York, N. Y., and WBBR—the Watchtower Bible & Tract Society, Inc., Brooklyn, N. Y.—Denied petitions for reconsideration and rehearing filed by WEVD and WBBR in re application of Greenville News-Piedmont Co. (WFBC), for construction permit to install directional antenna for night use and increase night power from 1 KW to 5 KW; and, the Commission on its own motion modified its order of December 5, 1939, granting the application of WFBC for increase in power, so as to make the grant conditioned upon applicant obtaining from the Commission specific approval of antenna and site thereof before any construction or installation is commenced.
- WMFF—Plattsburg Broadcasting Corp., Plattsburg, N. Y.—Denied petition for rehearing in re application for construction permit to install new transmitter, make changes in antenna system, change transmitter site, and change frequency from 1310 ke. to 1240 ke., power from 100 watts night, 250 watts day, to 1 KW, unlimited, which was denied by the Commission November 9, 1939.
- KTAR—KTAR Broadcasting Co., Phoenix, Ariz.; and KOY, Salt River Valley Broadcasting Co., Phoenix, Ariz.—Denied petitions for rehearing filed by KTAR and KOY in the matter of the application of M. C. Reese for a new station in Phoenix, Ariz., to operate on 1200 ke., 100 watts night, 250 watts LS, unlimited time, granted by the Commission January 26, 1940.
- WOV—Greater New York Broadcasting Corp., New York, N. Y.—Granted license to cover construction permit for new station, frequency 1100 ke., power 5 KW, unlimited time.
- WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—Granted license to cover construction permit to make changes in equipment and increase power from 100 watts to 250 watts; frequency 1210 ke., unlimited time.
- KGVO—Mosby's, Inc., Missoula, Mont.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WSYR-WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WMCA—Knickerbocker Broadcasting Co., Inc., New York, N. Y.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.
- WNEL—Juan Piza, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast on a sustaining basis the programs to be received from international broadcast stations WMBI and WRCA over station WNEL, for the period beginning March 12, 1940, to not later than April 10, 1940.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from 8:30 p. m. to 10:30 p. m., CST, March 11, 1940, in order to broadcast a special meeting of interest concerning the 100th anniversary of dentistry to be held, using 1 KW power.
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10 p. m., AST, March 17, 1940, to 1 a. m., AST, March 18, 1940, in order to broadcast a mass meeting.
- KLPM—John B. Cooley, Minot, N. Dak.—Granted special temporary authority to operate with power of 1000 watts at night (local sunset March 6:45 p. m., CST) on March 14, 15, and 16, 1940, in order to serve the large area interested in Annual Class B Basketball Tournament to be held in Minot, in order to broadcast basketball games only.
- WEHN-WENM—The Evening News Ass'n, Detroit, Mich.—Granted special temporary authority to use relay broadcast stations WEHN and WENM for coordination between measuring car and high frequency station W8XWJ for the period March 11, 1940, to not later than March 15, 1940, in connection with additional W8XWJ field work.
- W2XWG—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate high frequency experimental broadcast station W2XWG to utilize amplitude modulation on frequency 42600 ke., for the period March 17, 1940, to not later than April 15, 1940, in order to accumulate data for direct comparison of the effectiveness of frequency modulation versus amplitude modulation for presentation at the High Frequency Hearing.

WSAL—Frank M. Stearns, Salisbury, Md.—Granted oral argument on the proposed findings in re revocation of station license, to be held March 28, 1940.

WWRL—Long Island Broadcasting Corp., Woodside, Long Island, N. Y.—Denied special temporary authority to operate with power of 250 watts nighttime for a period not to exceed 30 days.

WQDM—A. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—Granted special temporary authority to operate from 7 p. m. to 10 p. m., EST, on March 14, 15, 16, 1940, in order to broadcast New England Basketball Tournament games only.

WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 9:45 p. m., CST, on March 14, 1940, in order to broadcast a speech by Richard Lyons, candidate for Governor of State of Illinois.

## APPLICATIONS FILED AT FCC

### 560 Kilocycles

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Authority to determine operating power by direct measurement of antenna power for auxiliary transmitter.

### 590 Kilocycles

WKZO—WKZO, Inc., Kalamazoo, Mich.—License to cover construction permit (2-P-B-3134) as modified to change hours of operation, install directional antenna for night use.

### 610 Kilocycles

WIOD-WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—Transfer of control of corporation from Metropolis Publishing Co. to Miami Daily News, Inc.

### 780 Kilocycles

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Authority to determine operating power by direct measurement of antenna power.

### 890 Kilocycles

WGST—Georgia School of Technology, Atlanta, Ga.—Construction permit to increase power from 1 KW night, 5 KW day, to 5 KW day and night, and install directional antenna for night use.

### 920 Kilocycles

KPRC—Houston Printing Corp., Houston, Tex.—Construction permit to increase power from 1 KW night, 5 KW day, to 5 KW day and night, and install directional antenna for night use.

### 950 Kilocycles

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Modification of construction permit (B1-P-1332) as modified for a new station, requesting authority to change type of transmitter; extend commencement date to 30 days after grant and completion date 120 days thereafter. Amended re corporate structure.

### 1010 Kilocycles

WNAD—University of Oklahoma, Norman, Okla.—Authority to determine operating power by direct measurement of antenna power.

### 1100 Kilocycles

WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—Construction permit to change hours of operation from daytime to unlimited, using 1 KW power day and night, and install directional antenna for night use.

### 1180 Kilocycles

WMAZ—Southeastern Broadcasting Company, Inc., Macon, Ga.—Construction permit to change frequency from 1180 ke. to 1250 ke.; change hours of operation from limited to unlimited time; install directional antenna for night use.

NEW—Albuquerque Broadcasting Co., Albuquerque, N. Mex. (KOB).—Construction permit to make changes in equipment and increase power from 10 to 50 KW.

### 1200 Kilocycles

NEW—The Huntsville Times Co., Inc., Huntsville, Ala.—Construction permit for a new station on 1200 ke., 100 watts, unlimited time, facilities of WBHP.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Construction permit for changes in equipment.

#### 1210 Kilocycles

KPFA—The Peoples Forum of the Air, Helena, Mont.—Authority to determine operating power by direct measurement of antenna power.

WFAS—Westchester Broadcasting Corporation, White Plains, N. Y.—Construction permit to install new transmitter and increase power from 100 to 250 watts.

NEW—The Maryland Broadcasting Co., Baltimore, Md.—Construction permit for new broadcast station on 1210 kc., 250 watts, unlimited time, Class IV.

KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Authority to determine operating power by direct measurement of antenna power.

KYUM—Yuma Broadcasting Co., Yuma, Ariz.—License to cover construction permit (B5-P-2412) as modified for a new station.

KWAT—Midland National Life Insurance Company, Watertown, S. Dak.—Authority to determine operating power by direct measurement of antenna power.

#### 1230 Kilocycles

NEW—The Herald Publishing Co., Albany, Ga.—Construction permit for a new station on 1230 kc., 1 KW, unlimited time, using directional antenna. Amended to specify transmitter site as Albany, Ga.

#### 1290 Kilocycles

KTRH—KTRH Broadcasting Co., Houston, Tex.—Construction permit to install directional antenna for night use; increase power from 1 KW, 5 KW day, to 5 KW day and night. Class III-A.

#### 1340 Kilocycles

WCOA—Pensacola Broadcasting Co., Pensacola, Fla.—License to cover construction permit (B3-P-2709) for new transmitter.

#### 1370 Kilocycles

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Construction permit to change frequency from 1370 to 1040 kc. (1080 if North American Regional Agreement becomes effective prior to action), increase power from 250 watts to 1 KW, 5 KW day, install new transmitter and antenna, and move studio from Indiana Theatre Bldg., 407 Vincennes St., New Albany, Ind., to 5th and Jefferson Sts., Louisville, Ky., and transmitter from McCullough Pike, near Silver Creek, New Albany, Ind., to site to be determined, New Albany, Ind. (Requests Class II Station).

WARM—Union Broadcasting Co., Scranton, Penna.—Modification of construction permit (B2-P-2366) for a new station requesting changes in antenna, increase in power from 100 watts, 250 watts day to 250 watts day and night. Move transmitter from Washington Ave. and Center St., Scranton, Penna. to 701 North Blakely St., Dunmore, Penna. Extend commencement date 60 days after grant, and completion date 180 days thereafter.

WPRR—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Modification of construction permit (B-P-1941) as modified, for change in frequency, increase in power, change in hours of operation, move transmitter, changes in equipment, and antenna, further requesting extension of completion date from 3-26-40 to 4-26-40.

NEW—Stephen R. Rintoul, Stamford, Conn.—Construction permit for a new broadcast station to be operated on 1370 kc., 250 watts, unlimited time.

WLLH—Merrimac Broadcasting Co., Inc., Lawrence, Mass.—License to cover special experimental authority B1-SA-192, as extended for a synchronous station.

#### 1410 Kilocycles

WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Modification of license to increase power from 500 watts, 1 KW-day to 1 KW day and night.

WROK—Rockford Broadcasters, Inc., Rockford, Ill.—Modification of license to increase power from 500 watts; 1 KW-day to 1 KW day and night.

WBCM—Bay Broadcasting Co., Inc., Bay City, Mich.—Modification of license to increase power from 500 watts; 1 KW-day to 1 KW day and night.

#### 1420 Kilocycles

WHMA—Harry M. Ayers, Anniston, Ala.—License to cover construction permit (B3-P-2548) for changes in equipment and increase in power.

NEW—Scott Howe Bowen, Rome, N. Y.—Construction permit for new broadcast station on 1420 kc., 250 watts, unlimited time, Class IV.

#### 1460 Kilocycles

KSTP—National Battery Broadcasting Company, St. Paul, Minn.—Modification of construction permit (B4-P-1828) as modified, for move of transmitter, installation of new equipment, directional antenna and increase in power, requesting extension of completion date from 3-8-40 to 5-8-40.

KSTP—National Battery Broadcasting Company, St. Paul, Minn.—License to cover construction permit (B4-P-2744) for move of auxiliary transmitter, and to use directional antenna as authorized under B4-MP-759 for auxiliary transmitter.

WJSV—Columbia Broadcasting System, Inc., Washington, D. C.—License to cover construction permit (B1-P-1827) as modified for installation of new transmitter, move transmitter, increase power and install directional antenna.

#### 1490 Kilocycles

NEW—Luther E. Gibson, Vallejo, Calif.—Construction permit for a new station to be operated on 1490 kc., 250 watts unlimited time. Contingent on North American Regional Agreement. Request Class IV station.

#### 1500 Kilocycles

WKAT—A. Frank Katzentine, Miami Beach, Fla.—Construction permit to change frequency from 1500 to 1330 kc. (1360 kc., under North American Regional Agreement), increase power from 250 watts to 1 KW, install new transmitter and antenna, move transmitter from 1759 N. Bay Road, Miami Beach, Fla., to site to be determined, Miami Beach, Florida. (Request III-B Station)

NEW—The Peninsula Broadcasting Co., Salisbury, Md.—Construction permit for new broadcast station on 1200 kc., 250 watts, unlimited time, facilities of WSAL. Amended: To change requested frequency from 1200 to 1500 kc., omit request for facilities of WSAL, make changes in antenna system and changes in corporate structure.

WGTC—J. J. White, tr/as Greenville Broadcasting Co., near Greenville, N. C.—Modification of construction permit (B3-P-2053) as modified, for a new station, requesting change in hours of operation from daytime to unlimited time, using 250 watts power, day and night.

NEW—Atlantic Broadcasting Corp., Miami Beach, Fla.—Construction permit for a new station, on 1500 kc., 250 watts, unlimited time. Contingent on WKAT's application being granted for change in frequency.

#### MISCELLANEOUS

W10XF—National Broadcasting Co., Inc., Portable.—Modification of license to add emission A-4 and A-5 and special types to emission already in use.

W10XR—National Broadcasting Co., Inc., Portable-Mobile.—Modification of license to add emission A-4, A-5 and special types to emission already in use.

W9XWT—The Louisville Times Co., Louisville, Ky.—Modification of license to change corporate name from the Louisville Times Company to Courier-Journal and Louisville Times Company.

WALM—The Louisville Times Co., Louisville, Ky.—Modification of license to change corporate name from the Louisville Times Company to Courier-Journal and Louisville Times Company.

WALN—The Louisville Times Co., Louisville, Ky.—Modification of license to change corporate name from the Louisville Times Company to Courier-Journal and Louisville Times Company.

WAUJ—The Louisville Times Co., Louisville, Ky.—Modification of license to change corporate name from the Louisville Times Company to Courier-Journal and Louisville Times Company.

WAIC—The Louisville Times Co., Louisville, Ky.—Modification of license to change corporate name from the Louisville Times Company to Courier-Journal and Louisville Times Company.

NEW—Columbia Broadcasting System, New York, N. Y.—Construction permit for new television station of portable Mobile operation in area of New York, N. Y., on 336000-348000 kc., 25 watts for visual and 10 watts for aural operation, special and A-5 emission. Amended: To omit request for aural operation.

W3XE—Philco Radio and Television Corp., Philadelphia, Penna.—Modification of license to change frequencies to 50000-56000 kc. Amended: To request frequencies of 66000-72000 kc.

NEW—WOAX, Incorporated, Morrisville, Fall Township, Pa.—Construction permit for new high frequency broadcast station, 1 KW power, special emission. To be located: Lincoln Highway No. 1, Morrisville, Fall Township, Pa. Amended: To specify frequency of 42600 kc.

WEGM—Bamberger Broadcasting Service, Inc., New York, N. Y.—Construction permit to move transmitter from 1450 Broadway to 500 Fifth Ave., New York, N. Y.

WRCA—National Broadcasting Co., Inc., Bound Brook, N. J.—Modification of license to use both amplifiers simultaneously on two directional antennas on 9670 kc. Amended to operate an additional 35 KW on additional antenna oriented on Central America on 9670 kc.

NEW—World Broadcasting System, Inc., New York, N. Y.—Construction permit for a new high frequency broadcast station on 41800 kc., 1 KW, special emission, site to be determined, New York, N. Y.

NEW—WHP, Inc., Harrisburg, Pa.—Construction permit for a new relay broadcast station on 33380, 35020, 37620, 39820 kc., 25 watts, A-3 emission, to be located in area of Harrisburg, Pa.

NEW—Scranton Broadcasters, Inc., Scranton, Pa.—Construction permit for a new high frequency broadcast station on 43200 kc., 1 KW, unlimited time, special emission, to be located in Scranton, Pa., exact site to be determined.

NEW—Alabama Polytechnic Institute, University of Alabama and Alabama College (Board of Control of Radio Broadcasting Station WAPI), Birmingham, Ala.—Construction permit for a new relay broadcast station on 1622, 2058, 2150 and 2790 kc., 25 watts, A-3 emission, portable-mobile, area of Birmingham, Ala.

WAUV—The Louisville Times Co., Louisville, Ky.—Modification of construction permit B2-PRY-194, for new relay broadcast station, requesting change in corporate name from The Louisville Times Company to Courier-Journal and Louisville Times Company.

NEW—World Broadcasting System, Inc., Hollywood, Calif.—Construction permit for a new high frequency broadcast station on 43400 kc., 1000 watts, special emission, site to be determined at or near Hollywood, Calif.

NEW—World Broadcasting System, Inc., Chicago, Ill.—Construction permit for a new high frequency broadcast station on 42200 kc., 1 KW power, special emission, site to be determined at or near Chicago, Ill.

W9XEN—Zenith Radio Corp., Chicago, Ill.—License to cover construction permit (B4-PHB-139) for move of transmitter.

NEW—WSIX, Inc., Nashville, Tenn.—Construction permit for a new high frequency station on 43200 kc., 1 KW power, special emission, to be located at corner 3rd and Union Streets, Nashville, Tenn.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**D. M. Alachuzos Company**—Charging misrepresentation in the sale and distribution of sponge products, a complaint has been issued against D. M. Alachuzos Company, 336 South 4th St., Philadelphia.

It is alleged that the respondent, a dealer in sponge and chamois skin products, represented its business as that of a producer and packer of sponges, maintaining and operating its own packing houses for the processing and packing of its sponge products at Tarpon Springs, Fla., Nassau, Bahama Islands, and at Calymnos in the Aegean Sea and represented that it maintained its own force of trained workmen expert in selecting and grading sponges, and that it held membership in "sponge exchange markets."

The complaint charges that the respondent's representations are false and misleading in that it has not maintained the facilities, equipment and membership described.

**M. N. Arnold Shoe Company**—See Stetson Shoe Company, Inc.

**Bray Chemical Company**—A complaint has been issued against Bray Chemical Company, 2010 South Marshall Blvd., Chicago, a packer and distributor of chemical cleansing compounds, alleging misrepresentation in the sale of a lye-product.

The respondent is alleged to have represented that a 6-ounce can of its preparation, or 6 ounces thereof, will make hard soap when mixed with 6 pounds of grease, when such is not a fact.

The respondent's representations are alleged to provide jobbers and retail sellers a means whereby they may mislead retail purchasers. (4052)

**Lenoir Solvent Company**—See Lenoir Woodfinishing Co., Inc.

**Lenoir Woodfinishing Company, Inc.**, of Lenoir, N. C., and Arthur G. Spencer, its president and sales manager, individually and trading under the name Lenoir Solvent Company, are charged, in a complaint, with unlawful payment of fees to certain officials and employees of their customers so as to induce the purchase by such customers, through such officials or employees, of the respondents' products.

The respondent corporation manufactures paints, varnishes, stains, thinners, sealers and other wood finishing products and sells them to wood finishing concerns and furniture manufacturers.

It is alleged that the respondents have given substantial sums of money and other things of value to certain officials and employees of their customers or prospective customers, without the knowledge or consent of such customers, for the purpose of inducing such officials and employees to purchase the respondents' wood finishing materials for use by their employers or to recommend the purchase of such products by their employers, or as payments to such officials and employees for having induced the purchase or recommended the use of the respondents' products by their employers.

In some instances, it is alleged, the respondents have offered to pay and have paid to finishing room foremen employed by their customers or prospective customers a fixed fee of \$5 a drum for every drum of wood finishing materials purchased by their employers from the respondents. In other instances, it is alleged, the respondents have given some employees of the respondents' customers 7 per cent or 10 per cent of the purchase price of all materials bought from the respondents by such customers. All of the payments and offers of payments are alleged to have been made without the knowledge and consent of the respondents' customers whose employees have been so paid.

The complaint alleges that in violation of the Federal Trade Commission Act the respondents' practices have tended to divert trade unfairly to the respondents from competitors who have not indulged in such methods. (4048)

**Hydrosal Company**—Alleging misrepresentation in the sale of medicinal preparations, a complaint has been issued against The Hydrosal Company, 333 East Eighth St., Cincinnati, distributor of "Hydrosal Liquid" and "Hydrosal Ointment."

In newspaper and other periodical advertisements the respondent company is alleged to have represented its preparations as possessing remedial, curative or healing properties with respect to eczema, piles, athlete's foot, poison ivy and disorders associated with pimples, skin rashes, outbreaks and itches which such preparations

do not possess. The complaint points out that these products have no therapeutic value in connection with treatment of the ailments mentioned in excess of affording temporary and palliative relief from the symptoms of itching.

Contrary to a further representation of the respondent, in its advertisements, its preparations have not been adopted by and used generally in hospitals or by physicians, according to the complaint. (4049)

**M & M Bag and Suit Case Co.**—Misrepresentation in the sale of luggage is alleged in a complaint issued against Meyer Brodie and Morris White, trading as M & M Bag and Suit Case Company, 26 Exchange Place, Jersey City, N. J.

Among and typical of misleading representations allegedly made by the respondents in the sale of their products is the statement that "This Article is Made of Genuine Buffalo Walrus Leather." Through use of the foregoing and other representations of similar import the respondents are alleged to represent that certain of their suit cases and traveling bags are made of walrus leather, when in fact they are not made of walrus leather but are made of buffalo leather. (4046)

**Perfect Voice Institute**—Alleging misrepresentation in the sale of a course in voice culture, a complaint has been issued against Perfect Voice Institute and Eugene Feuchtinger, its president, 64 E. Lake St., Chicago, and Walter A. Jordan, chairman of the board of directors, and Mary E. Murphy, secretary and treasurer, both of 307 N. Michigan Ave., Chicago.

The complaint relates that the respondents sell their course designated "Physical Voice Culture," consisting of thirty lessons contained in fifteen printed volumes entitled "A Manual for the Perfection of the Human Voice," and that as a part of the course they furnish a so-called outfit consisting of mirror, electric torch, tongue depressors, thyhedron tongue support, breath measure and special chromatic pitch pipe.

In advertisements the respondents allegedly offer a "wonderful voice book free," as a means of making contacts with prospective purchasers. In advertising their course of instruction they are alleged to have represented that "We build, strengthen the vocal organs—not with singing lessons, but by fundamentally sound and scientifically correct silent exercises—and absolutely guarantee to improve any singing or speaking voice at least 100%."

Other representations alleged to have been made are that by use of the respondents' method strong tongue muscles can be developed and controlled and that this results in perfect voice production; that the strengthening of tongue and throat muscles by silent physical exercises is a method of physical voice culture; that the respondents' course brings out a new quality, new power and force to the voice, cures stammering and overcomes positive physical defects. (4047)

**Stetson Shoe Company, Inc.**, South Weymouth, Mass., trading as M. N. Arnold Shoe Company, has been served with a complaint alleging misleading representations with respect to the materials of which certain of its shoes are made.

By means of catalogs and price lists distributed among prospective purchasers, the respondent corporation is charged with misleading use of the legend "Alligator Calf" to describe certain of its shoes. Through use of this legend the respondent allegedly represents that such shoes are made from the hide of an alligator when in fact they are made from a leather material other than that hide and which has been embossed in a manner simulating alligator leather.

Pointing out that there is a marked preference on the part of a substantial portion of the public for shoes made from the hide of an alligator instead of shoes made from other leather materials, the complaint alleges that the respondent's representations tend to mislead purchasers in violation of the Federal Trade Commission Act. (4050)

**United Art Studio**—L. L. Gwin, trading as United Art Studio, Chattanooga, Tenn., and engaged in the business of selling portraits or products of photography, is respondent in a complaint charging misrepresentation.

The complaint charges that for the purpose of inducing the purchase of portraits or photographic products the respondent has supplied coupons to retail merchants in various States for use by them in inducing or encouraging the purchase of their merchandise in accordance with the plan or method formulated by

the respondent. The name and address of the merchant appears at the top of the coupon with explanatory matter reading: "This card, when signed by merchant issuing same, entitles holder to one Enlarged Portrait designed, proportioned and colored as requested below \* \* \*" and "A \$3.00 Enlarged Technitone Hand Colored Portrait in Leatherette Frame for only \$5.00 in trade and 39¢. Reproduced from your favorite photo, kodak or penny picture \* \* \*."

Through these statements, the complaint alleges, the respondent has represented that his portraits and photographs are of the value of \$3.00; that the coupon is worth \$2.61 to the purchaser of a portrait, and that the price of 39¢ represents a special offer which is available for a limited time only. The complaint alleges that the portraits do not have a value of \$3.00 or any value approximating such amount; the coupons are not worth \$2.61 or any other amount in the purchase of the portraits, and the price of 39¢ does not represent a special offer which is available for a limited time only. In truth, the complaint continues, the respondent sells his portraits or photographs in the usual and customary course of business for 39¢ without any limitation as to time and regardless of whether the prospective purchaser possesses one of the coupons.

These acts and practices, the complaint declares, are to the prejudice and injury of the public and constitute unfair and deceptive acts and practices within the meaning of the Federal Trade Commission Act. (4043)

**U. S. Drug Laboratories**—See U. S. Drug & Sales Company.

**U. S. Drug & Sales Company**—Charging misrepresentation of the properties and therapeutic values of certain medicinal products and failure to reveal that certain preparations offered for sale contain dangerous drugs, a complaint has been issued against Edwin L. Leisenring, trading as U. S. Drug & Sales Company, also as U. S. Drug Laboratories, and as U. S. Drug Company, and against Gordon Leisenring, both of 1534 Lawrence St., Denver, Colo.

Preparations sold by the respondents are "Man's Pep Tonic", also advertised as "Man's Tonic" and sold as "U. S. Special Tablets", and "Man's Pep Tonic (Double Str. Capsule)", also advertised as "Man's Tonic (Double Str. Capsule)" and sold as "Sextogen Capsules for Men or Women."

Through advertisements in newspapers and by mail, the respondents are alleged to represent that their preparations are safe, competent and reliable tonics; are effective, safe and scientific aphrodisiacs and as treatments for strengthening and rejuvenating the glands and sexual organs of man or woman, and that the preparations possess therapeutic value in the treatment of debility.

Alleging that the respondents' representations are exaggerated, misleading and untrue, the complaint charges that the preparations are practically without value as tonics, because drugs possessing tonic properties are not present sufficiently to give tonic value. These preparations are alleged to possess neither any value for strengthening or rejuvenating the glands or sexual organs nor for treating debility.

The complaint alleges that the respondents' representations constitute false advertisements in that they fail to reveal that "Man's Pep Tonic" contains the dangerous drugs, extract nux vomica and yohimbine hydrochloride; that "Man's Pep Tonic (Double Str. Capsule)", sold as "Sextogen Capsules for Men and Women", contains extract nux vomica, yohimbine, and extract of thyroid, and in that they do not disclose facts with respect to the consequences which may result from use of such commodities under conditions prescribed in the advertisements or under customary conditions.

Charging violation of the Federal Trade Commission Act, the complaint grants the respondents 20 days in which to answer the allegations.

A preliminary injunction restraining the respondents from the same practices, pending disposition of the Commission's case, was obtained by the Commission February 13, in the United States District Court, Denver. (4053)

**Western Auto Supply Company**, 2107 Grand Ave., Kansas City, Mo., is charged in a complaint with misrepresentation in the sale of automobile tires and tubes.

In advertisements concerning sales conducted through its retail stores, the respondent corporation is alleged to have misleadingly represented that its tires and tubes were being sold at purported discounts and savings from the regular prices.

It is alleged that the respondent represented that by paying the advertised sales price the customer could obtain a discount or saving of 20 per cent on "Davis DeLuxe Tires", based on the regular sales price, when in fact such discount was exaggerated and untrue because the listed "regular price" made no allowance for the trade-in value of the purchaser's old tires, which, by the terms of the advertisement, were required to be turned in at the time of sale. Giving effect to the minimum trade-in allowance of 10 per cent for used tires, the saving or discount was about 11 per cent instead of the 20 per cent as advertised, according to the complaint.

It is also alleged that the respondent represented that in the purchase of a "Davis DeLuxe Tire" during a sale the purchaser would receive a Davis tube free and save the difference between the advertised sale price for tire and tube and the listed price for nationally advertised tire and tube. However, the complaint alleges, such saving was exaggerated and untrue because the advertised price made an allowance of 10 per cent for the purchaser's old tires, while the listed price for nationally advertised tire and tube made no such allowance, although it was customary for dealers selling nationally advertised tires to make an allowance of at least 10 per cent as the trade-in value for old tires. (4054)

**Western Novelty Company**—A complaint has been issued charging Max Levin, trading as Western Novelty Company, 1729 Lawrence St., Denver, Colo., with selling to dealers assortments of merchandise so packed and assembled as to involve the use of a lottery scheme when sold to ultimate consumers. It is alleged that the respondent also furnished such dealers with punchboard devices for use in selling the merchandise. Among articles sold and distributed by the respondent were knives, cameras, razors, pens, pencils and cigarette lighters. (4055)

#### CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders during the past week:

**Carlyle Service**—See Supreme Manufacturing Company.

**Mary T. Goldman Company**—See Monroe Chemical Company.

**Harmony Centre**—Jessie F. Springer, trading under the name of Harmony Centre, 604 West 112th St., New York City, has been ordered to discontinue misrepresentations in connection with the sale and distribution of a book written by one Johanna Brandt, entitled "The Grape Cure," and formerly entitled "The Grape Cure (How I Cured Myself of Cancer)."

The Commission's findings are that the respondent's book purportedly tells how Johanna Brandt cured herself of cancer through the use of the method or system of treatment narrated in the book which is based on the use of grapes as a foundation and which method of treatment, the respondent represents, will cure cancer and practically all other diseases, ailments and conditions which may afflict the human body.

Among representations in the advertising disseminated by the respondent, the findings continue, are that most diseases originate in the intestines and are caused by poisons due to uneliminated waste; that grapes dissolve, or are a solvent of mucus; that those who develop malignant growths in most cases have been suffering from constipation; that salt, inorganic drugs, and patent medicines cause cancer, and that the system or method of treatment outlined in the book will restore one's health.

The Commission finds that these representations are false and misleading; that grapes do not dissolve, and are not a solvent of mucus; that salts, inorganic drugs and patent medicines do not cause cancer, and that the system or method of treatment outlined in the book is not a competent treatment or an effective remedy for various ailments.

The respondent is ordered to cease and desist from representing, in connection with the sale and distribution of the book entitled "The Grape Cure," that the system or method of treatment outlined in the book constitutes a cure or remedy for or a competent and effective treatment for constipation, cancer, heart trouble, kid-

ney trouble, bladder trouble, angina pectoris, sinus trouble, goiter, stomach ulcers, rheumatism, asthma, gall stones or tuberculosis, and from representing that grapes dissolve, or are a solvent of mucus. (3933)

**W. H. Maze Company**—An order has been issued requiring W. H. Maze Company, Peru, Ill., to cease and desist from certain misrepresentations in the sale of roofing nails. The Commission found that, although the respondent company advertised its "Maze Lead Head Anchor Shank Nails" as having twice the holding power under normal conditions of all other nails ordinarily used for roofing, and four times the holding power of certain other roofing nails, such representations were untrue. The respondent company was directed to discontinue these claims and to cease representing that its roofing nails have any designated holding power in excess of that possessed by other roofing nails, when such is not a fact. (3953)

**Monroe Chemical Company**—An order has been issued against Monroe Chemical Company, Quincy, Ill., and Mary T. Goldman Company, St. Paul, Minn., prohibiting misrepresentation in the sale of a hair preparation.

Through newspaper and other periodical advertising and through use of the word "restorer" in designating the preparation, the respondents are found to have represented that their product is capable of restoring the original or youthful color to gray, streaked, or faded hair, and will remove all trace of gray hair.

Findings are that the preparation does not restore the original color to gray, faded, or streaked hair; that the preparation acts as a dye or stain producing an artificial color; that it will not color or restore color to gray, faded, or streaked hair except in the sense that it may dye the hair, and that all trace of gray, faded, or streaked hair is not removed because repeated applications are required to prevent the new growth of hair from showing gray, faded, or streaked above the scalp line. The Commission also finds that Mary T. Goldman was the originator of the formula for producing the "Mary T. Goldman's Gray Hair Color Restorer" sold by the respondents; was their predecessor in business, and was not living at the time that her name was used in the respondent's advertising.

The order directs the respondents to cease and desist from representing that their preparation is not a dye or that it will cause gray or faded or streaked hair to change color without dyeing the hair; or that it will restore the natural, original or youthful color to gray hair, or remove all trace of gray hair in any other manner than as a dye.

The order also prohibits the representation that anything less than repeated applications of the respondents' preparation will change the color of the user's hair or cause it to maintain the color imparted by the product, and forbids use of the word "restorer" as part of the brand name for the product.

Representation that Mary T. Goldman is a living person personally recommending the respondents' preparation, or personally corresponding with the users or prospective users thereof, is also prohibited under the order. (3274)

**Morton Salt Company**—Cease and desist order issued against Morton Salt Company, 208 West Washington St., Chicago, in October 1939, has been modified.

Under that order, the respondent company was directed to cease using the words "smoked" or "smoke" or any other words signifying smoke or implying use of smoke to describe salt offered for sale, or sold, for curing, preserving, smoking, or flavoring meats, unless the salt so described had been directly subjected to the action and effect of the smoke from burning wood during the course of its combustion sufficiently to acquire from such source alone all of its smoke or smoke effects for use in curing, preserving, smoking or flavoring meats.

The order has now been modified to add the following proviso: "Nothing in this order shall prohibit the respondent from using the terms 'wood smoke' and 'refined condensed smoke' in enumerating or stating the ingredients of such salt when such salt has been directly subjected to the action and effect of the smoke of burning wood during its process of combustion and there has been added thereto a refined concentrate resulting from the destructive distillation of wood, and where the application of each of such products is in sufficient quantity to impart to such salt the flavor of smoke." (2150)

**Peerless Manufacturing Company**—See Supreme Manufacturing Company.

**M. Seidel & Son**—An order has been issued against Maurice Seidel and Charles Seidel, trading as M. Seidel & Son, 243 West 30th St., New York, prohibiting misrepresentation and the use of lottery methods in the sale of furs and fur garments.

The findings are that the respondents sold women's fur garments made from rabbit peltries so dressed and dyed as to resemble fur products made from the peltries of seal, beaver, leopard, ermine, mink, squirrel, sable, or karakul sheep; that they failed to disclose the true zoological names of such furs and fur products so sold but instead misrepresented them by means of misleading and deceptive designations such as "Black Seal," "Mendoza Beaver," "Leopardine," "Erminette," "Ermine Coney," "Squirrelette," "Dark Sable Coney," "Broadtail" and other names.

It was also found that the respondents, in the sale of their merchandise furnished plans of merchandising which involved operation of games of chance by use of devices such as push cards.

For the purpose of inducing salesmen or representatives to sell their products by means of such push cards, the findings continue, the respondents represented the possible and average earnings of such salesmen as \$1,300 a week or more, and that an investment of \$12 would bring \$1,300.

The order directs the respondents to cease and desist from placing in the hands of others, push or pull cards, punch boards or other lottery devices which are to be used or may be used in selling merchandise, and from selling merchandise by use of such devices; representing any specified sum of money as possible earnings or profits of agents for any given period of time which is not a true representation of the average net earnings or profits consistently made by full-time representatives under normal business conditions; representing any specified sum as earnings or profits of a specified salesman which has not in fact been consistently earned net by such salesman; describing furs or fur garments in any other way than by the use of the true name of the fur as a last word of the description thereof, and describing fur or fur garments wherein the fur has been dyed or processed to simulate another fur, without using the true name of the fur as a last word of the description immediately preceded by the word "dyed" or "processed," as the case may be, compounded with the name of the simulated fur. (3961)

**Standard Containers Mfg. Association, Inc.**—An order has been issued against the Standard Container Manufacturers' Association, Inc., Jacksonville, Fla., a trade association, three of its officers and 26 Florida and Georgia manufacturers or distributors of wooden containers for fruits and vegetables, prohibiting the maintenance by combination and agreement of uniform and minimum prices for their products, the curtailment of production, and the intimidation of industry members to induce them to become parties to the agreements.

Association officer respondents are James B. Adkins, Gainesville, Fla., former president; Charles P. Chazal, Ocala, Fla., president; and Russell W. Bennett, Jacksonville, Fla., secretary, treasurer, and general manager. (3289)

**Supreme Manufacturing Company**—C. C. Johnson, trading as Supreme Manufacturing Company, Carlyle Service, Marvo Manufacturing Company, and Peerless Manufacturing Company, Omaha, Nebr., has been ordered to cease and desist from misrepresentations in connection with the sale and distribution of a product represented as a preservative of silk hosiery and lingerie.

The findings of the Commission are that the respondent has for several years been engaged in the sale and distribution of a product under the trade names "Supreme," "Marvel," "Marvo" and "Peerless." In making representations with respect to his business status and to the quality and effectiveness of his product, by means of sales talks to prospective customers by agents of the respondent, and in other ways, the respondent has claimed that use of the product "Prevents the runs and snags in your silk hosiery and lingerie \* \* \* strengthens the heel and toe of your hosiery, thereby making them last 4 or 5 times longer \* \* \* this treatment is permanent \* \* \* now this product will cut your hosiery and lingerie expense in half \* \* \* also prevents the silk from rotting, and one treatment is sufficient for the life of the hose," and has used the names "Supreme Manufacturing Company," "Marvo Manufacturing Company" and "Peerless Manufacturing Company."

The findings are that the foregoing representations of the respondent are false and misleading and that his product will not prevent or stop runs or snags in silk hosiery or lingerie; will not prevent silk from rotting or fading; will not save approximately 50 per cent of hosiery and lingerie expense; is not permanent, and does not strengthen the heels and toes of silk hosiery, and that the respondent is not the manufacturer of said product.

The respondent is ordered to cease misrepresentations of the efficacy of his product, and to desist from use of the term "manufacturing" or any other term of similar import or meaning as part of any trade or corporate name or representing that he is the manufacturer of said product, unless he actually owns and operates, or absolutely controls, the manufacturing plant wherein said product is actually manufactured by the respondent. (3712)

**Wardell Piano Company**—Prohibiting certain misrepresentations in the sale of pianos, a cease and desist order has been issued against Clayton L. Wardell, trading as Wardell Piano Company, 909 Pierce St., Sioux City, Iowa.

Through newspaper and other advertisements the respondent is found to have represented that certain of his pianos, having been previously sold on a deferred payment plan, had been repossessed by the respondent from the original purchasers because of their failure to meet the payments due, and were being offered for resale at prices which represented only the unpaid payments due and which were substantially less than the prices at which such pianos ordinarily would be sold.

Commission findings are that many of the pianos sold by the respondent in this manner were not instruments which had previously been sold by the respondent and repossessed from such original purchasers but had been taken from the respondent's regular stock. The prices were not in any sense sacrifice prices, and did not represent any balance due thereon by former purchasers, the findings continue, but were in fact the usual prices.

The Commission order directs that the respondent cease and desist from representing that the prices at which he sells his products constitute a discount to the purchaser, or that they are special or reduced prices, or represent only an unpaid balance due from the original purchaser, when in fact they are the usual prices; from representing as the customary prices or values amounts which are in excess of the regular prices, and from representing that pianos have been repossessed from the purchasers thereof, when such is not a fact. (3967)

## STIPULATIONS

The following stipulations have been entered into by the Commission:

**Abilene Flour Mills Company**, Abilene, Kans., stipulates that it will cease participating in the cost of, or in any way supplying to or placing in the hands of others, premium flour or other merchandise for use in conducting lotteries in the sale and distribution of flour or other products and that it will discontinue participating in the cost of, or in any way placing in the hands of others, prize-drawing cards or other lottery devices to enable such persons to sell merchandise by the use thereof. (2700)

**Ace Equipment Company**—L. B. Patterson and Jack Wolfe, trading as Ace Equipment Company, Des Moines, Iowa, agree to cease representing that the "Ace Spark Plug Cleaner" will clean one or any number of spark plugs in less time than it actually takes for the average auto mechanic to clean such plugs under usual conditions prevailing in the average small oil and gas station, and including the time required to remove such plugs from the cylinder block of an automobile engine and to replace them after they have been cleaned. Among other representations to be discontinued are that the respondents' cleaner is the finest and quickest ever made and will clean spark plugs as well as the higher priced cleaners will do. The respondents also agree to discontinue misleading representations concerning the earnings to be expected by prospective sales agents. (02519)

**Book Match Company**—See Chicago Match Company.

**Chicago Match Company**—Fayette H. Lawson and William A. Lawson, trading as Chicago Match Company and as Book Match Company, Chicago, Ill., agree to cease representing that they are “the quality leader” in the book match industry, when such is not a fact; that they sell their book matches at any price other than the price actually charged; that no extra charge is made for “deLuxe designs,” “three color covers,” or any other styles, such as “union labels” and “special red, white and blue covers,” when in fact extra charges are made. The respondents also stipulate that they will cease stating that their catalogs contain “over 865 special book match cuts” or any other number greater than is actually a fact, and that they will cease using in their advertisements the term “three color covers” with the effect of creating the impression that the number of colors printed or otherwise inscribed upon the stock is greater than is actually a fact. The respondents agree to cease representing that any article is given “free” when receipt of such article is contingent upon any consideration, such as payment of money or rendering of services, not clearly disclosed in direct connection with the representation, and to discontinue the use in advertising of the words “bronzing” or “bronze” as descriptive of match book covers so as to imply that such printed products are the result of imparting a gold, silver or other metallic color by means of powders, painting, or chemical process, when such is not a fact. (2701)

**Claxton Candy Company, Inc.**, Atlanta, Ga., agrees to cease selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers directly, candy so packed and assembled that its sale to the public is to be made or may be made by means of a lottery or gift enterprise. The respondent company also agrees to cease placing in the hands of dealers candy assortments which are used or which may be used without alteration to conduct a lottery in sales of such candy to the public, and to discontinue placing in the hands of others, punch boards, push or pull cards or other lottery devices to enable such persons to sell merchandise by the use thereof. (2699)

**Dental Research Company**—Melvin E. Page, trading as Dental Research Company, Muskegon, Mich., has made a stipulation in which he agrees to discontinue misleading representations in the sale of a kelp preparation advertised as “Ce-Kelp, the Gift of Nature to Man” and “A Vegetable Sea Food Rich in Minerals.”

Among representations which the respondent agrees to discontinue are that his product is “rich in minerals”; that it prevents or corrects what physicians call the deficiency diseases; and that heart trouble, tuberculosis, anemia, high and low blood pressure, hardening of the arteries, rheumatism, neuritis, arthritis, kidney and bladder trouble, frequent colds, nervousness, constipation, acidosis, pyorrhea, over and underweight, cataract or cancer are recognized or properly classified as being deficiency diseases.

The respondent also stipulated that he will cease representing that the main cause of deficiency diseases is lack of mineral elements in ductless glands, or that his commodity or any other kelp product is “literally packed” with such essential elements.

The respondent stipulates that he will desist from designating himself as “Dr.” or “Doctor” unless it be clearly disclosed that he is a doctor of dentistry and not of medicine.

The stipulation points out that, according to reliable medical authority the respondent’s various claims and inferences are contrary to the weight of scientific evidence and are based upon premises that cannot be substantiated. (2704)

**Jones Pulmotor Arch Support Company**, Kansas City, Mo., stipulates that it will desist from advertising that the “Jones Pulmotor Arch Support” strengthens the feet or the foot muscles, rebuilds the feet, corrects or cures any foot disorder or any condition which causes foot or leg ailments, stimulates circulation of the blood or aids in the elimination of poisons, and increases energy or vitality. The respondent also agrees to cease representing that its arch supports are complete “air cushions” or that they cause any massaging effect or vacuum-suction action which is of therapeutic, remedial or palliative value or effect, or which aids in the elimination of fatigue or is beneficial to any part of the system. (02521)

**Kamazin Manufacturing Company**—Agreeing to discontinue misrepresentation in the sale of a medicinal preparation, Israel Freed, trading as Kamazin Manufacturing Company, 145 West Kingsbridge Road, New York, has entered into a stipulation. The respondent agrees to cease representing that use of his preparation “Kamazin Powder” affords relief from the condition known as athlete’s foot for a long period of time or affords permanent relief, and that doctors prescribe or endorse Kamazin Powder. (02522)

**Manfield Handkerchief Company**—See M. Zwaifler & Company, Inc.

**Verard Company**—Stipulation has been accepted from Ruth Cecil Arden trading as The Verard Company, 119 West 227th St., New York, distributor of a medicinal preparation to discontinue certain misleading representations.

In the sale of “Verard Solution,” the respondent agrees to cease representing that the preparation is of itself a competent treatment or effective remedy for athlete’s foot; that any person using such medication will no longer suffer from red or swollen feet or certain other discomforts; that beneficial results may be expected by the user without regard to the stage of infection, the presence of accompanying factors or the necessary hygienic measures which must attend any type of medication for such conditions. The respondent also agrees to discontinue misleading uses of the word “guaranteed.” (2696)

**M. Zwaifler & Co., Inc.**, and M. Joseph Rosen, trading as Manfield Handkerchief Company, New York, N. Y., stipulate that they will desist from referring to their businesses as those of manufacturers of handkerchiefs when neither respondent owns, operates, or controls the plants in which the products sold are made. M. Joseph Rosen also agrees to discontinue representing that he has factories in Passaic, N. J.; Chicago, Minneapolis, Los Angeles, Boston, or elsewhere; or maintains foreign offices in Paris, France; Manchester, England; Swatow, China; Mayaguez, Puerto Rico; Belfast, Ireland, or elsewhere, when such are not the facts, or from representing that he has offices of his own at Passaic, Chicago, Minneapolis, Los Angeles, Boston, or elsewhere, when in fact the offices referred to are those of salesmen and are not financed and controlled by the respondent. (2702 and 2703)

## ASCAP Demands 100 Per Cent Increase; Miller Replies

ASCAP on Thursday demanded a 100 per cent increase for a new agreement with the broadcasting industry, and Neville Miller immediately made the following statement:

“The American Society of Composers, Authors and Publishers made public today its demands for a 100 per cent increase in the payments made to it by the broadcasting industry. This increase is demanded by ASCAP despite the fact that the radio broadcasting industry is already making payments to ASCAP at the rate of five million dollars a year. This sum is five times as great as that paid by any other industry. It represents over two-thirds of ASCAP’s total revenue and is an increase of 900 per cent over the sums paid by broadcasters in 1931.

“Although most of ASCAP’s statement talks about the alleviation of certain abuses which ASCAP itself admits exist in its present licensing system, when the camouflage is stripped away the proposal boils down to a demand that the broadcasting industry should double its payments for the radio performing rights in the compositions controlled by ASCAP’s publisher and composer members.

“ASCAP’s demand was put forward without previous negotiation with broadcasters and after a refusal to meet with the negotiating committee appointed by the National Association of Broadcasters. Although ASCAP attempts to divide the broadcasting industry by making concessions to certain groups, the total amount of the reductions which it suggests is inconsiderable compared to the total amount involved.

“Moreover, ASCAP’s new plan perpetuates the major abuse about which broadcasters have always complained, and requires broadcasters to pay to ASCAP a percentage of all broadcasting revenue even that obtained for programs which do not utilize ASCAP music, such as news broadcasts, sports events and programs of classical music. The broadcasting industry will be unified in resisting demands, the effect of which would be to impose charges wholly destructive of the American system of broadcasting.

“ASCAP is again attempting to take advantage of its monopoly of popular music to impose an unfair method and rate of payment upon broadcasters, but ASCAP has this time overreached itself and has made demands which the broadcasting industry must resist as a matter of life and death.

“These demands will strengthen Broadcast Music, Inc., the organization recently

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

**ASCAP DEMANDS 100 PER CENT INCREASE;  
 MILLER REPLIES**

*(Continued from page 4109)*

created by the broadcasting industry to foster new creative talent by increasing the already widespread support of its aims."

This was ASCAP's letter to the industry:

March 21, 1940.

GENTLEMEN:

As you all know, pursuant to the authority given by our Board of Directors, our President appointed a Committee known as a Special Radio Committee to make a careful survey and study of the radio industry and the relationship of our Society thereto, to the end that it recommend the form of license agreement and the terms thereof to become effective with its radio licensees commencing January 1st, 1941.

The Committee has completed its studies and made its report, including its recommendations, to our Board last evening and our Committee has been authorized to submit its recommendations and proposals to the Radio Industry.

The Committee, in collaboration with the executives and the management of the Society, prepared and made an exhaustive study of a great deal of statistical information. As the study progressed it became evident that the present formula under which radio is licensed has developed in some respects an unequal allocation of charges which could not have been foreseen by us at the time the present formula was adopted. Moreover, the recent investigation by the Federal Communications Commission shows that a number of smaller stations have been operating at a disadvantage in comparison with many of the larger stations and with stations affiliated with national networks, and that any formula to be recommended by the Committee must attempt to adjust these inequalities and help alleviate the situation of these small stations.

In addition, numerous abuses and evasions of the provisions of the present contract have been uncovered and the Committee has made provision in the plan for their elimination.

The Committee gave consideration to the "per program"

March 22, 1940

basis, among others, but after an exhaustive analysis thereof found that it was uneconomical and unscientific to adopt the same.

The Committee then carefully studied all the facts relating to the licensing of radio broadcasting stations and the various plans suggested from time to time, and came to the conclusion that the principle of clearance at the source should be recognized in the new formula of licensing.

The Committee then studied the problem of alleviating the hardships suffered by the small stations. In order to eliminate such hardships it decided upon a classification and grouping of stations. This new formula will grant substantial relief in the form of materially reduced sustaining charges and percentage payments to the great many small stations, and some reduction to all stations.

It devoted itself to working out in detail the principle of clearance at the source. Accordingly it has provided for a separate chain broadcast license.

The Committee believes that the present policy of the Society with respect to broadcasting stations operated by municipal, educational, charitable, or religious institutions or organizations should not be changed.

Summarizing all of the foregoing and applying the foregoing principles to the specific conditions, the Committee has recommended and the Board has approved of the following method of licensing and the details relating thereto hereinafter set forth:

**PLAN**

The Society recognizes in its licensing program four distinct and separate groups within the radio broadcasting industry:

- 1st. The small independent station whose gross annual business is in the neighborhood of \$50,000 or less;
- 2nd. An intermediate group of stations, independent and otherwise, each of which by virtue of location, type of program, service to the community, general radio policy, and amount of business done, is in a different category from the small station;
- 3rd. The large station, which by affiliation, by prestige, by virtue of location and the territory it serves, has an opportunity to make substantial profits out of its business; and
- 4th. The chain which does not operate any radio stations as such (it may own stations, it may have a controlling interest in stations) but its primary business is not the operation of a station but the sale of advertising, "time on the air" and supply of programs—commonly known as "Networks."

The License will contain the following provisions:

1. The License is limited to non-visual broadcasting (television is excluded).
2. Network programs must be cleared at the source.

3. Radio stations are divided into three groups paying license fees of 3%, 4% and 5%, respectively.

4. The percentages paid by licensees are computed upon the gross amount paid by the advertiser for use of the station's broadcasting facilities, with only the following deductions permitted:

(a) 15% advertising agency discount, if actually paid;  
(b) Amounts received from political broadcasts; amounts received from religious broadcasts where the amount paid is solely in reimbursement for the cost of lines, wire charges, and other similar charges;

(c) Certain costs of artists especially employed for a particular program and certain costs for news programs, athletic events and similar events, provided that the minimum sum allocated to percentage must not be less than the highest rate charged for a similar period of time over licensee's station;

(d) Amounts received from network for rebroadcasting programs which have been cleared at the source.

5. The sustaining fee of stations in the 3% group is made nominal (\$12. per year).

The amounts to be charged as sustaining fees to the stations in the 4% class will be approximately 25% less than presently charged. The sustaining fees to be charged to the 5% stations are to be approximately the same as presently charged.

Stations in the 4% and 5% groups are given an opportunity to recoup the payment of the sustaining fee after the license fee paid reaches a certain amount.

6. There is a separate contract for networks in which the network broadcaster agrees to clear all programs at the source and to pay 7½% of the amount received by it from advertisers. The license will permit the deductions from the gross which are enjoyed by the individual stations and will contain the protective clauses for the Society that are required by the Society from the individual station. This rate may be reduced to 5% in the case of such network operations as are made necessary because of local conditions.

7. The license to individual stations does not give them the right to rebroadcast programs containing ASCAP compositions which have not been cleared at the source. If such programs are broadcast, however, a sum equal to 10% of the station's highest cord rate for such a program is to be paid to ASCAP in lieu of treating the broadcast as an infringement of copyright.

8. If a licensee having a "single station contract" engages in network broadcasting, such licensee and the Society will agree to enter into the Chain Broadcast License Agreement.

9. The Society has the right to restrict not more than one thousand compositions at any one time. Licensee has the right to cancel if on sixty days' notice the number of compositions on the restricted list exceeds one thousand

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and is not reduced to one thousand or less during the sixty-day period.

10. If anti-ASCAP laws are passed in any State, which in the opinion of the Society, impede or prevent the full performance of the license agreement, the Society may terminate the agreement as to the stations in such State.

11. The Society gives the licensee the same indemnity as in previous contracts.

12. The duration of the contract has not yet been fixed. This will depend on the definitive terms of the final agreement and the wishes of the broadcasters in the matter.

In the opinion of the Society, this plan will bring substantially increased benefits to the radio broadcasting stations. As heretofore each station will have available a large and varied reservoir of music assisting it to meet its primary purpose of serving the intimate needs of the locality in which it is situated. At the same time it will help to make the income of the Society from radio more nearly commensurate with the value of the Society's contribution to the radio industry of this country.

## FM Hearing

MONDAY

The FCC hearing on "High Frequency" opened Monday morning, February 28th. Chairman Fly as an introduction outlined briefly the purposes of the hearing and stated that we have not yet reached exhaustion in broadcasting possibilities and that due to the limited facilities available in the present band Frequency Modulation is a matter of great public concern.

Horace Lohnes, attorney, presented Major Edwin H. Armstrong as the first witness. Major Armstrong testified that he started in radio in 1906 as an amateur and that in 1912 he discovered the regenerative circuit and its properties and in 1917 he went over seas as a Captain and worked on technical problems of the Army. While he was over seas he discovered the principle of the super-heterodyne. Major Armstrong continued his testimony by stating that in 1920 he discovered the super-regenerative circuit. In 1924 he started working on different

ways of solving the static problem and that in 1933 he applied for patents on a method of eliminating static by means of the F. M. system of transmission. Major Armstrong briefly went into the history of Modulation and outlined the development of Amplitude Modulation and Frequency Modulation up to date. Major Armstrong testified that in 1924 he started a different attack upon the problem of eliminating static. He found that static impulses had more of an Amplitude characteristic and that the static in effect corresponded to Amplitude Modulation. He said that he also discovered that the Frequency Modulation characteristics of static were of a narrow band characteristic and that from these observations he conceived the idea of using a wide band F. M. for overcoming the effects of static.

Major Armstrong went into the history of his attempts to introduce Frequency Modulation and told of the various demonstrations he had presented. A film recording made at Haddonfield, New Jersey, August, 1935 was played. Transmissions by F. M. from a 2 KW transmitter at the Empire State Building, a distance of approximately 85 miles were compared with an A. M. 50 KW on 660 KC, WEAJ at Bellmore, Long Island, a distance of about 105 miles. The demonstration showed marked static interferences on the standard band station and very little interference on the F. M. station. Part of the record was of Station WMCA 500 Watts on 570 KC in New York City, a distance of about 85 miles, showing very little signal in comparison to the static. Major Armstrong pointed out that part of the difference in the static level was due to the difference in frequency, (there is a difference in static level of about 35 DB between 660 KC and 40 MC—ed. note). It was Major Armstrong's opinion that the successful operation of existing F. M. stations adequately answered the question as to whether F. M. was ready for regular broadcast service or not. He stated that the normal good service range of his Alpine station (near New York City) was about 100 miles, and that there is very little secondary coverage on a F. M. station. This was in response to Commissioner Craven's question as to where Frequency Modulation's superiority over a 50 KW standard band station ends. Major Armstrong testified that the gain over noise on F. M. varied roughly in voltage as the band width, and that on F. M. a signal to noise ratio of 2 to 1, gives about the same order of service as would be given by a signal to noise ratio of 100 to 1 with A. M.

Commander Craven asked Major Armstrong if, disregarding noise, would an Amplitude Modulation station on the same frequency have the same range as an F. M. station, and the answer was, yes. Major Armstrong stated that the F. M. system lends itself more readily to the handling of "High Fidelity" and a wide Audio-Frequency band. He stated that in F. M. the characteristics of the circuits determine the quality and that in A. M.

the main determining factor was the characteristics of the tubes, and that this gave F. M. an advantage in fidelity control over A. M. Major Armstrong stated that in the transmitter the functions of F. M. could be performed with receiving type tubes, and that this energy could then be amplified with ordinary Class C amplifiers to the desired power. In response to Chairman Fly's query, Major Armstrong responded that he would not undertake to render a secondary service with F. M. and that the system produces a good primary area and the service beyond there is too spasmodic to be of material use as a secondary service. He suggested the use of automatic unattended relays to extend the service area of a station.

Major Armstrong stated that he had tried various F. M. band widths and that in general the wider band used the better, and that the present band of 200 KC has been arrived at as a practical value. He said that if this band were cut in half that the power would need to be raised four times in order to produce the same results. He pointed out that as the band is narrowed, the interference area between stations becomes greater. He also said that multiplexing is difficult with a band narrower than 200 KC. Major Armstrong also said that as the band width is narrowed down the construction of the receiver becomes more difficult in order to keep the distortion low.

Major Armstrong advocated dividing the band from 42 to 44 MC into 10 F. M. channels and he also advocated taking 1 of the 6 MC Television channels and dividing it into 30 F. M. channels to provide a frequency spectrum for F. M.

## TUESDAY

Major Armstrong's testimony was continued on Tuesday morning. He pointed out that there would be a reduction in congestion on the present band as soon as F. M. is authorized. He said that the present band would continue to operate just as the Model T continued to operate until it was worn out and the public found it could get a better automobile. He said that it will take years for the manufacturers to produce the equipment for a complete F. M. replacement. Major Armstrong said that in the end the public will decide the acceptance of F. M. It is Major Armstrong's opinion that receivers will be worn out long before it will be necessary to change them due to all broadcasting being done by Frequency Modulation. Queried about the cost of transmitters, Major Armstrong stated that they were as cheap or cheaper now than are A. M. transmitters for the present band, and that undoubtedly within a year, the price will be lower. He said that F. M. receivers will cost very little more than do present A. M. receivers, in order to obtain one of the advantages of F. M., namely, noise re-

duction, but that in order to take advantage of the better quality, it will be necessary to use a better loud speaker and amplifier than is used now, and therefore, the cost will be more. So far the F. M. receiver manufacturers have put out receivers as good as they possibly could in order to start F. M. off right, and consequently the receivers have cost more.

When asked about license consideration, Major Armstrong said that the General Electric, Western Electric, and Radio Engineering Laboratories were licensed to manufacture transmitters. Commission Attorney Bauer read a list of the Armstrong receiver manufacturers licensed and they were as follows: General Electric, Stromberg Carlson, Zenith, Pilot, Scott, Stewart Warner, R.E.L., National, Hammerlund, and Halicrafter.

Also in connection with patents Major Armstrong said that he had sold the regenerative and the superheterodyne circuits at the same time for approximately \$330,000 and that his super regenerative circuit had been sold for \$425,000. He stated that he had spent between 700,000 and 800,000 dollars in Frequency Modulation development. It was his opinion that Frequency Modulation could be used to advantage in transmitting television, and that some work had already been done on this. Commander Craven asked what Major Armstrong had done to try to economize frequencies and his answer was, nothing; that he had been concerned with developing a system of "High Fidelity" with low noise. It was Major Armstrong's opinion that F. M. could be applied effectively to the other services such as, Police, Education and Aviation, however, his opinion was that aviation work might better be done by Amplitude Modulation.

In response to a question by Mr. Jett, Chief Engineer of the FCC, as to Mr. Armstrong's thought on allocation, he responded by saying that he advocated two types of allocation. One for large stations spaced approximately 300 miles to serve rural areas for a radius of about 100 miles and second, many stations closely spaced on the same channel for local service. In response to Mr. Jett's question as to why he chose 15,000 cycles for High Fidelity he responded that there isn't any particular limit and that 15,000 cycles is ordinarily considered to be the upper limits of music and sound effects and that in the F.M. system it is practically as easy to get this band width as it is 10,000. Mr. Armstrong said that he had made no particular tests to determine just how wide the band should be. However, his conception was that this full band width should be allowed for future development. Commander Craven in response to his question concerning the signal to noise aspect at different ratio's of audio to total swing frequencies, received the answer; the signal to noise aspect varies in power as one-half the total frequency swing divided by the maximum audio-frequency, the whole quantity squared. (Editors Note: In other

words, if the maximum modulation swings the carrier over a band of 150 KC and the highest audio-frequency to be passed is 15 KC then the signal to noise ratio in power would be determined by 75 divided by 15 squared, or 25. This would be the same as reducing the total swing to 100 KC and limiting the highest audio-frequency to 10 KC). Mr. Jett asked if through F.M. relays it would be possible to eliminate wire connections and the answer was yes, and that the relay would be carried on other than the regular stations by a special relay system on frequencies probably about 130 MC and Major Armstrong went on to say that no doubt we would some day come to a F.M. relay system for chain broadcasting rather than wire line hook-ups. He said that in areas of common interest, regular stations could rebroadcast each other.

Horace Lohnes on behalf of Major Armstrong, entered as Exhibit No. 7, 8, and 9, the License Agreements between Major Armstrong and the manufacturers of F.M. receivers, transmitters, and the licensee of F.M. broadcast stations. Exhibit 7 outlined the royalties for broadcast transmitters under Armstrong F.M. patents as follows:

*Operating power*

250 watts or less . . . . .	\$ 300
1 kw. . . . .	500
2 kw. . . . .	750
5 kw. . . . .	1,250
10 kw. . . . .	2,000
20 kw. . . . .	3,000
30 kw. . . . .	3,750
40 kw. . . . .	4,500
50 kw. or more . . . . .	5,000 for 50 kw. \$50 for each additional kw.

Columbia was the next party to the hearing called.

Mr. Paul Porter counsel for Columbia Broadcasting System made a brief statement that pending field tests, Columbia was reserving its opinion as to the advantages of the 2 systems of broadcasting transmission. Mr. Porter said that in the opinion of Columbia that where there is a similar claim to facilities by a duplication service, such as a proposed F.M. broadcasting allocation and for television, that the preference be given to a new and unduplicating service such as television.

The next party to make an appearance was Mr. Everett L. Dillard, the Commercial Radio Equipment Company of Kansas City, Missouri, licensee of W9XA, Amplitude Modulated on 26 MC. Mr. Dillard outlined noise measurements which had been made in Kansas City in which he arrived at the conclusion that the signal of 35 to 50 mv was needed on A.M. to cover Kansas City and that by far the greatest interference on High Frequency was automobile ignition. He said that diathermy interference had not been experienced on the 26 MC band by him. He said that the development of High Frequency broadcasting has gone as far as possible without the introduction of public interest. He felt that High Frequency broadcasting has a definite place in our scheme of broadcasting and the biggest need is for receivers. He pointed

out that there are very few receivers available for this band. He said that the public was not interested, due to curtailed time of operation because of severe experimental requirements by the FCC and the duplication of programs already on the air. He felt that two things were necessary in order to promote interest on the part of the public. One was to place Ultra-High-Frequency broadcasting in the regular category and the other the production of unduplicating programs.

### WEDNESDAY

Philip G. Loucks, attorney for the F. M. Broadcasters, Inc., placed John Shepard III on the stand for their first witness. He testified to his long years of experience in radio broadcasting and to his present connections. He said that the total investment of the Yankee Network in F. M. to date was approximately \$250,000. He said that of the 89 firms eligible for membership in F. M. Broadcasters, Inc., 55 were members. He continued, that we believe there is no question but that F. M. is capable of rendering a regular broadcast service. We know from the past months of regular operation at Paxton from 8:00 a. m. to midnight every day that F. M. is ready to render a regular broadcast service. In order to develop separate programs for F. M. it is necessary that a station licensee be able to at least look forward to the time when he can make a charge and therefore F. M. should be put on a regular basis at this time. He continued that the F. M. Broadcasters could see no need for extending the present experimental period and that F. M. should be allowed to go ahead on a regular basis. Mr. Shepard said that if F. M. is allowed to go ahead, it can hurt no one with the possible exception of those in the present band and very few of these will be affected because most of the F. M. license holders will be those now holding regular broadcasters licenses. Mr. Shepard asked that the FCC raise the F. M. power limitation from 1 to 50 KW. He advocated that the band from 41 to 44 MC be made an F. M. band and that the present 41 to 42 educational band be retained as such, but that it employ the F. M. principle. Mr. Shepard recommended that the present 26 MC broadcast band be allocated to other services. Mr. Shepard said that 15 channels would not be adequate to take care of F. M. and that the additional channels should be as near as possible to the 41 to 44 MC band. Mr. Shepard also asked that the FCC establish a policy permitting relay stations using the F. M. system, and he pointed out that, except for short lines, the cost of a telephone line to carry the wide audio band, the F. M. broadcasters have in mind would be prohibitive. Mr. Shepard said that he did not think that it would be possible to cover the large flat rural sections of the country with F. M. and that F. M. would have to be supplemented

by clear channel stations in the present band. He said that where the rural areas are adjacent to centers of high population, such as New England, that F. M. could then serve the rural areas. He said that the change to Frequency Modulation will not be revolutionary but will be gradual and will take some time. He set as a rough figure, 10 years for the change over. Commander Craven asked if programs would be by and large, the same as on the standard band during the long change over period, and Mr. Shepard said, yes and no; that that will be true in some cases and that in other cases there will be a duplication.

Commissioner Thompson asked what compensation the public would get in buying an F. M. receiver and Mr. Shepard's answer was that he would receive a lower noise level with practically no static and much better quality, and that there was a normal obsolescence of about 10 per cent each year in receivers and that as people replaced their receivers they would replace them with an F. M. receiver.

Mr. Jett asked if cognizance should be taken of the present standard band in giving facilities in the F. M. band and Mr. Shepard answered that F. M. should be allowed to go ahead by itself and that anyone who could show proper qualifications, should be granted an F. M. license.

Dr. Greenleaf Whittier Pickard, consulting engineer to the Yankee network was the next witness for the F. M. Broadcasters. He outlined his observations and measurements on F. M. and A. M. He described his reception experience at his Seabrook, New Hampshire home which is about 67½ miles from Paxton and about 70 miles from Boston. Dr. Pickard explained that he compared the Paxton F. M. 2 KW station with a field of approximately 50 to 60 microvolts with the standard broadcast band stations in Boston having field intensities on the order of 1 millivolt. He said that there is little or no comparison between Paxton and the group of standard broadcast stations at Boston. He said that in the summer static breaks into the standard stations and in the winter he has considerable interference from co-channel stations. He explained that WBZ was spoiled by selective fading. Dr. Pickard said that the Paxton signal faded at times between 25 and 80 microvolts. Dr. Pickard presented Exhibit showing tests which he made on noise within a 100-mile radius of Alpine. Dr. Pickard also presented an exhibit showing measurements he had made comparing a 40 KC band with a 200 KC band. It was his conclusion that there was a voltage ratio of 5 to 1 between the narrow and the wide band for the same advantage over noise, and on this basis it would require 25 times the power with the 40 KC band to give the same advantage over noise as we would have on the 200 KC Band. He

also described an experiment from Alpine in which W2XMN on 42.8 MC was used as an interfering signal and a second 1 KW transmitter on 43 megacycle operating from the same location. The power on the 1 KW transmitter was reduced in successive steps and Dr. Pickard arrived at the conclusion that F. M. stations could operate on adjacent channels with a considerable difference in power, provided the transmitters were at approximately the same location. In response to Commissioner Craven's question as to whether we needed more measurements before we can be safe in placing stations on adjacent channels, Pickard answered that he would want to have more information before being sure that if the stations are not placed near to each other that there wouldn't be interferences, except where the distance between the stations was relatively great.

Commissioner Craven asked what Dr. Pickard considered as a proper ratio between signal and noise for good reception and he answered that he would like to have a difference of not less than 50 to 60 DB, and he continued that for average hearing for average people the idea might be dropped down to around 40 DB.

Dr. Pickard said there is some sky wave transmission at 40 MC, however, that this was not enough to bother an F. M. system but would bother an A. M. system. When asked about the use of the 26 MC band for Ultra-High-Frequency broadcasting he gave the opinion that this band would not be as well suited for broadcasting as would the frequencies in the neighborhood of 40 to 50 MC.

The next witness for F. M. Broadcasters was Mr. I. Martino, chief engineer of WDRC, of Woodbridge, Connecticut. He described measurements and tests he had conducted on W1XPW F. M. station at Meriden, Connecticut. He gave the opinion that signal values down to 7 or 8 microvolts could be used with F. M.

Mr. Daniel Gallerup, chief engineer for WTMJ, Milwaukee, described tests he had made comparing A. M. and F. M. and he said that he found that much better service could be delivered by F. M. than by the standard band.

## ACCOUNTING COMMITTEE ADOPTS LOG, ACCOUNTING MANUAL

The NAB Accounting Committee held a meeting in New York, Tuesday, March 19. The entire Committee attended. Those present were C. T. Lucy, Chairman, WRVA, Richmond, Virginia; N. L. Kidd, WSYR, Syracuse, New York; E. J. Gluck, WSOC, Charlotte, North Carolina; H. W. Batchelder, WFBR, Baltimore, Maryland; Harry F. McKeon, NBC, New York City; and S. R. Dean, CBS, New York City. Those in attendance from Headquarters were Paul F. Peter and Robert Myers, Research Department, and Edwin M. Spence, Secretary-Treasurer.

The Committee adopted a proposed program log that will meet the requirements of the FCC rules. They also adopted an accounting manual for station bookkeeping that will facilitate securing of the necessary information in completing the FCC annual financial report.

It is hoped both of these reports will be in the mail and in the hands of station managers within the next ten days.

## FREE OFFERS

The Bureau of Radio Advertising has learned that Loew's, Incorporated, is planning a new radio service which seeks the cooperation of broadcasters in plugging current MGM picture releases. It's the same old story—offering elaborate programs of Hollywood gossip, condensed versions of the latest movies, and other material "absolutely free of charge". Every program is a direct plug for motion pictures, and the Bureau has written both MGM and their distributing organization, suggesting that they would do better to spend some of that money to buy time at regular rates.

Rose City Nurseries, Springfield, Ohio, has submitted a cost-per-inquiry proposal to a large list of stations, offering to pay 50¢ for every \$1.00 order. The Bureau has pointed out to this concern that the value of advertising goes beyond the mere creation of direct mail orders, and, for that reason, it might be wise to buy time at stations' quoted card rates.

Another contingent proposition reported by members is the F. A. Holmes Company, Waterloo, La. (Rat-Ruin), who offer to split 50-50 with cooperating stations on all mail orders produced. They have been advised that NAB members consider such propositions not only unethical but unbusinesslike.

## Phone Headquarters!

The NAB suggests that broadcasters, upon arrival in Washington, notify the NAB switchboard of their whereabouts.

This would work to their advantage, in that the NAB would know where to relay messages received for them. Also, on numerous occasions, the NAB has tried to reach members by long distance phone, only to be told they were right here in Washington.

The NAB, of course, would give no information to anyone as to the whereabouts of visitors.

The suggestion is advanced for the convenience of members and the headquarters staff. The NAB phone is NAtional 2080.

## IRNA MEETING

The IRNA executive committee met in Washington on Tuesday, March 19. Chairman Sam Rosenbaum, WFIL; Walter Damm, WTMJ; John Shepard III, Yankee Network, and Paul Morency, WTIC were present. After the meeting, Mr. Rosenbaum said:

"The situation with regard to musicians and ASCAP was discussed. Particular study was given to the increased tendency of the networks to appropriate the 20 second station breaks between 15 minute programs. This will be the subject of a communication to IRNA members at an early date. In connection with the matter of network commercial announcements, proposals will be submitted to the IRNA board for some revision of the IRNA platform to be recommended to the next convention."

## WAGE AND HOUR ACT

The Wage and Hour Act Committee will meet Monday, March 25, at headquarters to discuss recent opinions by the Wage and Hour Administration regarding "talent charges." Joseph L. Miller, NAB Labor Relations Director, is acting chairman of the committee. Members are H. W. Batchelder, WFBR; William B. Dolph, WOL; John V. L. Hogan, WQXR, and C. T. Lucy, WRVA.

## CHILDREN'S CRUSADE CAMPAIGN

Cooperation of members of the National Association of Broadcasters in the Children's Crusade for Children will be sought during the next week, according to advice received at headquarters.

The purpose of this campaign is to produce funds, from school children of the nation, for the relief of other children throughout the world who are literally without a country. Through school officials in each community, children will be asked to contribute pennies in an amount which corresponds to their age. All such donations are to be deposited in sealed cans in school rooms so that no child will be embarrassed if he finds it impossible to contribute.

Broadcast stations will not be asked to solicit funds nor to make appeals for funds, only to make known the purposes of the campaign.

To this end, Children's Crusade for Children has prepared 5-minute recordings featuring such speakers as Dorothy Canfield Fisher, Raymond Gram Swing and Clifton Fadiman and a series of spot announcements.

Broadcast cooperation is sought a week or two in advance of the fund collection set for April 22-30. Others cooperating in the national campaign will be newspapers, magazines and pictures.

All costs of the campaign have been defrayed by individual donors, so that all pennies collected will be made available for relief.

Expenditures will be directed by a committee consisting of Eleanor Roosevelt, Msgr. John A. Ryan, William Allen White, Hon. Irving Lehman, Dorothy Canfield Fisher, Dr. Charles B. Glenn and Caroline S. Woodruff.

## NEW YORK SENATE APPROVES PERRY RECORDING BILL

On Tuesday the New York Senate passed the Perry Bill (S. 445, NAB REPORTS, January 26, 1940, p. 3991) relating to unauthorized recording of Radio Broadcasts. The Senate had previously amended the bill by adding to Section 1 the following subparagraph: "(d) This act is not to apply to any acts of recording for private, personal, civic or political use, or to any recording of any address or talk on subjects of a political, educational, religious or civic nature."

## STATE LEGISLATION

### NEW JERSEY:

A. 336 (Artaserse) LOANS—RADIO ADVERTISEMENTS—To empower the Attorney General to investigate practices in connection with the promotion, advertisement, or negotiations by radio of the sale, purchase, or loan of money or credit; appropriates \$25,000. Referred to Appropriations Committee.

### NEW YORK:

A. 2298 (L. Bennett) EMPLOYMENT AGENCIES—APPLICANTS—Provides that any waiver of investigation of references by an applicant for help shall be void, failure on part of the employment agency to make such investigation to be deemed a violation of provision requiring the keeping of register. Referred to Rules Committee.

### NEW YORK:

A. 2336 (Mailler) LOANS—ADVERTISING OF INTEREST RATES—Prohibits advertising or broadcasting of interest rates on loans by licensed lenders unless rate of charge, interest charge or interest rate is expressed as a rate per centum per annum; such rate must also be expressed in all applications for loans. Referred to Rules Committee.

### NEW YORK:

CCH S 21 (Bewley) APPLE INDUSTRY—ADVERTISING—Relating to a joint legislative committee to make a comprehensive study of the New York state apple industry, with particular regard to the conduct of an intensive advertising campaign by radio and press to stimulate the purchase of New York state apples. Referred to Finance Committee.

### RHODE ISLAND:

H. 1014 (Banahan) CRIMINAL LIBEL—Defining criminal libel and providing penalties therefor. Referred to Judiciary Committee.

### RHODE ISLAND:

S. 252 (Brady) CRIMINAL LIBEL—Defining criminal libel and providing penalties therefor. Referred to Judiciary Committee.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral arguments are scheduled before the Commission in broadcast cases during the week beginning Monday, March 25. They are subject to change.

Thursday, March 28

Oral Argument Before the Commission

WSAL—Frank M. Stearns, Salisbury, Md.—In re: Revocation of station license of WSAL.

Friday, March 29

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Modification of license, 810 kc., 1 KW, specified hours (6 a. m. to 11 p. m., EST), DA daytime. Present assignment: 810 kc., 1 KW, daytime-WCCO, directional antenna.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for broadcast hearings. They are subject to change.

April 23

NEW—Guy S. Cornish, Cincinnati, Ohio.—C. P. for public address relay station, 31000 kc., 1 watt night, 1 watt LS, emission A-3, unlimited time.

April 29

NEW—Samuel M. Emison, Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

May 1

NEW—E. E. Krebsbach, Miles City, Mont.—C. P., 1310 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Star Printing Co., Miles City, Mont.—C. P., 1310 kc., 250 watts, unlimited time.

May 20

NEW—Worcester Broadcasting Corp., San Diego, Calif.—C. P., 1420 kc., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### MISCELLANEOUS

WKST—WKST, Inc., New Castle, Pa.—Granted special temporary authority to operate from 6:30 to 10 p. m., EST, on March 30, in order to broadcast a program incident to "Pioneer Week."

WBAA—Purdue University, W. Lafayette, Ind.—Granted special temporary authority to operate from 7 to 11 p. m., CST, on April 3, from 4 to 5 p. m., CST, on April 6, and from 5 to 6 p. m., CST, on April 10, 11 and 12, in order to broadcast State A. A. U. boxing finals and Purdue baseball games only.

KTSM—Tri-State Broadcasting Co., Inc., El Paso, Tex.—Granted extension of special temporary authority to operate test transmitter with power not to exceed 100 watts, on 1350 kc., day and night, in order to select transmitter site in accordance with construction permit, for the period March 25 to April 23.

WGN—WGN, Inc., Chicago, Ill.—Granted special temporary authority to make pick for radio station CKCL and feed broadcast of Chicago Blackhawks v. Toronto Maple Leafs hockey game being played in Chicago Stadium from 8 p. m., CST, to conclusion of game on March 21. A. T. & T. lines to be used from Chicago to CKCL.

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate with power of 250 watts, from 7:45 to 9:15 p. m., CST, on April 7, 14, 21 and 28, in order to broadcast church services only.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Granted construction permit to make changes in equipment.

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted authority to determine operating power by direct measurement of antenna input.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted modification of construction permit which authorized change in frequency from 1370 to 780 kc., increase in power from 100 watts, 250 watts day, to 1 KW, 250 watts day, change hours of operation from specified to unlimited time, move transmitter, changes in equipment, and antenna, for extension of completion date from March 26, 1940, to April 26, 1940.

WJHP—The Metropolis Co., Jacksonville, Fla.—Granted modification of construction permit for new broadcast station, for approval of antenna, new transmitter, and approval of studio site and transmitter site.

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Granted modification of construction permit for new broadcast station, for authority to change type of transmitter and extend commencement date to 30 days after grant and completion date 120 days thereafter.

WJSV—Columbia Broadcasting System, Inc., Washington, D. C.—Granted license to cover construction permit as modified for installation of new transmitter, directional antenna for day and night use, increase power to 50 KW, and move transmitter; frequency 1460 kc., unlimited time.

WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54.

WHAI—John W. Haigis, Greenfield, Mass.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 2:00 p. m. to 3:00 p. m. EST on March 23, 30, April 6, 13, 20, 1940, in order to broadcast the following sustaining programs: 2 to 2:10, Newscast; 2:10 to 2:30, Matinee Moods; 2:30 to 3, Suggestions in Symphony; to operate from 2 p. m. to 3 p. m., EST on March 24, 31, April 7, 14, 21, 1940, in order to broadcast the following: 2 to 2:15, Newscast; 2:15 to 2:30, Tune Travels; 2:30 to 2:45, Sabbath Meditations; 2:45 to 3, ¼ Hour in ¾ Time; to operate from 8:30 a. m. to 10 a. m. and from 2 p. m. to 3 p. m. EST on March 20, 21, 22, 25, 26, 27, 28, and 29, 1940, in order to broadcast the following: 8:30 to 9 a. m., Breakfast Club; 9 a. m. to 9:30 a. m., Opening the Mail; 9:30 to 10 a. m., Dances of the World; 2 p. m. to 2:10 p. m., Newscast; 2:10 p. m. to 2:30 p. m., Matinee Moods; 2:30 to 3 p. m., Suggestions in Symphony (provided WSVS remains silent).

WKEU—Radio Station WKEU, Griffin, Ga.—Granted special temporary authority to operate from 5:45 p. m. to 12:00 midnight CST on March 20, 1940, in order to broadcast election returns.

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted extension of special temporary authority to operate from 9:00 a. m. to 10:00 a. m. EST Monday, Tuesday, Wednesday, Thursday, Friday, and Sunday mornings, for the period March 19, 1940, to not later than April 17, 1940, or until the Saginaw Broadcasting Company is in a position to use said time, in order to broadcast special non-commercial educational programs.

WSAL—Frank M. Stearns, Salisbury, Md.—Granted special temporary authority to operate from 7 p. m. to 7:30 p. m. EST on March 14, 1940, in order to broadcast speech by Howard Bruce, candidate for U. S. Senator.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to operate from 7 p. m. to 7:30 p. m. EST on March 14, 1940, in order to broadcast speech by Howard Bruce, candidate for U. S. Senator.

WNYC—The City of New York Municipal Broadcasting System, New York, N. Y.—Continued hearing scheduled for March 19, 1940, to March 29, 1940, in re modification of license.

WFDF—Flint Broadcasting Co., Flint, Mich.—Dismissed petition to intervene in re application of Thumb Broadcasting Co., for new station in Brown City, Mich. to operate on 880 kc., 250 watts, daytime.

State of Minnesota—Granted petition to intervene in the hearing on the application of WNYC for modification of license to change hours of operation from daytime-WCCO to specified hours, on 810 kc.

Star Printing Co., Miles City, Mont.—Granted motion for continuance of hearing from April 1 to May 1 in re application of Star Printing Co. for new station to operate on 1310 kc., 250 watts, unlimited time, and E. E. Krebsbach for a new station at Miles City, also requesting frequency of 1310 kc.

WWRL—Long Island Broadcasting Corp., Woodside, L. I.—Granted motion (effective as to all parties), for extension of time until April 2 to file proposed findings of fact and conclusions, in re applications of WCNW, WMBQ, WWRL, Lillian E. Kiefer and Paul J. Gollhofer, all of Brooklyn, N. Y.

WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 9:30 p. m. CST on March 30, 1940, in order to broadcast a speech by Mr. Dwight R. Green, candidate for United States Senator.

KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to remain silent from 2 to 3 p. m. CST on April 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, and 30, from 3 to 3:30 p. m. CST on April 1, 8, 15, 22, and 29, and from 8 to 10 p. m. CST on April 5, 1940, in order to permit WNAD to broadcast special educational programs.

WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate during above periods (provided KGGF remains silent) in order to broadcast educational programs.

W9XA—Everett L. Dillard, d/b as Commercial Radio Equipment Co., Kansas City, Mo.—Granted special temporary authority to rebroadcast over High Frequency Broadcast Station W9XA programs originating from Standard Broadcast Stations KCMO, KCKN, and WLW, for the period beginning 3:00 a. m. EST on April 1, 1940, and ending not later than 3:00 a. m. EST on April 1, 1941.

KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period March 19, 1940, to not later than April 17, 1940, pending the filing of modification of license and completion of arrangements with Station KWLC.

WHMA—Harry M. Ayers, Anniston, Ala.—Granted license to cover construction permit authorizing changes in equipment and increase in power from 100 to 250 watts.

KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Granted license to cover construction permit authorizing new station to operate on **1210 kc.**, 100 watts night, 250 watts LS, unlimited time; also granted authority to determine operating power by direct measurement of antenna input.

WNAD—Univ. of Oklahoma, Norman, Okla.—Granted authority to determine operating power by direct measurement of antenna input.

WNBC—State Broadcasting Corp., New Britain, Conn.—Granted authority to determine operating power by direct measurement of antenna input.

WAIR—C. G. Hill, George D. Walker, and Susan H. Walker, Winston-Salem, N. C.—Granted special temporary authority to operate from 5:30 a. m. to 6:00 a. m. EST on March 24, 1940, in order to broadcast Moravian Sunrise Easter Service.

WATW—WJMS, Inc., Ashland, Wisc.—Granted modification of construction permit for new broadcast station, for installation of new transmitter and approval of studio site and transmitter site, and approval of antenna.

KSTP—KSTP, Inc., St. Paul, Minn.—Granted modification of construction permit as modified for move of transmitter, installation of new equipment and directional antenna and increase in power, for extension of completion date from March 8, 1940, to May 8, 1940.

## APPLICATIONS FILED AT FCC

### 570 Kilocycles

WSYR-WSYU—Central New York Broadcasting Corporation, Syracuse, N. Y.—Construction permit to install new transmitter.

### 930 Kilocycles

KROW—Educational Broadcasting Corp., Oakland, Calif.—Construction permit to increase power from 1 KW to 5 KW, install new equipment and directional antenna for night use, and move transmitter from Oakland to San Francisco, Calif. Requests Class III-A station.

### 1120 Kilocycles

KRSC—Radio Sales Corp., Seattle, Wash.—Modification of construction permit (B5-P-2141) for move of transmitter, changes in equipment and increase in power, requesting approval of antenna, approval of transmitter and studio sites at 4th So. and Hanford Sts., Seattle, Wash., and change type of transmitter.

NEW—Allegheny-Kiski Broadcasting Co., Inc., New Kensington, Pa.—Construction permit for a new radio broadcast station to be operated on **1420 kc.**, 100 watts, unlimited time. Amended: Change frequency to **1120 kc.**, power to 500 watts, hours to daytime, III-B station and amended name by omitting "Inc.", and changes in equipment.

### 1180 Kilocycles

KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Authority to determine operating power by direct measurement of antenna power.

### 1200 Kilocycles

NEW—The Huntsville Times Co., Inc., Huntsville, Ala.—Construction permit for a new radio broadcast station to be operated on **1200 kc.**, 100 watts, unlimited time (facilities of WBHP). Amended re changes in equipment and change power to 250 watts.

WLOG—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—Modification of construction permit (File B2-P-2340) for a new station, requesting approval of antenna and approval of transmitter and studio site at Kanada St., Logan, W. Va.

WAIM—Wilton E. Hall, Anderson, S. Car.—Authority to determine operating power by direct measurement of antenna power.

### 1210 Kilocycles

WHBU—Anderson Broadcasting Corp., Anderson, Ind.—Construction permit to install new transmitter and make changes in antenna.

WCOV—Capital Broadcasting Co., Inc., Montgomery, Ala.—Construction permit to make changes in transmitter and increase power from 100 watts to 250 watts day and night.

### 1240 Kilocycles

WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Construction permit to install new transmitter and increase power from 1 KW to 5 KW; directional antenna for night and day. Amended re directional antenna.

### 1250 Kilocycles

WKST—WKST, Inc., New Castle, Pa.—Construction permit to install directional antenna for night use, and change hours of operation from daytime to unlimited time, using 1 KW power day and night.

### 1260 Kilocycles

WNBX—Twin State Broadcasting Corporation, Keane, N. H.—Modification of construction permit (B1-P-2415) for changes in directional antenna to be used both day and night; move transmitter and studio; further requesting authority to make changes in directional antenna, install new transmitter, and increase power to 5 KW. Extend commencement date 30 days after grant and completion date 180 days thereafter. Amended: Equipment changes.

### 1310 Kilocycles

NEW—S. M. Meeks, Jr., Kerrville, Tex.—Construction permit for a new radio broadcast station to be operated on **1310 kc.**, 250 watts, unlimited time.

WFIG—J. Samuel Brody, Sumter, S. C.—License to cover construction permit (B3-P-2171) as modified for a new radio broadcast station.

WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Transfer of control of corporation from J. P. Marchant, D. J. Carey and Melvin Meyer to Florida West Coast Broadcasting Co., Inc., 98 shares.

KVIC—Radio Enterprises, Inc., Victoria, Tex.—Modification of license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

### 1320 Kilocycles

WADC—Allen T. Simmons, north of Akron, Ohio.—Modification of construction permit (B2-P-2495) for authority to install directional antenna for day and night use; increase power and move transmitter and studio, requesting extension of commencement and completion dates from 3-24-40 and 9-24-40 to 4-24-40 and 10-24-40.

KGHF—Curtis P. Ritchie, Pueblo, Colo.—Modification of construction permit (B5-P-2450) for move of transmitter, and new antenna, requesting extension of date of completion from 4-14-40 to 6-14-40.

#### 1360 Kilocycles

KCRC—Enid Radiophone Co., Enid, Okla.—Construction permit to move transmitter and studio to a site to be determined. Enid, Okla., make antenna changes, install new transmitter, and increase power from 250 watts to 1 KW.

#### 1370 Kilocycles

WBNY—Roy L. Albertson, Buffalo, N. Y.—Modification of license to change hours from all hours except those assigned WSVS which are 8:30 a. m. to 10 a. m. and 2 p. m. to 3 p. m., to all hours except 9:30 a. m. to 10 a. m. Monday through Friday during school term when WSVS would operate, also all hours when WSVS is silent for holidays or vacations (facilities WSVS). Amended to request all hours except 8:30 a. m. to 10 a. m. Monday through Friday.

WJHO—Yetta G. Samford, C. S. Shealy Thos. D. Samford, Jr., and J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala.—Modification of construction permit (B3-P-2373) for a new station, requesting approval of studio and transmitter sites, install new equipment, and approval of antenna. Amended re equipment.

NEW—Ralph L. Lewis, Greensboro, N. C.—Construction permit for a new radio broadcast station to be operated on 1370 kc., 100 watts, unlimited time, Class IV.

KRMC—Roberts MacNab Co. (Arthur L. Roberts, R. B. MacNab and A. J. Breitbach, Gen. Mgr.), Jamestown, N. Dak.—Voluntary assignment of license from Roberts MacNab Company (Arthur L. Roberts, R. B. MacNab and A. J. Breitbach, Gen. Mgr.) to Jamestown Broadcasting Co., Inc.

#### 1380 Kilocycles

NEW—Central Broadcasting Corp., Sanford, Fla.—Construction permit for a new radio broadcast station to be operated on 1380 kc., 250 watts, unlimited time. Requests Class IV station.

#### 1420 Kilocycles

WGOV—E. D. Rivers, Valdosta, Ga.—Modification of construction permit (B3-P-2586) for new station, requesting approval of studio and transmitter sites at East Park Ave., Valdosta, Ga., and approval of antenna.

WELL—Enquirer-News Co., Battle Creek, Mich.—Construction permit to install new transmitter, make changes in antenna, and increase power from 100 watts to 250 watts. Amended to make changes in equipment and antenna.

WMSD—Muscle Shoals Broadcasting Corporation, Muscle Shoals City, Ala.—License to cover construction permit (B3-P-2511) for changes in equipment and increase power. Amended re equipment.

NEW—Scott Howe Bowen, Rome, N. Y.—Construction permit for a new radio broadcast station to be operated on 1420 kc., 250 watts, unlimited time, Class IV. Amended to give studio site as in or near Rome, N. Y.

NEW—R. G. LeTourneau, Toccoa, Ga.—Construction permit for a new radio broadcast station to be operated on 1420 kc., 250 watts, unlimited time. Amended to give studio location as Louise Hotel, near Toccoa, Ga., and transmitter site to be determined, Toccoa, Ga.

#### 1500 Kilocycles

NEW—Leonard L. Abess, Miami Beach, Fla.—Construction permit for a new station to be operated on 1500 kc., 250 watts, unlimited time. Request facilities of station WKAT. Contingent on WKAT being granted change in frequency.

#### MISCELLANEOUS

W3XMC—McNary and Chambers, Bethesda, Md.—Modification of construction permit (B1-PHB-86) for a new high frequency broadcast station, requesting move of transmitter from 4713 Hampden Lane, Bethesda, Md., to Pennsylvania Ave. and 18th St., N. W., Washington, D. C.; and extend commencement and completion dates from 12-24-39 and

6-24-40 to 10 days after grant and 30 days thereafter, respectively.

NEW—John Lord Booth, Detroit, Mich.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1000 watts, special emission for frequency modulation.

NEW—The WGAR Broadcasting Co., Cuyahoga Heights, Ohio.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1000 watts, special emission for frequency modulation.

NEW—Matheson Radio Co., Inc., Boston, Mass.—Construction permit for a new high frequency broadcast station to be operated on 42690 kc., 1000 watts, special emission for frequency modulation.

NEW—Lynchburg Broadcasting Corp., Lynchburg, Va.—Construction permit for a new high frequency broadcast station to be operated on 42800 kc., 1000 watts, special emission for frequency modulation.

NEW—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts, special emission for frequency modulation.

NEW—The Crosley Corp., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on 1606, 2022, 2102, 2758 kc., 50 watts, emission A3, portable-mobile, area of Cincinnati, Ohio.

NEW—City Broadcasting Corp., New Haven, Conn.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1000 watts, special emission for frequency modulation.

NEW—E. Anthony & Sons, Inc., New Bedford, Mass.—Construction permit for a new high frequency broadcast station to be operated on 43400 kc., 1000 watts, special emission for frequency modulation.

W2XOR—Bamberger Broadcasting Service, Inc., Carteret, N. J.—License to cover construction permit (B1-PHB-82) as modified, for a new high frequency broadcast station.

NEW—Pinellas Broadcasting Co., St. Petersburg, Fla. (Portable-Mobile)—Construction permit for a new relay broadcast station to be operated on 30820, 33740, 35820, 37980 kc., 15 watts, Emission A-3, Portable-Mobile area St. Petersburg, Fla.

NEW—Piedmont Publishing Co., Winston-Salem, N. C.—Construction permit for a new high frequency broadcast station to be operated on 42800 kc., 1000 watts, special emission for frequency modulation.

NEW—Southern Minnesota Broadcasting Co., Rochester, Minn.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1000 watts, special emission for frequency modulation.

NEW—The Baltimore Radio Show, Inc., Baltimore, Md.—Construction permit for a new relay broadcast station to be operated on 31620, 35260, 37340, 39620 kc., 100 watts, Emission A-3, Portable-Mobile area Baltimore, Md.

NEW—G. L. Burns, Brady, Texas.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., power 40 watts, Emission A-3, Portable-Mobile, area of Brady, Texas.

## FEDERAL TRADE COMMISSION ACTION

#### COMPLAINTS

Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**B & T Sales Company**, Indianapolis, Ind.—Howard L. Brewer and Albert L. Tribbett, trading as B & T Sales Company, Indianapolis, Ind., are alleged to represent that "Menstru-Eze" possesses

curative and remedial properties which make it beneficial in treating delayed and painful menstruation when in fact it is without therapeutic value in such treatment. (4057)

**Continent Petroleum Corporation**—A complaint has been issued charging Mid-Continent Petroleum Corporation, Tulsa, Okla., with misrepresentation in the sale of its "D-X" motor fuel. The respondent operates terminals in St. Paul, Chicago, Kansas City, Mo., and Omaha.

It is alleged that the respondent corporation caused dealers in its products to represent that "D-X" motor fuel, because of the presence of an added patent lubricant, as compared with gasoline not so treated and as compared with other motor gasoline fuels, is more efficient, effects substantial economy in operation, reduces friction and wear and tear on the upper cylinder parts, makes the motor run smoother, cooler and more quietly, increases power and mileage per gallon of fuel, and reduces carbon troubles and knocking in the motor. (4065)

**Ethel's Candy & Sales Company, Inc.**, 164 Whitehall St., S. W., Atlanta, Ga., is charged with supplying push cards with bars of candy, the prices of the candy bars being determined wholly by lot or chance. (4056)

**General Electric Company**, 570 Lexington Ave., New York, is charged in a complaint with misrepresentation in the sale of electric light bulbs.

It is alleged that in newspaper and other periodical advertising the respondent company made representations implying that all or substantially all competitive products are inferior in quality to the respondent's "G-E" bulbs; that by purchasing any bulbs other than "G-E" the purchasing public will or is likely to get inferior products the use of which will result in a 30 per cent loss of light and a 30 per cent wastage of the electricity consumed, and that a purchaser is likely to obtain bulbs that will not burn as brightly or as long as the respondent's "G-E" lamps and cost more to operate.

Among representations allegedly made in the respondent's advertising were: "Why risk 30% loss of light \* \* \* when G-E bulbs cost so little?" . . . "Thousands of New York factories, offices, stores, homes lose 30% of light. Beware of inferior bulbs! Buy G-E bulbs from your reliable neighborhood store. \* \* \*"

It is alleged that the respondent corporation's representations are misleading and unfairly disparaging of the products of its competitors; that not all or substantially all competitive products are inferior in quality to the respondent's "G-E" bulbs, and that a person buying bulbs other than "G-E" will not in most instances obtain lamps of lower quality than "G-E" or bulbs that will result in a 30 per cent loss of light or 30 per cent waste of the electricity used. The complaint alleges that many competing manufacturers sell products equal in quality to the respondent's "G-E" bulb, and that only a small percentage of the bulbs being sold to the public are of such low quality that their use will result in a 30 per cent loss of light or waste of current.

The complaint points out that approximately 80 per cent of the incandescent electric light bulbs sold in the United States for general lighting service are manufactured by the respondent and its licensees who manufacture bulbs under patents controlled by the respondent, and that of the total amount of general lighting service bulbs sold by the respondent and its licensees, about 25 per cent are products of the licensees not branded "G-E." (4059)

**Midwest Merchandise Company**—C. I. Levin and Edward Johnson, trading as Midwest Merchandise Company, 1006 Broadway, Kansas City, Mo., are charged with selling to dealers assortments of candy and punch boards. Customers who purchased certain specified numbers received as prizes, packages of cigarettes or a replica of "Ferdinand the Bull." (4058)

**Northwestern Health Clinic**—See Northwestern Products Company.

**Northwestern Products Company**—William W. Kelso, trading as Northwestern Products Company and as Northwestern Health Clinic, 611½ Union St., Seattle, Wash., in a complaint charged with misrepresentation in the sale of a medicinal preparation.

The complaint alleges that the respondent represented "Periodic Relief Pills" as a cure, remedy or competent and effective treatment for delayed menstruation, and as being safe and harmless, when in fact it possesses no therapeutic value with respect to this ailment and is not safe and harmless in that it contains extract cotton root bark, extract black hellebore, aloes, oil savin and ergotin in quantities sufficient to cause serious injury if taken under prescribed conditions as advertised or under customary conditions.

The complaint also alleges dissemination of false advertisements in the respondent's failure to reveal in its advertisements that use of the preparation under conditions prescribed in the advertisements or under usual conditions may result in serious injury to the users' health. (4066)

**S. M. Laboratories Company**, Seattle, Wash., is alleged to have advertised that its preparations "Neofem Capsules," "Neofem Liquid" and "Cerene" were cures or remedies or competent and effective treatments for painful and delayed menstruation and constituted safe and sane ways of self-medication when such were not the facts. The complaint charges that the drugs ergot, oil of savin and aloin were present in quantities sufficient to cause serious and irreparable injury to health if used under conditions prescribed in the advertisements or under usual conditions. The respondent company is charged with having disseminated false advertisements which failed to reveal the consequences which might result from use of the preparations under the prescribed conditions as advertised or under customary conditions. (4062)

**Sekov Corporation**—A complaint has been issued against Sekov Corporation, 6404 Hollywood Blvd., Hollywood, Calif., and Edwin H. and Hazel Ruth Vokes, as officers of the corporation and as individuals trading under the name Sekov Reducing Studios. The complaint charges misleading representations concerning "Sekov Reducer," a preparation sold as an obesity treatment and alleged to contain extract of thyroid, a dangerous drug.

The Commission recently obtained a preliminary injunction in the United States District Court for the Southern District of California restraining these respondents from further dissemination of false advertising of their product pending issuance of a complaint by the Commission and final disposition of its case.

The Commission complaint now alleges that the respondents disseminated advertisements representing that their preparation, "Sekov Reducer" or "Sekov" is a scientific treatment for obesity and that it guards the health of the user, acts entirely on a corrective principle, is made for reaching the glands whose faulty function is the cause of most overweight, and regulates the action of the glands gently and gradually.

Other representations alleged to have been made were that, unlike harsh methods of reducing, the respondents' product does not contain cathartics or dangerous drugs, does not reduce by merely tearing down fatty cells, takes off the fat without weakening the body, is especially prepared to be effective in reducing practically all cases of overweight, and reduces by normalizing the body.

The complaint charges that the respondents' claims are in excess of actual accomplishments; that their preparation is not a scientific treatment for obesity when administered without a thorough medical examination and without scientific care and observation, and that it constitutes a treatment for obesity only when used by persons suffering from hypothyroidism. The preparation, contrary to the respondents' representations, is alleged to be a harsh or strenuous method of reducing and to contain cathartics and dangerous drugs in that "Capsule No. 1" of the preparation contains rhubarb, cascara sagrada, aloin and bile salts, all cathartics.

It is further alleged that the respondents' failure to reveal the presence of extract of thyroid and the consequences which may result from use of their commodity under the prescribed conditions advertised or under customary conditions, constitutes false advertising. (4061)

**Sekov Reducing Studios**—See Sekov Corporation.

**Stromberg Ignition Company**—Henry O. Striker, trading as Stromberg Ignition Company, Detroit, Mich., engaged in the manufacture and sale of an automotive device designated "'Stromberg' Condenser" and sometimes as "'Stromberg' Master Condenser." is charged in a complaint with misrepresentation.

In the course of his business, the complaint charges, the respondent has caused to be inserted in circulars, handbills, on cartons containing his products, and on the product itself, distributed through the various states, printed matter containing representations such as: "Saves Oil—Most car owners change oil every 500 miles, because gasoline (unburned) leakage thins the lubricant. The STROMBERG MASTER CONDENSER burns all the gasoline, stops the leakage completely, so that oil can often be used for 2,500 miles or more"; "SPECIAL 30-DAY OFFER, Stromberg Ignition Co., Detroit, Mich. Please mail me one Stromberg Condenser at the special price, \$1.50"; "This is a genuine 'Stromberg' product \* \* \* when the name Stromberg is on it, whether it be a radio, carburetor, or this merchandise, you do not have to be afraid to buy it because it is good merchandise," and "The Stromberg condenser is endorsed and approved by the Automotive Engineers Association of America."

The Stromberg Carburetor Company, the complaint continues, beginning in May, 1907, was a corporation doing business under the laws of Illinois, with its factory and principal place of business in Detroit. In April, 1930, the business operated under the name Stromberg Carburetor Company was taken over by the Bendix Stromberg Carburetor Company, which continued the business and the sale of the products under the name "Stromberg." The Bendix Stromberg Carburetor Company is now engaged in the manufacture of carburetors, coils and various other automobile accessories. These companies have built up a valuable good will in the name "Stromberg" as applied to these products.

The respondent, without authority, has caused his products to be marked and branded with the name "Stromberg" and now uses and features the word "Stromberg" as a trade name, according to the complaint.

The statements and representations set forth by him, the complaint continues, are false and misleading, as in fact the automotive devices which the respondent sells will not increase the power of the motor, eliminate spark plug trouble or save either oil or gasoline and the devices have no beneficial effect at all on the operation of a gasoline motor, nor do they improve the ignition system. The price of \$1.50 at which the device is offered in a so-called special offer is not in any sense a special price which is good for only 30 days, as in truth the price is in excess of the price at which the device is customarily sold. The respondent's product, the complaint continues, has not been approved or endorsed by a recognized automotive association or a recognized automotive engineering association which has the necessary laboratory equipment for testing automotive devices, and use by the respondent of the word "Stromberg" as a trade name and in advertising has a tendency to confuse, mislead and deceive purchasers into the erroneous belief that the product so designated is the product of the well and favorably known Bendix Stromberg Carburetor Company. (4064)

**United Candy Company**—E. T. James, Jr., trading as United Candy Company, 1507 West Trade St., Charlotte, N. C., is charged with selling to dealers assortments of candy with push cards, the prices of the candy bars being determined wholly by lot or chance. (4060)

**Warner's Renowned Remedies Company**, Minneapolis, Minn., in the sale of "Warner's Renowned Prescription No. 6" and "Warner's Renowned Alkaline Douche Tablet," is alleged to represent that its preparations are cures or remedies and competent and effective treatments for functional sterility; that they possess beneficial properties in relation to the functioning of the female reproductive organs, and that they will relieve discomforts associated with the menstrual period. The complaint alleges that the respondent's representations are exaggerated and untrue and that the respondent's preparations have no therapeutic value in treatment of the female organs or in relieving any form of functional sterility. (4063)

## CEASE AND DESIST ORDERS

Following cease and desist orders have been issued during the past week:

**American Distributors, Inc.**, and John H. Morgan, trading as Champion Products Company, both of Linton, Ind., and United

Advertising Companies, Inc., Chicago, have been ordered to cease and desist from misrepresentation in the sale of "Vita-Perles," a medicine claimed to contain Vitamins A, B-1, D, G, and E.

Findings are that John H. Morgan was in business under the name Champion Products Company in the sale of Vita-Perles until August, 1938, when he organized American Distributors, Inc., for the sale of the preparation. United Advertising Companies, Inc., has been the respondents' advertising agent and has participated in the preparation and dissemination of their advertising matter.

In newspaper and periodical advertisements the respondents are found to have represented directly and by implication, among other things, that one may test Vita-Perles without risking any money; that vitamin deficiency is the cause of backache, headache, loss of appetite, premature old age and other ailments and conditions; that by use of Vita-Perles a thin, pale and sickly person will gain firm and healthy flesh and gain in weight as much as seven pounds in seven days. The Commission finds that the respondents' representations are misleading and exaggerated.

The respondents are ordered to cease and desist from representing that the preparation may be obtained and tested without risking the loss of any money; that backache, headache, leg pains, and various other ailments are caused by a vitamin deficiency or that such conditions will be relieved or corrected by the use of the respondents' preparation; that those who are thin, pale and sickly will by the use of the preparation acquire additional weight, an improved complexion, an increased resistance to colds and infections, an improved appetite or will become less nervous; that the impairment or premature loss or sexual desire, vigor, or potency in the male, is due to a vitamin deficiency, or will be restored or improved by the use of the preparation, or that its use will increase the general strength and energy, and that the preparation will affect women's ability to successfully conceive or bear children except in rare cases involving habitual involuntary abortion where inability to successfully bear children after conception may be due to a deficiency of Vitamin E of a degree susceptible of replacement by the Vitamin E content of the preparation. (3918)

**American Veneer Package Association, Inc.**, Washington, D. C., its officers, and four regional associations of the fruit and vegetable container industry, their officers and members, and a New York business management and engineering group, have been served with an order directing them to cease and desist from a combination or conspiracy for fixing and maintaining uniform prices and discounts and for curtailing production and other practices deemed to be in restraint of competition.

Members of the respondent regional associations are found to manufacture and sell approximately 75 per cent of all the veneer containers used in their territories for packaging fruits and vegetables, with the possible exception of wire-bound and sawed crates. (3556)

**Anesthetic Laboratories, Inc.**, a corporation, formerly Guild Anesthetic Laboratories, 2457-2459 South Michigan Ave., Chicago, engaged in the manufacture, sale and distribution of a medicinal preparation known as "Guild Procaine Epinephrine Anesthetic," has been ordered to cease and desist from representing that it is a guild or association of persons engaged in kindred pursuits, and other than a commercial business existing or operating for profit.

The respondent corporation was originally incorporated in 1937 under the name of Anesthetic Advancement and Research Guild, Inc., and within the last year changed its name to Guild Anesthetic Laboratories, Inc., and subsequently to Anesthetic Laboratories, Inc.

In advertisements concerning its medicinal preparation, which is used as a local anesthetic by purchasers such as practicing dentists, physicians and dental colleges throughout the States, the Commission finds, the respondent has represented, among other things that "In its serious efforts to help the Dental Profession the GUILD feels that its policy of education and enlightenment should include, wherever an item is not equitably priced, the production in its own fully equipped laboratory of the EQUIVALENT OR BETTER of the item involved that it may thus offer to the dentist at the lowest possible price." In certain of the respondent's printed matter, the Commission finds, the word "guild," when used in the corporate or trade name, was set out in a different type of lettering with the effect of stressing and directing the attention of the reader to the word "guild."

The respondent corporation is ordered to cease and desist from representing in any manner that it is a guild or association of

persons engaged in kindred pursuits for mutual protection, aid and cooperation, or that it is anything other than a commercial business existing or operating for profit; that the respondent is impartially engaged in research for the purpose of advancement of the science of anesthesia, or that the respondent operates for the benefit, education or enlightenment of the medical and dental professions.

The respondent is also directed to cease using the word "guild" or any term of similar import or meaning to describe or in any way refer to its business or products, including use of the word "guild" as part of its trade or corporate name or as part of the brand name of its products. (3816)

**Champion Products Company**—See American Distributors, Inc.

**Jean Ferrell, Inc.**—An order has been issued against Jean Ferrell, Inc., 112-114 East Walton St., Chicago, prohibiting misrepresentation in the sale of "Concentra," advertised as a concentrated food for treating obesity and as a tonic.

Advertising matter issued by the respondent company referred to its product as being a highly concentrated food, safe for use, and, with the addition of liquids, as constituting a balanced diet capable of replacing the ordinary diet, according to findings. The preparation was also advertised as supplying deficiencies to the body, the findings continue, and as correcting overweight and underweight and eliminating poisons from the body by action of its rhubarb content and poisons from the kidneys because of its gravel root content.

Findings are that the respondent's representations were exaggerated and untrue; that the preparation is not a food, and that, because of its high content of rhubarb, it is a drug and not safe to use. The respondent was found to have disseminated false advertisements in that it failed to reveal that use of its product under conditions prescribed in advertisements or under customary conditions may in some cases result in serious injury to health.

The order directs the respondent to cease and desist from disseminating advertisements which represent that "Concentra" is a food or a concentrated food; that with or without the addition of liquids it will constitute a balanced diet or replace the ordinary diet; that it will supply deficiencies to the body, correct organic elements, cause "natural" elimination, correct overweight and underweight, restore or develop a healthy or normal figure, or eliminate poisons from the body or kidneys.

The respondent corporation is also directed to desist from representing that its preparation is safe for use and from disseminating advertisements which fail to reveal that continued use of the preparation over a long period would cause excessive purgation and result in serious injury to the health of the user. (3950)

**Gould Anesthetic Laboratories**—See Anesthetic Laboratories, Inc.

**United Advertising Companies**—See American Distributors, Inc.

## STIPULATIONS

During the past week the Commission has entered into the following stipulations:

**Biovegetin Products, Inc.**, trading as V. M. Products, Chicago, Ill., in the sale of "Neural-Aid", agrees to cease advertising that the preparation is a nerve food or a competent treatment or effective remedy for nervousness, neuralgia, nerve fatigue, constipation, nervous insomnia, constant worry, muscular aches or pains or disturbances of the nervous system, or for neuritis unless the last named representation is limited to the preparation's aid in the treatment of peripheral neuritis, alcoholic neuritis, neuritis due to anemia, neuritis of pregnancy or neuritis of pellagra. The respondent also agrees to cease using the word "Neural" as part of the trade name of the product. (02526)

**Biovegetin Products, Inc.**, in a second stipulation, agrees to desist from representing that its product "Myacin" kills or ends

pain or from otherwise implying that it will afford more than temporary relief from pain associated with rheumatism, arthritis, neuritis, sciatica, gout or lumbago; that it contains no harmful or habit forming drugs or affords safe relief, and that its formula originated in Europe or is used by thousands of American doctors and hospitals. The stipulation relates that the respondent's preparation contains an ingredient which has a tendency to be harmful and habit forming. (02528)

**Alonzo O. Bliss Medical Company**, 1811 Columbia Road, Washington, D. C., engaged in selling a medicinal preparation designated "Bliss Native Herb Tablets," agrees to cease representing by use of the word "quickly", or any other word of similar import, that the said product will give immediate relief for, or, by the use of the words "positive relief" or similar words that the product relieves upset stomach, gas bloating pains, acid risings, lost appetite, sour stomach, and headache, due to constipation or other causes; and that the product will flush the bowels or kidneys, stimulate the liver, cause a faster elimination of kidney waste, or is a treatment for the stomach, unless the last mentioned representation is limited to such influences as it might have as a stomachic. (02525)

**Curtis, Owen, Fuller Corporation**—See Owen-Fields, Inc.

**East Coast Fisheries, Inc.**—Stipulation has been accepted from East Coast Fisheries, Inc., 360 West Flagler St., Miami, Fla., to discontinue misleading representations in the sale of certain seafood.

In the sale of its products the respondent agrees to cease using the word "lobster" as descriptive of a species of food fish other than that properly known as "lobster," unless such word is accompanied in equally conspicuous type by appropriate language identifying the species or locality of the product sold.

The stipulation points out that the American lobster, also known as the Northern lobster, is found only along the North American Coast from North Carolina to Labrador; that it is more abundant and attains its greatest size in the northern part of its range in Eastern Maine and the Maritime Provinces, and that this lobster is scientifically known as a particular species. Another food fish found in Southern waters is variously referred to as sea crayfish, spiny lobster, rock lobster, and southern lobster. The term "lobster," however, has long been associated in the minds of the consuming public with the Northern lobster.

The stipulation recites that the respondent company advertised certain seafood as "Fresh Packed Lobster Meat" without proper qualification to describe spiny lobster or sea crayfish or other product not the Northern lobster. (2707)

**Gemal Handkerchief Company**—Jack M. Gemal, trading as Gemal Handkerchief Company, 389 Fifth Avenue, New York, N. Y., engaged in the sale and distribution of handkerchiefs, has agreed to cease describing or referring to himself as a "manufacturer" of handkerchiefs or other merchandise when he neither owns, operates nor directly and absolutely controls the plant or factory in which the goods sold by him are made. (2705)

**General Handkerchief Company, Inc.**, 389 Fifth Avenue, New York, N. Y., in connection with its sale and distribution of handkerchiefs or other merchandise, agrees to cease and desist from designating, describing or referring to itself as a "manufacturer" of handkerchiefs or other merchandise when it neither owns, operates nor directly and absolutely controls the plant or factory in which the goods sold by it are made, or in any manner representing that it has a manufacturing plant of its own for the production of these or other goods or merchandise when such is not the fact. (2706)

**Hudgins Fish Company**—Modified stipulation has been accepted from Hudgins Fish Company, 612 North Olive Ave., West Palm Beach, Fla., concerning use of the word "lobster". In July, 1939 the respondent agreed to discontinue representing sea crayfish by means of certain names containing the word "lobster". In its modified stipulation it agrees to discontinue use of the word "Lobster" or the words "Lobster Meat" or "Lob. Meat" as de-

scriptive of a species of food fish other than that properly known as lobster, unless the designations used are accompanied by appropriate language identifying the species or locality of the product. (2494)

**London House, Ltd.**, New York, N. Y., agrees that in the sale of its products it will cease using the words "London House, Ltd." as and for its corporate and trade name, the address "London" on its trade stationery, the words "London House" in its advertising matter, or picturizations of English characters or scenes, implying that this New York corporation is a London house or company, or manufactures products or conducts business or maintains a branch in London, or that merchandise made in the United States is of English or other foreign origin and imported into the United States, when such are not the facts. (2708)

**Maritime Milling Company, Inc.**, 1009 Chamber of Commerce, Buffalo, N. Y., engaged in selling stock and poultry feeds designated "Bull Brand Dairy Rations" and "Bull Brand Vitamized Complete Starter Ration," has agreed to cease and desist from representing that Bull Brand Dairy Rations alone keeps herds in better physical condition or milk production at consistently higher levels, or is the feed of champions, and that Bull Brand Vitamized Complete Starter Ration alone builds into chicks increased livability, better feathering and pigmentation, or larger or sturdier bodies, or that the use of the complete Bull Brand poultry feeding program assures more eggs, more profit or more money. (02523)

**Owen-Fields, Inc.**—Misleading representations in the sale of advertising material consisting of cuts, mats and printed matter will be discontinued under a stipulation entered into by Harry J. Baruch and two corporations, Owen-Fields, Inc., and the Curtis Owen, Fuller Corporation, 916 Walnut St., Kansas City, Mo., engaged in the sale of such material. The respondent Baruch is manager and active directing head of the two corporations.

In promoting sales, the individual and corporate respondents, through their canvassing salesmen, made statements to the effect that the advertising material sold by certain competitors was copied from the respondents' copyrighted features and that the purchasers of such "copied" advertising material would become involved in actions at law by reason of using it, according to the stipulation. As a result of such intimidation, the stipulation relates, many advertisers cancelled or attempted to cancel their existing contracts with such competitors.

In their stipulation, the respondents agree to desist from the representation that users of competitive advertising copy resembling the respondents' series may be involved in litigation for copyright infringement, unless suits or actions are immediately prosecuted; from circulation of threats of suits not made in good faith and to injure competitors, and from the representation that purchasers of their advertising features will be assured of exclusive rights within a specified territory to use material incorporating the same or a similar characteristic idea for such advertising material, when such is not a fact. (2710)

**Quality Chemical Company**—Harold C. Breckenridge, 20030 Russell St., Detroit, Mich., trading as Quality Chemical Company and engaged in selling a furniture polish designated "Scientific,"

certain cosmetics designated "Delora Alice Skin Lotion," "Delora Alice Fine Perfumes," "Flower of the Orient," and "LaFrance," and food products under the general heading "Magic Concentrates" designated "French Chef Flavors," "French Chef Spices," "French Chef Table Syrup" and "French Chef Food Colors," agrees to cease representing that "Scientific" contains a secret ingredient or that Delora Alice Skin Lotion is healing or that it has a healing action. Harold C. Breckenridge further agrees to cease using the word "French" as descriptive of any of his products neither made in France nor composed chiefly of French ingredients; from using the words "La France" and "Orient" as descriptive of any of his perfumes not made in or not composed chiefly of ingredients from France or the Orient, and to desist from using the words "Pure Ingredients" as descriptive of any product that is synthetically flavored to imitate the real and true flavor. The respondent further agrees to cease using the title "President" or otherwise representing that the business conducted by him as an individual is a corporation or an association. (02524)

**Reid Electric Mfg. Co.**, 543 North Cicero Ave., Chicago, selling "Reid Electric Fencer," an electric controller for use with wire fencing, has entered into a stipulation to cease and desist from misleading representations.

Among representations which the respondent agrees to discontinue are that the use of its device with a single strand of wire, will hold all livestock; that use of the product, in comparison with other types of fencing, will reduce the cost of fencing unless, in this representation, the type of fencing with which comparison is made is clearly indicated, and that the Reid Electric Fencer embodies a new construction principle. (02529)

**Schweizer Tee**—Robert J. Schwyn, trading as Schweizer Tee, Chicago, Ill., stipulates that he will cease representing that the preparation "Schweizer Tee," is competent or effective for treating diabetes; is prescribed or recommended by doctors; helps the organs to function normally, and effects a reduction of sugar or makes a broader diet possible. (02527)

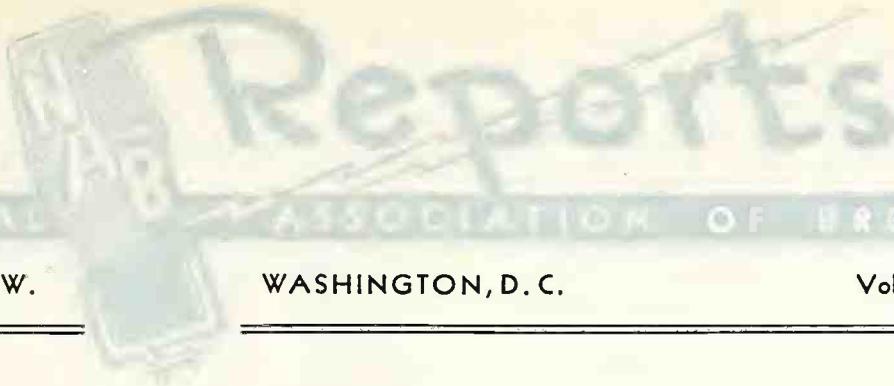
**W. F. Tomlinson Company**, Danbury, Conn., agrees to desist from the representation that its concrete burial vaults are "as enduring as the ages," "as durable as solid granite," or constructed "to last forever"; that either the material used or the type of construction will insure complete protection against moisture, vermin or all other severe underground dangers to which a vault may be exposed, and that an immersion test in water for a limited time, or any similar demonstration is "dramatic proof" or furnishes conclusive evidence that such vaults will permanently remain waterproof or will afford enduring or permanent protection to the caskets or bodies encased therein under the conditions of use. (2709)

#### FTC CASE CLOSED

The Federal Trade Commission has closed its case against Colonial Enterprise Company, Inc., 10 West 37th St., New York, which has been charged with the use of lottery methods in the sale of its merchandise.

The respondent corporation was dissolved February 14, 1940. The case was closed without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.





## A Letter to All Broadcasters

In spite of the taunts and sneers of ASCAP, BMI, only recently organized, forced ASCAP's hand and proposals intended to be made public in December 1940, were announced on March 21st. Although, upon first reading, these proposals may appear attractive especially to the small stations, a careful study reveals that it is ASCAP's purpose to divide the industry so as to levy increased tribute. Also, by the continuation of the blanket tax on gross receipts, eliminate the incentive to the development of non-ASCAP music and thereby perpetuate ASCAP's monopoly in the music field.

The proposal, although indefinite in many aspects, is sufficiently definite to outline ASCAP's general views concerning the terms for renewal of licenses, and the proposal, plus ASCAP's actions, clearly indicates that although lip service is given to the idea of negotiation, in effect, ASCAP has summoned its largest customer to another Munich and dictated the terms of surrender.

In studying the proposal, it would be well to keep in mind at least the following facts. Briefly analyzed, ASCAP's proposal demands a payment of approximately \$8,500,000 for 1941. This means that, considering the reasonable expected increase in business, over the next ten years broadcasters will pay a total of at least \$100,000,000, not for the purchase of ASCAP catalogues, but merely for the use of same. Without consideration of the stations' views, operating problems or other interests, and without consultation with the industry, ASCAP rejects the "per program" basis of payment. We shall continue to pay on news broadcasts, sports events, programs of classical music and other programs containing no ASCAP music. Regardless of the decline in the use of music, we pay the same percentage; regardless of the popularity or merit of ASCAP music or the development of other sources of music, we pay the same percentage of our gross to ASCAP.

ASCAP recognizes the principle of clearance at the source, but without any consultation with the industry as to a feasible or equitable plan, announces a plan designed to divide the industry into warring groups. No one group within the broadcasters' ranks is obligated to fight the battles of any other group, yet we know that the interests of all are related, that an additional burden of \$3,500,000 placed upon the industry, regardless of where it first falls, later adjustments will spread the burden over most of the industry. The networks have definitely stated that they cannot accede to the terms and the question immediately arises of the value of an ASCAP license to the affiliates and even to the independents if ASCAP tunes are not played on the networks.

Last July, the broadcasters decided to definitely solve the copyright problem, BMI has been incorporated, 284 stations have pledged \$1,253,189.05, a staff has been organized, contacts made within the music field, and we are on our way for once to really construc-



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

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Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*; Andrew W. Bennett, *Special Copyright Counsel*

### A LETTER TO ALL BROADCASTERS

(Continued from page 4125)

tively solve one of our most troublesome problems. The real danger which threatens the industry today is that the apparent attractive features which are dangled before the industry in the ASCAP proposal may tempt some to accept temporary benefits rather than to continue the fight for a permanent solution.

My advice to each broadcaster is to study the proposal carefully, especially regarding the effect upon affiliates in the absence of any agreement between networks and ASCAP, the effect upon independents in the absence of agreements with networks and affiliates with ASCAP, the effect upon our efforts to ever secure a "per program" basis of payment and the opportunity to develop non-ASCAP music, and the effect upon BMI.

In the future, we shall have other problems to meet on an industry wide basis. BMI has already produced some tangible results. Shall we grab the first benefits and live to regret not ascertaining the full possibilities of industry wide cooperation.

Lastly, may I suggest that you write me your personal views and suggestions, so that we may have the advantage of your judgment as to our future action.

Very truly yours,

### ST. FRANCIS HOTEL PICKED FOR NAB CONVENTION

The NAB convention, August 4-7, will be held at the St. Francis Hotel in San Francisco. Arrangements were completed this week.

### SUPREME COURT DECIDES ON ECONOMIC INJURY THEORY

The Supreme Court on Monday handed down its decision in the much discussed case of *FCC v. Sanders Brothers Radio Station*, argued on February 9, 1940. It upholds the principal contention of the FCC, namely, that the Commission is not required to weigh and make findings as to economic injury to an existing station in passing

March 29, 1940

on an application for a broadcast license. The opinion, delivered by Mr. Justice Roberts, stated that if economic loss were a valid reason for refusing a license it would mean that the Commission's function is to grant a monopoly in the broadcasting field, a result which section 311 of the Communications Act expressly negatives, and which Congress would not have contemplated without granting the Commission powers of control over the rates, programs, and other activities of the business of broadcasting.

The Court points out that the question of competition between a proposed station and an existing one is not to be entirely disregarded by the Commission, and makes it clear that under the Communications Act the Commission has no supervisory control of programs, business management or policy of licensees, or any power to regulate rates and charges or suppress wasteful practices due to competition.

The decision overrules the Commission's contention that an existing licensee has no right to appeal from an order of the Commission granting a new license. The court reaches the conclusion that while the economic injury to the existing station would not be the subject of redress, the existing station might be the instrument, upon appeal, of redressing an injury to the public service which would otherwise remain without a remedy.

Some of the language of the opinion is most interesting on the question of the Commission's control over program content. "The Commission is given no supervisory control of the programs, of business management or of policy," and again "Congress intended . . . to permit a licensee who was not interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public." It would seem, therefore, that the Court expressly recognizes that as a corollary to free competition in broadcasting, the stations may put on whatever programs they choose, outside the specific restrictions of the Communications Act itself, in order to compete for listeners and to survive economically.

The facts of the case are set forth in the opinion which is printed below:

### SUPREME COURT OF THE UNITED STATES

No. 499—October Term, 1939.

FEDERAL COMMUNICATIONS COMMISSION, *Petitioner*,  
*vs.*  
SANDERS BROTHERS RADIO STATION.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia.

March 25, 1940.

Mr. Justice Roberts delivered the opinion of the Court. We took this case to resolve important issues of substance and procedure arising under the Communications Act of 1934, as amended.<sup>1</sup>

<sup>1</sup> Act of June 19, 1934, c. 652, 48 Stat. 1064; Act of June 5, 1936, c. 511, 49 Stat. 1475; Act of May 20, 1937, c. 229, 50 Stat. 189, 47 U. S. C. 151, *et seq.*

January 20, 1936, the *Telegraph Herald*, a newspaper published in Dubuque, Iowa, filed with the petitioner an application for a construction permit to erect a broadcasting station in that city. May 14, 1936, the respondent, who had for some years held a broadcasting license for, and had operated, Station WKBB at East Dubuque, Illinois, directly across the Mississippi River from Dubuque, Iowa, applied for a permit to move its transmitter and studios to the last named city and to install its station there. August 18, 1936, respondent asked leave to intervene in the *Telegraph Herald* proceeding, alleging in its petition, *inter alia*, that there was an insufficiency of advertising revenue to support an additional station in Dubuque and insufficient talent to furnish programs for an additional station; that adequate service was being rendered to the community by Station WKBB and there was no need for any additional radio outlet in Dubuque and that the granting of the *Telegraph Herald* application would not serve the public interest, convenience and necessity. Intervention was permitted and both applications were set for consolidated hearing.

The respondent and the *Telegraph Herald* offered evidence in support of their respective applications. The respondent's proof showed that its station had operated at a loss; that the area proposed to be served by the *Telegraph Herald* was substantially the same as that served by the respondent and that, of the advertisers relied on to support the *Telegraph Herald* station, more than half had used the respondent's station for advertising.

An examiner reported that the application of the *Telegraph Herald* should be denied and that of the respondent granted. On exceptions of the *Telegraph Herald*, and after oral argument, the broadcasting division of petitioner made an order granting both applications, reciting that "public interest, convenience, and necessity would be served" by such action. The division promulgated a statement of the facts and of the grounds of decision, reciting that both applicants were legally, technically, and financially qualified to undertake the proposed construction and operation; that there was need in Dubuque and the surrounding territory for the services of both stations, and that no question of electrical interference between the two stations was involved. A rehearing was denied and respondent appealed to the Court of Appeals for the District of Columbia. That court entertained the appeal and held that one of the issues which the Commission should have tried was that of alleged economic injury to the respondent's station by the establishment of an additional station and that the Commission had erred in failing to make findings on that issue. It decided that, in the absence of such findings, the Commission's action in granting the *Telegraph Herald* permit must be set aside as arbitrary and capricious.<sup>2</sup>

The petitioner's contentions are that under the Communications Act economic injury to a competitor is not a ground for refusing a broadcasting license, and that, since this is so, the respondent was not a person aggrieved, or whose interests were adversely affected, by the Commission's action, within the meaning of Section 402(b) of the Act which authorizes appeals from the Commission's orders.

The respondent asserts that the petitioner in argument below contented itself with the contention that the respondent had failed to produce evidence requiring a finding of probable economic injury to it. It is consequently insisted that the petitioner is not in a position here to defend its failure to make such findings on the ground that it is not required by the Act to consider any such issue. By its petition for rehearing in the court below, the Commission made clear its position as now advanced. The decision of the court below, and the challenge made in petition for rehearing and here by the Commission, raise a fundamental question as to the function and powers of the Commission and we think that, on the record, it is open here.

First. We hold that resulting economic injury to a rival station is not in and of itself, and apart from considerations of public convenience, interest, or necessity, an element the petitioner must weigh and as to which it must make findings in passing on an application for a broadcasting license.

§307(a) of the Communications Act directs that "the Commission, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant therefor a station license provided for by this Act." This mandate is given meaning and contour by the other provisions of the statute and the subject matter with which it deals.<sup>3</sup> The Act contains no express command that in passing upon an application the Commission must consider the effect of competition with an existing station. Whether the Commission should consider the

## ASCAP Asks \$8,500,000

Due to several indefinite features of the ASCAP proposal it is possible only to estimate what it would mean to the broadcasters in dollars and cents.

The industry paid ASCAP \$3,878,752 in 1937, the most recent year for which figures are available. Under the ASCAP proposal, broadcasters would have paid \$6,508,036.

Projected to the business reasonably expected in 1941, it is estimated that the proposal would require payment of \$8,500,000 in that year.

subject must depend upon the purpose of the Act and the specific provisions intended to effectuate that purpose.

The genesis of the Communications Act and the necessity for the adoption of some such regulatory measure is a matter of history. The number of available radio frequencies is limited. The attempt by a broadcaster to use a given frequency in disregard of its prior use by others, thus creating confusion and interference, deprives the public of the full benefit of radio audition. Unless Congress had exercised its power over interstate commerce to bring about allocation of available frequencies and to regulate the employment of transmission equipment the result would have been an impairment of the effective use of these facilities by anyone. The fundamental purpose of Congress in respect of broadcasting was the allocation and regulation of the use of radio frequencies by prohibiting such use except under license.

In contradistinction to communication by telephone and telegraph, which the Communications Act recognizes as a common carrier activity and regulates accordingly in analogy to the regulation of rail and other carriers by the Interstate Commerce Commission,<sup>4</sup> the Act recognizes that broadcasters are not common carriers and are not to be dealt with as such.<sup>5</sup> Thus the Act recognizes that the field of broadcasting is one of free competition. The sections dealing with broadcasting demonstrate that Congress has not, in its regulatory scheme, abandoned the principle of free competition, as it has done in the case of railroads,<sup>6</sup> in respect of which regulation involves the suppression of wasteful practices due to competition, the regulation of rates and charges, and other measures which are unnecessary if free competition is to be permitted.

An important element of public interest and convenience affecting the issue of a license is the ability of the licensee to render the best practicable service to the community reached by his broadcasts. That such ability may be assured the Act contemplates inquiry by the Commission *inter alia*, into an applicant's financial qualifications to operate the proposed station.<sup>7</sup>

But the Act does not essay to regulate the business of the licensee. The Commission is given no supervisory control of the programs, of business management or of policy. In short, the broadcasting field is open to anyone, provided there be an available frequency over which he can broadcast without interference to others, if he shows his competency, the adequacy of his equipment, and financial ability to make good use of the assigned channel.

The policy of the Act is clear that no person is to have anything in the nature of a property right as a result of the granting of a license. Licenses are limited to a maximum of three years' duration, may be revoked, and need not be renewed. Thus the channels presently occupied remain free for a new assignment to another licensee in the interest of the listening public.

Plainly it is not the purpose of the Act to protect a licensee against competition but to protect the public. Congress intended to leave competition in the business of broadcasting where it found it, to permit a licensee who was not interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public.

This is not to say that the question of competition between a proposed station and one operating under an existing license is to

<sup>4</sup> See Title II, §§ 201-221, 47 U. S. C. §§ 201-221.

<sup>5</sup> See § 3(h), 47 U. S. C. § 153(h).

<sup>6</sup> Compare *Texas & Pacific Ry. v. Gulf, etc. Ry.*, 270 U. S. 266, 277; *Chicago Junction Case*, 264 U. S. 258.

<sup>7</sup> See § 308(b), 47 U. S. C. § 308(b).

<sup>2</sup> *Sanders Brothers Radio Station v. Federal Communications Commission*, 106 F. (2d) 321.

<sup>3</sup> *Radio Commission v. Nelson Bros. Co.*, 289 U. S. 266, 285.

be entirely disregarded by the Commission, and, indeed, the Commission's practice shows that it does not disregard that question. It may have a vital and important bearing upon the ability of the applicant adequately to serve his public; it may indicate that both stations—the existing and the proposed—will go under, with the result that a portion of the listening public will be left without adequate service; it may indicate that, by a division of the field, both stations will be compelled to render inadequate service. These matters, however, are distinct from the consideration that, if a license be granted, competition between the licensee and any other existing station may cause economic loss to the latter. If such economic loss were a valid reason for refusing a license this would mean that the Commission's function is to grant a monopoly in the field of broadcasting, a result which the Act itself expressly negatives,<sup>8</sup> which Congress would not have contemplated without granting the Commission powers of control over the rates, programs, and other activities of the business of broadcasting.

We conclude that economic injury to an existing station is not a separate and independent element to be taken into consideration by the Commission in determining whether it shall grant or withhold a license.

Second. It does not follow that, because the licensee of a station cannot resist the grant of a license to another, on the ground that the resulting competition may work economic injury to him, he has no standing to appeal from an order of the Commission granting the application.

§402(b) of the Act provides for an appeal to the Court of Appeals of the District of Columbia (1) by an applicant for a license or permit, or (2) "by any other person aggrieved or whose interests are adversely affected by any decision of the Commission granting or refusing any such application."

The petitioner insists that as economic injury to the respondent was not a proper issue before the Commission it is impossible that §402(b) was intended to give the respondent standing to appeal, since absence of right implies absence of remedy. This view would deprive subsection (2) of any substantial effect.

Congress had some purpose in enacting §402(b) (2). It may have been of opinion that one likely to be injured by the issue of a license would be the only person having a sufficient interest to bring to the attention of the appellate court errors of law in the action of the Commission in granting the license. In this view, while the injury to such person would not be the subject of redress, that person might be the instrument, upon an appeal, of redressing an injury to the public service which would otherwise remain without remedy. It is within the power of Congress to confer such standing to prosecute an appeal.<sup>9</sup>

We hold, therefore, that the respondent had the requisite standing to appeal and to raise, in the court below, any relevant question of law in respect of the order of the Commission.

Third. Examination of the findings and grounds of decision set forth by the Commission discloses that the findings were sufficient to comply with the requirements of the Act in respect of the public interest, convenience, or necessity involved in the issue of the permit. In any event, if the findings were not as detailed upon this subject as might be desirable, the attack upon them is not that the public interest is not sufficiently protected but only that the financial interests of the respondent have not been considered. We find no reason for abrogating the Commission's order for lack of adequate findings.

Fourth. The respondent here renews a contention made in the Court of Appeals to the effect that the Commission used as evidence certain data and reports in its files without permitting the respondent, as intervenor before the Commission, the opportunity of inspecting them. The Commission disavows the use of such material as evidence in the cause and the Court of Appeals has found the disavowal veracious and sufficient. We are not disposed to disturb its conclusion.

The judgment of the Court of Appeals is reversed.

Mr. Justice McReynolds took no part in the decision of this case.

### EDWIN M. SPENCE RESIGNS AS NAB SECRETARY-TREASURER

Edwin M. Spence, Secretary-Treasurer of the NAB today presented his resignation to the Board of Directors through President Neville Miller. The resignation is to become effective May 1.

Mr. Spence has been Secretary-Treasurer of the Association since its reorganization in 1938. He is one of the oldest members of NAB and served as a member of its Board of Directors for many years and was vice president of the Association in 1930-31. He also has been chairman of the annual convention committee for the past fourteen years.

Recently in association with Stanley Horner and Dyke Cullum, both well-known Washington residents and business men, he formed the Capital Broadcasting Company and applied for a license to operate a local, full time station in the District of Columbia. Mr. Spence will be general manager in charge of the station if the FCC grants the application.

### C. E. ARNEY, JR., APPOINTED ASSISTANT TO MILLER

Neville Miller today announced the appointment of C. E. Arney, Jr., public relations director of KOMO-KJR, Seattle, as assistant to the president of the NAB, effective April 1.

Mr. Arney will leave for the east next Monday, conferring with members in and near San Francisco, Los Angeles, Salt Lake City, Denver, Kansas City and Chicago en route. He will arrive in Washington about April 15.

Mr. Arney was born January 9, 1891. He received his grade school and high school education in Pocatello and Boise, Idaho, and Washington, D. C. Graduated with an LL.B. degree from the University of Washington in 1915, he spent the next three years in the United States Attorney General's office in Washington.

He then returned to the Northwest where he engaged in association work with various organizations until 1932 when he became editorial commentator and news reporter on Station KOL. Since then he has engaged in various radio activities, including the conducting of radio programs from the state capitol. At present, he is public relations director for KOMO-KJR, Seattle.

Mr. Arney is married and has twin daughters.

### FM HEARING

Thursday, March 21

The FCC hearing on "High Frequency" was resumed Thursday when Chairman Fly recalled Dr. Pickard to the stand. Dr. Pickard was questioned about the characteristics of 26 MC and 40 to 50 MC bands. He said that on 26 MC there is a skip distance of approximately 800 miles and that day transmissions on the order of thousands of miles could be expected. He said that as far as ground wave is concerned the two bands are quite similar. Dr. Pickard said that the diffraction effects are not as pronounced in the 26 MC band and therefore a more uniform field is produced. Dr. Pickard said that there was more static at 26 MC than in the 40 to 50 MC band. When Dr. Pickard was on the stand Wednesday he testified that the 40 to 50 MC band would be more suitable for broadcasting than would be the 26 MC band, and he was asked what would be the most feasible use for the 26 MC band, and he suggested that it might be used for special services, such as forestry, police, and possibly aviation. Commissioner Brown wanted to know if it would be extra expense in the

<sup>8</sup> See § 311, 47 U. S. C., § 311, relating to unfair competition and monopoly.  
<sup>9</sup> Compare Interstate Commerce Commission v. Oregon-Washington R. Co., 288 U. S. 14, 23-25.

receiver if part of the FM band was around 26 MC and the rest in the 40 to 50 MC region and the answer was yes, and that there also would be a bother to the listener in switching bands. Dr. Pickard continued that it would probably cost two or three dollars more for each receiver and this price would be reflected to the ultimate consumer, something on the order of nine to fifteen dollars. Mr. Jett asked about the relative intensity of auto ignition noise on the two bands, and Dr. Pickard told him that in general, man-made static increases and static decreases as the frequency goes up.

The next witness for the FM Broadcasters, Inc., was Professor Daniel E. Noble of the Connecticut State College, Storrs, Connecticut. Professor Noble stated that he believes FM is ready for regular service. He said that his home at Storrs was 40 miles from 1 KW FM station at Meriden and 40 miles from the 2 KW FM station at Paxton. He said that there was a standard band 50 KW and a 5 KW station in Hartford, about 20 to 25 miles from his home. Professor Noble said that his reception from the FM stations was superior in point of noise and "High Fidelity" over the standard band stations. He said that quality could be obtained easier with FM than AM, due to the fact that circuit design rather than tube characteristics was the determining factor. Mr. Jett asked about police work in which the audio-band was limited to voice frequencies below 3,000 cycles, and using a band width of 40 KC and if you could get the same noise reduction as you do with 15,000 cycles and 200 KC band widths, and Professor Noble answered yes, if a cut-off filter was put in at 3,000 cycles. Professor Noble felt that distortion in the upper audio-frequencies was important in deciding a like or dislike for a wide audio-band and that we do not know all that we could on this subject.

Mr. A. F. Sise, engineer of the Yankee Network of Boston, explained how he made field measurements on the Paxton and Meriden FM stations. He used a recorder geared to the car speedometer. Mr. Sise said that his home was at Wellsley, part of Boston, located approximately 10 to 12 miles from regional stations and approximately 9 miles from a clear channel station, and he did not get what he considers satisfactory service. On the other hand, he explained that the 2 KW FM Paxton station, 35 miles away, was practically perfect and that he rarely ever heard noises on it. He also recited his experience in Paxton, approximately 70 miles from FM station at Meriden and approximately 5 miles from the local 1 KW Worcester station. He said that the reception on the Meriden FM station was superior. Mr. Sise explained that he has had considerable experience with AM and FM on the same frequency and it was his opinion that the FM system was quite superior.

The next witness for FM Broadcasters, Inc., was Morris Levy, Chief of Radio Development Laboratories of Stromberg Carlson at Rochester, New York. Mr. Levy explained measurements which he had made on a receiver comparing a wide band with three narrower ones and he obtained signal to noise ratios under four conditions as follows:

Channel Width	Frequency Swing	Signal to Noise Ratio	A*
40 KC	30 KC	48 DB	14 DB
80 KC	60 KC	54 DB	8 DB
160 KC	120 KC	60 DB	2 DB
200 KC	150 KC	62 DB	0

Mr. Levy explained an experiment he conducted comparing an AM receiver with FM and he found that it required about 100 times the signal on AM to get the same signal to noise ratio out of the loud speaker as was required with FM using 150 KC swing and a ratio of 2 to 1. Mr. Levy's exhibit contained a graph he had made showing the frequency drift of a typical receiver. This graph showed that a minute after the set had been turned on the receiver had drifted 5.3 KC and that at the end of 10 minutes it had drifted 14.4 KC and at the end of 40 minutes it had drifted to 20 KC and beyond that there was no drift. Mr. Levy explained that this drift is more serious as the band width used is narrowed down, however, he said he believed that the drift problem was not insurmountable, if we were to use a band narrower than 200 KC.

The next witness for FM Broadcasters, Inc., was Mr. I. R. Weir, of General Electric Co. Mr. Weir began description of tests made between AM and FM at Schenectady and Albany. His testimony was continued on Monday, March 25.

#### Monday

Mr. Weir said that a 150 watt FM transmitter was employed at Albany and a 50 watt FM station at Schenectady, a distance

\* A power would have to be raised this amount to get same signal to noise ratio as with 200 KC channel.

of 14.5 miles on the same frequency. He made tests with a receiver in a car and found that the Albany transmitter had a range of approximately 10½ miles and that there was a one mile transitional area and that the Schenectady transmitter had an interference free distance of three miles. He then made the same test with Amplitude Modulation and found that the Albany station had a range of about 3.3 miles and the Schenectady transmitter a range of about ½ mile. Mr. Weir described a test which he had made in which the desired to undesired signal ratio was 2 to 1 and that with a 150 KC FM swing the signal to interference ratio out of the receiver was 40 DB. He said that the same input ratio on an AM receiver gave about an 8 DB ratio out of the receiver. Mr. Weir said that in his opinion a 15 to 20 DB difference between signal to interference was needed for intelligence transmission and that a 50 to 60 DB ratio was needed for high quality. Mr. Weir explained that a 40 DB difference would be satisfactory but that more people would be pleased with a difference of 50 to 60 DB.

Mr. H. P. Thomas, radio engineer for General Electric, was the next FM Broadcasters, Inc., witness. Mr. Thomas explained that he found in a test that if the audio band were limited to 3,000 cycles and the deviation was 5 to 1, that the signal plus noise to noise ratio stayed about the same as for a wider audio band with the same deviation. Mr. Thomas said that he saw possibilities for other services than broadcasting using a narrow audio band, and a correspondingly smaller frequency band. Mr. Thomas described adjacent channel interference experiments in which he had used a 40 KC channel and a 30 KC swing. He found that with adjacent channel operation there was interference, but with an 80 KC separation there was no interference. He said that the interference factor apparently is dependent on width of swing. Mr. Thomas explained calculations which showed that the ratio of band width to frequency swing, in order to keep distortion at the same amount, increased as the deviation ratio was reduced.

Dr. Pickard was recalled to the stand in order to describe adjacent channel measurements he had made with a 200 KC and a 40 KC band width. His measurements show that on the average the adjacent channel interference was minus 39 DB down on the 200 KC band using a 150 KC swing and down minus 24 DB on the 40 KC band using a swing of 40 KC, giving a difference in adjacent channel selectivity of 15 DB in favor of the wider band.

The last and concluding witness for FM Broadcasters, Inc., was Paul A. deMars, technical director of the Yankee Network. Mr. deMars explained that he was freed of his duties at the Yankee Network in order to coordinate a preparation of the technical data for the FM Broadcasters. Mr. deMars said that if the band width is reduced from 200 to 40 KC that there must be an increase in power of 25 times and that the stations then would have to be spaced at a greater distance, and cognizance should also be taken of adjacent channel interference. Mr. deMars said that he used a signal to noise ratio out of the receiver of 40 DB in all interference problems. He said that the earth's conductivity has little or no effect on frequencies of the order of 45 MC but instead we do have a pronounced effect due to terrain. He said that the signal might depart as much as three times from the average over broken terrain and that the signal might depart as much as ten times in mountainous regions, such as New England and the Allegheny Mountains. Mr. deMars continued that over distances of 100 miles or more that there is considerable variation in field strength and these variations are caused principally by variation in dielectric constant of the atmosphere; refractions and reflections from layers of atmosphere with different characteristics. Mr. deMars entered an exhibit showing these variations as determined by the available data on the subject. He said that more data were needed on these variations, however he believed that the curves he presented could be used for a sound allocation. Mr. deMars said that auto ignition was one of the principal limiting factors on the U.H.F., but that as time goes on this will be eliminated.

Mr. deMars introduced a factor which he called Radiation Efficiency and later this was changed to Radiation Index, abbreviated to R.I. According to Mr. deMars's definition the Radiation Index equals the square root of the power delivered to the antenna times the height of the antenna above the surrounding terrain times a factor for the gain of the antenna. Mr. deMars suggested this factor as a means of taking into account the three items involved in the radiation at Ultra-High-Frequencies. As requested by Chairman Fly, the FM Broadcasters prepared allocation exhibits and Mr. deMars entered these, with the suggestion that three classes of stations be provided for. Mr. deMars stated that he believed that a vastly superior service would be rendered to more people of the United States by the use of FM and that for a period of years it is fair to presume that the wide open spaces

will receive service in the present band, but that he is not so sure that FM will not ultimately cover the rural areas also.

Mr. deMars summed up his findings with the statement that the conclusion was inescapable that FM is vastly superior to AM.

### Tuesday

Tuesday's testimony was resumed with Mr. deMars on the stand. He entered into further details on the allocation maps he had prepared showing that a station could be provided for in every city of 10,000 or more, with a radiation of R.I. equal to 300 which could be obtained with 1 KW and an antenna height of about 200 feet.

He said that complete coverage would be attained to a distance of 15 miles provided that the stations are separated 40 miles or more. Mr. deMars used four channels to accomplish this and said that provided one channel is allowed between stations that they could be allocated indiscriminately.

For cities and population areas of 100,000 or more, Mr. deMars assumed an R. I. of about 1500, which could be accomplished with powers on the order of several KW. Under these conditions each station would have a good coverage of 35 miles and the stations would be separated approximately 90 miles. Mr. deMars also entered an Exhibit showing stations with an R. I. of 5,000. In response to Mr. Jett's question about horizontal and vertical polarization, Mr. deMars said that we do not have enough data yet to determine which is best, however, it was his opinion that horizontal polarization gives a higher signal to noise ratio than does vertical, and in response to Commissioner Craven's question he said that he did not think the Commission should specify which polarization should be used at this time. Under cross examination by Mr. Wozencraft, Mr. deMars said that under average conditions and R. I. of 5,000 that at 100 miles the signal of about 10 microvolts would prevail and would render rural service. He also said that if the channel is cut in half that four times the power is needed in order to give the same signal to noise ratio and that then the coverage would substantially be the same. Mr. deMars also said that the number of channels required for a comprehensive broadcast coverage to the United States would depend on many factors, however, his guess was that about 30 or 40 channels would be necessary, in order to provide a nation-wide service and to allow stations to be located so as to fill the needs of the country and to give a service superior to our present service. When asked if FM could be used affectively above 100 MC Mr. deMars answered yes, but he said that it would be undesirable from a receiver point of view to have part of the FM band around 42 MC and part of it around 100 MC. He said that the receivers would be more difficult and more expensive on 100 MC. He said he had no doubt but what the receivers would be developed to a satisfactory point in time, for frequencies on the order of 100 MC. Mr. deMars said that in order to take advantage of FM in television that it would be necessary to go to higher bands and that technically television is a misfit in the present band. In answer to Mr. Wozencraft's question Mr. deMars said that it would take about an 8 to 10 MC channel width in order to transmit video and sound by means of FM.

Mr. Eugene O. Sykes, appearing for William D. Finch, made a statement that Mr. Finch would not give testimony as previously intended because the testimony would merely be a repetition of facts already entered by others. Mr. Sykes stated on behalf of Mr. Finch the belief that facsimile would develop rapidly in many fields and that Mr. Finch agrees with the testimony of FM Broadcasters that a 200 KC band should be used in order that facsimile can be multiplexed along with the program. He continued that should future developments show that the band was wider than necessary that it could then be narrowed down, but on the other hand, if the band was narrowed down now and it was found to be too little, it would be difficult to make a readjustment.

The next party to the "High Frequency" hearing to appear was Mr. John V. L. Hogan, consulting engineer and inventor of New York City. Mr. Hogan expressed the opinion that aural broadcasting on the frequencies above 25 MC has reached a stage of development such that it is acceptable for rendering a regular broadcast service to the public and he based this opinion on experience with his own FM station in New York. Mr. Hogan believes that FM can render a superior service out to 100 miles over stations in the present band. As to the relative merits of FM and AM, Mr. Hogan said that this question was answered by the ratio of 2 to 1 up to 4 to 1 signal to noise ratio required on FM, as against the 100 to 1 or better required on AM. Mr. Hogan showed the Commission two samples of facsimile transmissions, one by means of AM and the other by means of FM, both transmitting in the Ultra-High Frequency. The FM sample had a

lighter, more white background giving visual evidence to the noise suppression ability of FM. In regard to width of band Mr. Hogan recommended that 200 KC bands be used and that if future development shows that a smaller band can be used, then the bands can be narrowed. Mr. Hogan stated that at last we have found a way to allocate on the same frequencies with little or no waste space between stations and it was his belief that a national system of allocation using FM can be made to include broadcasting, facsimile, educational, etc. In response to a question by Chairman Fly, Mr. Hogan said that some people still might wish to work on AM and that they should be allowed to do so. Commissioner Craven asked if AM had any advantages over FM and he received a negative answer. Mr. Hogan expressed the opinion that educational stations should go to FM and that the educational band should be contingent to the regular broadcast band. Mr. Hogan took up a discussion of the future effects of U.H.F. broadcasting upon the present standard broadcasting band and he said that we should keep in mind that service to the public can be a combination of the present band and FM in the U.H.F. The standard band ultimately could be made up of channels with one, two, or three stations on each and that these could be used to cover rural areas by sky-wave. He said that the combination of the two would make it possible to give every person in the country selection of at least two programs and every city big enough could have its own station or stations. Mr. Hogan said that he hoped that the FCC would consider a 41 to 44 MC consolidation for 200 KC FM bands. He said that from an engineering consideration he believes that the lower frequencies are not as well suited to television, however, he did not wish to have this opinion construed as meaning that he recommended the taking of a television band for FM. Mr. Hogan said that if the 27 MC band was also used for FM in addition to the 42 MC band that the cost of receivers would go up and that the complication of two FM bands would be undesirable. In response to a question put to him by Commission Attorney Bauer, Mr. Hogan expressed the opinion that an experimental period is not necessary and that FM is now ready for regular commercial use.

The next witness was Mr. Stewart L. Bailey, appearing for Jansky & Bailey, Consulting Engineer of Washington. Mr. Bailey said that a 200 KC band is necessary for good reproduction with a 150 KC swing, and that the extra 50 KC is not exactly a guard band. Mr. Bailey explained some of the experiments conducted with their FM station, W3XO, on 43.2 MC with 1 KW. He explained how they had multiplexed an International Business Machine Radio Typewriter along with high quality aural broadcasting. He said that the speed of typing was 100 words per minute. The multiplexing was done with two tones of 21 KC and 22.8 KC and that a deviation of 10 KC was used on the typewriter circuit being superimposed on the regular transmission. He said that in order to do this the maximum swing for the aural transmission was limited to 65 KC instead of 75. Mr. Bailey explained that no filter was needed on the receiver to keep the typewriter impulses out of the program, but that a filter was necessary on the circuit feeding the typewriter in order to filter out the voice and music. Mr. Bailey explained an adjacent channel experiment which he had performed, using adjacent channel 200 KC bands. He said that the desired to undesired signal ratio was on the order of 1 to 5 up to 1 to 10 in order to give the same freedom from interference as was experienced on the same channel with a desired to undesired ratio of 2 to 1. It was Mr. Bailey's conclusion from this experiment that adjacent channel operation is not feasible within the service area of a station. Mr. Bailey then described his experiment with two channel difference and he said that he was not able to get enough interfering signal to properly measure it and his conclusion then was that two channel separation would be OK in all cases.

The next party to the hearing was the International Business Machine Company and Mr. Walter S. Lemmon, General Manager of Radio Type Division, appeared as their witness. Mr. Lemmon said that they subscribed to the Jansky & Bailey testimony. He said that they believe that the radio typewriter is of use in broadcasting and transmitting news.

He described their high speed news service in which they can project the news onto a six-foot long screen. Mr. Lemmon said that they were very interested in multiplexing their radio typewriter along with aural FM broadcasting, and that they are developing circuits for its use. He said that a printer system could be provided for by radio relays to give service across the country. Mr. Lemmon advocated frequency space for experimentation along this line, and he said that he felt that the application could better be above 100 MC.

Wednesday

Chairman Fly resumed the hearing Wednesday with the statement that the Commission wished to finish on Thursday and that they would sit whatever hours were necessary.

Horace Lohnes on behalf of Muzak, presented Mr. Waddill Catchings, President of Wired Radio and Chairman of the Board of AMP. Mr. Catchings said that they were interested in FM because it could give to the public what they proposed giving over wire with less cost and with less noise and interference. He said that they had conducted field tests which showed that among even the poorer classes of people that the public was willing to pay an additional cost for High Fidelity and interference clear signals.

He said that in Muzak they have everyday indications that the public appreciates and wants more faithful reproduction. Mr. Catchings said that they now have transcriptions which are good out to 11 or 12 thousand cycles but that the telephone lines will not carry a range of better than 7,500 cycles. Mr. Catchings said that when they do put on their wire system records which cut at 6,000 that they get complaints from customers. He said that they have about 600 business establishments and 100 homes equipped in New York City. Mr. Catchings said that the frequency range should certainly be out to 13 KC and preferably to 15 KC for good reproduction. Mr. Catchings quoted from the "Atlantic Monthly" in which Leopold Stokowsky had said, "The average capacity of the ear is 15,000 cycles and that 13,000 cycles is necessary." Mr. Catchings said that the quality on their wired system was better than from the standard broadcast stations and that the quality from FM stations was still better. Mr. Catchings stated that if FM is allowed to go ahead that the small stations could compete on a more equal basis with the network stations through the use of High Fidelity records. He said that the monthly charge for Muzak service in the home was \$1.50 per month including everything except the power, and the charge for restaurants and hotels varied from \$15 to \$75.

Mr. Reed Rollo, for station WSM, said that they would not present testimony in view of the fact that it would be a repetition of what had already been entered.

Horace Lohnes on behalf of Runyon made a similar statement.

Mr. Wozencraft opened RCA's testimony by saying that they favored FM broadcasting on the Ultra-High-Frequencies with adequate channels to serve the country.

Dr. H. H. Beverage, chief research engineer, was the first RCA witness. He said that at 25 to 27 MC we are approaching the limit of Sky-Wave transmission and that these frequencies are not particularly useful for long distance communication. He said that in the daytime these frequencies have some long distance sky-wave propagation, but at night the transmission is limited to ground wave. Mr. Beverage said that in the UHF, useful ground wave signals can be obtained to two horizons and possibly to three. RCA had found that their measurements on frequencies up to 100 MC corresponds very closely with the theoretical work of Dr. K. A. Norton of the FCC. Dr. Beverage said that beyond the horizon signals vary greatly, however, he believed that Dr. Norton's curves on the average, represented true transmission characteristics. He said that we could expect variations of as much as 20 DB due to terrain variations and that variations of 1,000 to 1 in signal might be expected due to terrain and fading at a distance of about 100 miles. Mr. Beverage said that man made noises were caused by such things as motors, razors, contactors, and any electrical equipment that sparks and that probably the greatest source of noise in the UHF is auto ignition, and that in urban areas, diathermy interferences might be bad. Dr. Beverage explained noise measurements which he had made in the New York area and the noise peaks in urban areas varied from 20 to 1000 microvolts, and in suburban areas from 2 to 100 microvolts, and in rural areas up to 10 microvolts. He said that in rural areas the noise was sometimes the fluctuation noise threshold of the receiver, this was caused by thermal agitation and shot effect on the first tube and that he had measured these noises between a fraction of a microvolt to several microvolts. Mr. Beverage was asked if FM was universally applicable and he said no; that FM is distorted by multipath transmissions. In answer to a question put by Mr. Craven, it was Mr. Beverage's opinion that sky-wave could be entirely disregarded in the 40 MC band but not in the 27 MC. Mr. Beverage said that FM transmitters are cheaper, simpler, and require less power, and that FM receivers for a given field strength will give a better signal to noise ratio out of the loud-speaker. He described the threshold of a receiver as that point where the noise peaks are equal to the signal peaks and he said that for good service with FM the signal should be

6 DB or higher above the noise. Mr. Beverage said that the swing determines the gain over noise and that as the swing is widened the gain over noise becomes better, however, as the swing broadens out the noise accepted by the receiver is greater. Within the threshold the wider the band the better signal to noise ratio will be obtained out of the loud-speaker, and that as the band is broadened out the threshold moves closer to the station.

The next RCA witness was Mr. Raymond F. Guy, Radio Facilities Engineer of NBC. He explained that they had conducted experiments using AM, 30 KC frequency swing and 150 KC frequency swing with 1 KW and 1000 foot high antenna. His measurements showed that with the 150 KC swing the threshold was at 86 miles and that on 30 KC the threshold was at approximately 100 miles, however, the 30 KC was not of such a high grade service. Mr. Guy's curves showed that at 86 miles the 150 KC transmission had a signal to noise ratio out of the loud-speaker of 52 DB and the 30 KC transmission had a ratio of 38 DB. Mr. Guy explained that he considered that with a signal to noise ratio out of the loud-speaker of 20 DB-RMS, the service was very poor, and with 30 DB the service was fair, and with 40 DB the service was very good and 50 DB or better excellent. Mr. Guy's experimental work showed that there is about a 16 DB gain over noise in going from Amplitude to FM with a 30 KC swing and that the difference between Amplitude and 150 KC swing is about 30 DB, provided the distance at which the receiving is being done is within threshold distance. Mr. Guy also showed an adjacent channel test that he had made using 200 KC bands and he said that where the undesired carrier to desired ratio was less than 11 DB that there was no cross talk.

The next NBC witness was Stewart Seeley of the RCA License Laboratories. Mr. Seeley said that he was the inventor of pre-emphasis and a discriminator circuit. He said that by pre-emphasis the high frequencies are accentuated in the transmitter and in the receiver they were restored to the original level, thereby materially decreasing the high frequency noises which would have normally been accepted by the receiver. Mr. Seeley said that FM receivers should be more sensitive due to the fact that lower signals can be used on FM. This would probably mean the addition of 1 amplifier stage to the receiver. He said that fidelity is independent of band width so long as the band width is at least twice as wide as the highest audio-frequency. In discussing distortion, Mr. Seeley said that distortion was mainly a function of circuits in FM, and that the tube characteristics were a function of the quality of the audio amplifier, however, this was a minor factor in determining the amount of distortion. He said that two circuits must be of linear characteristics in FM and these were the discriminator and the limiter. Mr. Seeley said that circuit stability was important in the high frequencies and he said that we have always had the problem of oscillator drift with us since the beginning of broadcasting and that he felt that whatever minimum receiver drift was necessary that it would be developed. Mr. Seeley said that the tolerable receiver drift is probably about 10 per cent of the band width used. This allows for 20 KC drift using a 200 KC band and a 4 KC drift using a 40 KC band. Mr. Seeley showed receiver drift characteristics which he had taken at 40 MC, in which the drift was kept down to 1.1 KC. Mr. Seeley presented an exhibit showing the present list price of a number of receivers and his estimate for the price of the same receiver, including an FM band. His estimate on most receivers was an increase in price of between 20 and 50 per cent, determined by the size of the set and whether the minimum or maximum FM performance was put in.

Mr. Seeley said that a price of about \$170 would be required to get a frequency range up to 11,000 cycles and good quality on an FM combination set.

The next RCA witness was Mr. Worth C. Lent of Washington. Mr. Lent said that RCA had accepted a signal to noise level of 30 DB peak, which is the equivalent to 40 DB-RMS below which a service should not be degraded. Mr. Lent presented a chart showing the variation in distance to outer service boundary as a function of radiated power and this showed that there was a relatively small increase in service radius with an increase in power. It showed that as the power was raised 10 times the radius was increased about 19%. On another chart he showed the variation of the outer service boundary distance as a function of transmitting antenna height and this showed approximately that as the antenna height was doubled the service radius increased by about 14%. Mr. Lent also presented another chart which showed the variation of peak signal to noise ratio as function of distance to outer service boundary for various maximum deviations. This showed that as the deviation was increased the distance to the outer service boundary decreased, due to the threshold being reached sooner.

This chart also showed that the peak signal to noise ratio decreased as the swing was decreased. Another chart of Mr. Lent's showed that in the 41 to 44 MC band there would be room for 15 channels using a band width of 200 KC, 21 channels using 140 KC band, 37 channels using an 80 KC band and 75 channels using a 40 KC band. This chart also showed the separation distance required with an antenna 1,000 feet high and a power of 1 KW. On the 200 KC band the separation required was 255 miles and for the 40 KC band the separation required was 300 miles. Mr. Lent then presented exhibits showing allocations he had worked out for different band widths. He presented four allocation plans. One each for 40, 80, 140 and 200 KC bands. His allocation plans showed that for the 40 KC band there could be allocated six stations in each city east of the Mississippi and that with the 80 KC bands 64 metropolitan areas could be each given three facilities. His plan for the 140 KC bands showed that 62 metropolitan areas could have two facilities each and his plan for 200 KC bands showed that 66 metropolitan areas could have one facility each. Mr. Lent showed two circles for each station. The inner circle corresponded to the service now rendered on the present band with 5 MV for urban service, and the outer circle corresponds with the present  $\frac{1}{2}$  MV contour for rural service. Chairman Fly excused Mr. Lent from the stand and said that his cross examination would be left until Thursday.

Mr. Otto S. Schairer, of the Patent Department of RCA, identified Exhibits giving patent information.

On behalf of Stromberg Carlson Manufacturing Company, Mr. Phil Loucks read a statement in which he listed the different models of FM receivers so far delivered to the Stromberg Carlson distributors and dealers. This was a total of 1,592 receivers, ranging in price from \$59.50 to \$395. The sets range all the way from table models up to phonograph combinations. Mr. Louck's statement continued that field tests have shown that a 150 KC swing in the opinion of Stromberg Carlson is the best swing to be used and therefore they recommend the allocation of 200 KC bands. Stromberg Carlson recommend against splitting the FM band and also recommended that an FM allocation be made as soon as possible.

Horace Lohnes on behalf of station WDRC said that their Chief Engineer had already made an appearance for FM Broadcasters, Inc., and that they had nothing further to add.

On behalf of Westinghouse Electric & Manufacturing Company, Mr. Lohnes offered an exhibit for the information of the Commission, giving measurements and experiments made to determine the characteristics of FM vs. AM in the UHF.

#### Thursday

The High Frequency hearing was resumed when RCA played a demonstration record with signal to noise ratios of 20, 30, 40, 50, and 60 DB. According to RCA these were rated poor, fair, very good, excellent, and excellent, respectively. Mr. Lent returned to the stand for cross examination. He told of calculations he had made which showed that for a 75 KC swing that the guard band need be 10 KC. He said that 10 KC would take care of drift in the receiver and take care of side frequencies and that therefore his contention is that in a 200 KC band the swing can be 180 KC. Mr. Jett asked if he believed that the FM stations should be located near the centers of cities and Mr. Lent answered yes; that the noise level will be as high as 1 millivolt in a down-town area and therefore it will be practically essential to locate UHF stations in down-town sections. Several of the Commissioners, particularly Commissioner Thompson and Commissioner Brown were concerned over the neglect of the smaller cities in Mr. Lent's allocation plans. Chairman Fly said that we are concerned not so much with giving stations to cities which now have several stations, but that we are concerned with giving service to small cities which do not now have primary service. Mr. Lent said that his plan could be extended to cover any number of cities required, so long as enough channels were provided. Mr. Lent had previously testified that, based on a 40 DB-RMS signal to noise ratio, that the optimum deviation was 30 KC or a 60 KC swing. Commander Craven asked what the optimum deviation would be for a 60 DB-RMS ratio and the reply was that it would be above 90 KC and that for every signal to noise ratio there is an optimum deviation.

Mr. Otto S. Schairer of the RCA Patent Department, was called to the stand and Chairman Fly asked him if RCA had a patent advantage between narrow and wide band FM. Mr. Schairer said that he did not think so. He said that RCA does not have a license under Armstrong FM patents and that the difference involved in Armstrong's patents was a matter of the degree of swing.

Mr. E. W. Engstrom was called to the stand and was asked if

television functions as effectively in the 40 MC band as it does in the high frequencies, and his answer was yes. He also was asked if television could be improved by moving from the channel number one (44 to 50 MC) band to higher frequencies, and his answer was no; that it would take about four months to change from channel number one to channel two and about 18 months to go to a higher frequency. Mr. Engstrom said that to use FM for television it would be necessary to have channels of about 9 MC width and that he looked to the use of FM for television more and more as we go to higher frequencies. Commander Craven asked if he thought that FM for television could be accomplished within five years and the answer was yes.

Mr. John R. Howland, assistant to the president of Zenith, took the stand and said that he was convinced that FM could give a greater service than AM. Mr. Howland said that he would like to put the breaks on the enthusiasm for FM. He said that we must realize that there are 37,000,000 sets in the United States and that a large percent of these receivers are well within the good service area of some clear channel or good regional station. Mr. Howland said that the development of FM does not mean that it will take the place of AM but rather that it will be another supplementary service, rendering a high fidelity and noise free service to areas not now so served. His feeling was that television is not yet ready for the public and that television should be allowed to carry on its experiments, along with the development of FM and that development of the two should go hand and hand and that the public would ultimately decide the use of both of them.

Mr. Brown of Zenith Radio Corporation of Chicago, described tests they had made between a wide and narrow band.

Mr. Brown's exhibit included a set of oscillograph pictures taken with various signal intensities and under different conditions comparing the wide with the narrow band. His general conclusion was that the wide band was freer of interference. The two bands used had a swing of 150 KC and 15 KC. On the wide band he used a maximum audio-frequency of 15 KC and on the narrower band 7.5 KC. Mr. Brown said that the Zenith observations indicated that the lowest usable signal on FM was 15 microvolts. He said that for real good service the noise should be 70 DB down from the signal. In response to a question by Mr. Jett he said that the receiver drift wasn't such a problem with wide band as it was with the narrow, however, the receiver drift problem could be taken care of for either case.

Mr. Andrew D. Ring, assistant chief engineer of the FCC, described FCC exhibit number 84, entitled, "Field Intensity Survey of UHF Broadcasting Stations." Due to the anxiety of the Commission to wind up the hearing, Mr. Ring was given very little time to discuss the FCC exhibits. During the survey, measurements were made on the following stations: W2XMN, 42.8 mc, at Alpine, New Jersey; W2XBS, 49.85 mc, and W2XWG, 42.6 mc, both on the Empire State Building, New York City; W1XOJ, 43 mc, on Asnebumskit Hill near Worcester, Mass., and W3XO, 43.2 mc, Washington, D. C. All of the stations except W3XO transmitted horizontally polarized waves. Fading recordings were taken at a fixed point at Barnegat, New Jersey, on W2XMN, Alpine, and these showed a signal intensity variation between 1 and 12 microvolts. The distance was 86 miles. Other drive along recordings were made showing signal intensity variations of better than 10 to 1. The report contained a number of field intensity radials taken on the above mentioned UHF stations. Mr. Ring described drive along recordings on station W3XO taken along the south side of Constitution Avenue between 14th Street and Delaware Avenue in Washington, and these showed signal variations between 60 and 1600 microvolts and between 70 and 160 MV on WMAL, 630 KC and between 19 and 140 MV on WRC, 950 KC. Mr. Ring also described listening tests which he had made. Entered at the same time was FCC exhibit number 85. It was "Report Prepared By K. A. Norton on the calculation of ground wave field intensity over a finitely conducting spherical earth." Also FCC exhibit number 86 was entered, entitled "Report prepared by K. A. Norton on a theory of tropospheric wave propagation"; and exhibit number 87 entitled "Summary of statement by K. A. Norton on UHF Wave Propagation."

Mr. Frank M. Kennedy on behalf of Don Lee, stated that their experience was that the lower frequencies were better for television.

Dr. Studebaker, Bureau of Education, Department of the Interior, asked for permission to file a statement rather than take time at the hearing for it, and this was granted.

Mr. S. Howard Evans of the National Association of Educational Broadcasters said that we have an unsound situation in the present broadcast band, where some have 50,000 watts and others have only 100 watts and that FM in the UHF seems to offer a possibility for somewhat equalizing this situation.

It was his thought that conditions of competition should be as universal as possible and that in a given area all the facilities should be of about the same power. Mr. Evans said that educators were interested in using facsimile in the schools and therefore they were interested in educational FM bands with the provisions for multiplexing facsimile.

The afternoon session was taken up to a large extent, by discussion concerning a possible location in the frequency spectrum for FM.

There was discussion about taking the number 1 or number 4 television channels for FM and Mr. Fly asked each party to the hearing to set forth their ideas on assignment of band space for FM and give it to the Commission.

This concluded the hearing on "High Frequencies."

### OHIO STATE RADIO INSTITUTE PROGRAM RELEASED

Educational directors and program managers of member stations are invited to a special meeting to be held by the NAB in connection with the 11th Institute for Education by Radio, to be held at Ohio State University, Columbus, Ohio, April 29 through May 1.

In addition to representatives from Headquarters, Sterling Fisher, educational director of CBS, and Walter Preston, Jr., assistant to the vice president in charge of programs of NBC, will take part in a complete review of the problems of educational and public service broadcasting.

Chairman James L. Fly will address the Institute at the annual dinner meeting, Tuesday, April 30.

Among other features of the three-day meeting will be a panel discussion on the "Handling of Controversial Public Issues". Those invited to take part are George V. Denny, Jr., of NBC's America's Town Meeting of the Air; Lyman Bryson of CBS' "People's Platform"; Edgar Bill, WMBD, Chairman of the NAB Code Compliance Committee; Dr. Leonard Power of the Federal Radio Education Committee, and Joseph L. Miller, NAB Director of Labor Relations; Ed Kirby, of the NAB, will serve as group discussion leader.

The announcement for the awards for the best educational broadcasts will be made on opening day, and an opportunity to hear recordings of the winners will be accorded during the three-day conference. Following is a list of chairmen for the work-study groups.

Agriculture Broadcasts—John C. Baker, Radio Extension Specialist, United States Department of Agriculture.

School Broadcasts—Harold W. Kent, director of the Radio Council, Chicago Public Schools.

Research in Educational Broadcasting—H. M. Beville, Jr., Research Manager, National Broadcasting Company.

Broadcasts for General Education—Herschel W. Nisonger, assistant director of the Bureau of Special and Adult Education, Ohio State University.

Public Service Broadcasting—Walter G. Preston, Jr., assistant to the vice president in charge of programs, National Broadcasting Company.

Clinic: Music Appreciation Broadcasts—Alton O'Steen, research associate, Evaluation of School Broadcasts, Ohio State University.

Clinic: Science Broadcasts—Loring Andrews, chairman of the Program Committee, World Wide Broadcasting Foundation, Boston, Massachusetts.

Chairmen of the round-table discussions on Tuesday evening are:

Handling Controversial Issues—Ed Kirby, director of public relations, National Association of Broadcasters.

Radio Workshops—Thomas D. Rishworth, educational director, Station KSTP, St. Paul, Minnesota.

Educational Script Exchanges—Friel Heimlich, Station WOSU, Ohio State University.

Recordings for School Use—Emilie Haley, assistant to the director, Association of School Film Libraries.

News and Special Events—A. A. Schechter, news editor and director of special events, National Broadcasting Company.

Radio Production—John Carlile, in charge of radio activities, University of Alabama.

Writing for Radio—Bernard C. Schoenfeld, chief script-writer, Radio Section, Department of Interior.

Engineering Quiz Section—R. C. Higgy, director Station WOSU, Ohio State University.

### FCC CHAIRMAN TO TALK TO TEXAS WOMEN'S MEETING

James L. Fly, chairman of the Federal Communications Commission, will be a guest at a luncheon meeting of the Texas Women's Radio Survey Committee to be held in the Baker Hotel, Dallas, Texas, on April 17. Ed Kirby, NAB Director of Public Relations, has been asked to make an address on the American system of broadcasting at the same time.

The Women's Radio Survey Committee is headed by Mrs. Joseph E. Goodbar, for the past two years president of the National Federation of Press Women. Purpose of the luncheon, to be patterned after the luncheon given last November in Washington by the NAB for the heads of national women's organizations, is to bring about a better understanding of radio, especially with reference to children's programs and serials pointed for the women's audience.

A large delegation of Texas broadcasters is expected to be on hand to meet with the women delegates and to meet Mr. Fly.

### FREE OFFERS

H. W. Kastor & Sons Advertising Company seeks to place radio advertising on a percentage basis, on behalf of Pazo Ointment. The Bureau of Radio Advertising has advised the agency that both the product and their proposal would not be acceptable to member stations under the NAB Code. Kastor had planned to pay stations 30% of total sales in their area, less agency commission, with the method of checking sales to be mutually agreed on. The Bureau has written Kastor strongly

urging that they revise or withdraw their proposal in the best interests of advertiser, agency and broadcasters.

Another cost-per-inquiry proposition reported this week is The Wormley Company, Aurora, Illinois, on behalf of Stomax-Relief. "The Woman" magazine asks stations to accept free radio scripts based on material in their April issue. The Bureau has sent the usual letter of explanation to these concerns.

Driver & Company, advertising agency of Omaha, Nebraska, explains that their recent letter to stations, listed in NAB REPORTS, March 15, as a free offer, was merely a request for advice, suggestions and availabilities in connection with a regular campaign for Miller Cereals. The letter made repeated mention of a "deal", and "straight publicising job", which led both the Bureau and at least one member station to misinterpret their intentions. The Bureau is very glad to correct this mistaken impression, and has suggested that Driver & Company revise their request to stations to avoid any future misunderstanding.

### RADIO AND DEPARTMENT STORES

Joseph E. Hanson, formerly of Lawrence Fertig Advertising Agency, has been appointed manager of the Sales Promotion Division of the National Retail Dry Goods Association. Mr. Hanson is a pioneer in radio broadcasting, having been one of the early organizers of WOR, and also served with Bamberger's Store, Newark.

In discussing the problems of radio for retailers with the Bureau of Radio Advertising in New York this week, Mr. Hanson stated he plans to go ahead without further delay on the transcript of the radio panel discussion held at the NRDGA convention. Plans for a comprehensive radio manual for retail stores, to be produced in cooperation with NAB, were also discussed at length.

### SPECIAL EVENTS

The following dates will be of interest to members in connection with plans for special programs, promotions, etc. NAB REPORTS will publish a similar list each month:

- April 6—Army Day.
- April 15-20—National Garden Week.
- April 27-May 4—National Fisherman's Week.
- April 28-May 4—National Better Homes Week.
- April 29-May 4—National Baby Week.
- May 5-12—National Music Week.
- May 12—Mother's Day.
- May 18—International Good Will Day.
- May 19-25—National First Aid Week.
- May 25-October 27—New York World's Fair.

### CONVENTIONS OF INTEREST TO BROADCASTING STATIONS

- April 23-25—American Newspaper Publishers Association's annual convention, Waldorf-Astoria Hotel, New York.
- April 29-May 1—Eleventh Institute for Education by Radio, combined with Fourth American Exhibition of Recordings of Educational Radio Programs, Ohio State University, Columbus, Ohio.
- May 3-4—Annual convention, Advertising Affiliation, Hotel Statler, Buffalo, N. Y.

May 12-15—Spring conference, Association of National Advertisers, Inc., Westchester Country Club, Rye, N. Y.

May 13-14—Second annual Business-Consumer Relations Conference, Hotel Pennsylvania, New York.

May 16-17—Convention, American Association of Advertising Agencies, Waldorf-Astoria, New York.

June 23-27—Annual convention, Advertising Federation of America, Chicago.

June 24—Republican National Convention, Philadelphia, Pa.

July 7-10—Annual convention, Pacific Coast Advertising Clubs Association, Vancouver, B. C.

July 15—Democratic National Convention, Chicago, Illinois.

August 4-7—Annual convention, National Association of Broadcasters, San Francisco.

### COURT HOLDS SHERMAN LAW APPLIES TO LABOR UNIONS

Judge Peyton Gordon of the federal district court for the District of Columbia ruled this week that the Sherman Anti-trust Law applies to labor unions in cases where their objectives are not "legitimate" and where they use unlawful means to attain these objectives.

Judge Gordon's ruling was made in the case of the government against the A. F. of L. truck drivers' union which was charged with a conspiracy to compel three concrete mixing companies to hire members of the truck drivers' union rather than members of the operating engineers' union.

### AFRA Wins Election

The American Federation of Radio Artists won, 8 to 3, a Labor Board election among the announcers of Station WCPO, Cincinnati. The issue was whether the announcers wanted to be represented by AFRA. There was no other union involved.

### STATE LEGISLATION

#### RHODE ISLAND:

H 1020 (Curran) CHIROPODISTS—LICENSING—In amendment of chapter 278 of the general laws of 1938 entitled "Licensing and regulation of chiropodists." Referred to Judiciary Committee.

#### RHODE ISLAND:

H 1033 (Scott) FOOD—DRUGS—ADULTERATION AND ADVERTISEMENT—To prohibit the adulteration, misbranding, and false advertisement of food, drugs, devices and cosmetics, and for other purposes. Referred to Judiciary Committee.

## Television Hearing Reopened

Television promotional activities on the part of the Radio Corporation of America has prompted the FCC to order a further hearing, beginning April 8, to determine whether research and experimentation and the achievement of higher standards of television transmission are being unduly retarded by this company, its subsidiaries, or other licensees, and whether the effective date for the beginning of limited commercial operation should be changed from September 1 to some subsequent date. Meanwhile, that section of the new rules permitting re-

stricted commercialization is suspended pending further order. The Commission said:

The current marketing campaign of the Radio Corporation of America is held to be at variance with the intent of the Commission's television report of February 29. Such action is construed as a disregard of the Commission's findings and recommendations for further improvement in the technique and quality of television transmission before sets are widely sold to the public.

The question of the present status of television transmission and the feasibility of its general reception by the public was the subject of the recent extensive hearings before this Commission. Because of the fluid state of the art and the continuance of research and experimentation, the Commission declined for the time being to establish television transmission standards. Authority to issue such standards is of course vested only in the Commission. Recommendations to insure that the standards when issued would be based upon a sufficiently advanced technical state of the art were incorporated in the report of February 29.

"Actual demonstration to members of the Commission," the report pointed out, "indicates the need for further improvement in the technical quality of television." The Commission stressed the need of continued research in various significant phases of the field involving the number of lines and the number of frames per second, the retentive quality of screens, the mechanics of scanning, the problem of various screen sizes with particular reference to larger screens, the problem of polarization and the related question of the type of antennas, and various alternative methods of synchronization. Inherently this research and experimentation has potentialities of great value to the public.

The intent of the Commission was to give the industry further opportunity to move forward in an orderly manner and upon a sound scientific basis without causing injury to the public and resultant injury to the new industry itself, particularly to other manufacturers cooperating in seeking to bring about video improvements through experimentation rather than crowding the market with present-day receivers which may soon become obsolete. Economic loss to the public, the report warned, would be occasioned by "premature purchase in a rapidly advancing field."

Not all types of television transmission can be received by any receiver. In the present state of the art it is impossible to decide what type of transmitter will be made standard. More research and experimentation will be necessary, and is being conducted, before any such standardization can be achieved. Receiving sets constructed or on the market today may not be capable of receiving television programs from standardized television transmitters when the art has sufficiently advanced to permit such standardization. Public participation in television experimentation at this time is desirable only if the public understands that it is experimenting in reception and not necessarily investing in receiving equipment with a guarantee of its continued usefulness. Television is here to stay, but conceivably present day receivers may for practical purposes be gone tomorrow.

Promotional activities directed to the sale of receivers not only intensifies the danger of these instruments being left on the hands of the public, but may react in the crystallizing of transmission standards at present levels. Moreover, the possibility of one manufacturer gaining an unfair advantage over competitors may cause them to abandon the further research and experimentation which is in the public interest and may result in crowding them into the market with apparatus at present efficiency levels. Rapid advance is desirable—but television is of great and permanent significance to the public. It is therefore of greater importance that the task be done thoroughly and with an eye to television's potential usefulness to the public. These are the goals which the Commission deems the public interest to require.

Following is the statement of David Sarnoff, president of RCA, when informed of the Commission's action:

"I am amazed at the action of the Commission. We have spent nearly ten million dollars in developing television and in trying to create a new art and a new industry. We thought that we were proceeding exactly in accordance with the order on this subject recently adopted by the Commission."

Advertising in the New York newspapers on Wednesday, March 20, is believed to have figured in the Commission's decision.

## KGFI LICENSE ORDERED REVOKED

The Federal Communications Commission has ordered revocation of the license of the Eagle Broadcasting Co., Inc., to operate radio station KGFI at Brownsville, Texas, effective April 15. If the company requests hearing within 15 days of formal notification, the order will be held in abeyance pending outcome of the hearing.

Unauthorized transfer of the management, control and operation of the station in violation of Section 310(b) of the Communications Act of 1934 as amended is the basis for the revocation order.

On or about October 7, 1938, the Eagle Broadcasting Co., by and through Ewol E. Wilson and Ernest E. Wilson of Corpus Christi, are alleged to have surrendered possession to James G. Ulner of Tyler, and M. D. Gallagher of Brownsville. The latter are said to have exercised management until about April 22, 1939, when Lawrence D. Yates took contractual control.

## FROM THE FCC MAIL BAG

(No. 3 of a Series)

A New Hampshire man wants radio to ban war songs.

A Philadelphian favors putting old jokes under instead of on the ether.

A Pennsylvania individual complains of the use of the terms "Injun" and "Redskin" in one of the Western serials heard over the air.

An Ohio listener objects to the adoption of daylight saving time by broadcast stations.

An Illinois radio fan takes exception to a cooking recipe offer.

A New Yorker wants a particular religious program barred from the air. Another New Yorker protests the discontinuance of a certain religious program.

A Brooklyn, N. Y., dentist resents airy jibes at his profession. A Massachusetts woman takes exception to a toothpaste commercial. A New Jersey letter protests liquor advertising from out his loud-speaker.

An Indiana writer is irked by a broadcast on astrology. A Californian asks the Federal Communications Commission to approve a handwriting analysis continuity.

In the same mail—letters from a women's club and a missionary society commending certain types of radio programs and condemning others.

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In individual replies to these and kindred writers, the Commission has to reiterate that it is without authority to compel a broadcast station to accept or reject a specific program. Since each station is charged with the responsibility of selecting material to be presented in the public interest, any complaint should be addressed direct to the individual station carrying the program alleged to be objectionable. The Commission is prevented by statute from exercising censorship over individual radio programs. Hence, any recourse rests with the broadcasting stations which, after all, are guided largely by their fan mail.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings are scheduled before the Commission in broadcast cases during the week beginning Monday, April 1. They are subject to change.

Monday, April 1

NEW—Lookout Mountain Company of Georgia, Lookout Mountain, Ga.—C. P., 1370 kc., 250 watts, unlimited time.

Wednesday, April 3

NEW—Harold Thomas, Bridgeport, Conn.—C. P., 1420 kc., 250 watts, unlimited time.

Thursday, April 4

NEW—J. D. Falvey, Ottumwa, Iowa.—C. P., 1210 kc., 100 watts, unlimited time.

NEW—Louis R. Spiwak and Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—C. P., 1210 kc., 100 watts, 250 watts LS, unlimited time.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative date for broadcast hearings. It is subject to change.

April 17

Hearing to Be Held Before Commissioner Paul A. Walker, Room 229, Post Office and Court House, Los Angeles, California

KBLA—United Airports Company of California, Ltd.—Renewal of license, 278 kc., 15 watts normal operation, 100 watts when operating as miniature radio range station. Emission: A3 and Spec. Time: Continuous. Pts. of Comm.: With Aircraft Stations.

NEW—City of Los Angeles, Los Angeles, Calif.—C. P., 278 kc., 15 watts, Emission A3. Time: 24 hours. Pts. of Comm.: Control Tower and Aircraft.

NEW—Santa Monica Municipal Airport, City of Santa Monica, Santa Monica, Calif.—C. P., 278 kc., 15 watts, Emission A3. Time: 9 a. m. to sunset. Pts. of Comm.: With Aircraft.

KABQ—City of Long Beach, Calif., Long Beach, Calif.—Renewal of license, 278 kc., 15 watts, Emission A3. Time: Continuous. Pts. of Comm.: With Aircraft Stations.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WSUN—St. Petersburg Chamber of Commerce, St. Petersburg, Fla.—Granted consent to voluntary assignment of license of station WSUN from St. Petersburg Chamber of Commerce to the City of St. Petersburg, Fla.; station operates on 620 kc., 1 KW night, using directional antenna, 5 KW day, specified hours.

WTMA—Atlantic Coast Broadcasting Co., Charleston, S. C.—Granted consent to voluntary assignment of license of station WTMS from Y. W. Scarborough and J. W. Orvin, d/b as Atlantic Coast Broadcasting Co., to Atlantic Coast Broadcasting Co., a corporation; station operates on 1210 kc., 250 watts, unlimited time.

### LICENSE REVOKED

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Tex.—Ordered revocation of license for station KGFI, effective April 15, 1940, because of unauthorized transfer of management, control and operation of the station, which operates on frequency 1500 kc., 100 watts, 250 watts LS, unlimited.

### RETIRED TO CLOSED FILES

KFNF—KFNF, Inc., Shenandoah, Iowa.—Retired to closed files application for construction permit and modification thereof, requesting authority to install new transmitter; increase

power from 500 watts, 1 KW LS, to 1 KW, 5 KW LS; move transmitter and install directional antenna for night use, inasmuch as the required time for completion under the permit has expired.

WESG—Cornell University, Ithaca, N. Y.—Retired to closed files the application for construction permit granted July 5, 1939, authorizing changes in equipment, as licensee has requested cancellation of authority without prejudice to filing another application for the same matter at a later date.

### RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the period ending August 1, 1940:

KSAC, Manhattan, Kans.; KSFO, San Francisco; KVAN, Vancouver, Wash.; KVOD, Denver, Colo.; KWFT, Wichita Falls, Texas; WBAA, W. Lafayette, Ind.; WGBF, Evansville, Ind.; WHJB, Greensburg, Pa.; WICC, Bridgeport, Conn.; WJAR and auxiliary, Providence, R. I.; WJAX, Jacksonville, Fla.; WKZO, Kalamazoo, Mich.; WMAL and auxiliary, Washington, D. C.; WMAM, Marinette, Wisc.; WMMN, Fairmont, W. Va.; WMT, Cedar Rapids, Iowa; WNAX, Yankton, S. Dak.; WORL, Boston; WOSU, Columbus, Ohio; WOW, Omaha, Neb.; WPEN and auxiliary, Philadelphia; WPIC, Sharon, Pa.; WQAM and auxiliary, Miami, Fla.; WQAN and auxiliary, Scranton, Pa.; WREC, Memphis, Tenn.; WRNL and auxiliary, Richmond, Va.; WSPA, Spartanburg, S. C.; WSUN, St. Petersburg, Fla.; WSUI, Iowa City, Iowa; WSWA, Harrisonburg, Va.; WSYR-WSYU, Syracuse, N. Y.; WTAD, Quincy, Ill.; WTAG and auxiliary, Worcester, Mass.; WTMJ and auxiliary, Milwaukee; WIOD-WMBF and auxiliary, Miami, Fla.; KCA and auxiliary, Los Angeles; KGW, Portland, Ore.; KHJ and auxiliary, Los Angeles; KHQ, Spokane, Wash.; KOMO and auxiliary, Seattle; WCAO and auxiliary, Baltimore; WMCA and auxiliary, New York City; WFRO and auxiliary, Providence, R. I.; WTAR and auxiliary, Norfolk, Va.; KFNF, Shenandoah, Iowa; KFUD, Clayton, Mo.; KFQD, Anchorage, Alaska; KWLK, Longview, Wash.; WWNC, Asheville, N. C.; WWJ and auxiliary, Detroit; WFLA, Tampa, Fla.; WGR and auxiliary, Buffalo, N. Y.

KSUB—Leland M. Perry, Cedar City, Utah.—Present license further extended upon a temporary basis for the period ending May 1, 1940, subject to whatever action may be taken upon any formal application that may be submitted relative to station KSUB.

KWJB—Sims Broadcasting Co., Globe, Ariz.—Special temporary authority to Bartley T. Sims to operate station KWJB, was further extended upon a temporary basis to May 1, 1940, subject to whatever action may be taken upon renewal application.

KGBU—Alaska Radio & Service Co., Inc., Ketchikan, Alaska.—Present license further extended upon a temporary basis from April 1 to May 1, pending determination upon application for renewal.

KXO—E. R. Irely, F. M. Bowles, El Centro, Calif.—Present license further extended upon a temporary basis only for the period April 1 to May 1, subject to whatever action may be taken upon pending application for renewal.

WMFJ—W. Wright Esch, Daytona Beach, Fla.—Present license further extended upon a temporary basis from April 1 to May 1, pending determination upon application for renewal.

KTHS—Hot Springs Chamber of Commerce, Hot Springs Nat'l Park, Arkansas.—Present license further extended upon a temporary basis from April 1 to May 1, pending determination upon application for renewal.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Present license extended upon a temporary basis for the period April 1 to June 1, pending determination upon application for renewal.

KUSD—University of South Dakota, Vermillion, S. Dak.—Present license extended upon a temporary basis for the period April 1 to June 1, pending determination upon application for renewal.

WREC (Auxiliary)—Hoyt B. Wooten, tr/as WREC Broadcasting Service, Memphis, Tenn.—Present license extended upon a temporary basis for the period April 1 to June 1, pending determination upon application for renewal.

WSM—National Life & Accident Ins. Co., Nashville, Tenn.—Special temporary authority to operate a regular broadcast transmitter for the experimental transmission of facsimile signals, was further extended for a period of one month from April 1 to May 1.

Licenses for the following stations were extended upon a temporary basis only, pending determination upon applications for renewal of licenses, for the period April 1 to May 1:

KFAR, Fairbanks, Alaska; KFDM, Beaumont, Texas; WCOG, Meridian, Miss.; WLBL, Stevens Point, Wis.; WMC and auxiliary, Memphis; WGST and auxiliary, Atlanta, Ga.

Licenses for the following high frequency broadcast stations were extended upon a temporary basis only, pending receipt and/or determination upon application for renewals, for the period April 1 to May 1, 1940:

W2XMN, Alpine, N. J.; W2XDV, New York; W8XNU, Cincinnati; W8XWJ, Detroit; W2XDA, Schenectady; W2XOY, Albany; W9XLA, Denver; W2XQO, Flushing, N. Y.; W2XAG, Yonkers, N. Y.; W9XOK, St. Louis, Mo.; W1XEH, Avon, Conn.; W8XNT, Cleveland; W4XBW, Chattanooga; W9XBA, Kansas City, Mo.; W5XAU, Oklahoma City; W1XER, Sargents Purchase, N. H.

W1XSN-W1XBK—Westinghouse E and M Co., E. Springfield, Mass.—Granted renewal of high frequency broadcast licenses for the regular period.

W9XSP—Star-Times Publishing Co., St. Louis, Mo.—Present facsimile broadcast station license further extended upon a temporary basis until May 1, pending determination upon application for renewal.

W6XKG-W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Present high frequency broadcast station licenses were granted renewals on a temporary basis for the period ending April 1, 1941, subject to whatever action may be taken by the Commission upon renewal applications.

Licenses for the following television broadcast stations were further extended upon a temporary basis only, pending receipt of and determination upon renewal applications, for the period April 1 to May 1, 1940:

W1XG, Boston; W9XG, W. Lafayette, Ind.; W2XDR, Long Island City, N. Y.; W9XK, Iowa City, Iowa.

#### MISCELLANEOUS

West Virginia Newspaper Publishing Co., Morgantown, W. Va.—Denied motion to reconsider and grant without hearing the application for a new station to operate on 1200 kc., 250 watts, unlimited time.

Knoxville Broadcasting Co., Knoxville, Tenn.—Designated for hearing application for new station to operate on 1210 kc., 250 watts, unlimited time.

WLBZ—Thompson L. Gurnsey, Bangor, Maine.—Dismissed application requesting consent to transfer control of Maine Broadcasting Co., Inc., licensee of WLBZ, from Thompson L. Gurnsey to Congress Square Hotel Co.

State of Minnesota—Dismissed motion for continuance to April 3 or 10 of hearing now scheduled for March 29, on application of WNYC for modification of license to change hours of operation from daytime to specified, on 810 kc.

KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Cal.—Granted petition to intervene in re the application of Worcester Broadcasting Corp. for a new station in San Diego to operate on 1420 kc., 250 watts, unlimited time.

Samuel M. Emison, Vincennes, Ind.—Granted motion to dismiss without prejudice application for new station to operate on 1420 kc., 100 watts, unlimited time.

West Virginia Newspaper Publishing Co., Morgantown, W. Va.—Granted petition for order to take depositions in re application for new station to operate on 1200 kc., 250 watts, unlimited time.

WCOA—Pensacola Broadcasting Co., Pensacola, Fla.—Granted license to cover construction permit authorizing installation of new equipment.

WFIG—J. Samuel Brody, Sumter, S. C.—Granted license to cover construction permit as modified for new station; frequency 1310 kc., 100 watts, 250 watts day, unlimited time.

WMSD—Muscle Shoals Broadcasting Corp., Muscle Shoals City, Ala.—Granted license to cover construction permit for changes in equipment and increase in power to 250 watts; frequency 1420 kc., unlimited time.

W9XEN—Zenith Radio Corp., Chicago, Ill.—Granted license to cover construction permit to move transmitter locally.

WSYR-WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—Granted construction permit to install new transmitter.

KGHF—Curtis P. Ritchie, Pueblo, Colo.—Granted modification of construction permit which authorized move of transmitter

locally and installation of new antenna, for extension of completion date from April 14, 1940, to June 14, 1940.

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from 7:45 p. m. to conclusion of baseball games on April 2, 3, 4, 6, 10, in order to broadcast baseball games only, using 250 watts on 1370 kc.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 9 to 11 a. m. and 2 to 6 p. m., AST, on March 22, in order to broadcast religious services.

KPFA—The Peoples Forum of the Air, Helena, Mont.—Granted authority to determine operating power by direct measurement of antenna input.

KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted authority to determine operating power by direct measurement of antenna input.

KBPS—Benson Polytechnic School, Portland, Ore.—Granted authority to determine operating power by direct measurement of antenna input.

WEW—The St. Louis University, St. Louis, Mo.—Granted authority to determine operating power by direct measurement of antenna input.

WCAR—Pontiac Broadcasting Co., Pontiac, Mich.—Granted authority to determine operating power by direct measurement of antenna input.

WEHN-WENM—The Evening News Assn., Detroit, Mich.—Granted special temporary authority to use relay broadcast stations WEHN and WENM for coordination between measuring car and high frequency station W8XWJ for the period beginning March 25, 1940, to not later than March 31, 1940, in connection with additional W8XWJ field work.

WKAQ—Radio Corp. of Porto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from International Broadcast Stations WCBX and WCAB over Station WKAQ on a non-commercial experimental basis only, for the period March 29, 1940, to not later than April 27, 1940.

KFEQ—KFEQ, Inc., St. Joseph, Mo.—Granted special temporary authority to operate from 8:15 p. m. to 11:30 p. m. CST on March 30, 1940, using power of 500 watts, in order to broadcast the final game of the Women's National A. A. U. basketball championship only.

WJSV—Columbia Broadcasting System, Inc., Washington, D. C.—Granted special temporary authority to use the 10,000 watt transmitter of Station WJSV, on the Memorial Highway, near Alexandria, Va., as an auxiliary for a period not to exceed 30 days.

WJMC—Walter H. McGenty, Rice Lake, Wisc.—Granted special temporary authority to operate from 6:45 p. m. to 12 midnight CST on April 2, 1940, in order to broadcast election returns (B4-S-1000).

WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from 7:00 p. m. to 9:30 p. m. CST on April 1, 1940, in order to broadcast political talks; to operate from 9:30 p. m. CST April 2, 1940, to 1:00 a. m. CST April 3, 1940, in order to broadcast election returns (T4-S-924).

WINS—Hearst Radio, Inc., New York, N. Y.—Granted special temporary authority to operate from 8:15 p. m. to 12 midnight EST on March 26, 1940, in order to broadcast a performance of the Metropolitan Opera to be given for the benefit of the Italian Welfare League.

WAIM—Wilton E. Hall, Anderson, S. C.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WSPR—WSPR, Inc., Springfield, Mass.—Granted special temporary authority to operate from 8:00 p. m. to 8:30 p. m. EST on March 29, 1940, in order to broadcast an address by Gov. Leverett Saltonstall.

WAGM—Aroostock Broadcasting Corp., Presque Isle, Me.—Granted special temporary authority to operate from 1 p. m. to 2:30 p. m. EST on March 27, 1940, in order to broadcast speech by Postmaster General Farley (B1-S-801).

WJAG—The Norfolk Daily News, Norfolk, Nebr.—Granted special temporary authority to operate from 10 p. m. CST on April 9, 1940, to the trend of election returns is determined.

WINS—Hearst Radio, Inc., New York, N. Y.—Granted special temporary authority to operate from 8:15 p. m. to 12 midnight EST on March 31, 1940, in order to broadcast a track meet at Madison Square Garden for the benefit of the Finnish Relief Fund (B1-S-211).

King Trendle Broadcasting Corp., Detroit, Mich.—Granted special temporary authority to pick up hockey game broadcast on March 28, 1940, from Olympia Auditorium in Detroit, Mich., for Station CKCL, Toronto, Canada.

WLAW—Hildreth & Rogers Co., Lawrence, Mass.—Granted special temporary authority to operate from local sunset (March, 5:45 p. m. EST) to 7:30 p. m. CST on March 28, 1940, in order to hold the audience for the program to follow; to operate from 7:30 p. m. to 11:00 p. m. EST on March 28, 1940, in order to broadcast the opening of the Greater Lawrence Half Million Dollar Hospital Community Drive (B1-S-953).

#### APPLICATIONS FILED AT FCC

##### 590 Kilocycles

WKZO—WKZO, Inc., Kalamazoo, Mich.—Authority to determine operating power by direct measurement of antenna power.

##### 690 Kilocycles

KOMA—KOMA, Inc., Oklahoma City, Okla.—Construction permit to install new transmitter, directional antenna night, for increase in power from 5 to 50 KW; move transmitter from 7½ miles northeast of Oklahoma City, Okla., on U. S. Highway No. 66, to Deer Creek Township, Okla. Amended to change frequency from 1480 to 690 kc., move transmitter to Mathewson Twp., Okla., and request Class II station under No. American Regional agreement. Make changes in directional antenna (night).

##### 710 Kilocycles

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Construction permit to increase power from 1 KW, 5 KW day, to 5 KW day and night; move transmitter from 1418 E. 81st St., Los Angeles, Calif., to Branford Ave., Van Nuys, Calif., and install directional antenna for day and night use.

##### 740 Kilocycles

KTRB—Thomas R. McTammany and Wm. H. Bates, Jr., Modesto, Calif.—Voluntary assignment of license from Thomas R. McTammany and William H. Bates, Jr., to KTRB Broadcasting Co., Inc.

##### 760 Kilocycles

NEW—The St. Louis University, St. Louis, Mo.—Authority to determine operating power by direct measurement of antenna power.

##### 880 Kilocycles

NEW—Seaboard Broadcasting Corp., Tampa, Fla.—Construction permit for a new station to be operated on 880 kc., 250 watts power, unlimited time. Request Class IV station.

##### 890 Kilocycles

KUSD—University of South Dakota, Vermillion, S. Dak.—Construction permit to install new vertical antenna, change frequency from 890 to 660 kc., hours from share KFNF to daytime (contingent on KOWH being granted unlimited time on 890 kc.). Amended re antenna.

##### 1010 Kilocycles

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Authority to determine operating power by direct measurement of antenna power.

##### 1040 Kilocycles

KTSH—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Construction permit to install new transmitter and directional antenna for night use; change frequency from 1040 to 1060 kc.; increase power from 10 to 50 KW; change time from shares KRLD to unlimited time; move transmitter from Hot Springs National Park, Ark., to Highway 67, Reyburn, Ark. Amended: Make changes in directional antenna; give transmitter site as WPA Rd., Plum Bayou, Ark.; 250-watt amplifier; site to be determined, Hot Springs, Ark.

##### 1060 Kilocycles

WJAG—The Norfolk Daily News, Norfolk, Nebr.—Construction permit to change frequency from 1060 to 770 kc., time from limited to WBAL and WTIC to limited to WBBM, and make changes in antenna system. Request facilities KFAB. Amended to request daytime hours of operation.

##### 1210 Kilocycles

WFTM—Fort Myers Broadcasting Co., Fort Myers, Fla.—Authority to determine operating power by direct measurement of antenna power.

##### 1240 Kilocycles

WKAQ—Radio Corporation of Porto Rico, San Juan, P. R.—Construction permit to install new transmitter and antenna; increase power from 1 to 5 KW; change frequency from 1240 to 620 kc.; move transmitter to site to be determined, San Juan, P. R. Amended: Equipment changes.

##### 1300 Kilocycles

KALE—KALE, Inc., Portland, Ore.—License to cover construction permit (B5-P-2344) as modified for move of transmitter, installation of new transmitter, changes in antenna and increase in daytime power.

##### 1310 Kilocycles

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Construction permit to make changes in equipment, install directional antenna for night use, increase power from 250 watts to 1 KW, change frequency from 1310 to 600 kc. Request Class III B station.

KRRV—Red River Valley Broadcasting Corp., Sherman, Tex.—Modification of construction permit (B3-P-2228) for change in frequency, increase in power, change in hours, installation of new transmitter and directional antenna for day and night use, and move of transmitter, requesting, further, authority to install new transmitter and make changes in directional antenna system, extend commencement date to 30 days after grant and completion date to 180 days thereafter.

NEW—McDowell Service Co., Welch, W. Va.—Construction permit for new broadcast station to be operated on 1310 kc., 250 watts, unlimited time.

##### 1330 Kilocycles

WSAI—The Crosley Corp., Cincinnati, Ohio.—Modification of construction permit (B2-P-2221) for increase in power from 1 KW, 5 KW day, to 5 KW day and night; installation of directional antenna for night use; move transmitter, requesting authority to make changes in directional antenna system.

WTAQ—WHBY, Inc., Green Bay, Wisc.—Modification of construction permit (B4-P-2232) for increase in night power from 1 to 5 KW, further requesting changes in directional antenna system.

##### 1350 Kilocycles

WMBG—Havens & Martin, Inc., Richmond, Va.—License to cover construction permit (B2-P-1912) as modified for new transmitting equipment, changes in directional antenna system, increase in power.

##### 1370 Kilocycles

KIUP—San Juan Broadcasting Co., Durango, Colo.—Construction permit to install new transmitter and increase power from 100 watts to 250 watts.

##### 1420 Kilocycles

WLPM—Suffolk Broadcasting Corporation, Suffolk, Va.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

WMBS—Fayette Broadcasting Corporation, Uniontown, Pa.—Construction permit to install new transmitter and directional antenna for night use, change frequency from 1420 to 590 kc., and increase power from 250 watts to 1 KW. Amended re antenna.

WLPM—Suffolk Broadcasting Corp., Suffolk, Va.—License to cover construction permit (B2-P-2116) as modified for new broadcast station.

WLPM—Suffolk Broadcasting Corp., Suffolk, Va.—Authority to determine operating power by direct measurement of antenna power.

NEW—Riverside Broadcasting Co., Riverside, Calif.—Construction permit for a new station on **1420 kc.**, 250 watts, unlimited time. Amended to change name of applicant from Richard T. Sampson to Riverside Broadcasting Co.; make changes in equipment and antenna and move transmitter to East Blaine St., Riverside, Calif.

#### 1550 Kilocycles

NEW—Central Broadcasting Corp., Sanford, Fla.—Construction permit for a new broadcast station on **1380 kc.**, 250 watts, unlimited time. Amended to request change in frequency to **1550 kc.**, increase power requested from 250 watts to 1 KW, change type of transmitter and request Class III station, changes in antenna.

#### MISCELLANEOUS

NEW—National Broadcasting Co., Inc., Chicago, Ill.—Construction permit for new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation.

NEW—National Broadcasting Co., Inc., Chicago, Ill.—Construction permit for new Class II television broadcast station to be operated on **84000-90000 kc.**, 1000 watts visual and aural, A3 and A5 Emission.

WEKH—Peoria Broadcasting Co., Mobile.—License to cover construction permit (B4-PRY-202) for change in frequencies.

NEW—The Delmarva Broadcast Co., Salisbury, Md.—Construction permit for a new broadcast station to be operated on **1200 kc.**, 250 watts, unlimited time. Amended re corporate structure.

NEW—National Broadcasting Co., Inc., Washington, D. C.—Construction permit for a new Class II television broadcast station to be operated on **44000-50000 kc.**, 1000 watts for visual and aural, A3 and A5 Emission.

NEW—National Broadcasting Co., Inc., Washington, D. C.—Construction permit for a new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation.

WAIX—WJHL, Inc., Johnson City, Tenn.—License to cover construction permit B3-PRY-197 for a new relay broadcast station.

W9XZV—Zenith Radio Corp., Chicago, Ill.—Modification of license for changes in authorized frequencies from **42000-56000, 60000-86000 kc.**, to **44000-50000 kc.**, in accordance with revised rules. Amended to request Class II television broadcast station in accordance with new rules.

NEW—Henry Joseph Walczak, Springfield, Mass.—Construction permit for a new television broadcast station to be located at 360 Worthington St., Springfield, Mass., to be operated on **1650 kc.**, 250 watts, special emission, unlimited time.

NEW—New York University, New York, N. Y.—Construction permit for a new non-commercial educational broadcast station to be operated on **41500 kc.**, 250 watts, Emission A-3, unlimited time, to be located at 35 West Fourth St., School of Education Bldg., New York, N. Y.

NEW—National Broadcasting Co., Inc., Denver, Colo.—Construction permit for new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation.

NEW—National Broadcasting Co., Inc., San Francisco, Calif.—Construction permit for new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation.

W8XVH—WBNS, Inc., Columbus, Ohio.—License to cover construction permit (B2-PHB-91) for a new high frequency broadcast station.

NEW—National Broadcasting Co., Inc., Philadelphia, Pa.—Construction permit for a new Class II television broadcast station to be operated on **84000-90000 kc.**, 1000 watts both visual and aural, A3 and A5 Emission.

NEW—National Broadcasting Co., Inc., Cleveland, Ohio.—Construction permit for new high frequency broadcast station to be operated on **43400 kc.**, 1000 watts, special emission for frequency modulation.

KDAC—George Harm, Fresno, Calif.—Involuntary assignment of license from George Harm, deceased, to Gilbert H. Jertberg, Executor of the Estate of George Harm.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

The Federal Trade Commission has alleged unfair competition in complaints issued against the following firms. The respondents will be given an opportunity to show cause why cease and desist orders should not be issued against them.

**Badger-Brodhead Cheese Company**—See National Dairy Products Corp.

**Borden Company**—See National Dairy Products Corp.

**Coal Carburetor Company**—Alleging violation in the sale of a device for facilitating combustion of coal and incidental gases in coal-burning furnaces, a complaint has been issued against The Coal Carburetor Company, New Brunswick, N. J., and Thornton W. Price, its president.

It is alleged that the respondent corporation represents or implies in its advertising matter that its product, "Coal Carburetor," has been officially endorsed by the United States Government, approved by the United States Bureau of Mines, and by public health authorities, when such are not the facts; that it is the most efficient means known for producing heat from coal, and that such efficiency has been established by comparative tests, when in fact any such claim is greatly exaggerated and not based on known facts or upon comparative tests made in conjunction with other equipment or devices designed for the same purposes. (4070)

**Ehrhart Conrad Company**, Hanover, Pa., is charged, in a complaint, with selling and distributing food products designated "Plee-zing" to retail dealers, to be sold to the consuming public in a manner involving a lottery scheme.

The complaint charges that the respondent sells and distributes to dealers a so-called "Plee-zing Treasure Chest" device, on which receipts for each 25 cents spent are to be pasted, and containing a seal which is not to be broken until the card is filled with 100 receipts. Various prizes are awarded, according to designations beneath the unbroken seal. The respondent corporation refunds to dealers the awards and prizes distributed by the dealers in accordance with the designations under the seals.

Use by the respondent of these methods in the sale of its products is contrary to public policy and in violation of criminal law, and constitutes unfair methods of competition within the meaning of the Federal Trade Commission Act, according to the complaint. (4068)

**Herb Juice-Penol Company, Inc.**, a Danville, Va., corporation doing business under the trade name of Pow-O-Lin Laboratories, is charged with misrepresentation in the sale of medicine in a complaint.

The respondent's preparation "Pow-O-Lin" allegedly was advertised as possessing beneficial therapeutic properties for curing, remedying or treating constipation and "faulty elimination" and for overcoming symptoms of constipation which were given as biliousness, indigestion, gas pains, headaches, dizziness, pains in the back and chest, stiffness of the joints, swollen feet and ankles, nervousness, insomnia, loss of appetite and lack of energy.

It is alleged that the respondent's representations were misleading in that its preparation possesses no therapeutic properties in excess of those of a cathartic or laxative and that the symptoms set out are not generally typical of any group of disorders and are not necessarily indicative of constipation or faulty elimination. (4067)

**J. S. Hoffman & Company**—See National Dairy Products Corp.

**Kraft-Phenix Cheese Corp.**—See National Dairy Products Corp.

**National Dairy Products Corporation**—Six corporations purchasing for resale approximately 75 per cent of the foreign type cheese produced in Wisconsin are charged in a complaint with combination and conspiracy to control prices and monopolize the supply of these products. Respondents are National Dairy Products Corporation, New York; The Borden Company, New York; Kraft-Phenix Cheese Corporation, Chicago; Badger-Brodhead Cheese Company, Monroe, Wis.; J. S. Hoffman & Co., Chicago, and Triangle Cheese Company, Monroe, Wis.

The complaint also alleges that by means of mergers and purchases, The Borden Company and also the Kraft-Phenix Cheese Corporation, acting on behalf of its parent company, National Dairy Products Corporation, have gradually eliminated practically all of the independent cheese dealers once operating in the Monroe, Wis., area where a large percentage of the American-made swiss cheese is manufactured. Other domestic-made foreign type cheese are brick, limburger and munster.

The complaint points out that National Dairy Products Corporation directs and controls the policies of its solely owned subsidiary, Kraft-Phenix Cheese Corporation which, in turn, controls the the policies and owns all the stock, except certain qualifying shares, of Badger-Brodhead Cheese Company, of Monroe, Wis., which buys, sells and distributes foreign type cheese. The Borden Company, according to the complaint, operates at Monroe a division for the buying, selling and distributing of foreign type cheese under the name of Carl Marty & Co., and J. S. Hoffman & Co., Chicago cheese dealer, owns the stock of and controls the policies of Triangle Cheese Company, of Monroe, which buys foreign type cheese for sale and distribution by the parent corporation.

The respondent corporations purchase the annual foreign type cheese output of approximately 200 of the 250 cheese factories in the Monroe, Wis., area, according to the complaint.

Pursuant to the combination and conspiracy, the respondents allegedly (1) fixed the prices to be paid the Monroe factories for foreign type cheese; (2) held monthly meetings with Monroe cheese factory representatives to fix and establish such prices, and (3) had their representatives hold separate meetings among themselves, prior to gathering with the factory representatives, at which separate meetings the respondents' agents set the upper limits as to the prices they would agree to pay the cheese factories.

The combination and the practices performed pursuant to it are alleged to have had a tendency to bring about (1) control of prices at which foreign type cheese is sold in the United States; (2) determination, at least in part, of the prices at which dairy products other than foreign type cheese are sold in commerce; (3) monopolization in the respondents of the entire supply of foreign type cheese; (4) unreasonable suppression of competition in the purchase of foreign type cheese in the Monroe, Wis., area and in its resale, all in violation of the Federal Trade Commission Act.

Until 1921, the complaint recites, many cheese dealers actively competed for the output of the Monroe factories but a gradual consolidation of cheese dealers has taken place so that there is now a centralized control in the sale of the factories' output, brought about as follows:

The first merger of consequence was in 1911, when 7 independent cheese dealers in the Monroe area organized the Badger Cheese Company of which Kraft Cheese Company became the full owner in 1925. Phenix Cheese Company began operations in the Monroe area in 1926; then the Kraft and Phenix interests merged and in 1928 the Kraft-Phenix Cheese Corporation bought the stock and assets of Brodhead Cheese & Cold Storage Co., which they combined with the Badger Cheese Company to form the Badger-Brodhead Cheese Company which is one of the largest, if not the largest, buyer of foreign type cheese in the United States. In 1929 Kraft-Phenix Cheese Corporation obtained the business of Charles Zweifel Company, Broadhead, Wis., then one of the Monroe area's largest dealers.

In 1938, Carl Marty & Co., of Monroe, a large buyer of foreign type cheese, purchased the assets and good will of Ackerman & Abplanalp, third largest buyer of foreign type cheese in the area, and on January 1, 1939, The Borden Company entered the Monroe territory by its purchase of the stock and assets of Carl Marty & Co. (4071)

**Pow-O-Lin Laboratories**—See Herb Juice-Penol Company, Inc.

**Triangle Cheese Company**—See National Dairy Products Corp.

**Arthur Wood & Company**—Arthur Wood, trading as Arthur Wood & Co., 219 Market St., St. Louis, is charged in a complaint with the sale and distribution of merchandise involving lottery methods, and the sale and distribution of lottery devices placing in the hands of dealers the means of conducting lotteries, games of chance or gift enterprises in the sale and distribution of their merchandise.

The complaint is divided into two counts, the first of which alleges that the respondent sells to jobbers and dealers assortments of merchandise so packed and assembled as to involve the use of lottery schemes when sold to ultimate purchasers. One of these assortments consists of 12 knives, together with a device commonly called a punch board. The knives are distributed to purchasers of 5-cent punches on the board, the numbers being effectively concealed from purchasers until a punch or selection has been made, and the knives being distributed to purchasers of the winning numbers wholly by lot or chance.

The second count of the complaint alleges that the respondent sells and distributes many kinds of push cards and punch boards involving the same chance or lottery features when used in connection with the sale of merchandise.

The complaint alleges that the sale of merchandise to the purchasing public in the manner alleged encourages gambling and is a practice contrary to public policy and in violation of criminal laws. The sale and distribution of push cards and punch boards, the complaint continues, places in the hands of others the means of conducting lotteries, games of chance or gift enterprises, and the means of engaging in unfair methods of competition and unfair and deceptive acts and practices within the meaning of the Federal Trade Commission Act. (4069)

#### CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**American La France & Foamite Industries, Inc.**—See Walter Kidde & Co., Inc.

**Commonwealth Publishing Company**, Chicago, Ill., according to findings, advertised its "Liberty Income Tax Record" book by representations such as "A Helping Hand from Uncle Sam! Federal and State Tax Laws now command every business to keep tax records. None dares risk heavy fines and penalties." \* \* \* "The Liberty Tax Record is the only real protection. Officially O.K.'d by tax authorities everywhere. \* \* \*"

Through such assertions as the foregoing the respondent is found to have represented that Federal and State laws require that books of account be kept on the respondent's record books and that its books have been approved by Federal and State officials and tax authorities, when in fact, although certain State and Federal officials have written that the respondent's book is useful in keeping income tax records, no such official has officially approved the respondent's book or is permitted to approve any tax record book or bookkeeping system.

Under the Commission order, the respondent is directed to cease representing that Federal and State laws require that books of account be kept on the respondent's record books and that its books have been approved by Federal or State officials or taxing authorities. The order also directs the respondent to desist from the representation that it is a printer or binder of record books and bookkeeping systems. (3668)

**C-O-Two Fire Equipment Co.**—See Walter Kidde & Co., Inc.

**Darling & Co.**, Chicago, has been ordered to discontinue unfair competitive methods in connection with the purchase of raw materials such as unprocessed hides, calf skins, fat, bones and suet which it processes and sells as finished products.

Findings are that because of this company's financial strength it is the predominating organization in its business in the territories in which it and its subsidiary corporations operate.

With the intent to injure and eliminate competition in the purchase of its raw materials, the Commission finds, the respondent corporation has: (1) paid in localities in which it meets competition in the purchase of raw materials, prices higher than justified by trade conditions, and quoted such prices without intending to pay them; (2) enticed, by the payment of higher wages and by other means, drivers covering routes of sources of supply of raw materials of its competitors to leave their employ and enter the respondent's employ for the purpose of obtaining for the respondent the supply of raw materials previously obtained by such drivers for competitors; (3) held out certain of its subsidiary corporations as being independent of and from the respondent, and (4) solicited the making of loans, and pursuant to such solicitation, made loans to butchers in Detroit, Cleveland and other cities upon the agreement that such butchers sell all of the fats, bones, suet and other offal from their shops exclusively to the respondent company, which was done.

The Commission concluded that the respondent's practices have injured competition in the purchase of raw materials of the class dealt in by the respondent and have tended to create in the respondent corporation in the territories in which it operates a monopoly in the purchase of these materials. (3766)

**Fyrout Company, Inc.**—See Walter Kidde & Co., Inc.

**Walter Kidde & Co., Inc.**—Five fire fighting equipment companies have been ordered to cease and desist from price fixing activities in violation of the Federal Trade Commission Act and has directed one of them to discontinue exclusive dealing contracts in violation of the Clayton Act.

Respondents are Walter Kidde & Co., Inc., 140 Cedar St., New York; American La France and Foamite Industries, Inc., Elmira, N. Y.; C-O-Two Fire Equipment Company, 560 Belmont Ave., Newark, N. J.; National Foam System, Inc., 1632 Sansom St., Philadelphia, and Fyrout Company, Inc., 90 West St., New York, a subsidiary of Walter Kidde & Co., Inc. They manufacture or assemble and sell fire fighting equipment including carbon dioxide fire extinguishing systems and carbon dioxide portable fire extinguishers.

The Commission finds that Walter Kidde & Co., Inc., assignee of two patents governing the successful manufacture, assembly and operation of carbon dioxide portable fire extinguishers, has issued license agreements, based on both patents (one of which has expired), to the other respondents, attaching to each agreement a "Schedule of Minimum Prices and Terms" including uniform prices at which the respondents have sold parts, accessories, apparatus and equipment such as hose assemblies, cylinders and carrying straps, in violation of the Federal Trade Commission Act.

All of the respondents, the findings continue, pursuant to the uniform price agreement, submitted identical bids on such parts, accessories, apparatus and equipment, in response to Governmental invitations for competitive bids. The findings show instances in which all the respondent companies responded to an invitation for competitive bidding to supply fire fighting equipment to the United States Navy, each submitting bids that were identical one to another and to figures then appearing in the agreed minimum price schedule.

Findings are that in violation of the Clayton Act., Walter Kidde & Co., Inc. licensed the respondent National Foam System, Inc., not a manufacturer, to make, sell, install and use the inventions set forth in the respondents' agreement; that this license is in reality not a license to manufacture but to assemble the parts, accessories and apparatus purchased from the licensor, and that, under such agreement, National Foam System, Inc., has been required to purchase from Walter Kidde & Co., Inc., all of its requirements of such commodities whether to be used by National Foam System, Inc. in assembling completed units of the carbon dioxide type of apparatus or whether to be resold separately from the completed units and under the agreed uniform price schedules.

The Commission order directs the respondents to cease effectuating combinations or agreements for fixing and maintaining the sale or purchase price for parts, accessories and apparatus for use or in connection with the manufacture or assembly of carbon dioxide fire extinguishing systems and carbon dioxide portable fire extinguishers; from compiling, publishing and distributing any list of prices for such commodities, and from filing bids where competitive bids are called for by Governmental agencies or other buyers, in violation of the Federal Trade Commission Act.

Walter Kidde & Co., Inc., is also ordered to desist from making any sale or contract for the sale of these commodities for use or resale, or fixing a price charged therefor on the condition, understand-

ing or agreement that the purchaser shall not use or deal in the commodities of this respondent's competitors, in violation of the Clayton Act. (3929)

**M. Linkman & Company**—Orders prohibiting lottery methods in connection with the sale of merchandise to ultimate consumers have been issued against M. Linkman & Co., 1150 West Fullerton Ave., Chicago, smoking pipe manufacturer, and William A. Frew, Paradise, Pa.

The respondent Frew has traded under the names Paradise Products Company, Paradise Seed Company, Paradise Candy Company, Paradise Chocolate Company, Square Deal Company, Lancaster County Seed Company, Lancaster Seed Company, Garden Spot Seed Company, Garden Seed Company of America and Good Luck Gardens, and has sold candy, garden seed, watches, blankets, towels, musical instruments, housekeeping sets, flashlights, cameras and other articles.

The Commission orders direct the respondents to cease and desist from (1) selling and distributing merchandise so packed and assembled that sales to the public are to be or may be made by means of a game of chance; (2) supplying to or placing in the hands of others (a) assortments of merchandise together with push or pull cards, punch boards or other lottery devices, or (b) such devices either with assortments of merchandise or separately, which devices are to be or may be used in selling such merchandise to the public, and (3) selling or otherwise disposing of any merchandise by means of a gift enterprise or lottery scheme. (4018 and 3603)

**National Foam System, Inc.**—See Walter Kidde & Co., Inc.

**Process Engraving Company**—Ann W. Carter, trading as Process Engraving Company, San Francisco, Cal., is found to have advertised the process by which she produces social and business stationery sold by her as being "engraving" and her business as being that of an engraver, when in fact her products were printed by a thermographic process in which a chemical composed mainly of resin was used to produce the raised letter effect instead of by the more expensive engraving process preferred by many buyers.

The Commission order directs the respondent to cease using the words "engraving", "process engraving", or any derivative of the word "engrave", to designate the respondent's stationery products or the nature of her business, unless the respondent produces these products by a process consisting essentially in the application of blank stationery to an inked intaglio plate under pressure sufficient to force the surface of the stationery into the letters or designs cut or incised in the plate, so that the ink in the plate adheres to the stationery to form the characters in relief and raised from the plane of the surface. (3637)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Acquin Pharmacal Company**, also trading as Acquin Products Company, St. Louis, Mo., agrees to cease making representations which convey the impression that its preparation "Acquin" is competent or effective in treating headaches, simple neuralgia, colds, sore throat or other ailment, or is efficacious for any purpose other than as a temporary relief of minor pains or the mild discomforts incident to them. (2711)

**Acquin Products Company**—See Acquin Pharmacal Company.

**Braun Club**—William Michael Braun, operating The Braun Club, 353 West 47th St., Chicago, has entered into a stipulation to cease misleading representations in the sale of memberships in a correspondence club and lists of persons seeking correspondents for social and matrimonial purposes.

In his advertising matter the respondent represented, according to the stipulation, that he knows or has good reason to believe

that members of his club are wealthy and have good business or professional positions; that all persons joining the club will receive many interesting letters and photographs; that members who are designated "Special" will obtain quick, satisfactory results, and that his enterprise is of service generally to one who is lonesome or wants a wife, husband or sweetheart.

The stipulation relates that the respondent neither investigates to ascertain the moral, business, professional, financial, or social standing of those seeking sweethearts, correspondents, husband or wives, nor keeps records showing the results of the correspondence.

The respondent agrees to cease making certain specific representations regarding his service unless they are supported by sufficient investigation as to the actual facts, and to discontinue advertising that parties seeking correspondents are worth any specified amounts, or have any standing other than that disclosed by competent investigation, unless the source of his information is set forth. (02530)

**Brigham Oil Burner Company**—A stipulation to discontinue misleading representations in the sale of oil burners used in heating and cooking stoves, has been accepted from James W. Brigham, trading as Brigham Oil Burner Company and as Ace-Heat Oil Burner Div., Metallic Manufacturing Company, 4367 Duncan Ave., St. Louis. Other respondents are Metallic Manufacturing Company and Peter Parr, its vice president, both of St. Louis.

The respondents agree to discontinue the use, or permitting the use, of the words "Ace-Heat Oil Burner Div., Metallic Manufacturing Company" as a trade name for the individual business of James W. Brigham, or in any manner representing that such business is that of the Metallic Manufacturing Company or other corporation, or is a division thereof.

The stipulation recites that by arrangement with Metallic Manufacturing Company and with Peter Parr, the respondent Brigham conducted portions of his business as "Ace-Heat Oil Burner Div., Metallic Manufacturing Company", and as "Ace-Heat Oil Burner Div., Metallic Mfg. Company, Pete Parr, President", when in fact it was the individual business of Brigham as sole proprietor, and neither the Metallic Manufacturing Company nor Peter Parr had any financial or proprietary interest therein.

According to the stipulation, Metallic Manufacturing Company makes some, but not all, of the parts contained in the assembled burners sold by Brigham, who buys such parts as a customer; the purported "Ace-Heat Oil Burner Division" of the corporation is non-existent, and neither Peter Parr nor any other person is "president" of such fictitious entity, as was advertised.

The respondents also stipulate that, among other representations, they will cease using the word "fliver" in a manner conveying the impression that the device sold has influenced the general sale and distribution of oil burners as the "fliver" has done in the automobile field, or in any other manner representing that this is a business of great magnitude or national importance. (2714)

**Martha Maid Manufacturing Company**, Chicago, Ill., in the sale of women's undergarments, stipulates that it will desist from use of the term "Pure Dye" as applied to any fiber or fabric or part of fabric unless such material so described is exclusively pure silk without any other fiber, weighting, excess finishing or dyeing materials, or loading or adulterating materials. If the term "Pure Dye" is used in a truthful manner as descriptive of the silk content of a mixed fabric, there is to be accurately disclosed in connection with this term the fact that it applies only to the silk content of such mixed fabric, as for example "Rayon and Pure Dye Silk".

The respondent company also agrees to cease branding or selling any product composed of rayon and other kinds of fiber or substances without full and nondeceptive disclosure, on tags, invoices and advertising matter, of the rayon and other content of such product, by accurately designating each constituent fiber in the order of predominance by weight, beginning with the largest single constituent, and giving the percentage of any fiber present in less than a substantial proportion. (2712)

**Metallic Manufacturing Company**—See Brigham Oil Burner Company.

**Premier Laboratories, Inc.**, Trenton, N. J., agrees to cease using the name "Premier Laboratories, Inc." as and for its corporate or trade name, when in fact there are no such laboratories, and to discontinue designating itself as "Manufacturing Chemists

and Perfumers," when it neither owns and operates nor directly controls the plant in which the goods it sells are made. (2718)

**Professional Laboratories, Inc.**—Agreeing to discontinue misleading representations in the sale of a medicinal preparation, Professional Laboratories, Inc., Bloomfield, N. J., has entered into a stipulation.

The respondent agrees to cease representing that its product "Tri-Costivin" is not a laxative; that it will normalize or regulate the flow of gastric juice, and that, generally and without regard to vitamin deficiencies, this or any like product will invigorate the nervous mechanism or control the stomach or intestinal musculature.

The stipulation recites that, according to reliable medical authority, the respondent's product contains three ingredients having specific laxative action and is a laxative notwithstanding the respondent's assertion to the contrary. The product, according to the stipulation, will not normalize gastric juice secretion and, unless in the relatively rare cases of Vitamin B1 and B2 deficiency, will not invigorate the nervous system or control the stomach and intestinal muscular activity.

The respondent also stipulates that it will desist from the representation that by the additional influx of function-energizing hormones, the product will increase the activity of the pancreas or the duodenum, when in fact it contains no such hormones, and that, by means of bile salts, endocrine gall bladder substance or otherwise, the preparation will regulate the flow of bile, when in fact the action of the ingredients does not warrant this claim. (2713)

**Royal Manufacturing Company**, Bowling Green, Ohio, agrees to desist from the use in its advertisements of the word "Chrome" as descriptive of the heating elements of its electric poultry brooders, or from the use of this word or any colorable imitation of the word "Chromium" so as to imply that the heating elements are composed of chromium. The stipulation provides that if these elements are composed in substantial part of chromium and in part of other metal, and the word "Chrome" is used to refer to the chromium content, then that word shall be immediately accompanied by other words in equally conspicuous type to indicate clearly that the heating elements are not made wholly of chromium but contain in part some metal other than chromium. (2717)

**Standard Milling Company**—J. Kendley Martin, trading as Standard Milling Company, 46 Fairlie St., Atlanta, has entered into a stipulation to discontinue misleading representations in the sale of poultry, dairy and hog feeds.

Among representations which the respondent agrees to discontinue are that any of his feeds are perfectly balanced or incorporate every new feeding discovery of value in a poultry or livestock ration; that every ingredient in the respondent's "Super Quality Starting Mash" is completely assimilated; that this mash is potently fortified with all the known vitamins; that the minerals present in "Super Quality Supplement Mash" are completely water soluble; that "Super Quality Growing Mash" provides in ample amounts every known vitamin; that "Super Quality Pullet Mash" will prevent the possibility of neck moult or premature production, and that "Super Quality Starting Mash" will afford the lowest mortality rate, or that any of the respondent's hog feeds will afford the highest profit, will grow and develop swine at the lowest feeding cost, put on most weight or grow and develop swine in the shortest time or with the smallest amount of feed. (02532)

**Superior Manufacturing Company**—See Superior Sales Company.

**Superior Sales Company**—Sanford W. Binker, trading as Superior Sales Company and as Superior Manufacturing Company, Los Angeles, Cal., agrees to cease use of advertising matter which directly asserts or implies that treatment of silk hosiery or lingerie with the respondent's product designated "Superior," will prevent or stop running or snagging, rotting or fading, increase the breaking strength of the heel or toes of such hosiery, make it last 3 or 4 times longer than hosiery not so treated, reduce hosiery or lingerie expense one-half or more, or that use of the product can

be relied upon generally to improve the texture or set the color of silk wearing apparel. The respondent also agrees to cease using fictitious prices and to discontinue misleading uses of the words or phrases "Special Advertising Campaign," "Free" (relating to merchandise), "Manufacturing" and "Guaranteed." (2715)

**United Publishing Company**, 549 West Randolph St., Chicago, also trading as "The Home Friend," a corporation engaged in the sale and distribution of "The Home Friend Magazine," has entered into a stipulation in which it agrees to discontinue misleading representations in connection with a series of puzzle contests used in an advertising program to promote the sale of subscriptions to the magazine.

The respondent, according to the stipulation, made misleading representations inferentially or directly conveying to readers of its "contact advertisements" the idea that by submitting correct solutions to the advertised puzzles they could win an automobile or \$1,500 when in fact no prize other than a small map of negligible value was awarded for solution of that puzzle.

The stipulation recites that the contact advertisements failed to indicate that a magazine subscription or other requirement was a condition precedent to winning any of the awards or that the sole objective was to build up a mailing list for the follow-up letters and other sales promotion literature.

The respondent stipulates that it will desist from disseminating advertisements tending to convey the impression that money or other things of value will be awarded to persons as a prize, unless all terms and conditions are clearly indicated; from representing, inferentially or otherwise, that the solving of a puzzle contained in a contact advertisement or follow-up literature may result in the winning of an automobile or money prize, when such is not a fact, and from using representations in or pertaining to contact advertisements, follow-up literature or otherwise, which infer that persons answering the advertisements or solving puzzles contained therein will thereby get an opportunity to win an automobile, cash prize or other valuable thing or attain any material benefit other than that which may accrue as a result of entering into a subsequent contest, the outcome of which is to depend on the number of magazine subscriptions or other commodities sold or services rendered by the various contestants.

The respondent also agrees to discontinue using any progressive,

integrated or continuous plan to sell magazine subscriptions, commodities or merchandise unless every step or phase of the plan is clearly set forth in the first mailing list to the prospect, before any money or service is accepted, showing without ambiguity exactly what will be expected of the prospect and what compensation or reward will be given for each act or payment required in contending for a prize, award, premium or other advantage or benefit. (2716)

**Variety Foods, Inc.**, Indianapolis, Ind., stipulates that in the sale of "Vigor," its canned food for dogs, it will desist from use of the term "Meat By-products" as descriptive of an ingredient of which the food is composed, and from use of this term in a manner implying that the food contains an edible part other than meat which has been derived from the carcasses of animals, as cattle, swine, sheep or goats, in good health and sufficiently mature at the time of slaughter. (2719)

**Zonite Products Corporation**, 405 Lexington Ave., New York, has entered into a stipulation to cease misleading representations in the sale of preparations designated "Zonite Ointment", "Zonite Liquid" and "Vaginal Suppositories (Zonitors)".

Among representations which the respondent agrees to discontinue are that the cause of menstrual distress is often due to the presence of germs, or that the problem of feminine hygiene is eliminated by the use of the respondent's products or that they are a competent treatment for leucorrhea.

Other representations which the respondent agrees to discontinue are that "Zonite Liquid" has a soothing action on the membranes or may always be used without risk, or that it can never injure delicate tissues; that its use assures freedom from grippe, colds, coughs and other diseases of the respiratory system; that it is effective in combating the cause of pyorrhea; will control all dandruff or itchy scalp skin; end dandruff or itchy scalp; kill onion breath permanently, and that the respondent's products are the only antiseptics which are non-poisonous under similar conditions of use and that "Zonite Liquid" or "Zonite Ointment" are 100 per cent effective in preventing athlete's foot or will assure the user of immunity therefrom. (02531)

