

## THE WEEK IN WASHINGTON

Ninety-seven per cent of all BMI stations have renewed their licenses for 1941-42. On its first birthday, BMI is the leading producer of hit tunes. (p. 313.)

The George Foster Peabody Radio awards for "outstanding meritorious public service" during 1940 were awarded last week at a dinner in New York. CBS, WLW, WGAR, KFRU and Elmer Davis were the winners. (p. 315.)

Exhibits of broadcast material and equipment for the first time will be an official part of the NAB convention this year. (p. 317.)

Cost-per-inquiry advertising again comes to the NAB's attention. (p. 317.)

Stations should continue their Moving Day promotion until all push-button sets are adjusted. (p. 318.)

Three amendments to the NAB By-Laws will be submitted to the NAB convention this year. (p. 318.)

The Association of American Railroads joined the NAB in seeking legislation for national daylight saving. (p. 320.)

The FCC vacated its revocation orders in the "Texas Cases." Andrew D. Ring resigned as assistant chief engineer at the FCC. (p. 320.)

## BMI

### LICENSE RENEWALS GO OVER THE TOP

Renewal license contracts from 97 per cent of all BMI stations had been received on April 2nd, according to Carl Haverlin, BMI's Director of Station Relations. Mr. Haverlin indicated that the few remaining stations

failed to send in the contracts because of the absence or illness of station executives whose signatures are required and he expects to hear from them within the next few days. The letters submitting the signed contracts have expressed enthusiasm over the achievements of BMI during its first year and have given assurance of strong and active support for the future. New contracts cover the period from April 1, 1941 to March 31, 1942.

### BMI CELEBRATES FIRST ANNIVERSARY

Born one year ago, Broadcast Music, Inc., has become the largest publisher of music in the country and the most prolific producer of hit tunes. It has broken all records for publishing best sellers written by composers who were unknown before—young Americans who, until 1940, had not had an opportunity to present their songs to the listening public. Such hits of BMI's first year include *I Hear a Rhapsody*, *There I Go*, *You Walk By*, *I Give You My Word*, *So You're the One*, *High On a Windy Hill*, *Practice Makes Perfect*, *The Same Old Story*, *It All Comes Back To Me Now*, *Let's Dream This One Out*, and *The Wise Old Owl*.

BMI licensed its first music on April 1, 1940. The song bearing contract number one, *We Could Make Such Beautiful Music*, which has been known as the BMI theme, is still heard frequently on the air and enjoys a continuous sheet music sale. Since that time BMI has acquired the rights to more than 250,000 songs of every variety. At the present time it occupies more than 25,000 square feet of office space, has a pay roll of 300 employees, and has moved Tin Pan Alley from 46th Street and Broadway to 47th Street and Fifth Ave-

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**You Can't Afford to Miss the NAB Convention**

**May 12, 13, 14, 15**

**New Jefferson Hotel**

**St. Louis**



NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAtional 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## BMI

(Continued from page 313)

nue. More than 100,000 printed units of music are shipped out of BMI production offices every week to broadcasting stations, taverns, hotels, retail music stores, and to other users or vendors of music.

The phase of BMI activity which has won the heart of the public is its willingness to examine the work of new composers regardless of the time and effort involved. Out of more than 100,000 songs thus submitted, BMI has gleaned a catalogue of some 600 popular numbers—"more fresh and interesting material," in the words of a conductor, "than would ordinarily be submitted by a music publisher in six or seven years."

## BMI BARDS GET BOOTY

Checks to BMI songwriters in payment for performance of their music over the air are going out as we go to press. They chalk up another "first" to the credit of BMI. It is the first time that writers have been paid for the use of their music in this country without regard to any consideration except the number of performances. The checks are being transmitted in a letter from M. E. Tompkins, BMI Vice-President, who says:

"BMI's program logging service has been operating since January 1st, and your payment of performance royalties for the first quarter of 1941 will be accurately computed in accordance with actual performances for the first time in the history of musical copyright in the United States. Meanwhile the results already obtained by us from our logging service have enabled us to estimate your performances for the last quarter of 1940 with some accuracy, and we take pleasure in enclosing herewith our check representing voluntary payment for performance royalties for October, November, and December of 1940 as estimated from a test check of programs.

"In sending you this payment, we wish to express again our deep appreciation for your cooperation, and to assure you that the opportunity of authors to be compensated for performances, upon a fair and determinable basis, is now definitely established and will be perpetuated."

Norman Weiser, Associate Editor of Radio Daily, who is himself one of BMI's successful lyric writers, noted in his column, "Plenty of smiles along Tin Pan Alley these days as the performance pay-offs from BMI are beginning to arrive in the mail."

## BMI FEATURE TUNES

April 7-14

1. WALKIN' BY THE RIVER
2. WISE OLD OWL, THE
3. MY SISTER AND I
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HIGH ON A WINDY HILL
8. YOU WALK BY
9. HERE'S MY HEART
10. IT ALL COMES BACK TO ME NOW
11. MAY I NEVER LOVE AGAIN
12. LOAFING ON A LAZY DAY
13. TALKING TO THE WIND
14. BREAKFAST FOR TWO
15. WITH A TWIST OF THE WRIST
16. WHERE'S THE CAPTAIN'S HAT

## NEW NUMBERS AMONG THE LEADERS

The *Billboard* and *Variety* lists of sheet music best sellers and coin machine leaders as usual show surprising amount of difference, but two statements are true of both—the proportion of BMI numbers remains approximately what it has been for the past several weeks, and there are some new numbers among the tops. *Amapola*, a Marks number, holds the number one spot on three lists and is well up on the others. *It All Comes Back to Me Now*, one of BMI's own numbers, appears for the first week on *Billboard's* list of the six biggest money makers in the coin machines and for the second week among *Variety's* top ten. *The Wise Old Owl* is climbing among the sheet music best sellers. Peer's *Maria Elena* is another newcomer.

## BMI TUNES IN PICTURES

Broadcast Music, Inc. has arranged for the publication of several songs to be introduced in forthcoming picture productions. Contracts have been signed with the Walt Disney studios to publish the title song of the next Disney full-length feature picture *The Reluctant Dragon*, to be released about May 1st.

The song, *I Am the Reluctant Dragon*, is an outstanding novelty number and BMI officials are convinced that they can turn it into a hit. Present plans don't call for the publication of any other numbers in the picture so that the full attention of BMI's Professional Department will be concentrated on the *Dragon*. The contract is the result of three months' negotiation between the Disney studios and BMI.

*The Reluctant Dragon* is taken from Kenneth Gra-

hame's *Dream Days*. It has been rewritten from the original story and characteristic Disney touches added.

BMI will have the song *Madame Will Drop Her Shawl* in the forthcoming *South of Panama*, co-starring Virginia Vale and Roger Pryor and released through Producers Releasing Corporation. Announcement is anticipated soon of the BMI songs to be included in the next Judy Canova picture, *Puddin' Head*.

The new Dr. Christian picture *Interlude*, the shooting of which will start April 15th, will be 100% BMI. There will be four songs—*When Love is New*, *Make Believe Land of Dreams*, *Get Alive*, and *The Rhythm is Red, White and Blue*. The BMI Professional Department will concentrate on *When Love is New*, which was written by Claude Sweeton and Jack Owens. The songs in *Puddin' Head* were written by Jack Owens, who is regarded by BMI officials as one of the most promising of their discoveries.

### MORE MEXICAN HITS FROM PEER

*Maria Elena*, a waltz, written by the Mexican songwriter Lorenzo Barcelata, and published by Peer International, affiliated with Broadcast Music, Inc., is rapidly gaining a place among best song sellers. Last week more than 5,000 copies of sheet music and orchestrations were shipped out, mainly to the middle-west where the song is exceptionally popular. Written in 1933 and enjoying a big sale in Latin-American countries, new English lyrics by S. K. Russell have brought the song to the forefront. During the past few weeks Wayne King, Lawrence Welk, Bobby Byrne, Jimmy Dorsey, Tony Pastor, and Gene Krupa have recorded the number and coin machines in all sections of the country are featuring their recordings.

*Un Momento*, the latest composition by Alberto Dominguez, who wrote *Frenesi* and *Perfidia*, was published last week by Peer. English title for the song is *Rendezvous in Rio* and the English lyric is by Marjorie Merton.

Dominguez, who recently was a guest star on an international hook-up over NBC, is planning to leave New York shortly on a visit to Hollywood before returning to Mexico City, where he is musical conductor at Station XEW.

### BMI CONTINUES TO PIONEER

Another revolutionary step in the advancement of radio-music has been achieved by Broadcast Music, Inc. through the development of two color orchestrations. Although colored arrangements have been used before in piano music, this is the first time that complete orchestrations have been printed in two colors. Since BMI began operation, all orchestrations made by the broadcasters' organization have been cross-cued—a system of arranging that enables orchestrations to be used by groups of four

or five pieces or full symphony orchestras. In the newly developed BMI method of arranging, the cross-cued parts that are played by small groups are printed in a reddish-orange color that makes them stand out in striking contrast to the remainder of the score.

The new two-color printing, it was explained by BMI arrangers, is expected to "revolutionize music," as it is the most important step ever taken to simplify the playing of complicated arrangements. By using the colored arrangements, which are easier on the eyes than the usual all-black orchestrations, musicians in orchestras of less than symphonic size no longer have to be concerned with reading the entire score for the cross-cued sections they play, but can easily and quickly locate their parts from the notes printed in color. To get the most effective color, the BMI Arranging Department experimented with a number of shades, finally selecting the reddish-orange color as offering the greatest contrast. Beginning this week, all BMI arrangements of favorite standard, classical, and salon music will incorporate the new two-color printing.

## Peabody Radio Award Winners

The George Foster Peabody Radio Awards for "outstanding meritorious public service" in the broadcasting industry during 1940 were announced March 29 by S. V. Sanford, Chancellor of the University System of Georgia, at a dinner in New York.

The awards, comparable to the Pulitzer awards in the field of journalism, went to the Columbia Broadcasting System, among the networks; Station WLW, Cincinnati, among the large stations; Station WGAR, Cleveland, among the medium sized stations; Station KFRU, Columbia, Missouri, among the small stations, and Elmer Davis, CBS reporter.

In addition, the following stations were cited:

#### LARGE STATIONS

WSB, Atlanta, Georgia. Cited for its distinguished public service contributions to a localized area in the South.

KNX, Los Angeles, California. Cited for meritorious service to a localized area in the Far West.

WLS, Chicago, Illinois. Cited for meritorious service to agriculture.

WCAU, Philadelphia, Pennsylvania. Cited for its program series, "Wake Up America," a contribution to national defense.

WBAP, Fort Worth, Texas. Cited for its distinctive series of prison broadcasts.

WOR, New York City. Cited for its contribution in broadcasting the "American Forum of the Air."

WJZ, New York City. Cited for its contribution to broadcasting the "Town Meeting of the Air."

WGEO, (short wave) Schenectady, N. Y. Cited for its service to the Byrd expedition at the South Pole.

## MEDIUM-SIZED STATIONS

WJJD, Chicago, Illinois. Cited for its service to education in broadcasts to schools.

WQXR, New York City. Cited for the high standards of its musical programs.

WOW, Omaha, Nebraska. Cited for its enterprise in originating "The President's Birthday Ball of 1940".

KSTP, St. Paul, Minnesota. Cited for its distinguished broadcast, "America Calling."

WBNX, New York City. Cited for its public service to foreign language groups in greater New York.

WRC-WMAL, Washington, D. C. Cited for its enterprise in originating the "Mile O' Dimes" public service feature.

## SMALL STATIONS

KVOS, Bellingham, Washington. Cited for promoting a better understanding between Canada and the United States through its Armistice Day program.

The awards, authorized by the Regents of the University System of Georgia last May, were approved by an advisory board which included:

Bruce Barton, president, Batten, Barton, Durstine, and Osborne, Advertising, New York City

John H. Benson, President, American Association of Advertising Agencies, New York City

Virginius Dabney, Editor, Richmond (Va.) *Times-Dispatch*

Norman H. Davis, Chairman, American Red Cross

Jonathan Daniels, Editor, Raleigh (N. C.) *News and Observer*  
Mark Ethridge, Vice President and General Manager, Louisville (Ky.) *Courier-Journal* and *Times*

Waldemar Kaempffert, Science Editor, New York *Times*

Alfred Knopf, Publisher, New York City

Grace Moore, Metropolitan Opera Company, New York City

Dr. John W. Studebaker, United States Commissioner of Education

Mrs. Marjorie Peabody Waite, daughter of George Foster Peabody whose name the awards bear

Edward Weeks, Editor, *Atlantic Monthly*, Boston, Massachusetts

The Columbia Broadcasting System, Dr. Sanford said, was selected among the networks, "among other reasons, for offering a schedule of broadcasts which combined commercial and sustaining programs in such a way as to constitute a structure definitely in the public interest; for giving its listeners more than 10,000 non-commercial broadcasts in 3,500 hours of unsponsored, public service programs; for regarding its schedule as a curriculum for adults and children in which lighter entertainment served as an ingredient to make the more vital programs palatable; for covering adequately the significant news of the year; for promoting Pan-American unity and understanding through its 'School of the Air'; for aiding education with special schoolroom services and such programs as 'Invitation to Learning', 'The Human Adventure', 'Reporting to the Nation', 'The People's Platform', and 'Columbia's Country Journal'; for giving religion a major place in its public service activities; and for its manifold and continuous interest in serious music and other cultural subjects."

Station WLW, Cincinnati, received its award among large stations "for being a pacemaker in the conception and execution of distinctive public service programs; for recognition of the principle that clear-channel stations should be sectional rather than local in their service, but at the same time should not duplicate the work of the networks; for offering broadcasts of a type slightly above the level of the mass radio audience; for spending three times as much on public service programs as the average

for 50,000 watt stations; and for serving the interests of all groups, including rural as well as urban listeners."

Station WGAR, Cleveland, was selected "for its success, despite the restricted facilities of a regional station, in serving the diverse interests and widely different cultural backgrounds of greater Cleveland; for promoting a better understanding among these various groups; for assuming a responsibility to those 65 per cent of Cleveland's foreign-born or first generation listeners who do not easily understand English by broadcasting programs in languages which represent the principal foreign populations of this metropolitan area—Hungarian, Italian, Slovene, Czech, Slovak, Polish and Roumanian; for its program, 'Wings over Jordan', begun five years ago to bring about a better understanding between the white and colored peoples of Cleveland; for its cooperation with governmental agencies in the interest of national unity, civic consciousness, community health and welfare; and for its unique news service featuring items of special interest to some twenty small communities."

Station KFRU, Columbia, Missouri, received its award "for making the most of its opportunities to serve its local audience; for giving its listeners educational features of local origin, including programs of classical music with interpretative comments and helpful broadcasts in the interests of better farming; for doing a superior job of public service despite limited equipment, circumscribed finances, and a small personnel."

Elmer Davis was selected for "his terse, incisive and impartial reporting of the news, day by day."

Dr. Sanford's address was broadcast by the coast-to-coast network of the Columbia Broadcasting System.

The idea for the Peabody awards, which are to be made each year, originated with Lambdin, Kay, Director of Public Service at station WSB, Atlanta. He discussed the need for "something comparable to the Pulitzer prize" for radio with Dean John E. Drewry, of the Henry W. Grady School of Journalism of the University of Georgia, who, in the fall of 1939, laid the matter before Dr. Sanford. Dean Drewry also discussed the matter with the broadcasting industry at the 1940 convention of the National Association of Broadcasters in San Francisco where his proposal to have the awards made by the University of Georgia received unanimous endorsement. Together, the Henry W. Grady School of Journalism and the NAB set up the mechanics for making the awards.

Broadcasting stations from 24 states and the District of Columbia, as well as the three major networks, submitted entries. A faculty committee of the University of Georgia carefully examined the material submitted by the stations and recommendations of this committee formed a basis of selections approved by the advisory board.

Addressing himself to the broadcasting industry, Dr. Sanford said tonight that he hoped "these Peabody awards will serve increasingly as an incentive to higher standards of public service."

"We of the University of Georgia and the School of Journalism in particular, feel that radio is very much a part of our educational program," he added. "The creation of these George Foster Peabody Radio Awards is but the latest step in our efforts to be of educational assistance to an important agency of communication. With the cooperation of the National Association of Broadcasters, our Advisory Board, and the executives of the radio industry itself, these Awards should from year to year serve not only as a measurement of the achievements by broadcasters, but as a continuous reminder of the social obligations of radio. Mr. W. B. Lewis, vice president in charge of broadcasts of the Columbia Broadcasting System, has stated the point well thus:

"The award is a very healthy plan to compel those of us who are engaged in the daily work of putting radio programs on the

ai stand aside and once again evaluate our activities over an entire year in terms of objectives and achievements. \* \* \* The compilation of our exhibit provided a real stimulus to the individual members of the departments involved. And this experience was, we are sure, duplicated by that of every competing station and network.'

"We of the University of Georgia hope and believe that this thought is shared throughout the broadcasting industry."

William S. Paley accepted the award on behalf of CBS; James D. Shouse for WLW; Eugene Carr for WGAR; C. L. Thomas for KRFU, and Elmer Davis for himself. C. E. Arney, Jr., spoke in behalf of the NAB.

## NAB Convention

### Promotion Exhibit Question Box No. 3

*Question: Will the exhibits at the Convention be put in the halls and in the lobbies, or will there be a special exhibit hall?*

*Answer: There will be a special exhibit hall. The Crystal Room of the New Jefferson Hotel in St. Louis has been designated as such. This room is 75 feet long, and 35 feet wide, and will provide plenty of space for every exhibitor.*

*Question: Will individual stations have to mount their exhibits themselves?*

*Answer: No. If the entries are shipped to the Convention according to the regulations the Committee in charge will see that the panels are properly hung, at no expense or bother to the individual stations.*

*Question: If a station sends material which does not conform to the rules of the Committee what is the result?*

*Answer: Such exhibits which do not conform to the rules will not be displayed in the Crystal Room, and will not be entitled to any awards.*

*The closing date for entries is May 3. Shipment is to be made to the New Jefferson Hotel, St. Louis, c/o NAB Promotion Exhibit Committee.*

### EXHIBITS

For the first time, the exhibits of broadcast equipment and materials will be made an official part of the convention this year. The Board of Directors in formulating the Associate Membership Plan adopted a provision to the effect that only those who are associate members will be eligible to hold exhibits in connection with the convention. While this will cut down the number of exhibits, it will give assurance that those who do exhibit are sufficiently interested in the industry's problems to support its trade association. In an early issue of the

REPORTS, a complete list of the exhibitors will be given. This week a questionnaire went out to all associate members seeking information regarding their exhibit plans.

The promotion exhibit should not be confused with these associate member exhibits. While associate members are eligible to display promotional material along with the display of similar material made by member stations, the promotional exhibit will be made in the Crystal Room, one of the large public rooms in the hotel. The associate member exhibits will be in private rooms throughout the hotel. Every indication points to an exceptional promotion exhibit and the committee, headed by Howard Peterson, WOW, is working diligently.

### BANNER ATTENDANCE PROBABLE

Ray Dady, KWK, and his Housing Committee have done a really commendable job in handling the requests for hotel reservation at St. Louis hotels. The advance reservations, incidentally, far exceed those at any previous NAB convention. For many weeks all of the suites available at the Jefferson Hotel have been taken. A very limited number of twin bedded rooms are yet available but there are plenty of double bedded rooms and singles. There are, of course, suites at other hotels than the Jefferson, many of them nearby. Don't let the fear of lack of proper accommodations deter you from planning your trip to the convention.

Incidentally a check-up shows a very limited number of reservations from the far west. This is surprising in view of the fact that the mid-western broadcasters were so numerous at the San Francisco convention last year. Many of the mid-western broadcasters have expressed the hope that the western broadcasters will reciprocate by being present at St. Louis. It is going to be a grand convention and Merle Jones, chairman of the General Committee, has the local plans well in hand.

## Sales

### COST-PER-INQUIRY

Contingent and cost-per-inquiry deals, some new and some old, continue to be reported by member stations to the NAB Department of Broadcast Advertising. This week's mail brought information on the following:

The Bible Press, Richmond, Va.

Murray Hill Topman & Co., 505 Fifth Ave., New York City, on behalf of an insecticide powder.

Frasek Company, Martlex Bldg., White Plains, N. Y., with a postage stamp offer.

Duensing & Co., 35 East Wacker Drive, Chicago, on behalf of Waterbury fountain pens.

Continued cooperation in calling these free offer and per-inquiry deals to the attention of the Department will be appreciated. Each of these companies has been advised that it is the opinion of the Department of Broadcast Advertising that their proposals are

opposed to the best interests of radio stations, and each has been invited to give serious consideration to a paid radio campaign, if they wish to obtain maximum results and maintain the continued goodwill and cooperation of the broadcasting industry.

## PELLEGRIN REPORTS

Frank E. Pellegrin, newly appointed Director of the Department of Broadcast Advertising, assumed his duties at headquarters April 1. Pellegrin comes from Omaha, where for the past three years he has been sales manager of the Central States Broadcasting Company—KOIL, Omaha, and KFAB, Lincoln.

### Promotion

#### RADIO'S MOVIN' DAY

Many station executives have indicated that they are continuing the broadcast of announcements urging listeners to have their push buttons reset. This is sound technique. The telephone rush to get push buttons changed, noted on March 29, is over. Now comes the orderly change over of buttons which will take some weeks. Unless stations continually drive home the change over message their listeners may neglect to have the job done as speedily as possible.

The Mayors of five more cities who proclaimed Radio Movin' Day, previously unreported, represent:

Charleston, S.C.; Muncie, Ind.; Tacoma, Wash.;  
San Bernardino, Cal.; Toledo, Ohio

When H. H. Born, business manager, WHBL, Sheboygan, Wis., received Governor Heil's proclamation it was set up in the composing room of the Sheboygan Press. Mats were pulled and mailed to the twenty-two Wisconsin communities having broadcast stations.

WBIG, CBS affiliate in Greensboro, N. C., and WSJS, owned by the Winston-Salem Journal and Sentinel, on NBC Red, exhibited some real Tar Heel cooperation during Movin' Day promotion.

The former station bought space in the Winston-Salem Journal and WSJS bought spot announcements over WBIG.

James C. Wallace, KAST, Astoria, Ore., ran a six hundred line ad in the Astoria-Budget on March 17, which also illustrated the well-known radio cooperation. After explaining the facts of change over Mr. Wallace listed "Important Changes on Stations Heard in the Astoria Area" and urged readers to save the listings. Stations noted were located in Portland, Seattle, Tacoma, Los Angeles, San Francisco, Sacramento and San Jose.

WDGY, Minneapolis, arranged an excellent cooperative promotion for itself as well as other Twin City stations, and stations in Fergus Falls, Winona, Superior-Duluth, Hibbing, Moorhead, Willmar, Virginia, Albert Lea and St. Cloud.

A deal was made with one of the station's clients, Central Coop. Livestock Association, which distributed 100,000 notices of new dial settings of Minnesota stations.

WDGY's wave length is 1130 which suggested to Program Manager Stone a program called the "1130 Matinee." Quarter hour started March 1 at 11:30 a. m. and is still running. A special Saturday afternoon program known as the "1130 Club" has been running four weeks, 1:10 to 3:30 p. m. Both shows continue to urge listeners to have their push buttons changed.

### Amendments to By-Laws

Three proposals to amend the By-Laws of the NAB have been authorized by the Board of Directors for submission to the membership.

Article XIII of the By-Laws requires that proposed changes shall be "submitted by mail to the last recorded address of each member at least 30 days before the time of the meeting which is to consider the change." The meeting to consider the change is the Nineteenth Annual Meeting, to be held at St. Louis, May 12 to 15 inclusive. This is, therefore, your notice of the following proposed amendments.

#### I

To provide for nomination of Directors-at-Large and selection of succeeding convention city by the members, the following amendment is proposed, without recommendation by the board as to nomination of Directors-at-Large and with recommendation as to succeeding convention city:

(1) Amend Article V by striking out Section 1 thereof and inserting in place thereof the following new Section 1:

#### SECTION I. ANNUAL

A. A stated or annual meeting of the members shall be held in each year at such place as is determined by the members at their previous annual meeting and at such time as is determined by the Board of Directors. At such meeting Directors-at-Large shall be nominated and Directors-at-Large and Network Directors shall be elected by the members by vote in an open session thereof to succeed such directors whose terms then expire. At such meeting there shall likewise be transacted any other business that may be then properly and legally presented.

B. No city shall be eligible for balloting as the place for the ensuing annual meeting unless certified by the Secretary-Treasurer to have complied with the following requirements:

1. At least ninety days prior to the annual meeting any city desiring to invite the next annual meeting shall so notify the Secretary-Treasurer in writing.

2. At least thirty days prior to the annual meeting such city shall inform the Secretary-Treasurer in writing, in such detail as he may require, as to its facilities to accommodate the annual meeting, whereupon if its said facilities shall appear to be adequate, the Secretary-Treasurer shall certify the city as qualified.

3. The invitation of any qualified city shall be presented to the membership by a member from the district in which such city is located.

C. The names of cities extending official invitations in accordance with paragraph (B) above shall be posted in the order of presentation and the membership shall select three such cities in the order of their preference for the next annual meeting.

D. The Secretary-Treasurer shall immediately negotiate with one or more hotels and community agencies in the city first preferred, the standard form of contract required of hotels and communities to which the annual meeting is awarded. If he is unable to negotiate satisfactorily as to such city, he shall similarly negotiate as to the city second preferred, and if he is unable to negotiate satisfactorily as to such city, he shall similarly negotiate as to the city third preferred. In the event he is unable to negotiate satisfactorily as to any of the three cities preferred by the membership, the Board of Directors shall fix the place of the annual meeting.

(2) Amend Article VII by striking out Section 4 thereof and inserting in place thereof the following new Section 4.

SECTION 4. NOMINATION OF DIRECTORS-AT-LARGE AND NETWORKS DIRECTORS. Nominations for each of the six Directors-at-Large, as defined in Section 2, above, shall be made from the floor at a business session of the annual meeting. Nomination speeches for any nominee shall not exceed in the aggregate one minute's duration. Nominations of any classification shall be closed when nominees of that classification total thirty. All names shall be posted as nominated. During the morning session of the second day of the annual meeting, each of the said respective networks shall certify to the President its nominee or nominees for Network Director, as defined in Section 2 above, whereupon such nominees shall be deemed to have been placed in nomination, and shall be so reported to the members during that session.

(3) Amend Article VII by striking out Section 5 thereof and inserting in place thereof the following new Section 5:

SECTION 5. ELECTION OF DIRECTORS-AT-LARGE AND NETWORK DIRECTORS. Election of Directors-at-Large and Network Directors shall proceed as follows:

A. The President shall appoint an Elections Committee of three persons. The President shall appoint the Chairman.

B. The Elections Committee shall compile a list of Active Members eligible to vote in the elections.

C. The Elections Committee shall distribute coupon ballots.

D. The Elections Committee shall on the second day of the annual meeting announce a time and place for balloting and shall supervise such balloting. No ballots shall be received after the balloting session adjourns.

E. The Election Committee shall prepare ballots in blank and in coupon booklet form with not less than four ballots in each coupon book. Ballot number one shall be used for the election of the Network Directors. Ballot number two shall be used to vote for not more than four nominees in each classification for Directors-at-Large. Ballot number three may be used by writing thereon the names of the first, second and third preference of cities for the next annual meeting; provided, however, that the use of Ballot number three may be waived at the discretion of the Chairman of the Elections Committee and a voice or standing vote substituted. Ballot number four shall be used to vote for two nominees for Directors-at-Large in each classification as outlined in Section 2 above; provided, however, that no ballot shall be cast for more than one nominee of the two nominees in each classification receiving the highest number of votes on Ballot number two; and provided, further, that no ballot shall be cast for more than one nominee of the two nominees in each classification receiving the lowest number of votes on Ballot number two.

F. Immediately after the conclusion of balloting, the Elections Committee shall proceed to count the ballots and announce the results; provided, however, that the results of the final ballot shall be announced during the annual meeting at the time and place designated by the President.

G. The two Director-at-Large nominees receiving the highest number of votes in the final balloting in each of the three classifications, shall be declared elected.

## II

To provide for membership dues-classification in \$100,000 brackets at an increase of \$25 dues for each bracket, for net receipts from \$600,001 to \$1,000,000, the following amendment is proposed, with recommendation of the board:

Amend Article IV by striking out Section 1 thereof and inserting in place thereof the following new section 1:

SECTION 1. Effective January 1, 1941, each active member shall pay dues on net receipts from the sale of time received during the previous calendar year. Net receipts from the sale of time are defined as billings based on gross rate for broadcasting service less time and advertising agency discounts, if any, and including net billings to the networks. No member shall be required to state its actual volume but to name annually to the Secretary-Treasurer on his call the class into which its volume falls. It is understood that each Active Member is in honor bound not to name a smaller classification than that into which its volume actually falls. The annual dues, payable monthly in advance, shall be as follows:

Class	Range of Income		Monthly Dues
A	\$ 0	\$ 15,000	\$ 5.00
B	15,001	36,000	10.00
C	36,001	60,000	15.00
D	60,001	80,000	20.00
E	80,001	120,000	30.00
F	120,001	160,000	40.00
G	160,001	200,000	50.00
H	200,001	300,000	75.00
I	300,001	400,000	100.00
J	400,001	500,000	125.00
K	500,001	600,000	150.00
L	600,001	700,000	175.00
M	700,001	800,000	200.00
N	80,001	900,000	225.00
O	900,001	1,000,000	250.00
P	1,000,001	2,000,000	400.00
Q	Over 2,000,000		500.00

## III

To provide for reallocation of territory affecting Districts 2, 3, 8, 9, 11 and 14, the following amendment is proposed, with recommendation of the board:

Amend Article III, Section 4, District 2, by striking out the period and adding the following: "and New Jersey."

Amend Article III, Section 4, District 3, by striking out the comma and the word "New Jersey."

Amend Article III, Section 4, District 8, by striking out the period and adding the following: ", excluding the counties of Ontonagon and Gogebic."

Amend Article III, Section 4, District 9, by striking out all after "Illinois" and adding the following: ", Wisconsin, excluding the counties of La Crosse, Monroe, Juneau, Adams, Marquette, Waushara, Portage, Wood, Jackson, Trempealeau, Buffalo, Pepin, Pierce, St. Croix, Dunn, Chippewa, Eau Claire, Clark, Marathon, Lincoln, Taylor, Rusk, Barron, Polk, Burnett, Washburn, Sawyer, Price, Oneida, Vilas, Iron, Ashland, Bayfield and Douglas."

Amend Article III, Section 4, District 11, by striking out all after "North Dakota" and adding the following: ", South Dakota, excluding the counties of Fall River, Shannon, Bennett, Todd, Mellette, Waushahaugh, Washington, Custer, Pennington, Jackson, Jones, Stanley, Haakon, Meade, Lawrence, Butte, Harding, Perkins, Ziebach, Armstrong, Dewey and Corson, and Wisconsin, including the counties of La Crosse, Monroe, Juneau, Adams, Marquette, Waushara, Portage, Wood, Jackson, Trempealeau, Buffalo, Pepin, Pierce, St. Croix, Dunn, Chippewa, Eau Claire, Clark, Marathon, Lincoln, Taylor, Rusk, Barron, Polk, Burnett, Washburn, Sawyer, Price, Oneida, Vilas, Iron, Ashland, Bayfield and Douglas, and Michigan, including the counties of Ontonagon and Gogebic."

Amend Article III, Section 4, District 14, by striking out all after "Wyoming" and adding the following: ", Montana and South Dakota, including the counties of Fall River, Shannon, Bennett, Todd, Mellette, Waushahaugh, Washington, Custer, Pennington, Jackson, Jones, Stanley, Haakon, Meade, Lawrence, Butte, Harding, Perkins, Ziebach, Armstrong, Dewey and Corson."

## Legislation

### DAYLIGHT SAVING

Last Friday the Board of Directors of the Association of American Railroads passed a resolution that the officers of the Association should support H. R. 3789, the McLean Bill providing for daylight saving time on a nation-wide basis. The desirability of this legislation was called to their attention by the NAB which is, under resolution of the Board of Directors, actively supporting the Bill.

### FEDERAL LEGISLATION

#### HOUSE

H. R. 4228 (HOBBS, D-Ala.) JUDICIAL CODE—To amend the Judicial Code by adding thereto a new section authorizing, for the purpose of detecting or preventing certain crimes, the Federal Bureau of Investigation of the Department of Justice, when specifically authorized by the Attorney General of the United States, to intercept, listen in on, or record telephone, telegraph, or radio messages or communications; and making such authorizations and communications, and testimony concerning same, admissible evidence; and for other purposes. Referred to Committee on Judiciary.

#### SENATE

S. 1253 (WHEELER, D-Mont.) COMMUNICATIONS ACT—To amend section 605 of the Communications Act of 1934. Referred to Committee on Interstate Commerce.

### STATE LEGISLATION

#### SOUTH CAROLINA:

H. 487 (MOORE, et al) ALCOHOLIC LIQUORS—PUBLIC ADVERTISEMENT—to render unlawful the public advertisement of alcoholic liquors and beverages, and to provide a penalty for violation thereof. Referred to Committee on Judiciary.

## FEDERAL COMMUNICATIONS COMMISSION

### REVOCATION ORDERS VACATED

Need for continued broadcast service and other public interest considerations led the FCC to vacate its orders of revocation in the so-called "Texas cases," it announced.

Though hidden management revelations provided "ample foundation" for revocation, the Commission deems that the program service of the six stations involved is in the public interest, being for the most part in communities not otherwise provided with broadcast facilities. Therefore, in view of subsequent acts by the licensees to remedy unlawful aspects of past operation, the Commission agreed to license five of the stations on a temporary basis for 90 days, during which time they must show that James G. Ulmer has relinquished all interest in their operation. Further, the Commission is keeping the records in all six cases open for use in any future proceedings which might involve these licensees.

Today's decisions affect KGKB, East Texas Broadcasting Co., Tyler, (B-110); KRBA, Red Lands Broadcasting Association, Lufkin (B-104); KSAM, Sam Houston Broadcasting Association, Huntsville, (B-108); KTBC, State Capitol Broadcasting Associa-

tion, Austin (B-102); KNET, Palestine Broadcasting Association, Palestine (B-103), and KGFI, Eagle Broadcasting Co., Brownsville (B-122).

With reference to its decision and order in the cases of stations KRBA, KSAM, KTBC, KNET and KGFI, licensed on a 90-day basis, the Commission observes:

"The primary and moving figure in all of these cases was Dr. James G. Ulmer. His actions coupled with lack of understanding displayed by the other principal participants in the proceedings with respect to the duties of radiobroadcast licensees, particularly concerning the requirement of the Communications Act of 1934 and the Rules and Regulations of the Commission, combine to present a clouded and dubious history for each of the stations involved. But we think in this respect that the various licensees in the light of the several hearings will accord, in the future, more respect and, consequently, a stricter adherence to such duties and requirements."

Because station KGKB has endeavored to purge itself of unlawful past operation, the Commission will permit the licensee to continue operation of this station, but warns that this is not to be construed as in any way approving Dr. Ulmer's past activities in connection with the station. "To the contrary," comments the Commission, "we unequivocally condemn these activities and the complete disregard of the duties of radiobroadcast licensees shown by the other principal participants in this proceeding."

The Commission was faced with the circumstance that in none of the areas in which these stations are located, except Austin, is there any station to serve as a medium for community expression other than the particular stations involved. No question had been raised that the program service was not in the public interest.

Commissioner Payne dissented in all six cases and Commissioner Case in the case of KGKB.

### WBAX LICENSE RENEWAL DENIED

Application by John H. Stenger, Jr., for renewal of license of broadcast station WBAX, at Wilkes-Barre, Pa., was denied by the FCC, following oral argument before the Commission on its Proposed Findings of Fact and Conclusions (B-115) to that effect, dated September 18th last. The station is accordingly given until 3 a.m., July 1 next to get off the air.

In adopting its proposed findings, the Commission reaffirmed its previous conclusions as amended:

"Upon the foregoing findings of fact the Commission concludes:

"1. The applicant is not financially qualified to continue the operation of the station.

"2. In view of the facts recited above with respect to false representations made to the Commission by the applicant in applications and other documents, it is apparent that his character is not such as to qualify him to hold the license of a radiobroadcast station.

"3. In practical effect, the station licenses heretofore granted to the applicant for the operation of Station WBAX, and the rights therein granted have been transferred to Glenn D. Gillett, Marcy Eager, and Stenger Broadcasting Corporation without obtaining the consent of the Commission thereto in writing, in violation of the provisions of Section 310(b) of the Communications Act of 1934, as amended.

"4. The radio transmitting apparatus described in licenses heretofore issued to the applicant for the operation of Station WBAX has been used and operated by Glenn D. Gillett and Marcy Eager, directly and through agents, and by Stenger Broadcasting Corporation, through its officers and directors, particularly with respect to the control of physical operation and programs broadcast, in violation of the provisions of Section 301 of the Communications Act of 1934, as amended.

"5. The applicant has relinquished control of this station and his right to exercise same; and has failed to discharge properly the obligations made incumbent upon him in licenses which he has received from the Commission.

"6. The granting of the application for renewal of license of Station WBAX will not serve public interest, convenience, or necessity."



ommission made the supplemental observation that the "contro actually exercised by Gillett and his associates went beyond the terms of the contract, and beyond the activities reasonably to be contemplated therefrom."

Commissioner Craven, concurring, stated: "I concur with the ultimate result, but believe that the denial should be without prejudice to the filing of an application for transfer of license to a person satisfactory to the Commission as to qualifications under the law."

WBAX, using power of 100 watts, has been operating on a temporary basis since March 29 on 1240 kilocycles, and on 1210 kilocycles previously.

### RING RESIGNS

After nearly 12 years of active Government service in radio broadcast engineering, Andrew D. Ring has resigned as Assistant Chief Engineer of the FCC to engage in private engineering practice. He will be associated in Washington with Ralph L. Clark, who has also resigned from the Commission engineering staff for this purpose.

Mr. Ring is following out an intention of long standing to enter private practice as soon as certain engineering problems had been followed through by the Commission to successful conclusions. Last of these was the North American Regional Broadcasting Agreement, effective March 29, with which Mr. Ring had been associated in a technical capacity since he was a technical adviser to the Havana conference in 1937.

A native of Tennessee and graduated from the University of Tennessee, Mr. Ring joined the Federal Radio Commission July 1, 1929, as senior engineer. He has been Assistant Chief Engineer for the Federal Communications Commission since the latter was established in 1934.

Technical progress in which Mr. Ring played an active part has included establishment in 1930 of empirical standards of allocation as a basis for determining broadcast service and interference; adoption of automatic frequency controls in 1932; directive antenna to prevent interference and otherwise improve service, adopted that same year; Standards of Good Engineering Practice and Rules and Regulations Governing Standard Broadcast Stations, resulting from an engineering conference in 1939; the recent debut of commercial FM, with new principles of allocation on the basis of area served; substantial developments in television, and international broadcast aided by use of directive antenna and maximum power requirement.

Mr. Ring has been with the Commission during a period which has been decisive of many important engineering problems in the broadcasting field. He has brought to his work here both a long experience and a rare degree of competence. It will be difficult to fill his place at the Commission.

### COOPER RESIGNS

The FCC has accepted the resignation of Robert M. Cooper, Assistant to the General Counsel. Mr. Cooper has been with the Commission for about two years. During that time he has been active in connection with litigation, the chain broadcasting inquiry, the proposed telegraph merger, and other important matters.

Chairman James Lawrence Fly said that Mr. Cooper's services had been of great value to the Commission. "Mr. Cooper is an excellent lawyer with long experience in the regulatory field," commented the Chairman. General Counsel Telford Taylor stated that Mr. Cooper had contributed effectively to the Commission's activities in numerous important branches of its work, and paid high tribute to his ability.

Mr. Cooper has had several offers of other employment but did

not announce his plans for the future. He will continue to handle several matters which have been specifically assigned to him by the Department of Justice.

### IMPROVED RECEPTION UNDER FREQUENCY SHIFT NOTED

Advice received by the FCC indicates that the change of frequencies effected by standard broadcast stations on March 29th, as required under the North American Regional Broadcasting Agreement, was accomplished with a minimum of inconvenience to listeners as well as to broadcasters.

The shift was made according to schedule, without untoward incident. Broadcasters report that their listeners evinced no particular confusion, thanks to the advance explanations made by both radio and the press in a public effort, which was assisted by Governors' proclamations and cooperation of civic, technical and other groups.

Early reports to the FCC are to the effect that improved reception has been noted in general. Some isolated reports of interference have been traced to specific cases in which final adjustments were not completed at the exact time the reallocation became effective.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, April 7. They are subject to change.

#### Thursday, April 10

NEW—Granite District Radio Broadcasting Co., Murray, Utah.—C. P., 1500 kc. (1490 kc. when Havana Treaty is effective), 250 watts, unlimited.

#### Friday, April 11

KGNO—The Dodge City Broadcasting Company, Inc., Dodge City, Kans.—Modification of license, 1340 kc., 500 watts night, 1 KW day, unlimited. Present assignment: 1340 kc., 250 watts night, 1 KW day, unlimited.

### FUTURE HEARINGS

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

#### April 21

##### Consolidated Hearing

WPAY—Chester A. Thompson (Transferor), and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio.—Transfer of control of Corp., 1370 kc., 100 watts, unlimited.  
WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, 1370 kc., 100 watts, unlimited.

##### Joint Hearing

NEW—The Yankee Network, Inc., Boston, Mass.—C. P., 44300 kc., coverage 19,230 square miles.  
NEW—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—C. P., 43100 kc., coverage 20,437 square miles.

April 30

KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—C. P., 1410 kc., 1 KW, unlimited, DA night.

May 14

WHB—WHB Broadcasting Company, Kansas City, Mo.—C. P., 710 kc., 5 KW, DA night and day, unlimited time.

WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—C. P., 710 kc., 10 KW, unlimited, DA night.

May 21

Consolidated Hearing

NEW—R. B. Terry, D. A. Rawley, C. M. Waynick and H. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C.—C. P., 1370 kc., 100 watts, unlimited time.

NEW—Ralph L. Lewis, Greensboro, N. C.—C. P., 1370 kc., 100 watts, unlimited time.

May 26

Consolidated Hearing

WCAM—City of Camden, Camden, N. J.—Renewal of license, 1280 kc., 500 watts night, 500 watts LS, shares WTNJ and WCAP.

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Renewal of license, 1280 kc., 500 watts night, 500 watts LS, shares WTNJ and WCAM.

WTNJ—WOAX, Incorporated, Trenton, N. J.—Renewal of license, 1280 kc., 500 watts night, 500 watts LS, shares WCAM and WCAP.

WTNJ—WOAX, Incorporated, Trenton, N. J.—C. P., 1230 kc., 1 KW night, 1 KW day, unlimited, DA day and night.

NEW—Trent Broadcast Corp., Trenton, N. J.—C. P., 1230 kc., 1 KW, unlimited, DA day and night.

June 2

NEW—Symons Broadcasting Co., Ellensburg, Wash.—C. P., 1110 kc., 1 KW, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WSTV—The Valley Broadcasting Co., Steubenville, Ohio.—Granted modification of license to change hours of operation from specified to unlimited time, 1340 kc. (NARBA), power 250 watts night and day (B2-ML-1051).

WBRK—Harold Thomas (assignor), Monroe B. England (assignee), Pittsfield, Mass.—Granted consent to assignment of license for station WBRK from Harold Thomas to Monroe B. England; station operates on 1340 kc. (NARBA), 250 watts, unlimited time (B1-AL-298).

KOL—Seattle Broadcasting Co., Seattle, Wash.—Granted construction permit to increase night power from 1 KW to 5 KW and install directional antenna for day and night use; 1300 kc. (NARBA), 5 KW day, unlimited time (B5-P-3030).

WLOG—Clarence H. Frey & Robert O. Greever, Logan, W. Va.—Granted construction permit to increase power from 100 watts night and day to 250 watts night and day and make changes in equipment; 1230 kc. (NARBA), unlimited time (B2-P-3109).

KGY—KGY, Inc., Olympia, Wash.—Granted construction permit to install new antenna and increase time of operation from unlimited except when station KTW is operating, to unlimited; 1240 kc. (NARBA), 100 watts night and day (B5-P-3071).

David Rosenblum, d/b as Butler Broadcasting Co., Butler, Pa.—Granted construction permit for new standard broadcast station to operate on 680 kc., 250 watts, daytime only;

exact transmitter site to be determined with Commission's approval (B2-P-3046).

### DESIGNATED FOR HEARING

Colonial Broadcasting Corp., Norfolk, Va.—Application for construction permit for new standard broadcast station to operate on 1200 kc. (1230 kc. under NARBA), 250 watts, unlimited time; exact site and antenna system to be determined (B2-P-3039).

WABY—Adirondack Broadcasting Co., Inc., Albany, N. Y.—Application for modification of license to change frequency from 1400 kc. (NARBA), to 1240 kc. under NARBA; 250 watts night and day, unlimited time (B1-ML-1053).

### MISCELLANEOUS

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from local sunset (March 6 p. m. CST) to 9:30 p. m. on March 31, in order to broadcast political addresses only; from local sunset (April 6:30 p. m., CST) to 11 p. m., April 1, 1941, in order to broadcast City of Aurora election returns, and from sunset 11 p. m., CST, April 15, 1941, in order to broadcast election returns in communities adjacent to the City of Aurora only.

WSBT—The South Bend Tribune, South Bend, Ind.—Granted special temporary authority to operate unlimited time on 960 kc., 250 watts night, 500 watts daytime for the period March 29, 1941, to not later than April 27, 1941, pending completion of construction in accordance with permit, provided Station WFAM (also licensed to The South Bend Tribune) license be surrendered.

WHAL—Harold F. Gross and Edmund C. Shields, Saginaw, Mich.—Granted modification of construction permit which authorized a new station to be operated on 950 kc., 500 watts, daytime hours, for change in frequency to 980 kc. in accordance with NARBA; no authority to operate hereunder will be granted prior to March 29, 1941.

W2XBS—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate television broadcast station W2XBS with special emission in addition to A3 emission on Channel No. 1, in order to conduct experimental tests for the National Television Standards Committee and the National Broadcasting Co., Inc., for the period beginning April 1, 1941, and ending not later than April 30, 1941.

KAAC—American Airlines, Inc., Washington, D. C.—Granted special temporary authority to operate aircraft radio station KHALI on frequency 2790 kc. between 7:30 p. m. and 8 p. m. CSDT on March 29, 1941, in order to relay broadcast program in connection with opening of the International Flower Show at Dallas to radio station WRR.

WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Denied special temporary authority to operate from 7:30 p. m., EST, to the conclusion of State Semi-final basketball game on March 25, 1941, in order to broadcast said game only.

KBTM—Jay P. Beard, tr/as Regional Broadcast Co., Jonesboro, Ark.—Denied special temporary authority to operate with power of 250 watts nighttime on March 28, 1941.

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Granted authority to determine operating power by direct measurement of antenna input on 600 kc. under NARBA, for period beginning 3 a. m. EST, March 29 (B3-Z-720).

KSEI—Radio Service Corp., Pocatello, Idaho.—Granted authority to determine operating power by direct measurement of antenna power on 930 kc. under NARBA, for the period beginning 3 a. m. EST, March 29 (B5-Z-722).

WTAR—WTAR Radio Corp., Norfolk, Va.—Granted authority to install automatic frequency control equipment for auxiliary transmitter on 790 kc. under NARBA (B2-F-195).

KVRS—Wyoming Broadcasting Co., Rock Springs, Wyoming.—Granted authority to determine operating power by direct measurement of antenna power on 1400 kc. under NARBA, for the period beginning 3 a. m. EST, March 29 (B5-Z-719).

W6XYZ—Television Productions, Inc., Los Angeles, Cal.—Granted modification of construction permit (B5-PVB-33, which authorized a new television station) for extension of commencement and completion dates to April 15 and October 15, 1941, respectively (B5-MPVB-38).

W2XMT—Metropolitan Television, Inc., New York City.—Granted modification of construction permit (B1-PVB-40, which

- authorized a new television station), authorizing extension of commencement and completion dates to June 1, 1941, and January 1, 1942, respectively (B1-MPVB-37).
- WGEA—General Electric Co., So. Schenectady, N. Y.—Granted modification of construction permit (B1-PIB-25, which authorized increase in power, additional frequencies and new transmitter in international broadcast station) for extension of completion date to July 1, 1941 (B1-MPIB-22).
- KGEI—General Electric Co., San Francisco, Cal.—Granted modification of construction permit (B5-PIB-24, which authorized installation of new transmitter and increase in power of international broadcast station) for extension of completion date to July 1, 1941 (B5-MPIB-23).
- KALW—Board of Education of San Francisco Unified School Dist., San Francisco, Cal.—Granted modification of construction permit (B5-PED-14, for new non-commercial educational broadcast station) for extension of completion date to May 14-41.
- WHIZ—WALR Broadcasting Corp., Zanesville, Ohio—Granted modification of license to change name of licensee to Southeastern Ohio Broadcasters, Inc., for period beginning 3 a. m., EST, March 29 (B2-ML-1056).
- WBEN—WBEN, Inc., Buffalo, N. Y.—Granted modification of construction permit (B1-P-2757, for new transmitter, directional antenna for night use, increase in power to 5 KW, and move of transmitter), for extension of completion date to June 1, 1941 (B1-MP-1200).
- WKST—WKST, Inc., New Castle, Pa.—Granted modification of construction permit (B2-P-2809, to install directional antenna for night use, change hours of operation to unlimited, using 1 KW day and night), for changes in D.A. system, and to request 1280 kc. under NARBA (B2-MP-1206).
- WOV—Greater New York Broadcasting Corp., New York City.—Granted license to cover construction permit (B1-P-2753) for new equipment, increase in power, installation of directional antenna, for period beginning 3 a. m. EST, March 29 (B1-L-1341). Also granted authority to determine operating power by direct measurement of antenna input on 1130 kc. under NARBA, for period beginning 3 a. m. EST, March 29 (B1-Z-700).
- WIOD—Isle of Dreams Broadcasting Corp., Miami, Fla.—Granted license to cover construction permit (B3-P-2476, which authorized installation of new transmitter, increase in power and installation of D. A. for day and night use, and move of transmitter) for the period beginning 3 a. m., EST, March 29 (B3-L-1339). Also granted authority to determine operating power by direct measurement of antenna input for period beginning 3 a. m., March 29 (B3-Z-696).
- WIBW—Topeka Broadcasting Assn., Inc., Topeka, Kans.—Granted license to cover construction permit (B4-P-2674) which authorized increase in night power using directional antenna at night, for period beginning 3 a. m., EST, March 29 (B4-L-1342). Also granted authority to determine operating power by direct measurement of antenna input for period beginning 3 a. m., March 29 (B4-Z-701).
- Greenville Broadcasting Co., Portable-Mobile (Area of Greenville, N. C.).—Granted construction permit for new relay broadcast station; frequencies 1622, 2058, 2150, 2790 kc.; 40 watts; to be used with WGTC, Greenville, N. C. (B3-PRY-236).
- WDOD—WDOD Broadcasting Corp., Chattanooga, Tenn.—Granted authority to install automatic frequency control equipment, on 1310 kc. under NARBA (B3-F-178).
- WKAT—A. Frank Katzentine, Miami Beach, Fla.—Granted construction permit to use formerly licensed W.E. 250 watt transmitter as auxiliary, and install new crystal oscillator for 1330 kc. (1360 kc. under NARBA) (B3-P-3120).
- WDOD—WDOD Broadcasting Corp., Chattanooga, Tenn.—Granted modification of construction permit (B3-P-2641, authorizing installation of directional antenna system for night use, increase power to 5 KW and move transmitter), for 1310 kc. under NARBA, changes in D.A. system, and extension of completion date to 180 days after grant (B3-MP-1216).
- WELI—City Broadcasting Corp., New Haven, Conn.—Granted modification of construction permit (B1-ML-868, which authorized increase in power and changes in directional antenna), for 960 kc. under NARBA, changes in directional antenna, and extension of commencement and completion dates to 1 day and 180 days after grant respectively (B1-MP-1209).
- WRC—National Broadcasting Co., Inc., Washington, D. C.—Granted modification of construction permit (B1-P-243, as modified, which authorized increase in power, installation of DA for night use), for extension of completion date to May 5, 1941 (B1-MP-1207).
- WEXL—Royal Oak Broadcasting Co., Royal Oak, Mich.—Granted modification of construction permit (B2-P-2459, which authorized move of transmitter, increase in power, installation of new transmitter and antenna) for approval of transmitter site at NE Corner of Woodward Heights Blvd. and Huron St., Ferndale, Mich. (B2-MP-1147).
- WAPF—City of Flint, Flint, Mich.—Granted motion to dismiss from hearing docket the application for a new airport station to operate on 278 kc., 15 watts, unlimited time.
- WNYC—Municipal Broadcasting System of the City of New York.—Dismissed without prejudice petition for intervention in the hearing on application of Camden Broadcasting Company for a new station in Camden to operate on 800 kc., 500 watts, unlimited time.
- Butler Radio, Inc., Tyler, Texas.—Dismissed motion for leave to amend application for construction permit to specify frequency 1400 kc. under NARBA.
- Ralph L. Lewis, Greensboro, N. C.—Dismissed motion for leave to amend application to specify frequency 1400 kc. under NARBA.
- Symons Broadcasting Co., Ellensburg, Wash.—Granted motion to continue hearing now set for April 1 for a period of 60 days in re application for construction permit to operate on 1110 kc., 1 KW, unlimited time.
- WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Passed motion for leave to amend application with regard to directional antenna, in reconstruction permit to change frequency, etc.
- WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Denied motion for continuance of oral argument now scheduled for March 31, in re application for renewal of license.
- KOMA—KOMA, Inc., Oklahoma City, Okla.—Granted extension of time to April 30 within which to file amendment to application for construction permit to change frequency, etc.
- KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—Granted motion to continue hearing now scheduled for March 31 for period of 30 days, on application for construction permit to change frequency, etc.
- WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—The Commission on its own motion consolidated the hearing and continued same to May 26, on applications of renewal of licenses for WCAM, WCAP and WTNJ, and for construction permits for Trent Broadcast Corp., WTNJ and WDAS. Motion of WDAS to continue hearing dismissed.
- Mollin Investment Co., Riverside, Calif.—Denied as in cases of default the application for construction permit for a new broadcast station. Applicant failed to appear and offer evidence in support of the application to use 1390 kc., 50 watts, daytime only.
- Columbia Broadcasting System, Inc., Boston, Mass.—Passed petition to intervene in the hearing on application of The Outlet Co. for a new station in Providence, R. I., to operate on 44,300 kc., 16,370 square miles.
- Columbia Broadcasting System, Inc., Boston, Mass.—The Commission on its own motion continued hearing now scheduled for April 7 to April 21, on applications of Yankee Network, Inc., Worcester Telegram Publishing Co., and Columbia Broadcasting System, Inc., for new FM stations.
- WJAR—The Outlet Co., Providence, R. I.—Passed petition for leave to intervene and enlarge issues in re applications of Yankee Network, Inc., and Worcester Telegram Publishing Co., Inc., referred to above.
- Columbia Broadcasting System, Inc., Boston, Mass.—Passed motion to grant amendments to change frequency and change site in re its application for new FM station.
- KAWN—A. W. Mills, Gallup, New Mexico—Granted extension of special temporary authority to remain silent for the period March 31 to April 29, pending action on application to install new equipment (B3-S-922).
- W71NY—Bamberger Broadcasting Service, Inc., New York City.—Granted special temporary authority to operate frequency modulation station commercially on 47,100 kc., 100 watts, special emission for FM at 444 Madison Ave., New York City, for a period ending no later than May 17, 1941, pending completion of construction under (B1-PH-46 and B1-MPH-8).
- WMVA—Martinsville Broadcasting Co., Martinsville, Va.—Granted modification of construction permit (B2-P-2226

which authorized a new station to operate on 1420 kc., 100 watts night, 250 watts day, unlimited hours, for change in frequency to 1450 kc. under NARBA. No authority to operate will be granted prior to March 29.

The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to originate the broadcast of a Stanley Cup Hockey play-off on March 29, in Boston, to be carried over the wires of AT&T or a subsidiary to Toronto, there to be broadcast by stations of Canadian Broadcasting Corp.

The Yankee Network, Inc., Boston, Mass.—Granted special temporary authorization to originate the broadcast of a Stanley Cup Hockey play-off on April 3, in Boston, to be carried over wires of AT&T or a subsidiary to Toronto, there to be broadcast by station CKCL from 9 p. m. EST, to conclusion of game.

WYNE—Board of Education, City of New York.—Granted extension of special temporary authorization to continue to operate non-commercial Educational Broadcast Station WYNE on 41100 kc., for the period April 1 to April 30, pending action on application for construction permit for frequency modulation and until construction is completed in accordance with terms of application.

W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on frequency 43200 kc., 2500 watts, special emission for FM, with transmitter located at New Scotland, N. Y., for the period April 1 to April 30, 1941.

KEMA—May Seed & Nursery Co. (assignor), May Broadcasting Co. (assignee), Shenandoah, Iowa.—Entered order dismissing application for voluntary assignment of license of relay station KEMA (B4-ALRY-11).

WSVS—Board of Education, City of Buffalo, N. Y.—Granted authority to install automatic frequency control equipment on 1400 kc. under NARBA (B1-F-202).

KSCJ—Perkins Brothers Co. (The Sioux City Journal), Sioux City, Iowa.—Granted modification of construction permit (B4-P-2290, which authorized installation of directional antenna for night use, and increase in power) for changes in directional antenna on 1360 kc. under NARBA, and extension of completion date to 180 days after grant (B4-MP-1236).

National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to rebroadcast program over WEFW and the Red Network entitled "Defense of America," from 7 p. m. to 7:30 p. m. EST, March 29, 1941, to be received from U. S. airplane in flight over Cleveland, Ohio; reception to be effected by special temporary receiving station by NBC in Cleveland.

#### APPLICATIONS FILED AT FCC

##### 550 Kilocycles

KOAC—Oregon State Agricultural College, Corvallis, Oregon.—Modification of construction permit (B5-P-2422) for new transmitter installation of directional antenna increase in power and move of transmitter, for extension of completion date from 4-14-41 to 7-14-41.

KOY—Salt River Valley Broadcasting Co., Phoenix, Ariz.—License to cover construction permit (B5-P-3078) for new transmitter.

##### 570 Kilocycles

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Modification of license to change hours from specified to unlimited. Facilities of WOSU (agreement attached).

WOSU—The Ohio State University, Columbus, Ohio.—Construction permit to install new transmitter, change frequency, power and hours from 570 kc., 1 KW specified hours to 880 kc. (820 kc. under NARBA), 5 KW, limited, to local sunset at Dallas, Texas.

KUTA—Jack Powers, Frank C. Carman, David G. Smith and Grant R. Wrathall, d/b as Utah Broadcasting Co., Salt Lake City, Utah.—Modification of construction permit (B5-P-2342) for new transmitter, directional antenna for day and night use, change frequency, increase power and move of transmitter, requesting changes in equipment, change directional antenna (day and night) increase power to 1 KW night, 5 KW day; change proposed transmitter site, extend commencement date to 60 days after grant and completion date to 180 days thereafter.

WSYR—Central New York Broadcasting Corp., Syracuse, N. Y.—Construction permit to install new transmitter, changes in directional antenna (day and night use) and increase power from 1 KW to 5 KW. Amended: re antenna.

##### 620 Kilocycles

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Modification of license to increase power from 500 watts night using directional, 1 KW day to 1 KW day and night using directional antenna night.

##### 680 Kilocycles

WPTF—WPTF Radio Co., Raleigh, N. C.—Modification of construction permit (B3-P-2216) as modified, for new equipment, increase in power and changes in directional antenna, requesting extension of time from 4-16-41 to 6-1-41.

##### 890 Kilocycles

KFUO—Evangelical Lutheran Synod of Missouri, Ohio and Other States, Clayton, Mo.—Authority to determine operating power by direct measurement of antenna power on 850 kc. under NARBA.

##### 920 Kilocycles

NEW—Alamance Broadcasting Co., Inc., Burlington, N. C.—Construction permit for new broadcast station on 890 kc. (920 kc. under NARBA), Class III, 1 KW, daytime. Amended: stock ownership.

KFEL—Eugene P. O'Fallon, Inc., Denver, Colo.—Authority to determine operating power by direct measurement of antenna power.

KFEL—Eugene P. O'Fallon, Inc., Denver, Colo.—License to cover construction permit (B5-P-2577) as modified for move of transmitter, install new transmitter, increase in power and directional antenna for day and night use.

KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Modification of construction permit (B5-P-2848) for directional antenna, increase in power, requesting 950 kc. under NARBA and changes in directional antenna.

##### 940 Kilocycles

WCSH—Congress Square Hotel Co., Portland, Maine.—License to cover construction permit (B1-P-2535) as modified for increase in power and installation of directional antenna for day and night use.

WCSH—Congress Square Hotel Co., Portland, Maine.—Authority to determine operating power by direct measurement of antenna power.

##### 950 Kilocycles

WRC—National Broadcasting Co., Inc., Washington, D. C.—Modification of construction permit (B1-P-243) as modified, requesting 980 kc. under NARBA.

##### 970 Kilocycles

KJR—Fisher's Blend Station, Inc., Seattle, Wash.—Construction permit changes in equipment, directional antenna for night use, increase power to 50 KW, move transmitter. Amended to specify 1000 kc. under NARBA, and change directional antenna.

##### 980 Kilocycles

NEW—Greensboro Broadcasting Co., Inc., Thomasville, N. C.—Construction permit for a new station on 980 kc. under NARBA, 1 KW power, daytime, transmitter Greensboro, N. C. Amended: Studio site changed from Thomasville to site to be determined, Greensboro, N. C.

##### 990 Kilocycles

WBZ—Westinghouse Electric & Manufacturing Co., Boston, Mass.—License to cover construction permit (B1-P-2998) for new transmitter, directional antenna for day and night, and move of transmitter. Amended: To change name to Westinghouse Radio Stations, Inc.

WBZ—Westinghouse Electric & Manufacturing Co., Boston, Mass.—Authority to determine operating power by direct measurement. Amended: To change name to Westinghouse Radio Stations, Inc.

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Modification of license to change hours from daytime (NARBA) to limited to Knoxville, Tenn.

#### 1020 Kilocycles

KYW—Westinghouse Electric & Manufacturing Co., Philadelphia, Pa.—Authority to install automatic frequency control on 1060 kc. NARBA. Amended to change name to Westinghouse Radio Stations, Inc.

#### 1120 Kilocycles

WISN—Hearst Radio, Inc., Milwaukee, Wis.—Modification of construction permit (B4-P-2608) as modified for new transmitter, directional antenna day and night, increase power and move of transmitter, requesting 1150 kc. under NARBA, changes in directional antenna and extension of completion date to 180 days after grant.

#### 1210 Kilocycles

WEBQ—Harrisburg Broadcasting Co., Harrisburg, Ill.—Construction permit to move transmitter to lower floor same building, install new transmitter changes in antenna and 1240 kc. under NARBA.

KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Authority to determine operating power by direct measurement on 1240 kc. under NARBA.

WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Authority to determine operating power by direct measurement on 1240 kc. under NARBA.

WTMA—Atlantic Coast Broadcasting Co., Charleston, S. C.—Authority to determine operating power by direct measurement on 1250 kc. under NARBA.

KFXM—J. C. Lee & E. W. Lee (Lee Bros. Broadcasting Co.), San Bernardino, Calif.—Authority to determine operating power by direct measurement on 1240 kc. under NARBA.

#### 1220 Kilocycles

KWSC—State College of Washington, Pullman, Wash.—Modification of construction permit (B5-MP-2911) for changes in equipment, automatic frequency control, requesting extension of completion from 4-9-41 to 10-9-41.

KWSC—State College of Washington, Pullman, Wash.—Modification of construction permit (B5-MP-1240) for changes in equipment, automatic frequency control, requesting authority to install automatic frequency control for 1250 kc. under NARBA and extend commencement date to 10 days after grant and completion to 180 days thereafter.

#### 1230 Kilocycles

NEW—Greater Houston Broadcasting Co., Inc., Houston, Texas.—Construction permit for new broadcast station on 1230 kc., Class IV, 250 watts, unlimited time.

#### 1260 Kilocycles

WTOC—Savannah Broadcasting Co., Savannah, Ga.—Modification of construction permit (B3-P-2944) as modified, requesting increase in power from 1 KW night, 5 KW day to 5 KW day and night, changes in directional antenna for night use, and 1290 kc. under NARBA, and extension of commencement and completion dates.

KOIL—Central States Broadcasting Co., Omaha, Nebr.—Modification of construction permit (B4-P-2609) for installation of directional antenna for night use, increase in power, requesting 1290 kc. under NARBA and changes in DA.

#### 1270 Kilocycles

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Construction permit to increase power from 1 KW, 5 KW LS to 5 KW day and night, make changes in directional antenna for day and night use, requesting 1300 kc. under NARBA.

#### 1310 Kilocycles

WJPR—John R. Pepper, Greenville, Miss.—Construction permit to change frequency from 1310 kc. to 1600 kc. (under NARBA), power from 250 watts to 1 KW, install new transmitter. Amended: To change type of transmitter.

WFBG—The Gable Broadcasting Co. (Lessee), Altoona, Pa.—Authority to determine operating power by direct measurement on 1340 kc. under NARBA.

WGAU—J. K. Patrick, Earl B. Braswell, Tate Wright, C. A. Rowland & A. L. Brannen, d/b as J. K. Patrick & Co., Athens, Ga.—Authority to determine operating power by direct measurement.

#### 1330 Kilocycles

WSAI—The Crosley Corp., Cincinnati, Ohio.—Modification of construction permit (B2-P-2221) as modified for increase in power, directional antenna for night use, move of transmitter, for 1360 kc. under NARBA, changes in directional antenna and extension of completion date from 7-15-41 to 180 days after grant.

#### 1340 Kilocycles

WEXL—Royal Oak Broadcasting Co., Royal Oak, Mich.—Authority to determine operating power by direct measurement of antenna power.

WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Authority to transfer control of corporation to Bradley R. Eidman.

KXRO—KXRO, Incorporated, Aberdeen, Wash.—Authority to install automatic frequency control equipment on 1340 kc.

#### 1370 Kilocycles

WFOR—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—License to cover construction permit (B3-P-3015) for changes in equipment and increase power.

KTSW—Emporia Broadcasting Co., Inc., Emporia, Kans.—Authority to determine operating power by direct measurement on 1400 kc. under NARBA.

#### 1390 Kilocycles

KUJ—KUJ, Incorporated, Walla Walla, Wash.—License to cover construction permit (B5-P-2610) as modified, for change of frequency, increase power, new transmitter and changes in antenna and move of transmitter on 1420 kc. under NARBA.

KUJ—KUJ, Incorporated, Walla Walla, Wash.—Authority to determine operating power by direct measurement.

#### 1400 Kilocycles

NEW—George Grant Brooks, Jr., Scranton, Pa.—Construction permit for new station, Class IV on 1370 kc., 1400 kc. under NARBA, 250 watts, unlimited time. Antenna, transmitter and studio sites to be determined, Scranton, Pa. Requests facilities WARM.

#### 1420 Kilocycles

WFCI—Pawtucket Broadcasting Co., Pawtucket, R. I.—Modification of construction permit (B1-P-1877) as modified for a new station, requesting extension of completion from 4-17-41 to 5-17-41.

WAPO—W. A. Patterson, Chattanooga, Tenn.—Authority to install automatic frequency control on 1150 kc. under NARBA.

WAOV—Vincennes Newspapers, Inc., Vincennes, Ind.—Construction permit to make changes in equipment and increase power from 100 watts to 250 watts.

#### 1450 Kilocycles

NEW—South Florida Broadcasting, Inc., Miami, Fla.—Construction permit for new broadcast station on 1500 kc., 250 watts, unlimited time. Amended to change frequency to 1450 kc. under NARBA.

#### 1500 Kilocycles

KEYS—Earl C. Dunn and Chas. W. Rossi, d/b as Nueces Broadcasting Co., Corpus Christi, Texas.—License to cover con-

struction permit (B3-P-2931) as modified for a new broadcast station. Amended: to specify **1490 kc.** under NARBA. KRNR—News-Review Co., Roseburg, Oregon.—Construction permit to request **1490 kc.** under NARBA, increase in power from 100 watts night, 250 watts day to 250 watts day and night and changes in antenna. KDAL—Red River Broadcasting Co., Inc., Duluth, Minn.—Construction permit to change frequency from **1500 kc.** (**1490 kc.** NARBA) to **610 kc.**, increase power from 250 watts to 1 KW, install directional antenna for night use, new equipment and move transmitter locally.

### FM APPLICATION

K45LA—Don Lee Broadcasting System, Los Angeles, Calif.—Modification of construction permit (B5-PH-26) for new high frequency broadcast station, requesting change in coverage from 7000 to 7585 square miles, changes in antenna, move studio locally, and extend commencement and completion dates to 60 days after grant and 180 days thereafter respectively.

### TELEVISION APPLICATION

W8XCT—The Crosley Corp., Cincinnati, Ohio.—Modification of construction permit (B2-PVB-23) which authorized new television station, requesting extension of completion date from 4-28-41 to 10-28-41.

### MISCELLANEOUS APPLICATIONS

WRCA—National Broadcasting Co., Inc., Bound Brook, N. J.—License to cover construction permit (B1-PIB-29) as modified for increase in power, change in frequencies and equipment. International Station. WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Modification of construction permit (B1-PIB-28) as modified requesting additional frequencies **11890** and **15150 kc.** and extend commencement and completion dates to immediately and 30 days thereafter, also make changes in equipment. KALW—Board of Education of The San Francisco Unified School District, San Francisco, Calif.—License to cover construction permit (B5-PED-14 as modified) for new non-commercial educational broadcast station. NEW—San Diego Unified School District, San Diego, Calif.—Construction permit for a new non-commercial educational broadcast station to be operated on **42300 kc.**, 1000 watts, unlimited time, special emission for frequency modulation.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Bard-Parker Co., Inc.**, and its subsidiary and selling agent, Parker, White & Heyl, Inc., both of Danbury, Conn., are charged, in a complaint, with misleading representation in the sale "Bard-Parker Formaldehyde Germicide."

According to the complaint the respondents, in periodical and circular advertisements disseminated in various States, represent that "Bard-Parker Formaldehyde Germicide" is an efficient, practical and certain sterilization medium for surgical and dental instruments, and that it is a safe substitution for heat sterilization.

The complaint alleges that while the respondents' preparation has germicidal properties it will not, when used in accordance with the technique ordinarily associated with sterilization, destroy all forms

of bacteria, and is neither an efficient and certain sterilization medium nor a safe substitute for heat sterilization. (4478)

**Bengor Products Company**—A complaint has been issued charging Benjamin Gordon and Louis Gordon, trading as Bengor Products Co. and Magnet Merchandise Co., 878 Broadway, New York, with the use of lottery methods in the sale of merchandise. The respondents sell drug sundries, notions, household specialties, and other novelty merchandise.

The respondents, according to the complaint, sell to dealers assortments of merchandise so packed and assembled as to involve the use of a lottery scheme or game of chance when the merchandise is sold to the consuming public. Push card devices are used, the complaint alleges.

Charging that the respondents' practices have been contrary to Federal Government public policy and the Federal Trade Commission Act, the complaint grants the respondents 20 days for filing answer. (4474)

**Boyer Brothers**—Trading as Boyer Brothers, William E. Boyer and Robert J. Boyer, Altoona, Pa., have been served with a complaint charging the use of lottery methods in the sale of candy.

The respondents, according to the complaint, sell to wholesale dealers and jobbers assortments of candy, and cause push cards which are designed to be used with the assortments to be transported by means of the respondents' salesmen and otherwise to such dealers and jobbers, who, in turn, assemble the push cards and candy into single assortments for sale to the retail trade. The complaint alleges that retail dealers sell the candy to the public in accordance with the respondents' sales plan. The respondents, according to the complaint, thus supply to others the means of conducting lotteries in the sale of their candy.

Charging that the respondents' practices have been contrary to Federal Government public policy and the Federal Trade Commission Act, the complaint grants the respondents 20 days for filing answer. (4475)

**Charles B. Joyce Company**—A complaint has been issued charging Morris L. Myers, trading as Charles B. Joyce Co., 2425 North Halsted St., Chicago, with the use of lottery methods in the sale of merchandise. The respondent sells radios, clocks, flashlights, clothing, and novelty merchandise.

The respondent, according to the complaint, sells to dealers and other purchasers assortments of merchandise so packed and assembled as to involve the use of a lottery scheme when the merchandise is sold to the consuming public. Punch board devices are used, the complaint alleges.

Charging that the respondents' practices have been contrary to Federal Government public policy and the Federal Trade Commission Act, the complaint grants the respondent 20 days for filing answer. (4476)

**Ragsdale, Inc.**—A complaint has been issued charging an East Orange, N. J., group with misleading representations in the sale of instruction courses, outfits and supplies represented as offering an opportunity for a person to establish a candy business in his home. The respondents are W. Hillyer Ragsdale and Annie M., Marshall D., and Ida J. Ragsdale, trading under the names W. Hillyer Ragsdale, W. Hillyer Ragsdale, Inc., and Ragsdale Candies, 307 North Walnut St., East Orange, N. J.

The complaint alleges that through advertisements in periodicals circulated in various States the respondents represent that their outfits and instruction afford an opportunity for all men and women, regardless of prior training, experience, or capital, to enter the home-made candy making business; that such persons, upon purchase of the outfits and instructions, because of the respondents' help, will be enabled to set themselves up in a profitable business which can be operated from or in the home, and that by use of the methods outlined in the respondents' course and the equipment, tools, and supplies furnished, and because of the assistance given, all such men and women are assured of success and a steady income from the start either on a part-time or full-time basis.

Alleging that there is no basis in fact for the various assurances given by the respondents to prospective purchasers of their instruction and equipment, the complaint charges violation of the Federal Trade Commission Act and grants the respondents 20 days for answering the charges. (4472)

**Stetson China Co., Inc.**, 1801 West 74th St., Chicago, distributor of dinnerware, is charged, in a complaint, with misrepresentation.

The complaint alleges that the respondent corporation disseminated printed matter representing that certain of its products are a reproduction of expensive, imported chinaware and that the prices are special or reduced, when in fact the chinaware offered is of ordinary quality and the prices advertised as special are in fact the regular retail prices. (4477)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Air Conditioning Training Corporation**, Youngstown, Ohio, and three of its officers, has been ordered to cease and desist from misrepresentations in the sale of courses in air conditioning and refrigeration conducted wholly or partly by correspondence. The respondent officers are Benjamin M. Klekner, Morris A. Gluck, and Leon J. Knight.

Commission findings are that in radio continuities broadcast over more than 75 stations having interstate reception, in advertising literature, and through their salesmen, the respondents represented, among other things, that graduates are assured employment in the air conditioning and refrigerating industry; that jobs are either guaranteed or promised; that the courses are given with the industry's cooperation or are sponsored by industry members, and that industry members will employ graduates.

According to findings, students completing the courses are unable to find employment, except in rare instances; industry members refuse to hire such graduates unless they can show substantial practical experience, and many industry members prefer to employ college graduates for installation work or trained men from the plumbing, electric and pipe-fitting trades for service work.

The Commission order directs the respondents to cease making such representations concerning the availability of employment for graduates and the cooperation of the industry, and, further to discontinue representing that industry members formulated or assisted in formulating the respondents' courses, and actively participated in the school's conduct; that the respondents' salesmen are vocational directors or experts; that part time work in servicing air conditioning and refrigeration equipment is available to students while pursuing the respondents' courses; that such students are qualified for that work, and that the industry's demand for men cannot be satisfied through the usual channels.

The order further directs the respondents to cease representing that starting wages for their graduates are higher than apprentice wages in the industry; that persons other than those having previous mechanical experience, or who have demonstrated an aptitude for mechanics, are qualified to pursue the respondents' courses and occupy positions in the industry requiring technical skill and scientific knowledge; that the tuition fee is less than is stated in the respondents' contract; that there are no charges other than tuition cost, or that students may take the laboratory training without completion of tuition payments, and that the laboratory or shop equipment is of greater extent and more comprehensive than it is in fact. (4182)

**Claro Laboratories, Inc.**, South Bend, Ind., and its owners, Joseph Ferdinand Claro Przybysz (also known as Joseph Ferdinand Claro) and Frances Przybysz, have been ordered to cease and desist from misrepresentations in the sale of "Claro Hair Remover."

The Commission order directs the respondents to cease representing that their preparation constitutes a safe or non-irritating means of removing superfluous hair, or that it will permanently remove such hair or retard its growth.

Commission findings are that because of the barium sulphide and potassium hydroxide in the respondent's preparation, its use will dissolve that portion of the hair above the skin with which it comes in contact, but will not affect the roots of the hair or retard hair growth and will not permanently remove superfluous hair. The respondent's preparation, according to findings, is not safe or non-irritating because under the conditions of use it will irritate the skin and is likely to cause severe dermatitis and chemical burns. (3663)

**Consolidated Book Publishers, Inc.**, 537 Dearborn St., Chicago, has been ordered to cease and desist from making misleading representations concerning its "Standard American Encyclopedia" and "Universal Dictionary of the English Language," which, according to findings, have been sold to newspapers and motion picture theaters for use as premiums to stimulate circulation or attendance, and to news agencies, the trade, and to retailers for sale to the public.

Commission findings are that the respondent represented in advertisements circulated in various States that the Standard American Encyclopedia is available to the public at a low price only because of its sponsorship by the American Home Library Foundation, represented as being a beneficent and educational institution. However, the findings relate that the American Home Library Foundation did not represent an organization of the type claimed, but was an affiliate corporation cooperating with the respondent in the sale of the encyclopedia for a profit, and that its activities did not lower the price of the books.

The Commission order prohibits the respondent from making such representations and further directs it to cease advertising that the encyclopedia is a "Giant" home reference library; that the editorial cost of its production was a million dollars; that the supply is limited and that the "de luxe" edition's binding is made of anything other than imitation leather.

The order further directs the respondent to discontinue representing that the Universal Dictionary of the English Language is new throughout or is anything other than an American publication of a dictionary first published in England in 1932 under the same name by another publisher except for specified changes which, in fact, were made.

Under the order the respondent also is prohibited from representing that the definitions of the words or phrases of the 1932 edition of the dictionary have been newly written or rewritten; that 12 years or any longer period than was actually required was needed to prepare the dictionary for publication and in publishing the first edition, and that Oxford University or any such educational institution sponsored or contributed in any way to its publication. (4440)

**Electrical Laboratories Co., Inc.**, 49 East 21st St., New York, manufacturer of aerial eliminators, antennae and other devices for use in connection with radio receiving sets, has been ordered to cease and desist from misrepresentations in the sale of its "Walco Aerial Eliminator" or "Dynamic Antenna."

The Commission order directs the respondent to cease advertising that its device improves selectivity and tone, gives volume and distance equal to outdoor aerials and with better selectivity, and ends all dangers of lightning, storms, and short circuits, except insofar as these dangers may be due to the maintenance of an outside aerial.

Under the order, the respondent corporation also is prohibited from representing that its device eliminates clicks and noises resulting from wind and rain, except insofar as these may be due to the physical movement of an outside aerial resulting from such causes.

Commission findings are that the selectivity of receiving sets is dependent upon design, quality, workmanship, and other factors, and is not improved by the use of the respondent's device in place of an outdoor aerial. (3707)

**Erie Laboratories, Inc.**—A Cleveland group has been ordered to cease disseminating false advertisements in the sale of a medicinal preparation known as "Mrs. Bee Femo Caps" and as "Femo Caps," and "Bee Caps." The respondents are: Erie Laboratories Inc., also trading as Mack Pharmacal Co., Allied Pharmacal Co., also trading as Erie Laboratories, Inc., and Melvin Rose, David F. Berland, and Rosen Kottenburg, officers and directors of Allied Pharmacal Co., all of 2108 Payne Ave., Cleveland.

The Commission order directs the respondents to cease and desist from disseminating advertisements which represent that their preparation is an effective treatment for delayed menstruation and is safe or harmless, or which fail to reveal that use of the product may cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs or other serious injury to health. (4282)

**Trudeau Candies, Inc.**, 287 East 6th Street, St. Paul, Minn., has been ordered to cease and desist from selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

The Commission order further directs the respondent to cease and desist from supplying to others candy or any other merchandise, together with punch boards, push or pull cards or other lottery devices, or from supplying such devices, either with assortments of candy or other merchandise or separately, which devices may be used in selling or distributing such merchandise to the public. (4376)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Boutross Brothers**—George Boutross, trading as Boutross Brothers, 320 Fifth Ave., New York, importer, has entered into a stipulation in which he agrees to cease employing the word "Tuscany" or the letters "Tusc." or any simulation of the word Tuscany as descriptive of articles not actually made in the Italian district or province of Tuscany of linen thread. The stipulation points out that true Tuscany lace is a hand-made fillet lace of grape design produced from linen thread in the Tuscany district of province of Italy. The respondent also stipulates that he will cease using the word "manufacturers" or any word of similar implication on his stationery or printed matter so as to imply that he manufactures the articles he sells, or owns and controls the plant in which they are produced. (3053)

**John H. Breck, Inc.**, Springfield, Mass., entered into a stipulation in which it agrees to cease making certain representations in the sale of medicinal preparations or cosmetics known as "Breck's Hair Tonic", designated by the number 1A, 1B, or 3, "Breck's Lather-Oil pH8 Shampoo", "Breck's Special Scalp Cream", "Breck's No. 1 Hair Cream", "Breck's No. 2 Hair Cream", and "Breck's Ointment."

The respondent corporation agrees to desist from advertising, directly or by implication, or by pictorial illustration or otherwise, that any of its medicinal preparations or cosmetics, whether used alone or in combination with any other product, is a departure from other systems of treatment for the alleviation of hair and scalp troubles, or is a competent treatment or effective remedy for eczema of the scalp, psoriasis, alopecia areata, or for headache, troublesome monthly periods, or sick stomach.

Under its stipulation, the respondent further agrees to cease representing, among other things, that any of its products is an effective remedy for adhesions or that it will bring about a normal condition of the scalp connective muscles; will cause hair to grow, save the old hair, stop or prevent falling hair or atrophy of the hair or the excessive loss of hair; that any such product will start or encourage new growth, quicken the growth of hair or delay the graying of hair; or will prevent the loss of hair following erysipelas, scarlet fever, and other diseases, or conditions, or restore or aid in restoring hair where the loss is due to such causes. (02757)

**Ferd. T. Hopkins & Son**—Ferd. T. Hopkins, trading as Ferd. T. Hopkins & Son, 430 Lafayette St., New York, has entered into a stipulation in which he agrees to cease advertising that "Mother-sill's Seasick Remedy" will prevent or stop travel sickness or that it will assure travel comfort. The respondent's stipulation relates that while this preparation may help to overcome some symptoms of travel sickness, it cannot be relied upon to stop or prevent them, nor to assure travel comfort. (02755)

**J. L. Hopkins & Co., Inc.**, 220 Broadway, New York, has entered into a stipulation in which it agrees to cease representing that its product "Red-Rat-Squill" will kill rodents other than rats and mice and is the surest and most satisfactory way to destroy rats and mice; that it will check obnoxious odors; that tests of the product guarantee uniformity of toxic strength, and that baits mixed with the preparation and exposed to the air will not, over a protracted period of time, become rancid. According to the stipulation, the use of the respondent's products will not accomplish the results claimed. (02758)

**Macfadden Book Co., Inc.**, 205 East 42nd St., New York, entered into a stipulation in which it agrees to cease representing that

the book "Hair Culture", which it sells, contains methods, advice, or instructions which, when observed and applied, will prevent, correct the cause of, or cure, baldness, dandruff, brittleness, split hair or graying hair; will prevent or stop falling hair where such condition is not caused by improper scalp hygiene, or will increase the strength of the hair. (02756)

**Moderno Company**—Mariano Pollina, formerly in the business of distributing health food products at 16 West 22nd St., New York, under the trade names Vimm Wheat Germ Products Co. and Moderno Co., entered into a stipulation that he would not make certain representations concerning the products should he ever resume advertising or selling them.

The respondent Pollina asserted in his stipulation that he had sold his interest in the two trade names and the food products to a corporation which is now operating.

Under his stipulation, the respondent Pollina agrees that should he ever resume the advertisement and sale of the products, he will not represent, directly or by implication, among other things, that the product "Vimm's Wheat Germ Oil Capsules" will assure good health, and will normalize, strengthen, revive or prolong reproductive functions; that "Fortified Palm-Co" will prevent tooth decay, premature aging, nervousness or acidity, and is essential for growing children and pregnant women; that "Plain Palm-Co" assures digestive vigor, is a perfect natural food containing the greatest possible concentration of vital, health-forming elements in digestible form; and that "Vimm's Whole Wheat Germ" is the world's richest natural source of Vitamins B, E, and G, a good source of Vitamins A and C, and is concentrated with iron, copper, potassium, magnesium and manganese or any of these elements. (02754)

**Pioneer Manufacturing Co.**, 3053 East 87th St., Cleveland, stipulated that it will cease representing its product "KO" (Kills Odor) as meeting all the requirements for a perfect or ideal disinfectant. The respondent corporation also agrees to desist from the representation that its preparation will kill all forms of germs in 30 minutes or that it is effective for killing germs suspended in the air. (3052)

**William Ganson Rose, Inc.**, 522 Terminal Tower, Cleveland, an advertising agency, stipulated that it will cease certain representations in the advertisement of "Rahnous Capsules" and "Rahnous Nasal Drops" on behalf of the distributor of those preparations, E. W. Rahn, Cleveland.

The respondent agency agrees to cease disseminating advertisements of Rahnous Capsules, Rahnous Nasal Drops No. 1, and Rahnous Nasal Drops No. 2, which represent that these products, alone or in combination, are an effective remedy, cure or preventive of colds or catarrh or that they are a competent treatment in excess of affording temporary relief from the symptoms and discomforts associated with such condition.

The respondent agency also agrees to cease advertising that by use of the preparations, alone or in combination, one will never be bothered with colds or will be enabled to forget colds, and that Rahnous Capsules are of aid in building body resistance or that they regulate the body. (02753)

**W. F. Young, Inc.**, Springfield, Mass., has entered into a stipulation in which it agrees to cease making certain representations in the sale of the medicinal preparation "Absorbine, Jr."

The respondent corporation agrees to cease advertising that Absorbine, Jr. kills the fungi of athlete's foot so as to represent that it kills such fungi as are buried beneath the corneous layer of the skin. The respondent also stipulates that it will desist from the representation that the product has any effect upon tissues deeper than those supplied by the peripheral vascular system or that accepted laboratory tests have proved that it achieves such results.

According to the stipulation, while it is contended that the respondent's preparation kills the fungi of athlete's foot on contact, such fungi, during certain stages of development, are buried beneath the corneous layer of the unbroken skin and are then inaccessible to the product. The product has no effect on the tissues other than upon the peripheral vascular tissue structure, according to the stipulation. (02759)



The Federal Trade Commission dismissed a complaint issued last November against W. Hillyer Ragsdale, Inc., 307 North Walnut St., East Orange, N. J., charging misrepresentation in the sale of a course of instruction intended to teach students the business of manufacturing candy in the home, and in the sale of certain supplies required in candy manufacture. Dismissal was ordered because the respondent's State charter of incorporation in New Jersey had been forfeited for non-payment of taxes and the respondent corporation was not extant when the complaint was issued and served.

The Commission has also dismissed a complaint charging Moskin Stores, Inc., 370 Seventh Ave., New York, operator of a chain of retail stores, with violation of the Federal Trade Commission Act in the sale of wearing apparel.

The Commission order states that it appears that the charges in the complaint are not sustained by the evidence.

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## THE WEEK IN WASHINGTON

*My Sister and I*, new BMI tune, is headed toward becoming an outstanding hit of 1941. Twelve of the most-played tunes on the networks are BMI's own. (p. 332)

Isaac Levy, WCAU, and J. H. Ryan, WSPD, were elected to the NAB Board of Directors for 1941-43 at recent district meetings. (p. 333)

The NAB advises members to comply with Secretary Knox' request about broadcasting information as to the arrival and departure of British warships. (p. 334)

District 4 sales managers met in Raleigh, N. C., where special merchandising demands from advertisers was the chief topic of discussion. (p. 334)

Advertisers were impressed by the industry's promotion in connection with frequency allocation. (p. 335)

A conference to study interference has been slated for May 10 at the University of Illinois. (p. 336)

The FCC issued a number of orders in connection with FM construction and operation. Gerald C. Gross was appointed assistant chief engineer at the FCC to succeed Andrew D. Ring. The FCC ordered a hearing on communications problems in the Gulf Coast area. (p. 337)

## NAB Convention

### REGISTRATION FEE

As in past years the registration fee for the convention will again be \$10. This fee will cover luncheon and banquet tickets. Ladies registration fee will be the customary \$5. Although each year the convention luncheons and banquet are becoming more and more attractive, it has been found possible to maintain the modest registration fees above noted.

## PROMOTIONAL DISPLAY AND EXHIBITS

The display of promotional material by the various stations is attracting widespread attention. A most complete showing of material from stations of all sizes is assured. The Crystal Room immediately adjoining the Ivory Room of the Jefferson Hotel in which the business sessions will be held, has been assigned for this exhibit. Many stations have indicated a desire to display motion pictures, for which a special room and facilities have been provided.

The associate members are now planning their exhibits which will be held in private rooms throughout the hotel. Most of the transcription companies, as well as many equipment manufacturers, now an integral part of NAB through associate membership, will be on hand.

## GOLF TOURNAMENT

The golf tournament which is to be held on Monday afternoon, May 12, is assured of a splendid entry list. Robert Richardson, Jr., KWK and J. Roy Stockton, KSD, who constitute the St. Louis committee on arrangements have perfected their plans and everything indicates a rousing and interesting tournament. In addition to the trophy provided by *Broadcasting* magazine, additional prizes will be awarded the successful contestants. The tournament has been so set as to time so as not to interfere with any of the business or committee sessions.

## LADIES INVITED

The St. Louis broadcasters, cooperating with the Convention and Publicity Bureau of St. Louis, are making plans for the proper entertainment of all ladies who attend the convention. The exact nature of these plans is

(Continued on page 332)

**You Can't Afford to Miss the NAB Convention**

**May 12, 13, 14, 15**

**New Jefferson Hotel**

**St. Louis**



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## NAB CONVENTION

(Continued from page 331)

not yet ready for disclosure but suffice it to say that they will be most interestingly entertained throughout the convention.

## NON-MEMBER STATIONS

NAB member stations are urged to extend a cordial invitation to the officials of non-member NAB stations to be present at the convention in St. Louis. While this is an NAB convention, it is the meeting at which the industry discusses important policies and the more broadcasters present, the better. Then too, attendance at the convention may encourage membership. Be sure to invite all broadcasters.

## BMI

### NEW BMI SONG MAKES HIT

*My Sister and I*, the song based on the best-selling book by the same title, is rapidly fulfilling the predictions that it would become one of the outstanding hits of 1941. It is being featured by Jimmy Dorsey and his orchestra in the stage show at the Strand Theatre in New York beginning April 11, with Ray Eberle singing the words which were inspired by the diary of the twelve-year-old Dutch refugee. During the same week Don Baker, organist at New York's Paramount Theatre, will make a special feature of the number with Sydney Lane singing. Joan Whitney, one of the writers of the song, will sing it in Wheeling, West Virginia, at a British War Relief concert to which she is giving her services along with Madeleine Carroll, Boake Carter, and other famous figures of the radio and entertainment world. Two days later, on April 27, Miss Whitney will sing the song on the Wheeling Steel program over the network of the Mutual Broadcasting System.

Phonograph records of the song by Bob Chester, Benny Goodman, Dick Jurgens, and Bea Wain have already been released. One by Leo Reisman is to be released within the week and four more are scheduled for the near future.

The song is the work of Miss Whitney, Alex Kramer,

## BMI FEATURE TUNES

April 14-21

1. WALKIN' BY THE RIVER
2. WISE OLD OWL, THE
3. MY SISTER AND I
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HIGH ON A WINDY HILL
8. YOU WALK BY
9. HERE'S MY HEART
10. IT ALL COMES BACK TO ME NOW
11. MAY I NEVER LOVE AGAIN
12. LOAFING ON A LAZY DAY
13. TALKING TO THE WIND
14. BREAKFAST FOR TWO
15. WITH A TWIST OF THE WRIST
16. WHERE'S THE CAPTAIN'S HAT

and Hy Zaret, writers of *So You're the One, It All Comes Back to Me Now*, and numerous other BMI hits. Miss Whitney and Mr. Kramer also wrote *High on a Windy Hill* and Mr. Zaret did the lyrics for *There I Go*.

## DEMAND FOR BMI MUSIC

In its issue for December 4, 1940 *Variety* dropped the box in which for years it had listed the tunes most played on the air, with an announcement that the box would be omitted "until the music situation is settled one way or the other, as between ASCAP and BMI . . . *Variety* will resume publication of 'Most Played' recaps as soon as something like comparative focus is possible."

With its issue of April 9th *Variety* resumes its box with the following comment: "Dropped for some months, persistent trade demand prompted resumption of the plug's breakdown even though ASCAP tunes obviously can't be logged." On the list for this week there are twenty-seven numbers headed by *You Walk By*, with *Georgia on My Mind* and *It All Comes Back to Me Now* pressing close in second and third places respectively. Of the total list, twelve numbers are BMI's own publications; six are Marks; four are Southern; and Campbell, Warren, Embassy, Stevens, and Porgie have one each.

*Billboard* also discontinued its plug list for a short time but quickly resumed it in response to demands. The *Billboard* list, compiled from a somewhat more restricted number of hours and calculated for the week ending Thursday instead of the week ending Sunday, lists twenty numbers, also headed by *You Walk By*, and showing nine BMI publications, four Marks, three Southern, and one each for Embassy, Melody Lane, Cahpbell, and Stevens.

On the *Billboard* list of biggest money makers in the coin machines, the top six are all published or licensed by BMI.

Among the fifteen sheet music best sellers *Variety* shows ten, *Billboard* thirteen, from BMI and its affiliated publishers.

### BMI MUSIC BOOMS "POT O' GOLD"

BMI is cooperating with the distributors and local theatres in the promotion of the James Roosevelt motion picture, *Pot O' Gold*, starring James Stewart and Paulette Goddard and featuring the Horace Heidt band and Charles Winninger. The BMI tunes—*Hi, Cy, What's a Cookin'*, *Pete the Piper*, and *Broadway Caballero*—as announced in the distributors' advance publicity release to the theatres, "are all the bases of the biggest production numbers in *Pot O' Gold*." When the picture was being shown at the Roxy Theatre in New York City the BMI office put displays advertising both music and picture not only in the theatre itself but also in various music shops around the city.

BMI member stations, in towns where the picture is scheduled, are being given advance notice of the theatre dates for their localities so that they may have the opportunity to feature the BMI numbers from the film in advance of its showing. The work which the BMI stations do in this way to advertise the picture is returned to BMI through the build-up which the picture gives to the BMI tunes.

The Horace Heidt record of *Broadway Caballero* (backed by *Friendly Tavern Polka*) has already been released—Columbia record No. 36006. The Heidt record of *Pete the Piper*, Columbia record No. 36053, will be released within a few days, and a Heidt recording of *Hi, Cy, What's a Cookin'* is scheduled for the near future.

### LULLABY LANE IS ROAD TO SUCCESS

This is no Horatio Alger story. Neither is the theme "from rags to riches" nor "how to make a million dollars writing songs." It concerns two young men, Bob Warren of Brookline, Mass., and Bob Carleton of New York City, the writers of *No. 10 Lullaby Lane*, now among the ten best-selling songs in the country. You may be hearing it on the Hit Parade any week now.

To date more than 50,000 copies have been sold by Bob Warren, working alone from his bachelor apartment on East 49th Street, New York, far from the melodies of Tin Pan Alley. Warren does all his own typing, answers all mail and telephone calls, and hands out professional copies and orchestrations of his songs.

Warren, the scion of a wealthy family residing in swanky Brookline, a Boston suburb, came to New York last spring and in collaboration with Bob Carleton, who holds a responsible position in a New York bank, wrote

*No. 10 Lullaby Lane*. The song was offered to several ASCAP publishers, who for one reason or another passed it up, the main excuse being that they had too many songs to exploit from their regular staff writers to give a newcomer a chance. Fortunately Warren and Carleton had enough money to finance publication of their own tune. When an author or songwriter spends his own money for publication, the results generally are not at all satisfactory. But this case was different. Warren and Carleton give full credit to Broadcast Music, Inc., through whose facilities the song was made available to 670 stations. Almost immediately after the break between ASCAP and BMI the song, originally written in an ASCAP publisher's office, attained widespread popularity.

*No. 10 Lullaby Lane* has already been recorded by such top-notch orchestras as Eddy Duchin, Joe Reichman, Tony Pastor, Guy Lombardo, Tommy Tucker, and the sensational young vocalist Dinah Shore, now featured on Eddie Cantor's network program.

The moral of this story, if any, might well be that even a rich boy with an idea may be a successful composer if he keeps everlastingly at it.

## District Meetings

### DISTRICT 3

Third District broadcasters, embracing stations in Pennsylvania, New Jersey and Delaware, met at Philadelphia on Monday, April 7. District Director Clifford M. Chafey, WEEU, Reading, presided.

Following a discussion of the music problem and a presentation of the BMI situation by Carl Haverlin, station relations manager, the following resolution was unanimously adopted:

BE IT RESOLVED—That members of the National Association of Broadcasters of the Third District, in meeting assembled at Philadelphia, Pennsylvania today, hereby affirm our allegiance to Broadcast Music, Incorporated—that we congratulate this corporation on making possible such a large and complete catalogue of music which has been so universally accepted by the radio public, as indicated in surveys. We restate our contention that—to maintain a high standard of program service it is imperative that a free and competitive music market be maintained and that the open-door policy to opportunity for creative talent of the men and women of America be continued and inaugurated by Broadcast Music, Incorporated—that we will never become a party to any arrangement which does not definitely assure the continued development and perpetuation of Broadcast Music, Incorporated.

Joseph L. Miller, NAB Labor Relations Director, discussed the labor and Wages and Hours situation. He was followed by Frank E. Pellegrin, newly appointed Director of the Department of Broadcast Advertising. C. E. Arney, Jr., covered other phases of NAB's activities.

Following the noon luncheon, the election of District Director for the ensuing two-year term was held and

Isaac Levy, WCAU, Philadelphia, was unanimously chosen.

The following were present:

James P. Begley, KYW; Leonard Kapner, WCAE; Leon Levy, WCAU; A. W. Dannenbaum Jr., WDAS; Clifford M. Chafey, Robert G. Magee, WEEU; Roy F. Thompson, WFBG; Roger Clipp, WFIL; Clair R. McCollough, C. G. Moss, J. Robert Gulick, WGAL; George D. Coleman, R. E. McDowell, WGBI; Milton Laughlin, WHAT; A. K. Redmond, WHP; Edward D. Clerf, WIBG; Benedict Gimbel, Jr., WIP; J. Gorman Walsh, WILM; J. C. Tully, WJAC; Melvin Lahr, WKOK, J. C. Burwell, WMBS; Joseph M. Nassau, WMRF; Arthur Simon, WPEN; George E. Joy, T. W. Metzger, W. V. Person, WRAK; Raymond A. Gaul, WRAW; B. Bryan Musselman, WSAN; Howard S. Frazier, WSNJ; John Mayo, Associated Music Publishers, Inc.; Carl Haverlin, BMI; G. I. Jones, Graybar Electric Co.; R. C. Wentworth, Pierre Weis, Lang-Worth Feature Programs, Inc.; Willis B. Parson, NBC Radio Recording Division; Leonard D. Callahan, SESAC, Inc.; Alex Sherwood, Standard Radio; A. B. Sambrook, World Broadcasting System; C. E. Arney, Jr., Joseph L. Miller, and Frank E. Pellegrin, NAB.

### DISTRICT 7

J. H. Ryan, WSPD, Toledo, Ohio, was reelected director at a District 7 meeting April 4 in Cincinnati.

Neville Miller and Carl Haverlin, BMI station relations director, discussed the music situation at length, and Senator Burton K. Wheeler, in Cincinnati for another meeting, told the broadcasters about his opposition to federal operation of stations.

### THE "MALAYA" MATTER

Several weeks ago, Secretary Knox of the Navy Department, sent out a memorandum to press associations, newspapers and radio stations, pointing out that British warships from time to time would be coming to the United States for repair. He asked that no mention be made of their arrival or departure.

On Sunday, April 6, *H. M. S. Malaya* steamed into New York harbor, a hole in her side, for repairs at the Brooklyn Navy Yard. Thousands of persons witnessed her arrival. That night, hundreds of British sailors, their uniforms designating their ship, were seen on New York streets.

Some newspapers printed the story. Some did not. A great deal of discussion of the matter followed in press and radio quarters.

The next day, Secretary Knox publicly commended those who did not use the story. At his Tuesday press conference, President Roosevelt did the same, and added that he thought no "censorship" would be needed. On Wednesday Stephen Early, White House secretary, reiterated that the Government had no intention of establishing a domestic press censorship, but emphasized the fact that James L. Fly, chairman of the Federal Communications Commission, was chairman of a committee studying means of controlling international cable and radio messages so that defense secrets would not be transmitted abroad.

The matter came up when a reporter asked what value

there was in a voluntary suppression by newspapers of news of the movement of foreign and domestic war vessels if news about them could be sent abroad by foreign agents legitimately in this country. Outright censorship of cablegrams, radiograms and mail going abroad is widely expected in case this country becomes involved in war.

Mr. Early remarked that there was one point he wished that President Roosevelt had mentioned yesterday. Some newspapers, Mr. Early said, called the present voluntary system an imposed censorship, whereas "it is an attempt to avoid a censorship."

"Doesn't that imply that if the voluntary system is not followed a formal censorship will be imposed?" a reporter asked.

"This will work out on voluntary grounds," Mr. Early answered. "It has got to work out on voluntary grounds. We don't want censorship; the newspapers don't want censorship; the President doesn't want it, I don't want it and Lowell Mellett (director of the Office of Government Reports) doesn't want it."

Mr. Early said that the situation which grew out of the publication by some newspapers of the recent arrival in New York of a British battleship had a certain "educational" value. Newspapers would suppress such news voluntarily, he felt sure.

"Ships are not going inland," he remarked. "All you have to do is educate the newspapers along the coast and the press associations. If you do that, and I think it can be done on a voluntary basis, you have no problem."

The NAB is of the opinion that broadcasting stations should respect Secretary Knox' request.

## Sales

### FOURTH DISTRICT SALES MANAGERS

Increasing demands by advertisers for special merchandising services, and the possibility of establishing standards of merchandising practice for NAB stations highlighted the meeting of the Sales Managers' Division of the Fourth District, held March 28 at Raleigh, N. C.

By unanimous vote, delegates agreed to file with Chairman J. H. Field, Jr., a list of merchandising services made available to advertisers by each station, as a first approach to the problem. In this study it was urged that each station differentiate between "merchandising" and "station promotion", the latter to include those activities designed to publicize the station itself.

A later resolution, failing of unanimity by one vote, provided "that the Fourth District request that the NAB take the position that merchandising policies should occupy the same ethical position as other services offered

on the rate card, and that this policy should be made available in printed form by each individual station and adhered to."

The case for smaller stations was presented by John Thayer of WWNC, who pointed out that competition with larger stations sometimes necessitated extra merchandising efforts. Several delegates took issue with the practicability of establishing rigid standards, but it was generally agreed that serious steps must be taken to curb the increasing demands on the part of agencies buying national spots.

Principal luncheon speaker was E. N. Pope, advertising manager of the Carolina Power and Light Company, who discussed power for industry and national defense.

Other topics discussed included an inter-station program and idea exchange and various commercial program ideas. Manager Richard Mason of WPTF and Chairman Field were hosts to the group at luncheon.

Others attending were Barron Howard, WRVA, Richmond; Henry Nigrelli, Graham Poyner, Richard Mason and Ollie Carpenter, WPTF, Raleigh; John E. Thayer, WWNC, Asheville; W. C. Irwin, WSOC, Charlotte; Harold Essex, WSJS, Winston-Salem; E. S. Whitlock, WRNL, Richmond; John Moorhead and Knox Massey, Harvey-Massengale Co.; Frank Jarman and Lewis Brown, WDNC, Durham; Royal Penny, WBT, Charlotte; E. E. Reed, Carolina Sales Co.; Dudley Saumenig, WIS, Columbia; Leslie H. Peard, Jr., WBAL, Baltimore; Frank M. Stearns, WRAL, Raleigh; Pat Taylor, WMFR, High Point; E. N. Pope, Carolina Power & Light Co.; Bert Hanauer and Robert S. Maslin, WFBR, Baltimore; John New and Travis Barnes, WTAR, Norfolk, and John H. Dodge, WRC-WMAL, Washington.

### ADVERTISER THREATENS SUIT

An object lesson in why NAB member stations should refuse to enter into per-inquiry or contingent deals with advertisers is shown by a recent exchange of correspondence between one member station and an advertiser, the Mendenhall Manufacturing Co., whose request for per-inquiry deals had received previous publicity in NAB REPORTS.

The station believed it had a straight card-rate contract and carried the announcements. The advertiser paid for the first four "test" announcements, but because returns did not meet the inquiry cost he set, refused further payment and wrote the station as follows:

"I will demand that you make correct and recall your letter to the National Association of Broadcasters, and I contend that I do not owe you anything. The agreement was that you were to pull 4 returns for every dollar or cancel the announcements promptly.

"You can either do the above or the matter will go to

my attorney, and I will enter suit against you for damages. . . ."

Unless all stations cooperate in presenting a united front to advertisers such as the above, they encourage such practices in the future on the part of others. This again emphasizes the need for a uniform policy on the part of stations with respect to this type of business.

### PER-INQUIRY OFFER

Made by Rogers & Smith Advertising Agency, Chicago, on behalf of an unnamed nursery account.

That agencies and advertisers are becoming increasingly aware of the attitude of NAB member stations towards deals of this kind may be indicated by a statement in the Rogers & Smith letter: "All matters pertaining to any agreement that we may reach will be held in strictest confidence." It is the opinion of the NAB Department of Broadcast Advertising that legitimate advertising proposals can afford to stand the light of day.

We have written this advertiser assuring him that radio, when properly used, is an effective advertising medium and can be profitably purchased at regular card rates, and we have invited him to use it on that basis.

### COOPERATIVE ADVERTISING APPROVED

Dealer-cooperative advertising has been approved in the rayon yarn field by the American Bemberg Corporation, under a plan whereby the company will contribute one cent per pound for the promotion of Bemberg rayon provided weavers or dealers contribute an equal amount for 50-50 promotion.

Cooperative advertising in the rayon field was discontinued several years ago because of abuses of advertising allowances. This action by the Bemberg company is expected to restore this type of revenue to radio and other media, and it is likely that the plan will be later expanded to include other fabrics.

## Promotion

### "56 DAYS" SUCCESSFUL

The twelve-page brochure, "56 Days," mailed all stations and agencies, has apparently done the job for which it was intended. Its purpose was to reassure agencies and their clients by pointing out the vast amount of promotion and education which stations sponsored in order to move listeners to new dial positions.

The net result of station activity was as prophesied—listeners were successfully moved and listening increased.

It will be some time before all the push-button sets

are changed over and stations are urged to keep telling listeners to have this job done by their servicemen.

## PUBLIC RELATIONS JOB

Otherwise listeners will frequently or infrequently forget their manual tuning, push a button and get a wrong station. This in turn will cause a momentary outburst of indignation, unfortunately not against the forgetful listener, but against the station.

Getting all push buttons changed is a public relations job of the first magnitude.

Things which make "56 Days" a mighty under-statement of industry effort are typified by letters and enclosures from stations.

WJTN, for example, sent full page tear sheets from the Jamestown (N. Y.) *Post* and the Jamestown *Evening Journal*. WSB, Atlanta, sent a package of tear sheet advertising copy from the *Atlanta Journal*.

Craig Rogers, publicity director, KYDL, on behalf of all the stations in Utah, wrote that committees from all stations held conferences and mapped out the campaign that was to inform the radio public of the change-over. It was so complete, he said, that a telephone survey throughout the State indicates that all listeners are happily moved.

W. H. Summerville, general manager, WWL, New Orleans, distributed, on April 7, a brochure which illustrated promotion undertaken by that station throughout its entire service area.

## THE MORAL

"The moral of it is," said Edney Ridge, director, WBIG, Greensboro, N. C., "that if a blind hog keeps on rooting he is obliged to get an acorn occasionally!" The Major's observation is the result of his being notified by *Billboard* that WBIG had been awarded third place in the magazine's fourth annual exploitation survey.

# Engineering

## INTERFERENCE CONFERENCE

A conference for the purpose of discussing interference to the reception of radio broadcasting signals has been scheduled by the University of Illinois at Urbana on May 10, 1941.

The conference will be conducted under the management of A. James Ebel, chief engineer of the University's broadcast station, WILL. The one-day conference will be opened with a word of welcome from President A. C. Willard of the university. Closing the conference will be a banquet at which Dr. L. P. Wheeler of the FCC

will address the members of the conference on the subject "The Commission's Place In The Interference Problem." The balance of the program is as follows:

The Generation of Combination Frequencies In A Non-Linear Element, Professor H. J. Reich, University of Illinois; Multiple Response In Receivers In Strong Radio Frequency Fields, R. M. Planck, Radio Manufacturing Engineers; Panel Discussion on Amateur-Broadcast Interference, Larry Bargarrye, W9Q1, a radio amateur, and Ted Giles, WMBD, a broadcast engineer; A Message From the National Association of Broadcasters, Lynne C. Smeby, Director of Engineering, NAB; Detection and Analysis of Damped Wave Radio Interference, Leon Podolsky, Sprague Products Company; Case Histories in Interference Trouble Shooting and Public Relations in Interference Work, Professor M. A. Faucett, University of Illinois and Representatives of Public Service Companies; Interference Reducing Antenna Systems, Alfred Crossley and Nickolas Hogenbirk, Belden Manufacturing Company; The Design and Adjustment of Transmitters to Eliminate Spurious Radiations, Dana Pratt, RCA Manufacturing Company.

The date of the conference falls on the Saturday before the opening of the NAB Annual Convention in St. Louis and therefore, a stop-over in Urbana on the way to the convention, will allow attendance at this important conference.

A registration fee will not be charged for the conference and it has been announced that the price of the banquet tickets will be nominal. For further details and registration, communicate with A. James Ebel, Radio Station WILL, University of Illinois, Urbana, Illinois.

## WEATHER STATIONS

Modern developments in the field of radio transmission have made it possible to devise an automatic weather station capable of unattended operation for periods up to one month—and possibly three months in the future—at isolated locations, such as mountains and islands, according to the Department of Commerce.

The Aerological Division of the Bureau of Aeronautics, Navy Department, pioneered in this field. To meet the requirements of the Navy aerologists, the National Bureau of Standards, Department of Commerce, developed an ingenious but simple transmitting apparatus for use in such stations.

The automatic radio weather station is an outgrowth of the radio-sonde used for making weather measurements at stratospheric altitudes and now in general and successful daily operation. The radio-sonde also was developed by the Bureau of Standards, in cooperation with the Navy and the Weather Bureau.

For years weather measurements have been made and transmitted automatically by the use of wire lines and



received and interpreted at central and field stations. The new mechanism worked out for the Navy represents a modification of methods already devised for wire lines to accommodate their use to radio and make them more adaptable to radio technique.

An automatic weather station may be equipped to make and transmit measurements of barometric pressure, ambient temperature and relative humidity, wind velocity and direction, rainfall, and probably other factors.

Each of the measurements noted may be indicated at a remote point by radio through the simple process of converting the deflection of the measuring instrument into a corresponding variation of electrical resistance and translating the resistance variation into the variation of a modulation frequency on the emitted carrier wave.

Such a station permits the use of standard radio transmitting and receiving equipment and of standard weather instruments with but slight modification. The modulation and control equipment, however, is special.

## FEDERAL LEGISLATION

### HOUSE

H. R. 4206 (KEOGH, D-N. Y.) DAYLIGHT SAVING TIME—To provide daylight saving between the last Sunday in April and the last Sunday in October in each year. Referred to Committee on Interstate and Foreign Commerce.

## STATE LEGISLATION

### NEBRASKA:

Bill No. 504 (BEVINS) STATE EMPLOYMENT AGENCY—To amend Sec. 48-604 C. S. Supp., 1939, relating to labor and the establishment of rules for the commissioner of labor in referring employees to certain organizations for employment.

### PENNSYLVANIA:

H. 1127 (CORRIGAN) EMPLOYMENT AGENCIES—Providing for the registration and licensing of employment agencies; providing for suspension and revocation of licenses and reinstatement after appeal; providing penalties and repealing existing laws. Referred to Committee on State Government.

### RHODE ISLAND:

H. 852 (HORGAN) OPTOMETRISTS AND OPTICIANS—Amending sections 1, 2, 3, 5, 9, 11, 12 and 13 of chapter 277 of the general laws of 1938, entitled "Licensing and regulation of optometrists and opticians," as amended. Referred to Committee on Finance.

## FEDERAL COMMUNICATIONS COMMISSION

The FCC has announced that various applications by newspaper interests for FM (Frequency Modulation) authorizations have, pursuant to Order No. 79 and related announcements, been acted upon as follows:

Gordon Gray, Winston-Salem, N. C.—Ordered issuance of construction permit under the last proviso of Order No. 79, upon finding that public interest, convenience and necessity will be served by construction at this time.

South Bend Tribune, South Bend, Ind.—Ordered issuance of construction permit with condition that no construction facilities shall be undertaken or completed until the Commission has acted on the general newspaper-ownership question.

Evening News Assn., Detroit, Mich.—Like action.

Milwaukee Journal, Milwaukee, Wis.—Like action.

Walker & Downing Radio Corp., Pittsburgh, Pa.—Like action.

Baton Rouge Broadcasting Co., Baton Rouge, La.—Like action.

WBNS, Inc., Columbus, Ohio.—Like action.

WGN, Inc., Chicago, Ill.—Placed in pending file, application for modification of construction permit previously granted.

Rockford Broadcasters, Inc., Rockford, Ill.—Like action.

The foregoing action was without prejudice to the provision in Order 79 that newspaper interests whose applications for FM stations had already been acted upon could come in and make a special showing that they should be allowed to go ahead immediately.

A. S. Abell Co., Baltimore, Md.—Placed in pending file, application for construction permit to cover 6,040 square miles on 46,300 kilocycles.

Mercer Broadcasting Co., Near Trenton, N. J.—Placed in pending file, application for construction permit to cover 3,200 square miles on 44,700 kilocycles.

News Syndicate Co., Inc., New York, N. Y.—Placed in pending file, application for construction permit to cover 8,500 square miles on 44,700 kilocycles.

The Commission also granted special temporary authorization to the Milwaukee Journal to operate commercially for a period of 60 days its FM experimental station. The grant was made subject to any rules and regulations which might later be adopted by the Commission in the newspaper investigation.

## FM APPLICATIONS

Pending the determination of what policy or rules, if any, should be promulgated with respect to newspaper operation of broadcast stations, the FCC has adopted a procedure of holding in its pending files all applications by newspaper interests for FM (frequency modulation) authorizations not acted upon before March 19, when Order No. 79 was issued looking to the inquiry which will consider the policy to be followed in all such cases.

This procedure will enable these applications to be considered as a group on the basis of Commission findings as the result of contemplated public hearings on the general question.

As provided in Order No. 79, newspaper interests announced as eligible for FM construction permits prior to the March 19th inquiry action are being issued such permits subject to the condition that no construction shall be undertaken until the Commission has taken action on the newspaper-ownership matter. Meanwhile, if any such newspaper interest can show to the satisfaction of the Commission that it should be allowed to go ahead immediately, it will be permitted to do so.

## GROSS HEADS ENGINEERING DIVISION

Appointment of Gerald C. Gross as Assistant Chief Engineer and Chief of the Broadcast Division of the FCC Engineering Department was announced today. Mr. Gross will succeed Andrew D. Ring, resigned. George P. Adair was named Assistant Chief of the Engineering Department's Broadcast Division and received

a promotion in grade. Philip F. Siling was appointed Chief of the International Division, Engineering Department, succeeding Mr. Gross.

Mr. Gross participated in the formation of the Engineering Division of the Federal Radio Commission in 1928, and for some time past has served as Chief of the International Division of the present Commission's Engineering Department. He has represented the Government at 21 international conferences on communications, and has served since 1933 as Secretary of the Interdepartment Radio Advisory Committee.

Born in New York City on December 27, 1903, Mr. Gross obtained his elementary schooling in France, and was graduated from Haverford College, Haverford, Pa., in 1926 with a B.S. degree. At Haverford he was instrumental in setting up one of the first college broadcasting stations in the United States. He later served as radio and communications officer on a number of ships in the American Merchant Marine. Since 1932 he has held a commission in the Naval Reserve.

Formerly on the staff of the Bureau of Standards, Mr. Gross specialized in communications engineering. He contributed to the development of the present aviation interlocking aural beacon, and was also in charge of the standard frequency transmissions.

A native of Texas, being born at Rancho on December 8, 1903, Mr. Adair obtained his B. S. in electrical engineering from Texas A. & M. College. After varied experience in the field of electrical engineering he entered Federal service through the Federal Radio Commission in 1931.

Mr. Siling was born in East Orange, N. J., August 14, 1897, and was graduated from Yale University in 1917 with a Ph.B degree in electrical engineering. He was associated with the American Telephone and Telegraph Company in various capacities from 1917 to 1929 and with the International Telephone and Telegraph Corporation as Outside Plant Engineer and Acting Plant Operations Engineer from 1929 to 1933. He was Assistant Deputy Administrator with the National Recovery Administration from 1933 to 1935. In 1935 he joined the Federal Communications Commission as a Telephone Engineer and in 1937 was appointed Assistant Chief of the International Division of the Engineering Department, a position he has held to date.

The following additional appointments were made in the Broadcast Division, Engineering Department:

John A. Willoughby, Chief, Standard Broadcast Applications Section.

Robert M. Silliman, Assistant Chief, Standard Broadcast Application Section.

William C. Boese, Chief, Non-Standard Broadcast Application Section.

Cyril M. Braum, Assistant Chief, Non-Standard Broadcast Application Section.

Clure H. Owen, Chief, Hearing Section.

H. Underwood Graham, Chief, Allocation Section.

James E. Barr, Assistant Chief, Allocation Section.  
A. L. Kreis, Chief, Monitoring Equipment Section.  
Maxine Colonna, Chief Clerk, Records Section.

## FCC ORDERS HEARING

The FCC announced an informal public hearing for the purpose of obtaining information relative to certain communication problems that have arisen in the Mississippi delta and the Gulf Coast area of southeastern Texas. The hearing will take place in the Texas State Hotel, Houston, beginning 10 a.m. on May 1, 1941, before Commissioner Paul A. Walker.

Complaints have been received of interference on maritime frequencies due to the excessive use of these frequencies in connection with operations of the oil industry in the coastal waters and marshes of Louisiana and Texas. These operations, which are a development of recent years, present a unique problem because of the difficult conditions under which they are conducted.

A large portion of the area is of such a swampy nature as to make construction and maintenance of wire lines impossible, or impractical. Some oil operations are conducted in shallow open water under conditions that require the removal of crews upon the approach of a storm from the Gulf. Consequently, the oil industry has resorted to, and depends upon, radio to a considerable degree for communication purposes.

The Commission will also seek information with respect to the communication needs of vessels navigating the canals and inland waters in the area between New Orleans and Houston.

## "MONOPOLY" REPORT

At a press conference early this week, FCC Chairman James Lawrence Fly answering a question regarding the status of the monopoly report of the Commission said that the Commission had two meetings last week on the report and expects to have two meetings this week. While Mr. Fly did not make any statement regarding it, there has been a story around the Commission for sometime that it is pointing toward April 15 as the date to complete its work on the report.

Chairman Fly was asked at the conference if any Fifth Columnists were being unearthed by the Commission's new listening post set up. Mr. Fly explained that this new division is not primarily intended to deal with Fifth Columnists' activities but in the main is to analyze propaganda as distinguished from subversive conduct of individuals. Mr. Fly told the conference that there has been much difficulty in getting the top men for this new work, explaining that men so qualified by training and experience are few. He said he hoped to have an announcement on this subject in the near future.

## FROM THE FCC MAIL BAG

"Radio news reporters all say 'quote' but only one reporter always says 'unquote' . . . How are we to know what the quotation is if the reporters do not say 'unquote'? Issue an order and enforce it."

Thus a Californian writes the Federal Communications Commission.

A New Hampshire listener wants the Commission to require that newscasts be "free of advertising."

An Illinois fan seeks a ban on advertising on the radio on Sundays.

A Houston resident objects to news rebroadcasts from Berlin as propaganda; a Los Angeles resident objects to rebroadcasts from London on the same ground.

To such suggestions the Commission reiterates that it has no power of censorship over radio artists or programs, and that responsibility for the selection of both rests with the individual station licensees, who are required to operate in the public interest. Under such circumstances, complaints about particular programs should more properly be addressed to the station or network involved.

A letter from Berkeley, Calif., expresses apprehension that certain radio programs incite rebellion of children against parental supervision, while a communication from Newark, N. J., urges "a tightening of the controls on the part of a duly constituted Federal agency with respect to radio programs designed for children." Pointing out, again, that the Communications Act does not give the Commission authority to pass upon individual programs, the Commission suggests that both inquirers may be interested in the results of a nation-wide survey of children's programs now being conducted by the Radio Council on Children's Programs in cooperation with the National Association of Broadcasters.

A Los Angeles woman deplors the advertising of wines over the radio. Neither the Communications Act nor the Commission's rules and regulations preclude liquor advertising on the air. However, the code of ethics of the National Association of Broadcasters frowns on advertising of "hard or spirituous liquors," and it is the policy of certain networks to decline programs sponsored by liquor interests.

Radio interference is bothersome to a District of Columbia woman. The Commission advises:

"Ordinarily, a frequency separation of 50 kilocycles or more, such as is employed in Washington, is sufficient to prevent objectionable cross-talk interference even when the receiver is operated at a location in the immediate vicinity of the transmitter. Unfortunately, receivers of certain designs, when operated near the transmitter of one station, are not capable of separating the signals of that station from those of another station even when the latter is 50 kilocycles removed. The performance of such sets so located may be improved materially by employing a 'wave trap', a simple and inexpensive device which is easily installed and operated."

An Austin, Texas, firm is informed that the Communications Act requires an announcement in the case of any sponsored program sufficient to disclose the identity of the sponsor and that the program is sponsored. The identity of the actual sponsor rather than the advertising agency making arrangements for time, must be disclosed. However, no particular form of making such announcement is prescribed.

To a Mississippi request for Commission views as to whether the owner and operator of a broadcast station could be properly classed in a national defense industry for the purpose of the Selective Service Act, the Commission writes:

"Inasmuch as the Selective Service Act prohibits occupational deferments as such, and leaves the decision in individual cases to the sound discretion of the local draft boards, it is not the Com-

mission's policy to issue statements such as that requested in your letter. Matters of general policy in making determinations are for consideration by Selective Service Headquarters, and your letter is being referred to the Director of the Selective Service for his consideration. You will understand that the Commission's policy is not based upon any failure on its part to appreciate the national importance of the contributions of the personnel of the broadcasting industry but rather upon basic considerations of an orderly administration."

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings are scheduled to be heard before the Commission in broadcast and television cases during the week beginning Monday, April 14. They are subject to change.

**Monday, April 14**

To be Heard Before Commissioner Paul A. Walker, in Ocala, Fla. WTMC—Ocala Broadcasting Company, Inc., Ocala, Fla.—In the Matter of Revocation of License of Station.

In Washington, D. C.

NEW—Western Massachusetts Broadcasting Co., Pittsfield, Mass.—C. P., 1500 kc. (1490 kc. under NARA); 100 watts; unlimited.

**Tuesday, April 15**

Television

W1XG—General Television Corporation, Boston, Mass.—Modification of license (considered as construction permit); 50000-56000 kc., 500 watts visual emission A-5, Sec. 4.4 (a). Present assignment: 42000-56000, 60000-86000 kc., 500 watts visual emission A-5, Sec. 4.4(a).

W1XG—General Television Corporation, Boston, Mass.—C. P., 42000-56000, 60000-86000 kc., 500 watts aural and visual, emission A-3 and A-5, Sec. 4.4(a). Present assignment: 42000-56000, 60000-86000 kc., 500 watts visual only, emission A-5, Sec. 4.4(a).

**Wednesday, April 16**

WNAX—South Dakota Broadcasting Corp. (Transferor) and Iowa Broadcasting Co. (Transferee), Yankton, S. D.—Transfer of control of Station WNAX, 570 kc.; 1 KW night, 5 KW day; unlimited.

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, 890 kc.; 500 watts night; 1 KW day; SH-KUSD.

**Thursday, April 17**

To Be Heard Before Commissioner Paul A. Walker, in the Court Room of the County Court House, at Panama City, Florida. WDLP—Panama City Broadcasting Company, Panama City, Fla. In the matter of revocation of license of station.

**Friday, April 18**

NEW—J. Leslie Doss, Bessemer, Ala.—C. P., 1370 kc.; 250 watts; unlimited.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WCNW—Arthur Faske, Brooklyn, N. Y.—Granted modification of temporary authorization to increase night power from

100 to 250 watts; operating on **1600 kc.** (NARBA); specified hours (B1-ML-681).

**WLAC**—WLAC Broadcasting Service, Nashville, Tenn.—Granted amended construction permit to increase power from 5 to 50 KW, move transmitter from 5 miles from city limits to 7 miles north of center of Nashville on Dickerson Pike, install new transmitter and directional array for night use; **1510 kc.** (NARBA), unlimited time (B3-P-1250).

**WOMI**—Owensboro Publishing Co., Inc. (Transferor), L. W. Hager, W. B. Hager, and G. M. Fuqua (Transferees).—Granted consent to the transfer of control of Owensboro Broadcasting Co., licensee of station WOMI, from the Owensboro Publishing Co. to L. W. Hager, W. B. Hager, and George M. Fuqua, representing 191 of the 200 shares issued and outstanding capital stock of the Owensboro Broadcasting Co., Inc., for a consideration of \$19,100. Station operates on **1490 kc.** (NARBA), 250 watts, unlimited time (B2-TC-246).

**WSAN**—Lehigh Valley Broadcasting Co., Allentown, Pa.—Granted amended construction permit to increase power from 500 watts to 5 KW, install new transmitting equipment and directional antenna for both day and night time use; **1440 kc.** (NARBA), shares-WCBA (B2-P-2637).

**KCRC**—Enid Radiophone Co., Enid, Okla.—Granted construction permit to install directional antenna for night and day use, install new transmitter and increase power from 250 watts to 1 KW, **1390 kc.** (NARBA) frequency, unlimited time (B3-P-2810).

**WGAU**—J. K. Patrick, Earl B. Braswell, Tate Wright, C. A. Rowland, and A. Lynne Brannen, d/b as J. K. Patrick and Company (Assignor), J. K. Patrick, Earl B. Braswell, Tate Wright, C. A. Rowland, d/b as J. K. Patrick and Company (Assignee), Athens, Ga.—Granted voluntary assignment of license of station WGAU from J. K. Patrick, Earl B. Braswell, Tate Wright, C. A. Rowland and A. Lynne Brannen, d/b as J. K. Patrick & Co., to J. K. Patrick, Earl B. Braswell, Tate Wright and C. A. Rowland, d/b as J. K. Patrick & Co.; **1340 kc.** (NARBA); 250 watts; unlimited time (B3-AL-284).

**KWJJ**—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted modification of construction permit to use directional antenna day and night and approval of present site (Oak Park, Portland, Ore.); **1080 kc.**; 1 KW night and day; unlimited time (B5-MP-1190).

**WCAO**—The Monumental Radio Co., Baltimore, Md.—Granted construction permit to increase day and night power from 500 watts night, 1 KW day to 5 KW day and night, move transmitter to east side of Park Heights Ave., 1.2 miles northwest from city boundaries, near Baltimore, Md., install new transmitter and directional antenna for day and night use; **600 kc.**; unlimited time (B1-P-3024).

**W 49 BN**—Howitt-Wood Radio Co., Inc. (Assignor), Wylie B. Jones Advertising Agency (Assignee), Binghamton, N. Y.—Granted consent to assignment of construction permit for FM broadcast station from Howitt-Wood Radio Co., Inc., to its parent company, Wylie B. Jones Advertising Agency, **44900 kc.**; coverage: 6,500 square miles (B1-APH-1).

**WLWO**—The Crosley Corp., Cincinnati, Ohio.—Granted modification of international broadcast station license to increase power from 50 to 75 KW (B2-MLIB-40).

**W3XPY**—Bell Telephone Labs., Inc., Whippany, N. J.—Granted modification of developmental broadcast station license to change frequencies to **43500** and **49100 kc.** on an experimental basis conditionally (B1-MLEX-11).

#### DESIGNATED FOR HEARING

**WTMV**—Mississippi Valley Broadcasting Co., Inc., E. St. Louis, Ill.—Application for construction permit to change frequency from 1490 to 1540 (under NARBA), increase night power from 250 to 500 watts, day power from 250 watts to 1 KW; move transmitter locally to 1 mile southeast of city limits at Golden Gardens, St. Clair Co., Ill.; install new equipment and vertical antenna, conditional to no interference to Cuba (B4-P-2832).

**WREN**—WREN Broadcasting Co., Inc., Lawrence, Kans.—Adopted order designating for hearing the amended application filed by WREN (B4-P-2272) requesting authority to increase nighttime power from 1 to 5 KW, install a directional antenna for day and night use, and move transmitter from Tonganoxie, Kans., to a site within the metropolitan

area of Kansas City, Kans. and to move main studio from Lawrence, Kans., to a site to be determined in Kansas City, the studio at Lawrence to be continued for auxiliary purposes. The issues are: "To determine whether a fair, efficient and equitable distribution of radio service among the several states and communities can be better achieved by continued operation of WREN with its main studio at Lawrence, Kans., and its transmitter at Tonganoxie, Kans., or by its operation with both its main studio and transmitter at Kansas City, Kans., as proposed in its application." The Commission's Order of February 26, 1941, granting the application in part, is vacated.

**KPAC**—Port Arthur College, Port Arthur, Tex.—Application for modification of license to increase night power from 500 watts to 1 KW and make changes in directional antenna; 500 watts day, unlimited time, directional antenna nighttime; **1250 kc.** (B3-ML-956).

**The Constitution Broadcasting Co., Atlanta, Ga.**—Application for construction permit for new station to operate on **550 kc.**, 1 KW night, 5 KW day, unlimited time; directional antenna at night; studio site to be determined at Atlanta, Ga. (B3-P-2905).

**WCAO**—Lewis M. Milbourne and Clarence W. Miles (as voting trustees under a voting trust agreement of April 15, 1931) (Transferors), Lewis M. Milbourne, Clarence W. Miles and L. Waters Milbourne (as voting trustees of a new voting trust agreement) (Transferees), The Monumental Radio Co., Baltimore, Md.—Application for consent to transfer control of The Monumental Radio Co., licensee of Radio Station WCAO, from Lewis M. Milbourne and Clarence W. Miles (as voting trustees under a voting trust agreement of April 15, 1931) to themselves and L. Waters Milbourne (as voting trustees of a new voting trust agreement); **600 kc.**; 500 watts night; 1 KW day; unlimited time (B1-TC-263).

#### MISCELLANEOUS

**KCRO**—Enid Radiophone Co., Enid, Okla.—Granted request to dismiss its petition for rehearing directed against the action of the Commission, October 22, 1940, granting the application of KLPMP, Minot, N. D., for modification of license to increase power from 500 watts night, 1 KW day, unlimited time on frequency **1360 kc.** to 1 KW unlimited time on same frequency, and dismissed said petition for rehearing (B4-ML-651).

**KCRC**—Enid Radiophone Co., Enid, Okla.—Granted request to dismiss petition for rehearing directed against the action of the Commission October 22, 1940, granting the application of WTJS, Jackson, Tenn., for construction permit to change frequency from **1310** to **1360 kc.**, install new equipment and DA for nighttime use, and increase power from 250 watts to 1 KW, unlimited time, and adopted order dismissing said petition for rehearing (B3-P-2525).

**WCBA**—Lehigh Valley Broadcasting Co., Allentown, Pa.—Dismissed with consent of applicant, application for construction permit to increase power from 500 watts to 5 KW, install new transmitting equipment and directional antenna for both day and nighttime use (B2-P-2636).

**WGST**—Georgia School of Technology, Atlanta, Ga.—The hearing on renewal of license for station WGST now scheduled to be heard in Washington, D. C., on May 1, 1941, will be heard instead in Atlanta on that date.

**KRBC**—Reporter Broadcasting Co., Abilene, Texas.—Adopted order denying petition for reconsideration and grant without a hearing the application for construction permit to change frequency to **940 kc.**, increase power to 1 KW, and install new transmitter and DA for day and night use; and amended the notice of hearing to specify the following issues: (1) to determine the extent and effect of any interference which the proposed operation of station KRBC on the frequency **970 kc.** would cause to the operation of station XEJ, Ciudad Juarez, Chihuahua, and station XEO, Matamores, Tams., operating on the same frequency, with particular reference to the provisions of the NARBA; (2) to determine (a) the area and population now served by station KRBC, and (b) the area and population which would be served by station operating on **970 kc.**

**WCNW**—Arthur Faske, Brooklyn, N. Y.—Dismissed petition for reconsideration of "Proposed Findings of Fact and Conclusions" of the Commission (Docket N. 5323), et al.

**WMRF**—Lewistown Broadcasting Co., Lewistown, Pa.—Granted

- modification of construction permit which authorized new standard broadcast station to be operated on **1500 kc.**, 250 watts, unlimited, for authority to change frequency to **1490 kc.** in accordance with NARBA.
- KPOW—Albert Joseph Meyer, Powell, Wyo.—Granted modification of construction permit which authorized new standard broadcast station to operate on **1200 kc.**, 250 watts, unlimited, for change of frequency to **1230 kc.** in accordance with NARBA.
- KLS—S. W. Warner & E. N. Warner, d/b as Warner Bros., Oakland, Calif.—Granted modification of construction permit which authorized increase in power from 250 watts to 1 KW, new transmitter and changes in antenna, for change in frequency from **1280** to **1310 kc.** in accordance with NARBA.
- KFMB—Worcester Broadcasting Corp., San Diego, Calif.—Granted modification of construction permit which authorized new standard broadcast station to operate on **1420 kc.**, 250 watts, unlimited, to change frequency to **1450 kc.** in accordance with NARBA.
- WSOC—Radio Station WSOC, Inc., Charlotte, N. C.—Granted modification of construction permit which authorized installation of new antenna, move studio and transmitter, install new transmitter and increase power from 100 watts night, 250 watts LS, to 250 watts, for change in frequency from **1210** to **1240 kc.** in accordance with NARBA.
- W9XBK—Balaban & Katz Corp., Chicago, Ill.—Granted extension of special temporary authority to operate two transmitter units to be installed and operated from the State-Lake Bldg., Chicago; Link Transmitter Type No. 50-UTX with 100 watts power for visual and Link Transmitter Type No. 25-UBX, 25 watts aural; temporary steel tower to be used on roof of said building, in order to conduct tests for period April 19 to not later than May 18, 1941, in accordance with construction permit.
- WLWO—The Crosley Corp., Cincinnati, Ohio.—Granted extension of special temporary authority to operate the equipment of International Broadcast Station WLWO with a power input to the final stage of 100 KW for the period April 1, 1941, to not later than April 30, 1941, in order to obtain data requested in connection with application.
- W39B—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to rebroadcast programs of High Frequency Station W1XOJ for the period ending in no event later than May 17, 1941.
- WARM—Union Broadcasting Co., Scranton, Pa.—Dismissed as unnecessary the motion for leave to amend application for license to cover construction permit for **1370 kc.**, 250 watts, unlimited time.
- KWBG—W. B. Greenwald (Transferor) and O. L. Taylor, William Wyse, and Wesley E. Brown (Transferees), Hutchinson, Kans.—Granted petition for leave to amend application for transfer of control of KWBG to substitute Stanley Marsh for O. L. Taylor as one of transferees, and removed application from hearing docket.
- King-Trendle Broadcasting Corp, Pontiac, Mich.—Granted motion to dismiss application for construction permit to operate on **1440 kc.**, 250 watts, unlimited time.
- KUSD—University of So. Dak., Vermillion, S. Dak.—Granted motion to withdraw without prejudice application for construction permit to change frequency from **890 kc.** to **630 kc.**, and change hours of operation from S-KFNF to full daytime on 500 watts (B4-P-2724).
- WSNJ—Eastern States Broadcasting Corp., Camden, N. J.—Granted motion to dismiss without prejudice application for construction permit for Class IV station to be synchronized with WSNJ, located at Camden, N. J. (B1-P-2914).
- KOWH—World Publishing Co., Omaha, Nebr.—Granted petition for dismissal without prejudice application for construction permit to change frequency from **660 kc.** to **890 kc.**, increase power and change hours of operation from 500 watts daytime to 5 KW unlimited, directional antenna night (B4-P-2728).
- WRBL—The Columbus Broadcasting Co., Inc., Columbus, Ga.—Granted special temporary authority to rebroadcast transmissions received from transmitter in Army scout car, **2220 kc.**, 75 watts, and transmitter in Army bomber plane, **7460 kc.**, 75 watts on April 7, 1941, in connection with Army Day program.
- WMBG—Havens and Martin, Inc., Richmond, Va.—Granted special temporary authority to rebroadcast a program to be received from U. S. Navy Plane 1322, Naval Air Station, Anacostia, on April 6, 1941, in the interest of Navy recruiting.
- National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to rebroadcast Army Day program over Radio Station WEAJ and WJZ and the combined Red and Blue networks program material supplied over U. S. Army radio facilities from airplanes flying in the vicinity of New York City and San Francisco on April 5, 1941; the signals from the Army planes will be picked up at these locations by NBC
- Columbia Broadcasting System, Inc., Boston, Mass.—Granted motion to grant amendments to change frequency from **41100** to **43500 kc.**, and change transmitter site in re application for new television station.
- Columbia Broadcasting System, Inc., Boston, Mass.—Denied motion for consolidation of hearing on applications of The Yankee Network, Worcester Telegraph Publishing Co., Inc., and Columbia Broadcasting System, Inc., applications for new television station, and the Commission on its own motion continued the hearing on the application of Worcester Telegram Publishing Co., Inc., indefinitely, from April 21.
- Columbia Broadcasting System, Inc., Boston, Mass.—Denied petition for intervention in the hearing on application of The Outlet Co., Providence, R. I., for a new television station.
- WJAR—The Outlet Co., Providence, R. I.—Dismissed petition for leave to intervene in the hearing on application of The Yankee Network, Inc., Boston, and Worcester Telegram Publishing Co., Inc., Worcester, Mass., for new television station and granted petition as to enlargement of issues, and on its own motion the Commission consolidated the hearing on the application of WJAR and The Yankee Network, Inc.
- WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Granted motion for leave to amend application so as to request 5 KW, day and night, and to specify directional antenna, in re application for construction permit to change frequency and increase power. Application removed from hearing docket.
- WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Dismissed motion to withhold further action on application for modification of construction permit to increase power and change hours of operation, pending filing of amendments.
- WAPI—Alabama Polytechnic Institute, University of Alabama and Alabama College, Birmingham, Ala.—Granted temporary extension of license of Station WAPI on the frequency **1170 kc.**, 1 KW night, 5 KW LS, simultaneously daytime and sharing time at night with Station KVOO, pending consideration of application to change frequency to **1070 kc.**
- W4XA—National Life & Accident Insurance Co., Nashville, Tenn.—Granted extension of license of High Frequency Experimental Broadcast Station W4XA for a period of 30 days, on a temporary basis.
- WWDC—Capital Broadcasting Co., Washington, D. C.—Granted modification of construction permit (B1-P-2679, which authorized a new station) for **1450 kc.** under NARBA, make changes in synchronous amplifier equipment and antenna, and extend commencement date to 30 days after grant and completion date to 180 days thereafter (B1-MP-1163).
- KHJ—Don Lee Broadcasting System, Los Angeles, Cal.—Granted modification of construction permit (B5-P-2843, as modified, which authorized increase in power, installation of directional antenna for day and night use, make changes in equipment and move transmitter) for changes in directional antenna on **930 kc.** under NARBA, and extension of commencement date to 1 day after grant, and completion date to 180 days thereafter respectively (B5-MP-1238).
- WHDF—Flint Broadcasting Co., Flint, Mich.—Granted modification of construction permit (B2-P-2451, which authorized installation of new transmitter and DA for day and night use, increase in power, change of frequency, and move of transmitter), for extension of completion date to June 14 (B2-MP-1228).
- WBIG—North Carolina Broadcasting Co., Inc., Greensboro, N. C.—Granted modification of construction permit (B3-MP-833, for increase in power, installation of DA for night use), for **1470 kc.** under NARBA and changes in DA (B3-MP-1235).
- KOAC—Oregon State Agricultural College, Corvallis, Ore.—Granted modification of construction permit (B5-P-2422, for new transmitter, installation of DA for day and night use, move of transmitter and increase in power) for extension of completion date to July 14 (B3-MP-1241).
- WJAR—The Outlet Company, Providence, R. I.—Granted modification of construction permit (B1-P-2192, for changes in

- directional antenna, increase in power, move of transmitter) for **920 kc.** under NARBA, changes in directional antenna and installation of new transmitter, and extension of completion date to 80 days after grant (B1-MP-1233).
- KWSC**—State College of Washington, Pullman, Wash.—Granted modification of construction permit (B5-P-2911 authorizing changes in equipment) for authority to extend completion date to Oct. 9/41 (B5-MP-1239).
- KFGQ**—Boone Biblical College, Boone, Iowa.—Granted special temporary authority to operate from 12 midnight to 6 a.m. on April 1, 1941, in order to broadcast religious program celebrating the Fifty-fifth anniversary of the Boone Biblical College and Associated Institutions, only.
- WEAU**—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from sign-off (March 6:30 p.m., CST) to 9 p.m., CST, on March 29, 1941, in order to hold audience and to broadcast the Jackson Day dinner speech of President Roosevelt.
- WCNW**—Arthur Faske, Brooklyn, N. Y.—Granted special temporary authority to operate with power of 250 watts from 8:30 p. m. to 9:30 p. m., Est. March 28, 1941, for broadcast of special forum of Brooklyn law enforcement officials, only.
- WIBG**—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted special temporary authority to operate from local sunrise, Glenside, Pa., to local sunset, Knoxville, Tenn. (WNOX), instead of daytime as stipulated in reallocation for the period March 29, 1941 to not later than April 27, 1941, pending action on formal application for such authority.
- WHBF**—Rock Island Broadcasting Co., Rock Island, Ill.—Granted modification of construction permit (B4-P-2568, which authorized installation of new transmitter, and increase in power, directional antenna day and night) to change type of transmitter, make changes in directional antenna for day and night use, extend completion date to 180 days after grant, and for **1270 kc.**, under NARBA (B4-MP-1215).
- WPTF**—WPTF Radio Company, Raleigh, N. C.—Granted modification of construction permit (B3-P-2216, for new equipment, increase in power, changes in antenna system), for extension of completion date to June 1, 1941 (B3-MP-1243).
- WGEO**—General Electric Co., So. Schenectady, N. Y.—Granted construction permit to install new transmitter in International Broadcast station (B1-PIB-32).
- The **KANS** Broadcasting Co., Portable-Mobile (Area of Wichita, Kans.)—Granted construction permit for new relay broadcast station to be used with applicant's standard broadcast station **KANS**; **30820, 33740, 35820, 37980 kc.**; 2 watts (B4-PRE-388).
- WELT**—Racine Broadcasting Corp., Racine, Wisc.—Granted license to cover construction permit (B4-PRE-355, for new relay broadcast station; frequencies **30820, 33740, 35820, 37980 kc.**; 10 watts; to be used with applicant's standard broadcast station **WRJN** (B4-LRE-344).
- KNET**—The Palestine Broadcasting Association, Palestine, Tex.—Granted authority to install automatic frequency control equipment, **1450 kc.** under NARBA (B3-F-194).
- WHB**—WHB Broadcasting Co., Kansas City, Mo.—Granted authority to make changes in automatic frequency control equipment on **880 kc.** under NARBA (B4-F-196).
- WHLN**—Blanfox Radio Co., Inc., Harlan, Ky.—Granted modification of construction permit (B2-P-2885, which authorized a new station) for approval of transmitter site at Harlan, and approval of antenna; **1450 kc.**, NARBA (B2-MP-1205).
- KSWO**—William Carver & Byrne Ross, Lawton, Okla.—Granted modification of construction permit (B3-P-2664, which authorized a new station) for authority to install new transmitter, approval of antenna, approval of studio site at 1303 Summit St., Lawton, and transmitter site at Block bounded by 20th and 21st Sts., between E and F Avenues, Lawton, and for **1150 kc.** under NARBA (B3-MP-1196).
- WABC**—Columbia Broadcasting System, Inc., New York City.—Granted modification of construction permit (B1-P-2855, which authorized new transmitting equipment, new antenna, and move of transmitter) for extension of completion date to Oct. 25/41 (B1-MP-1220).
- WABC**—Columbia Broadcasting System, Inc., New York City.—Granted modification of construction permit (B1-P-2975, for new auxiliary transmitter with 5 KW power to be used for emergency only, located at Little Pea Island, New Rochelle, N. Y.), for extension of completion date to Oct. 25/41 (B1-MP-1221).
- WTMJ**—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—Granted modification of construction permit (B4-P-2696, for installation of directional antenna for night use, increase power from 1 KW night, 5 day to 5 KW day and night) for extension of completion date to May 6 (B4-MP-1219).
- WPAY**—Vee Bee Corp., Portsmouth, Ohio.—Granted modification of construction permit (B2-P-2685, for changes in transmitting equipment, antenna changes, increase in power to 250 watts and move of transmitter), for extension of completion date to Oct. 15/41 (B2-MP-1218). The grant of this application is on a temporary basis, conditionally.
- KFBK**—McClatchy Broadcasting Co., Sacramento, Cal.—Granted authority to determine operating power by direct measurement of antenna power on **1530 kc.** under NARBA (B5-Z-727).
- KDFN**—Donald Lewis Hathaway, Casper, Wyo.—Granted authority to determine operating power by direct measurement of antenna power on **1470 kc.** under NARBA.
- KIT**—Carl E. Haymond, Yakima, Wash.—Granted authority to install automatic frequency control equipment on **1280 kc.** under NARBA (B5-F-203).
- KALE**—KALE, Inc., Portland, Ore.—Granted authority to install automatic frequency control equipment on **1330 kc.** under NARBA (B5-F-206).
- KOIN**—KOIN, Inc., Portland, Ore.—Granted authority to install automatic frequency control equipment on **970 kc.** under NARBA (B5-F-204).
- WPIC**—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted authority to determine operating power by direct measurement of antenna power on **790 kc.** under NARBA (B2-Z-723).
- WINX**—Lawrence J. Heller, Washington, D. C.—Granted license to cover construction permit (B1-P-2546 which authorized a new station; **1340 kc.** under NARBA, 250 watts, unlimited time) (B1-L-1301). Also granted license to cover construction permit for new 50-watt amplifier station (B1-I-1302); also granted authority to determine operating power by direct measurement of antenna input, main transmitter and amplifier (B1-Z-621 and B1-Z-622).
- WORC**—Alfred Frank Kleindienst, Worcester, Mass.—Granted license to cover construction permit (B1-P-2563, which authorized changes in equipment and increase in power to 1 KW); **1310 kc.** under NARBA (B1-L-1307); also granted authority to determine operating power by direct measurement of antenna input on **1310 ks.** under NARBA B1-Z-628).
- KABR**—Aberdeen Broadcast Co., Aberdeen, S. Dak.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-726).
- WKWK**—Community Broadcasting, Inc., Wheeling, W. Va.—Granted modification of construction permit (B2-P-2967, for new broadcast station) for approval of antenna, and approval of studio and transmitter site at corner Market & 16th Sts., Wheeling; **1400 kc.** under NARBA (B2-MP-1229).
- W1XG**—General Television Corp., Boston, Mass.—Granted petition for 30 day extension of temporary authorization to operate experimentally visual and aural television transmitters (Dockets 5988-5989).
- WKZO**—WKZO, Inc., Kalamazoo, Mich.—Adopted order vacating Commission action of March 4, 1941, granting in part the application of WKZO to increase daytime power to 5 KW, etc., and designated the application for construction permit (B2-P-2898) for hearing.
- KORN**—Nebraska Broadcasting Corp., Fremont, Nebr.—Designated for hearing application of KORN for renewal of license; application for transfer of control (B4-TC-244) of corporation from Clark Standiford to A. C. Sidner, C. J. Malmsten, S. S. Sidner and Arthur Baldwin; and application (B4-TC-250) to transfer control of corporation from A. C. Sidner, C. J. Malmsten, S. S. Sidner, Arthur Baldwin, and E. J. Lee to John F. Palmquist and Paul Boyer.
- WARM**—Union Broadcasting Co., Scranton, Pa.—Granted modification of construction permit which authorized a new standard broadcast station to be operated on **1370 kc.**, 250 watts, unlimited hours, for authority to change frequency to **1400 kc.** in accordance with NARBA.

WBOS—Westinghouse Radio Stations, Inc., Hull, Mass.—Granted special temporary authority to operate International Broadcast Station WBOS with a power of 50 KW using two WL-895R tubes in lieu of tubes specified in construction permit application File No. B1-PIB-23, pending the filing and action on application for license to cover construction permit for period April 12, 1941 to not later than May 11, 1941.

WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate equipment licensed to the Charleston Broadcasting Co. at Relay Station WADA, 1622, 2058, 2150, 2790 kc., power 40 watts, in order to relay broadcast special event programs as described in letter dated April 1, 1941, on April 4, 11, 18, and 25, 1941, to Radio Station WSAZ.

KRJF—Star Printing Co., Miles City, Okla.—Granted modification of construction permit which authorized new broadcast station to operate on 1310 kc., 250 watts, unlimited hours, for change in frequency to 1340 kc. in accordance with NARBA.

WAPI—Voice of Alabama, Inc., Birmingham, Ala.—Granted special temporary authority to rebroadcast U. S. Army Day program from 106th Observation Plane Transmitter on 2478, 3332.5, 6460 kc., at 10 a. m., April 5, 1941.

KECA—Earl C. Anthony, Inc., Los Angeles, Cal.—Granted authority to install new automatic frequency control equipment on 790 kc. under NARBA for auxiliary transmitter (B5-F-197).

WIBA—Badger Broadcasting Co., Inc., Madison, Wisc.—Granted authority to install automatic frequency control equipment on 1310 kc. under NARBA (B4-F-201).

WCAM—City of Camden, Camden, N. J.—Granted authority to install automatic frequency control equipment on 1310 kc. under NARBA, on temporary basis, conditionally (B1-F-199).

KMO—Carl E. Haymond, Tacoma, Wash.—Granted authority to install automatic frequency control on 1360 kc. under NARBA (B5-F-200).

WHN—Marcus Loew Booking Agency, New York City.—Granted authority to install automatic frequency control. On 1450 kc. under NARBA (B1-F-198).

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Granted authority to determine operating power by direct measurement of antenna power on 1290 kc. under NARBA (B5-Z-731).

KVCV—Golden Empire Broadcasting Co., So. of Redding, Calif.—Granted authority to determine operating power by direct measurement of antenna power on 1230 kc. under NARBA (B5-Z-731).

KFRO—Voice of Longview, Longview, Tex.—Adopted order amending notice of hearing in re application for modification of construction permit to increase power to 5 KW, to specify the following additional issue: "To determine the extent and effect of any interference which the proposed operation of Station KFRO on the frequency 1370 kc. would cause to the operation of stations XEMR, Monterey, N. L., XEAF, Nogales, Son., and XEHL, Guadalajara, Jal., operating on the same frequency, with particular reference to the provisions of the NARBA (Appendix II, Table I)."

KDYL—Intermountain Broadcasting Corp., Salt Lake City, Utah.—Granted special temporary authority to rebroadcast transmission from Army Bomber in connection with Army Day celebration April 7 (B5-S-133).

KABR—Aberdeen Broadcast Co., Aberdeen, S. Dak.—Granted license to cover construction permit for increase in power from 500 watts night, 1 KW LS, to 5 KW day and night; make equipment changes and changes in DA; 1420 kc.; 5 KW DA-N (B4-L-1352).

WWRL—Long Island Broadcasting Corp., Woodside, L. I.—Granted special temporary authority to operate from midnight to 2 a. m., EST, on April 26, in order to broadcast Greek War Relief Fund program only (B1-S-271).

KOIL—Central States Broadcasting Co., Omaha, Neb.—Granted special temporary authority to rebroadcast program from plane over Ft. Crook on Army Day, April 7, from 4 to 4:15 a. m., CST (B4-S-516).

KROD—Dorrance D. Roderick, El Paso, Tex.—Granted special temporary authority to rebroadcast Army Day Program from Army Plane from 9:15 to 9:45 p. m., MST, April 7, 1941 (B3-S-1064).

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 8:30 to 10 a. m., EST, April 10, 11, 12, 13, 14, 17, 18, 19, 20, 1941, in order to broadcast sustaining musical programs as described in letter, (provided WSVS remains silent) (B1-S-879).

WSVS—Board of Education, City of Buffalo, N. Y.—Granted special temporary authority to remain silent for the period April 10 to April 20, in order to observe Easter Vacation; May 30 to observe Memorial Day, and from June 16 to Sept. 8, to observe Summer vacation (B1-S-225).

KIDW—Lamar Broadcasting Co., Lamar, Colo.—Granted special temporary authority to broadcast special Easter program from 8 to 9:30 p. m., MST, April 6 and 7, provided KGIW remains silent (B5-S-809).

## APPLICATIONS FILED AT FCC

### 600 Kilocycles

WSJS—Piedmont Publishing Co., Winston-Salem, N. Car.—Modification of construction permit (B3-P-2814) requesting increase in power from 1 KW to 5 KW, install new transmitter, changes in directional antenna for day and night use, move transmitter and extension of commencement and completion dates.

WSJS—Piedmont Publishing Co., Winston-Salem, N. Car.—Transfer of control of corporation from Gordon Gray to 87 individuals.

### 710 Kilocycles

NEW—Park Cities Broadcasting Corp., Dallas, Tex.—Construction permit for new standard broadcast station to be operated on 710 kc., 5 KW power, unlimited time. Amended re stock ownership and finances.

### 750 Kilocycles

KMMJ—KMMJ, Inc., Grand Island, Nebr.—Authority to transfer control of corporation from Don Searle, H. A. Searle, Jr., Helen Searle Blanchard and Herbert Hollister to Grand Island Independent Publishing Co. by sale of 250 shares common stock.

### 790 Kilocycles

KECA—Earle C. Anthony, Inc., Los Angeles, Calif.—Modification of construction permit (B5-P-2698) for changes in directional antenna for night use and 790 kc. under NARBA.

WEAN—The Yankee Network, Inc., Providence, R. I.—Modification of construction permit (B1-P-2037) requesting changes in directional antenna and 790 kc. under NARBA.

### 850 Kilocycles

WHDH—Matheson Radio Co., Inc., Boston, Mass.—Authority to install automatic frequency control equipment.

### 880 Kilocycles

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

### 920 Kilocycles

WBAA—Purdue University, West Lafayette, Ind.—Modification of construction permit (B4-P-2604) requesting change in type of transmitter. Amended to make changes in directional antenna for night use and specify 920 kc. under NARBA.

### 950 Kilocycles

KPRC—Houston Printing Corp., Houston, Tex.—Modification of construction permit (B3-P-2791) for changes in directional antenna system, 950 kc. under NARBA and extension of completion date.

### 960 Kilocycles

KROW—Educational Broadcasting Corp.—Construction permit to increase power from 1 KW to 5 KW, install new equipment, directional antenna for night use, move transmitter. Amended to specify 960 kc. under NARBA.

### 990 Kilocycles

WNOX—Scripps-Howard Radio, Inc., Knoxville, Tenn.—Authority to install automatic frequency control equipment.

### 1000 Kilocycles

WINS—Hearst Radio, Inc., New York, N. Y.—Modification of construction permit (B1-P-3026) for approval of directional antenna system and approval of present licensed transmitter site.

### 1030 Kilocycles

KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Authority to determine operating power by direct measurement of antenna power.

### 1060 Kilocycles

KYW—Westinghouse Radio Stations, Inc., Philadelphia, Pa.—Construction permit to make changes in directional antenna system on **1060 kc.** under NARBA.

### 1090 Kilocycles

WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Modification of construction permit (B1-P-2200) as modified requesting changes in directional antenna for night use, **1090 kc.** under NARBA and extension of completion date.

### 1130 Kilocycles

WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Authority to determine operating power by direct measurement of antenna power.

### 1150 Kilocycles

KSAL—KSAL, Inc., Salina, Kansas.—License to cover construction permit (B4-P-2765) for increase in night power and changes in directional antenna.

KSAL—KSAL, Inc., Salina, Kansas.—Authority to determine operating power by direct measurement of antenna power.

KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Construction permit to install new transmitter, make changes in antenna, change frequency from **1150 kc.** to **1230 kc.**, increase power from 100 watts to 250 watts and hours of operation from daytime to unlimited.

### 1180 Kilocycles

WHAM—Stromberg-Carlson Telephone Manufacturing Co., Rochester, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 1190 Kilocycles

WOWO—Westinghouse Radio Stations, Inc., Fort Wayne, Ind.—Construction permit to make changes in equipment, install directional antenna for day and night use, increase power from 10 to 50 KW and hours of operation to unlimited. Amended to specify **1190 kc.** under NARBA and changes in directional antenna.

### 1230 Kilocycles

WJOB—O. E. Richardson and Fred L. Adair, Hammond, Ind.—Construction permit to make changes in transmitting equipment and increase power from 100 watts to 250 watts.

KHAS—Nebraska Broadcasting Co., Hastings, Nebr.—Authority to determine operating power by direct measurement of antenna power.

WLOF—Hazlewood, Inc., Orlando, Fla.—Authority to determine operating power by direct measurement of antenna power.

KPHO—M. C. Reese, Phoenix, Ariz.—License to cover (B5-P-3092) for installation of new transmitter.

KPHO—M. C. Reese, Phoenix, Ariz.—Authority to determine operating power by direct measurement of antenna power.

### 1240 Kilocycles

KWIL—Central Willamette Broadcasting Co., Albany, Oregon.—Authority to determine operating power by direct measurement of antenna power.

KWLC—Luther College, Decorah, Iowa.—Modification of construction permit (B4-P-3003) requesting **1240 kc.** under

NARBA and extension of commencement and completion dates.

WPAX—H. Wimpy, Thomasville, Ga.—Authority to determine operating power by direct measurement of antenna power.

### 1250 Kilocycles

WTMA—Atlantic Coast Broadcasting Co., Charleston, S. Car.—Modification of construction permit (B3-P-2985) for changes in directional antenna system, **1250 kc.** under NARBA, and extension of commencement and completion dates.

KTMS—News-Press Publishing Co., Santa Barbara, Calif.—Authority to determine operating power by direct measurement of antenna power.

### 1310 Kilocycles

KFBB—Buttrey Broadcast, Inc., Great Falls, Mont.—Modification of construction permit (B5-P-2920) for changes in directional antenna for night use and **1310 kc.** under NARBA.

### 1320 Kilocycles

WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Modification of construction permit (B4-P-2821) for changes in directional antenna system for night use and request **1320 kc.** under NARBA.

### 1330 Kilocycles

WHBL—Press Publishing Co., Sheboygan, Wis.—Construction permit to increase power from 250 watts night, 1 KW daytime to 1 KW day and night and install directional antenna for night use. Amended: To request **1330 kc.** under NARBA and changes in directional antenna.

### 1340 Kilocycles

KHMO—The Courier-Post Publishing Co., Hannibal, Mo.—Modification of construction permit (B4-P-1011) requesting approval of transmitter and studio sites and antenna.

WIZE—Radio Voice of Springfield, Inc., Springfield, Ohio.—Authority to determine operating power by direct measurement of antenna power.

WCLS—WCLS, Inc., Joliet, Ill.—License to cover construction permit (B4-MP-824) for changes in equipment and increase in power on **1340 kc.**

### 1350 Kilocycles

NEW—Rock Hill Broadcasting Corp., Rock Hill, S. Car.—Construction permit for new standard broadcast station to be operated on **1350 kc.**, 250 watts, daytime hours of operation.

### 1360 Kilocycles

KGB—Don Lee Broadcasting System, Inc., Los Angeles, Calif.—Authority to determine operating power by direct measurement of antenna power.

KMO—Carl E. Haymond, Tacoma, Wash.—Modification of construction permit (B5-P-2707) to install new transmitter, make changes in antenna, specify **1360 kc.** under NARBA and extend commencement and completion dates.

### 1370 Kilocycles

WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Modification of construction permit (B1-P-2730) for changes in directional antenna and **1370 kc.** under NARBA.

### 1380 Kilocycles

WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—Authority to determine operating power by direct measurement of antenna power.

### 1400 Kilocycles

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

KFRU—KFRU, Inc., Columbia, Mo.—Authority to determine operating power by direct measurement of antenna power.



KMAC—W. W. McAllister and Howard W. Davis d/b as Walmac Co., San Antonio, Texas.—Authority to determine operating power by direct measurement of antenna power.

KICA—Western Broadcasters, Inc., Clovis, N. Mex.—Construction permit to change frequency from **1370 kc.** to **1210 kc.**, increase power from 100 watts to 250 watts and install new equipment. Amended: To request that application be contingent on grant of KFYO's application (B5-P-2455).

KENO—Nevada Broadcasting Co., Las Vegas, Nevada.—Construction permit to move transmitter and studio to El Rancho Vegas, Las Vegas, Nevada.

WHYN—The Hampden-Hampshire Corp., Holyoke, Mass.—License to cover construction permit (B1-P-1701) as modified for new standard broadcast station.

WHYN—The Hampden-Hampshire Corp., Holyoke, Mass.—Authority to determine operating power by direct measurement of antenna power

KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—Modification of license to move main studio locally.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Penna.—Authority to determine operating power by direct measurement of antenna power.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Authority to determine operating power by direct measurement of antenna power.

KONO—Eugene J. Roth, tr. as Mission Broadcasting Co., San Antonio, Texas.—Authority to determine operating power by direct measurement of antenna power.

#### 1410 Kilocycles

WKHB—WKHB, Inc., LaCrosse, Wisc.—Modification of construction permit (B4-P-2733) to install new transmitter, make changes in directional antenna system specify **1410 kc.** under NARBA and extend commencement and completion dates.

NEW—Nashville Radio Corp., Nashville, Tenn.—Construction permit for new standard broadcast station to be operated on **1380 kc.**, 1 KW, unlimited time, directional antenna. Amended to request **1410 kc.** under NARBA and changes in directional antenna.

#### 1450 Kilocycles

WCBS—WCBS, Inc., Springfield, Ill.—Construction permit to change frequency from **1450 kc.** to **1170 kc.**, increase power from 250 watts to 1 KW night, 5 KW daytime, install new transmitter, directional antenna for day and night use and move transmitter to near Springfield, Ill.

KWAL—Chester Howarth and Clarence Berger, Wallace, Idaho.—Voluntary assignment of license to Silver Broadcasting Co.

WNOE—WNOE, Inc., New Orleans, La.—Authority to determine operating power by direct measurement of antenna power.

KRLH—Clarence Scharbauer, Midland, Tex.—Modification of construction permit (B3-P-2981) to change frequency from **1450 kc.** to **1230 kc.** and extend commencement and completion dates.

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

WFPG—Neptune Broadcasting Corp., Atlantic City, N. J.—Authority to determine operating power by direct measurement of antenna power.

KFIZ—Reporter Printing Co., Fond du Lac, Wisc.—Construction permit to install new transmitter and increase power from 100 watts to 250 watts. Amended re changes in antenna.

#### 1490 Kilocycles

KDB—Santa Barbara Broadcasters, Inc., Santa Barbara, Calif.—Authority to determine operating power by direct measurement of antenna power.

WOPI—Radiophone Broadcasting Station WOPI, Inc., Bristol, Tenn.—Authority to determine operating power by direct measurement of antenna power.

WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—Authority to install automatic frequency control equipment in auxiliary transmitter.

#### 1520 Kilocycles

KOMA—KOMA, Inc., Oklahoma City, Okla.—Authority to determine operating power by direct measurement of antenna power.

KOMA—KOMA, Inc., Oklahoma City, Okla.—Authority to install automatic frequency control equipment.

#### 1590 Kilocycles

NEW—Hugh McClung, Fresno, Calif.—Construction permit for new standard broadcast station to be operated on **1590 kc.**, 5 KW, unlimited time.

#### 1600 Kilocycles

WCNW—Arthur Faske, Brooklyn, N. Y.—Authority to install automatic frequency control equipment.

### FM APPLICATION

NEW—Boston Edison Co., Boston, Mass.—Construction permit for a new high frequency broadcast station to be operated on **44700 kc.**, coverage 6,930 square miles, population 3,075,927.

### MISCELLANEOUS APPLICATIONS

NEW—Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Construction permit for a new STL broadcast station to be operated on **331000 kc.**, 50 watts, special emission for frequency modulation. To be used with W47A.

KGEI—General Electric Co., San Francisco, Calif.—Modification of construction permit (B5-PIB-24) requesting change in transmitter site to near Belmont, Calif., and extension of commencement and completion dates.

KRCO—Columbia Broadcasting System, Inc., Portable-Mobile, in area of Los Angeles, Calif.—License to cover construction permit (B5-PRE-377) for a new relay broadcast station.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Bengor Products Company**—Charging misrepresentation in the sale of medicinal preparations, a complaint has been issued against Ben Gordon and Louis Gordon, trading as Bengor Products Co. and as Golf Products Co., 878 Broadway, New York. The respondents sell two preparations, one known as "Dupree Pills" and as "Dr. Gordon's Single Strength Pills", and the other as "Dupree Pills Double Strength" and "Dr. Gordon's Double Strength Pills".

According to the complaint, the respondents, in catalogs and advertising matter circulated in various States, represented their preparations as constituting competent treatments for amenorrhea and dysmenorrhea, when such are not the facts.

The complaint further alleges that the respondents disseminated false advertisements in that they failed to reveal therein that use of their preparations under customary conditions or under conditions prescribed in the advertisements, may result in serious injury to health.

According to the complaint, the respondents' preparations contain certain drugs in such quantity that use of the preparations under the customary or prescribed conditions may result in gastrointestinal disturbances and other conditions leading to serious injury. (4479)

**Green Supply Company**—Complaints charging the use of lottery methods in the sale of merchandise have been issued against Perce P. Green and Howard Rand, trading as Green Supply Co.,

National Merchandising Co. and National Supply Co., 282 Sexton Building, Minneapolis, and against Little Rock Tent & Awning Co., a corporation also trading as Tuf-Nut Garment Manufacturing Co., Little Rock, Ark.

The complaint against the Minneapolis respondents Green and Rand charges them with furnishing devices and plans involving lottery methods for use in connection with the sale and distribution of their products. According to the complaint, the respondents sell fishing tackle, silverware, rifles, garments, blankets, radios and other merchandise.

The Little Rock Tent & Awning Co., according to the complaint, is a manufacturer of work garments which it allegedly has sold to dealers by means of a method which involves the use of a lottery scheme when the garments are sold and distributed to consumers. (4480-4481)

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**Fink & Co., Inc.**, 151 West Fortieth St., New York, has been ordered to cease and desist from misrepresentations in the sale of vitamin preparations designated "Mi-Vit-Ine" and "Vi-Min-Ex", and "Muriel Joan Beautifier", a cosmetic preparation.

The Commission order directs the respondent to cease disseminating advertisements which represent that Mi-Vit-Ine is a cure, remedy, or competent treatment for lowered vigor and vitality, constipation, colitis, stomach disorders, neuritis, or nerve disorders; that it is a dietary corrective or is composed of a different kind of wheat germ, or that the preparation has any therapeutic value in the treatment of alcoholism in excess of stimulating the appetite, which may have been affected by reason of overindulgence.

The respondent is further ordered to cease representing that Vi-Min-Ex is a cure, remedy or competent treatment for colds, constipation, spastic colitis, digestive disorders, neuritis, nerve disorders, anemia, loss of appetite and weight, lowered vigor and vitality, or tooth decay, or that this preparation, under conditions of use, will supply all the essential vitamins and minerals required by the body, or that it constitutes the best source for the supply of such minerals and vitamins.

The order also directs that the respondent discontinue representing that Muriel Joan Beautifier will beautify or transform the face, cause skin blemishes, pimples or blackheads to disappear, or bring about a beautiful complexion, or that this preparation has any properties which would cause blemishes or other skin conditions to disappear, or have any other permanent effect upon any skin condition. (3890)

**Hubinger Co.**, Keokuk, Iowa, has been ordered to cease and desist from price discriminations in violation of the Robinson-Patman Act in the sale of glucose or corn syrup unmixed, one of the principal raw materials used in making candy, and in the sale of gluten feed, a corn syrup by-product.

Between July 25, 1937, and the present time, according to Commission findings, the respondent sold corn syrup in certain cities other than Chicago at higher delivered prices per hundredweight than it sold such syrup in containers of like size and type to Chicago purchasers.

The Commission findings include several tables illustrating the extent to which price differentials made more than due allowance for differences in cost of delivery. These tables show, for example, that although the freight rate from the respondent's plant at Keokuk, Iowa, to Zion, Ill., was five cents more per hundredweight than the rate from Keokuk to Chicago, purchasers at Zion were charged eight cents more per hundredweight for syrup than were Chicago purchasers. Likewise, according to the tables, the freight rate from Keokuk to Fort Worth, Tex., was 53½ cents per hundredweight greater than from Keokuk to Chicago but Fort Worth purchasers were charged 80 cents more per hundredweight for syrup than were Chicago purchasers.

According to findings, the respondent also discriminated by selling syrup to certain Chicago and Muskogee, Okla., customers at prices lower than its prevailing price to other purchasers in those cities. Also, the findings continue, the respondent, after increasing its price to the trade generally, discriminated by selling syrup to some purchasers, mostly large-scale buyers in Chicago, at the

former and lower price while concurrently selling syrup of like grade and quality to others at the new and higher price.

According to findings, the respondent discriminated by selling and delivering corn syrup to purchasers in several types and sizes of containers at prices per hundredweight which increase over the tank car price per hundredweight according to the size and type of container. Such increases over the tank car price, the findings continue, vary from 10 cents per hundredweight in the case of tank wagons, to \$1.08 per hundredweight in five-gallon kegs.

Gluten feed, according to findings, has been sold by the respondent since January 1, 1939, to nine purchasers at 50 cents a ton less than the concurrent price which it charged all others for feed of like grade and quality.

The Commission order directs the respondent to cease and desist from the discriminations as found, or from similar discriminations. (3801)

**Zeen Chemical Company**—David H. Goldman, trading as Zeen Chemical Co., 1311 West 11th St., Cleveland, has been ordered to cease and desist from making misleading representations in the sale of "Zeen Dry Cleaner".

Commission findings are that prior to issuance of complaint in the proceeding, the respondent advertised that Zeen Dry Cleaner "will moth-proof or de-moth woolen materials in upholstery or rugs with one operation", when in fact the product does not reach deep-seated infestations of moths, unless used according to complete and specific directions, which were not provided.

Further findings are that the product will not moth-proof fabrics, and that while it possesses moth-repellent properties, such properties, due to evaporation, are gradually diminished and then lost unless repeated applications are made.

The Commission order directs the respondent to cease representing that its preparation will reach deep-seated infestations of moths, unless directions accompany such representation which will enable the user to bring the preparation in contact with the moths; that the product will moth-proof fabrics or materials; and that it will de-moth materials in upholstery or rugs, unless such representation is accompanied by the explanation that such result is of temporary duration only and must be repeated at proper intervals.

The order also prohibits the representations that Zeen Dry Cleaner cleans and removes all types of spots, stains and all foreign matter; that it is non-explosive, except that the respondent is not prohibited from representing that its preparation is non-explosive if kept away from fire or flame, and that the product is used exclusively by leading furniture and department stores everywhere. (3995)

**Vitaphore Appliances, Inc.**, South Bend, Ind., has been ordered to cease and desist from misrepresentation in the sale of "Vibratherm", a heat and massage device.

The Commission order directs the respondent to cease disseminating advertisements which represent that the use of Vibratherm constitutes a cure or remedy for prostatitis, or that the device has therapeutic value in treating prostatitis in excess of furnishing temporary relief from the symptoms of pain where the local application of heat is indicated.

The respondent is further ordered to desist from representing that use of the device constitutes a remedy or effective treatment for bladder weakness, backache, headache, arm, leg or foot pains, or nervousness; has therapeutic value in the treatment of hemorrhoids, constipation, or sexual decline, or provides a cure or remedy for certain women's disorders or has therapeutic value in their treatment. (3884)

## STIPULATIONS

Following stipulations have been entered into during the past week by the Commission:

**American Ozone Company**—Chris F. DeJonge, trading as American Ozone Co., Zeeland, Mich., has entered into a stipulation to cease and desist from certain representations in the sale of so-called ozone generating machines.

According to the stipulation, the respondent assembles parts obtained from the manufacturers into the completed machines of

three different models, two of which are designed for use in hatchery or poultry houses.

The respondent stipulates that he will cease employing any representation the effect of which tends to convey the impression that use of any one of the machines in poultry houses would contribute to the development and health of the birds therein or that the machine would generate sufficient ozone to have any germicidal effect. (3055)

**Baldwin Music Company**—C. J. Richardson, trading as Baldwin Music Co., Shreveport, La., has entered into a stipulation in which he agrees to cease making certain representations in the sale of pianos. The respondent agrees to desist from representing that new or used pianos, which are not in fact repossessed, are instruments which, having been previously sold under deferred payment or other plan, have been repossessed because of inability of the purchasers to meet the payments thereon or for any other reason, or that such instruments are being sacrificed for balances due or at reduced prices. (3058)

**Fairystone Manufacturing Co.**—Ray G. Maloney, trading as Fairystone Manufacturing Co., and Willard J. Dungan and Arthur E. Maloney, trading as Fairystone Distributing Co., 626 United Artists Building, Detroit, have entered into stipulations in which they agree to cease representing that their emollient cream "Fairystone" is an "absolute sunburn protection" and that it filters out the burning or ultra-violet rays of the sun and permits other sun rays to gain access to the skin. The respondents also agree to cease representing, unqualifiedly, that their preparation will effectively cover or conceal scars, birthmarks or other skin blemishes, and to discontinue representing that by its application users will look years younger. The respondents further stipulate that they will cease making statements tending to create the impression that their preparation is an effective treatment or competent remedy for pimples or blotched skin. (3057)

**Grace McLendon's Hair Products**—Trading as Grace McLendon's Hair Products, Grace McLendon, 904 Wesley Ave., Pleasantville, N. J., entered into a stipulation in which she agrees to cease advertising that "Mme. Grace McLendon's Hair Grower" will stop falling hair, remove dandruff, prevent hair from turning gray, restore gray hair to its natural color, or cause hair to grow. The respondent also stipulates that she will desist from representing by use of the words "Hair Grower" in the designation of her preparation, that it will grow hair. (02761)

**Haudcraft Bedding Corporation**, 887-889 Niagara St., Buffalo, mattress manufacturer, stipulated that it will cease using or sup-

plying to others for their use labels which bear any fictitious or misleading price representation purporting to be the retail sales price of a product but which, in fact, is in excess of the customary retail price. According to the stipulation, the respondent labeled certain mattresses sold to retailers with the price of \$22.50 which was much in excess of the usual retail price. (3054)

**Reliable Mattress Co.**, 2028 Walnut St., St. Louis, has entered into a stipulation in which it agrees to cease making certain representations in the sale of mattresses.

The respondent corporation agrees to cease representing by use of the words "New Materials" or other words of similar meaning, that a mattress or mattress filling made in whole or in part from old, used or second-hand materials is new or is made entirely from new materials. The stipulation provides that if the mattress or filling is composed in substantial part of new materials the word "new", if used as descriptive of such new materials, shall be accompanied by other words in conspicuous type to indicate clearly that the mattress or filling is not made entirely from new materials.

The respondent further stipulates that it will discontinue employing the term "100% Cotton Linters" as descriptive of a mattress the filling of which is not made wholly from cotton linters. The respondent agrees to cease stating, when a mattress is made in whole or in part from old, used or second-hand material, but that fact is not properly disclosed, that such mattress complies with any State law requiring such disclosure. (3059)

**L. Soaneborn Sons, Inc.**, 88 Lexington Ave., New York, entered into a stipulation in which it agrees to cease making certain representations concerning its product "Lignophol", designed to be used as a wood finish and preservative. The respondent agrees to cease making representations, pictorial or otherwise, the effect of which tends to convey the impression that the product's penetrative quality, when applied to a wood surface, is in excess of what is actually the fact. According to the stipulation, the respondent's preparation, when applied over the surface of wood flooring, would not penetrate practically therethrough, as indicated in the respondent's advertising illustration. (3056)

**St. Clair Company**—V. H. Bean and M. C. Bean, trading as St. Clair Co., Findlay, Ohio, have entered into a stipulation in which they agree to cease representing that "Shur-Deth", a rat-killing preparation, will drive rats and mice outside to die; is the most effective raticide known; is the original preparation of rat foods in combination with red squill, and is recommended by the United States Department of Agriculture. The stipulation recites that the respondents' representations are not in accord with the facts. (02760)



### THE WEEK IN WASHINGTON

Neville Miller clarifies the ASCAP situation as of this week. (p. 349).

The program for the NAB's St. Louis convention, May 12-15, is beginning to take form, and promises to be most interesting. (p. 350).

Frank King, WMBR, was elected director at a District 5 meeting in Jacksonville, Fla. (p. 351).

Ohio State University's annual institute for education by radio will be held May 4-7 in Columbus. The Third National Conference on Consumer Education discussed broadcasting at length at its Columbia, Mo., meeting April 7-9. (pp. 351-352).

Advertising agencies will be asked to return audition transcriptions to stations on account of the threatened aluminum shortage. (p. 352).

The NAB Labor Committee expresses an opinion on employment. (p. 352).

Sales managers should attend their district meetings before the NAB convention. Aviation schools are good business prospects. (p. 352).

Hit songs by newcomers are BMI specialties. (p. 355).

The FCC authorized consolidation of four Brooklyn stations. (p. 356).

### The ASCAP Situation

Neville Miller today made the following statement:

The number of inquiries we have been receiving with respect to negotiations with ASCAP suggests that a clarification of the situation may be helpful.

Last November, I wrote to Fred Waring to the effect

that if ASCAP would present definite proposals based upon the per-program plan, I would immediately present same to the Board of the NAB. No such proposals were ever received from ASCAP.

ASCAP signed its Consent Decree on February 26 of this year. Immediately thereafter I wrote Mr. Buck reminding him that ASCAP was now in a position to withdraw the contract submitted to broadcasters last March and which was now illegal under the terms of the Consent Decree, and to submit instead a new proposal in conformity with the terms of the Consent Decree. I urged Mr. Buck to submit such a proposal to the industry, and I volunteered to call a meeting of the Board of Directors of the NAB to consider it.

On March 4th, Mr. Buck wrote me a letter which indicated that he had the mistaken notion that the entire broadcasting industry had delegated the National Association of Broadcasters as its negotiator and that the NAB was authorized to sign contracts on behalf of the industry.

I wrote Mr. Buck on March 6th that he was mistaken in thinking that the NAB had taken over the rights of individual broadcasters, but that if it would be helpful to him and his associates I would be delighted to ask the Board of Directors of the Association to appoint a committee to sit with ASCAP to assist it in formulating the proposals which it wished to submit to individual broadcasters.

Mr. Buck answered on March 7th, requesting that such a committee be appointed. Accordingly, I called a meeting of the Board of Directors of the NAB to be held in New York on March 17-18. I wrote Mr. Buck on March 10th, telling him I was doing this, and again pointed out that I thought it would be unfortunate to bring from every part of the United States the twenty-six members

*(Continued on page 350)*

**You Can't Afford to Miss the NAB Convention**

**May 12, 13, 14, 15**

**New Jefferson Hotel**

**St. Louis**



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NATIONAL 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## THE ASCAP SITUATION

(Continued from page 349)

of the Board without being able to lay before them for consideration an outline of the alternative bases of licensing which ASCAP's Consent Decree required it to offer.

No such proposals were received from ASCAP to present to the meeting of the NAB Board. The Board, as requested by ASCAP, appointed a committee and a meeting with the ASCAP committee was immediately arranged for March 20th. At that meeting, ASCAP again failed to present any proposals, but at the close of the meeting, ASCAP agreed to prepare proposals in accordance with the requirements of the Consent Decree and to submit same to the NAB Committee for consideration. It was indicated that the proposals would be ready within a week or ten days.

Twelve days later, April 1st, John Paine came to my office in New York and stated that the ASCAP Committee not only did not have any proposals to present for consideration by the NAB Committee, but had decided that instead of having a further meeting with the NAB Committee, ASCAP desired to discuss the question individually with the networks. I pointed out to Mr. Paine that the NAB Committee had been appointed at ASCAP's request, that I would be glad to call a meeting of the Committee to consider any proposals, and that I thought it would be in the best interests of all concerned for ASCAP to comply with the Consent Decree by formulating complete proposals. I further pointed out to Mr. Paine that any proposal which was made to the networks in contemplation of clearance at the source would naturally be dependent upon contribution by affiliates and that probably no affiliate would be willing to commit itself regarding network programs until it knew what would be the ASCAP proposal as to its local business. That, therefore, I thought ASCAP would eventually have to make a complete proposal and that his present plan would result only in delay.

I further stated that I was sure that the networks would meet with ASCAP if requested. It is the opinion of all lawyers that such individual meetings should be held if requested by ASCAP.

Mr. Paine stated that ASCAP had already held a meet-

ing with Mutual and would seek a meeting with NBC and a meeting with CBS within the next few days.

ASCAP held a meeting with representatives of CBS and CBS affiliates on Thursday, April 10th, and a meeting with representatives of NBC and NBC affiliates was held on Tuesday, April 15th. Meetings have also been held with representatives of Mutual.

I regret that ASCAP has not as yet formulated any proposals in accordance with the terms of the Consent Decree, in spite of the many requests which have been made for such proposals.

The industry will be kept advised of developments.

## Convention Program Shapes Up

The program for the Nineteenth Annual NAB Convention, Hotel Jefferson, St. Louis, May 12-15, is beginning to take form. While no definite announcement as yet can be made with reference to speakers, outstanding figures are assured as participants upon the program. National defense, the music situation, Government and public relations of the industry, labor matters, and problems of the commercial phases of broadcasting will all come in for treatment.

Monday, May 12, is registration day, with the Golf Tournament—competition for the BROADCASTING Magazine trophy—in the afternoon at the Sunset Hill Country Club.

At the Tuesday morning business session, President Miller will submit his annual report, along with those of the various Directors of the Departments of the Association. By-Law amendments will be submitted and voted upon. Then follows the discussion on national defense in which, among others, Major General Robert C. Richardson, Jr., Public Relations Director of the Army is definitely scheduled to participate. The speaker for the noon luncheon has not yet definitely been decided.

The afternoon of Tuesday will be given over to the meetings of the IRNA, NIB and Sales Managers groups, and the clear, regional and local channel stations.

Wednesday will be entirely devoted to the discussion of music matters, with President Miller, Sydney Kaye, Vice President and Counsel, Merritt Tompkins, General Manager and Carl Haverlin, Director of Station Relations, all of BMI participating. In the late afternoon a session of the FM broadcasters will be held.

On Thursday, the morning program will consist of a discussion of the aims and policies of the recently reorganized Department of Broadcast Advertising, the commercial sections of the Code, the unit plan of volume measurement and other commercial problems. Colonel Willard Chevalier, publisher of BUSINESS WEEK, a

McGraw-Hill publication, and a recognized authority on the subject of advertising, will feature the session with a half-hour talk on some subject having to do with the place of advertising in the national emergency.

At the noon session a speaker from the industry will summarize the industry's problems and in the afternoon, labor will be the topic of discussion. Then will follow the election of Directors-at-Large and the expressions of choice on the part of the membership as to the site of the 1942 convention. These latter two are contingent upon the passing at the Tuesday meeting of amendments covering those subjects.

In the evening the annual banquet will be held in the Gold Room of the Jefferson Hotel. The entertainment for this banquet is being jointly arranged by CBS, MBS and NBC with the cooperation of the St. Louis broadcasters, under the direction of Merle Jones, General Chairman. A lively, varied show is assured with radio personalities participating.

### ST. LOUIS BROADCASTERS LAY PLANS

Merle Jones, KMOX, General Chairman of the St. Louis Broadcasters' Committee, coordinating local activity in connection with the Nineteenth Annual NAB Convention to be held in St. Louis, May 12 to 15, reports a most enthusiastic meeting of all his committeemen at the Jefferson Hotel on Monday, April 14.

All of the St. Louis broadcasters have displayed a remarkable spirit of cooperation and in so far as it is possible, the every wish of those who will be in attendance, both men and women, has been anticipated.

The hotel reservation situation was thoroughly discussed and it was revealed that the advance reservations far exceed those of any previous NAB convention. The headquarters hotel, the New Jefferson, will undoubtedly be crowded to the roof and other St. Louis hotels will enjoy a splendid business.

The St. Louis merchants are cooperating in providing entertainment for the ladies. The Golf Tournament arrangements have been perfected and in fact, every detail has now been cared for.

The St. Louis Convention and Publicity Bureau, under the able direction of F. H. Rein, general manager has rendered every possible assistance. All in all, this Nineteenth Annual Convention promises to be a most successful one.

Following is a complete list of the St. Louis broadcasters' committees:

#### GENERAL CHAIRMAN

Merle S. Jones, KMOX.

#### GENERAL COMMITTEE

Chairman, Merle S. Jones, KMOX; L. A. Benson, WIL; George M. Burbach, KSD; Rev. W. A. Burk, WEW; Robert T. Convey, KWK; John C. Roberts, Jr., KXOK; William H. West, WTMV.

#### ENTERTAINMENT AND RECEPTION COMMITTEE

Chairman, William H. West, WTMV; Robert T. Convey, KWK; Nicholas Pagliara, WEW; Chester G. Renier, KMOX; Bart Slatery, WIL.

#### EXHIBITS COMMITTEE

Chairman, Clarence G. Cosby, KXOK; L. A. Benson, WIL; Edward W. Hamlin, KSD.

#### GOLF COMMITTEE

Robert Richardson, Jr., KWK, and J. Roy Stockton, KSD.

#### HOUSING COMMITTEE

Chairman, Ray E. Dady, KWK; Rev. W. A. Burk, WEW; Arthur Casey, KMOX; Frank Eschen, KSD; Elzey Roberts, KXOK.

#### PUBLICITY AND PUBLIC RELATIONS COMMITTEE

Chairman, George M. Burbach, KSD; Luther L. Hill, KSO; John C. Roberts, Jr., KXOK; Vernon H. Smith, KOWH.

### DISTRICT 5 MEETING

With the holding of the District 5 meeting at Jacksonville on Friday, April 11, the series of District meetings required by the By-Laws was completed.

All three of the states in the Fifth District, Florida, Georgia and Alabama, were well represented. Unfortunately none were present from Puerto Rico which also is within that District.

A most interesting discussion of industry problems, including music was held. Carl Haverlin of BMI led the discussion on the music problem and C. E. Arney, Jr., represented the NAB staff.

Frank King, WMBR, Jacksonville, was chosen for the two-years Director's term succeeding Walter Tison of WFLA, Tampa. The meeting heartily endorsed the work of BMI and urged continued support of it by the broadcasters.

Following the election, the Sales Managers of the Fifth District held an interesting meeting presided over by Norman MacKay, WQAM, Miami, Chairman of the Fifth District Sales Managers Committee.

The following attended the meeting:

Don Ioset, Maurice C. Coleman, WAGA; Ed Lord, WALB; Thad Holt, Ed Norton, WAPI; J. M. Comer, Jr., WATL; Jack Williams, John J. Tobola, WAYX; J. C. Bell, WBRC; H. G. Wells, Jr., WCOA; Bill Covington, R. B. Raney, WCOV; Ralph Nicholson, L. S. Mitchell, WDAE; L. J. Duncan, WDAK; Harold P. Danforth, WDBO; Walter Tison, WFLA; Glenn Marshall, Jr., WFOY; J. W. Woodruff, Jr., WGPC; Harry E. Cummings, WIOD; John Hopkins, Evelyn Boote, WJAX; H. G. Wells, Jr., WJHP; George A. Hazlewood, WLOF; "Red" Cross, WMAZ; Frank King, WMBR; W. Wright Esch, WMFJ; John F. Pidcock, WMGA; H. Wimpy, WPAX; Fred Mizer, Norman MacKay, WQAM; J. W. Woodruff, Jr., J. A. Davenport, WRBL; W. R. Ringson, WRDW; Happy Quarles, WRGA; Francis Kearney, WRUF; John M. Outler, Jr., WSB; Howard E. Pill, John B. DeMotte, WSFA; Henry Johnston, WSGN; Jerry A. Wigley, WSUN; Marjorie Willis, Weldon Heiner, WTOC.

C. O. Langlois, John Langlois, Lang-Worth Feature Programs, Inc.; D. A. Reesor, RCA; Herbert Denny, Standard Radio; Carl Haverlin, BMI; H. R. Mason, Associated Press; Leonard D. Callahan, SESAC; Andrew W. Bennett, Attorney.

### OHIO STATE EDUCATION CONFERENCE MAY 4-7

Ohio State University's Twelfth Institute for Education by Radio will be held at the Deshler-Wallick Hotel,

Columbus, May 4-7, with "radio in the current crisis" the theme of the meeting.

A record number of broadcasters attended last year's institute, and were enthusiastic about it. The NAB hopes that an even larger number can attend this year.

George V. Denny, Jr., moderator of Town Hall of the Air; Dorothy Lewis, vice chairman of the Radio Council on Children's Programs; Paul White, director of news broadcasts for CBS; Leonard Power of the FREC; Walter G. Preston, Jr., manager of NBC's Public Service Program Division; Ed Kirby, War Department, and Neville Miller are a few of the many prominent radio authorities scheduled to speak or conduct meetings.

A complete program may be had on request at the NAB.

### CONSUMER MEETING

The Third National Conference on Consumer Education held at Stephens College in Columbia, Missouri, April 7-9.

Since the conference was purely educational, most of the discussions were confined to ways and means of disseminating Consumer material and the use of "National Defense," as the means to an end. Advertising methods were discussed very little, but when they were brought up, they were attacked not from the "over" Advertiser angle, but the "under" Advertiser angle; E. I. a breakfast food advertises protein content, but a human would have to eat one-tenth of his weight of this breakfast food to get enough proteins for a normal day.

It was the concensus in the radio discussions that a Consumers' program must be sustaining, that any attempt to commercialize a Consumer's program would completely destroy it's value.

Exclusive of the above, the conference attempted to set up machinery to spread Consumer information. "Since radio stations devote approximately 50% of their time to programs of a public service nature, the Institute for Consumer Education should use a great percentage of that." Daily and weekly market reports should be broadcast both on networks and local stations informing the public of the unwarranted rise in prices, reports on the National Defense Program, and the broadcasts of unethical business practices and principles in the line of National Defense. New techniques should be found to reach the listeners in the lower income bracket, possibly thru the "Soap Opera" medium. Material from the Institute of Consumer Education should be organized nationally and sent to local groups interested in such material. These local groups, Federated Women's Clubs, Better Business Bureaus, etc., would, in turn, request time on local stations for broadcasts in the Institute interest.

Charles Berry's National Defense talk on the National Farm and Home Hour was commended, and it was suggested in the Keith Tyler discussion that the National Broadcasting Company should be approached and requested to use more Consumer Material, and incorporate market reports on commercial products during the National Farm and Home Hour.

In the consumer group, radio is recognized as the best medium for Consumer Education, and on the strength of the programs now on the air of the General Federated Women's Clubs, the further use of independent radio stations for consumer education programs is urged.

### ALUMINUM DISCS

In the NAB REPORTS (p. 265), reference was made to the possible effect of defense priorities upon available aluminum for the making of radio transcriptions. Some stations express apprehension lest this problem may become acute if proper steps are not taken.

One forward looking operator writes:

"Would it not be appropriate to appeal to advertising agencies to go through their piles of transcriptions that stations have sent them as samples of different programs, air checks, and so on, and ask their return to the respective stations as determined by the labels thereon. The stations can get an equal number of new recording blanks for the old ones they send in to the disc manufacturers. In this way the supply to the stations is assured, without interfering with defense needs for aluminum. This, of course, would only apply to the acetate type of blank which has an aluminum base. If stations can get their used blanks back we can probably keep going indefinitely, but with a constant outgo and no new stock available, we are all going to suffer from this shortage."

This is a good suggestion and we commend it to the attention of all station managers.

## Labor

### JOB CHANGES

The NAB Labor Committee believes that stations employing members of other stations' staffs should require them to give due notice to their old employers before leaving.

The committee emphasizes that it believes broadcasting employees should have absolute and unrestricted opportunity for self-advancement. Nevertheless, it appears to be only fair that due notice be given by employees before leaving their jobs—and that this notice be required by the new employers.

The Labor Committee expresses this opinion in the light of information that some stations have been hard hit when their employees left for better jobs without adequate notice, to fill jobs made vacant in other stations by the departure of men for selective service or reserve officer duty.

## Sales

### SALES MANAGERS' MEETINGS

In all districts where they have not already been held, meetings of the Sales Managers' Division have been scheduled for some date before the NAB convention.

Station managers are urged to be represented, either in person if they direct sales, or by their sales manager.



Under the general chairmanship of E. Y. Flanigan of WSPD, Chairman of the Sales Managers' Executive Committee, an agenda has been supplied to each division chairman listing a number of topics of the greatest concern to executives in charge of sales. Your presence is required not only for the contributions you can make to the discussions of these serious problems, but also for the good you can derive from them.

### AVIATION SCHOOLS GOOD PROSPECTS

If you are not now getting your share of business from trade and mechanical schools that can prepare young men for jobs as aviation mechanics, we suggest that you lay the groundwork for some of this business as soon as possible.

Through the cooperation of many radio stations, thousands of recruits were secured for the flying corps of the army and navy. Congress has appropriated money for the construction of thousands of planes. Now the chief need is for mechanics and ground crews. At present the navy is soliciting aviation machinists for their 10,000 ships already appropriated for, and requires that such recruits be "graduates of an aviation vocational or aviation trade school."

The need for machinists will soon be even greater, both by the army and navy, as well as by aviation manufacturing companies. One such company is already using radio to solicit workers, undoubtedly an outgrowth of the success radio stations have had in providing national defense agencies with 300,000 skilled workers through Civil Service up to March 1, 1941.

Numerous aviation trade schools already exist, and most of them already use radio to secure students. However, many other types of trade and mechanical schools, such as diesel engine, air-conditioning, radio and television, etc., could be converted into aviation training schools and swell their enrollments thereby. Radio stations can suggest and cooperate in this effort, and thereby increase commercial revenue.

### SEARS-ROEBUCK BUYS BASEBALL

A departure from usual advertising practice by a Sears-Roebuck store is the sponsorship of baseball re-creations over KROY, Sacramento, Calif., for road games of the Sacramento team, and scores by innings of home games.

### RADIO CHECKING SERVICE

Many stations may already be familiar with the newly organized "National Radio Checking Service, Inc.," soliciting business from radio advertisers and offering to check the performance of stations to show the advertiser whether he is getting the service he is buying or not.

In a promotion piece soliciting shut-ins and others to do this checking, the company wrote:

"We work for the advertisers and that is what we need you for—to see that the advertiser gets the service he has paid for. Advertisers are interested only in the commercial part of their programs. They want and insist that this must be right and just as ordered. Our job is to see that there are no mistakes made by the station or the announcer."

It is not within the province of NAB or its member stations, of course, to deny this company the right to solicit business from advertisers. But why there should be any need for such an outside agency, charging a separate fee to the advertiser, is what concerns broadcasters.

This service is available to advertisers without extra charge from the broadcasters themselves, who keep official logs and furnish affidavits of performance, as required by the FCC.

If there have been any abuses in commercial broadcasting such as to require advertisers to engage an outside checking service, the stations should act immediately to correct them. If errors are reported immediately by the station, and not charged for or make-goods scheduled, their interests will best be served in the long run. Other abuses, such as doubling-up or "backing" of spot announcements unless sold on that basis, should also be corrected.

Money that the advertiser spends for checking up on radio's performance of its contract obviously cannot be spent for more time, and the very need for such a service (which we deny exists) would constitute a black eye for the broadcasting industry. Remember that checking copies of printed media are furnished and need no check-up at additional expense.

### SUCCESS STORIES NEEDED

An important aim of the NAB Department of Broadcast Advertising is to serve as a national clearing house for success stories in all types of business, as well as for all other effective sales helps. The cooperation of every broadcaster is required, and this service in turn will be made freely available to any NAB member whenever requested.

Therefore please send all available success stories now, and place this Department on your mailing list to receive all future success stories and other promotion mailings.

### PER-INQUIRY and FREE OFFERS

The moral in the following exchange of correspondence is, we think, obvious. The matter concerns the Mendenhall Mfg. Co., makers of women's hosiery, previously reported in these columns. Every station manager, sales manager and credit manager should read it.

The following letter was received this week by the NAB Department of Broadcast Advertising:

Dear Mr. Pellegrin:

In the NAB REPORTS of April 11, 1941, page 335, there appears an article headed "Advertiser Threatens Suit."

I think that our experience with this same advertiser, the Mendenhall Mfg. Company, might prove of interest to NAB and to all NAB member stations. We would ask, however, that all references to this station be omitted if you see fit to publicize our experience.

About January 16th or 17th, we were approached by the Mendenhall Mfg. Company for rates and available spot time. There was no least hint that this company desired P. I. rates and we had no suspicion that it sought time on a P. I. basis. In our reply of January 17th, we quoted our rates and available time on a strictly card rate basis. Replying on January 24th, the Mendenhall Company wrote as follows:

Dear Mr. \_\_\_\_\_:

Replying to your favor of January 17th, please enter our order for 300 announcements of the enclosed continuity at \$6.60 each, to begin at your earliest convenience and to run daily on your 7:40 a. m. spot and Sunday on the 12:59 p. m. spot. Thanking you, I am,

Very truly yours,

(Signed) SPURGEON PICKERING,  
Mendenhall Mfg. Company."

We were not content with this blanket order for the spots and under date of January 29th, we sent our regular contract with the times and number of spots clearly stated together with the unit price. One paragraph of this letter was as follows:

"We are enclosing our contract form made out in duplicate in accordance with provisions in your letter. Will you please sign and return both copies; the duplicate will be accepted by this station and returned to you for your files. Although your letter is considered our authority to run the announcements, it is a station policy in all cases to have our contract forms duly signed in order that we have a permanent record of our mutual understanding in our files."

We have had a large number of complaints about the non-delivery of hosiery to those who sent in letters with the requisite price and which were forwarded to the Mendenhall Company. Again and again we urged them to be more prompt in delivery, at the same time sending our regular weekly bills for their indebtedness to us. After six weeks, we ceased broadcasting the spots as we had not been paid. Finally, about two weeks ago, our manager succeeded in getting Mr. Spurgeon Pickering on the telephone and told him that unless we had a check within the next three days we would short-rate him and institute suit. Mr. Pickering promised faithfully that we would have the check. But no check has been forthcoming. Finally, on April 9th, we wired him as follows: "Holding legal summons forty-eight hours. Stop. Must have check in full for account. Advise Western Union." Back came the following answer: "What in the H—— do you mean legal summons. Your city is not place for a summons. I am not any novice in business. In the first place you had no right to run my announcements without pulling four returns for each dollar."

It scarcely seems worthwhile to institute suit as the case would have to be tried in Mississippi and the court costs, attorney's fees, etc., would amount to more than Mendenhall's indebtedness to this station, namely \$277.20. I suppose, therefore, that we shall have to take the beating.

It seems to me that these and similar cases of bad faith and crookedness on the part of advertisers should be handled by some appropriate department of NAB. If some sort of insurance plan

under which stations would pay NAB a definite premium were set up for the conduct of such cases and the prosecution of wrongdoers, it would be for the benefit of the whole industry and, at the same time, estop such practices on the part of unscrupulous individuals. Had this station management ever suspected that Mendenhall was a P. I. account, it would not, of course, have even considered taking the Mendenhall spots.

We would be very much interested in knowing what may be the ultimate outcome of the case you published in the April 11th NAB REPORTS, page 335. Likewise, we would like your advice as to procedures other than prosecution by which we might obtain a part, at least, of what this firm owes us.

Respectfully yours,

(Signed).

NAB replied as follows:

Dear ———:

Your letter of April 14 regarding the Mendenhall Co. poses some interesting problems which have had the serious study of our staff members here. Russell Place, NAB Counsel, advises that legal action would have to be instituted by your attorneys in Mississippi; that the likelihood of your recovering would be slight, and that the expenses of legal action would entail further loss. Nevertheless, you would like to obtain at least part of the money Pickering owes you, and the only practical suggestion we can offer at this time is for you to take your record of response on this account, and submit a bill to Pickering based on four returns per dollar, since he has already admitted his indebtedness to you on that basis. Although this would not cover the full amount of your bill, and although you definitely did not understand this to be a P-I account, that is one practical way for you to recover at least part of your costs without further expense.

We cannot emphasize too strongly the necessity for stations to secure credit ratings on unknown accounts of this type, to avoid sad experiences such as this. One station to my knowledge handled the Pickering proposal as follows:

On receipt of his original offer, the station replied that announcements could be bought only at card rates, and quoted its price for a month's service. Pickering accepted and authorized the station to proceed. Unable to learn his credit rating, however, the station requested payment for the month's service in advance. This was never received—and the announcements never went on the air. The station did not lose any money; its listeners were not disgruntled by slow delivery of merchandise ordered, and Pickering did not get the benefit of "free" radio advertising. Procedure similar to that should, we think, be followed in all such cases.

A slight amount of "business" may be lost by rigorous adherence to such procedure, but in the long run collections will be higher, expenses less, listeners better served, legitimate advertisers protected, per-inquiry dealers and outright chisellers effectively discouraged, and the ultimate best interests of the radio industry and advertising in general better served.

Your suggestion for the establishment of some sort of insurance plan is being referred to the NAB Board of Directors, to be considered at their next meeting.

Sincerely yours,

FRANK E. PELLEGRIN,

Director,

Dept. of Broadcast Advertising.

A request for free time has been reported by several members from the "Society of Inter-American Relations, Sociedad Panamericana, Quito, Ecuador." This organi-

zation, capitalizing on a "good neighbor" approach, seeks free announcements to promote the sale of Equadorean seeds at 10¢ per package "to cover handling and mailing costs." The announcement says that "with the seeds will come a list of Ecuadorean trade and merchandise offerings designed to increase business between the Americas . . ."

We believe that since broadcasters get regular rates to promote the sale of seeds and nursery products of regular advertisers, it would hardly be fair nor good business practice to give time free to this applicant, and the follow-up mentioned seems to us to be an effort to secure mail-order business, another type of business for which broadcasters are entitled to regular rates.

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The Hicks Advertising Agency of Dallas, Tex., is seeking contingent deals on behalf of the Breedlove Nurseries. Stations are advised to adhere to regular rates if approached by this advertiser.

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It is confidentially reported by an NAB member that the President of the Eastern Wire Corporation made the statement that he had never bought anything at card rates and that he was not going to start now.

Commented our member: "I simply send this along to show how stations that do not observe their rate cards do have an effect upon and hurt the whole industry."

## BMI

### "BMI HAS THINGS IN CONTROL"

That is the conclusion of a reporter for the *Charlotte News* (Charlotte, North Carolina) after making inquiries. The article reads in part as follows:

#### *Reporter on Assignment*

The Assignment:

Whatever happened to the ASCAP-BMI row? Is Jeannie still wearing her hair light brown?

#### AND THE REPORT

By Pete McKnight, Reporter

Apparently the lady hasn't changed the tint of her locks. It's just that we don't hear so much about it now. And that's the whole story behind the present status of the BMI-ASCAP deadlock. BMI has things in control.

\* \* \* \* \*

BMI is new, you know. Its first song was published early in 1940. . . . At first, the available songs were limited and your radio and mine played *Jeannie* until the poor gal was worn out.

But it wasn't long before the nation's previously-suppressed young songwriters started things humming. ASCAP hadn't given them a look-in. BMI was a God-send. Thus, such tunes as *You Walk By, So You're The One, I Hear A Rhapsody, High On*

*A Windy Hill*, and dozens of other acceptable ones went out over the air, started selling sheet music and phonograph records.

\* \* \* \* \*

The fight seems to be over, and ASCAP will have to meet BMI's terms (*sic*) which originally were simple—charge us for using your music on the radio on the basis of the frequency each tune is played.

### NEW HIT MAKERS TO THE FORE

Hit songs by newcomers are a specialty with BMI. The two numbers from the BMI catalogue which lead in the best selling sheet music list this week, *Wise Old Owl* and *Walkin' by the River*, are the works of writers whose names have not appeared among the hit makers.

The story of Una Mae Carlisle, who wrote *Walkin' by the River*, is so striking that it was the feature of this week's *We, the People* program. The gifted young colored girl told the audience that she took her first piano lessons from her mother, a school teacher, and was later graduated from the music department of Wilberforce University. She had two great ambitions, one to write music and the other to go to Europe. A trip to England started her on the road to success in music. The way she electrified friends in England with her American music led to opportunities for appearances in public and before the war began she had made a sensation in Paris which could probably be compared to nothing except the place which Josephine Baker made for herself in the entertainment world in Paris. At the moment when war broke, Miss Carlisle was appearing at Shepard's in Cairo, Egypt, one of the most famous resorts of international society.

She returned to New York with the manuscript of a song which had been inspired by memories of peaceful evenings along the Thames in England, and *Walkin' by the River* has now landed among the lists of hit song writers the name which she had already put into bright lights as a singer and orchestra leader.

Both words and music of *Wise Old Owl* were written by Joe Ricardel, a New York boy, who first set out to become a concert violinist. He was the pupil of one of New York's greatest violin teachers, Ferdinand Carri, and his career was radically changed by Carri's death. Arrangements had been made for Mr. Ricardel's debut at Town Hall in New York when Carri died and plans for the debut were thrown into confusion and ultimately abandoned.

Joe Ricardel, crushed by the loss of the master to whom he had been so deeply devoted, could find no inspiration in the various efforts he made to carry on his studies under other teachers. He gave up his plans for the concert field and went into work with dance orchestras. The violin was no longer in much demand among the dance bands so he bought himself a saxophone and learned to play that as well as the clarinet and trumpet. Before long he had organized his own dance band and for several years has been building his reputation as band leader up and down the Atlantic Coast from Maine to Florida. His

band has also been heard throughout the country in broadcasts originating from WOR in New York. Meanwhile, he was studying singing at the Mackie School of Music and also with Mlle. Liazza, formerly of the Metropolitan Opera. He does the vocal work with his own band. Last summer his band was at the Claremont Inn, which overlooks the Hudson River from the heights of upper Manhattan, and he is scheduled to return there for the summer of 1941.

The idea for his current hit, *Wise Old Owl*, grew out of an episode at the Claremont last summer. "About 1 o'clock one morning," he says, "I was on the open terrace when a young boy and girl strolled by. In the course of the conversation the young man asked the girl whether she loved him. The girl answered Yes rather hesitantly. Just at this point a tug went by on the river and hooted just like an owl. Immediately I began to wonder what it was that did say Hoo. When I finally remembered it was an owl, I had a song title."

BMI's second year begins auspiciously with this evidence that the company continues its policy of holding the door wide open to new talent.

### BMI FEATURE TUNES

April 21-27

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HIGH ON A WINDY HILL
8. YOU WALK BY
9. HERE'S MY HEART
10. IT ALL COMES BACK TO ME NOW
11. MAY I NEVER LOVE AGAIN
12. LOAFING ON A LAZY DAY
13. TALKING TO THE WIND
14. BREAKFAST FOR TWO
15. WITH A TWIST OF THE WRIST
16. WHERE'S THE CAPTAIN'S HAT

### SEVEN MONTHS' CHANGE

*Variety* for April 16th announces in headlines, "ASCAP NUMBER 7TH ON LIST," meaning thereby that an ASCAP publication reaches 7th place on *Variety's* list of the fifteen best sheet music sellers for the past week. The fact that *Variety* regards this as an item of news becomes particularly significant after a glance back through the files. On August 21st *Variety* announced in two-column headlines, "BMI LANDS 2 AMONG 'MOST PLAYED' LEADERS, BUT NONE IN 25 'BEST-

SELLERS.'" On August 28th *Variety* carried a two-column box with the headline, "BMI'S 'PRACTICE' MOVES UP." The item reported that *Practice Makes Perfect* was tied for first place in network performances and had made the Lucky Strike Hit Parade the week before in 9th place. "Also for the first time since the song was introduced the sheet sales on *Practice* started Monday (26th), according to jobbers, to show they were going some place." It was not, however, until the issue of the following week, September 4th, that the BMI initial appeared for the first time on the *Variety* list of best-sellers. Now, just over seven months later, *Variety* finds it worth a headline when the other team scores.

The general proportion of numbers from BMI and affiliated publishers on the best-seller lists remains about what it has been for some weeks. The current sensation is the behavior of the Marks tune, *Amapola*, which heads the lists of best-selling records and sheet music as well as the *Variety* list of network plugs. Sheet sales on the number are reported to approach the 300,000 mark and the Jimmy Dorsey record heads the lists throughout the country.

*Amapola* was written in 1924 by Joseph McCalle, who was for twenty-five years music director and critic for the Columbia Phonograph Company. It was originally published by Master Music. Several years later G. Schirmer bought it and successfully featured it as a semi-classical selection. In 1933 the copyright was acquired by Marks who published it as a concert number and also as a tango. Late in 1940, Marks brought it out as a foxtrot with new lyrics by Albert Gamse, and the song soon began to find favor with band leaders. To date, some twenty *Amapola* recordings have been made, including those by Sammy Kaye, Les Brown, Chick Bullock, Xavier Cugat, Henry Horlick, Nano Rodrigo, Connie Boswell, Deanna Durbin, and Jimmy Dorsey. The Dorsey recording, featuring two vocals in different tempo by Bob Eberly and Helen O'Connell, is the one now heading the best-seller lists.

In addition to *Amapola*, McCalle also wrote a number of military marches and tangos. A native of Spain, he studied at the Paris Conservatory before coming to America where he spent most of his life. In 1924, McCalle returned to Spain and so inspired by the beauty of his native land, it is reported, that he composed *Amapola*.

### FEDERAL COMMUNICATIONS COMMISSION

#### CONSOLIDATION OF FOUR BROOKLYN STATIONS AUTHORIZED

Voluntary consolidation of four Brooklyn, N. Y., broadcast stations, now sharing time on 1430 kilocycles,

in single station for more effective operation is made possible by action of the FCC in approving assignment of the license of Station WARD from the United States Broadcasting Corporation to the Unified Broadcasting Corporation of Brooklyn and, at the same time, modifying the license of the latter to permit unlimited time operation and move studios to 554 Atlantic Avenue, that city.

Under this authorization, the new operating company will absorb the facilities of WLTH, licensed to WLTH-New York, Inc.; WVFW, Paramount Broadcasting Corporation, and WBBC, Brooklyn Broadcasting Corporation, and operate with equipment of WARD, with 250 watts power as heretofore.

The move was pursuant to suggestion made by the Commission in its decision in the so-called "Brooklyn cases" October 22 last. At that time, in renewing licenses of WLTH and WARD and denying the application of WBBC for the facilities of WLTH and WARD, the Commission stated that it would "entertain any feasible proposal for the consolidation of the four present licensee corporations into a new organization to operate one station under a single management and control for the purpose of supplanting the four existing stations. In this connection, however, such new corporation or other organization must be prepared to demonstrate to the satisfaction of the Commission that the management selected will consist of persons who are highly responsible and fully qualified to operate the new station."

### CAIRO TREATY

The United States Government Printing Office, Washington, D. C., now has available for immediate distribution 5,000 copies of Treaty Series No. 948, which contain the General Radio Regulations adopted at Cairo in 1938.

A copy of this publication may be obtained from the Public Printer at a price of fifty cents. All orders should be accompanied by a remittance as the rules of the United States Government Printing Office require payment before delivery.

Attention is invited to Item 7, Part A, Appendix 10 of the General Radio Regulations, Cairo Revision 1938 Annexed to the International Telecommunication Convention in Force (Madrid 1932), which requires that "Ship Stations" on board ships compulsorily equipped with radiotelegraph installation must provide themselves with these Regulations.

Also other stations whose operations involve international aspects should provide themselves with these regulations.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, April 21. They are subject to change.

### Monday, April 21

#### Consolidated Hearing

- NEW—The Yankee Network, Inc., Boston, Mass.—C. P., **44300 kc.**, 19,230 square miles.  
NEW—The Outlet Company, Providence, R. I.—C. P., **44300 kc.**, 16,370 square miles, unlimited time.

### Tuesday, April 22

- NEW—Camden Broadcasting Co., Camden, N. J.—C. P., **800 kc.**, 500 watts, daytime.

### Wednesday, April 23

- NEW—Columbia Broadcasting System, Inc., Boston, Mass.—C. P., **43500 kc.**, 20,200 square miles, unlimited time.

### Friday, April 25

- WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—C. P., **1500 kc.**, 250 watts, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast and television cases. They are subject to change.

### April 29

#### Television

- W1XG—General Television Corporation, Boston, Mass.—Modification of license (considered as C. P.), **50000-56000 kc.**, 500 watts visual, emission A-5, Sec. 4.4(a). Present assignment: **42000-56000, 60000-86000 kc.**, 500 watts visual, emission A-5, Sec. 4.4(a).  
W1XG—General Television Corporation, Boston, Mass.—C. P., **42000-56000, 60000-86000 kc.**, 500 watts aural and visual. Emission A-3 and A-5, Sec. 4.4(a). Present assignment: **42000-56000, 60000-86000 kc.**, 500 watts visual only, emission A-5, Sec. 4.4(a).

### May 1

To Be Held in U. S. Court of Appeals Court Room, Old Post Office Building, in Atlanta, Georgia.

- WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main and auxiliary), **890 kc.**, 1 KW night, 5 KW LS, unlimited time.

### May 5

Hearing To Be Held in Pensacola, Florida, Beginning May 5 and Continued Thereafter in Panama City, Florida, and Ocala, Florida, as Follows:

Pensacola, Florida, in Court Room, County Court Building.

Panama City, Florida, in Court Room, County Court House.

Ocala, Florida, in U. S. Court Room, 2nd Floor, U. S. Post Office Building.

WTMC—Ocala Broadcasting Company, Inc., Ocala, Florida.—In the Matter of Revocation of License of Station.

WDLP—Panama City Broadcasting Company, Panama City, Fla.—In the Matter of Revocation of License of Station.

May 16

KMA—May Broadcasting Company, Shenandoah, Iowa—Renewal of license, **930 kc.**, 1 KW night, 5 KW day, unlimited time.

May 28

KRBC—Reporter Broadcasting Company, Abilene, Texas.—C. P., **940 kc.**, 1 KW, unlimited, DA night and day. Present assignment: **1420 kc.**, 250 watts, unlimited time.

May 29

WRDW—Augusta Broadcasting Company, Augusta, Georgia.—C. P., **1450 kc.**, 500 watts night, 1 KW day, unlimited time. Present assignment: **1500 kc.**, 250 watts, unlimited time.

June 2

NEW—Symons Broadcasting Company, Ellensburg, Wash.—C. P., **1110 kc.**, 1 KW, unlimited time.

#### Consolidated Hearing

WPAY—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio.—Transfer of control of corp., **1370 kc.**, 100 watts, unlimited time.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, **1370 kc.**, 100 watts, unlimited time.

June 4

KFRO—Voice of Longview, Longview, Texas.—Modification of C. P., **1340 kc.**, 5 KW, unlimited time, DA night. Present assignment: **1340 kc.**, 1 KW, unlimited time, DA night.

June 12

WQBC—Delta Broadcasting Company, Inc., Vicksburg, Miss.—Modification of C. P., **1360 kc.**, 500 watts night, 1 KW day, unlimited time. Present assignment: **1360 kc.**, 1 KW day-time.

June 16

#### Television Broadcast

W2XD—General Electric Company, Schenectady, N. Y.—For license to cover C. P., **162000-168000 kc.**, 40 watts, emission A-5, Sec. 4.4(a).

W2XI—General Electric Company, New Scotland, N. Y.—For renewal of license, **162000-168000 kc.**, 10 watts, emission A-5, Sec. 4.4(a).

W2XB—General Electric Company, New Scotland, N. Y.—For renewal of license, **60000-86000 kc.**, A. 3 KW, V. 10 KW, Sec. 4.4.

June 18

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—C. P. to erect a synchronous station, **1310 kc.**, 100 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### NEW STATIONS GRANTED

Inter-City Advertising Co., Charlotte, N. C.—Granted construction permit for new standard broadcast station to operate on **610 kc.**, 1 KW unlimited, subject to approval of directional antenna design (B3-P-2878).

Ruben E. Aronheim, Fitchburg, Mass.—Granted construction permit for new standard broadcast station to operate on **1340 kc.**, 250 watts night and day, unlimited time; exact site and antenna system to be determined with Commission's approval (B1-P-3061).

### NEW FM STATIONS

St. Louis University, St. Louis, Mo.—Granted construction permit for new high frequency (FM) broadcast station to operate

on **45100 kc.**; coverage of 13,000 sq. mi.; with more than 1,500,000 population (B4-PH-37).

### APPLICATIONS GRANTED

KTRH—KTRH Broadcasting Co., Houston, Tex.—Granted construction permit to change frequency from **1290 kc.** (1320 kc. under NARBA) to **740 kc.**, increase power from 1 KW night, 5 KW day, to 50 KW, move transmitter site, install new transmitter, and directional antenna for day and night use, subject to engineering approval (B3-P-3011).

KXYZ—Harris County Broadcast Co., Houston, Tex.—Granted construction permit to move transmitter to Deepwater, Tex., use KTRH transmitter, increase power from 1 KW day and night to 5 KW day and night, change frequency from **1470 kc.** (NARBA) to **1320 kc.** (NARBA), install directional antenna for night use; antenna system to comply with Commission's requirements (B3-P-3016).

KAND—Navarro Broadcasting Assn., Corsicana, Tex.—Granted construction permit to increase power from 100 watts unlimited to 250 watts night and day, and make changes in equipment; station operates on **1340 kc.** (B3-P-3121).

W9XZY—The Pulitzer Publishing Co., St. Louis, Mo.—Granted renewal of license of facsimile broadcast station W9XZY for the period March 1, 1941 to March 1, 1942; granted upon an experimental basis only and upon the express condition that it is subject to change or cancellation by the Commission at any time, without advance notice or hearing (B4-FRB-5).

WARD—United States Broadcasting Corp. (assignor), Unified Broadcasting Corp. of Brooklyn (assignee), Brooklyn, N. Y.—Granted consent to the assignment of license of Station WARD from United States Broadcasting Corp. to Unified Broadcasting Corp. of Brooklyn, to effect a consolidation of four Brooklyn stations (WARD, WLTH, WVFW, and WBBC), now sharing time, into operation of a single station (WARD) (B1-AL-302).

WARD—Unified Broadcasting Corp. of Brooklyn, Brooklyn, N. Y.—Granted modification of license to increase hours of operation from sharing with WLTH, WVFW, WBBC, to unlimited, and change studio location to 554 Atlantic Ave., Brooklyn, N. Y. (requests facilities of WBBC, WVFW and WLTH) (B1-ML-1054).

### DESIGNATED FOR HEARING

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—Application for construction permit to change frequency from **1400 kc.** to **1060 kc.**, increase power from 250 watts to 10 KW night and day, install new transmitter, install directional antenna for day and night use and move transmitter (B3-P-3036).

WDAE—Tampa Times Co., Tampa, Fla.—Application for construction permit to change frequency from **1250 kc.** to **740 kc.**, increase power from 5 KW unlimited (using directional antenna) to 10 KW; move transmitter site from Tampa, Fla., to Thonotosassa, Fla.; install new transmitting equipment and install directional antenna for night use (B3-P-2841).

KVOA—Arizona Broadcasting Co., Inc., Tucson, Ariz.—Application for construction permit to change frequency from **1290 kc.** to **590 kc.** and install directional antenna for day and night use (B5-P-2906).

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Application for modification of license to increase hours of operation from specified to unlimited. (Requests facilities of KFGQ.) Joint hearing with KFGQ (B4-ML-1052).

### MISCELLANEOUS

WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla., and WDLF—Panama City Broadcasting Co., Inc., Panama City Fla.—Granted motions filed by Harry W. Reinstine, Jacksonville, Fla., to permit his appearance on behalf of Ocala Broadcasting Co., Inc., Ocala, Fla., and Panama City Broadcasting Co., Inc., Panama City, Fla., in re hearing on revocation of licenses of Stations WTMC and WDLF; granted petitions of John H. Perry, Palm Beach, Fla., to intervene in above causes; granted motions filed by Ocala Broadcasting Co., Inc., Panama City Broadcasting Co., Inc., and John H. Perry, for postponement of hearings on revocation of licenses

- of Station WTMC now scheduled for April 14 and of Station WDLP now scheduled for April 17, to May 5, 1941, said hearing to be held at Pensacola, Fla., on such date and thereafter be transferred to Panama City and Ocala, Fla., as may be directed.
- KTRB**—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to the conclusion of Fifth Annual Convention of the California Young Farmers Association program on April 8, 1941, in order to broadcast said program only, and from 7:45 p. m. to approximately 9:30 p. m., PST, April 11, 1941, in order to broadcast presentation of Stainer's "Crucifixion", only.
- WSUI**—State University of Iowa, Iowa City, Iowa—Granted special temporary authority to operate a minimum of nine hours daily for the period April 9, 1941, to not later than April 14, 1941, in order to observe the Easter vacation period at the University of Iowa.
- Sears, Roebuck & Co.**, Philadelphia, Pa.—Granted petition to intervene in the hearing on New Jersey Bell Tel. Co.'s application for authority to acquire capital stock of Imperial Securities Co.
- WPAY**—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio.—Granted petition for continuance of hearing until June 2, on application for consent to transfer control of Vee Bee Corp., licensee of station WPAY, and application for renewal of license of WPAY.
- WPAY**—Vee Bee Corp., Portsmouth, Ohio.—Granted petition for continuance of hearing until June 2, on application for consent to transfer control of Vee Bee Corp., licensee of station WPAY, and application for renewal of license of WPAY.
- W1XG**—General Television Corp., Boston, Mass.—Granted petition to continue hearing now scheduled for April 15 to April 29, on applications for construction permits to change frequencies.
- KGFI**—Eagle Broadcasting Co., Inc., Brownsville, Texas.—Granted authority to install automatic frequency control equipment on **1490 kc.** under NARBA (B3-F-205).
- WAPO**—W. A. Patterson, Chattanooga, Tenn.—Granted authority to install automatic frequency control equipment on **1150 kc.** under NARBA (B3-F-207).
- KYW**—Westinghouse Radio Stations, Inc., Philadelphia, Pa.—Granted authority to install automatic frequency control equipment on **1060 kc.** under NARBA (B2-F-185).
- WFAS**—Westchester Broadcasting Corp., White Plains, N. Y.—Granted authority to determine operating power by direct measurement of antenna input on **1340 kc.** (NARBA) (B1-Z-755).
- KOL**—Seattle Broadcasting Co., Seattle, Wash.—Granted authority to determine operating power by direct measurement of antenna input on **1300 kc.** (NARBA) (B5-Z-749).
- WHN**—Marcus Loew Booking Agency, New York, N. Y.—Granted authority to determine operating power by direct measurement of antenna input on **1050 kc.** (NARBA) (B1-Z-743).
- WFBG**—The Gable Broadcasting Co., Altoona, Pa.—Granted authority to determine operating power by direct measurement of antenna input on **1340 kc.** (NARBA) (B2-Z-757).
- KTSW**—Emporia Broadcasting Co., Inc., Emporia, Kans.—Granted authority to determine operating power by direct measurement of antenna input on **1400 kc.** (NARBA) (B4-Z-747).
- WTMA**—Atlantic Coast Broadcasting Co., Charleston, S. C.—Granted authority to determine operating power by direct measurement of antenna input on **1250 kc.** (NARBA) (B3-Z-754).
- WGAU**—J. K. Patrick & Co., Athens, Ga.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-756).
- WAAT**—Bremer Broadcasting Corp., Jersey City, N. J.—Granted modification of construction permit for installation of new transmitter and directional antenna for night use, change in hours of operation and increase in power, move of transmitter, for **970 kc.** under NARBA and changes in directional antenna (B1-MP-1237).
- W8XCT**—The Crosley Corp., Cincinnati, Ohio.—Granted modification of construction permit which authorized new television broadcast station, for extension of completion date from April 28, 1941 to October 28, 1941 (B2-MPVB-39).
- WRCA**—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted license to cover construction permit as modified, to install new equipment, change frequencies and increase power; **9670, 17780 kc.**; 50,000 watts; shares time on **17780 kc.** with Station WBOS; unlimited time on **9670 kc.** (B1-LIB-14).
- WCSH**—Congress Square Hotel Co., Portland, Maine.—Granted modification of construction permit which authorized installation of directional antenna for day and night use and increase in power, for changes in directional antenna on **970 kc.** under NARBA (B1-MP-1231).
- WFCI**—Pawtucket Broadcasting Co., Pawtucket, R. I.—Granted modification of construction permit for new station, for extension of completion date from April 17, 1941 to May 17, 1941 (B1-MP-1246).
- KEYS**—Earl C. Dunn and Chas. W. Rossi, d/b as Nueces Broadcasting Co., Corpus Christi, Tex.—Granted license to cover construction permit as modified for new station, specifying **1490 kc.** under NARBA (B3-L-1354). Also granted authority to determine operating power by direct measurement of antenna power on **1490 kc.** (NARBA) (B3-Z-730).
- WFCR**—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—Granted license to cover construction permit which authorized increase in power and equipment changes; **1400 kc.** (NARBA), 250 watts, unlimited time (B3-L-1368).
- KUJ**—KUJ, Inc., Walla Walla, Wash.—Granted license to cover construction permit as modified for changes in equipment, antenna changes, increase in power, change in frequency and move transmitter; **1420 kc.** under NARBA, 1 KW, unlimited time (B5-L-1366). Also granted authority to determine operating power by direct measurement of antenna input on **1420 kc.** NARBA (B5-Z-744).
- KFEL**—Eugene P. O'Fallon, Inc., Denver, Colo.—Granted license to cover construction permit as modified for increase in power, installation of new transmitter and directional antenna, and move transmitter; **950 kc.** (NARBA), 5 KW, unlimited time, directional antenna (B5-L-1370). Also granted authority to determine operating power by direct measurement of antenna power (B5-Z-762).
- KOY**—Salt River Valley Broadcasting Co., Phoenix, Ariz.—Granted license to cover construction permit which authorized installation of new transmitter; **550 kc.**, 1 KW, unlimited time (B5-L-1369).
- Essex Broadcasters, Inc.**, Detroit, Mich.—Granted special temporary authority to transmit to radio station CKLW for broadcast by that station program in connection with The Lutheran Charities in Detroit from 4:30 p. m. to 5 p. m. EST, May 4, 1941.
- Western Mass. Broadcasting Co.**, Pittsfield, Mass.—Granted motion for indefinite postponement of hearing on application for construction permit to operate on **1500 kc.—1490** under NARBA—100 watts; unlimited time.
- WNAX**—So. Dakota Broadcasting Corp. (Transferor), and Iowa Broadcasting Co. (Transferee), Yankton, So. Dak.—Granted petition for leave to withdraw without prejudice application for transfer of control of station WNAX, scheduled for hearing April 16.
- WEAU**—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from 4:30 to 5:30 a. m., CST, on April 13, in order to broadcast the Pope's Message, only (B4-S-924).
- WGES**—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted special temporary authority to operate on **1390 kc.** with power of 500 watts, during hours vacated by WGES (6 to 7 a. m., 12 to 3 p. m. and 8 to 12 midnight, CST) for period not to exceed 30 days to broadcast non-sponsored programs only, pending completion of construction for unlimited time operation (B4-S-557).
- KFUO**—Evangelical Lutheran Synod, etc., Clayton, Mo.—Granted special temporary authority to operate from 2 to 4 a. m., CST, on April 26, in order to broadcast DX program only.
- KGIW**—E. L. Allen, Alamosa, Colo.—Granted special temporary authority to remain silent until April 10, 1941, pending installation of new equipment.
- KTHS**—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Granted special temporary authority to operate simultaneously with Station WBAL from 5 a. m., CST, to local sunrise (April 5:45 a. m., CST), April 13, 1941, in order to broadcast Sunrise Services only.
- District Radio Broadcasting Co.**, Murray, Utah.—Granted motion for leave to amend petitioner's application for construction permit (Docket 6003) relating to stockholders.
- KFNF**—KFNF, Inc., Shenandoah, Iowa.—Continued hearing for renewal of license now scheduled for April 16 to May 4, 1941.

KLX—Tribune Building Co., Oakland, Calif.; WSAR—Doughty & Welch Electric Co., Inc., Fall River, Mass.; KFAC—Los Angeles Broadcasting Co., Inc., Los Angeles, Calif.; KVOR—Out West Broadcasting Co., Colorado Springs, Colo.—Dismissed applications for modification of licenses to be classified as a "III-A" station and reiterated that station classification as I, II, III-A, etc., is merely for administrative convenience and is not a part of any license nor a source of any right in the licensee.

WCAO—The Monumental Radio Co., Baltimore, Md.—Denied petition for reconsideration and grant filed by Lewis M. Milbourne and Clarence W. Miles for transfer of control of The Monumental Radio Co. (WCAO), from themselves, as voting trustees, to themselves and L. Waters Milbourne as voting trustees under a Voting Trust Agreement dated April 16, 1941; set aside action of the Commission of April 8, 1941, designating said application for hearing, and granted said application upon the condition that the voting trust agreement, dated April 16, 1941, be modified in accordance with the applicants' letter of April 14, 1941; form of consent (Form No. 727) to specify 60 days rather than the usual 30 days, as the period within which the transfer may be completed thereunder.

KXL—KXL Broadcasters, Portland, Ore.—Granted application to change frequency from **1450 kc.** to **750 kc.**, increase power from 250 watts to 10 KW, change hours of operation from sharing with KBPS to limited time, and install a directional antenna.

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted application to increase power from 250 watts to 1 KW, on **860 kc.**, unlimited time provided a directional antenna is installed, subject to approval of the Commission, for the protection of other stations; granted upon condition that applicant file with the Commission within 30 days an appropriate application for the installation of a directional antenna; alternative, daytime operation.

Butler Broadcasting Corp., Hamilton, Ohio.—Adopted order denying petition of Butler Broadcasting Corp. to reconsider and grant application for construction permit for new station to operate on **1450 kc.**, with power of 250 watts, unlimited time.

Brookdale Civic Association, Bloomfield, N. J.—Dismissed formal protest filed March 29, 1941, and letter filed February 7, 1941, by Brookdale Civic Association, directed against the action of the Commission January 9, 1941, granting the application of North Jersey Broadcasting Co., Inc. (WPAT), Paterson, N. J., for approval of antenna, studio and transmitter sites, inasmuch as the North Shore Broadcasting Co., Inc., has given the Commission written assurance that station WPAT will correct all reasonable complaints of blanketing or external cross modulation with the 250 mv/m contour of station WPAT.

## APPLICATIONS FILED AT FCC

### 590 Kilocycles

WMBS—Fayette Broadcasting Corp., Uniontown, Penna.—Authority to determine operating power by direct measurement of antenna power.

WMBS—Fayette Broadcasting Corp., Uniontown, Penna.—License to use old RCA 250-D transmitter for auxiliary purposes.

WMBS—Fayette Broadcasting Corp., Uniontown, Penna.—License to cover construction permit (B2-P-2711) as modified for installation of new transmitter, change in frequency, increase in power and directional antenna for night use.

### 690 Kilocycles

KGGF—Hugh J. Powell, Coffeyville, Kansas.—Authority to determine operating power by direct measurement of antenna power.

### 740 Kilocycles

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Construction permit to change frequency from **1010 kc.** to **740 kc.**, increase power from 5 KW to 50 KW, install new transmitter and make changes in directional antenna for day and night use. Amended: re changes in directional antenna.

### 930 Kilocycles

WKY—WKY Radiophone Co., Oklahoma City, Okla.—Construction permit to install directional antenna for night use.

Amended: re changes in directional antenna and move transmitter.

### 960 Kilocycles

KMA—May Broadcasting Co., Shenandoah, Iowa.—Authority to determine operating power by direct measurement of antenna power.

### 1160 Kilocycles

WJJD—WJJD, Inc., Chicago, Ill.—Authority to install automatic frequency control equipment.

### 1190 Kilocycles

KEX—Oregonian Publishing Co., Portland, Oregon.—Construction permit to install new transmitter, directional antenna for day and night use, change frequency from **1180 kc.** to **1160 kc.**, increase power from 5 KW to 50 KW, change hours of operation to unlimited and move transmitter. Amended: re changes in directional antenna, specify **1190 kc.** under NARBA and change transmitter location.

### 1210 Kilocycles

NEW—Capital City Broadcasting Co., Inc., Topeka, Kans.—Construction permit for a new broadcast station to be operated on **1170 kc.**, 5 KW, daytime (Class II station). Amended: To change transmitter location and request **1210 kc.** under NARBA.

### 1230 Kilocycles

NEW—WFAM, Inc., Lafayette, Ind.—Construction permit for new standard broadcast station to be operated on **1230 kc.**, 100 watts power, unlimited time. Facilities of WFAM.

NEW—Southwest Broadcasters, Inc., Las Vegas, N. Mex.—Construction permit for a new standard broadcast station to be operated on **1230 kc.**, 250 watts, unlimited time.

### 1240 Kilocycles

KFOR—Cornbelt Broadcasting Corp., Lincoln, Nebr.—Authority to determine operating power by direct measurement of antenna power.

KFOR—Cornbelt Broadcasting Corp., Lincoln, Nebr.—License to cover construction permit (B4-P-3087) for changes in equipment, antenna changes, increase in power and move of transmitter.

NEW—Birney Imes, Tupelo, Miss.—Construction permit for a new standard broadcast station to be operated on **1240 kc.**, 250 watts, unlimited time.

KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Authority to determine operating power by direct measurement of antenna power.

### 1250 Kilocycles

WTMA—Atlantic Coast Broadcasting Co., Charleston, S. C.—Modification of construction permit (B3-P-2985) to install new transmitter, directional antenna for night use, increase in power, requesting **1250 kc.**, under NARBA and changes in directional antenna system, extension of commencement and completion dates 30 and 50 days respectively.

### 1290 Kilocycles

KVOA—Arizona Broadcasting Co., Tucson, Ariz.—Authority to determine operating power by direct measurement of antenna power.

### 1300 Kilocycles

KOL—Seattle Broadcasting Co., Seattle, Wash.—Authority to install automatic frequency control equipment.

### 1310 Kilocycles

WCAM—City of Camden, N. J.—Authority to determine operating power by direct measurement of antenna power.

### 1320 Kilocycles

WATR—The WATR Co., Inc., Waterbury, Conn.—Construction permit to increase power from 250 watts to 1 KW, install new transmitter and make changes in directional antenna. Amended: To specify **1320 kc.** under NARBA.



### 1330 Kilocycles

WFBC—Greenville News-Piedmont Co., Greenville, S. Car.—Modification of construction permit (B3-P-1849) requesting changes in directional antenna and extension of commencement and completion dates. Amended: To make further changes in directional antenna and **1330 kc.** under NARBA.

### 1340 Kilocycles

- WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Authority to determine operating power by direct measurement of antenna power.
- KWOS—Tribune Printing Co., Jefferson City, Mo.—Authority to determine operating power by direct measurement of antenna power.
- KARM—KARM, The George Harm Station, Fresno, Calif.—Authority to determine operating power by direct measurement of antenna power.
- WLAV—Leonard A. Versluis, Grand Rapids, Mich.—Authority to determine operating power by direct measurement of antenna power.
- WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Authority to determine operating power by direct measurement of antenna power.

### 1390 Kilocycles

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Modification of construction permit (B4-P-3063) requesting change in type of transmitter, changes in directional antenna system for day and night use on **1390 kc.** under NARBA, and extension of commencement and completion dates.

### 1410 Kilocycles

WNBC—State Broadcasting Corp., New Britain, Conn.—Modification of construction permit (B1-P-2723) as modified, requesting changes in directional antenna, **1410 kc.** under NARBA, increase in power from 1 KW night, 5 KW day to 5 KW day and night, using directional antenna day and night and extension commencement and completion dates to 30 days after grant and 180 days thereafter respectively.

### 1450 Kilocycles

KMYC—Marysville-Yuba City Broadcasters, Inc., Marysville, Calif.—Authority to determine operating power by direct measurement of antenna power.

### 1470 Kilocycles

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Authority to determine operating power by direct measurement of antenna power.

### 1490 Kilocycles

- KPQ—Wescoast Broadcasting Co., Wenatchee, Wash.—Construction permit to install new transmitter, make changes in antenna, change frequency from **1490 to 560 kc.**, increase power from 250 watts to 500 watts night, 1 KW day.
- KYCA—Southwest Broadcasting Co., Prescott, Ariz.—Authority to determine operating power by direct measurement of antenna power.

## FM APPLICATIONS

- NEW—Columbia Broadcasting System, Inc., Boston, Mass.—Construction permit for a new high frequency broadcast station to be operated on **4110 kc.**; coverage, 16,230 square miles; population, 5,972,246. Amended: To request **43500 kc.**; coverage, 20,200 square miles; population, 5,384,179, change type of antenna and location of transmitter to Summit of Mt. Asnebumskit, Paxton, Mass.
- NEW—Hughes Productions, Division of Hughes Tool Co., Los Angeles, Calif.—Construction permit for a new high frequency broadcast station to be operated on **44500 kc.**; coverage, 7,315 square miles; population, 2,575,558.
- NEW—Hughes Productions, Division of Hughes Tool Co., San Mateo County, Calif.—Construction permit for a new high frequency broadcast station to be operated on **44500 kc.**; coverage, 10,790 square miles; population, 1,893,802.

- NEW—Columbia Broadcasting System, Inc., St. Louis, Mo.—Construction permit for a new high frequency broadcast station to be operated on **44700 kc.**; coverage, 10,950 square miles; population, 1,708,332.
- NEW—McNary and Chambers, Washington, D. C.—Construction permit for a new high frequency broadcast station to be operated on **47500 kc.**; coverage 2,610 square miles; population, 762,485.
- W63SY—Central New York Broadcasting Corp., Syracuse, N. Y.—Modification of construction permit (B1-PH-50) for new high frequency broadcast station requesting changes in antenna, change in transmitter site from Sentinel Heights Road, Onondaga, New York, to Pompey, New York, population, 827,879.
- NEW—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Construction permit for a new high frequency broadcast station to be operated on **45300 kc.**; coverage, 13,640 square miles; population, 1,017,471.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Alvi Company**—Charging dissemination of false advertisements in the sale of a hair dye cosmetic a complaint has been issued against Casimiro Muojo, trading as Alvi Co., and as Alvi, Inc., 158 Grand St., New York. According to the complaint, the respondent sells his preparation as "Vitale Instantaneous Hair Dye" and under other designations containing the word "Vitale".

The complaint charges that in newspaper and other advertisements the respondent represents that his preparation is scientific, safe, and free from harmful, dangerous and injurious chemicals; will end premature gray hair; will produce a permanent, natural, uniform shade; will give the hair the warmth, color, luster and glint of youth, and will have no ill effects upon the body. However, the complaint further alleges that the respondent's product is a chemical dye incapable of affecting the hair in any way other than as a dye, and will not accomplish the results claimed.

According to the complaint, the respondent's preparation contains paraphenylene-diamine, a toxic coal tar derivative, in sufficient quantity to cause in some cases skin irritation and other harmful effects, if used under the conditions prescribed in the advertisements, or under customary and usual conditions.

The complaint charges that the advertisements disseminated by the respondent contain neither warnings against the use of the preparation on the eyelashes or eyebrows, nor adequate warnings as to the necessity of a proper skin patch test before each application so as to determine the user's toxic reaction. Consequently, the complaint alleges, the respondent's advertisements constitute false advertisements in that they fail to reveal that use of the preparation under customary conditions or under conditions prescribed in the advertisements may result in injury to health (4484).

**Mumm, Romer, Robbins & Pearson, Inc.**—A complaint has been issued charging W. K. Sterline, Sidney, Ohio, distributor of preparations for treating hay fever and asthma, and Mumm, Robbins & Pearson, Inc., Columbus, Ohio, an advertising agency handling the Sterline advertisements, with misrepresentation in the sale of such preparation.

The complaint alleges that by means of circular matter distributed in various States, the respondents advertised that "W. K. Sterline's Compound", sometimes referred to as "Double Strength Hay Fever Compound", and by other similar names, is a cure, remedy or effective treatment for hay fever; will fortify one's system against that ailment and enable one to avoid it, and will

check sneezing and discharging from the nose, when such are not the facts.

According to the complaint, the respondents also represented that "Sterline's Combination Home Treatment" is a cure, remedy or competent treatment for asthma and that it will restore one to health and prevent the return of asthma. The respondents, according to the complaint, further represented that this treatment is a cure or remedy for bronchitis when that disease is associated with asthma.

The complaint alleges that the respondent's combination asthma treatment and the individual preparations which constitute it ("W. K. Sterline's Compound", sometimes referred to as "Sterline's Asthma Compound"; "W. K. Sterline's Elixir", sometimes referred to as "Sterline's Bronchial Elixir"; and "Korona" or "Asthma Powder"), used separately or in any combination, have no generally recognized therapeutic value in the treatment of asthma or bronchitis in excess of affording temporary relief from the paroxysm usually associated with asthma.

The complaint further charges that W. K. Sterline's Compound contains the drugs potassium iodide and fluid extract of lobelia and that its use as thus constituted may be harmful to those suffering from active or latent tuberculosis; that this product also contains sodium bromide and that use of the preparation as thus constituted over a long period is likely to cause mental derangement; that the advertisements disseminated by the respondents contain no warnings concerning the safe and proper use of this preparation under the circumstances; and that consequently such advertisements constitute false advertising in that they fail to reveal that use of this preparation under customary conditions or under conditions prescribed in the advertisements may result in serious injury to health (4485).

**Pioneer Mattress Company**—A complaint has been issued charging William E. Evans, trading as Pioneer Mattress Co., 980 Church St., Spartanburg, S. C., with misrepresentation.

According to the complaint, the respondent has represented on advertising letters and cards bearing the signatures of certain purported women's clubs, namely, "American Good Housekeepers Club" and "The Great Northern Women's Club," and by other means, that his mattresses are approved or recommended by various women's clubs; that they are designed, sponsored or recommended by a physician and made of new and unused materials; that the prospective purchaser's name has been specially selected and that by reason thereof he is given an opportunity to obtain a mattress at a special or reduced price which represents the actual cost of manufacture. The complaint further alleges that the respondent also advertised that his offer was open for a limited time only, and was made in connection with a special advertising campaign.

However, the complaint charges that the respondent's mattresses have not been recommended as advertised, either by physicians or by women's clubs; that the names of women's clubs advertised are wholly fictitious; that names of prospective purchasers are not chosen on a particular basis but merely from a part of general mailing lists used by the respondent and his advertising agency, and that the prices advertised are not special but the regular prices. The complaint further alleges that in many instances the respondent's products are not made entirely of new materials but of used or second-hand materials.

The complaint also charges the respondent with the use of fictitious price markings and with use of the name "Simmons" to designate certain of his mattresses, misleadingly giving the impression that such products are made by the Simmons Co. (4483).

**Reed-Harlin Grocer Company**—Charging violation of the brokerage provision of the Robinson-Patman Act a complaint has been issued against the Reed-Harlin Grocer Co., West Plains, Mo., which operates branch warehouses in Missouri and Arkansas; against John R. and Orr M. Reed, trading as West Plains Brokerage Co., West Plains, Mo., and against six companies which allegedly sell merchandise to Reed-Harlin Grocer Co. through the brokerage firm.

The respondent seller companies are: Ady and Milburn, Inc., Denver, Colo.; Arkansas State Rice Mill Co., Abbeyville, La.; William D. Wright and Frank E. Hockensmith, trading as Midwest Bean Co., Denver; The Great Western Sugar Co., Denver; Inness Bros., Inc., Kansas City, Mo., and Louis S. Taube, Theodore Taube and Lloyd B. Holden, trading as L. S. Taube & Co., Kansas City, Mo.

According to the complaint, the respondents, John R. Reed and Orr M. Reed, who control the West Plains Brokerage Co., are stockholders and officers of Reed-Harlin Grocer Co., John R. Reed being a majority stockholder and active manager of the grocery company.

The complaint further alleges that the respondent sellers pay to the respondents John R. Reed and Orr M. Reed, trading as West Plains Brokerage Co., and acting on behalf of the Reed-Harlin Grocer Co., substantial brokerage fees and commissions on purchases of the grocery company, particularly foodstuffs. Such amounts, according to the complaint, represent a percentage of the quoted sales prices agreed upon between each of the respondent sellers and the respondents Reed, trading as West Plains Brokerage Co. These fees and commissions, according to the complaint, have been received by the respondents Reed and by the Reed-Harlin Grocer Co. through the respondent brokerage firm.

The complaint further charges that the transmission and payment of the brokerage fees or commissions by the seller respondents and their receipt and acceptance by the respondents Reed, trading as West Plains Brokerage Co., upon the purchases of the Reed-Harlin Grocer Co., and the receipt and acceptance of such fees or commissions by the Reed-Harlin Grocer Co., upon its own purchases, constitutes violation of the brokerage provision of the Robinson-Patman Act (4486).

**Scientific Manufacturing Co., Inc.**, 426 Prescott Ave., Scranton, Pa., and Howard J. Force, the corporation's president, have been served with a complaint alleging misrepresentation in the sale of medicinal preparations.

According to the complaint, the respondents disseminate false advertisements in which they represent that their preparations "Pheno-Isolin" and "Pheno-Isolin Ointment" constitute competent and effective antiseptics and germicides, and possess substantial therapeutic value in treating skin infections generally, and about 20 specific ailments or conditions including ulcers, carbuncles, abscesses, athlete's foot, eczema, gangrenous conditions, diphtheria and influenza. The complaint alleges that the respondents' claims exceed actual accomplishments.

The complaint further charges the respondents with representing that their preparation "Dialin" constitutes a remedy and effective treatment for diabetes; effects a chemical change in the blood so as to reduce the quantity of sugar in the blood; assists the pancreas to produce insulin in the natural way; eliminates the unnatural thirst of diabetes victims, and corrects other abnormal conditions caused by diabetes, when such are not the facts.

According to the complaint, the respondents circulated leaflets captioned "What the Profession is Doing with Pheno-Isolin" and "What They Say About Dialin", such literature containing purported testimonials of physicians recommending the respondents' preparations. The complaint alleges that the respondents' preparations are not used or recommended by the medical profession generally (4482).

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Hyal Distributing Co.**, and Wallace G. Clark and Norman A. Dodge, of Fort Worth, Texas, have been ordered to cease and desist from misrepresentations in the sale of "Hyal", a dental preparation.

Commission findings are that prior to 1937, when Hyal Distributing Co., a corporation, obtained a license to do business in Texas, the respondents Clark and Dodge conducted a business as a co-partnership under the trade name of Hyal Distributing Co.; that some of the representations involved in the Commission proceeding were made by the respondent co-partnership during its existence, and that others were made subsequently by the respondent successor corporation.

The Commission order directs the respondent corporation and the respondents Clark and Dodge as individuals to cease and desist from representing that the preparation "Hyal" is a new discovery, has germicidal properties, is a cure or remedy for bleeding gums or other mouth disorders, or constitutes an effective treatment for such conditions in excess of that afforded by a mild antiseptic.

These respondents also are ordered to cease representing that their preparation is a cure or remedy for trench mouth or an effective treatment therefor in excess of temporarily inhibiting the growth of the bacteria causing trench mouth.

The order further prohibits the representation that Hyral has therapeutic value in the treatment of pyorrhea or is a remedy for pyorrhea; that it will make the gums firm, hard or healthy; that its use will prevent loss of teeth; that the preparation will remove tobacco stains or tartar formations, or that it will have any effect on unpleasant breath odors in excess of temporarily masking them.

The Commission order further directs the respondent corporation and the respondents Clark and Dodge, both individually and as its officers and directors, to cease disseminating advertisements which represent that their preparation is a new or different dentifrice or has any special properties which would be effective in making or keeping the gums firm. (3726)

**Kongo Chemical Company, Inc.**—A cease and desist order has been amended which, as announced January 5, was issued against Kongo Chemical Co., Inc., 66 East 131st St., New York, manufacturer and distributor of "Kongolene", a cosmetic preparation for the hair.

The original order had directed the respondent to cease and desist from disseminating advertisements of its product which represented, among other things, that its use was safe and harmless, and which advertisements failed to reveal that use of the preparation may result in severe caustic action upon the skin and scalp, with resulting burns.

The modified order is the same as the original order in prohibiting such dissemination, but adds the proviso that the advertisement need contain only a statement that the preparation should be used only as directed on the label when such label contains a warning that use of the product may result in severe caustic action upon the skin and scalp with resulting burns, and certain directions for the safe and proper use of the preparation which are detailed in the Commission order. (4193)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Adlerika Co.**, 98 South Wabasha Street, St. Paul, Minn., entered into a stipulation in which it agrees to cease representing that "Adla Tablets" will bring about neutralization of hyperacidity, bring relief from "acid stomach", protect irritated parts or membranes of the stomach in any manner, or form a protective coating over the stomach parts or membrane. (02767)

**Buel Company**—S. D. Cates, operating as Buel Co., 800 North Clark St., Chicago, has entered into a stipulation in which he agrees to cease representing that his preparation "Buellene" is effective in the treatment of falling hair or dandruff, unless the representation is limited to assistance in the removal of accumulated dandruff scales; that his "Hot Oil Treatments" make the hair healthy or stop brittle, breaking hair, or that any of his products will increase the growth of hair or is a hair grower. (02770)

**Arnold Constable & Co., Inc.**, Fifth Ave. at Fortieth St., New York, operating a department store, has entered into a stipulation in which it agrees to cease certain representations in the advertisement and sale of ladies' shoes. The respondent corporation agrees to discontinue employing the word "Alligator" or other similar word to describe shoes not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials. (3060)

**Diatest Laboratories**—Alfred Muller, trading as Diatest Laboratories, 1133 Broadway, New York, has entered into a

stipulation in which he agrees to cease advertising that a device known as "Diatest Tester" is the only tester for determining the sugar content of urine which does not use or require flame, and that it is the most accurate tester available for determining such sugar content. (02768)

**Burton G. Feldman and Associates Incorporated**, 540 North Michigan Ave., Chicago, an advertising agency, stipulated that it will cease disseminating advertisements on behalf of Gellman Manufacturing Co., Rock Island, Ill., which represent that that company's vapor-electric bath cabinets known as "Beauty Builder and Beauty Fount" have a direct value in the permanent reduction of excess weight; that such cabinets, by means of vapor-heat, infra-red, or ultra-violet rays, help eliminate excess fat, or that the use of the cabinets will "cure", "banish" or "erase" fatigue. (02765)

**Frohlich Laboratories**—A Seattle, Wash., group has entered into a stipulation to cease certain representations in the sale of "Dr. Frohlich's Z'Out Hair Destroyer". The respondents are Louis B. Frohlich, trading as Frohlich Laboratories; Frohlich Laboratories, Inc., and David F. Griff, trading as Frohlich Distributing Co., with offices in the Peoples Bank Building, Seattle. They agree to cease representing that their preparation will permanently destroy hair or prevent the regrowth of hair, or that its use will result in the permanent removal of hair. They also agree to cease employing statements which have the capacity to cause the impression that their preparation possesses any marvelous qualities or that its development is the result of seven years work or of any amount of work, effort, experimentation or research greater than that actually used or performed in its development. (3061)

**Helix Co., Inc.**, 79 Fifth Ave., New York, and four other textile merchandise corporations having executive offices at that address, have entered into a stipulation to cease certain representations in the sale of their products which include men's and women's wearing apparel and sheets and pillowcases.

The Helix Co., Inc., according to the stipulation, purchases the merchandise used by each of the four other companies which are a New Jersey, a Massachusetts, a Michigan and an Illinois corporation each operating under the name Royal Crown Hosiery Co., Inc.

The respondents agree to cease using the words "Silk," "Satin" or other words connoting silk in advertisements or trade literature to describe fabrics or merchandise not composed of silk; and to properly qualify the descriptions when the products consist in part of silk and in part of other fiber material. They also stipulate that they will discontinue employing the term "Lisle" as descriptive of goods not made of lisle.

The respondents further agree to cease employing the word "Bemberg" or other name or word, alone or with other words, as descriptive of the rayon content of garments, fabric or material, unless such name or word is immediately accompanied by the word "Rayon" in letters or type of equal conspicuousness, as "Bemberg Rayon." They also agree to cease advertising, branding, labeling, invoicing or selling any product composed in whole or in part of rayon without complete disclosure of the fiber content by naming each constituent fiber in the order of its pre-dominance by weight.

In the case of goods which are not shrinkageproof or nonshrinkable, or which have not been fully shrunk or "pre-shrunk" to the extent that no residual shrinkage remains in them, the respondents agree to cease employing the term "Pre-Shrunk" or similar descriptive words. If, according to the stipulation, the term "Pre-Shrunk" or other similar terms are properly used to indicate that goods have undergone a shrinking process, but there still remains in them a certain amount of residual shrinkage, such terms shall be accompanied by a statement of percentages clearly indicating the amount of remaining residual shrinkage.

The respondents also agree to desist from using statements which tend to cause the impression that sheets, pillowcases or other textile products to which starch has been added contain no starch. (3062)

**Inspire, Incorporated**, 552 Mission St., San Francisco, and Edgar D. Sloat, its president, has entered into a stipulation in which they agree to cease advertising that their device designated

"Deep-Skin Electro-Mask," will re-establish natural functions of the underskin, glands, circulation or nervous system; will normalize the skin or revitalize the tissues; is an effective remedy for wrinkles, crow's feet, lines, enlarged pores, pimples, blackheads, dry skin or oily skin, and that the device accomplishes all the benefits of the most extravagant salon facial and is a sure means of attaining beauty. The respondents also agree to cease using the words "Deep Skin" as part of the brand name for their product; to cease representing in any manner that the effect of the device extends deeply into the skin; that it has any effect directly upon the dermis, or that it acts from the inside outward. (02763).

**Kaucky's Pharmacy**—Agreeing to discontinue certain representations in the sale of a medicinal preparation designated "Kaucky's Formula Herb Tea", Emanuel Kaucky, trading as Kaucky's Pharmacy, 6348 West 26th St., Berwyn, Ill., entered into a stipulation. The respondent agrees to cease advertising that the use of his product will cause one to have a clean body or a clear mind; will cause the system to return to normal; will relieve rheumatism, and will have any therapeutic value in the treatment of headaches in excess of affording relief from headaches due to constipation. The respondent also stipulates that he will cease representing that his preparation has any therapeutic value in the treatment of constipation or stomach, intestinal, bladder or kidney ailments in excess of that afforded by a laxative and diuretic. (02764)

**Knox-All Company**—Trading as The Knox-All Co., W. C. Stewart, of 18 West Exchange St., Freeport, Ill., stipulated that in connection with the sale of poultry and animal preparations he will desist from advertising that "K-A Poultry Spray" prevents or eliminates cold, roup or other poultry diseases; keeps the flock or the poultry house free from mites or bluebugs; penetrates to all parts of the poultry house; aids in killing germs before they attack the birds, and is endorsed by leading hatcheries. The respondent

also stipulates that he will cease representing that "K-A Fur Farm Fluid" destroys vermin which infests animals; is effective against fleas, lice or ticks on fur-bearing animals, and effectively combats earmites; that "K-A Neptol Tablets" is effective against symptoms of diarrhea, sour crop, poor appetite or temporary constipation, and that "K-A Alroc Tablets" is effective in the control of cholera, or typhoid, in chickens, turkeys, geese or ducks. (02769)

**Paxton and Gallagher Co.**, Omaha, Nebr., entered into a stipulation in which it agrees to cease advertising that a pound of its "Butter-Nut Coffee" makes more cups of coffee than a pound of any other coffee; that it has discovered a new or extraordinary process of maturing coffee and that its maturing method eliminates all trace of harshness or coffee acids. (02762)

**Potts-Turnbull Co.**, 912 Baltimore Ave., Kansas City, Mo., an advertising agency stipulated that it will cease advertising, on behalf of Gooch Feed Mill Co., Lincoln, Nebr., that favorable results in egg production or chick raising depend solely on using Gooch's chicken feeds; that a low feeding cost or a balanced egg making ration is insured by using "Gooch's Best Laying Mash"; that mash will enable hens to lay more eggs, have better body weight or condition, or be more vigorous or resistant to disease than any other product, and that the use of "Gooch's Best Starting Feed" insures healthy chicks or a certain weight within a specified time. (02766)

#### FTC CASE DISMISSED

The Federal Trade Commission dismissed without prejudice a complaint which had charged Consolidated Book Publishers, Inc., 537 South Dearborn St., Chicago, with violating the Federal Trade Commission Act in the sale of books. This case involved certain representations concerning the quality of the bindings of books sold by the respondent corporation.

## THE WEEK IN WASHINGTON

Convention plans progressing. (p. 365).

BMI makes film for NAB Convention. Embassy Music Corporation in BMI. (p. 366).

Alternative plans of copyright and libel insurance outlined. NAB Insurance Committee makes preliminary report on insurance rates. (pp. 367-368).

Code Committee makes important recommendation. Broadcast Advertising Department suggests careful survey of advertising accounts. Radio to participate in AFA convention. (p. 370).

Daylight Saving legislation summarized. Chairman Fly comments on monopoly report and defense. Newspaper owned stations organize. (p. 372).

## NAB Convention

With the convention opening date but slightly more than two weeks distant, the plans which have been in the making for a number of months are fast coming to a head. Under the able direction of Merle Jones, KMOX, General Chairman, St. Louis broadcasters have perfected arrangements which assure the careful handling of all details essential to the comfort and proper entertainment of all who attend.

The Housing Committee, of which Ray Dady, KWK, is Chairman, has nearly completed its task. More than 500 advance reservations have been made. There are still plenty of available rooms in St. Louis hotels and even

the headquarters hotel, the Jefferson, is capable of accommodating some additional guests.

The response to the Promotional Exhibits Committee's activities, has been most encouraging and the big Crystal Room of the Jefferson is certain to be crowded with a most interesting, and enlightening display of all types of promotion material which has proven effective to stations large and small.

Twelve equipment manufacturers and transcription companies, all associate members of NAB, will conduct exhibits during the convention. All of these headquarters have been definitely established and prior announcement of their locations in the hotel will be made.

Splendid entertainment in connection with the banquet is assured. The production heads of CBS, MBS and NBC are cooperating, and William Bacher, WGN, Chicago, has been named as manager of production of the show which will be put on in connection with the banquet. Every facility of writing and production in the three network departments has been placed at the disposal of Mr. Bacher.

The program for the business sessions promises to introduce subjects which are of transcendent importance to broadcasters at this time; questions which deeply and vitally effect every person engaged in the radio broadcasting industry. It may well be predicted that this St. Louis meeting will go down as one of the most important the broadcasting industry has ever had.

Present indications are that it will be one of the largest from standpoint of attendance. In next week's REPORTS we hope to publish a full outline of the tentative program. Those who have not made their reservations at St. Louis should do so at once.

**You Can't Afford to Miss the NAB Convention**

**May 12, 13, 14, 15**

**New Jefferson Hotel**

**St. Louis**



The NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## BMI

### BMI AT WORK

A crew of cameramen from the William H. Wells Productions headed by Henry M. Lester, authority on photography and co-author of "Leica Manual," systematically interrupted work in the various BMI departments last week to photograph members of the staff steaming under the hot Klieg lights. The picture is for exhibition at the NAB Convention in St. Louis. Head director is Julian Roffman who made a name for himself as the producer of *And So They Live*, a documentary film of conditions in the Kentucky hills made for the Sloan Foundation of New York University. Mr. Roffman is also the producer of *Getting Your Money's Worth*, a series of theatrical shorts which received wide spread attention.

The crew is working from a prepared script which narrates what happens between the time a composer submits a manuscript to BMI and the music is shipped out to BMI member stations. The script details the process by which BMI's Music Production Department, the largest in the world, prepares arrangements for all musical instruments and tests the arrangements in actual performance. The picture offers the next best thing to actually visiting BMI and observing minutely the significant work of the Department. The purpose in making it is to give each owner of BMI an opportunity to see for himself what has been accomplished in the creation and operation of the new music company.

### BMI ACQUIRES NEW HIT TUNES

BMI has acquired the performing rights, effective at once, of all music published by Embassy Music, Corp. Through the transaction, BMI licensees receive a catalogue of some seventy-five dance and rhythm numbers, including perhaps the best prize winning song from the "Fame and Fortune" contest sponsored by Tommy Dorsey. Among the most popular of the Embassy selections are, *Oh, Look At Me Now*, *Everything Happens To Me*, *Let's Get Away From It All*, and the rhythm number *Quiet, Please*.

In addition to the Dorsey catalogue, M. E. Tompkins, BMI's Vice President and General Manager, is calling attention to the fact that the following numbers in the recently acquired catalogue of Cooper Music, Inc., are exceptionally good:

*Down Where the Delta Begins*  
Larry Wynn and Jerry Bresler  
*The Clock Song*  
Salzman, Wynn and Bresler  
*The Night Was Given To You*  
Ashley Miller  
*Five Guys Named Moe*  
Wynn and Bresler

All the lists reveal that many new publishers have come into being since the first of the year. During 1940, applications filed with the Secretary of State of New York for charters to conduct a music publishing business averaged two a month. Since January 1, 1941, they have averaged ten a month.

### MOTHER'S DAY SONG

Dana Merriman, alias Danial Sibley, has met the challenge again for a timely song, offering *Mother of Men* as a BMI special for Mother's Day on Sunday, May 12th. Copies for distribution to member stations will be available on or about May 1st. Both words and music were written by Mr. Merriman who from long years of experience has learned not to wait on inspiration but to seek it.

Lyrics follow:

When as a child—whose watchful care  
Followed and guided me everywhere  
Who always heard my "Goodnight" prayer?  
When, as a youth, I often strayed  
Whose trust and faith held fast, unafraid,  
E'en tho' that trust and faith were oft betrayed?  
Who always hoped—tho' beset with fears—  
Who always smiled through blinding tears—  
Who always loved through all the years?  
Who always forgave—again and again  
Tho' meek—who had the strength of ten?  
Her name, you ask? She's the MOTHER OF MEN!  
Copyrighted, BMI, 1941.

### MUSIC FOR THE ARMY

A BMI campaign of cooperation is making available to army camps professional copies of BMI songs which lend themselves to group singing in the barracks. The most recent of these is *I'm In The Army Now* by Frank Luther. The music is much appreciated judging by the letters BMI is receiving and the requests for dance and choral arrangements.

In WRVA's broadcast, *Okay, America*, which is presented each week from Camp Lee situated between Petersburg and Hopewell, Virginia, the band warms up each morning by playing BMI's *Military Maestro* by Richard D. Becker.

Not forgetting the need of keeping spirit's high in London, BMI is making arrangements to distribute bundles of its professional music to Britain's bands. This last came as the result of a suggestion from Dorothy Kilgallen, newspaper and radio columnist.

## BMI FEATURE TUNES

April 28-May 5

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HERE'S MY HEART
8. TALKIN' TO THE WIND
9. WITH A TWIST OF THE WRIST

*Billboard's* music popularity chart gives BMI a 100% rating in top money making records for automatic phonographs. The four tunes listed under "Going Strong" are: *High On A Windy Hill*, *There'll Be Some Changes Made*, *It All Comes Back To Me Now* and *Amapola*. Prominent among those "coming up" are: *Wise Old Owl*, *Friendly Tavern Polka*, and *G'Bye Now*. *Amapola* continues to lead all lists of national and regional best selling retail records and best sheet music sellers. In its column *On the Records*, *Billboard* points to *G'Bye Now* as a song "pointing for a hit" and gives high praise to the growing popularity of *The Friendly Tavern Polka*. In *Variety's* fifteen best sheet music sellers, BMI's *Walkin' By the River*, is second only to *Amapola*, while *My Sister and I*, *Wise Old Owl* and *G'Bye Now* rank high in the list. In addition to those songs mentioned above, network plugs feature, *With A Twist Of the Wrist*, *You Walk By*, *I Hear A Rhapsody*, *Because Of You*, *Keep An Eye On Your Heart*, *So You're the One*, and *Let's Dream This One Out*.

### NEW LYRICS FOR FAMILIAR MUSIC

Fulfilling a long-felt need in the music world, BMI's Public Domain Lyric Department has won much praise in the few short months of its existence. This department, headed by Irving Weill, was created to make available to BMI licensees new lyric settings for familiar melodies of the past.

The lyrics of many public domain selections previously used have been unsatisfactory to vocalists in several aspects. Among the shortcomings cited are: imperfect "wedding" of lyric and melody, with incorrect accentuation, improper placing (in high and low registers) of words and vowels that are difficult to sing, and "un-poetic" translations. New lyrics now being written at BMI meet these objections as they are done by writers having musical as well as lyric training, who avoid the pitfalls. Among those who have been commissioned by BMI to do lyric settings are Margaret Munzen, Gertrude

Forster and James Ballister, all of whom are highly regarded for their work in this field.

In numbers for new lyrics, BMI has chosen not only those that are familiar as songs, but also many compositions which have hitherto been known only as instrumental selections. Included among these instrumental numbers which now have BMI lyric settings are *The Scarf Dance* (Chaminade), Raff's *Cavatina* and Rubenstein's *Melody in F*. To date, some 160 ever-popular selections have been sent to BMI stations, with hundreds more scheduled for release in the future.

### BMI TUNES SUNG BY MOVIE AUDIENCES

BMI numbers are being performed rather generally in motion picture theaters. Most of the recently popular songs are BMI so that in theaters where songs are sung by the audience, exhibitors have found it necessary to play BMI tunes in order to hold the interest of the audience and to attain the full enthusiasm for group singing.

Among the larger New York theaters featuring BMI hits are the Strand Theatre where Jimmy Dorsey is playing *I Hear A Rhapsody* and others, and the Paramount where Siggy Lane, vocalist, is featuring *My Sister and I*.

BMI officials see closer cooperation between radio and the film industry as a result of the effective promotion done by BMI stations of the film *Pot O' Gold* starring Jimmy Stewart and Paulette Goddard and featuring Horace Heidt. Three of the numbers from the score are published by BMI and the exploitation campaign put on by member stations is credited with greatly boosting audience attendance of the film.

### COPYRIGHT INFRINGEMENT AND LIBEL INSURANCE

Two proposals to insure broadcasters against liability for copyright infringement and radio defamation have recently been brought to the attention of the NAB. One, on which it is our understanding stations have been circularized by John C. Paige & Company of Boston, Massachusetts, is written by The Employers' Liability Assurance Corporation, Limited; the other, still in the formative stage, is expected to crystallize into a definite proposition within the week.

Both propositions will be submitted to the NAB Insurance Committee for their analysis and possible recommendation to the members. Believing that station managers will be interested in a brief outline of the two propositions, we print below our understanding of the respective coverages.

Under the policy offered by John C. Paige & Company the insurance company obligates itself to defend all suits on claims covered by the policy in both Federal and State courts. Such suits for damages claimed by reason of the

infringement of copyright through dramatic as well as non-dramatic performances of musical and dramatico-musical compositions, as well as musical arrangements, are covered. The insurance applies to copyrights protected at common law as well as by statute.

The insurance against liability for defamatory broadcasts is based upon the principle that the station need only exercise due care in programming, which means that the insurance company undertakes to free the broadcaster from the doctrine of absolute liability without fault which prevails generally in libel cases.

The company assumes the payment of 85% of all judgments against broadcasters in both copyright and defamation actions within the aggregate limit of the policy. The judgments for damages covered by the policy include such amounts as may be awarded for attorney's fees and costs to victorious plaintiffs. In the case of copyright infringement the company's liability is limited to single claims of \$5,000.00 each, whereas in the case of defamatory broadcasts the company's liability is restricted to single claims of \$10,000.00.

There is no deductible amount in this policy for which the station may be solely liable without contribution by the company, as is the case in excess insurance contracts. The policy submitted obligates the insurance company to pay 85% of every dollar within the policy limits. For example, if the judgment is \$5,000.00, the company is obligated to pay \$4,250.00 and the broadcaster only \$750, whereas if a claim is settled for \$250.00, the company is obligated to pay \$212.50 and the broadcaster only \$37.50.

In its coverage against liability for copyright infringement the company protects the station for infringements committed through live talent as well as recordings, including electrical transcriptions. Infringing material in transcriptions is covered provided it has been determined by an experienced musician to be free for broadcast. This would include bridge music, theme songs and similar works. The policy extends protection to the broadcast of all musical programs of copyrighted works and, in addition, insures the station against any errors in making reasonable determinations as to the public domain status of music. In practice, the company insures the station's use of the catalogues of licensing organizations in exchange for subrogation of the company to the station's claims against such licensing organizations. In connection with material not included within the licensed catalogues, the station is required to make a reasonable investigation of the copyright status of such works and to obtain a license to broadcast same. Where the station through the assistance of experienced musicians, and after reasonable inquiry as to the ownership of each musical composition and as to the membership of the authors and composers in the various performing rights organizations, determines that a given work requires no performing license, such

determination by the station is insured by the policy.

The broadcaster is required to conform to existing practices of refraining from deliberate infringement and malicious defamation, cessation of broadcasting after notice, and obtaining indemnity obligations from advertisers or agencies for material supplied by the latter. The policy requires the broadcaster to obtain an indemnity from licensing organizations, which is offered by BMI and SESAC. In the defamation coverage the station is required to examine program scripts to delete defamatory matter. Where no scripts are available, as in the case of extemporaneous programs, the station is merely required to establish rules and regulations for speakers and others to avoid defamation.

Under the other plan of coverage which is in prospect, broadcasters would be protected against all claims for infringement of copyright, common law intellectual property rights, invasion of rights of privacy and radio defamation, without any condition that they exercise any degree of care or make any investigations. They would be covered up to \$25,000 for any one claim, with an over-all coverage for all who go into the plan of \$1,000,000. The company would pay 80% of all claims and would defend any and all suits at its own expense.

Essentially the plan is self-insurance with 20% of the liability retained by each broadcaster and the purchase of excess insurance with a responsible company.

At the present stage of negotiations and based upon 200 stations coming in, the figures are as follows:

Each station would pay a gross premium of \$350 and is it the expectation that \$175 would be returnable or applied as a credit against the next year's premium. If 300 stations came in the gross premium would remain at \$350 but the net premium, it is anticipated, would be reduced to \$100.

The Report of the Insurance Committee on this form of coverage and these two proposals will be released as soon as available.

## INSURANCE RATES

The NAB Insurance Committee met on March 24 in New York. Roger Clipp, chairman, has indicated that the work of the committee is progressing satisfactorily and as a result of the meeting the committee has the following to report.

Preparation of a manual is well under way. This manual will contain definitions of every type of insurance coverage available to broadcasters which are itemized in the questionnaire which was previously submitted by the Committee to the membership with the purpose of gathering information on the amount of insurance carried by individual stations.

Negotiations are proceeding through insurance carriers, cooperating with the Central Traction and Lighting



Bureau, with the establishment of a uniform fire insurance policy for the broadcasting industry which will contain a more comprehensive lightning and electrical damage clause. The form of fire policy now available to Broadcasting Stations does not adequately protect broadcasting stations, against damage to equipment by lightning or by electrical break-down in equipment.

Through the National Bureau of Casualty and Surety Underwriters, the Committee has secured complete information for individual States, on compensation insurance as applicable to broadcasting stations. The Committee suggests that all stations check the rate of their compensation insurance and recommends that if any broadcaster is securing a less favorable rate under their compensation insurance policy that they consult their insurance broker or their compensation board and request an adjustment.

Following are the compensation rates for the respective states under the respective code numbers which are hereby defined:

RADIO BROADCASTING OR COMMERCIAL WIRELESS STATIONS

Transmitter or Field Employees—including Drivers, Chauffeurs and their Helpers..... Code #7609  
 Salesmen ..... Code #8742  
 All other employees—including control operations confined to studio exclusively, announcers, players, entertainers, musicians or clerical office employees ..... Code #7610

STATE	Code #7609	Code #8742	Code #7610
Alabama	.59	.32	.07
Arizona	(N) 4.91	.56 (O)	.35 (T) .35 (M) 1.09
Arkansas	1.25	.48	.17
California	.89	.49	.14
Colorado	.99	.47	.15
Connecticut	.72	.29	.13
Delaware	* 1.15	** .13	*** .14
District of Columbia	.96	.43	.15
Florida	.66	.39	.12
Georgia	.62	.34	.09
Idaho	.72	.31	.11
Illinois	.68	.30	.10
Indiana	.65	.36	.11
Iowa	.67	.41	.11
Kansas	.74	.52	.12
Kentucky	.70	.41	.12
Louisiana	.88	.35	.14
Maine	.77	.33	.09
Maryland	.89	.33	.17
Massachusetts	.49	.14	.13
Michigan	.88	.08	.14
Minnesota	.90	.08	.16
Mississippi	3.33	.20	.36
Missouri	.88	.37	.14
Montana	1.21	.53	.18
Nebraska	1.08	.49	.17
New Hampshire	.69	.21	.11
New Jersey	1.15	.48	.18
New Mexico	.73	.31	.11
New York	1.57	.47	.22
North Carolina	.79	.41	.13
Oklahoma	1.02	.31	.17
Oregon	1.36	.45	.15
Pennsylvania	* 1.70	** .24	*** .28
Rhode Island	.70	.29	.12
South Carolina	2.61	.57	.13
South Dakota	.70	.52	.11
Tennessee	.59	.24	.09

STATE	Code #7609	Code #8742	Code #7610
Texas	1.15	.78	.16
Utah	1.13	.62	.18
Vermont	.52	.19	.09
Virginia	.61	.27	.10
Washington	1.07	.33	.12
Wisconsin	1.08	.52	.17

Delaware & Pennsylvania—\*Telegraph or Telephone Operator, including maintenance, extension and construction offices.

\*\*Salesmen (outside) Collectors and (Code No. 951) Messengers (and making of service connections—Code No. 757).

\*\*\*Theaters—all employees including office—Code No. 967.

Arizona (N)—Telephone or Telegraph Companies operation, maintenance, extension offices and making of service connections—Code No. 7600.

(O)—Theaters:

Managers (not stage managers)—box office employees, ushers and others not employed upon the stage, excluding care, custody and maintenance of premises—Code No. 9154.

(T)—Players, Entertainers or Musicians—Code No. 9156.

(M)—Stage Hands (not players or entertainers) motion picture machine operators and employees engaged in care, custody and maintenance—Code No. 9150.

FOLLOWING ARE COMPENSATION BOARDS TO WHICH RATE QUESTIONS SHOULD BE REFERRED:

The National Council on Workmen's Compensation Insurance, Mr. William F. Rober, General Manager, 45 East 17th Street, New York City calculates the base rates in the States of Alabama, Arizona, Arkansas, Colorado, District of Columbia, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Missouri, Montana, New Hampshire, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Utah and Vermont.

The Delaware Compensation Rating and Inspection Bureau, 938 Public Ledger Building, Philadelphia, Pennsylvania, Gregory C. Kelly, General Manager calculates the compensation base rates for the State of Delaware.

The California Inspection Rating Bureau, 500 Sansome Street, San Francisco, California; R. A. Whittaker and J. A. Froberg, Managers, calculates the base rates for the state of California.

The Massachusetts Rating and Inspection Bureau, 89 Broad Street, Boston, Massachusetts, Mr. McGoone, Manager, calculates the base rates for the State of Massachusetts.

The New Jersey Compensation Rating and Inspection Bureau, 60 Park Place, Newark, New Jersey, Mr. A. R. Lawrence, Chairman and General Manager and Deputy Insurance Commissioner, calculates the base rates for the State of New Jersey.

The Minnesota Compensation Rating Bureau, 523 Marquette Avenue, Minneapolis, Minnesota, Mr. J. F. Reynolds, General Manager, calculates the base rates for the State of Minnesota.

The Compensation Insurance Rating Board, 125 Park Avenue, New York City, Henry D. Sayer, General Manager, calculates the base rates for the State of New York.

The Pennsylvania Rating and Inspection Bureau, 938 Public Ledger Building, Philadelphia, Pennsylvania, Gregory C. Kelly, General Manager, calculates the base rates for the State of Pennsylvania.

The Workmen's Compensation Division, State Fire Insurance Commission, calculates the base rates for the State of Texas.

The Compensation Insurance Rating Bureau of Virginia, 323-325 Broad-Grace Arcade, Richmond, Virginia, E. E. Cadmus, Manager, calculates the base rates for the State of Virginia.

The Wisconsin Rating and Inspection Bureau, 312 E. Wisconsin Avenue, Milwaukee, Wisconsin, Mr. G. F. Hayden, calculates the base rates for the State of Wisconsin.

The National Bureau of Casualty and Surety Underwriters, 60 John Street, Mr. William Leslie, General Manager, calculates the base rates for the States of Connecticut, Illinois, Iowa, Nebraska, Rhode Island and South Dakota.

The following are Monopolistic State Funds, rates calculated by and administered by the Departments listed:

Nevada Industrial Commission, Carson City, Nevada.

Harry H. Lee, Auditor.

North Dakota Workmen's Compensation Bureau, Bismarck, N. D.

P. B. Sullivan, Chairman.

J. E. Pfeifer, Secretary.

Ohio—Industrial Commission of Ohio, 65 S. Front St., Columbus, Ohio.

Thomas M. Gregory, Chairman.  
E. I. Evans, Actuary.  
Mart. T. Christensen, State Treasurer,  
Cheyenne, Wyoming.

For employments under the acts in the States of Oregon and Washington, coverage may only be secured in the State Funds administered as follows:

Oregon—State Industrial Accident Commission.  
L. O. Arens, Chairman.  
L. R. White, Assistant Commissioner,  
Salem, Oregon.

Washington—Department of Labor and Industry  
J. W. Hoover, Treasurer.  
Ed. S. Franklin, Special Assistant, Attorney General,  
Olympia, Washington.

## Sales

### CODE COMMITTEE

With reference to commercial copy for an "enriched bread" announcement, the Code Committee this week expressed the following opinion:

"It is felt that stations should guard against undue capitalization of the defense program and against misrepresentation, bad taste and any inference of government endorsement. While undue exploitation of national defense would obviously be ill-advised, references to national defense in commercial copy, properly handled as to type of copy and manner of presentation, may be thoroughly acceptable."

### DEVELOP REPLACEMENT REVENUE

The national defense effort and expenditures, a substantial stimulus to business, employment and consumption of advertised products, should have a marked effect on increasing radio advertising revenue. Despite the general and over-all increase, some types of business, however, will be adversely affected due to priorities and curtailment of production.

Radio stations now getting a substantial percentage of their revenue from these few sources should plan now to build sources of replacement in other types of business.

Through the cooperation of NAB with the Canadian Association of Broadcasters, valuable information has been secured based on advertising experiences in England and Canada in connection with the war effort. Recent announcements by U. S. national defense agencies and by industry indicate we are approaching similar conditions in business here.

A voluntary reduction by 20 per cent in automobile production, announced last week and to be effective August 1, may serve to reduce automotive advertising in the new car field, where already a seller's market exists. The used car field, however, should consequently become more important. Similar reductions may be expected in other fields, where priorities of materials and requirements for machines, factories and skilled labor for national defense will be a factor in curtailment of production.

In England during the first half of 1940:

Automotive advertising decreased 80 per cent.

Household equipment advertising decreased 60 per cent.

Radio goods advertising decreased 41 per cent.

Whether these experiences will be repeated here remain to be seen, but informed quarters advise that advertising media should be prepared. Revenue thus lost should be replaced without undue delay by increased activity in other lines and by development of new sources. Drugs, toilet goods, food products, clothing and other staples suffered little or no decline in England and Canada, NAB was informed.

### SAVINGS AND LOAN GAINS

An opportunity for radio to develop revenue from the real estate and building fields and from savings and loan association is indicated in a report from Paul Endicott, president of the U. S. Savings & Loan League.

Ample home-owner credit will continue to be available to Americans. Savings and loan associations whose credit transactions are solely on residential real estate received \$99,871,000 in February, a 17 per cent increase over the same month a year ago, and January had shown a 14.8 per cent increase. More of this money came from new savers than any time in the past two years.

"Many of these people had never heard of savings, building and loan associations when last they had money to save, but now they are aware of them because of the several-times expanded advertising programs of these institutions," Mr. Endicott said.

### AMERICAN MEAT INSTITUTE

The NAB Department of Broadcast Advertising has succeeded in interesting the American Meat Institute of Chicago in considering radio as a national advertising medium for its future campaigns. Specific proposals for the effective use of radio are being drafted and will be presented to the Institute within the next three weeks. As part of this presentation, any contributions from NAB member stations will be welcomed, showing the effectiveness of our medium in the advertising and selling of food products.

### AFA CONVENTION, MAY 25-29

Plans for radio's participation in the annual convention of the Advertising Federation of America are being made by the Department of Broadcast Advertising. The convention, to be held in Boston May 25-29, will be attended by important agency executives, time buyers and advertising managers, and a wide representation from radio stations is expected.

Entertainment of the delegates at a Cabaret Party May 27 will be furnished by Boston stations in coopera-

tion with the networks, with Kingsley Horton, sales manager of WEEI, as chairman of the committee.

Radio's departmental program will be held Wednesday morning, May 28, followed by an international short-wave discussion at the general luncheon between the American and British Advertising Federation presidents.

### INVITATION TO CUT RATES

NAB members are advised to proceed with caution in dealing with the Golden Glint Co., Inc., of Seattle, Wash., currently querying stations for rates. While nothing has yet been reported to indicate that this company will not purchase advertising at established rates if stations adhere to them, it appears to be seeking special deals, writing one station in part as follows:

"If you want to make us a proposition for the time on your stations more closely in line with what we can get from other stations, we would be interested, but otherwise not!"

### FREE TIME REQUESTED

Efforts are being made by its advertising agency on behalf of the Forstmann Woolen Co. to secure free radio time for interviews with a travelling representative of the company "on an extensive trip covering leading cities throughout the country. While in these cities she will visit the leading department stores and put on shows for the stores' personnel featuring the Forstmann spring line of fabrics and costumes made in these fabrics . . ."

It is the opinion of NAB that such broadcasts, if carried, should be paid for at established rates either by the Forstmann Co. or by the department stores in each city featuring those products. Encouragement by stations of such free time practices will tend to make similar abuses more widespread, and set precedents that ultimately may decrease advertising revenue.

Stations have reported the request from World Broadcasting System for free announcements promoting the sale of the "You Can Defend America" booklets, available at news stands for 10 cents. Unless stations feel that they are not now devoting sufficient time to the national defense, it is the opinion of NAB that this may be considered a commercial venture, since there is sufficient margin in the price of the booklet to return a profit to the printer and news vendor. NAB is also advised that the booklet has sold in very large quantities without free help from radio.

The Fish and Wildlife Service of the Department of the Interior is furnishing fish market news to radio stations, often of genuine value in home economics programs. However, under the direction of Don Bloch, "Informational Service Representative," many stations have also been asked to broadcast free plugs promoting the sale of fish.

It is NAB's opinion that this is a request for time and service that should be paid for by local fish markets and dealers. If this service is given by broadcasters free to the fish industry, stations are vulnerable to similar requests for free time from the food industry, the coal industry, and so on without end.

NAB has discussed this with Mr. Bloch, who insists that he is rendering a publicity service of value in the national defense program. He disclosed the list of stations and the free services they are now giving him, as a result of a skilfully worded request that implied governmental sanction and cooperation with the national defense program.

A careful check of the rates of all stations carrying these free plugs, as published in Standard Rate & Data, with all frequency discounts figured, show that if purchased at regular rates this service should cost the fish industry \$1,886.08 per week, or \$98,076.16 per year.

One hundred and thirteen stations have been giving a total of 458 free plugs per week, or 23,816 free plugs per year.

As long as this service is given free in cooperation with Mr. Bloch's publicity efforts, it is the opinion of NAB that stations will find it difficult indeed to develop commercial revenue from fish markets, dealers, processors or distributors. This campaign has no more official connection with the national defense program, we believe, than the efforts of coal dealers to sell coal (and thereby "develop national resources") or the efforts of wool growers to sell suits. All phases of the national defense program are receiving the close cooperation of NAB, and member stations will be kept advised as to the part radio should fairly be expected to play through the contribution of time and services. No broadcaster need have any fear that he will be considered "non-cooperative" if he declines to accept publicity material of the sort mentioned.

Free time from radio stations is being sought by Selvage & Smith, public relations firm in New York City, on behalf of their client, the Investment Bankers Association of America. Free quarter-hour programs called "Men, Money and Ideas" are being offered. Investigation by NAB shows no reason why these should not be considered commercial programs, and paid for at regular rates.

## Legislation

### FEDERAL LEGISLATION

#### HOUSE

H. R. 4486 (COLLINS, D-Miss.) COPYRIGHT—To create five regional national libraries and to amend section 12 of the Act entitled "An Act to amend and consolidate the Acts respecting copyright", approved March 4, 1909, and for other purposes. Referred to Committee on the Library.

S. Res. 97 (TRUMAN, D-Mo.) COMMUNICATIONS ACT—Relating to the prevention of unauthorized or unlicensed communications and the protection of the privacy of communications. Referred to Committee on Interstate Commerce.

STATE LEGISLATION

DELAWARE:

H. 237 (RHODES) EYEGLASSES—Relating to licensing of the business of dispensing eyeglasses. Referred to Committee on Public Health. Reported on its merits in House April 9.

Miscellaneous

DAYLIGHT SAVING

This week Representative McLean (R-N. J.), author of the national daylight saving bill (H. R. 3789), issued the following statement:

“Because of these wartime activities,” he said, “conditions are today comparable to those during the last war and all measures adopted then are needful now and should be enacted at once, including the daylight saving time act.

“The original act proved its usefulness and remained in effect until the end of the war. Its benefits were so manifest that when it was repealed, permissive or mandatory State laws were enacted, being in effect last summer in all or part of 16 States.

“Daylight is free. Artificial light is costly. Daylight saving will reduce the industrial, commercial and domestic expenditures for artificial light. Imagine the saving in fuel and electric current if all the lights of the country were turned out for one hour each day.

“Based on the statistics available from the experience during the World War, the estimated saving of fuel during the daylight saving period would be upwards of 5 per cent, which is an enormous amount in volume of materials and energy when the total consumption is considered. These resources could be advantageously diverted to the national defense program.

“The measure is fairly calculated to accomplish valuable economies in our national life; it will be of special value in the present emergency; it will contribute to the comfort, convenience and unity of the home life of many millions of our people.”

Another national daylight saving bill, (H. R. 4206) introduced by Representative Keogh (D-N. Y.), is also in the legislative hopper.

In this connection, President Miller wrote to Mr. Knudsen on April 8, as follows:

“Honorable William S. Knudsen  
National Defense Commission  
Washington, D. C.

My dear Mr. Knudsen:

There have been introduced in Congress two bills to provide for daylight saving time on a nation-wide basis,—one H. R. 3789 by Representative McLean (R-N. J.) and the other H. R. 4206 by Representative Keogh (D-N. Y.). Our Board of Directors has voted unanimously to support national daylight saving time for the reason that it will solve the broadcasting industry’s semi-annual programming problems arising out of the fact that some states operate on daylight saving time and others do not. The Association of American Railroads through its Board of Directors has also, I am informed, voted to support national daylight saving time.

I do not know what consideration, if any, the Defense Commission has given to the question of the desirability of national daylight saving time as a defense measure. Our Association, and others, deem it of transcendent importance. If you concur in our view, we urge that you make a public statement to that effect.

Very truly yours,

NM/hml

NEVILLE MILLER”

No reply has been received to date, nor has any public statement been noted.

Neville Miller, NAB president, will address the Advertising Club of Baltimore on Wednesday, May 28, on the subject “Radio and National Defense.” This will be the Advertising Club’s meeting in honor of Baltimore’s new 50,000 watt station, WBAL, which will take the air with 50,000 watts power Sunday, May 25.

NEWSPAPER OWNED STATIONS ORGANIZE

The following report contained in the New York “Herald-Tribune” outlines the developments which have occurred in the organization of the newspaper owned stations to prepare themselves for the pending hearing on the question of newspaper ownership of radio stations:

“Mark Ethridge, general manager of ‘The Louisville Courier Journal’ and ‘The Louisville Times’ presided in the Jansen suite of the Waldorf-Astoria at a meeting of a committee of publisher broadcasters, organized several weeks ago when the Federal Communications Commission announced forthcoming hearings to inquire into the joint ownership of newspapers and radio broadcasting stations. At the end of a two-hour session, Mr. Ethridge announced the formation of a sub-committee of nine to study the situation, outline a program and report back to a general meeting of all the 292 publishers who operate radio stations on Tuesday afternoon.

“Members of the sub-committee are: Harold Hough, ‘Fort Worth Star Telegram’, chairman; Walter Damm, ‘The Milwaukee Journal’, vice-chairman; James M. Cox, Jr., ‘The Atlanta Journal’; Guy Hamilton, general manager, the McClatchy Newspapers and station KERN, Bakersfield, Calif.; Gardner Cowles, Jr., ‘The Des Moines Register and Tribune’; D. Tennant Bryan, ‘The Richmond News-Leader’; John E. Person, ‘The Williamsport (Pa.) Sun Gazette’; Nelson Poynter, ‘The St. Petersburg (Fla.) Times’, and Jack Howard, the Scripps Howard Newspapers.”

891 STATIONS

During the month of March, 1941, the Federal Communications Commission issued operating licenses to three stations and granted five permits for the construction of new stations. Two stations were deleted. A comparative table by months follows:

	Apr. 1	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	Apr. 1
Operating . . . . .	775	779	783	791	799	806	810	816	825	831	835	836	837
Construction . . . . .	48	47	53	56	58	57	54	52	51	51	46	54	54
	823	826	836	847	857	863	864	868	876	882	881	890	891

NAB PUBLICATIONS

Just off the press is the revised edition of HOW TO USE RADIO, edited by Professor Kenneth G. Bartlett of Syracuse University. This new edition is an improvement over the first issue and radio broadcasters are urged to use it in an effective manner. Copies may be obtained upon request at the modest price of 6 cents a copy.

Now in process of preparation is the revised edition of HOW TO USE RADIO IN THE CLASSROOM and the ABC OF RADIO. We should like to hear from member stations as to their possible uses of these two publica-

tions in order that we may order a sufficient number to supply the demand. They will be furnished at the cost price of 6 cents each.

## MONOPOLY REPORT AND DEFENSE

Monopoly report will not be made public by FCC this week or next Chairman James Lawrence Fly told newsmen at a press conference early this week in answer to a specific question.

Mr. Fly said that no dates have yet been set for hearings on newspaper FM ownership. Asked about appointment of the new head for the listening post set up the chairman explained that just a handful of top-notch men are available for this job and he has not yet succeeded in getting one. He said that he does not want to make any compromise in his selection of the right man.

The chairman discussed the work of the Defense Communications Board generally during the course of which he was asked about the broadcasting aspect of this defense work. He said that the broadcasters wanted to delay the program by themselves taking over last summer. He agreed that broadcasting would have to be considered in war but there are relatively more important elements in the whole defense communications program.

Asked about short wave broadcasting and its relationship to the defense work the chairman said that this is one of the problems but how important it is he was reluctant to say.

## Defense Job Training

The U. S. Office of Education has prepared a chart which lists complete information concerning government sponsored training courses.

To train unskilled men to fill defense jobs, training courses in public schools and other locations have been established throughout the country. They are intended to aid persons to get jobs in aircraft, shipbuilding, welding, sheet metal, machine shop, electricity, mechanics, forging, radio and other occupations.

The department is mailing a copy to all stations to enable them to answer questions that may be put to them by local listeners.

Here are questions the chart answers:

What are the wages—or fees—, if any, in training? What wages may you earn on the job? What is the purpose of training? What age must you be? What education or work experience must you have? What are the requirements for enrolling in a course? How many weeks do the courses run? How many hours a day? Where

are the courses offered? Where should you apply? What types of jobs does the training qualify you for?

Interested persons may secure copies of the chart by sending 5 cents in cash to the Superintendent of Documents, Government Printing Office, Washington. Ask for "Defense Job Training" compiled by the U. S. Office of Education, Federal Security Agency.

## FROM THE FCC MAIL BAG

The defense committee of a certain Massachusetts municipality contemplates the purchase, with town funds, of radio apparatus which is intended to be given or loaned to local amateurs for use in emergencies. The committee wants to know whether such service is compatible with Federal Communications Commission rules pertaining to amateurs. The Commission makes reply:

"It appears that ownership of the equipment would remain in the—Defense Committee and that the procedure outlined in your letter is contemplated to circumvent the prohibition in Section 12.62 of the Amateur Rules against issuance of amateur licenses to corporations or associations. From the information submitted it does not appear that acceptance of the radio equipment by local amateurs would constitute remuneration for their service in emergencies within the contemplation of Section 12.102 of the Amateur Rules. Attention is called, however, to the fact that it would be necessary for the amateur or amateurs operating this equipment to be in complete control thereof. In order that control may be vested in such operators, it is suggested that the equipment be leased to the amateurs at a nominal sum for a definite period of time, such as one year. Such lease agreements should contain, among others, a statement to the effect that sixty days' notice will be given to this Commission in the event of their termination, and copies thereof should be submitted with applications for station licenses. Operation of such apparatus must, of course, be carried on strictly in accordance with the Commission's Rules Governing Amateur Service.

"It is believed that police radio or special emergency radio stations licensed in the Town of — in its own name would possibly be of more benefit to the town in cases of emergency than would amateur stations furnished to individuals or organizations, as no control could be maintained by the town of the apparatus thus operated."

Several letters addressed to the Commission object to a particular language not being among those recognized for use in telegraph messages. This is not due to any action by the Commission; it arises out of precedent of long standing in international telegraph practices. No "discrimination" is intended. The carriers long ago found it impossible to handle all languages, and agreed to use the chief ones, eliminating in particular those with characters which cannot be transmitted on the machines in regular use for telegraphic purposes.

A Cincinnati resident questions the reasonableness of advertising expenditures by the American Telephone and Telegraph Co. The Commission is without statutory authority to pass on advertising costs. It can only determine whether such expenditures are properly allowable in ascertaining the reasonableness of operating expenses as a factor in fixing telephone rates.

A Missourian is informed that the Commission has no jurisdiction over the collection of damage claims or rental

for use of right-of-way by telephone companies. He is referred to the local courts for possible action.

A Wisconsin sheriff is advised that interception and use of police radio communications by a private garage for the purpose of getting towing and repair jobs on wrecked autos is a violation of Section 605 of the Communications Act.

A New York firm writes the Commission about its differences with a broadcast station resulting from a sponsored program. The Commission has no say with respect to the rates charged for broadcast time, hence it can not litigate difficulties between program sponsors and station licensees arising through the use of commercial time.

Because it functions largely as a licensing authority, the Commission cannot entertain an Idaho suggestion that radio sponsors who offer prizes be heavily taxed, or grant the appeal of a Texan organizing "prayer bands" that national networks broadcast his program, or meet a Pennsylvania listener's urge that important national programs be presented over the facilities of a single major network.

A North Carolina fan who is interested in daylight saving time for broadcast stations generally is informed that this is not in the province of the Commission, but is being considered by the broadcasters as a group. The National Association of Broadcasters is on record as favoring universal daylight saving to eliminate the present time confusion.

Broadcasts of baseball games may be rebroadcast by high frequency experimental stations, an inquirer is told, subject to provisions of Section 4.113 of the Commission's rules which prohibits charge, directly or indirectly, for such rebroadcasts, and further stipulation about identifying the originating station or stations.

"There is no rule or requirement of the Commission that individual applicants before it be represented by an attorney," a Seattle resident is advised, "and it is not possible or appropriate for the Commission to advise you whether or not you should employ counsel."

Many inquiries have been received as to opportunities for employment with the Commission. It is pointed out that this agency is required to obtain new personnel and to fill vacancies from registers of the United States Civil Service.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings are scheduled to be held before the Commission in broadcast and television cases during the week beginning Monday, April 28. They are subject to change.

Monday, April 28

WRDO—WRDO, Incorporated, Augusta, Maine.—Renewal of license, **1370 kc.**, 100 watts, unlimited.

Tuesday, April 29

Television

W1XG—General Television Corporation, Boston, Mass.—Modification of license (considered as C. P.), **50000-56000 kc.**, 500 watts visual, emission A-5, Sec. 4.4(a). Present assignment: **42000-56000, 60000-86000 kc.**, 500 watts visual, emission A-5, Sec. 4.4(a).

W1XG—General Television Corporation, Boston, Mass.—C. P., **42000-56000, 60000-86000 kc.**, 500 watts aural and visual, emission A3 and A-5, Sec. 4.4(a). Present assignment: **42000-56000, 60000-86000 kc.**, 500 watts, visual only, emission A-5, Sec. 4.4(a).

Wednesday, April 30

KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—C. P., **1410 kc.**, 1 KW, unlimited, DA-night.

Thursday, May 1

To be held in U. S. Court of Appeals court room, old post office building, in Atlanta, Georgia.

WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main and auxiliary), **890 kc.**, 1 KW night, 5 KW LS, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following tentative hearing and oral argument dates for broadcast cases. They are subject to change.

May 15

Oral Argument Before the Commission

WCY—Radiomarine Corporation of America, West Dover, Ohio.—C. P., **2182 kc.**, calling; **2514, 2550, 2582 kc.**, working; **2738 kc.**, distress and emergency; 600 watts day, 500 watts night; emission A2, A3. Time: unlimited. Pts. of Comm.: radiotelephone equipped ships operating on the Great Lakes.

WCY—Radiomarine Corporation of America, West Dover, Ohio.—C. P., **2182 kc.**, calling; **2738 kc.**, distress and emergency; **4282.5, 6470, 8585 kc.**, calling and working; 600 watts day, 500 watts nights, emission A2, A3. Time: unlimited. Pts. of Comm.: radiotelephone equipped ships operating on the Great Lakes.

WBL—Radiomarine Corporation of America, Buffalo, N. Y.—C. P., **2182 kc.**, calling; **2738 kc.**, distress and emergency; **2514, 2550, 2582 kc.**, working; **4282.5, 6470, 8585 kc.**, calling and working; 600 watts day, 500 watts night; emission A2, A3. Time: unlimited during season of Great Lakes navigation. Pts. of Comm.: with ships operating on the Great Lakes.

WCY—Radiomarine Corporation of America, West Dover, Ohio.—C. P., **2182, 4282.5 kc.**, calling; **2514, 2572, 2738, 4282.5 kc.**, working; 600 watts day, 400 watts night; emission A2, A3. Time: unlimited during season of Great Lakes navigation. Pts. of Comm.: with ships operating on the Great Lakes.

WMI—The Lorain County Radio Corp., Lorain, Ohio.—C. P. for change in equipment and additional frequency, **8585 kc.**, (1) 750 watts, (2) 500 watts, (3) 400 watts, (4) 500 watts; emission, A1, A2, A3. Time: continuous. Pts. of Comm.: ships in Great Lakes area. Present assignment: **2550, 6470, 11370 kc.**

WMI—The Lorain County Radio Corp., Lorain, Ohio.—Renewal of license, **2550, 6470, 11370 kc.** (a) 750 watts, (b) 500 watts, (c) 400 watts, (d) 500 watts; emission, A1, A2, A3. Time: continuous. Pts. of Comm.: ship stations in Great Lakes area.

WMI—The Lorain County Radio Corp., Lorain, Ohio.—C. P. for additional frequency and change time of operation, **4282.5 kc.**, (1) 750 watts, (2) 500 watts, (3) 400 watts, (4) 500

watts; emission, A1, A2, A3. Time: from daybreak on Great Lakes to sundown on Pacific Coast. Pts. of Comm.: ships in Great Lakes area. Present assignment: 2550, 6470, 11370 ke., time: continuous.

WAD—The Lorain County Radio Corp., Port Washington, Wisc.—Modification of C. P. for additional transmitter and frequency, 4282.5 ke., 500 watts, emission A1, A2, A3. Time: from daybreak on the Great Lakes to sundown on the Pacific Coast. Pts. of Comm.: Great Lakes vessels. Has C. P. for 2514 ke., 400 watts. Time: unlimited.

WAS—The Lorain County Radio Corp., Duluth, Minn.—Modification of C. P. for additional transmitter and frequency, 4282.5 ke., 500 watts, emission A1, A2, A3. Time: from daybreak on Great Lakes to sundown on Pacific Coast. Pts. of Comm.: Great Lakes vessels. Has C. P. for 2550 ke., 400 watts. Time: unlimited.

#### May 19

WHB—WHB Broadcasting Company, Kansas City, Mo.—C. P., 710 ke., 5 KW, DA night and day; unlimited time.

WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—C. P., 710 ke., 10 KW, unlimited, DA night.

#### May 20

NEW—Camden Broadcasting Co., Camden, N. J.—C. P., 800 ke., 500 watts daytime.

#### May 26

##### Consolidated Hearing

WCAM—City of Camden, Camden, N. J.—Renewal of license, 1280 ke., 500 watts night, 500 watts LS, shares WTNJ and WCAP.

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Renewal of license, 1280 ke., 500 watts night, 500 watts LS, shares WTNJ and WCAM.

WTNJ—WOAX, Incorporated, Trenton, N. J.—Renewal of license, 1280 ke., 500 watts night, 500 watts LS, shares WCAM and WCAP.

WTNJ—WOAX, Incorporated, Trenton, N. J.—C. P., 1230 ke., 1 KW night, 1 KW day, unlimited, DA day and night.

NEW—Trent Broadcast Corporation, Trenton, N. J.—C. P., 1230 ke., 1 KW, unlimited, DA day and night.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—C. P., 1260 ke., 1 KW night, 5 KW day, DA night, unlimited.

#### June 6

NEW—Butler Broadcasting Corporation, Hamilton, Ohio.—C. P., 1420 ke., 250 watts, unlimited time.

#### June 23

WFNC—W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co., (Assignor), and W. C. Ewing and T. K. Weyher, tr/as Cumberland Broadcasting Co. (Assignee), Fayetteville, N. C.—Voluntary assignment of license, 1340 ke., 250 watts, daytime.

WFNC—W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Renewal of license, 1340 ke. (1370 ke. under NARBA), 250 watts, daytime.

#### June 25

KDRO—Albert S. and Robert A. Drohlich, d/b as Drohlich Bros., Sedalia, Mo.—C. P., 800 ke. (under NARBA), 1 KW, daytime.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

John & Marcia Arrington, d/b as Arrington and Arrington, Covington, Va.—Granted construction permit for new standard

broadcast station to operate on 1340 ke., 250 watts, unlimited time (B3-P-3066).

Columbia Broadcasting System, Inc., New York City.—Granted construction permit for new developmental broadcast station to operate on 330400, 333400, 336400 ke. on an experimental basis only, and upon the condition that this authorization is subject to change or cancellation by the Commission at any time without advance notice or hearing; power 25 watts; special emission for frequency modulation with a maximum frequency swing not to exceed 200 ke.; to operate as a developmental broadcast station for the development of an experimental program circuit between the studios and transmitter of International Broadcast Stations WCBX and WCRC; operation to be conducted in accordance with Sections 4.151, 4.153, 4.154, 4.156 and 4.157 (B1-PRE-384).

Columbia Broadcasting System, Inc., New York City.—Granted construction permit for new developmental broadcast station to operate on 330400, 333400, 336400 ke. on an experimental basis only, and upon the condition that this authorization is subject to change or cancellation by the Commission at any time without advance notice or hearing; power 25 watts; special emission for frequency modulation with a maximum frequency swing not to exceed 200 ke.; to operate as a developmental broadcast station for the development of an experimental program circuit between the studios and transmitter of International Broadcast Stations WCBX and WCRC; operation to be conducted in accordance with Sections 4.151, 4.153, 4.154, 4.156 and 4.157 (B1-PRE-385).

Columbia Broadcasting System, Inc., New York City.—Granted construction permit for new developmental broadcast station to operate on 330400, 333400, 336400 ke. on an experimental basis only, and upon the condition that this authorization is subject to change or cancellation by the Commission at any time without advance notice or hearing; power 25 watts; special emission for frequency modulation with a maximum frequency swing not to exceed 200 ke.; to operate as a developmental broadcast station for the development of an experimental program circuit between the studios and transmitter of International Broadcast Stations WCBX and WCRC; operation to be conducted in accordance with Sections 4.151, 4.153, 4.154, 4.156 and 4.157 (B1-PRE-386).

The Journal Company (The Milwaukee Journal), Portable-Mobile (area of Milwaukee County, Wis.).—Granted construction permit for new television broadcast station to operate on frequencies of 300000-312000 ke. on an experimental basis only, and upon condition that this authority is subject to change or cancellation by the Commission at any time without advance notice or hearing; A5 emission, power 6.5 watts; to communicate as a television relay broadcast station in accordance with Sections 4.71, 4.72, 4.74, 4.76, 4.77 and 4.78; portable mobile in the Milwaukee area; to be used in conjunction with television broadcast station W9XMJ (B4-PVB-81).

WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Granted authority to transfer control of corporation (Lake Region Broadcasting Co. license of WLAK), from J. P. Marchant, D. J. Carey, Melvin Meyer, W. Walter Tison and The Tribune Company to Bradley R. Eidmann (100 shares of capital stock, par value \$100 per share) and to assign a mortgage in the amount of \$5,000 upon the property of station WLAK to the transferee for a consideration of \$10,000 cash, upon condition that neither the Tribune Company (WFLA, Tampa, Florida) nor any of its officers, directors, stockholders, agents or employees shall have any stock interest in, security interest against, or part in the management of the licensee of Station WLAK, Lakeland, Florida.

WATR—The WATR Co., Inc., Waterbury, Conn.—Granted construction permit to install a new transmitter, make changes in directional antenna and increase power from 250 watts to 1 KW, using directional antenna; 1320 ke., unlimited time (B1-P-3032).

### DESIGNATED FOR HEARING

WENY—Elmira Star Gazette, Inc., Elmira, N. Y.—Application for construction permit to change frequency from 1200 ke. to 590 ke., increase power from 250 watts to 1 KW, unlimited

- time; install new equipment and directional antenna with different adjustments for day and night use (B1-P-3070).
- KWK—Thomas Patrick, Inc., St. Louis, Mo.—Application for construction permit to change frequency from 1380 to 680 kc.; increase power from 5 to 50 KW; move transmitter site from Conduit & Logan Streets, St. Louis, Mo., to 10 miles So. of St. Louis, Bixby, Ill.; install new equipment and directional antenna for day and night use (2 patterns).
- KFEQ—KFEQ, Inc., St. Joseph, Mo.—Application for construction permit to increase power from 500 watts night, 2½ KW LS to 5 KW, increase hours of operation from day to local sunset at San Francisco, to unlimited time; move transmitter site; install new transmitter and install directional antenna with different adjustments for day and night use; 680 kc. (B4-P-2477).
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Application for construction permit to increase power from 1 KW day, 500 watts night, to 5 KW; install new transmitter and directional antenna for night use; move transmitter site; 690 kc., unlimited time (B4-P-2883).
- Scripps-Howard Radio, Inc., Houston, Tex., and Texas Star Broadcasting Co., Houston, Tex.—Joint hearing on applications of Scripps-Howard Radio, Inc., and Texas Star Broadcasting Co., for new stations at Houston, Tex., to operate on 1230 kc., 250 watts night and day, unlimited time (B3-P-2962 and B3-P-3006).
- Herald Publishing Co., Klamath Falls, Ore.—Application for construction permit for new station to operate on 1370 kc. with 250 watts, unlimited time (B5-P-2932).
- Dorman Schaeffer, Klamath Falls, Ore.—Application for construction permit for new station to operate on 1400 kc. with 250 watts, unlimited time (B5-P-2951).
- The Metropolis Company, Ocala, Fla.—Application for license to operate a new station on 1490 kc., 100 watts, unlimited time requesting the facilities of WTMC (hearing to include record in the pending revocation proceedings of WTMC) (B3-L-1382).
- WLAK—J. P. Marchant, D. J. Carey, Melvin Meyer, W. Walter Tison, and The Tribune Company (Transferors), Russell E. Baker (Transferee), Lake Region Broadcasting Co., Lakeland, Fla.—Application for authority to transfer control of Lake Region Broadcasting Co. (licensee of station WLAK), from the present stockholders—Marchant, Carey, Meyer, Tison and The Tribune Co., to Russell E. Baker (B3-TC-260).
- Bay County Publishers, Inc., Panama City, Fla.—Application for license to operate a new station on 1320 kc., 100 watts night, 250 watts LS, unlimited time, requesting facilities of WDLP (hearing to include record in pending revocation proceedings of WDLP), (B3-L-1383).
- John C. Scripps, Ventura, Calif.—Application for new station to operate on 1460 kc. with 1 KW power, unlimited time. Exact transmitter site and antenna system to be determined with Commission's approval (B5-P-2583).

#### MISCELLANEOUS

- WNBI—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate international station WNBI on frequency 17780 kc. in order to permit simultaneous operation of stations WNBI and WRCA on frequency 17780 and 9670 kc. for the period April 16, 1941, to not later than May 15, 1941.
- W2XAG—Carman R. Runyon, Jr., Yonkers, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 117190 kc., 5000 watts, special emission, for frequency modulation, with transmitter located at 544 N. Broadway, Yonkers, N. Y., described as Composite, maximum rated carrier power 5000 watts for the period May 1, 1941, to not later than June 29, 1941.
- W8XVH—WBNS, Inc., Columbus, Ohio.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 43000 kc., 250 watts, special emission for frequency modulation with transmitter located at 50 W. Broad St., Columbus, Ohio, described as General Electric, Type 4GF1A1, maximum rated carrier power 250 watts, for period May 1, 1941, to not later than June 29, 1941, pending completion of construction of new FM station.
- W1XSN—Westinghouse Radio Stations, Inc., E. Springfield, Mass.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 42600 kc., 1000 watts, special emission for frequency modulation, with transmitter located at 625 Page Blvd., E. Springfield, Mass., described as Westinghouse, Type HE, maximum rated carrier power 1000 watts, for period May 1 to not later than June 29, 1941, pending completion of new FM station.
- W1XK—Westinghouse Radio Stations, Inc., Hull, Mass.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 42600 kc., 1000 watts, special emission for frequency modulation, with transmitter located at Newport Road, Hull, Mass., described as Westinghouse, Type HE, maximum rated carrier power 1000 watts for period May 1 to not later than June 29, 1941, pending completion of new FM station.
- W8XAD—WHEC, Inc., Rochester, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 42600 kc., 1000 watts, special emission for frequency modulation, with transmitter located at 979 Mt. Read Blvd., Rochester, N. Y., and described as R.E.L. Type 519, for period May 1, 1941, to not later than June 29, 1941, pending completion of new FM station.
- WOR—Bamberger Broadcasting Service, Inc., New York City.—Granted special temporary authority to rebroadcast over station WOR and other stations of the Mutual System, signals from a Navy airplane between 10 and 11 a. m., EST, April 18, in connection with program "Flying with the Navy Cadets" in cooperation with the U. S. Navy to promote enlistments in Naval Aviation (B1-S-177).
- WFPG—Neptune Broadcasting Corp., Atlantic City, N. J.—Granted authority to determine operating power by direct measurement of antenna input on 1450 kc. under NARBA (B1-Z-778).
- WKIP—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—Granted authority to determine operating power by direct measurement of antenna input on 1450 kc. under NARBA (B1-Z-776).
- WOPI—Radiophone Broadcasting Station WOPI, Inc., Bristol, Tenn.—Granted authority to determine operating power by direct measurement of antenna input on 1490 kc. under NARBA (B3-Z-779).
- KOMO—Mission Broadcasting Co., San Antonio, Texas.—Granted authority to determine operating power by direct measurement of antenna input on 1400 kc. under NARBA (B3-Z-782).
- WIAM—Stromberg Carlson Tel. Mfg. Co., Rochester, N. Y.—Granted authority to determine operating power by direct measurement of antenna input on 1180 kc. under NARBA (B1-Z-780).
- WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted authority to determine operating power by direct measurement of antenna power on 1400 kc. under NARBA (B2-Z-769).
- WPAX—H. Wimpy, Thomasville, Ga.—Granted authority to determine operating power by direct measurement of antenna power on 1240 kc. under NARBA (B3-Z-721).
- WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Granted authority to determine operating power by direct measurement of antenna power on 1130 kc. under NARBA (B4-Z-767).
- WCNW—Arthur Faske, Brooklyn, N. Y.—Granted authority on a temporary basis, conditionally, to install automatic frequency control equipment on 1600 kc. under NARBA (B1-F-210).
- WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Granted modification of construction permit (B3-P-2766) for changes in directional antenna, requesting 1150 kc. under NARBA, and extension of completion date to 60 days after grant (B3-MP-1217).
- KGHL—Northwestern Auto Supply Co., Inc., Billings, Mont.—Granted modification of construction permit (B5-P-2701) which authorized installation of directional antenna for night use and increase in power) for frequency 790 kc. under NARBA and extension of completion date to 90 days after grant (B5-MP-1194).
- WNBC—State Broadcasting Corp., New Britain, Conn.—Granted modification of construction permit (B1-P-2723) as modified, for changes in directional antenna, requesting 1410 kc. under NARBA, and extension of commencement and completion dates to 60 and 180 days after grant respectively (B1-MP-1225).



- WFLA—The Tribune Co., Tampa, Fla.—Adopted order further extending authorization to conduct its program tests for a period not exceeding 10 days beyond April 21, 1941.
- KOMA—KOMA, Inc., Oklahoma City, Okla.—Granted authority to install automatic frequency control equipment on **1520 kc.** under NARBA (B3-F-209).
- KXRO—KXRO, Inc., Aberdeen, Wash.—Granted authority to install automatic frequency control equipment on **1340 kc.** under NARBA (B3-F-208).
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—Granted authority to install automatic frequency control equipment on **850 kc.** under NARBA (B1-F-212).
- WNOX—Scripps-Howard Radio, Inc., Knoxville, Tenn.—Granted authority to install automatic frequency control equipment on **990 kc.** under NARBA (B3-F-211).
- WJJD—WJJD, Inc., Chicago, Ill.—Granted authority to install automatic frequency control equipment on **1160 kc.** under NARBA (B4-F-215).
- KOL—Seattle Broadcasting Co., Seattle, Wash.—Granted authority to install automatic frequency control equipment on **1300 kc.** under NARBA (B3-F-214).
- WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—Granted authority to install automatic frequency control equipment on **1490 kc.** under NARBA and for auxiliary transmitter (B2-F-213).
- KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Granted authority to determine operating power by direct measurement of antenna power on **1240 kc.** under NARBA (B3-Z-748).
- WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B1-Z-781).
- KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted authority to determine operating power by direct measurement of antenna power on **1030 kc.** under NARBA (B3-Z-775).
- KWIL—Central Willemette Broadcasting Co., Albany, Ore.—Granted authority to determine operating power by direct measurement of antenna power on **1240 kc.** under NARBA (B5-Z-783).
- WDWS—The Champaign News-Gazette, Inc., Champaign, Ill.—Granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B4-Z-760).
- KFRU—KFRU, Inc., Columbia, Mo.—Granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B4-Z-768).
- WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted special temporary authority to move transmitter and studio 500 feet northeast from the boundary line of Red Bank, N. J., at River Plaza, Middletown, Twp., Bldg. 2 May Court, due to fire, pending determination of permanent site. Radiating system in compliance with Sec. 3.45 and operate at same location (B1-S-185).
- WHB—WHB Broadcasting Co., Kansas City, Mo.—Granted motion for authority to take depositions in re application of WHB for construction permit to operate on **710 kc.**, 5 KW, DA night and day, unlimited time, and WTCN same except to use 10 KW.
- WHB—WHB Broadcasting Co., Kansas City, Mo.—Denied petition to enlarge the issues in re above.
- WHB—WHB Broadcasting Co., Kansas City, Mo.; WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—Granted motion of applicants to postpone hearing in re above from May 14 to May 19.
- The Outlet Company, Providence, R. I.—Granted motion for leave to amend application, provided amendment is filed within 2 weeks from this date, and ordered that consolidated hearing previously ordered upon this and Yankee Network application be and it is hereby severed. Hearing on Outlet Co. application cancelled and application removed from hearing docket.
- God's Bible School and College, Cincinnati, Ohio.—Granted motion for extension of time, 30 days from April 9, in which to file exceptions to Commission's Proposed Findings in re application for new international broadcast station.
- WGAL—WGAL, Inc., Lancaster, Pa.—Granted petition for leave to intervene in the hearing on application of WTEL, Philadelphia, for construction permit to operate on **1500 kc.**, 250 watts, unlimited time.
- Camden Broadcasting Co., Camden, N. J.—Granted alternative motion for orders to postpone hearing date to May 20, and authorize the taking of depositions in re application for new station to operate on **800 kc.**, 500 watts, daytime.
- WMEJ—The Metropolis Co., Portable-Mobile, area of Jacksonville, Fla.—Granted license to cover construction permit (B3-PRY-219) for a new relay broadcast station to be used with applicant's standard broadcast station WJHP; frequencies **1622, 2058, 2150 and 2790 kc.**, 40 watts (B3-LRY-223).
- KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to the conclusion of Governor Olson's speech on State and National Defense under auspices American Brotherhood Protestant, Catholic, and Jews, in order to broadcast said speech only on April 19, 1941.
- W2XMN—Edwin H. Armstrong, North of Alpine, N. J.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **42800 kc.**, 40000 watts power, special emission for frequency modulation, with transmitter located at North of Alpine, N. J., described as Composite, Type RCA, maximum rated carrier power 40000 watts, for the period May 1, 1941, to not later than June 29, 1941, pending completion of new FM station W31NY. Granted extension of special temporary authority to retransmit the transmission of experimental high frequency broadcast stations W2XAG, W1XPW and W1XPJ for the period May 1, 1941, to not later than June 29, 1941, in order to continue rebroadcasting experiments. Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **117430 kc.**, power of 40 KW, using special emission for frequency modulation with a maximum band width not to exceed **200 kc.**, subject to the condition that no interference is caused to other stations on same or adjacent channels, from May 12, 1941, to not later than July 10, 1941, in order to conduct tests, pending completion of new FM station W31NY.
- WTJS—The Sun Publishing Co., Inc., Jackson, Tenn.—Granted modification of construction permit (B3-P-2525) for installation of DA for night use, new transmitter, change in frequency from **1310 to 1360 kc.**, increase in power to 1 KW day and night, for **1390 kc.** under NARBA and changes in DA, extension of completion date to 180 days after grant. This authority is granted conditionally and is not to be construed as a finding by the Commission upon the application for renewal of license of WTJS when it is filed with the Commission, nor upon any of the issues which may be involved therein, nor that the Commission has found that the operation of this station is or will be in the public interest beyond the express terms hereof (B3-MP-1232).
- WNOX—Scripps-Howard Radio, Inc., Knoxville, Tenn.—Granted construction permit to increase day and night power to 10 KW, install new transmitting equipment and directional antenna for both daytime and nighttime use, subject to approval by Chief Engineer (B3-P-2839).
- WRCA—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate on **9670 kc.** with effective power of 100 KW, using separate power amplifiers feeding separate directional antenna for the period April 20, 1941, to not later than May 19, 1941.
- W8XVB—Stromberg-Carlson Telephone Mfg. Co., Rochester, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 1000 watts, special emission for frequency modulation, with transmitter located at 89 E. Ave., Rochester, N. Y., described as R.E.L., Type Cat. No. 519, maximum rated carrier power 2000 watts, for period May 1, 1941, to not later than July 1, 1941.
- KDKA—Westinghouse Radio Stations, Inc., Pittsburgh, Pa.—Granted special temporary authority to broadcast the transmissions of a United States Army plane on Friday, April 10, 1941, in conjunction with a trial blackout of Allegheny County.
- W1XTC—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Granted extension of special temporary authority to operate high frequency broadcast station W1XTC on **43400 kc.**, 1000 watts, special emission for frequency modulation, maximum band width not over **200 kc.** for the period May 1, 1941, to not later than August 1, 1941, at Shrewsbury St., Worcester, Mass., pending action on application for new FM station.

APPLICATIONS FILED AT FCC

WKEU—Radio Station WKEU, Griffin, Ga.—Denied request for special temporary authority to operate from 7 p. m. to 9:30 p. m., CST, April 20 through May 17, 1941, in order to broadcast revival program only.

KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 1 p. m. to 2:30 p. m. and from 3:30 p. m. to 4:30 p. m. and from 5:30 p. m. to 6:30 p. m., CST, April 22, 1941, in order to broadcast double header baseball game with Carleton College only.

WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted extension of special temporary authority to remain silent for the period April 20, 1941, to not later than May 20, 1941, pending completion of adjustments made necessary by fire.

KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to sign off at 6 p. m., CST, during the month of April, 1941.

WMAM—W & M Broadcasting Co., Marinette, Wisc.—Granted special temporary authority to operate from local sunset (April, 6:30 p. m., CST) to the conclusion of special events from the Marinette and Menominee Smelt Festival on April 19 and 20, 1941, in order to broadcast said programs only.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with 100 watts power from 7:30 p. m. to 10 p. m., CST, on April 17, 1941, in order to broadcast an address by Bishop Wallace A. Conkling, Episcopal Bishop of Chicago, only and from 7:30 p. m. to 10 p. m., CST, on April 21, 1941, in order to broadcast a civic and patriotic program of Geneva Community High School only.

WTAW—Agricultural and Mechanical College of Texas, College Station, Tex.—Granted special temporary authority to operate simultaneously with Station WJBO from 8 p. m. to midnight, CST, May 2, 1941, in order to broadcast program in connection with the annual Cotton Ball and Pageant celebration of the A. and M. College Agronomy Society, only.

KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Granted special temporary authority to operate simultaneously with Station KRKO from 4 p. m. to 6 p. m., April 25, May 1, 3, 9, 12, 15, 16, 23, 1941, PST, in order to complete broadcasts of special Seattle High School Track Meets, only.

KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Granted special temporary authority to operate simultaneously with Station KRKO from 4 p. m. to 6 p. m., PST, May 27 and 29, 1941, in order to complete broadcasts of special Seattle High School Track Meets only.

Columbia Broadcasting System, Inc., New York City.—Granted special temporary authority to pick up program from Army Aircraft April 20 or April 27, 1941, from 5:15 to 5:30 p. m., EST, in connection with demonstration of defense maneuvers originating at Mitchell Field, L. I., and retransmit same to WABC and the CBS in New York.

WSGN—Birmingham News Company, Birmingham, Ala.—Granted petition to reconsider and grant without a hearing application for renewal of license for WSGN, 1340 kc., 250 watts, unlimited time, and cancelled the hearing heretofore scheduled on this application (B3-R-420).

Natchez Broadcasting Co., Natchez, Miss.—Adopted order granting unconditionally the application for a new station to operate on 1490 kc., 250 watts, unlimited time. On March 18, 1941, this application was granted upon condition that applicant file a properly certified copy of its corporate charter, and this condition has now been complied with (B3-P-2999).

KLUF—KLUF Broadcasting Co., Inc., Galveston, Texas.—Granted application for renewal of license to operate on 1400 kc., 250 watts, unlimited time.

KOA—National Broadcasting Co., Inc., Denver, Colo.—Denied petition of National Broadcastings Co., Inc. (KOA), Denver, for stay of Commission order of April 7 granting application of Matheson Radio Co., Inc. (WHDH), Boston, Mass., for construction permit to increase power from 1 KW to 5 KW, and hours of operation from daytime to sunset at Denver, to unlimited time, using directional antenna at night, on 850 kc.; suspended April 7 order pending filing by National Broadcasting Co., Inc. (KOA), within time allowed by statute, of petition for rehearing and determination thereon by the Commission or until further order of the Commission.

570 Kilocycles

WMCA—Knickerbocker Broadcasting Co., Inc., New York, N. Y.—Modification of license to increase power from 1 KW night 5 KW day to 5 KW day and night and changes in directional antenna for day and night use.

WNAX—WNAX Broadcasting Co., Yankton, S. D.—Authority to install automatic frequency control equipment.

610 Kilocycles

WCLE—United Broadcasting Co., Cleveland, Ohio.—Authority to install automatic frequency control.

620 Kilocycles

WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wisc.—Modification of construction permit (B4-P-2696) to extend completion date from 5-6-41 to 6-6-41.

710 Kilocycles

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Modification of construction permit (B5-P-2804) for approval of transmitter site, approval of directional antenna for day and night use, installation of new transmitter and increase in power from 5 to 10 KW.

770 Kilocycles

WLB—University of Minnesota, Minneapolis, Minn.—Authority to determine operating power by the direct method.

810 Kilocycles

KOAM—The Pittsburgh Broadcasting Co., Inc., Pittsburgh, Kans.—Authority to determine operating power by the direct method.

860 Kilocycles

NEW—Paducah Broadcasting Co., Inc., Paducah, Ky.—Construction permit for a new broadcast station to be operated on 860 kc., 250 watts, daytime hours.

930 Kilocycles

KHJ—Don Lee Broadcasting System, Los Angeles, Calif.—Authority to determine operating power by the direct method.

940 Kilocycles

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Authority to determine operating power by direct method.

950 Kilocycles

KPRC—Houston Printing Corp., Houston, Texas.—Modification of construction permit (B3-P-2791) to install directional antenna for night use, and increase in power from 1 KW night, 5 KW day to 5 KW day and night, requesting changes in directional antenna and 950 kc. under NARBA and extension of completion date from 6-22-41 to 120 days after grant.

WWJ—The Evening News Assn., Detroit, Mich.—Modification of construction permit (B2-P-2880) as modified, for changes in directional antenna and to specify 950 kc. under NARBA, extend completion date from 9-28-41 to 120 days after grant.

WRC—National Broadcasting Co., Inc., Washington, D. C.—Modification of construction permit (B1-P-243) as modified, for extension of completion date from 5-5-41 to 6-5-41.

970 Kilocycles

WAAT—Bremer Broadcasting Corp., Jersey City, Ala.—Modification of construction permit (B1-P-2704) as modified, for new transmitter, install directional antenna, change hours of operation from day to unlimited time, increase power from 500 watts to 1 KW and move transmitter, for extension of completion date from 4-25-41 to 5-25-41.

WICA—WICA, Inc., Ashtabula, Ohio.—Construction permit to install new transmitter, install directional antenna for night use, increase power from 1 KW to 1 KW night, 5 KW day

and change hours from daytime to unlimited time. Amended: to request **970 kc.** under NARBA and changes in directional antenna.

#### 1030 Kilocycles

KOB—Albuquerque Broadcasting Co., Albuquerque, N. M.—Modification of construction permit (B5-P-2783) as modified, for new transmitter, increase in power from 10 to 50 KW, requesting extension of completion date from 5-7-41 to 7-6-41.

#### 1050 Kilocycles

WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Authority to determine operating power by direct method.

#### 1070 Kilocycles

WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Authority to determine operating power by direct method.

#### 1110 Kilocycles

WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—Authority to determine operating power by direct measurement of antenna power.

#### 1230 Kilocycles

KFDA—Amarillo Broadcasting Corp., Amarilla, Tex.—Authority to determine operating power by direct method.

KPOW—Albert Joseph Meyer, Powell, Wyo.—License to cover construction permit (B5-P-2593) as modified for a new broadcast station.

KPOW—Albert Joseph Meyer, Powell, Wyo.—Authority to determine operating power by direct measurement of antenna power.

NEW—Bay County Publishers, Inc., Panama City, Fla.—License for a new broadcast station to be operated on **1230 kc.**, 100 watts night, 250 watts day and unlimited time. Facilities of Station WDLF.

WAIM—Wilton E. Hall, Anderson, S. C.—License to cover construction permit (B3-P-2935) as modified, to install new transmitter, new antenna and increase in power.

KFXJ—R. G. Howell & Charles Howell, d/b as Western Slope Broadcasting Co., Grand Junction, Colo.—Authority to determine operating power by the direct method.

WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Authority to determine operating power by the direct method.

#### 1240 Kilocycles

KIUL—The Garden City Broadcasting Co. (Homer A. Ellison and Frank D. Conard), Garden City, Kans.—Authority to determine operating power by the direct method.

KWAT—Midland National Life Insurance Co., Watertown, S. C.—Authority to determine operating power by the direct method.

#### 1280 Kilocycles

WDSU—WDSU, Incorporated, New Orleans, La.—Modification of construction permit (B3-P-2923) for changes in directional antenna and specify **1280 kc.** under NARBA.

#### 1290 Kilocycles

KGVO—Mosby's, Inc., Missoula, Mont.—Authority to install new automatic frequency control equipment.

KGVO—Mosby's, Inc., Missoula, Mont.—Construction permit to increase power from 1 KW night 5 KW day to 5 KW day and night, install directional antenna for day and night use, move transmitter and make equipment changes. Amended to make changes in directional antenna.

WKNE—Twin State Broadcasting Corp., Keene, N. H.—Voluntary assignment of license from Twin State Broadcasting Corporation to WKNE Corporation.

KHSL—Golden Empire Broadcasting Co., Chico, Calif.—Construction permit to increase power from 500 watts night, 1 KW day to 1 KW day and night, install directional antenna for day and night use. Amended to make changes in directional antenna.

#### 1300 Kilocycles

WWNY—The Brockway Co., Watertown, N. Y.—License to cover construction permit (B1-P-937) as modified, for a new broadcast station.

WWNY—The Brockway Co., Watertown, N. Y.—Authority to determine operating power by the direct method.

WJDX—Lamar Life Insurance Co., Jackson, Miss.—Authority to determine operating power by direct method.

#### 1310 Kilocycles

KLS—S. W. Warner & E. N. Warner, d/b as Warner Brothers, Oakland, Calif.—License to cover construction permit (B5-P-2826) as modified for installation of new transmitter, changes in antenna and increase in power.

KLS—S. W. Warner & E. N. Warner, d/b as Warner Brothers, Oakland, Calif.—Authority to determine operating power by direct measurement of antenna power.

#### 1320 Kilocycles

KDYL—Intermountain Broadcasting Corp., Salt Lake City, Utah.—Modification of construction permit (B5-P-2721) for installation of directional antenna for day and night use, increase in power to 5 KW, for changes in directional antenna system and requesting **1320 kc.** under NARBA.

WJAS—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Modification of construction permit (B2-P-2947) to increase power from 1 KW night, 5 KW day to 5 KW day and night, install directional antenna for night use, for **1320 kc.** under NARBA, and changes in directional antenna and extension of commencement date to 30 days after grant and completion date to 180 days thereafter.

#### 1340 Kilocycles

KHUB—John P. Scripps, Watsonville, Calif.—Authority to determine operating power by the direct method.

NEW—WBAM, Incorporated, Birmingham, Ala.—Construction permit for a new broadcast station to be operated on **1340 kc.**, 250 watts, unlimited time, facilities of WSGN when vacated.

#### 1370 Kilocycles

KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Authority to determine operating power by direct method.

WMFD—Richard Austin Dunlea, Wilmington, N. C.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

#### 1380 Kilocycles

KIDO—Frank L. Hill & C. G. Phillips, d/b as Boise Broadcasting Station, Boise, Idaho.—Authority to determine operating power by the direct method.

#### 1390 Kilocycles

WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Authority to install automatic frequency control.

#### 1400 Kilocycles

KOBH—Black Hills Broadcast Company of Rapid City, Rapid City, S. D.—Authority to determine operating power by the direct method.

KIUP—San Juan Broadcasting Co., Durango, Colo.—Authority to determine operating power by direct measurement of antenna power.

WKMO—Kokomo Broadcasting Corp., Kokomo, Ind.—License to cover construction permit (B4-P-2842) as modified, for a new broadcast station specifying **1400 kc.** under NARBA.

KELD—Radio Enterprises, Inc., North of El Dorado, Ark.—Construction permit to change tubes in last radio stage from four RCA 203-A to two RCA 805.

WJAC—WJAC, Inc., Johnstown, Pa.—Authority to determine operating power by the direct method.

WKMO—WJAC, Inc., Johnstown, Pa.—Authority to determine operating power by the direct method.

WEOA—Evansville On The Air, Inc., Evansville, Ind.—License to cover construction permit (B4-P-3079) for move of transmitter.

#### 1410 Kilocycles

WALA—W. O. Pape, tr. as Pape Broadcasting Co., Mobile, Ala.—Modification of construction permit (B3-MP-932) requesting change in type of transmitter, changes in directional antenna for night use and specify **1410 kc.** under NARBA.

### 1420 Kilocycles

- KUJ—KUJ, Inc., Walla Walla, Wash.—Authority to determine operating power by the direct method.  
WHK—United Broadcasting Co., Cleveland, Ohio.—Authority to install automatic frequency control equipment on 1420 kc. under NARBA.

### 1440 Kilocycles

- KGNC—Plains Radio Broadcasting Co., Amarillo, Tex.—License to cover construction permit (B3-P-2969) for increase in power and installation of new transmitter.

### 1450 Kilocycles

- KWBG—The Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—Authority to transfer control of corporation from W. B. Greenwald to O. L. Taylor, 50% capital stock, Wm. Wyse, 49.9% capital stock and Wesley E. Brown, .1% capital stock. Amended to change transferees from Taylor, Wyse and Brown to Stanley Marsh, 50%, Wm. Wyse, 49.9% and Wesley E. Brown, .1%.  
WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—License to cover construction permit (B2-P-2900) as modified for move of transmitter and new antenna, specifying 1450 kc. under NARBA.  
WMVA—Wm. C. Barnes & Jonas Weiland, d/b as Martinsville Broadcasting Co., Martinsville, Va.—Authority to determine operating power by direct method.  
WMVA—Wm. C. Barnes & Jonas Weiland, d/b as Martinsville Broadcasting Co., Martinsville, Va.—License to cover construction permit (B2-P-2226) as modified for a new broadcast station.  
WAOV—Vincennes Newspapers, Inc., Vincennes, Ind.—Authority to determine operating power by the direct method.  
KGLU—Gila Broadcasting Co., Safford, Ariz.—Authority to determine operating power by direct method.  
WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Authority to determine operating power by the direct method.

### 1490 Kilocycles

- KGKY—L. L. Hilliard, Ruth K. Hilliard and R. M. Stewart, d/b as Hilliard Co., Scottsbluff, Nebr.—Authority to determine operating power by the direct method.  
WMRF—Lewistown Broadcasting Co., Lewistown, Pa.—Modification of construction permit (B2-P-2977) for a new broadcast station, requesting installation of new transmitter, changes in antenna system, move studio and extension of completion date from 10-25-41 to 180 days after grant.  
KGKB—East Texas Broadcasting Co., Tyler, Tex.—Authority to determine operating power by direct method.  
NEW—The Metropolis Co., Ocala, Fla.—License for a new broadcast station to be operated on 1490 kc., 100 watts, unlimited time. Facilities of Station WTMC.  
NEW—Hennessy Broadcasting Co., Butte, Mont.—Construction permit for a new broadcast station to be operated on 1490 kc., 250 watts, unlimited hours.  
WBAB—Press-Union Publishing Co., Atlantic City, N. J.—Authority to determine operating power by the direct method.  
KPAB—M. M. Valentine, Laredo, Tex.—Authority to determine operating power by direct method.

### 1600 Kilocycles

- WCNW—Arthur Faske—Construction permit to install new transmitter and increase power from 100 watts night, 250 watts day to 1 KW day and night.  
WWRL—Long Island Broadcasting Corp., Woodside (L. I.), N. Y.—Construction permit to install new transmitter, new antenna system, change frequency from 1500 kc. to 1600 kc. (under NARBA), increase power from 250 watts to 5 KW and move transmitter from Woodside (L. I.), to New York, N. Y. Amended: To specify transmitter site as Brooklyn, N. Y.

### 1520 Kilocycles

- WKBW—Buffalo Broadcasting Corp., Buffalo, N. Y.—Authority to determine operating power by the direct method.

## FM APPLICATIONS

- NEW—The Radio Voice of New Hampshire, Inc., Manchester, N. H.—Construction permit for a new high frequency

broadcast station to be operated on 43500 kc.; coverage, 19,622 square miles; population, 4,099,385.

- NEW—William G. H. Finch, New York, N. Y.—Modification of construction permit (B1-PH-42) for a new high frequency broadcast station, requesting change in transmitter location and approval of antenna system.  
NEW—Everett L. Dillard, tr. as Commercial Radio Equipment Co., Kansas City, Mo.—Construction permit for a new high frequency broadcast station to be operated on 44900 kc.; coverage, 2,995 square miles; population, 673,759. Amended: To change coverage to 4,410 square miles, population to 730,869, and make changes in antenna and transmitter.

## MISCELLANEOUS APPLICATIONS

- WBAU—Press Union Publishing Co., Atlantic City, N. J.—Modification of construction permit (B1-PRE-363) which authorized new relay broadcast station, for extension of commencement date and completion date from 11-6-40 and 5-6-41 to 5-6-41 and 8-6-41, respectively.

# FEDERAL TRADE COMMISSION ACTION

## COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Maurice J. Engel**, 146 West 29th St., New York, has been charged with misleading representation in the sale of knife blades used by the fur industry.

According to the complaint, the respondent advertises such knife blades as being "Tri-Forged" and "Tungsten Surgical Steel" and through these and other assertions represents that they are made of the finest tungsten alloy steel, are highly tempered, and are capable of taking and holding a fine edge and of being re-sharpened if necessary.

The complaint alleges that the respondent's knife blades for use in the fur industry are neither tri-forged nor made of tungsten surgical steel but of rolled carbon steel, a product much inferior to tungsten steel both in price and quality (4490).

**Norfolk Mattress Co., Inc.**, Norfolk, Va., has been served with a complaint alleging misleading representations in the sale of its products.

According to the complaint, the respondent furnishes to its retail trade advertising matter in which its products are collectively referred to as "Dr. Ezer Storm's Supreme Quality Sleep Products," while mattresses, springs, studio couches and pillows are given specific trade names containing the abbreviation "Dr."

The complaint alleges that through its use of the term "Dr." the respondent has represented, either directly or through implication, that the products so designated are made in accordance with the design of or under the supervision of a doctor, and has further represented that such products contain special or scientific features which are the result of medical advice or services, when in fact the respondent's products are not so designed or made (4488).

**Pacific Fruit & Produce Exchange**—Alleging price fixing and other restraint of trade practices in the interstate sale of broadleaf spinach a complaint has been issued against Pacific Fruit & Produce Co. and four other Walla Walla, Wash., shippers, four Chicago jobbers and a Minneapolis broker operating through a Chicago branch.

The other respondents are Walla Walla Gardeners' Association, Mojonner & Sons, Inc., Walla Walla Produce Co., and Ewing M.

Stephens and Eugene Tausich, trading as Valley Fruit Co., all of Walla Walla, shippers; C. H. Robinson Co., 430 Oak Grove Ave., Minneapolis, broker, and Robert M. Steinberg, manager of its branch at 1425 South Racine Ave., Chicago, and the following Chicago jobbers: LaMantia Brothers Arrigo Co., 28-32 South Water Market; Owen T. Hill and Robert S. Hill, trading as Mark Owen & Co., 33 South Water Market; John Plennert and John Mahoney, trading as P. & M. Distributing Co., 8 South Water Market, and Arthur Applebaum and Maurice J. Missner, trading as Applebaum-Missner Co., 13 South Water Market.

Broadleaf spinach, the complaint points out, is a distinct variety grown almost exclusively in the Walla Walla region and packed and handled only by the respondent shippers. The bulk of it, according to the complaint, is sold directly to canners although large quantities are shipped fresh to the Chicago market where a sale for this particular type of spinach is readily found.

The complaint charges that the respondent jobbers, pursuant to an agreement, understanding, combination and conspiracy of all the respondents, have fixed the resale prices at which fresh broadleaf spinach purchased by them from the respondent shippers through C. H. Robinson Co., the respondent broker firm, should be sold in the Chicago market, and that such jobbers, assisted by the respondent broker firm and its manager, the respondent Steinberg, entered into an agreement with the respondent shippers whereby they shipped all of their pack of this type of spinach to the respondent jobbers exclusively through the C. H. Robinson Co.

Pursuant to the agreement and combination, the respondent shippers, according to the complaint, fixed the prices paid for broadleaf spinach to the growers and prorated the tonnage of this product throughout the season, it being handled through C. H. Robinson Co., and routed to the respondent jobbers. The complaint further alleges that the respondent jobbers purchased all of their requirements of this spinach for the Chicago market from the respondent shippers through C. H. Robinson Co., and that the respondent Steinberg actively assisted in negotiating the agreement between the respondent jobbers and shippers and cooperated in enforcing it.

The complaint alleges that the respondents' agreement, understanding, combination and conspiracy had the effect of unduly restricting competition, in the purchase and sale of broadleaf spinach in commerce, of enabling the respondents to control and monopolize such business, of preventing competing jobbers in Chicago from purchasing such product, and of enhancing the retail price of fresh broadleaf spinach in Chicago and the surrounding area, all in violation of the Federal Trade Commission Act (4487).

**Thrift Sales Corporation**—Alleging the use of lottery methods in the sale of sales promotion plans and of watches, clocks, luggage, and other articles used in the operation of such plans, a complaint has been issued against Thrift Sales Corporation, trading as Finance Service System and as Church Extension Bureau, 192 North Clark St., Chicago, and against Gustave Heiss, an officer of Thrift Sales Corporation.

The complaint charges that the respondents contact religious, charitable and fraternal organizations in various parts of the country and offer to conduct bazaars the proceeds of which are to be divided between an organization and the respondents on an agreed-upon basis. According to the complaint, the respondents then place in the hands of the organization's members push card devices to be used in the sale of the respondents' merchandise to the public (4489).

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**Carlton Mills, Co., Inc.**, 241 West Wyoming Ave., Philadelphia, has been ordered to cease and desist from misleading representations in the sale of certain textile fabrics composed of combinations of ordinary wool and of cotton or of these products with rayon.

Commission findings are that the respondent has supplied to garment manufacturers and retail dealers various labels to be attached to coats and other garments manufactured from its fabrics, which are made to resemble genuine Persian lamb, Karakul and Caracul peltries; that the respondent used on these labels various trade names having the sound and appearance of names

associated with Southeastern European and Southwestern Asiatic countries where the Persian lamb, the Karakul and the Caracul are found; and that the respondent's practice has tended to deceive purchasers into believing that the respondent's products and the garments manufactured therefrom are made from the peltries or wool of such animals.

The Commission order directs the respondent to cease using the words "Persian" or "Pershian" or words of similar spelling or phonetic sound to describe any textile fabric which simulates the peltry of a Persian lamb, Karakul or Caracul. The respondent is further ordered to cease using or authorizing the use of the terms "Karagora," "Pelkara," "Bashkara Lamm," or "Kosva-Lam," separately or together, with a pictorial design of a lamb or of any other wool-bearing animal, and of the terms "Pershian Royal," "Rivalamm," "Volgalam," "Persia-laine," "Lam Kurl Persian," "Russkara," "Kurl Kohvar," or "Galykurl," all in connection with any description of any textile fabric which simulates in appearance, pattern or design the peltry of a Persian lamb, Karakul or Caracul.

The order directs the respondent to cease employing the terms "Babelamm," "Lam" or "Lamm" or other similar terms to refer to fabrics or products not composed of wool obtained from lambs, provided that such terms may be used as descriptive of the wool content of fabrics or products composed in part of such wool and in part of other fibers, if words truthfully designating each constituent fiber or material are used in immediate connection and in letters of equal conspicuousness.

Under the order, the respondent is further directed to cease advertising, offering or selling fabrics or products composed in whole or in part of rayon without clearly disclosing the rayon content, and, in the case of mixed materials, setting forth the rayon and other constituent fibers or materials in immediate connection with each other and in equally conspicuous type (4341).

**Evans Novelty Company**—A Chicago firm selling novelty merchandise and a St. Joseph, Mo., candy distributor have been ordered to cease and desist from selling or otherwise disposing of merchandise by means of a game of chance, gift enterprise or lottery scheme. The respondents are Mitchell A. Bazelon and Jacob L. Bazelon, who were formerly in business as copartners under the names Evans Novelty Co. and Premium Sales Co. at 946 Diversey Parkway, Chicago, and the Douglas Candy Co., St. Joseph, Mo.

According to Commission findings, the respondents Mitchell A. and Jacob L. Bazelon were copartners selling radios, fishing tackle, clocks and other merchandise under the names Evans Novelty Co. and Premium Sales Co. until the purchase of Mitchell A. Bazelon's interest in the business by Jacob L. Bazelon, who now conducts the business under the two trade names.

The respondents in each case are ordered to cease and desist from selling or distributing any merchandise so packed or assembled that sales of such merchandise to the public may be made by means of a lottery scheme, and from supplying to others push or pull cards, punch boards or other lattery devices, either with assortments of merchandise or separately, which devices are to be or may be used in selling or distributing such merchandise to the public (3711-3817).

**Peterson Core Oil & Mfg. Co.**, 704 South Kolmar Ave., Chicago, manufacturer of core oil for use in foundries, and Henry S. and Harold A. Peterson, officers of the corporation, have been ordered to cease and desist from representing, by the use of letterheads of the corporation or otherwise, that offices or branches are owned, maintained, or operated in any city or locality when no such office or branch is so owned or operated.

Commission findings are that the respondents represented that they maintain branches in St. Louis, Buffalo, Philadelphia, Detroit, and Hamilton, Ont., when in fact no such offices are operated in those cities or elsewhere.

The Commission order also directs the respondents to cease representing, pictorially or otherwise, that the physical plant, equipment and facilities owned, used or occupied are greater than they are in fact (3989).

**Ramsdell Packing Company**—Thirteen sardine canning and packing firms operating in Maine have been ordered to discontinue violations of the brokerage provision of the Robinson-Patman Act. The respondents are: Ramsdell Packing Co., Rockland, Me.;

Seaboard Packing Co., Lubec; Machiasport Canning Co., Machiasport; Holmes Packing Corporation, Eastport; R. J. Peacock Canning Co., Lubec; Jonesport Packing Co., West Jonesport; Sunset Packing Co., Inc., West Pembroke; Calvin L. Stinson, operating as Stinson Canning Co. and Addison Packing Co., Prospect Harbor, Me.; Royal River Packing Corporation, Yarmouth; Belfast Packing Co., Belfast; North Lubec Manufacturing & Canning Co., North Lubec; Union Sardine Co., Lubec; and Booth Fisheries Corporation, 309 West Jackson St., Chicago, operating through its subsidiary, Booth Fisheries Sardine Co., Eastport, Me.

Commission findings are that in some instances the respondents effect sales of sardines through brokers whom they employ as selling agents. In other instances, the findings continue, the respondents sell sardines directly to purchasers among whom are some of the respondents' brokers, who sometimes buy sardines for their own account for resale.

When, according to findings, sales of sardines are effected through brokers, the respondents pay them a brokerage fee or commission usually amounting to five per cent of the price at which the respondents invoice the sardines to the purchasers.

The Commission order directs the respondents to cease and desist from paying or granting to buyers by any means, directly or indirectly, on their own purchases of sardines, any commission, brokerage or other compensation, or any allowance or discount in lieu thereof.

The respondents are further directed to cease and desist from selling sardines to customers, the sales to whom are effected directly by the respondents, at a price reflecting a reduction from the prices at which the respondents are currently selling such sardines to other customers, such reduction being an amount equivalent to brokerage currently being paid by the respondents to their brokers for effecting sales of sardines to other purchasers.

The respondents, except Union Sardine Co., which was not found to engage in such practices, are also ordered to cease and desist from selling sardines to customers through brokers to whom the respondents do not pay the full and customary brokerage, at a price reflecting a reduction from the respondents' current prices to other customers, approximately equal to the difference between the full brokerage customarily paid and that actually paid by the respondents to such brokers for effecting such sales (4355-4362, 4410-4414).

**Saks & Company**—An order has been set aside to cease and desist issued April 3, 1940, against Saks & Co., New York, concerning certain representations in the sale of women's garments, and has issued a modified order to cease and desist.

The modified order is in accordance with a stipulation in which the respondent company agreed to dismiss its petition for review of the Commission order of April 3, 1940, recently pending in the United States Circuit Court of Appeals for the Second Circuit, New York, and in which the Commission agreed that upon such dismissal it would set aside its original order and issue the modified order.

Under the modified order, the respondent corporation is directed to cease and desist from representing as the customary or regular worth or value of any furs, or fur products made in whole or in part of fur, prices and values which are in excess of the regular and customary prices, and from representing as new or "brand new" any fur coat which is not in fact a new fur coat.

The respondent is further ordered to cease using the unqualified descriptive term "Satin," or any other descriptive terms indicative of silk, to designate any fabric or product not composed wholly of silk, provided that when such terms are used truthfully to designate the type of weave, construction or finish, they must be qualified by the use in connection therewith, in letters of equal conspicuousness, of words clearly naming the fibers or materials from which the products are made.

The modified order further directs the respondent to desist from using the term "Silk" or other similar terms indicative of silk, to describe any fabric or product not composed wholly of silk, provided that in the case of a fabric or product composed partly of silk and partly of materials other than silk, such terms may be used as descriptive of the silk content when immediately accompanied by words accurately designating such other materials (3456).

**Frank L. Singer Fur Company**—Frank L. Singer, trading as Frank L. Singer Fur Co., Peekskill, N. Y., has been ordered to cease and desist from making misleading representations in connection with the purchase or sale of raw furs.

Commission findings are that the respondent disseminated price lists and trade literature setting forth his method of purchasing raw furs from trappers and dealers, the quality and grading classification of furs, and the high prices and average prices paid for such stated grades and classifications.

According to findings, the prices quoted as those to be paid by the respondent for designated furs have been so displayed as to create the misleading impression that they would approximate the high prices in the upper grades. As a matter of fact, the findings continue, the bulk of the furs received by the respondent for grading have been of medium or low quality.

Findings are further that trappers not skilled in fur grading technique have been induced to ship their furs to the respondent as a result of the emphasis he has placed on the higher grades and prices quoted by him and in the mistaken belief that they would be paid at the highest prices quoted.

The Commission order directs the respondent to cease and desist from these practices and to discontinue representing to fur trappers or dealers that market conditions or other causes have created an unusual demand for certain types and grades of furs, and have caused or will cause an increase in prices paid to trappers and dealers for such types or grades of furs, when in fact such market conditions or demand do not exist (4189).

**S. & K. Sales Company, Inc.**—S. & K. Sales, Inc., St. Louis distributor of merchandise, has been ordered to cease and desist from selling or otherwise disposing of merchandise by means of a game of chance, gift enterprise or lottery scheme. Commission findings are that the respondent corporation sells to dealers tapestries, neckties, pipes, knives, fountain pens and other articles.

The respondent is ordered to cease and desist from selling or distributing any merchandise so packed or assembled that its sale to the public is to be or may be made by means of a lottery scheme, and from supplying to others push or pull cards, pull tabs, punch boards or other lottery devices, either with assortments of merchandise or separately, which devices are to be or may be used in selling or distributing such merchandise to the public (3769).

## STIPULATIONS

Following stipulations have been entered into by the Commission during the past week:

**Brown Shoe Co., Inc.** (3078), and Johnson, Stephens & Shinkle Shoe Co. (3080), both of St. Louis, and from Marshall, Meadows & Stewart, Inc. (3079), Auburn, N. Y., all manufacturers of shoes, have entered into stipulations.

The respondents agree to cease using the word "Alligator" or other similar words to describe shoes not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials. The Marshall, Meadows & Stewart stipulation applies to shoes "or the trim or any part thereof" (3078-3079-3080).

**Carbolineum Wool Preserving Co.**, 528 West Highland Ave., Milwaukee, entered into a stipulation to cease certain representations in the sale of "Carbolineum," advertised for use as a wood preservative and for destruction of insects. The respondent agrees to cease representing that the United States Patent Office has recognized any advantages, exclusive or otherwise, of "Carbolineum" or "Avenarius Carbolineum" as a wood preservative, a mite killer, or for any purpose or use. The respondent further stipulates it will cease advertising that the trademark "Carbolineum" was issued in the name of Carbolineum Wood Preserving Co. by the patent office (3081).

**G. S. Cheney Co.**, 15 Union St., Boston, stipulated that in the sale of its product known as "Cheney's Nurve Phosphates" and "Cheney's Nerve Phosphates" it will cease representing, by use of the words "nurves" or "nerve" or other similar words in the preparation's name, that it is of any value for bodily ailments caused by nervous disorders; that it is a food or stimulant for the

nerves, or is beneficial in the relief of sleeplessness and fatigue, and that its lecithin content will add to the phosphorus constituent of brain and nerve substance. The respondent also agrees to cease representing that "Cheney's Vitamins Complete" is a valuable accessory to one's daily diet, unless the advertisement clearly explains that the product is valuable only in cases where there is a deficiency of the vitamins and minerals which it contains (02778).

**DeLuxe Products Company**—Al B. Wolf and Max Schwartz, trading as DeLuxe Products Co., and National Business Builders, 637-West Roosevelt Road, Chicago, camera distributors, has entered into a stipulation to cease and desist from use of the word "Remington" or any simulation thereof as a mark or brand for cameras, the effect of which usage tends to convey the impression that such products are manufactured by Remington Rand, Inc., or by Remington Arms Co. The respondents also agree to cease using the word "Speed," alone or in connection with the word "Super," as descriptive of the lens of their cameras, and to discontinue employing the phrase "Regular \$5.00 Value" as descriptive of the value of their products when in fact that amount is in excess of the regular retail price (3073).

**Donna Lo Laboratories, Inc.**, 603 Del Monte Way, St. Louis, has entered into a stipulation to cease advertising that Donna Lo preparations, or any one of them, provide a new kind of skin care or are effective as an aid in correcting skin ailments generally; and that they permit the skin or its pores to breathe, decrease the size of the pores, and cause the blood stream to circulate through inactive areas of the face. The respondent corporation also agrees to cease representing by use of the word "Circulation" in the brand name of "Circulation Emulsion" that that preparation stimulates circulation and to cease representing that "Domma Lo Face Powder" is made in France or from a French formula, and that face powders sold by its competitors contain ingredients which close or seal the pores of the skin (02782).

**Grace Donohue, Inc.**, 640 Madison Ave., New York, entered into a stipulation to cease and desist from advertising that the preparation "Grace Donohue Cleanser" is a healing agent and constitutes an efficient method for preserving a clear, smooth or attractive complexion. The respondent also agrees to cease representing that the product is a remedy or cure for blackheads or whiteheads and is beneficial in the treatment of acne, crow's feet, lines under eyes, "jowls" and other skin conditions, or is beneficial to oily or dry skin. The respondent further agrees to cease stating in its advertising that excess fatty acids or waste products impede normal elimination of the skin (02776).

**Alten W. Eldredge**, trading as Melrose Eldredge Co., Melrose, Mass., has entered into a stipulation to cease representing, by use of the terms "Doctor", "Dr.", or "Approved", as a part of the brand name of "Dr. Eldredge's Approved Rectal Jelly", that that preparation has the official recommendation of any group of doctors or pharmacists or that it was formulated by a physician. The respondent further stipulates that he will cease advertising that the preparation is a cure for piles or has any therapeutic effect upon the symptoms of that ailment except to the extent that it may act as an astringent, provide some antiseptic action, or afford the soothing effect of an emollient (02779).

**European Linen Importing Corporation**, 244 Fifth Ave., New York, stipulated that it will cease using the word "Tuscany" or similar words, either with or without the explanation "Made in China," as descriptive of laces or other articles which are not in fact true Tuscany lace actually made in Tuscany of linen thread. The respondent, which, according to the stipulation, does not own or control a factory, also agrees to desist from use of the word "Manufacturers" in connection with its corporate or trade name and as descriptive of its business (3074).

**L. W. Ferdinand & Co., Inc.**, 599 Albany St., Boston, entered into a stipulation to cease using on labels or in printed matter the word "Waterproof" or similar words as descriptive of casein glue which is not waterproof. (3075)

**S. Grover Graham Co., Inc.** (02781), 75 Second St., Newburgh, N. Y., has entered into a stipulation to cease certain representations in the sale of "Grover Graham Remedy" and "Graham's Butternut Pills". Also Hevenor Advertising Agency, Inc. (02775), 11 North Pearl St., Albany, N. Y., entered into a stipulation to cease certain representations in advertisements disseminated by the agency on behalf of S. Grover Graham Co., Inc., for its preparation "Grover Graham Remedy."

Both the respondent corporation and advertising agency agree to cease employing the word "Remedy" or similar words as a part of the trade name of Grover Graham Remedy or in any other manner implying that the preparation is anything more than a treatment to neutralize temporarily excessive gastric acidity and to relieve temporarily the pain caused thereby.

Hevenor Advertising Agency, Inc., further stipulates that it will cease disseminating advertisements on behalf of S. Grover Graham Co., Inc., which represent that Grover Graham Remedy will afford relief from acid indigestion in five minutes or any specified time and enable an individual to eat food without fear of stomach distress; that the preparation corrects or cures excessive stomach acidity and stops the pain or symptoms of acid indigestion, and that its formula was originated or used by a European specialist.

S. Grover Graham Co., Inc., also stipulates that it will cease advertising that the product "Graham's Butternut Pills" consists of a vegetable ingredient, without disclosing that it contains only the extract from a vegetable, and that it will discontinue representing that the product is a tonic, or is a remedy for any disease or dysfunction or for habitual constipation, headache, bibliusness, and all disorders arising from the inactivity of the liver or torpidity of the bowels. (02775-02781)

**Kepner-Scott Shoe Co.**, a manufacturer, agrees to cease employing the word "Doctor" or the abbreviation "Dr." in connection with a name or with any other words as a trade name, brand or designation for its products so as to imply that they are made in accordance with the design or under the supervision of a physician and contain special scientific or orthopedic features which are the result of medical determination or services. According to the stipulation, the respondent corporation caused the words "Dr. Luther Nature Shape" to be stamped on the soles of the shoes and printed on the cartons when in fact the shoes so marked were neither made under the supervision of a physician nor did they contain special scientific or orthopedic features. (3072).

**Eleanor H. Mack**, trading as Mack Brothers Products, Hillcrest Station, San Diego, Calif., entered into a stipulation to cease using the word "Resuscitator" as a part of the brand name for the cosmetic preparation "Revel No. 9 Resuscitator Oil"; from otherwise representing that the use of this product restores life or the appearance of youth to skin, and to cease employing the phrase "Pore Cleansing" as a part of the brand name of "Revel No. 1 Pore Cleansing" or from otherwise representing that it will remove all foreign matter from the pores. The respondent also agrees to desist from representing that "Revel No. 6 Lipid Cream" is of any appreciable benefit in the treatment of aged or creepy skin, and that "Revel No. 16 Mouth Creme" is of value in treating bleeding or receding gums. (02777)

**Manning, Bowman & Co.**, Meriden, Conn., distributor of electrical appliances including heat pads, stipulated that it will cease employing the words "Three Heats" or "3 Heat Pad," "Three Degrees of Warmth," or "Low, Medium and High Heats," implying that its electrical heating pads are capable of maintaining three distinct temperatures. (3083)

**Charles Meis Shoe Manufacturing Co.**, which makes women's shoes at its factory at Lebanon, Ohio, agrees to cease employing the word "Doctor" or the abbreviation "Dr." or any simulation of such abbreviation in connection with a name or with any other words as a trade name, brand or designation for its products so as to imply that they are made in accordance with the design or under the supervision of a physician and contain special scientific or orthopedic features which are the result of medical determination or services. According to the stipulation, the respondent corporation stamped certain shoes with brand names owned by its

customers, such as "Dr. Warren's Scientific Arch Support" and "Dr. Steward Arch Support Combination Last," and also employed other brand names in connection with the abbreviation "Dr.," when in fact shoes so marked were neither made under the supervision of a physician nor did they contain special scientific or orthopedic features. (3066)

**Miko Company**—Fred Miller, trading as The Miko Co., 2521 Thirty-first Ave., Long Island City, N. Y., has entered into a stipulation to cease advertising that "Circulin Garlic Pearls" are rich in body-building materials such as manganese, sodium, calcium, iodine and phosphates; that they have value in relieving symptoms of nervousness, dizziness and tiredness in excess of temporarily relieving such symptoms when associated with high blood pressure, and that they are effective in treating coughs, bronchitis or bronchial asthma. (02771)

**Newby, Peron & Flitercraft, Inc.**, 222 West Adams St., Chicago, an advertising agency, stipulated that in advertisements which it disseminates on behalf of Albert Laboratories, Inc., Chicago, concerning that corporation's preparation "Respirine," it will cease representing that product as comprising a competent treatment or effective remedy for asthma, bronchial coughs or bronchitis, or as doing any more with respect to these conditions than affording some temporary relief from the accompanying symptoms. The respondent agency also agrees to cease representing that the preparation relieves symptoms accompanying hay fever; that it promotes healing, and that it is unique or distinctly new or represents a discovery. (02780)

**Nix Cosmetics Company**—Trading as The Nix Cosmetics Co., P. Edwards, of Memphis, Tenn., stipulated that he will cease advertising that "Nix Bleach Cream" affects the skin in a new way, or in a way different from that of other preparations; that he will desist from representing, by use of a headline or otherwise, that any girls are "wanted" for sales work, and that he will cease otherwise representing or implying that he has employment to offer. (02772)

**Herbst Shoe Manufacturing Co.**, 2367 North 29th St., Milwaukee, and A. O. Keehn, T. C. L. Keehn and Leroy D. Keehn, trading as Keehn Brothers, 219 West Monroe St., Chicago, shoe wholesalers, stipulated to cease certain representations in the sale of their products.

The respondents agree to cease employing the word "Doctor" or the abbreviation "Dr." in connection with a name or with any other words as a trade name, brand or designation for their products so as to imply that they are made in accordance with the design of or under the supervision of a physician and contain special scientific or orthopedic features which are the result of medical determination or services.

The Herbst Shoe Manufacturing Co. also agrees to cease employing the term "Official Physical Health Director" or similar words which tend to convey the impression that shoes so referred to contain special or scientific features sponsored by a director of physical health.

According to the stipulations, the respondents in each case caused certain of their shoes for boys and girls to be branded as "Dr. Cross' Health Shoe." (3076-3077)

**Hilly Medicinal Products**—Morris W. Hillinger, trading as Hilly Medicinal Products, 2512 East Colorado St., Pasadena, Calif., has entered into a stipulation in which he agrees to discontinue representing that "H R 5," a medicinal preparation, constitutes an effective treatment for the condition caused by excessive indulgence in alcoholic liquors. The respondent further stipulates that he will cease disseminating any advertisement which fails to reveal that there is potential danger in the use of such preparation by persons afflicted with organic heart trouble or high blood pressure and that it should not be used by such persons except upon the advice of a physician. The stipulation provides, however, that the advertisement need contain only a statement that the preparation should be used only as directed on the label if and when such label either contains a statement warning of the consequences of the use of the product under certain conditions or

specifically directs attention to a similar caution statement in the accompanying labeling. (3065)

**Palmer Bedding Co.**, 2300 Eighth St., Denver, Colo., manufacturer of mattresses, box springs and bedding, entered into a stipulation to cease certain representations in the sale of its products.

The respondent corporation stipulates that it will cease representing, by inference, implication or otherwise, that its products are made of or contain all new material, when in fact they are composed, either in whole or in part, of used or second-hand materials, and that it will cease failing to clearly disclose that such products are composed, either in whole or in part as the case may be, of used or second-hand materials. (3068)

**Reading Hosiery Mills**, trading as Reading Hosiery Mills, Joseph A. Kitzmiller, 8 South Tenth St., Reading, Pa., stipulated that he will cease using the word "Mills" as part of his trade name. According to the stipulation, the respondent does not own, operate or control a factory in which his products are made. (3082)

**Redolent Products Co.**, West Palm Beach, Fla., stipulated that it will cease disseminating advertisements which tend to convey the impression that the local application of its product "Cur-A-Ped," a foot treatment, would have therapeutic effects other than those resulting from the preparation's analgesic properties, or that it would be of significant value in destroying the deep burrowing fungi or ringworm or have value other than as a rubefacient or emollient to afford temporary relief for tired, aching, burning, itching, tender, perspiring feet, and sore, cracked, inflamed toes or to overcome superficial infection of athlete's foot. The respondent corporation also agrees to desist from representing that such specific bodily ailments as acute rheumatic fever, Bright's disease, diabetes, cirrhosis of the liver, and other ailments are attributable to bad feet, or that treatment of foot disorders will correct such ailments. (3067)

**Requa Manufacturing Co., Inc.**, 1193 Atlantic Ave., Brooklyn, manufacturer of proprietary preparations, entered into a stipulation in which it agrees to cease representing that the use of its unguent product called "Requa's Oil for the Ear" will result in immediate relief for stuffed-up ears; will cause wax accumulations in the ear to quickly dissolve or almost instantly soften; will do away with ear discomforts which may result in permanent deafness, or will be of any appreciable value as a massage oil for muscular pains and congestion when applied to skin surfaces, as the neck or chest. The respondent further stipulates that it will desist from representing that irritations of the outer ear result from head colds. (3063)

**Schwartz & Benjamin, Inc.**—Three shoe manufacturing corporations have entered into stipulations to cease and desist from certain representations in the sale of their products. The respondents are Schwartz & Benjamin, Inc., 842 Broadway, New York; Charles Meis Shoe Manufacturing Co., 312 Vine St., Cincinnati, and J. M. Connell Shoe Co., Inc., South Braintree, Mass.

Each of the respondents Schwartz & Benjamin, Inc., which manufactures women's shoes, and J. M. Connell Shoe Co., Inc., which makes shoes for men, women and children, stipulates that it will cease using the word "Alligator" or other similar word to describe shoes not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials. The J. M. Connell Shoe Co. stipulation applied to shoes "or any part thereof". (3064 and 3069)

**Selby Shoe Co.**, Portsmouth, Ohio, and Kepner-Scott Shoe Co., Orwigsburg, Pa., have entered into stipulations to cease and desist from certain representations in the sale of their products.

Selby Shoe Co., a manufacturer of women's shoes, stipulates that it will cease using the word "Alligator" or other similar word



to describe shoes not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials. (3070)

**Standard Products Company**—Paris J. Gerogian, trading as Standard Products Co., 102-104 Commercial St., Boston, has entered into a stipulation in which he agrees to cease advertising that "Gloria Pure Olive Oil (Agorelaion)", a food product, will be of appreciable benefit in preventing or remedying a lack of appetite; that this olive oil contains all of the vitamins or appreciable quantities of any of them, and that use of the preparation will insure good health. (02774)

**Superior Hatchery**—Mary Booth Powell, trading as Superior Hatchery, Windsor, Mo., has entered into a stipulation to cease representing that she is a "U. S. Record of Performance" poultry breeder; that she operates a poultry breeding plant under the supervision of an official State agency supervising U. S. R. O. P. work or that her chicks are R. O. P. chicks, until such time as she shall in fact become a "U. S. Record of Performance" poultry breeder and be entitled properly to represent chicks as being U. S. R. O. P. chicks in accordance with provisions of The National Poultry Improvement Plan. The respondent further stipulates that she will cease employing the words "Ozone Conditioned" or "Ozone-Vitalized" or any representation the effect of which tends to convey the impression that chicks subjected to an ozone machine thereby acquire strength, health or livability. (3071)

**James J. Walker, Jr.**, 3614 Calumet Ave., Chicago, stipulated that he will cease advertising that "Walker's Famous Tooth Powder" stops receding or bleeding gums, makes gums firm or sound or heals them, tightens loose teeth, or makes the teeth white. The respondent also stipulates that he will desist from

representing that millions of people use Walker's Famous Tooth Powder, when such is not a fact. (02773)

## FTC CASES DISMISSED

The Federal Trade Commission dismissed its case against National Capital Ice Institute, Washington, D. C., seven of its officers and directors and five member companies, without prejudice to its right to take other or further action in accordance with its regular procedure whenever facts shall so warrant. The respondents had been charged with a combination to fix and maintain uniform minimum prices to be exacted by them from purchasers of ice.

Besides National Capital Ice Institute, other respondents in the case were Harry Hammond, institute president; William A. Brooks and Migiel J. Uline, vice presidents; James P. Ehrman, executive manager; Morris W. Bennett, Edward J. Smith and M. E. Thompson, directors; M. J. Uline Co., American Ice Co., Christian Heurich Brewing Co., and Consolidated Terminal Corporation, all of Washington, and Mutual Ice Co., Alexandria, Va.

The Commission's dismissal order recites that it appears from a supplemental investigation that, subsequent to the conclusion of the Commission's original investigation in the case, but before its complaint had issued, the National Capital Ice Institute, which was the central agency through which the complained of acts and practices were set in motion and directed, closed its office, discharged its officers and employees, and ceased to function or operate.

The dismissal order further recites that it appears no resumption of the association's activities has occurred up to this time, and that since some time prior to such cessation of activities and operation and up to the present time there has been substantial and sharp competition between and among the respondents.

The Commission also announced its dismissal of a complaint charging Adolph Karl and Gertrude Karl, trading as A. & G. Karl Co., Newark, N. J., with certain representations in the sale of "Never Break," a cosmetic for the fingernails.

The Commission dismissed a complaint charging J. O. Davies, trading as Baby Touch Hair Remover Co., St. Louis, with certain representations in the sale of a hair removing device.



## ASCAP

ASCAP has submitted a proposal to the stations of the Mutual Broadcasting System, details of which were not available for this issue of the NAB REPORTS. They will appear in an early issue.

Neville Miller sent the following telegram to all member stations on Thursday, May 1:

"In order to enable NAB members to comprehend effect of Mutual-ASCAP proposal a factual analysis is being made. This will be transmitted to stations in time to be available for consideration at convention. Regards."

## Convention Program

### MONDAY

Morning Meeting of various committees.  
 Afternoon Golf Tournament.  
 Night NAB Board meeting.  
 (Registration all day.)

### TUESDAY

Morning 10 o'clock Opening of Convention and round table on National Defense. Speakers: Chairman Fly, General Richardson, Commander Thurber Lowell Mellett.  
 Luncheon Speech by Vice President Wallace.  
 Afternoon Meetings of IRNA, Independents, Clear Channels, Regionals, Local Stations, Sales Managers.

### WEDNESDAY

Morning 10 o'clock Breakfast—Round Tables.  
 Music Situation—BMI-ASCAP, etc.  
 Afternoon Music Situation continued, Insurance Committee, Recording Standards, Daylight Saving Time.  
 Evening Open Meeting on Facsimile, Television, FM and International Broadcasting.

### THURSDAY

Morning 10 o'clock Breakfast—Round Tables.  
 Unit Volume, Code, Radio Advertising—Col. Chevalier, speaker.  
 Luncheon Mark Ethridge, speaker.  
 Afternoon Labor and other industry problems, election of Directors, selection of Convention city, report of Resolutions Committee, etc.  
 7:30 P. M. Annual Banquet.

### FRIDAY

Morning NAB Board meeting.

With each day there comes new evidence that the Nineteenth Annual NAB Convention, to be held in St. Louis, May 12-15, will be a most successful one.

Already reservations for accommodations at St. Louis hotels involve between six and seven hundred persons. Last year at San Francisco, when the attendance reached an all-time high of just under seven hundred registrations, the advance reservations were less than half those now on file with the NAB Housing Committee.

The New Hotel Jefferson, which is to serve as Convention headquarters, is booked to capacity, but within

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**You Can't Afford to Miss the NAB Convention**

**May 12, 13, 14, 15**

**New Jefferson Hotel**

**St. Louis**



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W. WASHINGTON Phone NAational 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## CONVENTION PROGRAM

(Continued from page 387)

easy distance are the Statler, the Lennox, the Mayfair, the De Soto, all of which are in a position to accept additional reservations for almost any type of accommodation desired. Further removed are the Chase, Park Plaza and Coronado which offer attractive accommodations. The hotel facilities at St. Louis are adequate to accommodate all who may desire to come.

The NAB Convention Program Committee, composed of J. H. Ryan, WSPD, George H. Norton, Jr., WAVE, and Herbert Hollister, KANS, has put together a business program which promises to hold the interest of all attending. It comprehends the presentation of subjects of vital concern to all broadcasters as well as to those concerned with radio.

Vice President Henry A. Wallace heads the list of speakers. He will address the Tuesday noon luncheon session and his talk will be broadcast to the nation on all the networks. The Thursday noon luncheon is to be an executive session at which Mark Ethridge, WHAS, former President of NAB, will discuss in a most intimate manner the problems and responsibilities of the industry.

The opening business session on Tuesday morning will consist of a panel discussion of the Relation of Radio to the National Defense. Federal Communications Commission Chairman James Lawrence Fly, General Robert C. Richardson, Public Relations Director of the Army, Lowell Mellett, Special Assistant to President Roosevelt in coordinating the national defense effort, and Commander H. R. Thurber, United States Navy, will all speak.

Music, which has been a topic of paramount interest to the radio industry, will occupy the center of the stage on Wednesday. Neville Miller, President of Broadcast Music, Inc., Sydney Kaye, Vice President and General Counsel, Merritt Thompkins, General Manager, and Carl Haverlin will outline developments and an open discussion will feature the program. At the afternoon session Universal Daylight Saving will be given an airing and the problem of uniform standards for recording will be discussed.

Thursday morning's session will be devoted to the commercial aspects of radio. Colonel Willard Chevalier, Publisher of *Business Week* and one of the nation's outstanding authorities of advertising, will sound the keynote. E. Y. Flannigan, WSPD, Chairman of NAB's Sales Manager's Division, and Frank Pellegrin, Director of the NAB Department of Broadcast Advertising, will present brief talks. William Scripps, WWJ, Chairman of the Research Committee, and Paul Peter, NAB Director of Research, will present the Unit Plan of Volume Measurement and its relation to commercial radio. Edgar Bill, Chairman of the Code Compliance Committee, will discuss the commercial aspects of the Code.

Following the Thursday noon luncheon there will be a panel discussion of "Labor" with Samuel Rosenbaum, WFIL, and Joseph L. Miller, NAB Labor Relations Director, participating. Then will follow the election of Directors-at-large and the advisory vote on the Convention site for the 1942 Convention.

The banquet will be held in the spacious Gold Room of the Jefferson. Through the combined efforts of the production departments of the networks a variety show of unusual merit is assured. Adolph Opfinger, MBS, Clarence Menser, NBC, and Doug Coulter, CBS, form the committee, which is directing the activity of Nat Abrahamson, WOR, who is assembling the talent. It promises to be a snappy, entertaining offering.

Group breakfast sessions will offer those attending a wide variety of choice of sessions in which topics of peculiar interest to them will be discussed.

The wives of the St. Louis broadcasters are preparing a most interesting program, of entertainment for the ladies who will be in attendance.

All in all this nineteenth annual meeting gives promise of being the biggest session in every way of the broadcasting industry.

## GOING BY TRAIN

Here is an abbreviated timetable for some of the principal trains between eastern cities and St. Louis:

Baltimore & Ohio		
	Natl. Ltd.	Diplomat
Lv. N. Y. (42nd St.)	1.05 p. m.	2.45 p. m.
" Phila.	3.36 "	5.14 "
" Balt. (Mt. Royal)	5.21 "	7.05 "
" Wash.	6.30 "	8.20 "
Ar. St. Louis	1.12 "	4.50 "

Chesapeake & Ohio		
	G. Wash.	FFV
Lv. Washington	6.01 p. m.	11.00 p. m.
" Richmond	5.30 "	10.35 "
" Charlottesville, Va.	8.35 "	—
Ar. St. Louis	3.35 "	10.58 "

Pennsylvania			
	St. Louisan	Spirit of St. L.	American
Lv. N. Y.	1.45 p. m.	5.45 p. m.	8.35 p. m.
" North Phila.	3.04 "	7.09 "	10.02 "
" Washington	1.50 "	5.45 "	8.30 "
" Baltimore	2.35 "	6.30 "	9.17 "
" Pittsburgh	9.51 "	1.53 a. m.	—
Ar. St. Louis	8.40 a. m.	12.50 p. m.	4.45 "

(All departure time shown is Eastern Standard—add an hour for "daylight")

## Labor

### TECHNICIANS NOT "PROFESSIONAL"

Radio technicians, as a group, are not *professional* employees within the meaning of the Wage and Hour Act, and thus cannot be exempt, as a group, from the act's overtime provisions.

This was the opinion of Harold Stein, Wage and Hour Division attorney after a field trip and conferences with Joseph L. Miller, NAB labor relations director, and Lynne Smeby, director of engineering.

Chief engineers and supervisors may be exempt as *executives*, depending upon their duties, Mr. Stein said. Both educational requirements and duties led him to believe, however, that all technicians, as a group, could not be called professionals.

Mr. Stein and the NAB representatives visited studios and transmitters of a clear channel, regional and local station in Washington, and thoroughly canvassed the whole problem.

### SALESMEN—WRITERS—ANNOUNCERS

Joseph L. Miller, NAB labor relations director, addressed the following letter this week to the Wage and Hour Division regarding the classification of salesmen-writers-announcers:

A question has arisen in the broadcasting industry in connection with Section 641.5(B) of the Wage and Hour Division's Rules and Regulations.

In many radio stations, especially smaller ones, time salesmen frequently prepare (write) the commercial "copy" for use in the programs which they have sold. We consider this work "incidental to and in conjunction with the employee's own outside sales or solicitations." Are we correct in this assumption? These salesmen are undoubtedly "outside salesmen" within the meaning of the definition in all other respects. It may throw some further light on the question to point out that the writing done by these outside salesmen is of the same type as that done by other employees, many of whom are classified as "professionals" and all of whom would be classified as professionals if they met the salary qualification.

The second question carries the first a step further. Some outside salesmen not only write some of their "copy" but announce the programs they sell, reading this "copy" which they have prepared. This is especially true in the case of numerous stations which devote some or most of their time to foreign language programs.

A small station, for instance, in a community which has a large Polish speaking group will engage a Polish speaking salesman. He may have perhaps one hour a day for a Polish music program sponsored by a group of merchants catering to the Polish speaking population. He sells, writes, and announces these "participating" commercials.

We certainly would appreciate your opinion on these questions as soon as possible. If any further information is needed, please do not hesitate to call on me.

### REGULAR HOURLY RATE

An employee regularly works 40 hours a week for \$20. Monday he gets a day (8 hours) off, sick leave. The employer's policy is not to dock employees for sick

leave. Saturday, the employee's normal day off, he works 10 hours. How much does he have coming?

The Wage and Hour Division says \$25.50 (40 hours at the regular rate, eight more hours at the regular rate, two hours at time and one-half). In other words, the Wage and Hour Division considers payment for sick leave as a "gift" and not a part of wages. Hence, the regular hourly rate is not changed by payment for sick leave, holidays, vacations, etc.

### DISCRIMINATION

The Supreme Court upheld the Labor Relations Board this week in its contention that refusal to hire a man because of his union affiliation or activity constituted violation of the Wagner Act.

The court also held that the employer was liable for the man's salary or wages from the time he was refused employment on that ground until he was employed.

In other words, if an employer is found by the labor board to have refused employment to a union member *just because he was a union member*, then the employer is liable for the pay the union member would have received if he had been hired.

Making or helping to make a "black list," it might follow, might be held to constitute conspiracy.

### COST OF LIVING

The American Federation of Labor had the following to say this week about cost of living prices:

Memories of the last war remind us that there may be no stopping a runaway price rise. Prices started upward slowly in 1915; the rise gathered speed in 1916 and 1917, swept onward in 1918 and could not be checked until two years after the war. When prices finally reached a peak in 1920, cost of living was more than double its prewar level. The collapse which followed brought a severe depression.

Fear of such price inflation led the President to set up the Office of Price Administration and Civilian Supply. This new agency has the task of stopping price increases before they go too far. It will work closely with the Division of Purchases for OPM, which buys supplies for the Army and Navy. By refusing to buy any article where the price is too high, these agencies can bring enormous pressure on anyone raising prices unduly. For they buy in huge quantities practically every kind of goods where shortages and price increases are likely to develop.

*With the Price Administration to check runaway prices, experts do not expect any important general cost of living increase in the near future.* They expect no more than a very gradual rise in prices. The chart below shows that, according to government figures, living costs in March 1941 were only 1% above the last quarter of 1939, and less than 1½% above March 1940. Nevertheless, workers who go out to buy find prices up in many lines. Silks are up 9% since prewar days, woolens up 6½%, blankets 14%, furniture 10½%, foods almost 5%. Since last fall, dry goods and home furnishings are up 5%; men's suits may cost \$2.50 to \$5.00 more in the near future. In clothing, lower quality material is being substituted to avoid price increases, and workers find a hidden loss. These things do not appear in the living cost index because they are outweighed by other items such as staple foods and some rents, which have not risen.

## Sales

### COOPERATION BEING RECEIVED

Cooperation to date from stations queried in a general mailing last week by the Department of Broadcast Advertising has been extremely encouraging.

The mailing advised stations of the aims and policies of this new Department; included samples of the new standard form for success stories, and asked that current and future station promotion pieces and success stories be sent here to establish a national clearing house and centralized files upon which all NAB members may draw.

Any station that has not yet mailed its return-card is cordially invited to do so promptly, so that the record may be completed before the NAB convention.

A considerable task lies ahead in assembling and editing all material for duplication on our standard forms, but this is being attacked with as much dispatch as possible and stations will soon have a wealth of success story sales ammunition to draw upon.

### TO 4-A CONVENTION

NAB will be represented at the annual convention of the American Association of Advertising Agencies May 2-3 by Paul F. Peter, Director of Research, and Frank E. Pellegrin, Director of Broadcast Advertising. Matters discussed will be routed to the proper NAB committees for discussion at the NAB convention.

### AFA PARTICIPATION PLANNED

Radio will occupy one of the most prominent places it has ever held on a convention program of the Advertising Federation of America, when that body meets in Boston May 25-29.

As published in last week's REPORTS, the Boston stations and networks will furnish topflight entertainment for the cabaret party Tuesday night, and the highlight of the Wednesday luncheon program will be an international conversation via short wave radio between the presidents of the American and British Advertising federations.

Radio's group meeting Wednesday morning will be presided over by Robert Peare, Advertising Manager of the General Electric Co., prominent in AFA circles. Invitations have been extended by the NAB Department of Broadcast Advertising to two nationally known speakers, and their acceptances are awaited. Finally, Russell Place, NAB Counsel, and Frank E. Pellegrin, Director of Broadcast Advertising, will conduct a frank discussion of problems and issues, and report on action

taken at the NAB convention, as well as at the 4-A meeting, as they relate to commercial broadcasting. All radio men who can are urged to attend.

### NATIONAL DEFENSE BOND CAMPAIGN

Radio stations are being asked to plug the sale of National Defense bonds on a free-time basis, as a measure of cooperation with the United States government. This cooperation has been freely given throughout the nation in very creditable fashion, and is deeply appreciated by government officials in Washington. Thus far sufficient funds have not been appropriated to enable the Treasury Department to pay for advertising in any media, but NAB is assured that in the remote event that an advertising fund is made available, radio will receive its proper share.

### MOTION PICTURE PLUGS REQUESTED

An unwarranted effort to capitalize on radio's desire to cooperate in the national defense movement is reported by NAB members, whereby commercial motion picture exhibitors who have scheduled the film "I Wanted Wings" are working through recruiting offices to secure free radio advertising.

The picture, made in cooperation with the Army Air Corps, encourages the enrollment of aviation cadets. Motion picture operators are sometimes successful in persuading zealous recruiting officers to approach radio stations with the statement that "this recruiting office has been directed by the War Department to cooperate in publicity for this picture. . . . I am taking the liberty of sending you spot announcements, etc. . . ."

One appropriate answer contributed by a NAB member was to the effect that "We are quite anxious to cooperate with your office in every possible way and if any of the theaters in this territory will arrange to give free showings of this motion picture, we shall gladly do everything that we can to stimulate attendance."

We wish to repeat that NAB is working in closest harmony with national defense officials in Washington, and all worthy requests for radio's cooperation are being reported to member stations. Independent requests from scattered interested sources need place no station manager in the position of feeling that he is not cooperating adequately, and no qualms need be felt about declining such requests.

### CIRCUS SEASON BEGINS

As reported in *Editor & Publisher*, Ringling Bros. and Barnum & Bailey Combined Shows will spend about \$350,000 in newspaper advertising this year, according to circus executives.

Roland Butler, general press representative, wrote ANPA: "We are convinced that newspapers are doing an excellent job for us. Advance sales, which generally amount to as much as \$3,500 per stand, are mentioned only in newspaper ads. It's also a fact that the steady gains we've enjoyed since 1929 have been recorded in years when our newspaper expenditures have likewise been steadily increased. . . ."

As the circus rolls this year, it's certain that radio stations everywhere will be asked to broadcast sustaining special-events programs, plugging the circus and covering such activities as the arrival and unloading, the parade, erection of the big top, etc., as well as interviews with star performers.

Usually, when asked to purchase this time, the radio advance contact man states that he has no authority to place orders for commercial advertising, but that in a few days he will be followed by an advertising man, and that evidence of cooperation on the part of stations will have a bearing, etc.

*Circuses and other traveling shows will begin to use radio widely on a commercial basis, it is believed, only after stations have presented a united front for one season or two by discouraging the free-time abuse for disguised commercials.* It took the newspaper industry many years to convert the circus press agent to the purchase of space, backed up by publicity; radio stations can accelerate the process by profiting from the newspapers' example.

Meantime, any success stories you may have showing an effective job done by your station on behalf of circuses or any other amusement enterprises using commercial time, will be welcomed as a valuable contribution by the NAB Department of Broadcast Advertising as it prepares radio's case for presentation to circus executives.

### PER-INQUIRY EFFORT CONTINUES

The Rogers & Smith advertising agency of Dallas, Tex., continues to seek per-inquiry deals from radio stations on behalf of an unnamed nursery account. Although previously advised that it is not the policy of NAB member stations to do business on this basis, a recent letter from the agency to a station states that "eleven stations thus far have accepted it on a contingent basis. . . . All matters pertaining to any agreement that we may reach will be held in strictest confidence. . . ."

NAB is of the opinion that legitimate and ethical advertising can be carried on freely and above-board, both by the advertiser and the medium. An inference might be drawn that a more favorable deal can be secured by one station than by others. Indeed, NAB has positive proof that in a similar per-inquiry case, reported twice previously in REPORTS, one station received 33 1/3 per cent while others, accepting the "standard" offer, received only 20 per cent. "Strictest confidence" was prom-

ised by that advertiser likewise, but nevertheless full details were quickly uncovered by an NAB investigation.

### ESPERANTO REQUESTS TIME

For information of NAB members who have been approached for free time by Esperanto clubs, and who have requested data on the headquarters office of this organization in Washington, the Department of Broadcast Advertising finds that the Esperanto Association of North America operates a one-man office here, managed on a part-time volunteer basis by Joseph Leahy, who says the association "has no money." Some financial support comes through subscriptions to an Esperanto newspaper.

The association exists to promote the study of Esperanto, designed as an international language, to promote international understanding and goodwill. Study of the language was widespread in Europe before the war, and continues in South America. In Brazil, for example, the subject is required in public schools, and official papers are said to be printed both in Portuguese and Esperanto. Never considered very important by large numbers in the United States, Mr. Leahy says the association has between 25,000 and 30,000 members here, with about 50 clubs now organized chiefly in principal cities.

Radio activity, he said, is confined to local efforts by these clubs, who prepare their own scripts with no special assistance from the headquarters office. Whether stations wish to accept these as sustaining programs lies wholly within the discretion of each station, but caution is advised because of the present world situation, and the tendency of many listeners to regard with suspicion any programs conducted in a language other than English.

### SUCCESS STORIES NEEDED

To fill current requests from members, additional success stories, big or little, are urgently requested on these topics:

Furniture                  Florists

Please send what you have to the Department of Broadcast Advertising.

### TRADE SCHOOL WANTS DEALS

The Electronic Radio-Television Institute, of Omaha, Neb., is reported to be seeking cost-per-inquiry deals. Their letter states, however, "if your policy does not allow a per lead basis, send us a schedule of your rates. . . ." They are being advised that the best interests of advertisers and stations are served by adherence to published rates. Caution should also be exercised in accepting their statement that "Our school is the oldest school in this locality, and so far as we know, is the only school which has been given a high recommendation by govern-

ment authorities for the purpose of training radio operators and engineers in the armed forces." This statement is believed to be incorrect on both counts, and is being investigated by NAB.

## BMI

### KAYE STAYS AT BMI

Sydney M. Kaye, BMI's First Vice President and General Counsel, denied the report contained in *Variety* to the effect that he was giving up his active participation in BMI. Mr. Kaye said:

"My law firm and I have been associated with Judge Thomas D. Thacher in the preparation of the case of newspaper-radio stations and presentation of it to the Federal Communications Commission. The fact that I have undertaken this additional legal work does not in any way mean that I am going to give up my active participation in BMI. The major work of organization of BMI has been accomplished, and this, of necessity, reduces the volume of work which I must personally do. I regard BMI as a continued responsibility and I intend to give to BMI all of the time that it needs."

### NEW HIT

BMI announces the acquisition of the sensational hit of the West Coast, "Hut Sut Song," through an agreement with the Schumann Music Company of Los Angeles. Both BMI's Los Angeles and New York offices regard the song as a number one potential.

### HEMISPHERIC SOLIDARITY

Music Week, which runs from May 3 to May 10, will be featured by the performance of the native compositions of both North America and South America, which calls for rejoicing by BMI not to mention E. B. Marks and Peer International. In addition to the very well known *Frenesi*, *Perfidia*, and *Amapola*, several Latin-American compositions with English lyrics are now widely heard on the air. Among them are *Two Hearts That Pass in the Night*, *Yours*, *Maria Elena*, *Rendezvous in Rio* by Alberto Dominquez, *Green Eyes*, and *Dawn (Divina Mujer)*. Among the native American tunemakers, Sheriff Jimmy Davis of Shreveport, La., is the Abou Ben Adem with *You're My Sunshine*, *Worried Mind*, and *It Makes No Difference*. BMI will be host during the week to groups associated with the music industry who have expressed desires to get behind the scenes of a modern music company.

### BMI EXHIBIT AT THE NAB CONVENTION

In addition to its movie showing BMI in action, those attending the NAB Convention will see the evolution of *My Sister and I* from the first penciled manuscript through the various changes made—progress in the arranging and autographing departments, recordings and transcriptions, and the application to it of the new BMI "color cueing." This application of two colors to music printing is a revolutionary advance in music orchestration and has met such enthusiastic reception by musicians that it looks as if it will become a permanent feature in music printing.

Broadcasters will also have an opportunity to see how it was possible for BMI to turn out in one week more music than the entire music industry had produced in a month.

### BMI FEATURE TUNES

May 5 - May 12

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HERE'S MY HEART
8. WITH A TWIST OF THE WRIST
9. TALKIN' TO THE WIND
10. THE RELUCTANT DRAGON

### BMI FEATURE TUNES

"Going Strong," *Billboard's* title for the leaders in record sales and in coin machine popularity, aptly describes the position of BMI published and BMI controlled tunes for the week ending April 25. The music machine lists *There'll Be Some Changes Made*, *It All Comes Back To Me Now*, *Amapola*, *Oh*, *Look At Me Now* and *The Wise Old Owl* in the first division, with *Friendly Tavern Polka*, *G'bye Now* and *Do I Worry* "Coming Up." The list of best sellers in *Billboard's* record buying guide includes the same songs in the following order: *Oh*, *Look At Me Now*, *Wise Old Owl*, *There'll Be Some Changes Made*, *It All Comes Back To Me Now* and *Amapola*. Among the possibilities listed as likely prospects for music machine successes are *Number 10*, *Lullaby Lane*, *Yours*, and *Walkin' by the River*. *Walkin' by the River* by Una Mae Carlisle and Bob Sour, it is predicted by *Billboard*, will become "an exceedingly profitable item for the boxes." *Amapola*, the E. B. Marks sensational revival, continues to lead all lists with the exception of "songs with the most radio plugs," where *Do I Worry*, which comes to BMI through Melody Lane and Peer International, has reached the top position. This torchy rhythm tune, written by two young Hollywood writers, Stanley Cowan and Bobby Worth, has caught hold in the past two weeks.

### Fast Seller

*My Sister And I* is the fastest selling BMI song to date and the first outstanding hit since *I Hear A Rhapsody*. No other BMI song had attracted the same amount of sales five weeks after it began selling. The success of *Sister* is stimulating sales of *Walkin' by the River*, *Wise Old Owl*, *Friendly Tavern Polka* and *G'bye Now*.

### I Went Out of My Way

In contrast to the thousands of uninteresting songs that are submitted to BMI, there appears every now and then a "natural." Of such was *You Walk By*, which despite necessary revisions in construction, brought forth genuine enthusiasm from the BMI Editorial Staff. Now comes a song, *I Went Out Of My Way*, by Helen Bliss which is one of those songs that pleases both expert and layman at the first hearing. BMI stopped the presses when Miss Bliss came in with this tune and went to work to turn it out in record time.



Helen Bliss is a Cleveland girl, recently employed as a sales girl in Macy's Department Store in New York City, who came to the big town about a year and a half ago determined to make her way as a songwriter. She gives full credit to Benny Goodman for launching her career as a songwriter. About two years ago, Benny was playing at the Palace Theatre in Cleveland and Miss Bliss, after hearing half a dozen of his performances, determined to meet the great Goodman. Through the kind offices of Norman Siegel, radio editor of the Cleveland Press, an appointment was arranged. Goodman liked the song and took a piano copy with him to the west coast. Some months later he played it on one of his commercial broadcasts from Hollywood and commented over the air that the writer showed marked promise. That prediction was enough to send Helen Bliss packing off to New York with another song in her handbag. Regent Music Co., Benny Goodman's own publication firm, now clearing through BMI, accepted the song Miss Bliss brought them but because of the intricate construction of the tune, suggested Charley Hathaway, an arranger, as a collaborator. That song turned out to be *The Moon Won't Talk* which is gradually climbing into the ranks of best selling sheet music and is a fast growing favorite in "juke" boxes all over the country. Records of the song are finding ready sale, especially those made by Benny Goodman, Bob Chester and Ginny Sims. Bing Crosby has also featured the song in his broadcasts.

All of her songs were written without collaboration, as she finds it more convenient to work that way.

"I first think of a title," she says, "and then I pick out a tune on the piano, after which I turn my attention to the lyrics. Sometimes it takes me four or five weeks before I am satisfied that my song is ready for submission to a publisher."

### Change of Name

The new Dr. Christian picture with 100% BMI songs will be called *They Meet Again* instead of *Interlude*. There will be four songs: *When Love Is New*, *Make Believe Land of Dreams*, *Get Alive*, and *The Rhythm Is Red, White and Blue*. The BMI Professional Department will concentrate on *When Love Is New*, written by Claude Sweeton and Jack Owens.

### Opportunity Without Prejudice

In addition to popularizing Una Mae Carlisle's tune, *Walkin' by the River*, within a few weeks, Broadcast Music, Inc., has promoted the work of many other colored composers. *There'll Be Some Changes Made*, a tune popular since 1929 with jazz and swing enthusiasts climbed rapidly to popularity when the name bands began playing it after BMI made it available for broadcasting. *Changes* was written by Benton Overstreet, pianist, and Billy Higgins, a comedian featured in many musical shows. Higgins died five years ago at the age of sixty.

One of the earlier BMI tunes, widely heard now in restaurants and hotels, was *Don't the Moon Look Pretty*, by Leroy "Stuff" Smith of *I've A' Muggin'* fame. When "Stuff" first visited the offices of BMI at 580 Fifth Avenue, he whistled the tune of *Don't the Moon Look Pretty*. Milton Rettenberg, Chief of the Editorial Staff, liked the music, transferred it to the piano, and put the notes on paper. "Stuff" is better known as an orchestra leader and violinist than he is as a composer, but he scored a hit with his BMI song.

Among the other composer-musicians to attract the attention of BMI were Count Basie, whose Kansas City style band set the nation a' jumping, Lionel Hampton, vibraphone star extraordinary, Fletcher "Smack" Henderson, one of the foremost arrangers of modern American music and Cab Calloway the "King of Hi-De-Ho." The works of these four great musicians are made available by BMI through an agreement with Regent Music.

Jimmie Lunceford signed a contract with BMI whereby all the recordings of his music and his special orchestrations are available for performance. He has his own publishing house and in announcing his allegiance to Broadcast Music, Inc., said, "This contract ought to show what I think about BMI. The BMI way of dealing with writers is the best thing that has happened to American music."

BMI has also published the highly interesting work of Sidney Bechet the "young old man of jazz" who gained fame on two continents in the early 20's and 30's, as a clarinetist and soprano saxophonist. In 1919, when Bechet was touring Europe with the Sam Wooding band, Amsemeret, the celebrated French critic, went into a literary ecstasy over the technique and virtuosity of the young New Orleanian and called his performance "the greatest thing since the Brandenburg Concert." Sidney Bechet is not well known by the radio public but BMI hopes that some day he will be.

### Musical Boys and Girls

National Boys' and Girls' Week found BMI's Vice President and General Manager, M. E. Tompkins, serving as chairman of the Greater New York Committee which included Mayor LaGuardia, Attorney General John J. Bennett, Theodore Roosevelt, Bronx Borough President, J. J. Lyons and Manhattan Borough President Stanley Isaacs. BMI shared the publicity with Benny Goodman, Gene Krupa, with the Hotels Pennsylvania, New Yorker and Governor Clinton, where the winners posed for pictures. Music Day, Thursday, May 1st, was celebrated by a special visit to BMI by the boys and girls showing outstanding promise in music, selected from thirty-one children's aid societies, boys' athletic leagues, and allied youth movement groups. Mr. Tompkins acted as host and the visitors received the inside story of the music business and how hits are made.

## Miscellaneous

### LIST "USO" RADIO COMMITTEE

Seventeen broadcast executives have accepted membership on the National Radio Committee of the United Service Organizations for National Defense, headed by NAB President Neville Miller.

Committee members are:

Edgar Bill, President, WMBD, Peoria  
 Burrige D. Butler, Chairman, KOY, Phoenix  
 Martin Campbell, Managing Director, WFAA, Dallas  
 Roger W. Clipp, General Manager, WFIL, Philadelphia  
 Edwin W. Craig, President, WSM, Nashville  
 Roy L. Harlow, Vice President, Yankee Network  
 Jack R. Howard, President, Scripps Howard Radio, Inc.  
 Henry P. Johnston, General Manager, WSGN, Birmingham  
 Harold A. Lafount, WOV, New York  
 Howard Lane, McClatchy Radio Stations  
 Alfred J. McCosker, President, WOR, New York  
 Edwin C. Noble, President, WMCA, New York  
 William S. Paley, President, Columbia Broadcasting System  
 William J. Scripps, General Manager, WWJ, Detroit  
 Griff Thompson, Vice President, WBBC, Brooklyn  
 Niles Trammell, President, National Broadcasting Company  
 Lewis Allen Weiss, Vice President, Don Lee Broadcasting System

The "USO" is composed of the Young Men's Christian Association, The National Catholic Community Service, the Salvation Army, the Young Women's Christian Asso-

ciation, the Jewish Welfare Board and the National Travelers Aid Association.

Thomas E. Dewey of New York is National Chairman and Walter Hoving is President.

The campaign has the endorsement of President Roosevelt, Secretary of War Stimson, Secretary of the Navy Knox, General George C. Marshall, Chief of Staff, as well as leaders in all walks of life in the nation.

The \$10,765,000 program is to provide service club facilities and recreational activities in 339 locations adjacent to camps, naval stations and defense centers throughout the United States and its overseas bases. The government will provide the buildings.

### CHINA RELIEF SEEKS \$5,000,000

The seven China relief agencies that heretofore have been doing the bulk of Chinese relief and rehabilitation now are combined in a united, nationwide campaign for \$5,000,000 under the name United China Relief.

United China Relief is registered with the State Department. Its campaign now is developing. It will include recorded plays, statements by prominent people and spot announcements which will be distributed to radio stations for their entertainment and public service value to American listeners.

James G. Blaine, president of the Marine Midland Trust Company of New York, is chairman of United China Relief. Directors include Pearl S. Buck, former Ambassador William C. Bullitt, Paul G. Hoffman, Thomas W. Lamont, Henry R. Luce, John D. Rockefeller, 3d, Col. Theodore Roosevelt, Jr., David O. Selznick, President Robert G. Sproul of the University of California and Wendell L. Willkie.

In the course of its campaign, United China Relief plans to make radio material available to station program managers both through local committees being formed in key cities throughout the country and through national headquarters, 1790 Broadway, New York City.

### FORUM PROGRAMS

The American Civil Liberties Union has asked the NAB to supply it with a complete list of radio forums dealing with local problems *regularly* broadcast. The NAB would appreciate it if all stations carrying such programs would send in their names and brief descriptions.

### CHAMBER OF COMMERCE

In taking action on final resolution here at the annual convention this week, the United States Chamber of Commerce referred the radio broadcasting situation to its Board of Directors for further consideration. The study was asked for by an unnamed member organization of the United States Chamber as follows:

*Radio Broadcasting*, with a declaration that the rapid growth in the use of radio for entertainment and educational purposes,

as well as communications purposes, has made necessary regulation to prevent disorder and interference in the use of the air. The characteristics of radio render this essentially a problem for federal rather than state control. Regulation of radio communication should not invade private management. It should be based upon the principle that the interest of the listening public is the paramount consideration in radio broadcasting. Other forms of communication are primarily for the service of the sender, but broadcasting serves the listener. No regulation should attempt to force upon the public undesired program matter. Station owners, like newspapers and magazines, must be free to select and edit their program material.

### AGAINST BOOK COLLECTIONS

The advisability of a station endeavoring to collect books and old magazines for the new Army was a question put to NAB this week.

The Army advised against such promotions. Officials reported that experience indicates that only about ten per cent of the books donated are suitable. Gift books include everything from fairy stories to subversive literature and grammars. The amount of time required for a book promotion can be more effectively employed, from both a service and civilian morale point of view, along other directions, according to Army headquarters.

Definite suggestions are available to station managers who write Ed Kirby, Radio Section, Bureau of Public Relations, War Department, Washington, D. C.

### CONTEST ON WJZ-BLUE

In connection with her weekly program, Alma Kitchell's Brief Case, over WJZ-Blue, Miss Kitchell is promoting a letter writing contest. Writer of best letter on "How Radio Helps Me to be a Better Prepared Citizen" gets console radio on May 28.

### WORKS WITH SERVICEMEN

Working toward a closer tie-up with radio servicemen for mutual benefit, J. B. Conley, general manager of WOWO-WGL, Fort Wayne, Ind., has made the studios available to a local servicemen's group for its monthly meeting. An entire year's program of meetings is being worked out, featuring movies, lectures, and discussions. The group held its first meeting April 25, with about 140 servicemen and "hams" in attendance. The tie-up can be attributed directly to the cooperation between servicemen and WOWO-WGL during the "Radio Movin' Day" promotion.

## Legal

### ASCAP CASES ARGUED

On Tuesday and Wednesday of this week the Nebraska and Florida ASCAP cases were argued before the Supreme Court of the United States. William J. Hotz, Special Assistant to the Attorney General of Nebraska, argued

for the Attorney General of Nebraska, and Lucien H. Boggs of Jacksonville, Florida, and Tyrus A. Norwood, Assistant Attorney General of Florida, made the oral argument for the Attorney General of Florida. ASCAP was represented by Judge Thomas J. Haight and Frank Wideman.

In both cases ASCAP had secured an injunction against enforcement of the state statutes declaring illegal monopolies and price-fixing combinations in the field of performing rights. The specially constituted Federal court in Nebraska had held the Nebraska statute unconstitutional; a similar court in Florida had declared the 1937 Florida statute and parts of the 1939 statute unconstitutional. Appeals were taken to the Supreme Court. The last opinion day scheduled is June 2.

### COPYRIGHT AND LIBEL INSURANCE

The NAB Insurance Committee met in New York Thursday to consider two plans of copyright and libel insurance which have been submitted. It is expected that their analysis and recommendations, if any, will be released at or before the convention at St. Louis May 12.

### FEDERAL LEGISLATION

#### HOUSE

H. R. 4521 (Kramer, D.-Calif.) COPYRIGHT—To amend section 64 of the copyright law (title 17, U. S. C.) so as to make copies or reproductions of prints and labels available upon payment of the required fee. Referred to Committee on Patents.

H. R. 4522 (Mrs. Rogers, R.-Mass.) DAYLIGHT SAVING—To provide daylight saving between the last Sunday in March and the last Sunday in October in each year. Referred to Committee on Interstate and Foreign Commerce.

### STATE LEGISLATION

#### FLORIDA:

S. 268 (Whitaker, et al.). RECORDED MUSIC—Prevents claims for additional compensation, fees or payment after sale, of phonograph records or transcriptions of any form of recorded music. Referred to Committee on Judiciary "C".

S. 269 (Whitaker, et al.). RADIO DEFAMATION—Amends Sec. 1, Chapter 19,616, Acts of 1939, relating to civil liabilities of owners, licensees and operators of radio broadcasting stations for radio defamation or libel statements. Referred to Committee on Judiciary "C".

#### MAINE:

S. 567 (Majority of Committee of Conference). ADVERTISING—To prevent fraudulent advertising.

#### RHODE ISLAND:

H. 1055 (Kiernan). COPYRIGHTED MUSIC—Declaring to be an unlawful monopoly and its purpose to be in restraint of trade certain combinations of persons and corporations, and the regulation thereof. Authors, composers, publishers and owners of musical compositions prohibited from charging fees for copyrighted music. Referred to Committee on Judiciary.

## FEDERAL COMMUNICATIONS COMMISSION

### POLICY WITH RESPECT TO NEWSPAPERS

In keeping with FCC policy not to grant new applications by newspaper interests for high frequency (FM)

broadcast facilities pending determination of the general question of newspaper control of broadcast facilities, the Commission is also placing in its pending files all applications by newspaper interests for new standard broadcast stations, as well as applications for transfer of control of existing standard broadcast facilities to newspaper interests. Such action is intended to protect newspapers from incurring substantial radio expenditures prior to the Commission's fact-finding inquiry.

This supplemental action is in conformity with Order No. 79, of March 20, which provides that Commission investigation and public hearing "shall also include consideration of statement of policy or rules, if any, which should be issued concerning future acquisition of standard broadcast stations by newspapers." Date for this hearing will be set in the near future.

In the case of standard broadcast stations already licensed to newspaper interests, improvements in facilities may be permitted if the proposed increase in service is shown to be in the public interest, convenience and necessity, and in conformity with prescribed engineering requirements.

### "HEIL HITLER" STATION SEIZED

Search by the National Defense Operations Section of the Federal Communications Commission for unauthorized radio transmission which trespassed on Government frequencies and purported to be in the service of "foreign agents" today culminated in the arrest at Peoria, Illinois, of Charles W. Johnson, who identified himself as a senior student in electrical engineering at a certain mid-western institute. Johnson's home revealed illegal equipment, which was seized by a United States Marshall, and Johnson was charged with violating Sections 301 and 318 of the Communications Act.

The monitoring stations in the Commission's national defense operations were originally enlisted to trace signals from an unlicensed radio station, the operator of which called himself "Fritz" and frequently concluded his transmissions with "Heil, Hitler". No identifying call letters were used.

Listening-in procedure revealed this operator to have more than average knowledge of certain codes and ciphers. In fact, he claimed on the air to be a cryptographer for a signal unit in a German army of occupation. His general procedure was to broadcast that he was a foreign agent and to attempt to engage in communications between United States Government stations. In so doing, he declared that he was relaying information from foreign agents. On one occasion he implied that Government channels would be "jammed" by high-powered radio stations being constructed for that purpose. At another time he sent out a message in cipher which, when decoded, proved to be in German and related to certain foreign troop movements. In his transmissions "Fritz" made effort to obtain military information.

The following excerpts are typical of "Fritz's" communications:

"Staff plans are now coming in, but they are very detailed and long. Too much trouble to re-encipher again.

"Tell your cryptographer that this is a columnar position (Fritz proceeded to transmit the cipher message).

"I am a cryptographer. You must give me some information in exchange for this stuff. Give me the location of (gave several U. S. Government station calls.)

"This station is now in hands of enemy. Your insolence will not be tolerated by German troops. This station now in control of German Signal Corps.

"Name here is Hans VonKeitel, Heil Hitler.

"I want your codes and ciphers. Give them to me or else we will jam this net with big rig.

"You will be in concentration camp. I am a cryptographer for this signal unit in the German Army of Occupation.

"I am on the ADMIRAL SCHEER and never dock. (When asked where he was located 'Fritz' said 'Off coast of Madagascar'.)"

When the signals were first intercepted, there was no indication of where "Fritz" was located. The task of hunting down his station involved the use of highly specialized equipment recently perfected for the Commission's national defense field forces. The transmitter was finally traced to Johnson's residence on North Sheridan Road in Peoria. When the officers entered Johnson tried to destroy his equipment but was prevented.

Besides having the close cooperation of various Federal agencies in this ether hunt, the Commission's field staff was personally assisted by United States Commissioner William H. Moore, United States District Attorney Howard L. Doyle, United States Marshals Eugene Ahernds and C. T. Curry, and Chief of Police Leo F. Kamins of Peoria.

## STATISTICAL YEARBOOK

Financial and operating data relating to common carriers and broadcast stations subject to the provisions of the Communications Act have been assembled in a single volume entitled "Statistics of the Communications Industry in the United States", which has just been placed on sale by the Superintendent of Documents, Government Printing Office, Washington, D. C., at a price of 25 cents a copy.

These statistics, compiled by the Accounting, Statistical and Tariff Department of the Federal Communications Commission from reports filed with the Commission, are being presented in yearbook form for the first time. The initial volume covers the year ended December 31, 1939.

The publication includes summary data, individual company data and intercorporate relationships of telephone, telegraph, cable and radiotelegraph carriers, and financial and operating data relative to standard broadcast stations and networks.

The compilation replaces mimeographed material heretofore issued at intervals and is augmented by statistical tables formerly included in the Commission's annual report to Congress.

## PROCEDURE REVISED

The FCC announced that its procedure for examination of standard broadcast, high frequency broadcast, international, and television radio applications by the staff departments has been further revised with a view to more expeditious handling, extending the principle of simultaneous consideration of applications announced October 19, 1940 (mimeograph No. 44324).

Under the new procedure, applications falling within the above classes will be required to be filed in triplicate instead of in duplicate as formerly. However, in the case of such applications designated for hearing, applicants will no longer be required to accompany their appearances with an additional copy of the application.

In all other respects, the procedure announced in the Commission's release of October 19, 1940, will be continued.

It is not the intention of this change in procedure (amending Items *d* and *f* contained in Section 1.351, and Section 1.382(b) of the Commission's Rules of Practice and Procedure) to require filing of additional engineering data, since three copies of maps and other technical material are already furnished with broadcast applications.

## STL BROADCAST RULES AMENDED

The Commission en banc on April 29 amended the rules, effective immediately, governing STL (Studio Transmitter Link) broadcast stations so as to provide for the utilization of stations in this service by licensees of international broadcast stations.

Conforming with the Commission's action, the amended rules will permit the holding of not more than two STL broadcast station licenses in connection with each license for an international broadcast station.

## RULE CHANGE

The Commission en banc today amended Section 1.351, items *d* and *f*, and Section 1.382(b) of the Commission's Rules of Practice and Procedure, so as to require the furnishing by applicants of three copies of standard broadcast, high frequency broadcast, international, and television radio applications instead of duplicate copies as heretofore.

The effective date of these amendments will be May 1, 1941.

## ASSIGNMENTS

The FCC announces that the work, business and functions of the Commission for the month of May have been assigned as follows:

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

Commissioner Craven: 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 hearings, including all 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 and 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 broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, May 5. They are subject to change.

Monday, May 5

KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—C. P., 600 ke., 500 watts night, 1 KW LS.

Tuesday, May 6

NEW—Wayne M. Nelson, Concord, N. C.—C. P., 1380 kc., 1 KW, daytime.

Wednesday, May 7

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, 890 kc., 500 watts night, 1 KW day, SH-KUSD.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings and oral arguments in broadcast cases. They are subject to change.

May 19

Hearing to be held in Pensacola, Florida, Beginning May 19 and Continued Thereafter in Panama City, Florida and Ocala, Florida, as Follows:

Pensacola, Florida, in Court Room, County Court Building.  
Panama City, Florida, in Court Room, County Court House.  
Ocala, Florida, in U. S. Court Room, 2nd Floor, U. S. Post Office Bldg.

WTMC—Ocala Broadcasting Company, Inc., Ocala, Fla.—In the matter of revocation of license of station.

WDLP—Panama City Broadcasting Company, Panama City, Fla.—In the matter of revocation of license of station.

May 22

Oral Argument Before the Commission

NEW—Hobart Stephenson, Milton Edge, Edgar J. Korsmeyer, d/b as Stephenson, Edge & Korsmeyer, Jacksonville, Ill.—C. P., 1150 kc., 250 watts, daytime.

NEW—Helen L. Walton & Walter Bellatti, Jacksonville, Ill.—C. P., 1150 kc., 250 watts, daytime.

May 23

KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—C. P., 1410 kc., 1 KW, unlimited, DA-night.

May 28

KRBC—Reporter Broadcasting Company, Abilene, Tex.—C. P., 940 kc., 1 KW, unlimited, DA-night and day. Present assignment: 1420 kc., 250 watts, unlimited.

WRDO—WRDO, Incorporated, Augusta, Me.—Renewal of license, 1370 kc., 100 watts, unlimited time.

June 2

To be Held in Atlanta, Georgia

Court Room to be Assigned Later

WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main and auxiliary), 890 kc., 1 KW night, 5 KW LS, unlimited time.

June 24

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—C. P., 1500 kc., 250 watts, unlimited. Present assignment, 1310 kc., 100 watts, S-WHAT.

June 26

WKZO—WKZO, Incorporated, Kalamazoo, Mich.—C. P., 590 kc., 5 KW, unlimited, DA-night. Present assignment, 590 kc., 1 KW, unlimited, DA-night.

July 7

KWTO—Ozarks Broadcasting Company, Springfield, Mo.—C. P., 560 kc., 1 KW, night, 5 KW, day, unlimited, DA-night.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

KSUN—Copper Electric Co., Inc., Lowell, Ariz.—Granted authority to transfer control of the Copper Electric Co., Inc., licensee of Station KSUN, from James S. Maffeo and Lawrence R. Jackson to Carleton W. Morris (463¼ shares, or 58.7% of the issued and outstanding capital stock of the licensee corporation, for a total consideration of \$6,001; station operates on 1200 kc., 250 watts, unlimited time (B5-TC-245).

WESX—North Shore Broadcasting Co., Salem, Mass.—Granted construction permit to make changes in equipment and increase power from 100 watts night and day to 250 watts night and day; 1230 kc. (B1-P-3052).

WHBL—Press Publishing Co., Sheboygan, Wisc.—Granted construction permit to install directional antenna for night use and increase power from 250 watts night, 1 KW day, to 1 KW night and day; 1330 kc. (B4-P-2972).

KRJV—Sarah M. Scanlan, Executrix of estate of Jos. D. Scanlan, Deceased (Transferor), Sarah M. Scanlan (Transferee), Star Printing Co. (Permittee), Miles City, Mont.—Granted authority to transfer control of corporation from Sarah M. Scanlan, executrix of the estate of Joseph D. Scanlan, deceased, to Sarah M. Scanlan. The purpose of the application is to assign and transfer 403 shares of common voting stock in Star Printing Co., permittee of station KRJV from Sarah M. Scanlan in her representative capacity as executrix to herself personally. Station operates on 1340 kc., 250 watts, unlimited time (B5-TC-262).

Alamance Broadcasting Co., Inc., Burlington, N. C.—Granted construction permit for new standard broadcast station to operate on 920 kc., 1 KW, daytime only; exact transmitter site and antenna system to be determined with Commission's approval (B3-P-3093).

K47SL—Radio Service Corp. of Utah, Salt Lake City, Utah.—Ordered issuance of construction permit for new FM station with condition that no construction facilities shall be undertaken or completed until Commission has acted on the general newspaper-ownership question under Order No. 79.

W55M—The Journal Company (The Milwaukee Journal), Milwaukee, Wis.—Ordered issuance of construction permit for new FM station under last proviso of Order No. 79, upon finding that public interest, convenience and necessity will be served by construction at this time, and without prejudice to determination of newspaper issue.

### DESIGNATED FOR HEARING

West Allis Broadcasting Co., West Allis, Wis.—Application for construction permit for new standard broadcast station to operate on 1480 kc., 250 watts, daytime only; applicant requests local operation on regional channel (B4-P-3045).

KFJM—University of North Dakota, Grand Forks, N. D.; Dalton Le Masurier, Grand Forks, N. D.—Application for renewal of license of KFJM (B4-R-657) and application for modification of license of KFJM to change hours of operation from unlimited to specified hours (3 to 5 p. m., daily) and change studio site to University Campus, Grand Forks, N. D. (B4-ML-1048); to have consolidated hearing of above two applications and application of Dalton Le Masurier for new station to operate on 1440 kc., 500 watts night, 1 KW day, S. H., requests facilities of KFJM (B4-P-3084).

WTAQ—WHBY, Inc., Green Bay, Wis.—Application for construction permit to make changes in directional antenna system to use same pattern day as now used at night; involves loss of service to over 100,000 listeners; 1360 kc., 500 watts night, 5 KW LS.

### RENEWAL OF LICENSES

Granted renewal of the following developmental broadcast station licenses for the period May 1, 1941, to May 1, 1942:

W3XDD, Whippany, N. J.; W3XPY, Whippany, N. J.;

W8XO, Mason, Ohio; W10XF, National Broadcasting Co., Inc. (portable); W10XR, National Broadcasting Co., Inc. (portable-mobile).

W9XC—Central Broadcasting Co., near Mitchellville, Iowa—Extended license of developmental broadcast station expiring May 1, 1941, to June 1, 1941, pending receipt of application for renewal of license (B4-SEX-22).

WBOE—Cleveland City Board of Education, Cleveland, Ohio.—Granted renewal of non-commercial educational broadcast station license for the period May 1, 1941, to May 1, 1942 (B2-RED-1).

Granted further extension upon a temporary basis only, pending determination upon applications for renewal of licenses, in no event longer than June 1, 1941, of following television stations:

W3XE, Philco Radio and Television Corp., Philadelphia, Pa.; W3XP, same company, portable (area of Philadelphia, Pa.), (B2-SVB-8, B2-SVB-19).

Granted further extension upon a temporary basis only, pending determination upon applications for renewal of licenses, in no event longer than June 1, 1941, of following high frequency broadcast stations:

W2XVP, New York City; W9XLA, Denver, Colo.; W4XA, Nashville, Tenn.; W5XAU, Oklahoma City, Okla.

### MISCELLANEOUS

KECA—Earle C. Anthony, Inc., Los Angeles, Cal.—Granted modification of construction permit (B5-P-2698, which authorized increase in power and installation of DA for night use) for change in directional antenna on **790 kc.** under NARBA (B5-MP-1251).

WTNA—Atlantic Coast Broadcasting Co., Charleston, S. C.—Granted modification of construction permit (B3-P-2985, for new transmitter, installation of DA for night use, increase in power to 1 KW, change in frequency from **1210 kc.** to **1220 kc.**, and move of transmitter), for installation of new transmitter, requesting **1250 kc.** under NARBA, changes in DA system, and extension of commencement date 30 days after grant and completion date to 60 days thereafter (B3-MP-1262).

KOIL—Central States Broadcasting Co., Omaha, Neb.—Granted modification of construction permit (B4-P-2609, which authorized installation of DA and increase in power), for changes in DA and **1290 kc.** under NARBA (B4-MP-1245).

WBBC—Delta Broadcasting Co., Escanaba, Mich.—Granted modification of construction permit (B2-P-2854, which authorized a new broadcast station) for approval of vertical antenna, approval of studio site, transmitter site and installation of new transmitter, **1490 kc.**, 250 watts, unlimited time (B2-MP-1143).

KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Granted modification of construction permit (B5-P-2845, for installation of DA, increase in power) for **950 kc.** under NARBA and changes in directional antenna (B5-MP-1244).

WFDF—Flint Broadcasting Co., Flint, Mich.—Granted modification of construction permit (B2-P-2451, as modified, which authorized installation of new transmitter and directional antenna for day and night use, increase in power, change of frequency, and move of transmitter), for changes in directional antenna for day and night use, requesting **910 kc.** under NARBA (B2-MP-1224).

KMO—Carl E. Haymond, Tacoma, Wash.—Granted modification of construction permit (B5-P-2707, for new transmitter and increase in power from 1 to 5 KW), for authority to install new transmitter, make changes in antenna system, requesting **1360 kc.** under NARBA, and extension of commencement date to 30 days after grant, completion date to 90 days thereafter (B5-MP-1263).

WKRO—Oscar C. Hirsch, Cairo, Ill.—Granted modification of construction permit (B4-P-3022, which authorized a new station) for approval of transmitter and studio sites, approval of antenna, and **1490 kc.** under NARBA (B4-MP-1226).

KWSC—State College of Wash., Pullman, Wash.—Granted modification of construction permit (B5-P-2911, for changes in equipment), authorizing installation of automatic frequency control equipment on **1250 kc.** under NARBA, and extension of commencement date to 10 days after grant and completion date to 180 days thereafter (B5-MP-1240).

WPEN—Wm. Penn Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit (B2-P-2658, as modified, which authorized installation of new transmitter, increase

in power to 5 KW) for **950 kc.** under NARBA, changes in directional antenna and extension of completion date to 180 days after grant.

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Granted modification of construction permit (B1-P-1704, which authorized installation of new transmitter and DA system, change in operating time from daytime to unlimited, increase in power from 500 watts to 1 KW, and move of transmitter) for extension of completion date to May 25, 1941 (B1-MP-1275).

WHYN—The Hampden-Hampshire Corp., Holyoke, Mass.—Granted license to cover construction permit (B1-P-1701), which authorized a new station specifying **1400 kc.** under NARBA, 250 watts, unlimited time (B1-L-1374). Also granted authority to determine operating power by direct measurement of antenna power (B1-Z-787).

WKEU—Radio Station WKEU, Griffin, Ga.—Granted additional time to operate April 21 through May 17, 1941, in order to broadcast a revival program only, subject to condition that each program is non-sponsored and further subject to the condition that station operate under this authority only during the time Rev. J. M. Hendley's actual participation in such program (B3-S-819).

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 5 to 6 p. m. on May 2, 9, 13, 23, from 5:45 to 8:30 p. m., May 3; from 4 to 5 p. m., CST, May 4, in order to broadcast Purdue baseball games and Gala Week activities only (B4-S-501).

W1XOJ—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to rebroadcast certain programs of station W1XPW for a period beginning May 1 to July 1, 1941.

KWTO—Ozarks Broadcasting Co., Springfield, Mo.—Granted motion for continuance of hearing now scheduled for May 8 for period of 60 days, on application for construction permit to change hours of operation to unlimited on **560 kc.**

WGST—Georgia School of Technology, Atlanta, Ga.—Granted motion for continuance of hearing now scheduled for May 1 for period of 30 days, on application for renewal of license of WGST.

WRDO—WRDO, Inc., Augusta, Maine.—Granted petition in part for continuance of hearing for period of 30 days from April 28, in re application for renewal of license.

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Granted petition for continuance of hearing for period of 60 days on application now scheduled for April 25 for construction permit to change frequency from **1310 kc.** to **1500 kc.**, increase power from 100 watts to 250 watts, and time from sharing with WHAT to unlimited.

The Lorain County Radio Corp.—Granted motion to strike from files reply memorandum brief of Radiomarine Corp. of America, in re application of Lorain County Radio Corporation's application for coastal harbor facilities at Lorain, Ohio, Port Washington, Wis. and Duluth, Minn., and of Radiomarine Corp. of America for coastal harbor stations at West Dover, Ohio, and Buffalo, N. Y.

W1XSO—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43700 kc.**, 1 KW, special emission for FM, with transmitter located at Avon, Conn., for period May 1 to July 1, 1941.

W1XOJ—The Yankee Network, Inc., Paxton, Mass.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **44300 kc.**, 50 KW, special emission for FM, with transmitter located at Paxton, Mass., for the period May 1 to July 1, 1941.

Stephenson, Edge & Korsmeyer, Helen L. Walton & Walter Bellati, Jacksonville, Ill.—Scheduled for oral argument on May 22, 1941, in re Proposed Findings of Fact (B-130) on applications of Hobart Stephenson, Milton Edge, Edgar J. Korsmeyer, d/b as Stephenson, Edge and Korsmeyer, and Helen L. Walton & Walter Bellati, for construction permits for new stations at Jacksonville, Illinois.

WMAS—WMAS, Inc., Springfield, Mass.—Granted motion to dismiss without prejudice application for construction permit to change frequency from **1420** to **910 kc.**, and increase power from 250 watts to 1 KW night, 5 KW day, DA.

WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted motion to withdraw application for modification of construction permit to add 500 watts night and operate unlimited time.

- High Point Broadcasting Co., High Point, N. C.—Granted petition for order to take depositions in re application for new station to operate on **1370 kc.**, 100 watts, unlimited time.
- WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Petition for enlargement of issues in re application to change frequency, increase power and operating time, withdrawn.
- KOMA—KOMA, Inc., Oklahoma City, Okla.—Granted request for extension of time to May 15 within which to file amendment to application for construction permit to change frequency and increase power to 50 KW.
- James F. Hopkins, Inc., Detroit, Mich.—Granted motion for leave to amend application for high frequency broadcast station to specify a different location, antenna and required coverage, to be filed within 2 weeks, and application moved from hearing docket.
- KOVO—Clifton A. Tolboe, tr./as Citizens Voice & Air Show (Assignor) and KOVO Broadcasting Co. (Assignee), Provo, Utah.—Motion to dismiss application for voluntary assignment of license without prejudice, withdrawn.
- WFCI—Pawtucket Broadcasting Co., Pawtucket, R. I.—Granted modification of construction permit (B1-P-1877, for new station) for changes in directional antenna and requesting **1420 kc.** under NARBA (B1-MP-1223).
- WBAA—Purdue University, W. Lafayette, Ind.—Granted modification of construction permit (B4-P-2604, which authorized installation of new transmitter and DA for night use, increase in power, change in hours of operation, and move transmitter), for change in type of transmitter, and changes in DA for night use on **920 kc.** under NARBA (B4-MP-1208).
- WSBT—The South Bend Tribune, South Bend, Ind.—Granted modification of construction permit (B4-P-900, which authorized changes in equipment, installation of directional antenna for day and night use, change frequency, hours of operation and move of transmitter) for changes in directional antenna for day and night use, requesting **960 kc.** under NARBA, and extension of completion date to 90 days after grant (B4-MP-1227).
- WDBJ—Times-World Corp., Roanoke, Va.—Granted modification of construction permit (B2-P-2522, as modified, for installation of directional antenna and increase in power to 5 KW) for change in frequency to **960 kc.** under NARBA (B2-MP-1202).
- WKBH—WKBH, Inc., La Crosse, Wisc.—Granted modification of construction permit (B4-P-2733, to move transmitter, install new transmitter and directional antenna for night use and increase power from 1 to 5 KW) for authority to install new transmitter, requesting **1410 kc.** under NARBA, and changes in directional antenna system, extension of commencement date to 60 days after grant and completion date to 180 days thereafter (B4-MP-1261).
- WEAN—The Yankee Network, Inc., Providence, R. I.—Granted modification of construction permit (B1-P-2037, which authorized increase in power and changes in DA), for changes in DA on **790 kc.** under NARBA (B1-MP-1253).
- WCAM—The City of Camden, Camden, N. J.—Granted authority to determine operating power by direct measurement of antenna power, **1310 kc.** under NARBA (B1-Z-793).
- KGB—Don Lee Broadcasting System, San Diego, Cal.—Granted authority to determine operating power by direct measurement of antenna power, **1360 kc.** under NARBA (B5-Z-784).
- WLOF—Hazlewood, Inc., Orlando, Fla.—Granted authority to determine operating power by direct measurement of antenna power, **1230 kc.** under NARBA (B3-Z-777).
- KMYC—Marysville-Yuba City Broadcasters, Inc., Marysville, Cal.—Granted authority to determine operating power by direct measurement of antenna power, **1450 kc.** under NARBA (B5-Z-806).
- WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted modification of construction permit (B4-P-2063, which authorized installation of new transmitter, increase in power, change in hours of operation, installation of DA for day and night use, and move of transmitter) for change in type of transmitter, changes in DA for day and night use on **1390 kc.** under NARBA, and extension of commencement and completion dates to 30 and 180 days after grant respectively (B4-MP-1266).
- WEXL—Royal Oak Broadcasting Co., Royal Oak, Mich.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-761).
- WNOE—WNOE, Inc., New Orleans, La.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-788).
- KSAL—KSAL, Inc., Salina, Kans.—Granted license to cover construction permit (B4-P-2765), which authorized increase in power and changes in directional antenna system, **1120 kc.** (1150 under NARBA), 1 KW, unlimited time, DA at night (B4-L-1371). Also granted authority to determine operating power by direct measurement of antenna power (B4-Z-763).
- KDYL—Intermountain Broadcasting Corp., Salt Lake City, Utah.—Granted modification of construction permit (B5-P-2721 for installation of DA for day and night use, and increase in power) for changes in DA system, and requesting **1320 kc.** under NARBA (B5-MP-1272).
- KRCO—Columbia Broadcasting System, Inc., Portable-Mobile (area of Los Angeles).—Granted license to cover construction permit (B5-PRE-377, which authorized a new relay station), frequencies **33380, 35020, 37620, 39820 kc.**, 100 watts, to be used with applicant's standard broadcast station KNX, Los Angeles (B5-LRE-345).
- WISN—Hearst Radio, Inc., Milwaukee, Wis.—Granted modification of construction permit (B4-P-2608, as modified, for new transmitter, installation of DA for day and night use, increase in power and move of transmitter) for **1150 kc.** under NARBA and changes in DA, also extension of completion date to 180 days after grant (B4-MP-1242).
- WFEA—New Hampshire Broadcasting Co., Manchester, N. H.—Granted modification of construction permit (B1-P-2730, to install new transmitter, increase power and make changes in DA), for changes in directional antenna system, and requesting **1370 kc.** under NARBA (B1-MP-1265).
- United Theatres, Inc., and Enrique Abarca Sanfeliz, San Juan, P. R.—Issued final order adopting Findings of Fact and Conclusions denying application of United Theatres, Inc., for new station at San Juan, P. R., and granting conditionally the application of Enrique Abarca Sanfeliz for new station at San Juan, P. R. (B-134).
- WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla., WDLF—Panama City Broadcasting Co., Panama City, Fla.—Continued hearings now scheduled for May 5 to May 19, 1941, in re revocation of licenses of Stations WTMC and WDLF.
- WMBD—Peoria Broadcasting Co., Peoria, Ill.—Granted special temporary authority to broadcast a program originating in an Army transport airplane from 4:30 to 4:45 p. m., CST, April 24, 1941 (B4-S-595).
- W55NY—William G. H. Finch, New York, N. Y.—Granted modification of construction permit which authorized new high frequency broadcast station, for change in location of transmitter from 1819 Broadway, New York, to 10 East 40th St., New York, change in type of transmitter and approval of antenna system (B1-MPH-20).
- KIJG—Eagle Broadcasting Co., Inc., area of Brownsville, Tex.—Granted further extension upon a temporary basis only of relay broadcast station license, pending determination upon application for renewal of license, to not later than June 1, 1941 (B3-SRY-10).
- W8XFM—The Crosley Corp., Cincinnati, Ohio.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 1000 watts power, special emission for frequency modulation, with the transmitter located at Corner Vine and Fifth Streets, Cincinnati, Ohio, and described as Crosley, Type EDS-213-N, maximum rated carried power output 1000 watts, for period May 1, 1941, to not later than June 29, 1941.
- C. M. Jansky, Jr., & S. Bailey d/b as Jansky & Bailey, Washington, D. C.—Granted extension of temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at 1219 Wisconsin Ave. at Georgetown, D. C., and described as Composite, maximum rated carrier power 1000 watts, for period May 1, 1941, to not later than June 29, 1941.
- KFAS—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Granted special temporary authority to relay broadcast to Radio Station KFAR a 15-minute emergency program in connection with the Tanana Ice Breakup on or before May 15, 1941, using a 40-watt, Lear crystal controlled transmitter, type UT-6 on frequency **6425 kc.**
- W2XBS—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate a specially constructed 1 KW peak power, special emission laboratory

- model FM transmitter alternately with the regular W2XBS transmitter on Channel No. 1 for the purpose of making field observations, for a period not to exceed 30 days.
- W2XWG**—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate Station W2XWG on **45100 kc.**, 1000 watts power, A4 and special emission for frequency modulation at 350 Fifth Ave., New York City, for the period May 1, 1941, to not later than June 29, 1941, pending final authorization and completion of construction of applicant's new high frequency broadcast station.
- W3XEZ**—RCA Manufacturing Co., Inc., Camden, N. J.—Granted extension of special temporary authority to operate Class 1 experimental radio station W3XEZ on **44900 kc.**, 1000 watts power, A3, A4 and special emission for frequency modulation, using a 1 KW FM broadcast transmitter, type FM-1-B, for the purpose of conducting field strength survey; authority to be from April 27, 1941, until further order of the Commission but not later than May 27, 1941, subject to the condition that no interference results to any high frequency broadcast station.
- WGES**—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Denied extension of special temporary authority to operate on **1390 kc.** with power of 500 watts during the hours vacated by Station WSBT (6 to 7 a. m., 12 to 3 p. m. and 8 to 12 midnight, CST), for the period April 27 to May 27, 1941, to broadcast sponsored programs as well as non-sponsored programs only, pending completion of construction in accordance with construction permit for unlimited time operation.
- WBSB**—The South Bend Tribune, South Bend, Ind.—Granted extension of special temporary authority to operate unlimited time on **960 kc.**, 250 watts night, 500 watts daytime for the period April 27, 1941, to not later than May 27, 1941, pending completion of construction in accordance with permit B4-P-900 as modified, provided operation on additional hours is for non-commercial programs only.
- WSJS**—Piedmont Publishing Co., Winston-Salem, N. C.—Granted extension of license upon a temporary basis only and upon the express condition that it is subject to whatever action may be taken by the Commission upon the application for renewal of license pending before it and pending disposition of application for consent to transfer control then having been filed, in no event later than May 29, 1941.
- WPAT**—North Jersey Broadcasting Co., Inc., Paterson, N. J.—Granted modification of construction permit for authority to install new transmitter; **930 kc.** (B1-MP-1281).
- W9XYH**—Head of the Lakes Broadcasting Co., Superior, Wis.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43000 kc.**, 1000 watts power, special emission for frequency modulation, with transmitter located at 39th St. and Tower Ave., Superior, Wis., and described as General Electric and Composite 1 KW amplifier, Type 4-GF1A1, maximum rated carrier power output 1000 watts, for period May 1, 1941, to not later than July 1, 1941.
- W51R**—Stromberg-Carlson Telephone Mfg. Co., Rochester, N. Y.—Granted special temporary authority to operate frequency modulation station commercially on **45100 kc.**, special emission, transmitter at 89 East Ave., Rochester, N. Y., from May 1 to not later than July 1, 1941, pending completion of construction (B1-PH-75).
- WLAK**—Lake Region Broadcasting Co., Lakeland, Fla.—Granted request to dismiss application for transfer of control of Lake Region Broadcasting Co., licensee of WLAK, from J. P. Marchant, D. J. Carey, Melvin Myer, W. Walter Tison, The Tribune Co., transferors, to Russell E. Baker, transferee (B3-TC-260).
- KMLB**—Liner's Broadcasting Station, Inc., Monroe, La.—Continued hearing now scheduled for April 30, 1941, until May 23, 1941, in re application for construction permit to change frequency to **1410 kc.**
- WQDM**—E. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—Granted extension of special temporary authority to operate on frequency **1420 kc.** for the period April 27, 1941, until Radio Station WWSR is authorized to conduct program tests but ending in no event later than May 7, 1941.
- WMBO**—WMBO, Inc., Auburn, New York.—Denied special temporary authority to remain silent after 9 p. m., LST, from April 28 to not later than May 27, 1941.
- WREN**—WREN Broadcasting Co., Inc., Lawrence, Kans.—Dismissed Petition for Amendment of Order of the Commission filed by WREN on March 31, 1941, directed against the Commission's action in designating application (B4-P-2272) for hearing, without prejudice to the filing by petitioner of a motion for leave to amend application in accordance with Sec. 1.73 of the Commission's Rules and Regulations.
- KGU**—Marion A. Mulrony and Advertiser Publishing Co., Ltd., Honolulu, T. H.—Granted petition for rehearing, petition for recall of construction permit and stay order; set aside action of February 18, 1941, and memorandum decision of February 25, granting application of Hawaiian Broadcasting System, Ltd., for a new station in Honolulu to operate on **1310 kc.** with 250 watts power, unlimited time, designated said application for hearing, and recalled construction permit heretofore mailed to Hawaiian Broadcasting System, Ltd.
- W1XOJ**—The Yankee Network, Paxton, Mass.—Granted 60-day special temporary authority to operate high frequency experimental FM station W1XOJ on a commercial basis with call letters W43B, without prejudice to the issues in the hearing.
- WSBT**—South Bend Tribune, South Bend, Ind.—Dismissed petition for reconsideration of action by individual Commissioner; Thompson, Commissioner, reconsidered his action in granting additional time non-commercially, and applicant was granted 10 days' authority to operate with additional time commercially, subject to filing with the Commission information as to reason for delay in getting equipment.
- KJR**—Fisher's Blend Station, Inc., Seattle, Wash.—Granted petition to reconsider and grant without a hearing the application for renewal of license; cancelled hearing, and granted renewal of license to operate on **1000 kc.**, 5 KW, unlimited time.

#### APPLICATIONS FILED AT FCC

##### 570 Kilocycles

- KGKO**—KGKO Broadcasting Co., Ft. Worth, Texas.—Modification of license to maintain studios in Fort Worth and Dallas, Texas.

##### 600 Kilocycles

- NEW**—Genesee Broadcasting Corp., Flint, Mich.—C. P. for new broadcast station on **600 kc.**, 1 KW power, unlimited time, directional antenna day and night.

##### 610 Kilocycles

- NEW**—West Publishers, Inc., Houston, Tex.—Construction permit for new broadcast station on **610 kc.**, 1 KW power, unlimited time, DA-N. Amended: Install new transmitter, changes in directional antenna for night use, specify transmitter site, change applicant from a Corporation to a Partnership composed of J. M. West, J. Marion West, Wesley W. West and P. M. Stevenson. Studio site specified as Sterling Building, Houston, Tex.

##### 620 Kilocycles

- WAGE**—Sentinel Broadcasting Corp., Syracuse, N. Y.—License to cover C. P. (B1-P-1934) as modified for new station.
- WAGE**—Sentinel Broadcasting Corp., Syracuse, N. Y.—Authority to determine operating power by direct measurement.

##### 740 Kilocycles

- NEW**—Fred Jones, Mary Eddy Jones, and W. E. Hightower, d/b as Fred Jones Broadcasting Co., Tulsa, Okla.—Construction permit for a new broadcast station to be operated on **690 kc.**, 50 KW, unlimited hours, directional antenna day and night. Amended: To make changes in directional antenna and requesting **740 kc.**, 25 KW night, 50 KW day.

##### 770 Kilocycles

- KXA**—American Radio Telephone Co., Seattle, Wash.—Construction permit to move transmitter locally.

##### 880 Kilocycles

- WHB**—WHB Broadcasting Co., Kansas City, Mo.—Construction permit to install new transmitter.



### 920 Kilocycles

- KTKC—J. E. Richmond, Percy M. Whiteside, Homer W. Wood, and Visalia Publishing Co., d/b as Tulare-Kings Counties Radio Associates, Visalia, Calif.—Construction permit to change frequency from 920 kc. to 940 kc., increase power from 1 to 5 KW, install new transmitter and make changes in directional antenna for day and night use.
- KFNF—KFNF, Inc., Shenandoah, Iowa.—Authority to determine operating power by the direct method.

### 930 Kilocycles

- WPAT—North Jersey Broadcasting Co., Inc., Paterson, N. J.—Modification of C. P. (B1-P-2624) for new station requesting authority to change transmitter, requesting 930 kc. under NARBA.
- WBEN—WBEN, Inc., Buffalo, N. Y.—Modification of C. P. (B1-P-2757) as modified for 930 kc. under NARBA and changes in directional antenna.

### 960 Kilocycles

- WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Modification of C. P. (B3-P-2952) for increase power and installation of directional antenna for night use, requesting changes in DA on 960 under NARBA.

### 970 Kilocycles

- WCSH—Congress Square Hotel Co., Portland, Maine.—License to cover C. P. (B1-P-2535) as modified for increase in power and installation of directional antenna for day and night use. Amended: Specify 970 kc. under NARBA.
- WCSH—Congress Square Hotel Co., Portland, Maine.—Authority to determine operating power by direct measurement. Amended: Specify 970 kc.

### 1150 Kilocycles

- WTAW—Agricultural & Mechanical College of Texas, College Station, Texas.—Authority to determine operating power by the direct method.

### 1230 Kilocycles

- KBTM—Jay P. Beard, d/b as Regional Broadcasting Co., Jonesboro, Ark.—Authority to determine operating power by the direct method.

### 1240 Kilocycles

- KDLR—KDLR, Inc., Devils Lake, N. D.—Authority to determine operating power by direct measurement.
- KBIZ—J. D. Falvey, Ottumwa, Iowa.—License to cover C. P. (B4-P-2499) as modified for new station.
- KBIZ—J. D. Falvey, Ottumwa, Iowa.—Authority to determine operating power by direct measurement.
- KOCA—Oil Capitol Broadcasting Assn., Kilgore, Texas.—Authority to determine operating power by the direct method.

### 1260 Kilocycles

- WNAC—Yankee Network, Inc., Boston, Mass.—Modification of C. P. for changes in directional antenna on 1260 kc. under NARBA.

### 1330 Kilocycles

- NEW—Findlay Radio Co., Findlay, Ohio.—Construction permit for new station on 1300 kc., 250 watts daytime. Amended: To request 1330 kc., 1 KW power, daytime hours, changes in antenna, new transmitter and transmitter site to be determined Findlay, Ohio.
- WLOL—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Modification of license to change from directional antenna day and night to directional antenna night only.

### 1340 Kilocycles

- NEW—Lake Worth Broadcasting Corp., Lake Worth, Fla.—Construction permit for a new broadcast station to be operated on 1340 kc., 250 watts, unlimited hours.
- KWIM—Lakeland Broadcasting Co., Willmar, Minn.—Construction permit changes in equipment and increase power from 100 watts to 250 watts.

### 1360 Kilocycles

- WSAI—The Crosley Corp., Cincinnati, Ohio.—Modification of C. P. (B2-P-2221) as modified for 1360 kc. under NARBA changes in directional antenna and extension of completion date. Amended: To use directional antenna day and night.

### 1380 Kilocycles

- KWK—Thomas Patrick, Inc., St. Louis, Mo.—Authority to install new automatic frequency control equipment.

### 1400 Kilocycles

- WKWK—Community Broadcasting, Inc., Wheeling, W. Va.—Modification of C. P. (B2-P-2967) for new transmitter.

### 1410 Kilocycles

- WING—Great Trails Broadcasting Corp., Dayton, Ohio.—Modification of license to make changes in directional antenna on 1410 kc. under NARBA.

### 1450 Kilocycles

- WMAS—WMAS, Incorporated, Springfield, Mass.—Authority to determine operating power by direct measurement.
- KBPS—Benson Polytechnic School (R. T. Stephens, Agt.), Portland, Ore.—Construction permit install new transmitter, antenna and increase power from 100 to 250 watts.

### 1490 Kilocycles

- NEW—Granite District Radio Broadcasting Co., Murray, Utah.—Construction permit for new broadcast station on 1500 kc. (1490 kc. under NARBA), 250 watts, unlimited time. Amended: re stockholders.

### 1500 Kilocycles

- WIGM—George F. Meyer, Medford, Wis.—Modification of C. P. (B4-P-2501) for new transmitter, changes in antenna (1490 kc. under NARBA), increase in power from 100 watts to 250 watts, move transmitter and extend commencement and completion dates 60 to 180 days respectively.

### 1530 Kilocycles

- WCKY—L. B. Wilson, Inc., Cincinnati, Ohio.—Modification of license to change from directional antenna for day and night use to directional antenna after sunset at Sacramento, Calif.

### 1560 Kilocycles

- WQXR—Interstate Broadcasting Co., Inc., New York, N. Y.—License to reinstate B1-L-1334, use old transmitter as auxiliary.

## FM APPLICATIONS

- NEW—M. A. Leese Radio Corp., Washington, D. C.—Construction permit for a new high frequency broadcast station to be operated on 47100 kc.; coverage: 5,600 square miles; population: 899,946.
- NEW—WFIL Broadcasting Co., Philadelphia, Pa.—Modification of C. P. (B2-PH-73) for new high frequency broadcast station specifying operating constants to provide coverage of 9300 square miles and change type of antenna.

## TELEVISION APPLICATION

- W2XWV—Allen B. DuMont Laboratories, Inc., New York, N. Y.—License to cover C.P. (B1-PVB-30) as modified for new television station.

## MISCELLANEOUS APPLICATIONS

- KFDM—Beaumont Broadcasting Corp., Beaumont, Tex.—Construction permit to install new transmitter, directional antenna for day and night use, increase power from 1 KW to 5 KW, move transmitter to Near Highway 124, approximately 6 mi. SW of Beaumont city limits.
- WBOS—Westinghouse Radio Stations, Inc., Hull, Mass.—License to cover C. P. (B1-PIB-23) as modified which authorized move of station, increase power and changes in equipment.

KALW—Board of Education of the San Francisco Unified School District, San Francisco, Calif.—Modification of C. P. (B5-PED-14) as modified to extend completion date from 5-14-41 to 8-14-41.

WEKG—Paducah Broadcasting Co., Inc., Mobile.—License to cover construction permit (B2-PRE-376) for a new relay broadcast station.

## FEDERAL TRADE COMMISSION ACTION

Federal Trade Commission has alleged unfair competition 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.

**Dean Cabot**—Charging misrepresentation in the sale of "Caboteks", a medicinal preparation for women, a complaint has been issued against Charles Campbell Battenfield, Sr., trading as Dean Cabot, 227 North Homewood Ave., Pittsburgh.

The complaint alleges that in advertisements disseminated in various States the respondent represented his product as a cure or remedy for delayed menstruation and as being safe for use when in fact the preparation is not a cure, remedy or competent treatment for this condition and is not safe for use as it contains the drugs ergotin, apiol green, oil savin, and quinine sulphate in quantities sufficient to cause serious and irreparable injury to health if used under conditions prescribed in the advertisements or under customary or usual conditions.

The complaint further charges that advertisements of his product disseminated by the respondent are false advertisements in that they fail to reveal the possible consequences of use of the product under these conditions (4494).

**Marshall Field & Co.**, Chicago, has been served with a complaint charging violation of the Federal Trade Commission Act in the sale of rugs which it manufactures under the name of Karastan Rug Mills.

The complaint alleges that the respondent, in promoting the sale of certain rugs manufactured at its plant in this country, has described these products, which closely resemble true Oriental rugs in appearance, by the names of "Karastan", "Karashah", "Karavere", "Kara Kirman" and "Kharol".

Pointing out that there are true Oriental rugs known as "Karabagh", "Karadagh", "Karageuze", "Karaman", "Karahissar", "Karajah" and "Kirman", the complaint alleges that the respondent's use of its designations tends to create the mistaken belief that its products are genuine Oriental rugs when in fact they have been woven on power looms in its own factory in the United States and are neither made in the manner of the true Oriental rug nor possess all of its characteristics.

The complaint further charges the respondent with describing certain of its rugs as "Oriental reproductions" or "authentic Oriental reproductions" when in fact they are not exact copies or reproductions of true Orientals in structure or method of manufacture, but merely simulate them in appearance. The complaint alleges that while the respondent in some instances has endeavored to copy the designs of particular Oriental rugs, in others it has used designs which it has created and which are adaptations or combinations of Oriental motifs (4493).

**Radio Wire Television, Inc.**—Charging misleading representations in the sale of radio receiving sets, parts and accessories a complaint has been issued against Radio Wire Television, Inc., 100 Sixth Ave., New York. The respondent has branch offices in Chicago, Boston and Atlanta.

The complaint alleges that the respondent advertises a "One-tube battery set" with which "you can tune in the world", also a "Two-tube AC-DC kit" and a "Two-tube AC-DC set".

The complaint charges that the respondent's "One-tube battery operated all-wave set" is not an all-wave radio set and that it cannot tune in the world. Further, the complaint alleges, the re-

spondent's so-called "Two-tube AC-DC kit" and "Two-tube AC-DC set" are not two-tube radio sets. According to the complaint, they are not equipped with two fully functioning tubes, respectively, but are on the contrary merely equipped with one detecting, amplifying or receiving tube and with one nonfunctioning or tuning beacon tube or rectifying tube. The complaint alleges that the rectifier tubes do not serve as amplifying or detecting tubes and do not perform any recognized and customary function of a radio receiving tube in the detection, amplification and reception of radio signals or programs.

The complaint points out that a substantial number of purchasers believe that the greater the number of actually functioning tubes in a radio receiving set the better it performs and the greater and clearer is its power of detecting, amplifying and receiving radio waves (4491).

**Disabled American Veterans of the World War Rehabilitation Department**—Charging misleading use of the name of the Disabled American Veterans of the World War, a national patriotic organization, in the sale of historical books, a complaint has been issued against the Disabled American Veterans of the World War Rehabilitation Department, a commercial corporation with headquarters at 104 South Michigan Ave., Chicago. The complaint also names as respondents Frank J. Mackey, L. C. Maier, Daniel C. Moore and Robert T. Mackey, officers of the corporation.

The complaint alleges that the respondent corporation has a contract with the Disabled American Veterans of the World War under which that organization sponsors the sale of the respondent corporation's two sets of books "Progress of Nations" and "Forward March", and that the Disabled American Veterans' group receives from the respondent a 10 per cent royalty on all gross sales of the books.

According to the complaint, the respondents, through their salesmen and by other means, have misleadingly represented that their salesmen are representatives of the Disabled American Veterans of the World War; that the respondents' books are being sold only to certain selected customers; that the Disabled American Veterans of the World War receives the entire profit derived from the sale of the books; that a person purchasing the respondents' books is in effect making a contribution to the patriotic organization, and that the funds derived from sale of the books will be used by the Disabled American Veterans' organization to defray expenses of its activities in combatting anti-American and subversive organizations and influences in the United States.

The complaint charges, however, that the respondents sell their books as an ordinary commercial transaction for their own profit; that the only profit derived by the Disabled American Veterans' organization from sale of the books has been the royalty; that the sale of the books has not been restricted to any group but that they have been sold indiscriminately to the public, and that the respondent corporation's use of the corporate name "Disabled American Veterans of the World War Rehabilitation Department" constitutes a misleading representation that the respondent corporation is identical with or is connected with the Disabled American Veterans' organization.

According to the complaint, a further deceptive and misleading practice of the respondents is their wrongful representation that certain literature published by the Disabled American Veterans' organization endorses the respondents' books, when in fact such literature relates only to the general aims and purposes of the Disabled American Veterans' organization and has no reference to the respondents' books (4492).

## STIPULATIONS

The Commission has entered into the following stipulations:

**Belem Products Co.**, 1009 Isabella Ave., Houston Tex., stipulated to cease advertising that its preparation "Locao Belem" will grow hair and is a remedy or cure for baldness, falling hair, aggravated conditions of the scalp, dandruff, and other scalp conditions. The respondent also agrees to desist from advertising that its product rejuvenates the scalp, stimulates or revitalizes hair cells, and adds new life to hair; that the product has been subjected to laboratory tests by the Food and Drug Administration and that, upon analysis by that administration, has been found to comply with the "Pure Food and Drugs Law" (02785).

**Coryell, Inc.**, F. Orlo Johnson and E. B. Masters, 7392 Churchill St., Detroit, have entered into a stipulation to cease certain representations in the sale of their preparation "Nu-Hair".

The respondents agree that in disseminating advertisements of their preparation they will cease employing the brand name "Nu-Hair" in such a way as to infer that it will grow or produce hair.

The respondents also agree to desist from advertising that their preparation represents a professional secret of a scalp specialist; is a scientific or revolutionary hair, scalp, or skin preparation, and is recommended by leading beauty shops.

The respondents further stipulate that they will cease representing their product as being capable of preventing, removing or relieving baldness, dry or itchy scalp, or other hair or scalp ailments; of conserving or restoring the natural oils secreted by the scalp or of controlling or helping to control the glandular activity of the scalp (02783).

**Hasco, Inc.**—A stipulation involving war orders for machinery and tools has been accepted from Hasco, Inc., 661 Frelinghuysen Ave., Newark, N. J.

According to the stipulation, the respondent corporation purchases machinery and tools and sells them to foreign powers engaged in the European war.

The stipulation relates that for the purpose of locating and purchasing used machinery and tools intended for sale and shipment abroad, the respondent adopted the trade name "Imperial Air Industries" and used it in advertisements together with the words "American Purchasing Office," when in fact the corporation is neither sponsored by nor has any official connection with a foreign government as indicated by its trade name containing the word "Imperial".

Under its stipulation the respondent corporation agrees to cease and desist from using the words "Imperial Air Industries", alone or with the words "American Purchasing Office" as a trade name in connection with advertising, purchasing or selling its products.

The respondent also stipulates that it will cease employing the word "Imperial", alone or with the words "Air Industries" or with the words "American Purchasing Office" or other words in any manner implying that the respondent corporation is sponsored by or officially connected with a foreign government (3090).

**Landers, Frary & Clark**, New Britain, Conn., have entered into a stipulation to cease representations tending to convey the impression to purchasers that certain electrical heating pads distributed by the respondent are capable of maintaining different, distinct temperatures. According to the stipulation, the operation of the switches used with the respondent's pads, advertised as "Three-Speed Pads", does not maintain three distinct temperatures but only regulates the length of time required to heat the pads to a single maximum temperature (3086).

**C. W. Marks Shoe Company**—Stipulations to discontinue certain representations in the sale of shoes have been accepted from C. W. Marks Shoe Co., Chicago, wholesaler; International Shoe Co., and Samuels Shoe Co., Inc., St. Louis manufacturers, and Geo. E. Keith Co., Campello, Mass., manufacturer.

C. W. Marks Shoe Co. agrees to cease employing the word "Doctor" or the abbreviation "Dr." in connection with a name or with any other words as a trade name, brand or designation for its products so as to imply that they are made in accordance with the design or under the supervision of a physician and contain special scientific or orthopedic features which are the result of medical determination or services. According to the stipulation, the respondent corporation caused the words "Dr. Kelly's Air-Flex Shoes" to be stamped on certain shoes for women and "Dr. Kelly's Plastic Arch" on certain of its shoes for men, when in fact the shoes so marked were neither made under the supervision of a physician nor did they contain special scientific or orthopedic features.

International Shoe Co., Samuels Shoe Co., Inc., and Geo. E. Keith Co. stipulate that they will cease using the word "Alligator" or other similar word to describe shoes not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials (3084-3085-3087-3089).

**Nolan Company**—Frank D. Seiple, operating as The Nolan Co., Greenville, Pa., has entered into a stipulation to cease advertising that his preparation "Slumber Ointment" is a competent treatment for ringworm in all cases, or in any cases except those involving superficial ringworm infection and that it is a competent treatment for athlete's foot, unless expressly limited to superficial organisms and the relief of itching. The respondent also agrees to desist from advertising that his product is of value in treating eczema, salt rheum, grease and rubber poisoning, skin diseases, or poisoning, beyond that of temporary relief from the itching which may accompany these conditions (02784).

**Scientific Products Company**—Trading as Scientific Products Co., Frank L. Moscow, 3462 North Clark St., Chicago, distributor of a preparation intended for use as a treatment for hosiery and lingerie, stipulated to cease employing the words "No More Runs" or other similar words having the effect of conveying to purchasers the impression that use of this preparation on such fabrics will eliminate the possibility of or prevent runs. The respondent also agrees to cease representing that his preparation will make fabrics fade-proof (3088).

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Associated News Photographic Service, Inc.**, and Blackstone Studios, Inc., both of 20 West 57th St., New York, and Leo Fried and William Shapiro, officers and principal stockholders of both corporations, have been ordered to cease and desist from misrepresentations in the sale of photographs and photographic prints.

Commission findings are that as a sales plan to induce persons to pose for and buy photographs the respondents have misleadingly represented and implied that such pictures are for immediate "press release" or publicity purposes when actually the respondents are not in the business of taking spot or current news pictures and the number of pictures they occasionally sell to newspapers represents a minor portion of their business.

According to findings, the respondents' agents contact persons of more or less prominence by telephone, advising them that the "Associated News" or the "Associated News Photographic Service, Inc." desires their pictures or that the pictures are wanted for the "Associated News" files for service to newspapers or for other publicity purposes. Commission findings are further that the proofs are delivered by the respondents' representatives, or mailed to the prospective customer with an accompanying letter requesting such person to "make your selection for press release" and stating that if such person should desire some finished portraits "we shall be glad to meet your requirements". According to findings, a representative of the respondents, calling on the prospective customer ostensibly to deliver the proofs or to obtain the one selected for "press release" engages in a sales procedure which frequently is successful in selling pictures.

With minor exceptions, the findings continue, the respondents take the pictures without prior arrangements for compensation and rely upon being able to sell finished pictures to a reasonable proportion of the persons photographed. They succeed in 25 to 30 per cent of the cases, according to findings, and their prices customarily range from \$2.50 to \$75 or more per finished print.

In its findings the Commission points out that the Associated Press, widely known newsgathering agency, maintains the Associated Press "News Photographic Service" for obtaining news pictures and distributing copies to member newspapers but that copies of such pictures are not furnished or sold to the persons who appear in them.

The Commission order directs that the respondents, in connection with the solicitation of permission to make photographs or the offering or sale of photographs, cease and desist from using the word "News" or words of similar import in the corporate name of the respondent Associated News Photographic Service, Inc., or as a part of any other trade or corporate name, to describe a business which is principally that of selling photographs to persons photographed, and that they cease representing or implying to prospective customers that the respondents are news or press photographers, or that any photograph solicited is for press or publicity purposes, unless such photograph is actually for immediate news or press use (3561).

**D. D. D. Corporation**, Batavia, Ill., has been ordered to cease and desist from misrepresentation in the sale of "D. D. D. Prescription", advertised as a treatment for skin ailments and conditions.

The Commission order directs D. D. D. Corporation to cease disseminating advertisements which represent that "D. D. D. Prescription" is a cure or remedy for eczema, pimples or hives or has therapeutic value in treating these ailments or in treating skin disorders caused by internal or systemic conditions in excess of affording temporary relief from the symptom of itching.

The respondent is further ordered to cease advertising that its preparation has therapeutic value in treating skin blotches or rashes when due to systemic or constitutional conditions, or has therapeutic value in treating athlete's foot, insect bites and ivy and oak poisoning in excess of that afforded by the temporary alleviation of the symptom of itching or the use of an antipruritic, astringent, antiseptic, and mildly germicidal agent.

The Commission order further directs that the respondent cease representing, through use of the words "and other externally caused skin eruptions" or similar phraseology in connection with diseases or conditions which may be of a systemic or internal origin, that such diseases and conditions are solely of external origin or that the respondent's preparation has therapeutic value in treating them regardless of their origin.

The order also directs the respondent to cease representing, through use of the words "stop itching" or other similar words, that its preparation will either permanently or temporarily eliminate the disease or condition causing the symptom of itching or has any therapeutic value in excess of that afforded by the temporary alleviation of the symptom of itching or the use of an antipruritic, astringent, antiseptic, and mildly germicidal agent (3972).

**Jane Blanchard Geary**, trading as Dr. Jane Blanchard, 2817 East St., N. S., Pittsburgh, has been ordered to cease misrepresentation in the sale of a medicinal preparation designated by the names "Dr. Blanchard's Female Compound and Regulator," "Dr. Jane Blanchard's Compound Regulator" and "Dr. Blanchard's Regulator."

The Commission order directs the respondent to cease disseminating advertisements which represent that her preparation is a competent or reliable regulator of conditions peculiar to women, possesses therapeutic value in the treatment of delayed or suppressed menstruation, is a tonic or a blood purifier or is safe or harmless.

The respondent is further ordered to cease disseminating advertisements which use the term "Dr." or "Doctor" as a part of the respondent's trade or as part of the name of the preparation or which otherwise represent that the respondent is a medical doctor; or which advertisements fail to reveal that use of the product may cause colitis and other serious consequences (4449).

**National Lacquer Manufacturing Company**—An order has been issued amending a complaint which charged Jacob Swimmer, trading as National Lacquer Manufacturing Co. and as National Titanium Co., 123-131 Eleventh St., Brooklyn, with misleading representation in the sale of paint.

According to the complaint as now amended, the respondent has since transferred his place of business to 2330 East 37th St., Vernon, Calif., and from that address has mailed letters to various States bearing the inscription "National Titanium Co., Pacific Coast Division," thereby representing that his Vernon, Calif., office is only a branch of his business and that he has other branches or divisions in various parts of the country. The amended complaint alleges that the respondent has only the one place of business at Vernon, Calif.

The amended complaint further charges that the respondent's letters sent from Vernon, Calif., also contained the misleading representations alleged in the original complaint. That complaint has charged the respondent with representing that he maintained warehouses in cities other than Brooklyn, when such was not a fact; with price misrepresentations and other misleading assertions, and with failure to disclose that his product "Genuine Synthetic Outside White Paint" was a reconditioned, redissolved paint product (4088).

**Pascal Co., Inc.**, Seattle, Wash., has been ordered to cease and desist from making misleading representations in the sale of "Breathasy," a medicinal preparation.

The Commission order directs the respondent to cease disseminating advertisements which represent that "Breathasy" is a cure, remedy or competent treatment for chronic bronchitis, or for eczema, hives or other skin diseases, or which advertisements fail to reveal that the respondent's preparation cannot be safely used by persons ill of high blood pressure, toxic goiter, diabetes or heart disease.

The respondent is also ordered to cease representing that its preparation is a remedy, cure or effective treatment for heart disease or cardiac distress; for gastric ulcer; for inflammation of the nose, throat, tonsils, larynx or lungs, or for neuralgia or neuritis (3768).

**Hamilton Ross Factories, Inc.**, Chicago, distributor of china-ware, glassware, plated silverware, cutlery and other merchandise, has been ordered to cease and desist from certain misrepresentations.

Commission findings are that the respondent, using the word "Factories" in its corporate and trade name, has implied that it owned, controlled or operated a plant in which the products it sells have been made, when in fact at the time the Commission complaint issued against the respondent, and for several years prior thereto, the respondent was not a manufacturer.

The Commission further finds that the respondent advertised in newspapers circulated in various States that certain of its silverware is "heavily plated," a term which implies to purchasers that this ware is of a quality and grade superior to the lower grades of plated silverware. In fact, the findings continue, such silverware 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 Commission order prohibits the respondent from representing that it manufactures the products it sells unless and until it actually owns and operates or directly controls the plants in which such products are made, and directs the respondent to cease making the representations as found concerning use of the term "heavily plated" as applied to plated silverware (4040).

**Sherry's Cut Rate Drug Co., Inc.**, Bluefield, W. Va., has been ordered to cease and desist from disseminating advertisements which represent that the preparation known as "Mrs. Bee Femo Caps" constitutes a competent or effective treatment for delayed menstruation, and that its use is safe or harmless, or which advertisements fail to reveal that use of the product may cause gastrointestinal disturbances and other serious consequences.

In September, 1940, the United States District Court for the Southern District of West Virginia issued an order restraining the respondent from further dissemination of certain advertisements of its preparation until the Commission issued a complaint against the respondent and finally disposed of the proceeding (4345).

**Sommerville Manufacturing Co.**, Somersville, Conn., and its selling agents, J. J. O'Donnell and Clinton Ellis, trading as O'Donnell and Ellis, 450 Seventh Ave., New York, has been ordered to cease and desist from making misleading representations in the sale of textile fabrics.

Commission findings are that the respondent manufacturing corporation, through the respondent selling agents, sells its fabrics to coat and garment manufacturers and that through the use of labels the respondents have represented that certain fabrics and the garments manufactured therefrom are composed entirely of fiber made from camel's hair when in fact they have contained substantial percentages of wool, mohair, and other fibers.

The Commission order directs the respondents to cease using the words "Camel's Hair" or "Camel" or other terms descriptive of camel's hair on labels or otherwise to describe any fabric or product not composed wholly of camel's hair, provided that when fabrics or products are composed in part of camel's hair and in part of other fibers such terms may be used as descriptive of the camel's hair content if other words truthfully designating each constituent fiber are used in immediate connection and in type of at least equal conspicuousness.

The respondents also are ordered to cease employing any pictorial design of a camel in connection with any description of fabrics or products in which camel's hair is not the predominating fiber, and to cease representing in any manner that fabrics or products which they offer or sell contain camel's hair in greater quantity than is actually the case (4324).

**John J. Tracey Co.**, 11102 Merchandise Mart, Chicago, distributor of toilet articles and soap, has been ordered to cease and desist from using the word "English" or other similar words to describe soap not made in England.

Commission findings are that the respondent corporation represented that its soap is of English origin by printing on the shipping cartons and boxes and by stamping on the soap the representations "English Lilac", "English Honeysuckle", "English Orchid," "English Carnation", and "Flaroma English Cold Cream Soap", when in fact these soaps were made in the United States (4315).

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*The New Network Rules, and the FCC's Majority and Minority Reports, Page 414.*

## Convention Program

### SUNDAY, MAY 11

- |           |   |        |
|-----------|---|--------|
| 2:30 p.m. | Public Relations Committee                | Room 2 |
| 6:00 p.m. | Board of Directors, Broadcast Music, Inc. | Room 3 |

### MONDAY, MAY 12

- |            |   |                 |
|------------|---|-----------------|
| 9:00 a.m.  | to Registration   | Mezzanine Floor |
| 5:00 p.m.  |   |                 |
| 10:00 a.m. | Engineering Committee   | Room 8          |
|            | Legislative Committee   | Room 2          |
|            | Research Committee  | Room 7          |
|            | Sales Managers' Executive Committee   | Room 6          |
| 11:30 a.m. | NAB Bureau of Copyrights, Board of Directors                                    | Room 8          |
|            | Insurance Committee   | Room 9          |
| 2:30 p.m.  | NAB Annual Golf Tournament (The BROADCASTING MAGAZINE Trophy)                   | Sunset Hill     |
|            | Entries and Transportation arrangements may be made at the time of Registration |                 |
| 7:00 p.m.  | NAB Board of Directors  | Room 3          |
|            | Accounting Committee  | Room 8          |
|            | Code Committee  | Room 7          |
|            | Labor and Wages and Hours Committees  | Room 6          |

### TUESDAY, MAY 13

- |            |  |                         |
|------------|--|-------------------------|
| 8:30 a.m.  | Independent Radio Network Affiliates (IRNA) Board of Directors Breakfast   | Room 2                  |
| 10:00 a.m. | Business session   | Ivory Room              |
|            | Neville Miller, presiding  |                         |
|            | President's Annual Report  |                         |
|            | Appointment of Convention Committees   |                         |
|            | Secretary-Treasurer's Annual Report  |                         |
|            | Proposed Amendments to By-Laws   |                         |
|            | Report of Nominating Committee   |                         |
|            | THE RELATION OF RADIO TO THE NATIONAL DEFENSE  |                         |
|            | Major General Robert C. Richardson, Jr., Public Relations Director, U. S. Army                                     |                         |
|            | Commander H. R. Thurber, Public Relations Officer, U. S. Navy  |                         |
|            | Hon. James Lawrence Fly, Chairman, Federal Communications Commission and Federal Defense Communications Commission |                         |
|            | Lowell Mellett, Director, Office of Government Reports   |                         |
| 12:30 p.m. | Luncheon   | Gold Room               |
| 1:15 p.m.  | Address of Welcome, Hon. Forrest C. Donnell, Governor of Missouri  |                         |
| 1:20 p.m.  | Address of Welcome, Hon. William Dee Becker, Mayor of St. Louis  |                         |
| 1:30 p.m.  | Address: Hon. Henry A. Wallace, Vice President of the United States of America                                     | (Continued on page 408) |

# You Can't Afford to Miss the NAB Convention

## May 12, 13, 14, 15

### New Jefferson Hotel

### St. Louis



The NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W. WASHINGTON Phone NATIONAL 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

CONVENTION PROGRAM  
(Continued from page 407)

TUESDAY, MAY 13—Continued

- 2:15 p.m. Group Meetings  
Independent Radio Network Affiliates (IRNA) Ivory Room  
National Independent Broadcasters (NIB) Room 9  
Sales Managers' Executive Committee, Sales Managers' General Committee, Station Representative Associate Members, and Agency Representatives Room 1  
4:15 p.m. Clear Channel Group Room 9  
Regional Channel Group Room 8  
Local Channel Group Ivory Room

WEDNESDAY, MAY 14

- 8:30 a.m. Breakfast Sessions (NAB Staff Directors, presiding)  
Coordination of National Defense Broadcasting Public Relations Roundtable—Edward M. Kirby, presiding Room 9  
Department of Broadcast Advertising Roundtable—Frank E. Pellegrin, presiding Room 1  
Engineering Roundtable — Lynne C. Smeby, presiding Room 3  
Foreign Language Broadcasting Roundtable — Neville Miller, presiding Room 8  
Law Roundtable, Russell P. Place, presiding Room 6  
Labor, Wages and Hours Roundtable — Joseph L. Miller, presiding Room 7  
Research Roundtable—Paul F. Peter, presiding Room 2  
10:00 a.m. Business Session Ivory Room  
Neville Miller, presiding  
"The Music Situation"  
Reports by  
Sydney M. Kaye, Vice President and General Counsel, Broadcast Music, Inc.  
Merritt Tompkins, Vice President and General Manager, Broadcast Music, Inc.  
Carl Haverlin, Stations Relations Director, Broadcast Music, Inc.

WEDNESDAY, MAY 14—Continued

- 12:30 p.m. Luncheon Gold Room  
1:20 p.m. Address of Greeting, Hon. Dwight L. Greene, Governor of Illinois  
2:15 p.m. Business Session Ivory Room  
Neville Miller, presiding  
"The Music Situation" continued  
Copyright Insurance, Russell P. Place, NAB Counsel  
Recording Standards  
Daylight Saving, John J. Gillin, WOW, NAB Director, District 11; Paul F. Peter, NAB Research Director; Jack W. Laemmar, Lord & Thomas  
8:30 p.m. Evening Session Gold Room  
(Public Meeting)  
THE RADIO SPECTRUM  
Chairman and General Remarks, C. J. Burnside, Westinghouse Electric and Manufacturing Company  
Facsimile Broadcasting, John V. L. Hogan, WQXR  
Frequency Modulation Broadcasting, Major Edwin H. Armstrong  
Television Broadcasting, A. H. Morton, National Broadcasting Company  
International Shortwave Broadcasting, Edmund Chester, Columbia Broadcasting System  
THURSDAY, MAY 15  
8:30 a.m. Breakfast Sessions  
Coordination of National Defense Broadcasting Public Relations Roundtable, Edward M. Kirby, presiding Room 9  
Department of Broadcast Advertising Roundtable, Frank E. Pellegrin, presiding Room 1  
Engineering Roundtable, Lynne C. Smeby, presiding Room 3  
BMI-Transcription Representatives Roundtable, Merritt Tompkins, presiding Room 8  
Labor, Wages and Hours Roundtable, Joseph L. Miller, presiding Room 7  
Law Roundtable, Russell P. Place, presiding Room 6  
Research Roundtable, Paul F. Peter, presiding Room 2  
10:00 a.m. Business Session Ivory Room  
Neville Miller, presiding  
E. Y. Flanigan, WSPD, Chairman, NAB Sales Managers' Executive Committee, Chairman  
"The Commercial Provisions of the NAB Code," Edgar Bill, WMBD, Chairman NAB Code Committee



THURSDAY, MAY 15—Continued

“The Unit Plan of Volume Measurement,” William Scripps, WWJ, Chairman NAB Research Committee

“Planning Today for Post-War Business,” Colonel Willard Chevalier, Publisher, BUSINESS WEEK

“Broadcast Advertising, An Industry Job,” Frank E. Pellegrin, Director, NAB Department of Broadcast Advertising

12:30 p.m. Luncheon Session Gold Room

12:30 p.m. (Open to NAB members and Associate members only)

“The Radio Broadcasting Industry, Its Problems and Responsibilities, Mark Ethridge, WHAS, NAB Director and past president

2:15 p.m. Business Session Ivory Room

Samuel R. Rosenbaum, WFIL, Chairman NAB Labor Committee, presiding

“Labor and the Broadcaster” Open Discussion led by Joseph L. Miller, Director of Labor Relations

3:00 p.m. Neville Miller, presiding

Election, Directors-at-Large and Network Directors

Advisory Ballot on Site of 1942 Convention

Report of Resolutions Committee Adjournment

7:00 p.m. Refreshment service preliminary to Banquet Ivory Room

7:45 p.m. Nineteenth Annual NAB Banquet Gold Room  
(See Banquet Menu and Program)

FRIDAY, MAY 16

9:00 a.m. Newspaper-Radio Committee Room 8

10:00 a.m. NAB Board of Directors Room 3

**A Factual Analysis of ASCAP's Proposal to MB Stations**

This is a factual analysis of proposals which ASCAP has made to Mutual Broadcasting System, Inc., and to Mutual affiliates. Under the non-discrimination clauses of the consent decree signed by ASCAP, these proposals will presumably be available to all broadcasting stations and networks. While each station will compute what the proposals mean to it individually, the NAB, in accordance with its established policy of supplying members with information on matters of industry interest, is presenting in the Reports these proposals together with this brief factual analysis which may be useful to members as a source of information.

It is, of course, impossible to state the precise legal effect of the proposals until they have been reduced to contract form. Moreover, it is impossible to cover in detail in a brief memorandum all of the points involved in such a complicated problem.

Under the recommendation made by the majority of Mutual stockholders to Mutual affiliates, it is proposed that ASCAP music be placed on the network prior to the negotiation of individual station licenses covering local business, and the cost thereof deducted from station payments, provided that a majority in number of Mutual affiliates approve the deduction of such cost. No reference is made in the proposals as to what the situation would be with respect to stations which do not assent to the making of the deductions. Stations will have to determine for themselves whether they wish to commit themselves to payment for network service before the actual submission and execution of finalized agreements covering their individual problems on local service.

According to the best estimates which can be made, the cost of the proposed licensing plan, if adopted by the entire industry and based on estimated 1940 net time sales, would be as follows:

Payments by 781 Stations on National Non-Network and Local Net Time Sales . . . . .	\$2,374,000
Payments on Network Payments to Affiliates . . . . .	764,000
Payments by Networks taking into account deductions for wire lines and “Sales Commissions” . . . . .	753,000
Sustaining Fees of Stations . . . . .	725,000
Total Estimated Payments to ASCAP . . . . .	\$4,616,000

The proposals are not entirely clear as to whether the charges are to be based on net time sales or, as in the case of the June 1940 contracts tendered by ASCAP, upon additional factors such as line charges, free hours, certain talent costs, etc. In the event that the June 1940 provisions remain unchanged, this would of course increase the amounts of all payments mentioned in this analysis. Also in the event that ASCAP avails itself of its privilege of discontinuing, without reduction in payment, the availability of its foreign repertory and stations find it necessary to acquire the right to perform foreign music, this would increase the amount which would have to be paid for the former ASCAP repertory, some of which, it will be remembered, is now controlled by BMI.

The foregoing computation is based upon the 3% payment fixed for the first four years of the proposal; considerably larger payments would be required when the rate is increased to 3½% during the remaining four years and seven months of the proposal. It is estimated that the amount actually paid by the industry to ASCAP in 1940 was \$5,100,000. In the event that none of the factors causing increase come into being, a comparison with actual 1940 payments would indicate decreased payments to ASCAP of \$484,000 in the event that we assume that all stations would take out blanket licenses.

Comparison with the form of contract tendered by ASCAP in June 1940 is also necessary. This can most easily be made by taking stations in the groupings which were set up by the tendered June 1940 contract. This comparison is as follows:

(a) Stations with an annual revenue of \$50,000 or less get the same terms as were tendered in the June 1940 contract for the first four years of the proposal, without reduction. For the remaining four years and seven months of the proposal, the fee to the station is increased from 3% to 3½%.

(b) Stations with an annual revenue of between \$50,000 and \$150,000 have a reduction in commercial fees of from 4% to 3% for the first four years of the proposal and from 4% to 3½% for the next four years and seven months of the proposal. These stations were, under the June 1940 contract, offered a sustaining fee equal to 75% of the sustaining fee formerly paid by the station. The annual sustaining fees, under the current proposal, are twelve times the station's highest hour rate with a maximum of 1½ times the station's 1940 sustaining fees, a potential increase of 100% in sustaining fees. Stations in this class will benefit or lose by the current proposal depending on the ratio of gross business to card rate and previous sustaining fees.

(c) Stations with a revenue of over \$150,000 per annum obtain a reduction from the June 1940 contract of 2% in commercial fees for the first four years of the contract and 1½% in commercial fees for the remaining four years and seven months of the contract. Their sustaining fees are subject to a potential 50% increase. Stations in this category would appear to benefit from the new proposal in so far as local and national spot business is concerned.

(d) Networks, under the current proposal, will pay less than they would have paid under the June 1940 contract but would still pay a very substantial increase, as a class, over actual 1940 payments. Deductions under the new proposal decrease sharply from a maximum of 15% to a minimum of 1% in proportion to volume of business done. The effect upon stations of increased payment by the networks would depend on the extent to which the cost to the network is passed along to stations. Stations which are on more than one network or which expect to receive programs from more than one network have special problems which they will undoubtedly consider in this connection.

The proposals relate to three forms of contracts (1) a blanket single station license, (2) a per program single station license and (3) a network blanket license. No per program network license is submitted, apparently because Mutual stockholders have voted to take a blanket network license but stations have the privilege of accepting either the per program or blanket licenses which are tendered. The per program proposal which is submitted contains a

provision which permits ASCAP to compel a broadcaster to shift from a per program to a blanket basis in the event that the return to ASCAP during any year is less than 2% of the station's entire revenue. The broadcaster may shift from the per program to the blanket basis if his payments to ASCAP during any year are in excess of 5% of the station's entire revenue. It will be noted that the network blanket contract provides that if network sustaining programs are broadcast by an affiliate which does not have a local blanket license, as distinguished from a per program license or no license at all, there must be paid, with respect to such sustaining programs, a sustaining fee of 1% of the card rate applicable at the time that the sustaining program is broadcast, with a maximum monthly payment of one-half of the station's highest one hour card rate, but not exceeding three-fourths of the 1940 monthly sustaining fee; or the highest one hour rate, not exceeding 1½ times the monthly 1940 sustaining fees, less actual sustaining fees paid by the station under its individual per program contract. These sustaining fees are in addition to commercial fees deducted by the network.

The consent decree signed by ASCAP provides that ASCAP may not demand any percentage which is based upon a percentage of revenue of programs which do not include ASCAP music. In our opinion, therefore, the proposed per program contract, with its minimum of 2% of the broadcaster's entire receipts, does not comply with the terms of ASCAP's consent decree.

Attention is directed to the NAB Special Bulletin of June 27, 1940 which was reprinted in Vol 8, No. 26, June 28, 1940, NAB REPORTS. This Bulletin pointed out that the form of contract then submitted by ASCAP was unsatisfactory.

In the absence of a final contract incorporating all of the terms of the current proposal, it is impossible to judge how many of the defects of the June 1940 contract will remain, although some defects appear to have been eliminated. The full effect of the clause limiting the right of ASCAP to restrict compositions, for instance, cannot accurately be assessed until the language of the provision is examined, and there does not appear in the proposal anything with respect to the rates to be charged by ASCAP on optional clearance at the source on electrical transcriptions. It will also be noted that under the logging provisions of the per program contract it would appear that any number which cannot be identified by full title, author's name, copyright proprietor's name, and if the number is performed from a recording, an identification of the record, is presumed to be an ASCAP number, and that any program which contains a number which cannot be so fully identified will pay the full ASCAP per program rate. Some of these matters may be covered in the supplementary document which is on file in the

Mutual offices and which was not available to us at the time of the preparation of this memorandum.

Mr. Gene Buck, as President of ASCAP, has wired to the Association that our telegram stating that the ASCAP proposal would be analyzed is construed "as an unlawful interference with the realization of the benefits of that contract. We hold you fully responsible for all damages that we may suffer thereby. . . ." It goes without saying that nothing in this analysis is intended to deter stations from independently considering any proposals that are submitted to them solely on the basis of their own ultimate wellbeing, and that this analysis is intended only as an information service to NAB members. If any inadvertent errors have been made, despite the care which has been exercised, we shall be glad to correct them if they are called to our attention.

## A BLANKET SINGLE STATION LICENSE PROPOSAL

ASCAP will issue a license granting to any station of the Mutual Broadcasting System the use of all music in its repertoire or of any of its associated or affiliated societies for local broadcasting only.

1 The consideration for the license will be:

A. SUSTAINING FEE:

A yearly sustaining fee of twelve times the highest one hour published rate of the station, provided such sum shall not exceed one and one-half times the sustaining fee paid by the station during the year 1940, unless the gross amount paid to Station for the use of its broadcasting facilities, for local broadcasts for 1940 or any year thereafter shall be less than \$50,000, in which case the sustaining fee shall be \$12 for the succeeding year.

B. COMMERCIAL FEE:

In addition, the station, for the first four years of the agreement, shall pay to ASCAP a sum of 3%, and for the remaining term of the agreement a sum of 3½%, of its net receipts from sponsors for the use of the broadcasting facilities for local broadcasting.

The term "*net receipts*" from sponsors shall be construed to mean the gross amount paid by sponsor for all local broadcasting facilities, less rate card discounts (quantity and/or frequency) and any advertising agency commission not to exceed 15% actually allowed and paid to a recognized advertising agency.

2. No payment shall be required to be made hereunder with respect to any local commercial program presented by transcription in the event that payment at the source has been made with respect to such transcription program.

3. ASCAP will reserve the right to restrict, in good faith, the broadcasting of compositions from musical comedies, operas, operettas, and motion pictures, or any other composition being excessively broadcast, only for the purpose of preventing harmful effect upon such productions or compositions in respect of other interests under the copyrights thereof. In any case, however, ASCAP agrees that the maximum number of compositions which may be at any time thus restricted shall not exceed 500 and moreover limited licenses will be granted upon application entirely free of additional charge, as

to restricted compositions if and when copyright owners thereof are unable to show reasonable hazards to their major interests likely to result from such broadcastings.

Provided, however, that in no case shall any charges "*free plug*" or other consideration be required in respect of any permission granted to perform a restricted composition, and further provided that in no event shall any composition, after the initial broadcast thereof, be restricted for the purpose of confining further broadcasts thereof to a particular artist, station, network or program.

4. ASCAP will agree to maintain during the term of the agreement substantially the existing domestic repertoire, and agrees to identify, save and hold station, sponsors, advertising agencies, and each of them, harmless, and defend them and each of them from and against any claim, demand or suit that may be brought against them or any of them with respect to renditions given during the term hereof or any renewal, in accordance with this license, of musical compositions contained in ASCAP's repertoire heretofore or hereafter during the term hereof copyrighted or composed by members of ASCAP.
5. The term of this agreement shall be for a period ending on December 31, 1949.
6. ASCAP agrees that if a more favorable license is granted to any other comparable broadcasting station, station shall have the right to avail itself of the terms thereof. ASCAP agrees that any station may, upon request, inspect at the offices of ASCAP, the original copy of any license agreement in effect with any broadcasting station.
7. Royalty accountings, accompanied by payment in full, shall be rendered to ASCAP on or before the twentieth of each month covering the previous calendar month.
8. ASCAP agrees to release and discharge station, advertising agencies and sponsors from any and all liability and claims whatsoever which may have heretofore arisen as a result of the broadcast by station from and after Jan. 1, 1941, of any composition or work copyrighted or composed by ASCAP members or as to which ASCAP shall have public performing rights.
9. Station shall not be required to account for any sums received from political broadcasts.

## PER PROGRAM SINGLE STATION LICENSE PROPOSAL

1. For the purposes of this proposal, under which licenses to publicly perform by broadcasting the ASCAP repertoire will be upon request of any broadcaster issued, the different types of radio programs are classified variously as follows:
  - A. SUSTAINING, NON-MUSICAL:

Being a non-commercial, unsponsored local program, containing no music.
  - B. SUSTAINING, MUSICAL:

Being a non-commercial, unsponsored local program, and which shall include or present in whole or any part, any musical composition or work.
  - C. COMMERCIAL, NON-MUSICAL:

Being a commercial, sponsored local program during the presentation of which no musical composition or work whatever, in whole or any part, is rendered.

It is to be understood that as to sports events (excluding football games), parades and civic celebrations, where music shall be performed under exclusive control

or direction of others than the licensee and shall be merely incidental to the main event or celebration, such programs shall nevertheless be regarded as coming under this heading.

D. COMMERCIAL, MUSICAL:

Being a commercial, sponsored local program, for the public presentation of which the broadcasting facilities of licensee have, for a consideration, been engaged by the sponsor; and which shall include or present in whole or any part, any musical composition or work; or the commercial sponsored broadcast of a football game incident to which music is used; and so-called "*participating programs*" using music.

E. RELIGIOUS, EDUCATIONAL AND CIVIC:

Being a non-commercial local program, sponsored by a religious, educational, patriotic, political or civic association or group, and presented under its *official* auspices, for which licensee grants the free use of broadcasting facilities.

2. ASCAP will make available to any radio broadcasting station a license to publicly perform the compositions copyrighted by its members, and by the members of affiliated foreign societies upon a "*per program basis*" on the following terms and conditions:

In respect of the various types of programs the following payments shall be made:

SUSTAINING, NON-MUSICAL:

No payment.

COMMERCIAL, MUSICAL:

If any or all of the musical content shall include, in whole or any part, any ASCAP composition, an amount equal to ten per cent (10%) of the net receipts of the licensee from the commercial sponsor for the use of the broadcasting facilities of the station, provided, however, that if the music used shall be limited solely to a single identical theme or signature and/or to a single identical theme or signature and incidental bridge or background music in connection with a program otherwise non-musical, the rate of payment shall be 3%; and if only incidental bridge or background musical accompaniment and/or any opening and/or closing music (not constituting a theme or signature song) is used in connection with a program otherwise non-musical, the rate shall be 1½%.

Provided further that if the commercial broadcast is of a football game, a sum equal to 1½% of the amount charged by licensee to the commercial sponsor shall be paid.

SUSTAINING, MUSICAL:

If any or all of the musical content shall include, in whole or any part, any ASCAP composition, an amount equal to one per cent (1%) of the regular published full card rate of the station applicable for the broadcasting facilities used. In no case shall the maximum amount payable by licensee in respect of sustaining programs during any year exceed either twelve times the highest one hour published rate of the station or one and one-half times the sustaining fee paid by the licensee during the year 1940, whichever shall be less; and provided further that if such maximum amount is guaranteed then no payments based upon the above percentage need be made.

COMMERCIAL, NON-MUSICAL:

No payment.

RELIGIOUS, EDUCATIONAL AND CIVIC:

No payment.

3. ACCOUNTINGS:

- A. Licensee is to furnish, postage prepaid, to ASCAP monthly a copy of the complete station log for each day, in the form required by FCC Rules and Regulations, Part 3, Sec. 3.90, and as to each program thereupon listed as musical or having any musical content, shall furnish ASCAP a complete item-by-item list of each musical composition rendered in whole or in part during local programs. Such listing shall show, as to each musical composition thus rendered, the full title thereof, the name of the composer and/or author, and name of the copyright owner as imprinted on the published sheet music or orchestration. Titles may not be abbreviated but must be shown in full. These requirements apply to all such programs, without exception, and regardless of the origin of the program.

- B. Such report of each accountable local program shall, if commercially sponsored, state the name of the sponsor or sponsors, and the amount charged each sponsor.

- C. Royalty accountings, accompanied by payment in full shall be rendered to ASCAP on or before the twentieth of each month, covering the previous calendar month. Such statements shall show in respect of each accountable program (a) the date of rendition, (b) the title of the program, (c) the time rendered, (d) the name of each sponsor and amount charged to each, and (e) the listing of titles, composers, authors and copyright owners.

- D. All accountings in respect of local "*commercial musical programs*" rendered in accordance with the foregoing, shall be understood to relate to the net receipts of the station, construed to mean the gross amount paid by the sponsor for all broadcasting facilities of the station, less rate card discounts (quantity and/or frequency) and advertising agency commission of not exceeding fifteen per cent (15%) if actually paid or allowed to a recognized advertising agency.

- E. Where renditions are by means of phonograph records, program listings shall show the manufacturer's brand and serial number of the record.

4. Any failure to comply with the requirements set out in Article 3 of this proposal as to the complete identification of compositions performed on programs, shall create the presumption that the music and/or compositions used were ASCAP compositions.

5. No payment shall be required to be made hereunder with respect to any local commercial program presented by transcriptions in the event that payment at the source has been made with respect to such transcription programs.

6. ASCAP reserves the right to restrict, in good faith, the broadcasting of compositions from musical comedies, operas, operettas and motion pictures, or any other composition being excessively broadcast, only for the purpose of preventing harmful effect upon such productions or compositions in respect of other interests under the copyrights thereof. In any case, however, ASCAP agrees that the maximum number of compositions which may be at any time thus restricted shall not exceed 500 and moreover limited licenses will be

granted upon application, entirely free of additional charge, as to restricted compositions if and when copyright owners thereof are unable to show reasonable hazards to their major interests likely to result from such broadcastings.

Provided, however, that in no case shall any charge, "free plug," or other consideration be required in respect of any permission granted to perform a restricted composition; and further provided that in no event shall any composition, after the initial broadcast thereof, be restricted for the purpose of confining the further broadcasts thereof to a particular artist, network, station or program.

7. ASCAP agrees to maintain during the term of the agreement substantially the existing domestic repertoire, and agrees to indemnify, save and hold licensee, sponsors, advertising agencies and each of them harmless, and defend them and each of them from and against any claim, demand or suit that may be brought against them or any of them with respect to renditions given, in accordance with this license, of musical compositions contained in ASCAP's repertory heretofore or hereafter copyrighted or composed by members of ASCAP.
8. The term of the agreement may at election of licensee be fixed to cover any portion of the time between effective date and December 31, 1949, and, notwithstanding anything herein to the contrary, if during any year of the license period the total payments per annum made by licensee to ASCAP shall be less than 2% of the total "net receipts" of the station for broadcasting facilities, as the term "net receipts" is defined in the blanket license proposal for single stations simultaneously submitted by ASCAP, ASCAP may require licensee to change to the blanket licensing basis for remainder of the term, and licensee will agree to accept such blanket basis, or if such payments shall exceed 5% of such "net receipts" licensee may require ASCAP to change the formula to such basis for remainder of the license period and ASCAP will agree to accept such blanket basis; such option to be exercised within sixty days following the end of the applicable license year in which such total "net receipts" shall be less than or shall exceed the applicable percentage, the new basis to be effective as of the beginning of the license year within which such option was exercised.
9. ASCAP agrees that if a more favorable license is granted to any other comparable broadcasting station, the licensee shall have the right to avail itself of the terms thereof. ASCAP agrees that any licensee may, upon request, inspect at the offices of ASCAP the original copy of any license agreement in effect with any broadcasting licensee.
10. ASCAP agrees to release and discharge licensee, advertising agencies and sponsors from any and all liability and claims whatsoever which may have heretofore arisen as a result of the broadcast from and after January 1, 1941, by licensee of any composition or work copyrighted or composed by ASCAP members or as to which ASCAP shall have public performing rights.

## NETWORK BLANKET LICENSE PROPOSAL

ASCAP will issue a license granting to the Mutual Broadcasting System the use of all music in its repertoire and of any of its associated or affiliated societies.

1. The consideration for the license to the Mutual Broadcasting System shall be:

### A. SUSTAINING FEE:

(a) As to stations affiliated with Mutual having a Single Station License from ASCAP under which the said stations guarantee to pay to ASCAP an agreed upon amount fixed in dollars for the use of ASCAP music in sustaining programs, ASCAP will grant to Mutual a license to broadcast sustaining programs to such stations upon the payment to it of the sum of One Dollar annually.

(b) In the event of a situation arising in which any of the Mutual stations does not have a Single Station License from ASCAP, or if such license is a Per Program License and the station has not guaranteed to pay to ASCAP, an agreed upon amount fixed in dollars for the use of ASCAP music in sustaining programs, then Mutual may supply its sustaining programs to such stations upon the payment to ASCAP of a sum equal to one per cent of the applicable card rate of each such affiliated station receiving and rebroadcasting the said sustaining program for the time consumed, provided, however, that in no case shall the maximum amount payable by Mutual in respect of any such station for sustaining programs exceed either: (a) a monthly payment equal to one half of the highest one hour published card rate of the station but in no event more than three quarters of the monthly sustaining fee paid by the station during the year 1940, or (b) the difference between twice the amount stated in subdivision (a) hereof and the actual sum paid during such month by the station for sustaining fees; whichever of such amounts shall be less.

### B. COMMERCIAL FEE:

Mutual further, for the first four years of the agreement, shall pay to ASCAP a sum of 3%, and for the remaining term of the agreement, a sum of 3½%, of its "net receipts after deductions" (as hereinafter defined) received during each year for the use of the broadcasting facilities of the stations over which the sponsored programs are broadcast.

The term "net receipts" from sponsors shall be construed to mean the gross amount paid by sponsor during such year for all network broadcasting facilities, less rate card discounts (quantity and/or frequency) and any advertising agency commission not to exceed 15% actually allowed and paid to any recognized advertising agencies.

The term "net receipts after deductions" shall be construed to mean the net receipts from sponsors during such year, less the sum of the following deductions:

(a) An amount equal to the actual cost to Mutual, its members and affiliates, of all program transmission lines used during such year in the transmission of network programs from any member or affiliate station to any other member or affiliate stations, but shall not include any program transmission lines extending from a member or affiliate station to the point of origination of a remote control program. Neither shall it include the cost of any program transmission lines maintained by a regional network affiliate of Mutual other than the program transmission line connecting the key station of such regional network with any other member or affiliate (other than an affiliate of such regional network) of Mutual.

(b) A sales commission on the net receipts from sponsors for such year equal to the sum of the following:

Fifteen per cent (15%) on the first One million dollars (\$1,000,000) or less of such net receipts;

Twelve and one-half per cent (12½%) on the next Two million dollars (\$2,000,000) or less of such net receipts (\$1,000,000 to \$3,000,000);

Ten per cent (10%) of the next Three million dollars (\$3,000,000) or less of such net receipts (\$3,000,000 to \$6,000,000);

Seven and one-half per cent (7½%) of the next Four million dollars (\$4,000,000) or less of such net receipts (\$6,000,000 to \$10,000,000);

Five per cent (5%) of the next Five million dollars (\$5,000,000) or less of such net receipts (\$10,000,000 to \$15,000,000);

Two and one-half per cent (2½%) of the next Five million dollars (\$5,000,000) or less of such net receipts (\$15,000,000 to \$20,000,000); and

One per cent (1%) of all net receipts in excess of Twenty million dollars (\$20,000,000).

2. No payment shall be required to be made hereunder with respect to any network commercial program presented by transcription in the event that payment at the source has been made with respect to such transcription program.

3. ASCAP will reserve the right to restrict, in good faith, the broadcasting of compositions from musical comedies, operas, operettas, and motion pictures, or any other composition being excessively broadcast, only for the purpose of preventing harmful effect upon such productions or compositions in respect of other interests under the copyrights thereof. In any case, however, ASCAP agrees that the maximum number of compositions which may be at any time thus restricted shall not exceed 500 and moreover limited licenses will be granted upon application entirely free of additional charge, as to restricted compositions if and when copyright owners thereof are unable to show reasonable hazards to their major interests likely to result from such broadcastings.

Provided, however, that in no case shall any charges "free plug" or other consideration be required in respect of any permission granted to perform a restricted composition and further that in no event shall any composition, after the initial broadcast thereof be restricted for the purpose of confining further broadcasts thereof to a particular artist, station, network or program.

4. ASCAP will agree to maintain during the term of the agreement substantially the existing domestic repertoire, and agrees to indemnify, save and hold Mutual, its member and affiliate stations, sponsors, advertising agencies and each of them harmless, and defend them and each of them from and against any claim, demand or suit that may be brought against them or any of them with respect to renditions given during the term hereof or any renewal in accordance with this license of musical compositions contained in ASCAP's repertory heretofore or hereafter during the term hereof copyrighted or composed by members of ASCAP.

5. The term of this agreement shall be for a period ending on December 31, 1949.

6. Royalty accountings, accompanied by payment in full shall be rendered to ASCAP on or before the twentieth of each month, covering the previous calendar month. In view of the fact that under Article 1, Subdivision B, subdivisions a and b, provisions are made for deductions on an annual basis, it is agreed that these items will be made with a final readjustment to be made within thirty days after the end of each fiscal year. Accountings and payments shall be made on a billing basis, with a right of deduction for bad accounts and dis-

counts allowed or rebates paid. The periods for less than a full fiscal year at the beginning and end of this agreement shall be pro rated.

7. ASCAP agrees to release and discharge Mutual, its member and affiliate stations, advertising agencies, and sponsors from any and all liability and claims whatsoever which may have heretofore arisen as a result of any network broadcast over the Mutual network from and after January 1, 1941, of any composition or work copyrighted or composed by ASCAP members or as to which ASCAP shall have public performing rights.

8. Mutual shall not be required to account for any sums received from political broadcasts.

## The New Network Rules

### RULES APPLICABLE TO STATIONS ENGAGED IN CHAIN BROADCASTING

May 2, 1941.

Whereas, the Commission, on March 18, 1938, by Order No. 37, authorized an investigation "to determine what special regulations applicable to radio stations engaged in chain or other broadcasting are required in the public interest, convenience, or necessity;"

Whereas on April 6, 1938, the Commission appointed a Committee of three Commissioners to supervise the investigation, to hold hearings in connection therewith, and "to make reports to the Commission with recommendations for action by the Commission;"

Whereas the Committee held extensive hearings and on June 12, 1940, submitted its report to the Commission;

Whereas briefs were filed and oral arguments had upon the Committee report and upon certain draft regulations issued for the purpose of giving scope and direction to the oral arguments; and

Whereas the Commission, after due consideration, has prepared and adopted the Report on Chain Broadcasting to which this Order is attached;

Now, therefore, it is hereby ordered, That the following regulations be and they are hereby adopted:

#### Licensing Requirements

§ 3.101 *Exclusive affiliation of station.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization (The term "network organization" as used herein includes national and regional network organizations.) under which the station is prevented or hindered from, or penalized for, broadcasting the programs of any other network organization.\*

\*§§ 3.101 to 3.108, inclusive, issued under the authority contained in Sec. 4 (i), (j), 48 Stat. 1068; 47 U. S. C. 154 (i), (j), Sec. 303 (b), (f), (g), (i), 48 Stat. 1082; 47 U. S. C. 303 (b), (f), (g), (i), sec. 303 (r), 50 Stat. 191; 47 U. S. C. 303 (r), 308 (a), (b), 48 Stat. 1084; 47 U. S. C. 308 (a), (b), sec. 309, 48 Stat. 1085; 47 U. S. C. 309, sec. 311, 48 Stat. 1086; 47 U. S. C. 311, sec. 313, 48 Stat. 1086; 47 U. S. C. 313, sec. 314, 48 Stat. 1088; 47 U. S. C. 314.

§ 3.102 *Territorial exclusivity.* No license shall be granted to a standard broadcast station having any contract arrangement, or

understanding, express or implied, with a network organization which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another station serving a substantially different area from broadcasting any program of the network organization.\*

§ 3.013 *Term of affiliation.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which provides, by original term, provisions for renewal, or otherwise, for the affiliation of the station with the network organization for a period longer than one year: *Provided*, That a contract, arrangement, or understanding for a one-year period, may be entered into within sixty days prior to the commencement of such one-year period.\*

§ 3.104 *Option time.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization which prevents or hinders the station from scheduling programs before the network finally agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize the time.\*

§ 3.105 *Right to reject programs.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied with a network organization which (a), with respect to programs, offered pursuant to an affiliation contract, prevents or hinders the station from rejecting or refusing network programs which the station reasonably believes to be unsatisfactory or unsuitable; or which (b), with respect to network programs so offered or already contracted for, prevents the station from rejecting or refusing any program which, in its opinion, is contrary to the public interest, or from substituting a program of outstanding local or national importance.\*

§ 3.106 *Network ownership of stations.* No license shall be granted to a network organization, or to any person directly or indirectly controlled by or under common control (The word "control" as used herein, is not limited to full control but includes such a measure of control as would substantially affect the availability of the station to other networks.) with a network organization, for more than one standard broadcast station where one of the stations covers substantially the service area of the other station, or for any standard broadcast station in any locality where the existing standard broadcast stations are so few or of such unequal desirability (in terms of coverage, power, frequency, or other related matters) that competition would be substantially restrained by such licensing.\*

§ 3.107 *Dual network operation.* No license shall be issued to a standard broadcast station affiliated with a network organization which maintains more than one network: *Provided*, That this regulation shall not be applicable if such networks are not operated simultaneously, or if there is no substantial overlap in the territory served by the group of stations comprising each such network.\*

§ 3.108 *Control by networks of station rates.* No license shall be granted to a standard broadcast station having any contract, arrangement, or understanding, express or implied, with a network organization under which the station is prevented or hindered from, or penalized for, fixing or altering its rates for the sale of broadcast time for other than the network's programs.\*

*It is further ordered*, That the regulations in §§ 3.101-3.108 shall become effective immediately; *Provided*, That, with respect to existing contracts, arrangements, or understandings, or network organization station licenses, the effective date shall be deferred for 90 days from the date of this order: *Provided further*, That the effective date of § 3.106 may be extended from time to time with respect to any station in order to permit the orderly disposition of properties.\*

BY THE COMMISSION.

(Seal)

(F. R. Doc. 41-3288: Filed, May 5, 1941; 12:15 p. m.)

T. J. SLOWIE,  
Secretary.

## The FCC Report

Following is the text of the FCC's summary of its report on the new rules for network broadcasting:

Regulations designed to "foster and strengthen network broadcasting by opening up the field to competition" are contained in a Federal Communications Commission order made public today. Accompanying the order is the Commission's "Report on Chain Broadcasting," which explains the new regulations and states the premises on which they are based.

"The regulations which we are promulgating," says the Commission, "are designed to preserve without loss the contributions of network broadcasting to the public and to the affiliated stations, while ensuring that licensees will exercise their responsibilities under the law. We believe that these regulations will foster and strengthen network broadcasting by opening up the field to competition."

\* \* \*

The Commission finds a variety of restraints in the present station-network relationships which impair the ability of stations to render service in the public interest. By removing these restraints, the Commission states, there should result "an increased number of networks, and, consequently, a larger supply of available network programs and a wider latitude for all stations in obtaining network programs." There should also result "a gain in quality as well as quantity as a result of increased competition among networks \* \* \*. Not only the more powerful stations, but those with less desirable facilities, and the public as well, will benefit."

The Commission notes that there exists only two alternatives to competition as a means for protecting the public interest in radio broadcasting: government ownership and detailed regulation of the kind applicable to railroads and telephone companies. The Commission rejects both of these alternatives. It states: "We believe \* \* \* that competition, given a fair test, will best protect the public interest. That is the American system."

\* \* \*

Six of the eight regulations are designed to remove the restraints upon stations contained in most station-network affiliations contracts. Under the new regulations, an affiliation contract may not restrain a station from carrying programs offered by any network, or restrict a network to one station in an area. It may not bind a station to a network for more than one year, and must leave each station free to schedule such programs as the station considers to be in the public interest. It may not contain an option clause requiring a station to cancel other programs merely because the network offers a program for the optioned hour; nor may it deprive a station of the final decision as to what programs shall or shall not be broadcast.

Finally, an affiliation contract may not deprive a station of the right to set its own rates, and to compete freely with networks for advertising revenues. Thus, according to Chairman Fly, "the new regulations might properly be called a Magna Carta for American broadcasting stations."

Says the Commission:

"This report is based upon the premise that the network system plays a vital role in radio broadcasting and has brought great benefits to it. We have carefully drawn our regulations so as not to interfere with any of the three major functions which a network performs—the sale of time to advertisers; the production of programs, both commercial and sustaining; and distribution of programs to stations."

The report further states:

"We are concerned \* \* \* with insuring that at reasonable intervals a station will be free to change its regular network affiliation, and, as occasion requires, to broadcast the programs of networks with which it is not regularly affiliated, and to exercise independent judgment in rejecting or refusing network programs. To the extent that the networks' present status rests upon excellence of service rather than coercive power, it will remain substantially unaffected."

The regulations are designed not merely to introduce competition among existing networks, but also to open the door to new networks. Says the report:

"The exclusion of new networks from the industry is especially onerous because of the failure of existing networks to render service on a truly national basis. They have left a number of communities, especially in the West and Middle West, wholly without network service, and many more with inadequate service or service from only one network. Under such circumstances, it is especially important to keep the door open for new networks which may be willing to serve areas now unprovided for."

\* \* \*

In laying the foundation for its discussion of the current network situation, the Commission report deals with the history of the Columbia Broadcasting System (CBS) and the Mutual Broadcasting System (Mutual); and places particular stress upon the history of the National Broadcasting Co. (NBC), and its parent, Radio Corporation of America (RCA). "NBC is but a branch—though an important branch—of (RCA), a corporate enterprise which straddles the fields of communication, radio-equipment manufacture, and entertainment," the Commission declares, and adds:

"RCA was originally founded to utilize wireless techniques for the transmission of messages; today it bestrides whole industries, dwarfing its competitors in each. \* \* \* RCA occupied a premier position in fields which are profoundly determinative of our way of life. \* \* \* Whether this ramified and powerful enterprise with its consistent tendency to grow and to expand into new fields at the expense of smaller independent concerns is desirable, is not to be decided here. We have thought it proper, however, to call the attention of Congress and the public to the broader problems raised by this concentration of power in the hands of a single group."

\* \* \*

The report notes that stations utilizing roughly 97 per cent of the nation's total nighttime broadcasting power are affiliated with the three major networks. All but two of the nation's clear-channel stations are affiliated with NBC or CBS and the remaining two (WOR and WGN) own Mutual. Eighteen of the Nation's most powerful and most desirable stations are licensed directly to NBC or CBS.

The Commission comments:

"The United States has rejected government ownership of broadcasting stations, believing that the power inherent in control over broadcasting is too great and too dangerous to the maintenance of free institutions to permit its exercise by one body, even though elected by or responsible to the whole people. But in avoiding the concentration of power over radio broadcasting in the hands of government, we must not fall into an even more dangerous pitfall: the concentration of that power in the hands of self-perpetuating management groups."

\* \* \*

One of the eight new regulations concerns the ownership of stations by networks, as distinguished from the affiliation of stations with networks by contract. The report notes that 18 of the most powerful and desirable stations in the country are at present licensed directly to NBC or CBS. "Competition among networks for these facilities is non-existent," says the Commission in discussing this "bottling-up" of the best stations. It finds that "the licensing of two stations in the same area to a single network organization is basically unsound and contrary to public interest," and that "it is against the public interest for networks to operate stations in areas where the facilities are so few or so unequal that network competition is seriously restricted." The Commission concludes:

"Subject to the right and opportunity of CBS and NBC to show at hearing in a particular case that public interest requires otherwise, the Commission will not license to a single network organization more than one station within a given area, nor will it license stations to any network organization in communities where the

available outlets are so few or of such unequal desirability as to require that all facilities be open to competition among networks for outlets and among stations for networks."

\* \* \*

The Commission occasionally contrasts Mutual with NBC and CBS in respect to size, structure, and mode of operation, but makes it clear that in so doing it does not seek to approve Mutual practices or to set them up as ideals or models. "On the contrary," it observes, "we find a tendency in Mutual to follow the paths toward restrictive practices blazed by CBS and NBC."

\* \* \*

Another of the new regulations concerns the operation of more than one network by one organization. The report notes: "The operation of the Red and Blue networks by NBC gives it a decided competitive advantage over the other two networks." It further notes that NBC's Red and Blue networks do not compete with one another, and that "the Blue has had the effect of acting as a buffer to protect the powerful Red against competition. \* \* \* NBC has utilized the Blue to forestall competition with the Red."

The Commission concludes that "it is not in public interest for a station to enter into a regular affiliation contract with a network's organization maintaining more than one network." It adds:

"Under any system of broadcasting, someone must decide what a station will put on the air and what it will not. \* \* \* Decentralization of this power is the best protection against its abuse. We cannot permit the protection which decentralization affords to be destroyed by the gravitation of control over two major networks into one set of hands. While the concentration of power resulting from operation of a network is unavoidable, the further concentration of power resulting from operation of two networks by one organization can and should be avoided."

\* \* \*

The remaining six new regulations are concerned with the affiliation contracts between networks and stations. Among the restraints which the Commission finds in these contracts are the following:

"NBC and CBS, by contractual arrangements with their affiliates, prevent the great majority of them from broadcasting programs of any other national network."

"Programs rejected by (network) affiliates, \* \* \* may not be offered by the network to other stations in the service area of the affiliate which rejects the program."

"The long-term (five-year) contracts of CBS and NBC were intended to, and do, prevent any real competition in the network-station market."

"\* \* \* National network time options have restricted the freedom of station licensees and hampered their efforts to broadcast local commercial programs, the programs of other networks, and national spot transcriptions."

"Long-term (five-year) affiliation contracts, with their exclusivity and optional-time provisions, seriously interfere with competition among networks. Ownership of broadcast stations by networks, however, goes even further. It renders such stations permanently inaccessible to competing networks."

"The operation of the Red and Blue networks by NBC gives it a decided competitive advantage over the other two national networks. \* \* \* By tying up two of the best facilities in lucrative markets—through the ownership of stations, or through long-term contracts containing exclusivity and optional-time provisions—NBC has utilized the Blue to forestall competition with the Red."

"NBC has attempted to protect itself against competition with its affiliates for the business of national advertisers. \* \* \* A contract of this kind, providing a severe penalty for price-cutting, is equivalent to, and has the same effect as, a price fixing agreement."

"At every turn, \* \* \* restrictive clauses taken cumulatively operate with even greater force than their effect considered in isolation would suggest."

The six features of present affiliation contracts which the new regulations are designed to eliminate are:

1. "Exclusivity"
2. "Territorial Exclusivity"
3. Contracts binding for more than one year



4. "Network optional time"
5. Restrictions on the right to reject network programs
6. Limitation of competition between network and stations.

\* \* \*

### 1. "Exclusivity"

Under the so-called "exclusivity clause," a station affiliated with one network may not carry a program of any other network. The Commission notes that there are a great many cities to which neither Mutual nor any new network can obtain any access whatever, since all the stations are already bound to NBC or CBS by contracts containing "exclusivity clauses." Thus:

"Not only is regular Mutual program service banned from large areas, but even individual programs of unusual interest are kept off the air. A concrete example of the manner in which exclusivity clauses operate against the public interest may be seen in the broadcasting of the World Series baseball games of October 1939. Mutual obtained exclusive privileges from the baseball authorities for the broadcasting of the series with the Gillette Co. as commercial sponsor. Thereupon it attempted to obtain time from various stations including stations which were then under exclusive contract to NBC and CBS. CBS and NBC immediately called upon their outlet stations to respect the exclusive provisions of their contracts. Disregard of this reminder would have jeopardized a station's rights under the contracts. This prevented certain licensees from accepting a program for which they believed there was public demand and which they thought would be in the public interest. It also deprived the advertiser of network advertising service in some areas, and prevented the licensee from receiving income which could have been obtained from acceptance of the program series. As a result, thousands of potential listeners failed to hear the World Series of 1939."

Under the new regulations, stations affiliated with one network may nevertheless carry also programs offered by any other network.

### 2. "Territorial Exclusivity"

Similar to the "exclusivity clause" is so-called "territorial exclusivity," under which a network is bound not to send a program to any station located in an area served by its affiliated station, even though the affiliated station rejects the program. Says the Commission:

"Territorial exclusivity arrangements are important from the point of view of over-all program structure. To be sure, usually it would be wasteful duplication of service for a network simultaneously to send identical programs to stations whose service areas approximately coincide. If the only effect of territorial exclusivity were to prevent duplication, no fault could be found. But exclusivity goes much further; it protects the affiliate from the competition of another station in the same area which may wish to use programs not carried by the affiliate.

"Under territorial exclusivity, programs rejected by affiliates, sustaining or commercial, may not be offered by the network to other stations in the service area of the affiliate which rejects the program. An example of the adverse effect this may have upon the public is given in a brief filed August 7, 1940, by station WBNY at Buffalo, N. Y. WBNY related that Mutual outlets in Buffalo rejected a sustaining program series known as "The American Forum of the Air," but that its efforts to obtain this program were futile. Consequently, this worth-while program was not broadcast to the Buffalo area despite the desire of WBNY to carry it."

\* \* \*

"It is as much against the public interest for a network affiliate to enter into a contractual arrangement which prevents another station from carrying a network program as it would be for it to drown out that program by electrical interference."

### 3. Long-Term Affiliation Contracts

One of the new regulations limits the term of affiliation contracts to one year. Says the Commission:

"With respect to the maximum term of the contract, no showing has been made that there is any business need for an affiliation contract longer than one year. On the contrary, competition will

be strengthened if opportunity is provided for annual readjustments on the basis of comparative showings of networks and stations. We conclude, therefore, that station licensees will best serve the public interest if they refrain from entering into such contracts for periods in excess of one year and hold themselves free to negotiate with networks annually."

### 4. "Network Optional Time"

Another provision in standard affiliation contracts having a restrictive effect upon stations is the so-called "optional time clause," under which a station must cancel any program scheduled during an option period if the network with which it is affiliated offers a program for that period. NBC, CBS, and Mutual all have such clauses in some or all of their contracts. Says the Commission:

"A station licensee must retain sufficient freedom of action to supply the program and advertising needs of the local community. Local program service is a vital part of community life. A station should be ready, able, and willing to serve the needs of the local community by broadcasting such outstanding local events as community concerts, civic meetings, local sports events, and other programs of local consumer and social interest.

"We conclude that national network time options have restricted the freedom of station licensees and hampered their efforts to broadcast local commercial programs, the programs of other national networks, and national spot transcriptions. We believe that these considerations far outweigh any supposed advantages from 'stability' of network operation under time options. We find that the optioning of time by licensee stations has operated against the public interest."

### 5. Restrictions on the Right to Reject Network Programs

Many affiliation contracts restrict the right of a station to reject network programs, even though a better program is available for the same hour. Thus control of what a station broadcasts is in effect taken away from the station. This is especially true, because "precise information concerning the program the network proposes to distribute is not usually furnished and is not always easy to furnish." Says the Commission:

"It is the station, not the network, which is licensed to serve the public interest. The licensee has the duty of determining what programs shall be broadcast over his station's facilities, and cannot lawfully delegate this duty or transfer "the control of his station directly to the network or indirectly to an advertising agency. He cannot lawfully bind himself to accept programs in every case where he cannot sustain the burden of proof that he has a better program. The licensee is obliged to reserve to himself the final decision as to what programs will best serve the public interest.

"We conclude that a licensee is not fulfilling his obligations to operate in the public interest, and is not operating in accordance with the express requirements of the Communications Act, if he agrees to accept programs on any basis other than his own decision that the programs are satisfactory.

"Even after a licensee has accepted a network commercial program series, we believe he must reserve the right to substitute programs of outstanding national or local importance. Only thus can the public be sure that a station's program service will not be controlled in the interest of network revenues."

### 6. Limitation of Competition Between Network and Station

A final regulation is concerned with the station's control over its own rates. Some present affiliation contracts penalize a station for selling time to national advertisers at less than the rate which the network charges for the station's time, and thus hinders it from competing with the network. "A contract of this kind, providing a severe penalty for price-cutting," says the Commission, "is equivalent to, and has the same effect as, a price-fixing agreement."

The Commission further states:

"We conclude that it is against the public interest for a station licensee to enter into a contract with a network which has the

effect of decreasing its ability to compete for national business. We believe that the public interest will best be served and listeners supplied with the best programs if stations bargain freely with national advertisers."

\* \* \*

Throughout the report, the need for competition as a protection to the public is emphasized. For example:

"A constantly improving service to the public requires that all the competitive elements within the industry should be preserved. The door of opportunity must be kept open for new networks. Competition among networks, among stations, and between stations and networks, all of which profoundly affect station service, must be set free from artificial restraints. It is not in the public interest for any licensee station to make arrangements which tend to close that door or restrain that competition. Pursuant to the mandate of Congress that it grant licenses and renewals only to stations operating in the public interest, this Commission must refuse further to license stations which persist in these practices."

\* \* \*

The Commission notes that approximately the same restraints are found among some regional as among national networks, and hence the new regulations cover regional networks. According to the report:

"Restrictive contracts and other practices with which these regulations are concerned restrain competition and operate against the public interest whether the network concerned is national \* \* \* or regional. True, the national restraints loom larger; but \* \* \* with respect to a given station, a given community, or a given region, a restrictive contract between a station and a regional network \* \* \* may operate to foster a local monopoly and to impair station operations in the public interest just as effectively and as intensively as similar practices on a national scale."

However, the Commission notes that the regional networks are "in a state of more rapid flux than the national networks." and that therefore it "will carefully consider, in particular instances, any showing that the application of the regulations herein adopted to a station affiliated with a regional network will reduce rather than increase its ability to operate in the public interest."

\* \* \*

The new regulations are effective immediately, except that with respect to existing contracts and arrangements, the effective date is deferred for 90 days. The regulation concerning network ownership of stations may be further extended from time to time with respect to any station to permit the orderly disposition of properties.

\* \* \*

The "Conclusion" of the Commission "Report on Chain Broadcasting" follows in full:

"We have exercised our jurisdiction upon the premise, generally accepted by the public and the industry, that the network method of program distribution is in the public interest. We subscribe to the view that network broadcasting is an integral and necessary part of radio. The regulations which we are promulgating are designed to preserve without loss the contributions of network broadcasting to the public and to the affiliated stations, while ensuring that licensees will exercise their responsibilities under the law. We believe that these regulations will foster and strengthen network broadcasting by opening up the field to competition. An open door to new networks will stimulate the old and encourage the new.

"The prophecy that regulations such as we are adopting will 'result in the eventual destruction of national program service' and 'destroy the American system of network broadcasting' is, we believe, the exaggeration of advocacy. The practices which we find contrary to public interest were instituted to restrict competition within the broadcasting field, not to protect commercial broadcasting from competition by other types of advertising. Everyone familiar with broadcasting as an advertising medium knows that radio reaches a different audience from other types of advertising, and that it reaches them in a different way. We doubt that the networks have so little faith in the stability of their own enterprise as is suggested by their insistence that the whole structure of commercial broadcasting will collapse if their relations with outlets are

modified along the lines indicated. It is incredible that the industry's footing is so insecure. The prospect that advertisers will desert radio in favor of newspapers, magazines, or billboards is singularly unconvincing.

"We are under no illusion that the regulations we are adopting will solve all questions of public interest with respect to the network system of program distribution. For "example, we have not dealt with the activities of principal networks in the fields of electrical transcription and talent supply, although we recognize, as did the committee, that their activities in these fields 'raise problems which vitally concern the welfare of the industry and the listening public.' The problems in the network field are interdependent, and the steps now taken may perhaps operate as a partial solution of problems not directly dealt with at this time. Such problems may be examined again at some future time after the regulations here adopted have been given a fair trial.

"We have been at pains to limit our regulations to the proven requirements of the situation, and especially to ensuring the maintenance of a competitive market. Radio broadcasting is a competitive industry. The Congress has so declared it in the Communications Act of 1934, and has required the fullest measure of competition possible within physical limitations. If the industry cannot go forward on a competitive basis, if the substantial restraints upon competition which we seek to eliminate are indispensable to the industry, then we must frankly concede that broadcasting is not properly a competitive industry. If this be the case, we recommend that the Congress should amend the Communications Act to authorize and direct regulations appropriate to a noncompetitive industry with adequate safeguards to protect listeners, advertisers, and consumers. We believe, however, that competition, given a fair test, will best protect the public interest. That is the American system."

\* \* \*

The report is concurred in by Chairman Fly and Commissioners Walker, Payne, Thompson, and Wakefield; with Commissioners Case and Craven dissenting.

The complete "Report on Chain Broadcasting," including the dissenting report, may be obtained in printed form from the Superintendent of Documents, Government Printing Office, Washington, D. C., at a nominal cost.

## The Dissent

Following is the FCC's summary of the "minority comment" by Commissioners Case and Craven on the new network rules:

All members of the Commission recognize that improvements in the present broadcast service as well as in the organization thereof are not only possible but also desirable. However, the minority disagrees with the proposals which the majority has adopted as a method of securing improvements. We fear that the proposals of the majority will result inevitably in impaired efficiency of the existing broadcast organization of the country. This system has been developed as a result of practical experience over a period of years. In the main it is operating very well in the public interest. Undoubtedly it provides the public with the best broadcasting service in the world. Naturally, there are faults which may need correction. However, some of the corrective processes suggested by the majority may easily result in faults which are far more basic than the known defects which exist today. Furthermore, it appears that insufficient recognition is given to the practical considerations which are inherent in the American system of broadcasting and which cannot be circumvented. It seems that no weight is given to the fact that broadcasting is dynamic and not static. No consideration seems to be given to the probable effect of new developments. Also inadequate recognition is given to the effect of the natural and economic limitations within which broadcasting must operate. Likewise, inadequate recognition is

given to the natural laws which influence basically the manner in which broadcasting renders a social service to the public of America.

No member of the Commission condones any form of monopoly which concentrates power contrary to the public interest or which constitutes unreasonable restraint of competition. However, the majority appears to suggest that "unlimited" competition is the most important factor in securing improvements in radio broadcasting service and proposes to issue regulations the effect of which will prohibit certain contracts which now exist between chain companies and their affiliates. The intent of these regulations is to ban all arrangements which limit the ability of any broadcast station licensee to engage at any time in any and all forms of competition. While the minority insists upon competition they suggest the principle of "Free competition accompanied by good radio service to the public" rather than competition which affects adversely program service.

The minority is of the opinion that the most important problem confronting the Commission may be stated briefly as follows:

"Considering the necessity of a balanced radio broadcast service of interest to and in the interest of the public, and recognizing the natural limitations inherent in radio, how can greater equality of opportunity be extended to persons desiring to utilize radio as a media of broadcasting information to the public?"

The solution of the problem requires a broad viewpoint as well as a balanced consideration of at least all of the following factors which among others contribute to broadcast service in the interest of the public:

1. The establishment of a "free radio" insofar as is practicable within inherent natural limitations.
2. Good programs.
3. An equitable distribution of facilities to states and communities.
4. Diversification of control of radio stations among many licensees.
5. Competition.
6. Efficiency of program distribution to the nation as a whole.
7. Operation of each station in the public interest rather than for the private interest of the licensee.
8. Natural economic laws of supply and demand.
9. Principles of sound business.

A limited approach, or conclusions based upon over-emphasis of one phase of the problem, will result in unsound administration and unfortunate consequences to the radio service to which the public is entitled. More specifically, we fear that the revolutionary change proposed by the majority will result in the destruction of the present excellent national program distribution system and the substitution therefor of some new kind of system, the effects of which the majority does not adequately visualize.

It is axiomatic that unlimited availability of the few existing radio facilities and efficient national program distribution cannot both be attained at the same time. There is no open market condition in the business of broadcasting as in other businesses. Nature has determined that. To attempt to circumvent these basic economic laws is fraught with peril to an industry which has hitherto achieved a marked degree of success. Regulation in disregard of economic laws may foster a situation in which competition among competently managed networks would be replaced by an unwholesome conglomeration of opportunistic "time brokers" catering to an aggregation of local monopolies in the various towns and cities of the nation. This will result in

1. Responsibility for carrying sustaining programs of public importance would be so diffused that such service would likely become nobody's business and the difficulty in clearing time on a national network would become an almost insurmountable task.
2. The incentive would be removed for the origination of such sustaining features as the European war broadcasts, the American Farm and Home Hour, the Town Meeting of the

Air, Toscanini, etc. If the proposals of the majority are enforced there can be no logical determination of who will pay for such service or how it will be developed.

These considerations and other far-reaching adjustments that would be involved would plunge the American broadcasting system from the *known* of good public service to the *unknown* in which all the consequences cannot be foreseen. It is, therefore, no exaggeration to predict that the decision of the majority instead of resulting in "free competition", would more likely create "anarchy" or a kind of business chaos in which the service to the public would suffer.

The majority appears to conclude that it is necessary to exert control over certain business policies of radio station licensees in much the same manner as has been proven suitable for public utilities other than radio. However, in arriving at this conclusion there appears to have been no weighing of the advantages and the disadvantages of the present broadcast structure in terms of good program service to the public. Hence, no conclusions based upon evidence in the record have been made of the reasonableness of the present practices of the industry. For 14 years, existing contract arrangements have been enforced both through formal and informal agreements, and broadcasting in America has achieved greater progress than in any country in the world. The record does not disclose that there is *unreasonable* restraint of competition resulting from certain contracts which the majority proposes to prohibit.

It is possible that the majority in its desire to regulate one facet of the broadcast problem has overlooked some of the other important considerations and hence may have made impossible the attainment of an ideal objective. For example, in asserting jurisdiction to regulate the business practices of broadcast station licensees the majority may have assumed certain power which is not delegated to it under the law. In broadcasting, Congress evidently intended to apply the constitutional doctrine of a "free press." In so doing, Congress recognized that the advantages of a "free radio" were more important than the advantages of the type of regulation heretofore considered necessary in the public utility field. As evidence of their intent, Congress specified that radio broadcasting should not be classed as a common carrier even though licensed by the Government to operate as a form of monopoly in the public domain. The type of regulation specified by Congress for broadcasting clearly envisioned that the Communications Commission should not regulate the programs, the business practices or business policies of broadcast station licensees. Congress specified a type of regulation designed to maintain its policy of a "free radio." This type of regulation differs from that applied to other private business operations in the public domain.

Thus, the question of the power of the Commission to regulate the business phases of broadcasting may be approached from the standpoint of public interest. Congress required that radio, like the press, must be free from those restraints of Government which hamper free expression and which control what may be said or who may speak. The most important function of Government should be to facilitate the attainment of a "free radio." Therefore, it may be argued that if the licensing authority interferes with the business practices of persons engaged in broadcasting, there is concentrated in a single Government agency a power which must lead inevitably to undesirable restraints upon a "free radio." Such concentration of power in Government is just as contrary to public interest as the concentration of control of broadcast stations among a limited number of licensees.

It is obvious that if all the stations in the country were licensed to one person, that person, even though regulated by the Government, would have vast power to control an important media of information. Even though such person had the best of intentions

for the welfare of the public, his would be the sole judgment which determined how radio would be utilized to influence public opinion. Such an extreme is unthinkable. On the other hand, if we had innumerable licensees and therefore innumerable competitive judgments, all under the autocratic regulatory supervision of a single Government agency vested with final and unrestrained power of life and death over the economic destinies of each licensee, we likewise would have an intolerable situation, however well-intentioned such Government agency may be. It was for this reason that Congress provided not only for a diversification of control of radio broadcasting among licensees, but also for diversification of jurisdiction among various regulatory agencies of Government. It was not intended by Congress that any licensee merely because he was a radio broadcaster should be exempt from the application of laws directed to business enterprise generally. The Department of Justice and the Federal Trade Commission as well as other Government agencies include broadcasters within their jurisdiction when administering the laws relating to all business enterprise.

Congress empowered the Federal Communications Commission to regulate only that phase of radio operation which relates to licensing stations. This embraces a fair and equitable distribution of radio facilities to states, communities and persons in a manner which insures diversification of control among many licensees, as well as a good program service of interest to and in the interest of the public. It likewise includes the regulation of technical aspects of operating stations and certain other phases of radio operation affecting public interest which are not under the jurisdiction of other agencies of Government. The Commission is charged with the responsibility of determining the qualifications of licensees to operate radio broadcast stations, but the Commission does not have the responsibility to determine the guilt of licensees for violations of law, the administration of which is not under the direct jurisdiction of the Communications Commission. If licensees of radio stations are found guilty of violation of such other laws, the Commission's responsibility in the premises rests solely as to the qualifications of such licensees to operate stations in the interest of the public.

If some form of monopoly exists in radio broadcasting which is contrary to the best interests of the public, it should be remembered that the Commission has licensed all broadcasting stations in the United States after finding time and time again that each of the licensees was operating his station in the public interest. Therefore, if the Commission has erred in the past, it can now correct the mistake by exercising in individual cases the licensing power delegated to it under the Communications Act of 1934.

The Commission should encourage the organization of independent, highly competitive national networks. However, if there are limitations or barriers to the establishment of additional competitive networks, the Commission need not and should not promulgate rules the effect of which would destroy all existing systems, merely to provide some other private enterprise with an opportunity to capture the revenues of broadcasting. There are better ways to encourage and secure additional competition.

### Conclusions

There are certain factors which should provide the basis for consideration of the many complex problems in the field of radio broadcasting. However, as has been stated elsewhere in this report, no abrupt changes should be attempted without positive indication that such changes will result in improved service to the public. The record in this instant investigation does not justify sweeping proposals to change the developments resulting from practical experience.

It is must be considered that since 1927, the American system of broadcasting has developed under a Congressional formula

which, until recently, has been administered in its broad policy aspects with fair consistency by the Commission and, on the whole, uniformly interpreted by the Courts.

It must be admitted that imperfections exist. No human institution is free from error. It is significant, however, that this record fails to disclose important abuses. Moreover, no information is available to the Commission which justifies an invasion of the business practices of the licensees of this Commission.

It is true that some of the pioneers in broadcasting have achieved conspicuous financial success. Likewise others who have made contributions to the industry and the public have been well rewarded. This fact alone affords no proper basis for a radical extension of the regulatory scheme.

The record shows that in broadcasting there exists vigorous competition in the areas that count. It is the duty of the Commission to preserve and encourage such competition. However, we should not embark upon novel or untried courses of regulation based upon mere speculation as to how American businessmen should manage their affairs. Rather we should consider that the consequences of our acts might injure or retard further improvement in the existing system and the service which it now performs.

Competition accompanied by good radio service to the public should continue to be fostered by the Commission. However, the blind adherence to the slogan "free competition", regardless of all practical factors, is unsound and will result in a conglomeration of uncoordinated radio stations rendering an inferior service to the public.

On the whole, radio broadcasting has an excellent record of public service. This includes both networks and the independent stations. Possibly with a few isolated exceptions, radio has been scrupulously fair in dealing with questions of political, social and economic importance. It has been progressive and enterprising in the entertainment field. The public has been and should continue to be its most important and only censor.

Radio is so constituted that it is sensitive to public criticism and responds promptly to changing public tastes. For this Commission or any agency of Government to attempt to substitute its judgment for that of the public involves an arrogant presumption which should be avoided at all costs. That such a policy is not contemplated by anyone on the Commission seems quite clear. However, it can be argued with logic that invasion of this economic field by the licensing authority in the absence of clear legal mandate would constitute an inevitable prelude to the second step of assuming the role of arbiter of public tastes.

Circumstances may require the Federal government to exercise broad powers in many fields of our economic life, but it is imperative that broadcasting be maintained as a free American institution. To adopt some pattern of government regulation as applied in other fields is to ignore the real nature of broadcasting. Borrowed techniques just don't fit. Broadcasting must be kept free from unnecessary Government restraints. Nowhere has this concept been given better expression than in a recent statement of the President of the United States wherein he said:

"Your Government has no wish to interfere or hinder the continued development of the American system of broadcasting. Radio was born and developed in the real American way and its future must continue on that basis."

Our views in this matter may be summarized as follows:

1. The Commission is without jurisdiction to promulgate regulations which undertake to control indirectly the business arrangements of broadcasting licensees.

2. The record shows vigorous competition among networks and independent stations within the limitations of facilities imposed by nature and thus no finding of illegal monopoly can be made by this Commission, even if it can be assumed that this Commission had the legal authority to make such determination.

## REPORT TO DEPARTMENT OF JUSTICE

At a press conference on Monday, FCC Chairman James Lawrence Fly stated that the Commission would send a copy of the monopoly report and the complete record in the case to the Department of Justice.

### Labor

#### OUTSIDE SALESMEN

A break for small stations under the Wage and Hour Act was obtained by the NAB this week when the Wage and Hour Division held that radio's outside salesmen could write their own copy without losing their exemption.

The Wage and Hour Division's ruling followed a conference between division attorneys and Joseph L. Miller, NAB labor relations director, who presented the industry's story.

The definition of an exempt outside salesman says he can do work "incidental to" his selling without losing his exemption. The division held that copy writing was "incidental to" selling.

Announcing, however, is not "incidental to" selling. Therefore, if an outside salesman announces more than 20 per cent as much (in time) as regular announcers who are non-exempt, he loses his outside salesman's exemption.

For example, in a station where regular announcers work 40 hours a week, an outside salesman could work the following hours without overtime payment:

Outside selling: 40 hours  
Writing copy for accounts sold: 10 hours  
Announcing: 8 hours.

The text of the Wage and Hour Division's opinion:

This is in reply to your letter of April 28, 1941, in which you ask certain questions concerning the application of the outside salesman exemption provided by section 13(a)(1) of the Fair Labor Standards Act to employees of radio stations.

Your first inquiry relates to outside advertising solicitors who prepare the commercial "copy" for use on the programs which they have sold. You state that you consider the preparation of the copy to be "incidental to and in conjunction with the employee's own outside sales or solicitations" within the meaning of section 541.5(B) of Regulations, Part 541. If an outside advertising solicitor otherwise conforms with section 541.5 of the regulations, it is the opinion of this office that preparation of commercial "copy" when written exclusively with respect to the advertising accounts sold by such employee may be considered to be incidental to and in conjunction with his own outside sales or solicitations.

Your second inquiry relates to employees who solicit advertising away from the place of business, prepare the commercial copy at the place of business and also announce the program as prepared by them. In the opinion of this office, the announcement of the program is too far removed from the outside solicitations to be considered incidental to or in conjunction therewith. Accordingly, the time devoted by the outside solicitors in question to the

3. The Commission through its licensing powers has ample authority to deal with any abuses that may arise, or which may now exist. Thus with the possible exception of clarification of the procedural and appellate provisions of the Communications Act of 1934, no legislative changes seem necessary.

4. There is no support in the record of these proceedings or otherwise in the possession of the Commission which would require new regulations which would attempt to control the relations between networks and affiliates.

5. Broadcasting service is essentially a national service. It must be recognized that listeners prefer good programs originating from any source where there is superior talent and which may have greater entertainment value than would otherwise be available from a purely local source.

6. There is an important function to be served by the smaller local stations. The Commission should continuously strive to improve the technical efficiency of such stations and, within the limits of the Act, afford encouragement to broader economic opportunities for such stations. This should not be attempted by the destruction or impairment of existing services. There is room for both.

7. There is the strong presumption that four competing national networks independently operated might afford opportunity for improved service, although there is nothing in this record to establish that stations affiliated with the company operating two networks have not rendered a good public service. It is, therefore, recommended that informal discussions begin forthwith between the Commission and the representatives of the company operating two networks with a view of obtaining a voluntary segregation.

8. Network companies maintain concert and artist management bureaus as an incident to their operations. The Commission has no jurisdiction in this field. However, the companies should be notified that the Commission intends to request an inquiry by either the Federal Trade Commission or the Department of Justice, or both, in the event the companies do not divest themselves of these activities within a reasonable time.

9. There is no reason why the Commission should not forthwith extend the terms of broadcast licenses to the full statutory limit of three years. This would create an atmosphere of greater stability in the industry and would in no way detract from the Commission's power to proceed by revocation against licensees who contravene the standard of public interest.

Finally, it seems appropriate to emphasize that our government is concerned with many important and crucial problems. This is no time to embark upon a new and untried course for which no urgent need can be established. It seems to us that the kind of democratic freedom which we are preparing to defend requires those in government to manifest restraint and tolerance. There is no evidence to justify an attempt at unnecessary control of the broadcasting industry under even normal circumstances. In this atmosphere of world tension, our own national unity would be disserved by a new experiment at "reform" of an established system of mass communication upon which so many of our people rely for information and diversion.

#### EXECUTIVE COMMITTEE

The NAB Executive Committee, as instructed by the Board of Directors, met Wednesday, May 7, in New York. The network report, the proposed hearing on newspaper ownership and the ASCAP situation were considered. The committee decided to report to the Board at the St. Louis meeting, Monday, May 12.

#### REPORT FOR SALE

The FCC's supply of copies of its "Report on Chain Broadcasting" is now exhausted.

However, the complete report with its associated order (153 pages) is obtainable from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 30 cents a copy.

announcing of programs should be considered as nonexempt work within the meaning of the 20 percent test contained in section 541.5 of Regulations, Part 541.

Very truly yours,  
 FOR THE SOLICITOR,  
 (s) RUFUS G. POOLE,  
*Assistant Solicitor In Charge  
 of Opinions and Review.*

## Broadcast Advertising Record

On May 7 the NAB Research Department released Volume 1 of "Broadcast Advertising Record". It is a new name and a new record, formerly called the Broadcast Advertising Unit Volume Report.

The "Broadcast Advertising Record" just released presents January, 1941 unit volume of the stations reporting. The "Record" is rearranged to increase the practical value of this sales tool to stations. Separate tables are presented for local and national spot business with facility in each for direct comparison of the individual station with all stations, the average station and stations located in each of five market sizes.

The "Record" was mailed to those stations actively cooperating in this undertaking by submitting monthly records of their business.

Station managers who have seen the "Record" are enthusiastic and confirm the belief of the Research Department and the Department of Broadcast Advertising that the "Record" will be the most potent business-builder in the possession of stations.

January 1941 totals of programs units and announcements carried on 227 stations and all national networks is presented in the following table:

	January, 1941 Record				TOTAL	
	RETAIL		GENERAL		Pgm. Units	Ann's
	Pgm. Units	Ann's	Pgm. Units	Ann's	Pgm. Units	Ann's
All National Networks.....			2,603,982		2,603,982	
227 Stations Reporting:						
Regional Network.....	7,293	913	69,909	6,684	77,202	7,597
National Spot.....	52,990	6,440	421,929	91,618	474,919	98,058
Local.....	386,492	143,476	175,334	36,017	561,826	179,493
Total Other Than National Network.....	446,775	150,829	667,172	134,319	1,113,947	285,148
TOTAL..	446,775	150,829	3,271,154	134,319	3,717,929	285,148

## Sales

### APPLE COMMISSION USES RADIO

As previously related in these REPORTS, various interests have taken advantage of the national defense emergency to bring pressure through governmental agencies or bureaus for free radio time, under the guise of participation in national defense. An example recently cited in these columns is the Fish and Wildlife Service of the Department of the Interior, which is currently receiving \$98,076.16 worth of free radio plugs per year.

In refreshing contrast is the Washington State Apple Commission, now engaged in a four-week \$20,000 radio campaign in se-

lected markets. After considerable discussion and correspondence between this Commission and NAB, a letter from C. E. Chase, Secretary-Manager of the Commission, states:

"On my return here I read with considerable interest your letter of April 4th, together with the copy which you enclosed which you had written in connection with the broadcast of fish menus. I also read your letter to the Commission at our meeting on the 19th and gave it as my reason for not having done anything in connection with getting the Department of Agriculture to put on apple radio programs. They approved the stand I had taken on account of my conference with you, and Kelsey Denton, the new Northwest manager of the J. Walter Thompson Company, also concurred.

"We are putting on a radio program for the next four weeks, starting the first of May, which will total over \$20,000. While this amount does not mean much to some organizations, to us it is considerable, as you know. We hope to get splendid cooperation from the stations in this connection, as you will note by the bulletin I am enclosing where I have marked the information we are putting out to the shippers about this.

"I think you are familiar with the fact that we just concluded advertising in 45 cities, most of which expired the 26th of April. A good deal of this was radio. On this new drive, however, *it is all radio*, and of course in a good many cities we have posters which are still being left up even though the expiration date is past."

Certainly no comment on a letter like that is required. Instances like this, though rare, are so encouraging that NAB sincerely hopes that participating stations will do all in their power to make the apple campaign an outstanding success, for the salutary effect it will have on other groups.

### SUCCESS STORIES NEEDED

To fill current requests from members, additional success stories, big or little, are urgently requested on these topics:

Amusements  
 Meat products  
 Funeral services  
 Newspapers

Please send what you have to the Department of Broadcast Advertising.

### MOVIES USE INTERNATIONAL RADIO

A 52-week contract for two programs per week, to be broadcast over international transmitters to South America, has been signed by RKO Pictures with the International Division of NBC.

One program will dramatize highlights of current RKO Pictures, the other will dramatize the lives of RKO stars.

The contract was placed direct by the motion picture company with no agency involved, and may indicate a more pronounced trend towards the use of radio advertising by the motion picture industry.

### CIRCUS SUCCEEDS WITH RADIO

In response to the item last week detailing plans to spend \$350,000 in newspaper advertising this summer by circuses, Howard Loeb of WFDF, Flint, Mich., contributes an outstanding circus success story substantiating NAB's belief that not only can a circus use paid radio advertising effectively, but that it will do so if properly handled by station managers.

Writes Mr. Loeb:

"Through a mistake the big Hagenbeck-Wallace Circus and the equally big Cole Brothers Circus made arrangements to show in

Flint on exactly the same day, July 5, 1937. Their advertising representatives both frantically appealed to WFDF for help. A community of 150,000, they felt, was not big enough to support two big circuses simultaneously. They wanted to know what should be done about it.

"We suggested that we declare a 'Circus Day in Flint', and pointed out that if each circus would increase its advertising appropriation and place the biggest share of their budgets on our station, everything would turn out all right. This they agreed to do. Hagenbeck-Wallace placed an order with us at regular rates to be spent on four days up to and including circus day. Cole Brothers placed an order on the same basis. Both companies purchased spots announcing 'Circus Day', each plugging its own name and circus grounds. We did not use any program whatsoever and the circuses cut their newspaper space to a minimum, putting the big responsibility on radio.

"To say that both circuses were elated over the results would be putting it mildly, as all their tents were far too small to handle the crowds, and it turned out that two circuses on the same day in Flint are not enough—we think we might have handled several more. Attached is a copy of a letter from R. E. Hickey, General Press Representative of Hagenbeck-Wallace."

The letter from Mr. Hickey states:

"It is indeed a pleasure for me to write you and tell you of our great success in Flint on July 5, 1937, when Hagenbeck-Wallace had opposition-day and date—with another large railroad circus. Our records for that day show two thousand more paid admissions than capacity, which is indeed a remarkable figure to attain, when you consider it was the third day of a week-end holiday, the heat and other circumstances.

"During my stay in Flint and also on circus day your station cooperated 100 per cent, and the advance press department and also the executives of Hagenbeck-Wallace wish to thank WFDF for its loyalty and the promotion of this circus.

"For the remarkable turnout of the Flint and Genesee county people and the huge Hagenbeck-Wallace business we lay a good share of the cause at the studio door of WFDF. I am highly recommending your station and its facilities to our other two major circuses, our associates.

"You may be certain of a good percentage of our advertising appropriation when next we appear in Flint. Thanks to you and all your excellent staff, and good luck and happiness."

We suggest that you confer with your sales, program, news and special events departments, so that when the first circus approaches your station for free promotion, these letters may be put to effective use.

## AFA CONVENTION PROGRAM

J. Walter Neff, president of Neff-Rogow, Inc., New York City, will speak on "Increasing the Tune-In" before the radio section at the AFA convention in Boston at 10:00 a. m. on Wednesday, May 28. This agency has achieved notable success in radio for such clients as Bond Clothes, Thom McAn Shoes, and others, and Mr. Neff has developed some unusual approaches and techniques that he will discuss for the benefit of all radio men attending.

"The Effect on Advertisers of the Monopoly Report" will be discussed by Russell Place, NAB Counsel, and "Chimes and Gongs in Radio Advertising" will be the topic of Frank E. Pellegrin, Director of the NAB Department of Broadcast Advertising. An open forum discussion of all radio topics of interest to station men and advertisers, especially those acted upon at the NAB convention, will follow. Robert S. Peare, advertising manager of the General Electric Co. and manager of broadcasting at WGY, Schenectady, will preside.

## PER-INQUIRY OFFERS

"Radio Income Builders" (sic) of 225 Fifth St., Des Moines, who call themselves "Specialists in creating income producing plans for use on unsold station time," thus frankly confess to be per-inquiry seekers. Their current effort is to put radio stations in the fountain pen business. In a four-page communication they offer to sell fountain pens direct to stations, requiring the station

to pay in full ten days from date of invoice. The station is expected to sell the pens over the air on "unsold" time, pay the postage, handle the mailing, etc., and keep what profits there are, if any. No provision is made for return of unsold pens; apparently stations that fail to sell their full order are struck with the balance. The company also says "We now have in test a large number of other products," to be later "released to our Radio Station customers."

This company has been advised by NAB that it is the policy of most radio stations to try and operate their radio business successfully, and leave the fountain pen business to others; that stations would dislike to see fountain pen dealers and stationers begin to compete with us in the sale of advertising, and that this fair-play policy works both ways; that stations dislike to enter the direct sales field in competition with local retailers and thus incur the ill will of local merchants, whose support they need, and finally, that many per-inquiry products have been found unsatisfactory by listeners, who thus lose faith and confidence in the local station that persuaded them to buy, and the station thus loses the friendship of the very listeners who are absolutely vital to its continuance in the broadcasting business. NAB also advised that if the fountain pens are as good as the company claims, there is nothing to prevent the company from buying radio time like other advertisers, and enjoying the profits of its own confidence in its product.

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Henry Holt, of Houston, Tex., is seeking per-inquiry deals on a radio log book, perhaps unmindful of the nation-wide industry drive to acquaint listeners with the new frequencies of all stations affected by the recent re-allocation.

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The Armand S. Weill Co., of Buffalo, N. Y., is seeking special rates on behalf of its client, Sachinol Perfumers. Telling stations he would like an inquiry cost of 11 cents or less, Mr. Weill suggests that if a station does not feel it can pay out on that basis at its regular rates, that it "let me know what rate you would set up to take care of this business. I would advise not setting it too high otherwise you will find it difficult to pay out at our desired inquiry cost."

## Golden Glint Pays Full Rate

That stations can sometimes secure business at card rates from advertisers who first seek special deals is shown by the recent experience of an NAB member, who refused an invitation to cut rates for the Golden Glint Co. Writes the member:

"Just the other day, out of a clear sky, we received another letter from them authorizing us to go ahead at our regular rate, with a series of thirteen one-minute announcements."

## "TESTED METHODS TO MAKE SALESMEN USE 'HELPS' MORE RESULTFULLY"

A group of forty sales managers were nearly unanimous in agreeing that their toughest continuing problem was to get salesmen to use selling helps profitably.

Sales departments invest many thousand dollars in material to help salesmen: manuals, portfolios, bulletins, etc., yet many men make little use of this excellent material, which is designed to make their selling more profitable. The trouble isn't that they don't appreciate it, or that the material isn't good. It lies in the fact that the average salesman has a tendency to let things outside of the immediate day-to-day contact with prospects slide.

Also, the average conscientious salesman, who studies the man-

u portfolios thoroughly, absorbs an idea or two and then fees at he has really dug out everything that will help him.

C. B. Larrabee in *Printers' Ink* has presented an investigation of tested plans, which we have secured for the sales managers of NAB. Each one of these has worked in actual practice. None is elaborate; some are extremely simple, but all have proved effective.

#### Plan 1

This plan works wonders in getting salesmen to use a manual. Here is how one company did it:

First, it built a skeleton manual and gave it to all salesmen. Next, the sales manager wrote a long list of questions designed to bring out information as to the best practice among salesmen in doing their stuff. Then, the list was split up and divided among the salesmen for their answers to the questions. When the answers were all in, the sales manager prepared a complete manual which, instead of being called "Manual No. 2" was called "The Book You Wrote". Copies were then given to each salesman, with a short personal note beginning:

"Here is the sales manual that you helped us write. Every line, every idea came from you or one of the other boys. When I tell you it's practical, you don't have to take my word for it. You know it's practical because you put in it the kind of stuff that you have learned the hard way. etc."

#### Plan 2

One company, creating its first manual, decided that the toughest problem involved would be to sell the salesmen the manual idea. The president wrote a letter to the salesmen, telling them a manual was being prepared, asking them to list the major objections and difficulties they encountered.

Next the sales manager requested testimonial letters, unusual performance records and other data of value. In the company's sales meetings and bulletins each week was something about the progress of the manual, keeping it constantly before the men. After four months of collecting, sorting, dramatizing, editing and indexing material, enough data had been gathered to make up the manual.

The sales manager then called a special meeting for the presentation. It was planned not to pass out a copy of the manual to each salesman until the purpose back of each of the major sections was thoroughly explained. He used a blackboard chalk talk to show the salesmen that the manual was not a canned presentation. He then described its fine points and how it could be used. After this explanation copies were passed to each salesman and a roundtable discussion followed.

Next a boiled down presentation made from the Master Manual was given the salesmen. They were told that such presentations could be individually built to fit the needs of every prospect. The result was a manual that was used faithfully and thoroughly by a sales force that, in the beginning, had been antagonistic toward the whole manual idea.

#### Plan 3

A number of companies use sales meetings to create interest in sales material. One plan calls for a "quiz program," with questions based upon definite sales material previously furnished. A salesman cannot make a creditable showing unless he has been using this material faithfully.

Another company issues a sales bulletin weekly. After 43 bulletins, it held a prize contest, with cash awards to the salesmen who gave the best answers to questions posed in the next ten issues of the bulletin. The questions, of course, required some study of various sales material. About half the sales force submitted answers, but investigation shows that nine-tenths of the

men really followed the contest pretty closely. And the salesmen gave much closer attention to the bulletins than they ever had before.

#### Plan 4

The company wanted to get a new visual presentation used effectively.

It prepared a mailing piece showing several interesting pages from the presentation and telling of its value. This mailing piece was sent to customers and prospects with a letter saying that the salesman calling on the recipient of the letter had a presentation and urging the prospect not to let the salesman get out of the office until he had shown the presentation.

Each salesman received a copy of the mailing and was told that he had better carry the presentation with him on every call because many prospects would be sure to ask for it.

The plan worked well. In many cases customers or prospects had their curiosity aroused to a point where they actually demanded that the salesmen show the presentation.

\* \* \*

A study of the methods used by sales managers to get salesmen to employ sales equipment more effectively indicates that in seeking methods of doing this a number of executives have discovered that the chief reason why men would not use material was because it was not properly prepared.

Therefore, what should probably be Plan One in every sales executives' consideration is to be sure that the material is profitably usable before asking the salesmen to make good use of it.

## BMI

### The Song Is the Thing

BMI hits and near hits and their creators will feature a new program sponsored by the Canadian Government over the facilities of the Canadian Broadcasting Corporation. The broadcast, which will begin in the fall and run for a year, will present the news behind the song. The theme will be, the singer may be forgotten but the song lingers on, and the program will tell why it lingers on. The story of how the song came to be written and interesting incidents from the lives of the composers will be included as well as letters of greeting from the composers to the Canadian audience. Jess Jaffrey, who is in charge of the program, expects at the conclusion of this series to have the most complete record available of currently popular songs and of their authors and composers.

More BMI music is being played in Canada now than ASCAP, according to Mr. Jaffrey, despite the fact that Canadian broadcasters have the full rights to play any or all ASCAP selections. There are more requests coming in for BMI music and virtually every program by Canadian orchestra leaders features BMI tunes.

### Foreign Language Music

There is greater demand among BMI stations for Polish music than for any other foreign music, it is revealed in a survey of requests by member stations. Italian was the second most popular foreign music, followed by Cuban and Latin American, Scandinavian and Hungarian.

In line with BMI's policy of providing stations with music of every classification, a questionnaire covering listener preference was mailed to BMI subscribers. Latest catalogue lists music of some 33 nationalities, and negotiations are pending for the acquisition



of several additional foreign catalogues, notably of Polish music.

BMI has just closed a contract with Edward and Louis Rossi, 127 Mulberry Street, New York City, transferring the rights to some excellent Italian material, much of which is recorded. Among the recordings are the following:

*Campagnola* by Bertini and recorded by Carlo Buti; *Munez E Llenzole* by Fusco-Falve, recorded by Gianninni; *Popolanella* by Martelli-Ruccione, recorded by Giglio; *Come Bella A Stagione* by Piasano, recorded by Cibelli, and many others.

#### Tid-Bits

*Cheer Up*, a BMI controlled tune, published by the Foreign and Domestic Music Corporation, has been adopted by the British-American Ambulance Corps as its official theme song and a share of the profits from all regular music sheets sold will be donated to the Corps' fund. The publishers have a letter from the office of Prime Minister Winston Churchill thanking them for licensing the tune.

*Hey, Stop Kissing My Sister*, is not only the first song its writers have written together, but their first published song. The writers are Kay Coblin and Phil Coblin, brothers, and Eddie Peyton.

Broadcast Music, Inc., has issued a list of the popular dance numbers controlled by BMI and recorded by name bands. Virtually all of the band leaders are represented. Benny Goodman and Horace Heidt have the largest number of recordings.

### BMI FEATURE TUNES

May 12 - May 19

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HERE'S MY HEART
8. WITH A TWIST OF THE WRIST
9. TALKIN' TO THE WIND
10. THE RELUCTANT DRAGON

#### BMI Feature Tunes

The Music Popularity chart for the week ending May 3rd compiled by Billboard, shows BMI holding firm to the first five places in leading music machine records with *There'll Be Some Changes Made*, *It All Comes Back To Me Now*, *Amapola*, *Oh, Look At Me Now* and *The Wise Old Owl*. *Amapola* leads all the lists of national and regional best selling retail records. In the sheet music best sellers, it has been replaced in the south by *My Sister And I* as the number one tune below the Mason-Dixon line. It is interesting to note that *Number 10, Lullaby Lane* holds the second place in southern popularity with *Amapola* third, with the new *Because of You*, by Arthur Hammerstein, holding fourth position. Among those coming up rapidly are: *Friendly Tavern Polka*, *G'Bye Now*, which is being themed by Horace Heidt's Ronnie Kemper, and *Do I Worry*, on which Tommy Dorsey has concentrated. Just appearing over the horizon in fifteenth place in national sheet music best sellers is the *Hut Sut Song*, the rights to which have been acquired by BMI, and which bids fair to be the summer's sensation.

### BMI Grants Clearance at the Source to Exhibitors

The following extract of a letter from Sydney Kaye of Broadcast Music, Inc., has created wide spread comment among motion picture exhibitors:

"It is, and always has been, the principle of BMI that the right sold to a motion picture producing corporation should include not only the right to record and synchronize the music with the action of the picture, but also the right to exhibit the picture in all parts of the world, without payment of any additional sum by the theatre owner.

"This has been our policy with respect to all synchronization contracts that we have already made, and we are glad to confirm to you that it will continue to be our practice in the future. You may, therefore, be confident that where a BMI tune is legally included in a motion picture, that means that any exhibitor may freely exhibit the picture without any performing license."

In this connection, The Independent, motion picture trade magazine, makes the following comment:

"The monopolistic practices of ASCAP have rubbed theatre owners sore for many years, and the constant hike in royalty charges has irked them that much more. The anti-ASCAP legislation in many states is a certain indication of how exhibitors in general feel and the fact that theatres were not covered in a recent consent decree entered into between ASCAP and the Department of Justice has left theatre owners amazed, for certainly the more than a million dollars a year extracted from theatres by ASCAP is a considerable item and should immediately be eliminated."

### It Happens to Titles Too

By a coincidence of this curious music business BMI finds itself in a position of licensing two songs with the same title, *Everything Happens to Me*. One song was written by Louis A. Davis and his brother, Ernest Davis and published by Davis & Ostergard, and the other song by Tom Adair and Matt Dennis, and published by Embassy Music Corporation (Tommy Dorsey). There is no similarity in the music of the songs, nor in the sentiment, nor the lyric, except the title. There is no infringement involved, but the Davis brothers have offered to do a very sportsmanlike thing and substitute, *Why Did It Happen To Me*. There will be slight changes made in the lyric, one line of the verse being re-written. M. E. Tompkins, BMI's General Manager, is deeply appreciative of the generous attitude taken by the composers as well as by Davis and Ostergard, publishers.

### BMI Subscribers More Than Doubled

When BMI entered the NAB Convention in San Francisco last August, subscribers numbered 311. They are now at a new high total of more than 700 including non-commercial. Renewals for BMI's new year, which runs from April to April, have included all but five of the subscribers for 1940 and many new names have been added to the list. It is interesting to read some of the comment which broadcasters have made on the progress of BMI. "Keep up the good work. You are going strong! and we like it . . . WFLA: "You are doing a great job, keep it up. We're behind you 1000 percent." . . . WCOU; "It is a pleasure to cooperate with you in every way, and we assure you we will be glad to work with Broadcast Music, Inc., at all times." . . . WJAX; "As always we are only too happy to do anything that would further the cause of BMI" . . . WBAP; "We are behind BMI 100%, and nothing gives us more pleasure than to give BMI and its releases all the publicity possible" . . . KOH; "KFAM is happy to acknowledge and compliment the fine policies and wonderful progress made by Broadcast Music, Inc., and its affiliated broadcasters in settling once and for all the serious question of fair practices in the use of music. You may count on our continued support in all matters" . . . KFAM.

In a large office lined with long rows of filing cases, Miss Ottalie Mark, head of the BMI Copyright Research Department, has assembled cards for hundreds of thousands of selections, each with the name of the number, its composers, publisher, date of publication and designation of the performing rights society that controls it. In other files are cards with information on thousands of publishers, not only those in the United States, but also in such distant countries as Argentina, Japan, Peru, Hungary, Haiti and many others. A third file of cards is devoted to authors and composers. Here one can look up almost any living music writer of importance of popular, standard, hill-billy, devotional, military, symphonic or any other classification of music, and secure his name and pseudonym, age, affiliation with performing society, and whenever possible, his address. Thus, Miss Mark has at her finger tips information on practically every composition that might be used today and every person who is at all important in the world of music. In addition, broadcasters can also secure information on the best sources for such obscure and little played material as Chinese, Arabian and Indian music.

According to copyright experts, no music firm has ever taken such extensive steps to avoid errors and infringements as BMI. An example of this extreme care may be seen in the copyright background of the public domain numbers being newly arranged. First, a photostatic copy of the original source material of the number is obtained, usually from the Library of Congress in Washington or the New York Public Library. The composition is then cleared by BMI's Copyright and Legal Department when it has been definitely established as P. D. material.

After clearance, the selection is sent to the Arranging Department where it is assigned to an arranger by Arthur Gutman, head of the Department. Finally, when the composition has been scored in a new orchestration that is copyrighted, it is returned to the Copyright and Legal Departments for a final check-up. After these steps have been taken, a printed copy of the new arrangement together with all "source material" is put in a large envelope and filed away. Similar records of all BMI's new popular and standard songs are likewise kept and put on file.

Because of the complete coverage of every aspect of musical copyright, BMI's Copyright Department has become a sort of national fountain head of information pertaining to copyright questions that is consulted many times daily by BMI stations and also by many band leaders, singers, theatres, managers and others who want authoritative data.

### "Because of You"

Without any particular attention, *Because of You*, a BMI tune by Arthur Hammerstein and Dudley Wilkinson, is rapidly gaining favor not only with the bands, but with concert artists. It has been sung recently on the best of the musical programs and by the best known artists of the air. Arthur Hammerstein is the same Arthur Hammerstein who produced *Naughty Marietta* and *Rose Marie*, who introduced Rudolph Friml and who brought to the public eye such outstanding composers as George Gershwin, Vincent Youmans, Jerome Kern and others. While he never wrote any of the music in the successful operettas he produced, there is no doubt that he contributed to the public reception of the hit numbers that came out of each of these productions. Now, after thirty years of producing musicals, Mr. Hammerstein and his collaborator, Mr. Wilkinson, widely known as an accompanist of concert artists, find themselves hit song writers. It is a new experience for both of them.

As *Yankee Doodle* was characteristic of the "Spirit of 1776" and the *Battle Cry of Freedom* suggested the crusading spirit of the war between the states, so *Fall In*, a new patriotic march, now rolling off the presses of Broadcast Music, Inc., may be said to reflect the cry that is coming to be heard everywhere today—"AMERICANS, UNITE AND HELP TO KEEP US FREE . . ."

According to its author, Welcome Lewis, radio singer, the idea and words for *Fall In* were inspired by President Roosevelt's "Hand that Held the Dagger" speech which followed Italy's entrance into the war on the side of Nazi Germany against her former ally, France.

After listening to the President, Miss Lewis was moved to write the chorus of the song . . . she says now, she didn't know why, because up to that time she had never written a song . . . yet the words just seemed to flow from her typewriter. She put them aside and it was not until several days later that she persuaded Milton Shaw to write a melody for them.

Like many another song, *Fall In* was not accepted at first. Nearly everyone who read the lyric declared that it was too partisan. At that time the country and particularly the major networks were leaning over backwards in an effort to be neutral. The policy of all-out aid to Britain had not yet been endorsed by the public in the second re-election of Franklin D. Roosevelt and by Congress with the lease-lend bill.

Even though she was unable to interest a publisher, Welcome Lewis, convinced of the value of the song's appeal, re-wrote the lyric in milder tone . . . had it okayed by music clearance and began to plug it as an unpublished number on her own audience participation show, the Welcome Lewis Singing Bee on the Columbia Broadcasting System.

The first performance of the song proved that she was right. She was deluged with letters and appeals for copies from patriotic societies as well as individuals throughout the country. For months the requests poured in, and finally in recent weeks when the appeal for Unity in the country reached nation-wide proportions and opened discussion on the floor of Congress, BMI became interested and decided to publish the song.

A stirring march, *Fall In* is easily singable as well as playable and will undoubtedly provide the strains for many a rookie's daily dozen on the parade grounds.

The girl who wrote it is a Californian, a petite brunette, and a member of a large family noted for musical accomplishments.

A graduate of Venice High School and the daughter of the former Mayor of Venice, California, she studied violin under her brother, the first violinist of the Los Angeles Symphony Orchestra, but became famous as a singer on the radio despite the fact that she never had a singing lesson in her life.

Her grandfather was Frank Emil Englander, former concert master of the San Francisco Symphony Orchestra and one of the most famous musicians on the West Coast.

### I AM AN AMERICAN

ASCAP has advised the NAB that any station has permission to broadcast the composition "I AM AN AMERICAN" on I AM AN AMERICAN DAY.

### DAYLIGHT SAVING TIME

Replying to Neville Miller's letter directing attention to the desirability of national daylight saving time, Mr. William S. Knudsen, Director General of the Office of Production Management, states that the matter is now

under discussion in the various sections of the Office of Production Management.

Last week at a press conference the President is reported to have said that national daylight saving time is a matter for Congress to decide. It is generally felt in Washington that when, as and if the OPM indicates its approval, a national daylight saving bill will promptly be passed by Congress.

We print below the exchange of correspondence:

"April 8, 1941.

Honorable William S. Knudsen,  
National Defense Commission,  
Washington, D. C.

My dear Mr. Knudsen:

There have been introduced in Congress two bills to provide for daylight saving time on a nation-wide basis,—one H. R. 3789 by Representative McLean (R.-N. J.) and the other H. R. 4206 by Representative Keogh (D.-N. Y.) Our Board of Directors has voted unanimously to support national daylight saving time for the reason that it will solve the broadcasting industry's semi-annual programming problems arising out of the fact that some states operate on daylight saving time and others do not. The Association of American Railroads through its Board of Directors has also, I am informed, voted to support national daylight saving time.

I do not know what consideration, if any, the Defense Commission has given to the question of the desirability of national daylight saving time as a defense measure. Our Association, and others, deem it of transcendent importance. If you concur in our view, we urge that you make a public statement to that effect.

Very truly yours,

NM/hml

NEVILLE MILLER."

"May 1, 1941.

Mr. Neville Miller,  
National Association of Broadcasters,  
Normandy Building,  
1626 K Street, N. W.,  
Washington, D. C.

Dear Mr. Miller:

This will acknowledge your letter of April 8 with reference to H. R. 3789 and H. R. 4206, bills to provide for daylight saving time on a nationwide basis.

I appreciate your thoughtfulness in bringing this matter to my attention, and it is now under discussion in the various sections of the Office of Production Management.

Yours very truly,

WILLIAM S. KNUDSEN."

The NAB Research Department mailed today to the NAB Board of Directors the report of the survey of broadcast stations and its study of the daylight saving time problem.

The report clearly indicates that 72% of the reporting stations favor universal daylight saving as the means to end the twice yearly programming problems which arise due to partial observance of daylight saving time.

## COPYRIGHT AND LIBEL INSURANCE

The NAB Insurance Committee met in New York May 1 to review forms of insurance policies recently submitted by several insurance companies to cover broadcasters against libel, slander and copyright infringement suits. The committee passed a resolution that the Insurance Committee itself should draft a form of such an insurance

policy for submission to underwriters so that they may consider writing the type of coverage recommended by the Insurance Committee, and thereby make this type of insurance,—which the committee feels is sorely needed,—available to all broadcasting stations. The committee instructed Charles A. Wall, NBC, a member of the committee, to begin preparation of a form of policy which will meet the needs of the broadcasters, and to negotiate with those insurance companies which are interested in writing this type of insurance.

## SELECTIVE SERVICE

Responsive to numerous inquiries concerning deferment of radio technicians under the selective Service Act and Regulations, NAB today mailed questionnaires to the entire broadcasting industry to elicit the facts for submission to National Selective Service Headquarters for appropriate action. Blanket deferment is illegal under the Act, but there is the possibility that if the survey shows broadcasting to be unduly harmed by induction of technicians, the National Selective Service Headquarters may decide to instruct the 48 State Occupational Advisors to investigate all radio technicians before induction. In that event, stations should advise their State Selective Service Headquarters of the names of their technicians subject to draft, and request deferment for six months. Results of the survey, and further developments, will be released when known.

## FEDERAL LEGISLATION

### HOUSE

H. R. 4619 (SACKS, D-Penna.) COMMUNICATIONS ACT—To amend the Communications Act of 1934 so as to prohibit and penalize the unauthorized recording or mechanical reproduction of music and other program material transmitted by wire or radio. Referred to Committee on Interstate and Foreign Commerce.

## STATE LEGISLATION

### FLORIDA:

H. 666 (OVERSTREET) BROADCASTING STATIONS—Amend Sec. 1, Chapt. 19616, Acts of 1939, relating to civil liabilities of lessee operators of broadcasting stations and their agents and employees. Referred to Committee on Judiciary "A".

### ILLINOIS:

S. 455 (FLAGG) LIBEL & SLANDER—Provides no action for libel or slander shall be started against any person, firm or corporation which publishes actionable matter through an honest mistake as to the truth thereof if, upon being appraised of the truth, such person, firm or corporation publishes a prominently displayed retraction of original erroneous matter. Referred to Committee on Judiciary.

S. 456 (FLAGG) LIBEL—Provides no prosecution for libel where person publishes prominently displayed retraction of same. Referred to Committee on Judiciary.

### MICHIGAN:

S. 382 (BALDWIN) FOOD, DRUG, COSMETIC ACT—A bill to safeguard the purchasing public from injury by merchandising deceit, flowing from interstate commerce in food, drugs, devices, and cosmetics. Referred to Committee on Public Health.

S. 431 (BLONDY) GROUP LIBEL—A bill to prohibit group libel, and to provide a penalty therefor. Referred to Committee on Judiciary.

# FEDERAL COMMUNICATIONS COMMISSION

## TELEVISION GETS GREEN LIGHT

Following is the FCC report, giving commercial television a green light for July 1:

### REPORT ON MARCH 20, 1941, TELEVISION HEARING

Docket No. 5806

By the Commission (Fly, Chairman, and Commissioners Walker, Payne, Thompson and Wakefield concurring; Commissioners Case and Craven not participating):

On March 20, 1941, a hearing was held for considering when television broadcasting "shall be placed upon a commercial basis" and for considering rules and regulations and standards for such stations.

Upon the hearings held in January and in April of 1940, the Commission found the industry divided upon the basic question whether television was ready for commercial broadcasting, and also found the industry divided as to transmission standards for television broadcast stations. Some believed that television had not reached the point where it could offer sufficient entertainment value to justify commercial operation and that standardization would result in the freezing of the science at the then level of efficiency. Others were determined to proceed at all costs with the launching of television on a large scale.

In its report of May 28, 1940, on the April hearing, the Commission declared:

"As soon as the engineering opinion of the industry is prepared to approve any one of the competing systems of (television) broadcasting as the standard system the Commission will consider the authorization of full commercialization. That a single uniform system of television broadcasting is essential—so far as the basic standards are concerned—must also be amply clear. The public should not be inflicted with a hodge podge of different television broadcasting and receiving sets."

Because the situation was one which threatened to hold up coordinated television development indefinitely and to delay public service on a widespread basis, the Commission offered its cooperation to the industry along lines in furtherance of the achievement of higher standards by research and development.

First, it provided for new experimental television stations in various sections of the country to engage in practical demonstration of prevailing competing systems. Later, it collaborated with the Radio Manufacturers Association (RMA) in creating the National Television System Committee (NTSC). The RMA felt that "Because of the inadequacy of the various suggested standards for television" all existing systems should be explored and developed, and new standards formulated. The NTSC was given this task.

The Commission now finds the industry entirely in agreement that television broadcasting is ready for standardization. The standards as finally proposed by the NTSC at the March 20, 1941, hearing, represent, with but few exceptions, the undivided engineering opinion of the industry. Some difference of opinion exists among broadcasters as to the date when commercial operation should begin. The National Broadcasting Company and the Columbia Broadcasting System, in effect, urged some delay in beginning commercial television. However, the Commission is

of the opinion that the reasons advanced for the delay are not controlling. Other leading figures in the industry that earlier opposed commercialization, such as Philco, Zenith, and De Forest, now express the view that the present stage of scientific development warrants prompt standardization and commercialization.

The demonstrations conducted by different broadcasters and manufacturers for the benefit of the NTSC and the Commission revealed the merits and demerits of the systems upon which standards could be based. The eleven volumes constituting the proceedings of the Committee and its subcommittees stand as evidence of the great volume of work done. The Commission acknowledges its appreciation to the RMA and NTSC for their cooperation in performing this worthwhile work.

The three-color television system demonstrated by the Columbia Broadcasting System during the past few months has lifted television broadcasting into a new realm in entertainment possibilities. Color television has been known for years but additional research and development was necessary to bring it out of the laboratory for field tests. The three-color system demonstrated insures a place for some scheme of color transmissions in the development of television broadcasting.

The NTSC proposals provide that color television be given a six-month field test before standardization and commercialization. The Commission finds this requirement necessary. However, immediate experimental color program transmissions are encouraged.

The standards proposed by the NTSC provide for most of the improvements held out as readily possible a year ago for monochrome transmissions (black and white pictures). These standards fix the line and frame frequencies at 525 and 30, respectively.<sup>1</sup> The 525 lines provide for greater detail in the pictures transmitted than the 441 lines advocated a year ago. They give substantially equal resolution and more fully exploit the possibilities of the frequency bands allocated for television. Different line and frame frequencies will likely be required for color transmissions. This, however, is a matter for future consideration after color transmissions have been adequately field tested.

A year ago one of the weakest phases of the proposed television standards was an unreliable synchronizing pulse which frequently caused the loss of the picture under interference conditions. A few weeks before the March 20, 1941 hearing, developments were brought forth for greatly intensifying the synchronizing signals transmitted. These developments have been incorporated in the new standards. The demonstrations witnessed by the Commission impressively showed the tenacity with which this new form of synchronizing signals hold the picture in place under extremely adverse interference conditions.

The proposed standards require frequency modulation for sound accompanying the pictures. Television is therefore benefited by the recent development of frequency modulation.

The standards proposed by the NTSC reasonably satisfy the requirement for advancing television to a high level of efficiency within presently known developments. These standards are adopted by the Commission and made effective immediately.

The Commission feels that this state of the science affords some reasonable assurance against early obsolescence of equipment. At the same time, it must explicitly recognize the advancing and necessarily fluid state of the science. Accordingly, procedure has been provided for the consideration of new developments, including, but by no means limited to color television.

Procedure is also provided for expediting completion of the television stations now authorized by the Commission. Existing

<sup>1</sup> Certain experimental systems require variable line and frame frequencies. However, the fixed values proposed appear to be best for monochrome transmissions, because only 30-frame pictures have been fully developed and as long as the frequency band for television channels (aural and visual) is limited to 6 megacycles not more than 525 lines can be employed to advantage with 30 frames.

licensees and permittees who can satisfy the Commission that their station construction will meet all the engineering requirements of the rules and regulations and standards for such stations may begin commercial operation on July 1, 1941.

The Commission finds that at least six months will be required for obtaining comparative test data on the alternative methods permitted for transmitting synchronizing signals. Such data are necessary for further limiting the signal synchronizing standards. The Commission is requesting the industry to provide the necessary test data as to both color transmissions and synchronizing signals within the six-month period following the beginning of commercial operation.

The regulations require that at least 15 hours program service per week shall be rendered by each station.

The Commission adheres to the policy set forth in its report on the April, 1940, television hearing regarding multiple ownership or control of television broadcast stations. Under this policy no person is permitted to own or control more than three television broadcast stations.

This is to preserve the public benefits of competition in the use of the limited number of channels available for television broadcasting.

The Order and appropriate regulations carrying out the principles of this report were adopted by a unanimous vote of the Commission en banc in its meeting of April 30, 1941. Copies of those documents are attached to this report.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearing is scheduled to be heard before the Commission during the week beginning Monday, May 12. It is subject to change.

Friday, May 16

KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal of license, 930 kc., 1 KW night, 5 KW day, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

May 26

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, 890 kc., 500 watts night, 1 KW day, SH-KUSD.

Consolidated Hearing

WCAM—City of Camden, Camden, N. J.—Renewal of license, 1280 kc., 500 watts night, 500 watts LS, shares WTNJ and WCAP.

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Renewal of license, 1280 kc., 500 watts night, 500 watts LS, shares WTNJ and WCAM.

WTNJ—WOAX, Incorporated, Trenton, N. J.—Renewal of license, 1280 kc., 500 watts night, 500 watts LS, shares WCAM and WCAP.

WTNJ—WOAX, Incorporated, Trenton, N. J.—C. P., 1230 kc., 1 KW, unlimited, DA-day and night.

NEW—Trent Broadcast Corporation, Trenton, N. J.—C. P., 1230 kc., 1 KW, unlimited, DA-day and night.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—C. P., 1260 kc., 1 KW night, 5 KW day, DA-night, unlimited.

June 3

Broadcast  
Consolidated Hearing  
To Be Held in Portsmouth, Ohio  
Court Room To Be Assigned Later

WPAY—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio—Transfer of control of corporation, 1370 kc., 100 watts, unlimited.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, 1370 kc., 100 watts, unlimited.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WWNC—Asheville Citizens Times Co., Inc., Asheville, N. C.—Granted construction permit, subject to action on renewal proceedings, to move transmitter to Emma and Maple Crest Roads, near Emma, N. C., approximately 3 miles due west of center of Asheville; install new transmitter, increase power from 1 to 5 KW day and night, 570 kc., employing directional antenna at night, subject to approval by Chief Engineer (B3-P-2644).

WSYR—Central New York Broadcasting Corp., Syracuse, N. Y.—Granted construction permit to install new transmitting equipment, make changes in directional antenna for both day and night use, and increase power from 1 to 5 KW unlimited time on 570 kc., on condition that proof of performance and installation of a recording meter at a monitoring point on the radial toward WMCA, New York, be submitted (B1-P-2706).

WMCA—Knickerbocker Broadcasting Co., Inc., New York City.—Granted modification of license to increase nighttime power from 1 to 5 KW, 570 kc., 5 KW day, unlimited time, using directional antenna day and night (B1-ML-1064).

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted construction permit to increase power from 500 watts night, 1 KW day to 5 KW, increase hours of operation from specified hours (sharing WOSU), to unlimited time, install new transmitter and directional antenna for night use; 570 kc. (B2-P-2547).

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted modification of license to change hours of operation from specified hours (sharing WOSU) to unlimited, on condition that no operation pursuant to the grant shall be undertaken until station WOSU commences operation on frequency 820 kc. (B2-ML-1059).

WOSU—The Ohio State University, Columbus, Ohio.—Granted construction permit to install new transmitter, change frequency from 570 to 820 kc., increase power from 1 to 5 KW, and hours of operation from specified hours (sharing WKBN) to limited to local sunset at Dallas, Texas (B2-P-3138).

WCBD—WCBD, Inc., Chicago, Ill.—Granted construction permit to make changes in equipment, change frequency from 1110 to 820 kc., increase power from 5 to 10 KW, and change hours of operation from L-WBT, sharing WMBI, to daytime only (B4-P-2974).

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted construction permit to increase night power from 1 to 5 KW, increase hours of operation from limited to unlimited time; move transmitter to Forsyth Road, approximately 6 miles west-north-west of the center of Macon, install directional antenna for day and night use; 940 kc., 5 KW day (B3-P-3043).

KGEZ—Donald Treloar, Kalispell, Mont.—Granted modification of construction permit for approval of directional antenna system for night use (B5-MP-1173).

WJBC—Arthur Malcolm McGregor and Dorothy Charlotte McGregor, a Partnership (Assignor), Arthur Malcolm McGregor and Dorothy Charlotte McGregor, and Hugh L. Gatley (Assignee), Bloomington, Ill.—Granted application for assignment of license of station WJBC from Arthur Malcolm McGregor and Dorothy Charlotte McGregor, a Partnership,

## APPLICATION DENIED

W1XG—General Television Corp., Boston, Mass.—Denied petition for 30 day extension of temporary authority to operate visual and aural television transmitters (Dockets 5988 and 5989).

## DESIGNATED FOR HEARING

Fairfield Broadcasting Corp., Lancaster, Ohio.—Designated for hearing application for construction permit for new station to operate on **820 kc.**, 250 watts, daytime only. Exact site of transmitter and studio to be determined with Commission's approval (B2-P-2976).

KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Designated for hearing application for construction permit to change frequency from **1400 kc.** to **1090 kc.**, increase power from 100 watts to 250 watts day and night, increase hours of operation from sharing with KRKO to unlimited, move transmitter and studio to 810-812 Third Avenue, Seattle, and install new equipment (B5-P-2023).

Nashville Radio Corp., Nashville, Tenn.—Designated for hearing application for new station to operate on **1410 kc.**, 1 KW night and day, using directional antenna, different patterns day and night (B3-P-3034).

A. M. Burton, Nashville, Tenn.—Designated for hearing application for new station to operate on **1410 kc.**, 1 KW night and day, with directional antenna with different adjustments day and night, unlimited time. Exact studio site to be determined. Joint hearing to be held on both Nashville applications (B3-P-3072).

WPRP—Julio M. Conesa, Ponce, P. R.—Designated for hearing application for renewal of license for station WPRP and application for construction permit to increase power and change frequency, and application for modification of construction permit for approval of antenna site, station now operates on **1420 kc.**, 250 watts, unlimited (B-R-882, B-P-2377 and B-MP-1024).

## MISCELLANEOUS

KFEQ—KFEQ, Inc., St. Joseph, Mo.—Granted special temporary authority to operate from 8:30 p. m. CST to conclusion opening baseball game of the Western Association on May 2, 1941, in order to broadcast said program only, using 500 watts only (B4-S-635).

KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 10:45 to 11:30 a. m. CST, May 1, 1941, in order to broadcast Convocation and chapel exercises in connection with the annual Senior Day; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m., May 1, 1941, in order to broadcast baseball game with the University of Iowa; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m. CST, May 6, 1941, to broadcast a baseball game with Simpson College; from 3:30 to 4:30 p. m., CST, May 10, 1941, to broadcast a baseball game with Iowa State Teachers College; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m. CST, May 15, 1941, to broadcast a baseball game with Northwestern University; from 3:30 to 4:30 p. m., and 5:30 to 6:30 p. m., CST, May 22, 1941, to broadcast baseball game with the University of California.

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Granted special temporary authority to operate from 8 p. m. to 12 midnight, CST, April 30, 1941, in order to broadcast the President's address and rebroadcast same in a number of foreign languages only.

WMRO—Martin R. O'Brien, North Aurora, Ill.—Granted special temporary authority to operate until 8 p. m., CST, on May 1, 1941, in order to complete a program of the Protestant Religious Educational Society at Elgin, Ill., only (B4-S-995).

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Granted modification of construction permit (B4-P-2329), which authorized installation of new transmitter and DA for night use, increase in power, change of frequency, and move of transmitter, for change in directional antenna on **1300 kc.** under NARBA, and extension of commencement date to 30 days after grant and completion date to 60 days thereafter (B4-MP-1285).

WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted special temporary authority to rebroadcast transmission on April 30, at 4 p. m., of aircraft radio station

to Arthur Malcolm McGregor, Dorothy Charlotte McGregor and Hugh L. Gatley, a Partnership; station operates on **1230 kc.**, 250 watts, unlimited time (B4-AL-306).

KNET—John Calvin Welch, William M. Keller, and Bonner Frizzell, d/b as Palestine Broadcasting Association (Assignor), Bonner Frizzell (Assignee), Palestine, Tex.—Granted consent to assignment of license of station KNET from John Calvin Welch, William M. Keller, and Bonner Frizzell, d/b as Palestine Broadcasting Association, to Bonner Frizzell; station operates on **1450 kc.**, 100 watts, daytime only (B3-AL-287).

WSJS-WALH-WBLQ—Piedmont Publishing Co., Winston-Salem, N. C.—Granted consent to relinquishment of control by Gordon Gray over Piedmont Publishing Company, licensee of broadcast station WSJS and relay stations WALH and WBLQ, to 86 stockholders, conditionally, and granted renewal of license for station WSJS on a regular basis; **600 kc.**, 250 watts night and day, unlimited time; (under construction permit 1 KW night and day, directional antenna at night) (B3-TC-266).

WCAX—Burlington Daily News, Inc., Burlington, Vt.—Granted construction permit to change frequency from **1230** to **620 kc.**; increase power from 250 watts night and day to 1 KW night and day; move transmitter to ½ mile north of Pine Island, Colchester, 2.8 miles north of center of Burlington; install new transmitter and directional antenna for day and night use (B1-P-3032).

Chilton Radio Corp., Dallas, Tex.—Granted construction permit for new station to operate on **660 kc.**; 1 KW; daytime. Exact site to be determined, and the grant is made upon the express condition that applicant later file an application for modification of construction permit, specifying the exact transmitter location (B3-P-2487).

Northwest Georgia Broadcasting Co., Cedartown, Ga.—Granted construction permit for a new station to operate on **1340 kc.**, 250 watts, unlimited time (B3-P-3029).

Cascade Broadcasting Co., Inc., Everett, Wash.—Granted construction permit, subject to engineering conference, for a new station to operate on **1460 kc.**, 500 watts; unlimited time. To specify transmitter site as Pacific Highway, outside city limits of North Everett, Wash. Studio site to be determined (B5-P-2008).

Tacoma Broadcasters, Inc., Tacoma, Wash.—Adopted order granting application for construction permit for a new station to operate on **1490 kc.**, with power of 250 watts, unlimited time, subject to the condition that permittee shall, within 2 months, file with the Commission an application for modification of construction permit requesting the use of frequency **1490** with operating power of 250 watts, unlimited time, specifying therein the exact transmitter location and antenna system to be used. If for any reason such application cannot be submitted within the time allowed, an informal request for extension of time must be submitted stating the necessity therefor (Docket No. 5229).

Michael J. Mingo, Tacoma, Wash.—Adopted order granting application for construction permit to operate a new station on frequency **1430 kc.** with 500 watts or 1 KW, unlimited time, subject to condition that permittee shall within two months file an application for modification of construction permit requesting authority to operate on the frequency **1430 kc.** with power of 500 watts or 1 KW, unlimited, to comply with the requirements of Sec. 3.22 (c) (2) of the Commission's Rules. If for any reason such application cannot be submitted within the time allowed, an informal request for extension of time must be submitted stating the necessity therefor (Docket 4937).

W45D—The Evening News Association, Detroit, Mich.—Ordered issuance of construction permit for new FM station and authority to operate a 3 KW transmitter for a period of 60 days, without prejudice to determination of newspaper issue.

W45CM—WBNS, Inc., Columbus, Ohio.—Ordered issuance of construction permit for new FM station and authority to operate a 3 KW transmitter for a period of 60 days, without prejudice to determination of newspaper issue.

W45BR—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Ordered issuance of construction permit for new FM station without prejudice to determination of newspaper issue.

- aboard U. S. Army plane in order to aid recruiting drive of the U. S. Army.
- WNYE—Board of Education, City of New York.—Granted extension of special temporary authority to continue to operate noncommercial Educational Broadcast station on **41100 kc.**, for the period May 1 to May 30, pending completion of construction under application (B1-PED-16).
- W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate high frequency experimental broadcast station on **43200 kc.**, 2500 watts, special emission for FM, for the period May 1 to May 30, 1941.
- W2XQR—John V. L. Hogan, Long Island City, N. Y.—Granted special temporary authority to operate a high frequency experimental broadcast station on **48700 kc.**, with 100 watts power, special emission for FM, for the period May 1 to July 1, 1941. (No authority is granted to conduct a facsimile broadcast service.)
- WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 9:15 p. m., EST, to conclusion of President Roosevelt's address on April 30, 1941, in order to broadcast said address only.
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Granted license to use old RCA 250-D transmitter as auxiliary transmitter, for emergency use only (B2-L-1377).
- WMVA—Martinsville Broadcasting Co., Martinsville, Va.—Granted license to cover construction permit (B2-P-2226) for new station; **1450 kc.**, 100 watts night, 250 watts LS, unlimited time (B2-L-1384). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-814).
- KFOR—Cornbelt Broadcasting Corp., Lincoln, Neb.—Granted license to cover construction permit (B4-P-3087, which reinstates B4-P-2537, for changes in transmitting equipment, antenna, increase in power, and move of transmitter), on **1240 kc.** under NARBA (B4-L-1375). Also granted authority to determine operating power by direct measurement of antenna input, on **1240 kc.** under NARBA (B4-Z-790).
- WMBS—Fayette Broadcasting Corp., Uniontown, Pa.—Granted license to cover construction permit (B2-P-2711, for new transmitter, installation of DA for night use, increase in power and change in frequency) (B2-L-1376). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-791).
- KPOW—Albert Joseph Meyer, Powell, Wyo.—Granted license to cover construction permit (B5-P-2593, for new station to operate on **1230 kc.**, 250 watts, unlimited time), (B5-L-1378). Also granted authority to determine operating power by direct measurement of antenna input (B5-Z-795).
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted special temporary authority to operate from local sunrise Glenside, to local sunset at Knoxville, Tenn. (Station WNOX) instead of daytime as stipulated in reallocation, for period beginning April 29 and ending no later than May 27, pending action on formal application for such authority (B2-S-339).
- WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted petition for extension of time to May 15 in which to file amendment to application for construction permit to change frequency and increase power.
- KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Granted authority to determine operating power by direct measurement of antenna power on **1240 kc.** under NARBA (B5-Z-799).
- WAOV—Vincennes Newspapers, Inc., Vincennes, Ind.—Granted authority to determine operating power by direct measurement of antenna power on **1450 kc.** under NARBA (B4-Z-805).
- KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Cal.—Granted authority to determine operating power by direct measurement of antenna power on **1490 kc.** under NARBA (B5-Z-785).
- WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Granted authority to determine operating power by direct measurement of antenna power on **1340 kc.** under NARBA (B4-Z-800).
- WMBD—Peoria Broadcasting Co., Peoria, Ill.—Granted authority to determine operating power by direct measurement of antenna power on **1470 kc.** under NARBA (B4-Z-803).
- KFDA—Amarillo Broadcasting Corp., Amarillo, Tex.—Granted authority to determine operating power by direct measurement of antenna power on **1230 kc.** under NARBA (B3-Z-815).
- WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—Granted authority to determine operating power by direct measurement of antenna power on **1110 kc.** under NARBA (B3-Z-813).
- KFBB—Buttery Broadcast, Inc., Great Falls, Mont.—Granted modification of construction permit (B5-P-2920, which authorized increase in power and installation of DA for night use), for changes in directional antenna on **1310 kc.** under NARBA (B5-MP-1252).
- WGCA—Gainesville Broadcasters, Gainesville, Ga.—Granted modification of construction permit (B3-P-2627, which authorized a new station) for approval of antenna, of transmitter and studio sites at Athens Road, Gainesville, and request frequency **1240 kc.** under NARBA (B3-MP-1040).
- WWJ—The Evening News Assn., Detroit, Mich.—Granted modification of construction permit (B2-P-2880, which authorized changes in transmitting equipment, increase in power and installation of DA for night use), for changes in directional antenna on **950 kc.** under NARBA, and extension of completion date to 120 days after grant (B2-MP-1268).
- KMA—May Broadcasting Co., Shenandoah, Iowa.—Granted authority to determine operating power by direct measurement of antenna power on **960 kc.** under NARBA (conditionally), (B4-Z-808).
- KHAS—The Nebraska Broadcasting Co., Hastings, Neb.—Granted authority to determine operating power by direct measurement of antenna power on **1230 kc.** under NARBA (B4-Z-773).
- KIUP—San Juan Broadcasting Co., Durango, Colo.—Granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B5-Z-812).
- WLAV—Leonard A. Versluis, Grand Rapids, Mich.—Granted authority to determine operating power by direct measurement of antenna power on **1340 kc.** under NARBA (B2-Z-809).
- WHK—United Broadcasting Co., Cleveland, Ohio.—Granted authority to determine operating power by direct measurement of antenna power on **1420 kc.** under NARBA (B2-F-216).
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted authority to determine operating power by direct measurement of antenna power on **1450 kc.** under NARBA (B2-Z-834).
- WBAB—Press-Union Publishing Co., Atlantic City, N. J.—Granted authority to determine operating power by direct measurement of antenna power on **1490 kc.** under NARBA (B1-Z-823).
- WIL—Missouri Broadcasting Corp., St. Louis, Mo.—Granted authority to determine operating power by direct measurement of antenna power on **1230 kc.** under NARBA (B4-Z-841).
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted authority to determine operating power by direct measurement of antenna power on **1070 kc.** under NARBA (B4-Z-840).
- WKBW—Buffalo Broadcasting Corp., Buffalo, N. Y.—Granted authority to determine operating power by direct measurement of antenna power on **1520 kc.** under NARBA (B1-Z-745).
- KOBH—Black Hills Broadcast Co. of Rapid City, Rapid City, S. Dak.—Granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B4-Z-797).
- KVOA—Arizona Broadcasting Co., Inc., Tucson, Ariz.—Granted authority to determine operating power by direct measurement of antenna power on **1290 kc.** under NARBA (B5-Z-798).
- KPAB—Marvel M. Valentine, Laredo, Texas.—Granted authority to determine operating power by direct measurement of antenna power on **1490 kc.** under NARBA (B3-Z-826).
- WDZ—WDZ Broadcasting Co., Tuscola, Ill.—Granted authority to determine operating power by direct measurement of antenna power on **1050 kc.** under NARBA (B4-Z-839).
- WKBH—WKBH, Inc., LaCrosse, Wis.—Granted authority to determine operating power by direct measurement of antenna input on **1410 kc.** under NARBA (B4-Z-751).
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Granted license to cover construction permit (B2-P-2900), which authorized move of transmitter and installation of

- new antenna, specifying **1450 kc.** under NARBA (B2-L-1380).
- KOB**—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted modification of construction permit (B5-P-2783, for new transmitter and increase in power from 10 to 50 KW), for extension of completion date to July 6, 1941 (B5-P-1273).
- WEBC**—Head of the Lakes Broadcasting Co., Duluth, Minn.—Granted modification of construction permit (B4-P-2821, which authorized increase in power and installation of directional antenna for night use) for changes in directional antenna on **1320 kc.** under NARBA (B4-MP-1254).
- KBWD**—Brown County Broadcasting Co., Brownwood, Tex.—Granted modification of construction permit (B3-P-2672 for new station) requesting approval of antenna, new transmitter studio and transmitter sites, and **1380 kc.** under NARBA (B3-MP-1212).
- WJAS**—Pittsburgh Radio Supply House, Pittsburgh, Pa.—Granted modification of construction permit (B2-P-2947, for increase in power to 5 KW, installation of directional antenna for night use) for changes in antenna system and requesting **1320 kc.** under NARBA; extension of commencement date to 30 days after grant and completion date to 180 days thereafter (B2-MP-1269).
- WALA**—Pape Broadcasting Co., Mobile, Ala.—Granted modification of construction permit (B3-MP-932, which authorized increase in power, installation of new equipment, and DA for night use, and move of transmitter) for change in type of transmitter, and changes in directional antenna on **1410 kc.** under NARBA (B3-MP-1270).
- WKMO**—Kokomo Broadcasting Corp., Kokomo, Ind.—Granted license to cover construction permit (B4-P-2842, as modified, which authorized new station on **1400 kc.** under NARBA, 250 watts, unlimited time (B4-L-1386). Also granted authority to determine operating power by direct measurement of antenna power on **1400 kc.** under NARBA (B4-Z-820).
- W2XMN**—Edwin H. Armstrong, Alpine, N. J.—Granted special temporary authority to operate an additional transmitter located at Alpine, N. J., on **43 mc.** with power not to exceed 40 KW, using frequency modulation for a period of 10 days beginning May 1 to May 10, in order to conduct further experiments on adjacent channel operation of high frequency broadcast stations and to demonstrate such operation to certain engineering committees of the RMA.
- W2XBS**—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate television broadcast station with special emission in addition to A3 emission on Channel No. 1, in order to conduct experimental tests for National Television Standards Committee and NBC, for period May 1 to May 25, 1941.
- KGNC**—Plains Radio Broadcasting Co., Amarillo, Tex.—Granted license to cover construction permit (B3-P-2969 for increase in power, 1 KW night, 2½ KW LS, to 5 KW LS, 1 KW night, and installation of new transmitter (B3-L-1387).
- WAGE**—Sentinel Broadcasting Corp., Syracuse, N. Y.—Granted license to cover construction permit (B1-P-1934, for new station to operate on **620 kc.**, 1 KW, unlimited time, DA-night (B1-L-1389). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-843).
- WFBL**—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted authority to install automatic frequency control equipment (B1-F-217).
- WCLE**—United Broadcasting Co., Cleveland, Ohio.—Granted authority to install automatic frequency control equipment (B2-F-218).
- KGVO**—Mosby's, Inc., Missoula, Mont.—Granted authority to install automatic frequency control equipment (B5-F-220).
- WNAX**—WNAX Broadcasting Co., Yankton, S. Dak.—Granted authority to install automatic frequency control equipment (B4-F-219).
- W69PH**—WCAU Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit (B2-PH-43, which authorized a new FM station) for approval of transmitter, changes in antenna, and change location of transmitter from 117 So. 17th St., to 1616 Walnut St., Philadelphia (B2-MPH-14).
- The Metropolis Company, Ocala, Fla.—Referred to the full Commission the motion for immediate specification of issues fixing date and place of hearing and for other relief, in re application for license for new station.
- Bay County Publishers, Inc., Panama City, Fla.—Referred to the full Commission the motion for immediate specification of issues fixing date and place of hearing and for other relief in re application for license for new station.
- WPAY**—Chester A. Thompson (Transferor) and The Brush Moore Newspapers, Inc. (Transferee), Portsmouth, Ohio; WPAY—Vee Bee Corp., Portsmouth, Ohio.—Granted petition to hold hearing on applications for consent to transfer control of Vee Bee Corp., licensee of station WPAY together with application for renewal of license, in Portsmouth, and change date of hearing, now scheduled for June 2.
- KFJI**—KFJI Broadcasters, Inc., Klamath Falls, Ore.—Granted motion to dismiss without prejudice application to change frequency from **1210 to 600 kc.**; increase power from 100 watts to 500 watts night, 1 KW, local sunset.
- WRDO**—WRDO, Inc., Augusta, Me.—Granted petition for leave to amend application for renewal of license.
- W3XMC**—McNary & Chambers, Washington, D. C.—Granted extension of special temporary authority to continue operation of high frequency experimental broadcast station on **42600 kc.**, 100 watts, special emission for frequency modulation, with transmitter located at 2701-14th St., N. W., Washington, D. C., for the period May 2 to not later than July 1, 1941.
- WDRG**, Inc., Hartford, Conn.—Granted special temporary authority to operate frequency modulation station commercially on **46500 kc.**, 1000 watts, special emission for frequency modulation, with transmitter at Meriden, Conn., and described as Composite, Type FM1, Maximum rated carrier power 1000 watts, for a period not to exceed 60 days, pending completion of construction pursuant to construction permit.
- W65H**—WDRG, Inc., Hartford, Conn.—Granted special temporary authority to rebroadcast high frequency broadcast stations W2XMN and W1XOJ emissions for a period not to exceed 60 days.
- WSAZ**—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate the relay mobile unit (WADA) of the Charleston Broadcasting Co. for a series of special programs consisting of interviews with housewives of Huntington, W. Va., the program originating in the studio and being transferred to the various homes where the interviews take place, during the period May 2, 9, 16, 23, 30, 1941, only.
- WFLA**—The Tribune Co., Tampa, Fla.—Granted license to cover construction permit which authorized a new broadcast station to operate on **940 kc.**, 1 KW, 5 KW LS, unlimited time, using directional antenna night (B3-L-1327). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-563).
- WBEN**—WBEN, Inc., Buffalo, N. Y.—Granted modification of construction permit for change in frequency from **900 to 930 kc.** and changes in directional antenna.
- W9XBK**—Balaban & Katz Corp., Chicago, Ill.—Granted extension of special temporary authority to operate two transmitter units to be installed and operated from the State-Lake Bldg., Chicago, Ill.; Link Transmitter Type No. 50-UTX with 100 watts power for visual and Link Transmitter Type No. 25-UBX 25 watts power for aural; temporary steel tower to be used on roof of said building, in order to conduct tests for period May 19 to not later than June 17, 1941, in accordance with construction permit.
- WHJB**—Pittsburgh Radio Supply House, Greensburgh, Pa.—Granted special temporary authority to operate from 7:30 p. m. to conclusion of program, approximately 10 p. m., EST, May 6, 1941, in order to cooperate with the Indiana County Music Supervisors Assn. in the Indiana Music Festival, to be held in the High School, Indiana, Pa.
- WEAU**—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from sign-off (April 7 p. m., CST) to conclusion of President's radio address and Secretary of Treasury Morgenthau and Postmaster Walker, only, approximately 9 p. m., CST, April 30, 1941.
- KFNF**—KFNF, Inc., Shenandoah, Iowa.—Continued hearing in re application for renewal of license now scheduled for May 7, 1941, until May 26, 1941.
- WWDC**—Capital Broadcasting Co., Washington, D. C.—Granted modification of construction permit (B1-P-2679, which authorized a new station on **1450 kc.**, 250 watts, unlimited time, and 100 watt amplifier, for changes in type of transmitter and extension of commencement and completion dates to 1 and 2 days after grant respectively (B1-MP-1297).



WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted modification of construction permit (B4-P-2696, for increase in power, installation of DA for night use) for extension of completion date to June 6/41 (B4-MP-1278).

WRC—National Broadcasting Co., Inc., Washington, D. C.—Granted modification of construction permit (B1-P-243, which authorized increase in power and installation of DA for night use) for **980 kc.** under NARBA (B1-MP-1249). Also granted modification of construction permit (B1-P-243) for extension of completion date to June 5/41 (B1-MP-1277).

WLAC—WLAC Broadcasting Service, Nashville, Tenn.—Granted special temporary authority to rebroadcast program originating in plane of Vultee Aircraft Co. at Nashville, Sunday, May 4, between 2:30 and 4 p. m., CST, only (B3-S-482).

WHBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted modification of construction permit (B1-PIB-28, which authorized changes in equipment, etc., in International broadcast station) for extension of completion date to June 6, 1941 (B1-MPIB-26).

WKBX—Community Broadcasting, Inc., Wheeling, W. Va.—Granted modification of construction permit (B2-P-2967, as modified, for new station), authorizing installation of new transmitter (B2-MP-1283).

WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted special temporary authority to rebroadcast program originating in U. S. Army plane in vicinity of Milwaukee on May 2.

W2XQR—John V. L. Hogan, Long Island City, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.** with 100 watts power, special emission for FM, with transmitter located at 3104 Northern Blvd., Long Island City, for the period May 1 to May 30. No authority is granted to conduct a facsimile broadcast service.

The Evening News Press, Inc., Port Angeles, Wash.—Placed in pending files application for new broadcast station to operate on **1450 kc.**, 250 watts power, unlimited time, and specifying exact transmitter location, pending disposition of newspaper issue.

## APPLICATIONS FILED AT FCC

### 930 Kilocycles

WSAZ—WSAZ, Inc., Huntington, W. Va.—Modification of construction permit (B2-P-2856) for approval of transmitter site and changes in directional antenna from day and night to night use only, and **930 kc.** under NARBA.

### 970 Kilocycles

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Modification of construction permit (B1-P-2704) as modified, for new transmitter, install directional antenna, change in hours of operation from daytime to unlimited, increase in power from 500 watts to 1 KW and move of transmitter for extension of completion date from 5-25-41 to 7-25-41.

### 980 Kilocycles

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Construction permit to from **950 kc.** to **690 kc.**, power from 5 to 50 KW, install new transmitter, new directional antenna for night use, move transmitter and move studio from Kansas City, Mo., to Kansas City, Kansas, requesting facilities KGGF, WNAD and KFEQ as proposed by NARBA. Amended: To change location of transmitter from near Wolcott, Kans., to near Sibley, Mo., omit request for move of studio, change frequency from **690 kc.** to **770 kc.**, make changes in directional antenna for day and night use and omit request for facilities of KFEQ, KGGF and WNAD.

### 990 Kilocycles

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Authority to determine operating power by direct measurement.

### 1050 Kilocycles

WHN—Marcus Loew Booking Agency, New York, N. Y.—Modification of construction permit (B1-P-2899) for new trans-

mitter, directional antenna for day and night use, change in frequency, increase in power and move of transmitter, for authority to install new transmitter and make changes in antenna.

### 1070 Kilocycles

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—License to cover construction permit (B4-MP-896) as modified, for decrease in power, change in hours of operation and installation of directional antenna for night use.

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Modification of construction permit (B4-MP-896) as modified, for changes in directional antenna on **1070 kc.** under NARBA.

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Authority to determine operating power by direct measurement of antenna power.

### 1090 Kilocycles

KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Authority to determine operating power by the direct method.

### 1110 Kilocycles

WCBD—WCBD, Inc., Chicago, Ill.—Authority to determine operating power by the direct method.

### 1150 Kilocycles

KTBC—State Capitol Broadcasting Assn., Inc., Austin, Texas.—Authority to determine operating power by direct measurement.

### 1230 Kilocycles

WJNO—WJNO, Inc., West Palm Beach, Fla.—Authority to determine operating power by direct measurement.

KVNU—Cache Valley Broadcasting Co., Logan, Utah.—Authority to determine operating power by the direct method.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Authority to determine operating power by direct measurement.

### 1240 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 kc.** to **900 kc.**, and power from 250 watts to 1 KW. Amended: To request change in frequency from **1240 kc.** (under NARBA) to **640 kc.**, Class II, changes in directional antenna and equipment and requesting limited time to local sunset at Los Angeles, directional antenna from sunset Beckley to local sunset Los Angeles.

KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Authority to determine operating power by direct measurement.

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

### 1250 Kilocycles

WDSU—WDSU, Inc., New Orleans, La.—Modification of construction permit (B3-P-2923) for extension of completion date from 6-1-41 to 9-1-41.

### 1260 Kilocycles

KYA—Hearst Radio, Inc., San Francisco, Calif.—Authority to determine operating power by direct measurement for auxiliary transmitter.

KYA—Hearst Radio, Inc., San Francisco, Calif.—Authority to determine operating power by direct measurement for main transmitter.

### 1270 Kilocycles

KFJZ—Tarrant Broadcasting Co., Fort Worth, Tex.—Modification of construction permit (B3-P-2497) which authorized new transmitter and installation of directional antenna, increase in power and move of transmitter, for extension of completion date from 5-17-41 to 8-15-41.

### 1300 Kilocycles

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Modification of construction permit (B4-P-2329) as modi-

fied, for installation of new transmitter and directional antenna for night use, increase in power, change of frequency and move of transmitter, requesting changes in directional antenna on **1300 kc.** under NARBA, and extension of commencement and completion dates from 1-4-41 to 7-4-41 to 30 days after grant and 60 days thereafter, respectively.

#### 1320 Kilocycles

WNEL—Juan Piza, San Juan, Puerto Rico.—License to cover construction permit (B-P-2762) which authorized equipment changes, antenna changes, increase in power and move of transmitter, specifying **1320 kc.** under NARBA.

#### 1340 Kilocycles

NEW—Jefferson Broadcasting Corp., Birmingham, Ala.—Construction permit for a new broadcast station to be operated on **1340 kc.**, 250 watts, unlimited time. (Facilities of station WSGN when vacated.)

KVOX—KVOX Broadcasting Co., Moorhead, Minn.—Authority to determine operating power by direct measurement.

WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Authority to determine operating power by direct measurement.

KMYR—F. W. Meyer, Denver, Colo.—Authority to determine operating power by direct measurement.

KMYR—F. W. Meyer, Denver, Colo.—License to cover construction permit (B5-P-2067) as modified, for a new station.

KRBA—Red Lands Broadcasting Assn., Ben T. Wilson, Pres., Lufkin, Tex.—Authority to determine operating power by direct measurement.

#### 1360 Kilocycles

KRIS—Gulf Coast Broadcasting Co., Corpus Christi, Tex.—License to cover construction permit (B3-P-2230) as modified, for new transmitter, increase in power, move transmitter and changes in antenna.

#### 1390 Kilocycles

KGER—Consolidated Broadcasting Corp., Long Beach, Calif.—Construction permit to make changes in equipment, increase power from 1 KW to 5 KW, install directional antenna for night use. Amended to make changes in directional antenna.

#### 1400 Kilocycles

KRLC—H. E. Studebaker, Lewiston, Idaho.—Authority to determine operating power by direct measurement.

KRLC—H. E. Studebaker, Lewiston, Idaho.—License to cover construction permit (B5-P-3020) for changes in equipment and to specify **1400 kc.** under NARBA.

WORD—Spartanburg Advertising Co., Spartanburg, S. C.—Authority to determine operating power by direct measurement.

WHBQ—Broadcasting Station WHBQ, Inc., Memphis, Tenn.—Authority to determine operating power by the direct method.

WHBQ—Broadcasting Station WHBQ, Inc., Memphis, Tenn.—License to cover construction permit (B3-P-3075) for new transmitter and increase in power.

KTUC—Tucson Broadcasting Co., Tucson, Ariz.—Transfer of control from John Merino (100 shares), Glenn Snyder (50 shares), Geo. R. Cook (50 shares), Burrige D. Butler (38 shares), Carleton W. Morris (30 shares), Louis F. Long (30 shares), Ralph W. Bilby (1 share) and Frank Z. Howe (1 share) to John Merino (50 shares), Glenn Snyder (50 shares), Geo. R. Cook (50 shares), Burrige D. Butler (69 shares), Louis F. Long (30 shares), Ralph W. Bilby (50 shares) and Frank Z. Howe (1 share).

#### 1450 Kilocycles

KDNT—Harwell V. Shepard, Denton, Tex.—Authority to determine operating power by direct measurement.

#### 1480 Kilocycles

WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Construction permit to change frequency from **1450 to 590 kc.**, increase power from 500 watts night, 1 KW day to 1 KW night, 5 KW day, install new equipment and directional antenna for night use and move transmitter. Class III-B station.

Amended to change power to 5 KW day and night and make changes in directional antenna for night use.

#### 1490 Kilocycles

NEW—San Jose Broadcasting Co., San Jose, Calif.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time. Amended to change requested transmitter site.

NEW—William Price, Burlington, N. C.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time. (Contingent on WDNC going to new frequency.)

### FM APPLICATIONS

NEW—Cherry & Webb Broadcasting Co., Providence, R. I.—Construction permit for a new high frequency broadcast station to be operated on **47500 kc.** Coverage: 6,207 square miles; population: 4,230,838. Amended: re antenna.

W47PH—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Modification of construction permit (B2-PH-69) for a new high frequency broadcast station, for change in type of transmitter and changes in antenna system; population from 4,474,940 to 4,214,336.

### MISCELLANEOUS APPLICATIONS

W6XAO—Don Lee Broadcasting System, Los Angeles, Calif.—License to cover construction permit (B5-PVB-38) as modified, which authorized move of station and change in frequencies.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Peoples Hardware Stores**—A complaint has been issued charging Domenico Del Vecchio, trading as Peoples Hardware Stores, 1434 Florida Ave., N. E., Washington, D. C., with misleading representations in violation of the Federal Trade Commission Act in the sale of paint products.

The complaint alleges that the respondent has advertised that "Our factory-to-you plan brings savings of 20% to 35%", when in fact he does not own or control a plant in which the products he sells are made but orders them from the manufacturers and his prices do not represent a saving of 20 per cent to 35 per cent to purchasers as compared to prices charged by his competitors for similar products made of comparable materials.

The complaint also alleges the respondent advertised that "Lawrence Master Painters Flat Paint—covers 1100 square feet per gallon", when in fact such coverage cannot be obtained under normal conditions of use and can be obtained only when employed over a pigment sealer on a smooth surface. (4495)

**Tag Manufacturers Institute**—A complaint has been issued charging the Tag Manufacturers Institute, 370 Lexington Ave., New York, Frank H. Baxter, its secretary-treasurer and executive director, and 31 member companies, with practices in restraint of trade and in violation of the Federal Trade Commission Act in the sale of tags, pin tickets and similar marking and pricing devices. According to the complaint, the respondents are majority of the country's manufacturers of such tag products.

The complaint alleges that the respondents, acting directly, through their representatives, and in cooperation with each other and with the respondent institute and the respondent Baxter,

entered into an agreement, combination and conspiracy to restrict and eliminate price competition in the sale of tag products by fixing and maintaining uniform prices, terms and conditions of sale for their products; by holding meetings under the auspices of the institute to devise methods for such price maintenance, and by a "Tag Industry Agreement".

According to the complaint, the "Tag Agreement" provides:

(1) That each subscribing respondent member send to the respondent Baxter a complete statement of every "general offer" to sell tag products, including available prices, terms and sale conditions, and of every "restricted offer", including prices, terms and sale conditions more favorable to the purchaser than the "general offer" for similar products.

(2) That the respondent Baxter disseminate to all subscribing respondent members the information furnished under the two offers.

(3) That each respondent subscribing member furnish the respondent Baxter with duplicates of every invoice or other shipping memorandum for products sold, and duplicates of all credit memoranda covering rebates.

(4) That the respondent Baxter compile and disseminate to members such information in a manner not disclosing the identity of any one subscriber or the names of any purchasers.

(5) That each subscribing respondent member submit to a "Determination Board" appointed by the respondent members all pertinent records in its possession and permit an examination of such information by the board to determine whether or not such subscribing member has complied with the Tag Industry Agreement rules concerning the furnishing of such information.

(6) That the Determination Board announce its findings pursuant to such investigations; such findings to be accepted by the subscribing members any of whom are to be subject to fines, assessments and liquidated damages in case of breach of rules or regulations.

(7) That each subscribing respondent member pay annually not less than \$120 to the respondent Baxter as institute secretary for an "Operating Fund", and not less than \$200 into a "Revolving Fund", to provide funds from which operating and investigating expenses and into which fines and assessments are to be paid.

Respondent manufacturer members of the respondent institute are: Acme Tag Co., Minneapolis; Allen-Bailey Tag Co., Inc., Caledonia, N. Y.; American Tag Company, Chicago; American Tag Company of New Jersey, Newark; Atlas Tag Company, Neenah, Wisc.; Badger Tag Co., Inc., Random Lake, Wisc.; A. C. Baldwin & Sons, Austin, Tex.; Campbell Box and Tag Company, South Bend, Ind.; Central Tag Co., Chicago; Cupples-Hesse Envelope and Litho. Co., St. Louis; Dancyger Manufacturing Company, Cleveland; The Denney Tag Company, Incorporated, West Chester, Pa.; Dennison Manufacturing Co., Framingham, Mass.; Eastman Tag & Label Company, San Francisco; Ennis Tag and Printing Company, Ennis, Tex.

Haywood Tag Company, Lafayette, Ind.; International Tag & Salesbook Co., Chicago; Keystone Tag Company, West Chester, Pa.; A. Kimball Company, New York City; Marion Manufacturing Company, Atlanta; J. L. May Company, New York; Michigan Tag Company, Grand Rapids; Midwest Tag Company, St. Louis; The National Tag Company, Dayton; The Reyburn Manufacturing Company, Inc., Philadelphia; The Robinson Tag and Label Company, New York; Rockmont Envelope Company, Denver; Salisbury Mfg. Co., Central Falls, R. I.; The Standard Envelope Mfg. Company, Cleveland; Tagcraft Corporation, Lancaster, Pa.; and Waterbury Buckle Company, Waterbury, Conn. (4496)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Ethel Bellamy, Inc.**, Nutley, N. J., has been ordered to cease and desist disseminating advertisements which represent that "Ethel Bellamy Eyelash Luxuriant" possesses therapeutic value in the treatment of granulated eyelids, promotes eyelash growth, supplies pigment to the eyelashes, darkens eyelashes permanently or has any effect on eyelash color in excess of such temporary effect as it may produce by reason of its properties as a dye. (4424)

**Consumers Bureau of Standards**—Albert Lane, an individual trading as Consumers Bureau of Standards, who has conducted his business at various locations in New York, Chicago, Philadelphia, and Long Island City, N. Y., has been ordered to cease and desist from misrepresentations and other unfair practices in the sale of publications advertised as being the result of research on behalf of the consumer. The respondent's publications were: "Consumers' Preference," "Consumers Bureau Reports" and "Consumers Bureau Guide."

Commission findings are that:

The respondent represented the Consumers Bureau of Standards as being "a national non-profit consumers' research and educational organization which investigates, tests and reports on goods and services for the benefit of the ultimate consumer," when in fact the respondent did not conduct a real research and testing bureau for consumers and maintained no staff or laboratory equipment.

The Commission order directs that Albert Lane, trading as Consumers Bureau of Standards, or Consumers Bureau, in connection with the sale of any book, magazine, periodical or circular letter purporting to give appraisals or classifications of merchandise, goods or services, cease and desist from representing in any manner, or using any trade or other name which implies, that such publication is compiled, issued, sold or offered for sale by or under the direction of any bureau, institute, or organization engaged in research work for the benefit of consumers, or devoted to aiding consumers in making wise or economical purchases, or which by means of any scientific or adequate tests of any nature designates the comparative consumer value of any merchandise, goods, or services.

The respondent also is ordered to cease and desist from:

Representing that any such publication is or will be issued, printed, or distributed at any stated time or times other than those at which it is actually issued, printed, or distributed;

Representing that the respondent's business is operated on a non-profit basis;

Representing that the respondent's business is national in scope, or representing in any manner that such business is greater in size or scope than is the fact;

Representing that the respondent is, or represents, any consumers' research group or movement;

Representing that the respondent has any arrangement with the Mellon Institute of Industrial Research, Massachusetts Institute of Technology, or any similar organizations or institutions, for the submission thereto for determination of any questions concerning the value or comparative value of merchandise, goods, or services;

Representing that the respondent is, or represents, any consumers' special training, education, or experience to determine, or has any employees, staff, equipment, or facilities for determining, by any scientific method or adequate investigation or tests, the value or comparative value of any merchandise, goods, or services;

Threatening, inferring, or implying to any manufacturer or distributor of merchandise, goods, or services that a refusal to buy copies of or contribute financially to such publication or directly or indirectly to the respondent, will or may result in unfavorable, disparaging, or derogatory listing of, or reference to, such manufacturer or distributor or his merchandise, goods, or services in or in connection with such publication. (3718)

**Gly-Case Medicine Company**—Medora Whinrey, trading as Gly-Cas Medicine Co., and the concern's manager, Robert B. Whinrey, Muncie, Ind., distributors of the medicinal preparation "Gly-Cas," has been ordered to cease disseminating advertisements which represent that their product constitutes a cure or remedy for constipation or has therapeutic value in treating it in excess of temporary relief afforded by causing a partial evacuation of the intestinal tract; that indigestion, gas, bloated or sour stomach, rheumatic or neuritis pains, sore or aching muscles, limbs or joints, backaches, dizziness, nervousness, kidney trouble, sleeplessness, biliousness or headaches are typical or usual symptoms of constipation or faulty elimination; that their product "Gly-Cas" is a cure, remedy or competent treatment for such conditions, or has therapeutic value in their treatment when they are due to causes other than constipation or faulty elimination or other than that furnished by causing a partial evacuation of the intestinal tract. (4432)

**Hartig Drug Co.**, also trading as H. K. Pharmaceutical Laboratories, and A. J. Hartig, president of Hartig Drug Co. and trading as H. K. Pharmaceutical Laboratories, 756 Main St., Dubuque, Iowa, has been ordered to cease and desist from misrepresentation

in the sale of certain medicinal preparations for women. The Commission order directs that in the sale of "Menstruaid Nos. 1, 2, 3, 4 and 5" the respondents cease disseminating advertisements which represent that these products constitute a competent or effective treatment for delayed menstruation; that they are scientific, safe or harmless and are guaranteed, and which advertisements fail to reveal that their use may cause gastro-intestinal disturbances and other serious conditions. (4406)

**Universal Industries, Inc.**, 2222 Diversey Parkway, Chicago, and Abraham Leonard Koolish and George William Ehrlich, officers and directors of the corporation, has been ordered to cease and desist from misrepresentations in the sale of sales stimulator plans or devices including trade cards, circulars, and other advertising material, and also tableware and other products used as premium merchandise under such plans.

Commission findings are that in advertisements circulated in various States the respondents have represented that for a cost of only one cent merchants participating in the respondents' sales plans would receive \$5 worth of business from their customers when in fact the merchants purchase from the respondents at 50 cents a set tableware which they resell to customers at 49 cents a set when such customers have purchased \$5 worth of other merchandise.

Also, the findings continue, the merchants pay the respondents \$4.95 for the sales plan which includes cards, literature and two display sets of tableware, none of which amount the respondents refund until the merchants have purchased eight dozen tableware sets; and the respondents deduct from such refund, if and when made, the resale value of the two display sets furnished the merchants.

The Commission order directs the respondents to cease misrepresenting the cost of any sales plan or sales stimulator to any dealer or merchant by failing to reveal that additional sums must be paid by the merchant or dealer in operating the plan or using the sales stimulator; to discontinue misrepresentations found to have been made concerning salesmen's earnings, the price and value of products sold, and the respondents' length of time in business and financial standing, and to cease using the term "free" to describe articles offered as compensation for distributing the respondents' merchandise, unless all conditions are clearly explained and there is no deception as to price, quality, character, services to be performed, or other features.

The Commission dismissed its complaint in this proceeding as to Mrs. Ida B. Koolish, an officer of the corporate respondent, there being no evidence that she has taken an active interest in the business. (3882)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Chelf Chemical Co.**, 118 South Seventeenth St., Richmond, Va., stipulated that it will cease certain representations in the sale of its preparation known as "Chelf's C. C. Comp'd" and also as "C. C. C. C." and "4 C's," containing, among other ingredients, potassium bromide and acetanilid.

The respondent agrees to cease representing that its preparation will remove the cause of headaches, indigestion or nervousness or remedy these conditions; may be safely used by all persons under all conditions; will not have a depressing effect upon the heart, and will relieve colds generally or head colds, unless the representation is limited to palliative relief of aches and pains accompanying such colds.

The respondent also agrees to cease disseminating advertisements which fail to reveal that the preparation should not be used in excess of the dosage recommended and that its frequent and continued use may be dangerous; provided that such advertisements need contain only a statement that the preparation should be used only as directed on the label, if the label either contains a warning of the possible consequences of the use of the product or directs attention to a similar warning in the accompanying labeling. (02787)

**Eagle Electric Manufacturing Co., Inc.**, 59 Hall St., Brooklyn, entered into a stipulation to cease certain representations in the sale of electrical heating pads. The respondent agrees to cease

using the words or symbols "Three Heat" or "3-Heat" as descriptive of such pads or the switches used to operate them and to cease employing the words "Three Heat" or other similar words to imply that its electrical pads are capable of maintaining, or that the operation of the switches results in maintaining, three different, distinct temperatures. (3093)

**Federal Enameling & Stamping Co.**, McKees Rocks, Pittsburgh, Pa., distributor of enameled kitchenware, stipulated to cease representing or placing in the hands of others a means to represent, directly or inferentially, that any enamelware product not completely covered with three separate coats or applications of enamel, is "triple coated" or that its enameling consisted of the application of three separate coats of enamel. (3092)

**A. Freedman & Sons, Inc.**, shoe manufacturer, New Bedford, Mass., has entered into a stipulation to cease using the words "Designed by an English Bootmaker" as descriptive of certain of its shoes which are not designed by an English bootmaker, such words appearing as a stamp, brand or label upon shoes or the boxes in which they are sold. The respondent corporation also stipulates that it will desist from using these quoted words or the words "John McVey, Ltd.", alone or in connection with the words "Distinctly English" or with other similar words so as to imply that such shoes are either designed by an English Bootmaker or are made in England. The stipulation recites that the respondent's shoes are not designed by an English bootmaker and are not made in England but at its New Bedford, Mass., plant. (3091)

**Humania Hair Goods & Specialty Company**—Gustave Goldstein, hair goods and cosmetics dealer trading as Humania Hair Goods & Specialty Co., 303 Fourth Ave., New York, a stipulation to cease disseminating advertisements which fail conspicuously to reveal certain dangerous possibilities in the use under certain conditions of "Magic Shaving Powder" and "Kongolene", and which advertisements represent that "Apex Pomento" and "Humania Dandruff Treatment" will prevent dandruff or do more than remove dandruff already formed on the scalp; that "Humania Dandruff Treatment" and "Amron New Hair Aid" will stop falling hair or keep it from coming out, and other similar representations. (3094)

**Charles B. Knox Gelatin Co., Inc.**, Johnstown, N. Y., engaged in selling Knox Gelatin or Knox Sparkling Gelatin, has entered into a supplemental stipulation in connection with the dissemination of advertising of the products in which it agrees to cease and desist from representing, directly or by implication:

(1) That scientific laboratory tests have established as a matter of scientific fact that Knox Gelatin increases vim and vitality, increases endurance, builds resistance to fatigue, cuts down and lessens fatigue, increases stamina and "staying power", curbs tiredness, restores vigor or stores energy.

(2) That Knox Gelatin or Knox Sparkling Gelatin prevents fatigue; keeps one in top form for working hard and playing hard; enables a person to sleep better or awaken more refreshed; lessens the seriousness of athletic injuries or causes minor athletic injuries to respond quicker to treatment; increases muscular work capacity 50% to 100% or is of any substantial benefit in increasing muscular work capacity; doubles energy or increases energy output 37% to 240% or is of any substantial value in increasing energy output; is an amazing discovery or stores energy.

(3) That it is a manufacturer; but nothing in the stipulation shall prevent the Charles B. Knox Gelatin Co., Inc., from representing and stating that Knox Gelatin is manufactured under the laboratory supervision of the Charles B. Knox Gelatin Co., Inc.

The stipulation provides that in the event future facts and circumstances should, in the judgment of the Commission, so warrant, such suitable modification thereof may be made as may be necessary to conform to the facts. (02436)

**Leonard Sales Company**—Benjamin Ingber, trading as Leonard Sales Co., 237 North Ninth St., Philadelphia, has entered into a stipulation to cease advertising that a drug preparation designated "Corn-Go" will instantly stop the pain of corns or calluses; will prevent their recurrence, and will remove bunions or has any value in their treatment. (02786)

## Senator Wheeler Calls Hearing On White Resolution

Chairman Wheeler (D-Mont.) of the Senate Interstate Commerce Committee has called a hearing, starting Saturday, May 31, on the resolution introduced by Senator White (R-Maine) regarding the FCC network rules.

The hearing is slated to continue through Wednesday, June 4. The NAB will appear in support of the resolution, the text of which follows:

### S. RES. 113

77TH CONGRESS, 1ST SESSION

IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, MAY 8), 1941

MR. WHITE submitted the following resolution; which was referred to the Committee on Interstate Commerce

### RESOLUTION

Whereas the Federal Communications Commission (hereinafter referred to as the Commission) is an administrative agency created by the Act of June 19, 1934 (48 Stat. 1064), known as the Communications Act of 1934, as amended, by Act of June 5, 1936 (49 Stat. 1475), and by Act of May 20, 1937 (50 Stat. 189); and

Whereas said Commission has by the terms of said Act certain delegated powers and duties in respect of interstate commerce in communications and the facilities and instrumentalities used and usable in said commerce and has no powers and duties not so specifically conferred upon it; and

Whereas the Commission on May 2, 1941, in a proceeding before it styled "In the Matter of the Investigation of Chain Broadcasting," Docket Numbered 5060, made and published certain rules and regulations enacted and promulgated by it which said rules and regulations are alleged to constitute an attempt upon the part of the Commission to exercise a supervisory control of the programs, of the business management and of the policy to be employed by radio-broadcast stations which are licensed by said Commission pursuant to said Act; and

Whereas it is urged that the Supreme Court of the United States in the case of Federal Communications Commission v. Sanders Brothers Radio Station, decided March 25, 1940, interpreted and construed the Communications Act of 1934, as amended as conferring no such power or authority upon the Commission as that which it is charged the Commission has attempted to exercise in its said rules and regulations of May 2, 1941, as aforesaid, and in so doing stated:

"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."

Now, therefore, be it

*Resolved*, That the Committee on Interstate Commerce of the Senate, or a subcommittee thereof, be, and it hereby is, authorized and requested to undertake a study (1) of said rules and regula-

tions; (2) of the probable effects thereof upon the broadcast system of the United States and in particular upon the network organizations and licensees affiliated with said organizations or independent thereof; (3) of the probable effects thereof upon the quality of programs broadcast to the American public; (4) of whether said rules and regulations attempt to confer or do confer upon the Commission supervisory control of the programs, business management, or policies of network organizations and of broadcast licensees; (5) of whether said rules and regulations if enforced will adversely affect the broadcast structure of the United States and the service rendered thereby to the people thereof; (6) of whether they constitute a threat to the freedom of speech by radio in the United States; (7) of whether they will contribute to Government ownership and operation of broadcast stations or to regulation of them as common carriers; (8) of whether said rules and regulations are in their effect an effort to define monopoly or monopolistic practices and to assert the power of the Commission to find a licensee guilty thereof and to deny a license to an applicant because of such finding; (9) of any problem of radio broadcasting which said committee finds is raised or is affected by said rules and regulations and of the principles and policies which should be declared and made effective in legislation for the regulation and control of the radio industry, of broadcasting and of interstate and foreign communication by radio and which should guide and control the Commission in the administration of said Communications Act of 1934, as amended; (10) and finally to consider whether said Commission is authorized by present law to promulgate and enforce the rules and regulations adopted by it as aforesaid; be it further

*Resolved*, That all testimony, exhibits, briefs, arguments, and reports or photostatic copies thereof, submitted by or to the Commission in connection with said proceeding Docket Numbered 5060 be transferred to and filed with said committee of the Senate for its study and consideration; be it further

*Resolved*, That the committee shall report to the Senate as soon as practicable its findings and its recommendations concerning the matters which it is hereby requested to study; and be it further

*Resolved*, That said Commission be, and it hereby is, requested to postpone the effective date of said rules and regulations until said Interstate Commerce Committee shall have made its report to the Senate in pursuance of this resolution and for sixty days thereafter.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings; to sit and act at such times and places, either in the District of Columbia or elsewhere, during the sessions, recesses, and adjourned periods of the Senate, in the Seventy-seventh Congress; to employ such experts, and clerical, stenographic, and other assistants; to require by subpoena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, and documents; to administer such oaths; and to take such testimony and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed \$5,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

## The Convention

A ringing denunciation of the FCC's new network rules and unanimous approval of a plan to continue BMI were

(Continued on page 438)



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W. WASHINGTON Phone NATIONAL 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## THE CONVENTION

*(Continued from page 437)*

the highlights of the largest and most enthusiastic convention in the NAB's history, held May 12-15 in St. Louis.

By unanimous vote, the convention endorsed a resolution introduced by Senator White (R-Maine), calling for a Senate investigation of the effect of the new network rules and asking the FCC to postpone their effective date pending the investigation. *(The text of the White resolution will be found on page 437).*

This vote was taken at a business session following a talk by Mark Ethridge, WHAS, Louisville, Ky., in which he said that the FCC's network order was "founded on a basis of bad temper, impatience and vindictiveness." Mr. Ethridge announced that he was giving up his presidential commission to review "the status and needs of the industry" and urged the delegates to support Senator White's measure. *(The text of Mr. Etheridge's talk can be found on Page 444. Printed copies are available at the NAB).*

Endorsement of BMI followed the signing of a new contract between ASCAP and the Mutual Broadcasting System, a factual analysis of which appeared on Page 409 of the NAB REPORTS. Stations WOR, WGN and KHJ, Mutual key stations, and WFBR withdrew from the NAB on the ground that the NAB had taken sides in intra-industry disputes in both the music copyright and "monopoly" matters.

The convention was by far the largest in the NAB's history. More than 1,000 registered, while several hundred others were present.

Following is a day-by-day account of the convention:

### Monday, May 12

The NAB Board, 24 to 1, approved Neville Miller's correspondence with officials of the Mutual Broadcasting System regarding NAB policy on the "monopoly report" and in the music copyright situation. The board then voted, 24 to 0, to extend Mr. Miller's term of office to July 1, 1944.

### Tuesday, May 13

A panel discussion on "national defense" started the convention fireworks. Participants were Major General

Robert C. Richardson, public relations director, U. S. army; Commander H. R. Thurber, public relations officer, N. S. navy; director, Office of Government Reports, and James Lawrence Fly, FCC chairman. Mr. Mellett spoke off the record; General Richardson's talk is printed on Page 448; Commander Thurber's talk is printed on Page 450; Mr. Fly's talk is printed on Page 442.

Mr. Fly dealt at some length with the network rules, charging at one point that "monopolistically controlled sources in the industry . . . to divert attention from the fact of monopolistic control in their hands, conjure up insistently the bogeyman of government operation."

At the close of Mr. Fly's talk, Neville Miller asked:

"May it not also be said that those who favor government operation conjure up the bogeyman of monopoly, to divert attention?"

That evening, informed of the withdrawal from the NAB of the three Mutual key stations, Mr. Miller said:

We naturally regret the withdrawal of any members from the NAB. However, we believe that the issues subtly concealed in the Monopoly Report represent a direct challenge to the freedom of radio, and, if not opposed, would be the first of a series of events leading to the destruction of not only the freedom of radio but also the freedom of the press and the freedom of speech.

We would be derelict in our duty not only to our members but also to the public if we sat idly by merely to maintain our membership. We intend to protect the freedom of radio in opposing all attacks upon it, including those contained in the Monopoly Report. In so doing we believe that we represent the views of an overwhelming majority of our industry and of the public.

Vice-President Henry A. Wallace addressed the Tuesday luncheon session by remote control from Washington. His speech, dealing with how radio could best serve in National Defense, is printed on Page 446.

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At its annual convention Tuesday, attended by representatives of approximately 250 independently owned network-affiliated stations, IRNA adopted a resolution expressing strong disapproval of the new regulations promulgated by the FCC to regulate network broadcasting.

The resolution reads:

"Resolved, that in the opinion of the members of Independent Radio Network Affiliates, Inc., here assembled, the FCC regulations on network broadcasting issued May 2, 1941, will, if carried out in their present form, seriously impair the ability of network affiliates as radio licensees to render the service which the public has been receiving and to which it is entitled, and which has been proclaimed as the finest broadcast service in the world."

The convention also endorsed the resolution introduced this morning in the United State Senate by Senator Wallace H. White, Jr., of Maine, requesting a suspension of the new network regulations and an investigation looking toward the drafting of a new radio law.

John A. Kennedy, West Virginia Network; I. R. Lounsberry, WGR-WKBW, Buffalo; Paul W. Morency, WTIC, Hartford; C. W. Myers, KOIN-KALE, Portland, Oreg.; and W. J. Scripps, WWJ, Detroit, unanimously were reelected for three-year terms as IRNA directors.

The IRNA board was authorized by the membership to take such action as in its judgment will be effective in carrying out the spirit of the resolution on the monopoly report.

Later, at the organization meeting of the Board of Directors of IRNA, the resignations of Samuel Rosenbaum as Chairman and Paul W. Morency as Vice Chairman, were rejected by the Board, and they were requested and agreed to continue to serve until the next meeting of the Board to be held at the call of the chair.

The Board adopted the following resolution: "The Officers are directed to prepare and submit a plan for approval by the Board and for IRNA to support such offers as will be organized by any and all agencies in the industry to endorse the White Senate resolution and endeavor to obtain its passage."

The Board also authorized the officers to submit a recommendation for the engagement of a paid representative to conduct negotiations with the networks in further offers to obtain adoption of the changes in network operating practices recommended by IRNA for the past three years.

### Wednesday, May 14

At the morning session of Wednesday, Neville Miller introduced for the presentation of BMI's picture, the following speakers: Merritt E. Tompkins, Vice President and General Manager, Carl Haverlin, Director of Station Relations, Sydney M. Kaye, Vice President and General Counsel.

Mr. Tompkins gave an account of the physical operations of BMI. He pointed out that BMI had within one year built up an organization which employed 323 persons. Mr. Tompkins said: "BMI under contract has acquired for its licensees performance rights in the catalogues of 111 affiliated music publishers. . . . I have not broken down the exact number of titles involved, but a conservative estimate would place the grand total in excess of 400,000 different compositions. . . ." He read to the meeting letters from music publishers expressing their gratitude to BMI for enabling them to popularize their music which had hitherto been barred because of the ASCAP monopoly. Said Mr. Tompkins: "Since our inception, commercial phonograph record companies have sold in excess of four millions of records of BMI copyrighted titles. Add to this an additional six million records of the music of our affiliated publishers, and we have a grand total of in excess of ten million phonograph records sold." Mr. Tompkins further said: "From October 1, 1940 to April 30, 1941, we averaged in sales 52,250 copies weekly. For the first quarter of 1941, we have averaged 74,600 copies a week. I contend that this in an all time high record of sales from the catalogue of one publisher."

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Carl Haverlin reported to the convention that during the first license period of BMI, radio stations had bought 73,692 shares of stock, which, with the BMI license fees, brought total revenue to BMI of \$1,849,050.

"It is significant," Haverlin declared, "that, quite to the contrary of ASCAP's statement that BMI is controlled by the networks, only 18½% of BMI stock was bought by the networks and 82% of BMI stock was purchased by independent radio stations."

The BMI renewal period which commenced April 1st of this year, he added, saw an increase in the number of stations subscribing to BMI. Over 654 stations have this year agreed to pay BMI for their license fees \$1,973,500.

Haverlin pointed out that BMI was created during a series of district meetings of the National Association of Broadcasters in the winter of 1939 and spring of 1940, and that every promise made by the organization to the radio stations had, according to these stations, been completely fulfilled.

BMI took as its premises that there is a direct relation between radio performances of popular music and its popularity and sale, he explained, and that it was perfectly feasible by exploring hitherto untapped fields to bring to the public a fresh source of music supply. Special emphasis was laid by the BMI station relations director on the solidity of the industry during BMI's first and second license period, particularly among the lower income radio stations. Of this group, numbering over 400, with incomes below \$50,000 per annum, 67%, or 270 stations, are BMI stockholders. It is interesting to note, he concluded, that this BMI group of 270 exceeds one-third of all the commercial stations in the United States.

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Sydney M. Kaye, Vice President and General Counsel of BMI, pointed out that not only had broadcasting maintained its full advertising revenues but that listener interest in popular as well as concert music programs had, according to recent surveys, actually increased from January, February and March of 1940 to January, February and March of 1941, a period during which BMI music was exclusively on the air. Mr. Kaye pointed out that it had been conclusively established that radio performances, contrary to ASCAP's previous statements, did not hurt music sales but helped them. Said Kaye, "We have not only paid our composers well, but we have paid them honestly and on a scientific basis in exact proportion to the use which radio has made of their works. This has never been done before in this country, and BMI is proud of it." Mr. Kaye said, "The importance of radio as a medium for the exploitation of music carries with it the social responsibility not to leave that field in the hands of ASCAP, an organized monopoly. It is a fallacy to say, as ASCAP has repeatedly said, that it is none of radio's business where its money goes or how it is divided among writers. The only way to encourage creation of music is to pay for it, and the only way to do that is to see that the money which radio pays for music gets into the hands of the people who create it."

Mr. Kaye pointed out that BMI, during its first year of activity, during which it had acquired offices, fixtures, furniture, catalogues and other permanent assets, had spent \$1,800,000, or less than ASCAP spends annually on the mere administrative duty of collecting license fees and paying them out again. He pointed out that BMI's income from license fees for its second year was in excess of \$2,000,000.

"It is perfectly obvious," he said, "that we can do the same job for less money during the second year than we did it during the first year. We do not have the same capital investments to make or the same emergency situation to face on time limit. BMI will be able to continue an undiminished service to you at a substantial decrease in the rates you pay. The reductions of 33⅓% which can be made in your present contract will mean that our rates will commence from 1% and will range up to 1⅔%, dependent upon station revenue. This means that BMI can do its full job for the coming year at approximately \$1,400,000, a rebate to the broadcasting industry of approximately \$600,000."

Mr. Kaye also reported on the per program basis of payment which, unlike ASCAP's, involves no guaranties. Per program rates for BMI music range from 3% to 5½% on commercial programs which use BMI music and from ½% to 1% on sustaining programs.

"I am almost afraid to mention these rates to you for fear that someone will think we are depreciating the value of our catalogue or thinking of cheapening our service, but that is what can be done when there is no exaggerated overhead, and no desire to fix prices on anything but a competitive and economic basis, doing full justice to authorship."

Mr. Kaye pointed out the necessity of maintaining BMI as a

competitive factor in the music business. He said, "Some people recently have treated the ASCAP tiger as though it were a pussy cat. I am not fooled. The tiger is purring only because it pays it to purr. If we ever lay down BMI as a weapon, we will soon find that the tiger still has its claws." The competition which BMI has created must be permanently maintained."

Discussion was followed by the unanimous adoption of the following resolution:

Whereas Broadcast Music, Inc. has not only attained but has exceeded by far the expectations of the broadcasting industry in creating an alternative source of music; and

Whereas by so doing BMI has opened the door of opportunity to composers and publishers, has prevented the monopolistic control of radio by ASCAP as a means of music exploitation and has brought about the attendant benefits of competition, not only for the broadcasting industry but for all music users, and for the public at large; and

Whereas the industry recognizes a continuing obligation to maintain the open door in music;

Now, Therefore, Be it Resolved that this Convention wholeheartedly endorses the ideals, accomplishments and purposes of BMI, and reaffirms its obligation to perpetuate BMI in the field of music as a service not only to its own industry but to composers, other music users, and to the public.

Neville Miller, president of the National Association of Broadcasters, issued the following statement in connection with the MBS contract with ASCAP:

The NAB cannot agree with the statement of Mutual stockholders that "the music war is over". The preponderant elements of the broadcasting industry, including many Mutual affiliates, have still not received terms satisfactory to them from ASCAP. Even more important, ASCAP has yet to offer a music licensing plan which complies with the terms of the Consent Decree which ASCAP signed in the action brought against it by the Government, and which becomes operative on June 1st. Until the problem is solved for broadcasters generally, not only with respect to network programs but also with respect to local programs, the NAB will continue to regard the music problem as a vital one. The music situation, as it affects the industry, will be the subject-matter of discussion at the Wednesday meeting of the NAB Convention.

Broadcast Music, Inc. issued the following statement:

There is nothing in the action of Mutual stockholders in ratifying an ASCAP contract for network service which in any way affects the future plans of BMI. BMI was, in fact, organized to bring competition into the field of music licensing. BMI will continue to render a full music service not only for the benefit of those stations who are relying chiefly upon its catalogues but also for the benefit of those of its licensees who have ASCAP as well as BMI licenses. Over 95% of Mutual affiliates are BMI licensees. The character of the BMI music service has been demonstrated by the successful use which has been made of it during the last four months. During that period such hits as *I Hear a Rhapsody*, *There I Go*, *You Walk By*, *My Sister and I*, and many others have been taken to the public heart, and have proved that the younger writers of America are rich in talent. BMI's repertory now includes the publications of over a hundred publishers whose catalogues contain in excess of four hundred thousand compositions. BMI's perpetuation as a competitive factor in the field of music is assured, and its permanent support from

Mutual stations, from stations on other networks, and from independent stations is established without question.

BMI also announced that all of the stockholders of the Mutual Broadcasting System had individually assured BMI of their continued support. This includes, of course, WOR, New York, WGN, Chicago, the Don Lee network of California, the United Broadcasting Company of Cleveland, the Yankee Network, and WKRC, Cincinnati. BMI executives expressed their gratification at the unanimous support that they had received at the Convention and at the obvious evidences that had been given of the enthusiasm and loyalty of the industry. "We are stronger than ever before," said Sydney Kaye, executive vice president.

### Wednesday Luncheon

With Chairman Fly at the speakers' table, Mark Ethridge made his talk at the Wednesday luncheon. After adjournment of the luncheon had been announced, Neville Miller was informed that Mr. Fly had desired to reply to Mr. Ethridge. Mr. Miller immediately spoke to Mr. Fly and offered to arrange for Mr. Fly to speak then or any time Wednesday afternoon or any time Thursday. Mr. Fly declined to accept the invitation. Later Wednesday afternoon, a committee of Directors called on Mr. Fly and asked him if he wished to talk at the Thursday luncheon session. Mr. Fly said he did not. Nevertheless, Mr. Fly indicated to newspaper reporters that he had not been given a fair opportunity to reply to Mr. Ethridge and compared the "management" of the Ethridge speech and the consequent unanimous endorsement of the White resolution to "a dead mackerel in the moonlight" which "both shines and stinks."

### Wednesday Afternoon

Recording standards and daylight saving were discussed at the afternoon session. That evening, other-than-standard-band broadcasting was discussed at a public meeting.

C. J. Burnside of the Westinghouse Electric and Manufacturing Company presided at the meeting and talked about developments in general. The other speakers were:

Facsimile Broadcasting—Jack DeWitt, Jr., WSM.

Frequency Modulation Broadcasting—Major Edwin H. Armstrong.

Television Broadcasting—A. H. Morton—National Broadcasting Company.

International Shortwave Broadcasting—Antonio C. Gonzales, Assistant Director, Latin American Relations, CBS.

### Thursday, May 15

At the business session of the Convention Thursday morning the following limitations on the length of commercial copy in 5, 10 and 25-minute programs were unanimously adopted, effective immediately:

#### Daytime

Five-minute programs . . . . .	2:00
Five-minute news programs . . . . .	1:45
Ten-minute programs . . . . .	2:30
Twenty-five minute programs . . . . .	4:15



## Nighttime

Five-minute programs	1:45
Five-minute news programs	1:30
Ten-minute programs	2:00
Twenty-five minute programs	2:45

As to Five-minute News Programs, both daytime and nighttime, further restriction by individual stations was recommended.

Revision of the Commercial Section of the Code Manual to incorporate this amendment is in the printers' hands and will be mailed stations shortly.

Colonel Willard Chevalier, publisher of *Business Week*, was the guest speaker of the session.

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At lunch Thursday, Neville Miller made the following statement:

Just to keep the record straight, I wish to say that Chairman Fly has been offered every opportunity to reply to Mr. Mark Ethridge before a full meeting of the NAB, and in addition was invited to be our guest speaker at luncheon today. All of these invitations he has declined.

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When plans for this convention were made, we were agreed that it was to have one dominating objective. That objective was to arrive at decisions on how we could be of the utmost help in the problem of National Defense. That problem, all of us still agree, is still the vital problem facing America today.

But between the laying of those plans and our arrival here, something happened. By a majority vote of 5 to 2 the Federal Communications Commission chose that time to let loose against us through the press, charges of monopoly, and regulations so drastic as to change the very structure on which the American system of radio is built.

We must confess that when we arrived here for the opening sessions of this convention we were apprehensive. In our talks with each other we have been full of grave worry. We left home with a strong desire to do everything in our power to help our country at this critical time to mobilize for national defense. We arrived filled with fear that the very freedom of radio was being endangered.

As individuals and in groups we, more than a thousand loyal American citizens from all parts of this land, have been attempting to appraise this situation, because we know that we must make a decision. We have not wanted to be hurried by groups outside of our industry. We believe in the democratic processes by which free people make up their minds.

No one could have been in this room yesterday and listened to Mark Ethridge's straightforward talk without realizing that we have made up our minds.

We believe that government regulation is now in danger of becoming punitive and arbitrary government control.

We believe that the people of America expect us to act when we think the freedom of radio is threatened, and we believe that we would be traitors to their trust if we did not do so.

We therefore propose to act.

Yesterday, by unanimous vote, the convention adopted a resolution urging the U. S. Senate to give prompt and favorable consideration to a resolution introduced by Senator Wallace White, of Maine, which would result in a thorough investigation of the whole radio structure with a view to the enactment of a new radio law, and requesting the FCC to suspend operation of the new networks rules pending the Senate investigation. I am asking the Board of Directors to appoint a committee representative of all of us for that purpose. It will be the function of that committee to

report to us, as soon as they are able, just what program of action they recommend.

I know that I would not be fair to the feeling of all of us if I did not say that this is not to be considered a "fight" between "Government" and "Radio". It is to be the implementing of our determination to tell the people of America how and why, in our opinion, their wishes are being betrayed. We are loyal citizens and supporters of our Government.

The people of this country are our customers, as we are their Trustees. When we get out of step with what American People want, American Radio is through.

We cannot believe that we are as far out of step as some would have us believe we are.

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Ralph R. Brunton, KJBS, and Edgar Bill, WMBD, talked about industry-labor problems at the luncheon.

Cleveland, New Orleans and New York were given preference for next year's convention at the afternoon session. The report of the resolutions committee, unanimously adopted, appears on Page 451. The convention also adopted separately a resolution thanking Mr. Fly for attending the convention.

Mr. Miller closed the convention with the following statement:

Following a full discussion by the Board of Directors yesterday, of the tremendous job which lies ahead for radio in the national defense, I have been asked to appoint a Radio National Defense Committee. This I shall do.

The Committee, which will be representative of the industry and of all sections of the country, will be called to meet in Washington in the immediate future to confer with officials of War, Navy and State Departments and other governmental and civilian agencies engaged in the promotion of the country's defense. Through this committee the industry will be enabled to further coordinate radio's vast national defense programming by stations and networks.

The radio industry has already manifested its patriotic devotion to the national security. It is prepared to extend this in every direction. We deeply appreciate the expressions of confidence which came from General Robert C. Richardson, of the War Department, and from Commander H. R. Thurber, of the Navy Department. Like the Army and the Navy, American radio is ready, come what may!

Broadcasters of the United States are already rendering this nation an unparalleled service in National Defense.

## Civil Service

Broadcasters are engaged in recruiting skilled workers for the United States Civil Service Commission—men to manufacture munitions, tanks, artillery, small arms, naval torpedoes, airplanes air fighting ships for the Navy. The first request for assistance to locate needed manpower came to NAB last July. The need then was for 100,000 skilled workers—men vitally needed but who could not be located through ordinary channels which had been used heretofore. The need for 100,000 men soon became 200,000; the 200,000 became 300,000 and as of the first of May, I am happy to state that the cooperating broadcasters have been able to deliver a total of 375,000 skilled workers to the Army and Navy alone, and the end is not yet in sight.

## The Navy

Broadcasters are engaged in recruiting 10,000 flyers for the United States Navy. These men go to Jacksonville, Pensacola and

Corpus Christi for advanced flying instructions. Since the time a few months ago when broadcasters began making announcements for these men, the number of accepted student flyers has increased over 600% weekly. In fact, radio has been so productive of naval aviators that temporarily the announcement for Navy flyers has been suspended. In the meantime these same radio stations are recruiting aviation mechanics—the men to keep the planes mechanically fit for the 10,000 flyers.

### Treasury Department

Broadcasters are engaged in assisting the Treasury Department in selling several billions of dollars worth of government securities—to finance the purchase of National Defense materials and equipment. In fact, radio is the backbone of this sales effort.

### Flying Cadets

On next Tuesday broadcasters of the United States will be mailed a letter from Arthur Stringer of the NAB staff which will solicit their cooperation in recruiting 30,000 flying cadets for the Army.

This is a tremendous task. Army statisticians estimate that 120,000 eligibles will have to be examined to produce the needed 30,000 flyers.

### Broadcasters Help Raise \$30,000,000

Broadcasters have assisted in raising nearly \$30,000,000 for the relief of sufferers in war-torn Europe and elsewhere throughout the world.

### Civilian and Soldier Morale

Broadcasters have given and are giving their facilities to maintain the morale of the citizen army, the men in the United States Navy and the morale of civilians.

### Selective Service

Not many months ago radio took the story of Selective Service to the country. Hundreds of programs were broadcast in every state.

### Alien Registration

Alien Registration, under the direction of the Department of Justice, would never have been so successful without the help of broadcasters everywhere.

### Two Current Campaigns for Funds

Two current campaigns, both receiving the support of the broadcasting industry, are those of the United Service Organizations and United China Relief.

“USO” is composed of the Young Men’s Christian Association, the National Catholic Community Service, the Young Women’s Christian Association, the Jewish Welfare Board and the National Travelers Aid Association. Their goal is almost 11,000,000 dollars for recreational facilities in over 339 locations adjacent to camps, naval stations and defense centers throughout the United States and its overseas bases.

Five million dollars are to be raised for relief and rehabilitation of the Chinese.

These are but a few of the highlights of the National Defense services in which broadcasters are engaged.

### Friday, May 16

The Board of Directors, after its Friday meeting, issued the following statement today in response to an at-

tack on the Association which was released on Thursday by Chairman Fly of the Federal Communications Commission. The Chairman made his attack after he had declined repeated invitations to address the NAB convention in reply to an address critical of Mr. Fly’s administration of the FCC which had been delivered by Mark Ethridge of Louisville, Kentucky. Mr. Ethridge, in his address, announced that he was dropping a survey of the radio industry which he had been requested to undertake by President Roosevelt, explaining that in his judgment his work had been rendered ineffective by the action of the Commission’s majority in suddenly issuing regulations violently altering the structure of the American System of Broadcasting before Mr. Ethridge could complete his work and make recommendations. Mr. Fly was repeatedly invited to address a later session of the convention in reply to Mr. Ethridge, but refused to do so:

“The broadcasters have contended that regulation under the present Chairman of the FCC, Mr. Fly, has been punitive, capricious, biased and destructive.

“Mr. Fly’s violent statement of yesterday was the strongest substantiation of the truth of what we have been saying. We leave to the public the judgment of whether the state of mind exhibited by Mr. Fly qualifies him to be Chairman of a government commission calling for judicial impartiality.”

Mr. Fly replied from Washington with the following statement:

It is of no great concern to our democracy whether any one particular man or group of men shall occupy public office. It is of real concern to the Nation, however, that official positions be held by men of sufficient strength of character to do their duty in the face of the strongest pressures which can be turned upon them.

## Chairman Fly

National defense in its narrowest aspect means purely the defense of our country against actual invasion. In its broadest aspect it includes everything which contributes towards our national existence and preservation of our American way of life. I want to talk briefly about the role of radio broadcasting in national defense construed both narrowly and broadly.

The problems of communications in the event of actual military peril are, as you know, being studied by the Defense Communications Board. Its chief focus is on communications, though it is incidentally concerned also with some technical and physical aspects of broadcasting. The Board is purely and simply a planning body. Its plans are designed to abolish the danger which lurks in “unforeseen contingencies” by applying foresight.

An example will show what I mean. In the event of an actual threat of invasion, some American broadcasting stations become potential beacons for enemy aircraft equipped with suitable direction-finding apparatus. Simultaneously these stations may be needed to perform a basic role in giving air raid alarms. How to reconcile the dangers of broadcasting in an area of military operations with the need for broadcasting service in such an area is a problem which requires our best technical skill and ingenuity.

If such plans lie idle forever—and I trust the occasion for their use will never arise—no harm is done. But if the occasion should arise, the plans will be ready.

Down in the Tennessee Valley where I served in the T. V. A. for several years, the engineers were concerned with a not dissimilar problem. They laid detailed plans for protecting the valley in the event of what they called a “hundred-year flood”. A hundred-year flood is not something which occurs every hundred years; it’s something which might occur once in a hundred years. Nevertheless, plans must be readied to meet the contingency. The Defense Communications Board’s plans are of a similar nature. In preparing them, I know that we can continue to count on the full cooperation of the broadcasting industry for information and for the technical skill required in solving such of the complex problems as relate to broadcasting. Defense in communications as you know is of much greater scope than broadcasting.

I would turn now to the broader aspects of broadcasting itself in national defense. I assume that this is the appropriate place to reiterate what I said at your San Francisco Convention and, indeed, in many expressions and statements to the industry since that time. It seems strange that there should be any necessity to repeat this thought, and I do it only in view of certain dire forebodings which have come recently from monopolistically controlled sources in the industry. These men, to divert attention from the fact of monopolistic control in their hands, conjure up insistently the bogeyman of government operations. I can categorically state again that there is no present foreseeable emergency which would result in the government’s taking over the broadcasting industry. The Federal Communications Commission has no desire and no plans to take over the nation’s broadcasting system. Neither has the Defense Communications Board. Neither, so far as I know, has any other government agency.

We of the Federal Communications Commission are fully determined that control over broadcasting shall not gravitate into Governmental hands, even in the most critical foreseeable emergency. But we are equally determined that such control shall at no time gravitate into the hands of two or three private groups. That, it seems to me, is one mainspring of the Commission’s Report on Chain Broadcasting handed down two weeks ago. I cannot make the point clearer than by quoting a passage from the report, a passage which was also quoted in the Commission’s accompanying press statement, but which I think worth repeating because I do not recall having often seen it in the press or heard it on the radio. What we said was this:

“The United States has rejected governmental ownership of broadcasting stations, believing that the power inherent in control over broadcasting is too great and too dangerous to the maintenance of free institutions to permit its exercise by one body, even though elected by or responsible to the whole people. But in avoiding the concentration of power over radio broadcasting in the hands of government, we must not fall into an even more dangerous pitfall: the concentration of that power in the hands of self-perpetuating management groups.”

And we also said:

“Decentralization of this power is the best protection against its abuse.”

In a very real sense, you who own and operate our radio stations have been engaged in the national defense since the first radio program went out from the transmitter of the first broadcasting station. Your news programs contribute to the national defense since the first radio program went out from the transmitter of the first broadcasting station. Your news programs contribute to the national defense directly and immediately by giving each citizen an honest picture of the state of the nation and of the world. Your forum and discussion programs, insofar as they are

well-rounded, similarly contribute by giving listeners access to the pros and cons of current issues, thus enabling them to decide wisely those issues which in a democracy they and their fellows must decide for themselves. Even the lightest variety program, if it is well and sensitively produced, contributes in a measure by making us a stable and emotionally well-balanced nation.

But if control over our whole broadcasting system, or over the most important units in it, it is to be concentrated in the hands of a couple of private management groups, the situation is very different. In that event an error in judgment or in policy can have a most disastrous result for the nation as a whole. Suppose, for example, that groups exercising a tremendous degree of control over 97 per cent of the nation’s total nighttime broadcasting power should decide that the public interest required the suppression of statements by the Republican Party, or the Democratic Party, or any other party. Here more is at stake than misuse of broadcasting facilities. The very survival of our free democratic institutions—which is what national defense in its broadest aspect means—is at stake.

I could hardly render a greater service to the broadcasters of America: than to commend for their consideration the language of the Association’s President, Mr. Neville Miller, in his statement of yesterday. Mr. Miller applauded the statement by the President of the United States that we should keep radio free, and urged that we be guided by that thought (and I quote) “to the end that freedom of radio might continue to exist unimpaired and that Democracy in America as we know it may be preserved.” Mr. Miller continued, “I believe that there are those in radio who have experience and the ability and the patriotism to guide this industry, and that radio as a privately operated competitive business will render a greater service than under Government control.” These are the same thoughts which I have expressed to you today and which I have repeatedly emphasized to the industry and in public statements throughout my term in office.

Perhaps we might render a more complete and well-rounded service, however, by noting a few lines in the President’s letter immediately following the quotation stressed by Mr. Miller. There our great President frankly recognized the following problem: “how to keep radio free as part of our purpose to keep all channels of public information free. This includes, naturally, how to prevent monopoly of radio operation or ownership.”

One way of preventing such a catastrophe is to lodge in the FCC or some other government agency day-to-day supervision over the fairness and impartiality of stations and networks. The Commission unanimously rejects such proposals. We are as opposed to concentration of power in the hands of government as we are opposed to concentration in the hands of a few networks. We believe that the way to avoid abuse of the power is to decentralize it—to return it, in short, to you gentlemen, the individual licensees. That is where under the law the power and the duty lie. Let me quote again from our report on chain broadcasting:

“It is the station, not the network, which is licensed to serve the public interest. . . . The licensee is obliged to reserve to himself the final decision as to what programs will best serve the public interest.”

I have called the Commission’s chain broadcasting order a “Magna Charta of American broadcasting stations.” I should like to go even further, and call it the keystone of a free broadcasting system. The Commission is implementing the Congressional decision that control over broadcasting should rest with the hundreds of station licensees, subject only to the public interest provisions of the Communications Act. It is your unfettered judgment which must prevail if the American broadcasting system is to be set free and kept free. Such freedom, I need not remind

you, is essential to America's national defense in the broadcast sense.

As Chairman of the Commission during these critical times I shall consider that, as a part of the job of defense planning, one of my primary tasks will be to keep American broadcasters free from domination by any private corporation or combination of corporations. As I said to you in San Francisco, your freedom is essential to the maintenance of our democratic institutions.

As to the ways in which your handling of programs on a purely voluntary basis may best forward the defense needs of the Government departments, I am happy to defer to my distinguished associates here today, Mr. Lowell Mellett, General Richardson and Commander Thurber.

## Ethridge Speech

What I have to say is the hardest thing I ever had to say, and the only justification for saying it is that it is the truth, as I see it.

I want to acknowledge in the beginning that for the first time in my life I agree with the *Chicago Tribune*. Mr. MacFarlane, its business manager, was kind enough recently to disavow an "unnamed individual, acting as self-constituted mentor and representative of the industry", whom I took to be myself—although I wish people would call my name when they are talking about me—as speaking for him. God forbid that I should ever be able to speak for the *Chicago Tribune*! Nor am I speaking for the radio industry today. I have resigned every connection I ever had with this association, even to the mission which the president asked me to undertake. I speak for myself, and myself alone, and I hope that if there be those with Gestapo minds who know and like Gestapo methods, they will not visit their punishment upon you because of bias against me, or in retribution for what I have to say here.

I want to make one thing more clear. Because I feel as I do today does not mean that I have renounced the New Deal. The New Deal to which I subscribed before this administration came into power, to which I shall subscribe after it is history, is a basic democracy that does not like undue concentrations of power in any hands, whether private or governmental. I have never been one of those to subscribe to the absurd notion that Mr. Roosevelt wanted to be a dictator. I have felt, and I do feel, that if we ever have any perversion of democracy in this country, it might be through a form of Praetorian guard, or French bureaucracy—that is, the fast boys moving in and seizing power to defeat the people in the exercise of their rights. I think that is perhaps an element in this situation, and as far as I am able, I intend to fight it to preserve the deep, basic purposes of the real New Deal.

I am not a radio man but I assumed certain obligations from time to time. One of them was the presidency of The National Association of Broadcasters. During my term, as short as it was, I began to study radio, to try to get a philosophy about it, and to try to understand what it was all about. I found, to my dismay, that nobody, including the government, had any philosophy about where radio was going or where it should go. I undertook, three years ago tomorrow night, to give something of the viewpoint of the broadcaster. One of the things I said was:

"What is their attitude toward regulation? The great majority with whom I have talked are willing to accept the thesis that the air belongs to the people and that they are licensed to use a natural resource. The mere acceptance of that thesis implies their recognition that we not only *do* have, but that we *should* have regulation as an industry. They recognize, moreover, that the Commis-

sion and Congress . . . are groping for a permanent policy. Most of the broadcasters with whom I have talked recognize the desirability of a permanent policy, providing it is shaped toward the end of taking the confusion and uncertainty out of the industry and out of its regulation. But they do want to come out of all these hearings and all this probing, a policy that is fair to them and fair to the public, and a method of regulation that is intelligent."

That is still, I may say, what the broadcasting industry wants and that is what I have been working for for these three years. I felt a particular obligation to try to do something about it for two reasons: One was that the president had said upon one occasion that he would want my suggestions when the time came to consider a new law; and the other was that I had been concerned a long time about the trend radio regulation was taking.

I came to feel strongly some time ago that the Federal Communications law belonged to the "horse and buggy days". The President himself said, in a letter of January 24, 1939, to the chairman of the Senate and House Interstate Commerce Committees:

"Although considerable progress has been made as a result of efforts to reorganize the work of the Federal Communications Commission under existing law, I am thoroughly dissatisfied with the present legal framework and administrative machinery of the Commission. I have come to the definite conclusion that the new legislation is necessary to effectuate a satisfactory reorganization of the Commission.

"New Legislation is also needed to lay down clearer congressional policies on the substantive side—so clear that the new administrative body will have no difficulty in interpreting or administering them."

I have never abandoned that idea for a moment. In fact, since Mr. Fly took office, I have felt all the more strongly about it. I have felt, along with the radio industry, I believe, that we have been the victims of an outworn law and of bad administration. I have felt that the Commission has gone beyond any powers conferred in the law and that it has been prejudiced and frequently punitive. I have felt, moreover, that the Commission has not reflected upon the whole either the attitude or the desires of the administration. I felt, moreover, that the Commission was the victim of tremendous, and frequently improper, pressures, for which everybody was responsible.

I took occasion to say to responsible people that both the Commission and the industry had reached an almost psychopathic state—the Commission because a majority of its members displayed something that was at least close to a psychosis against certain people and elements in the industry, and those of us in the industry because of the harassments and uncertainties. The Commission could not be expected, out of that atmosphere, nor has it ever been able, in my knowledge, to formulate a policy defining what place radio was to have in the social and economic structure of the country.

What I proposed was a study of an impartial mind, trusted by the president, to determine and report to him, (1) What type of law would best serve public interest; (2) what changes in the law would make for clarification for the administrators, and stability, certainty and freedom from harassments for the industry, and (3) how to clarify a situation and bring an industry that has always been regulated, expects to be regulated, and needs to be regulated, to a better understanding of its own future and to a better atmosphere.

I urged the study as desirable for several reasons. The Commission had made an attack on every front in radio—an attack of such breadth and vigor that there was on the part of almost every person I knew the feeling that something deep and underlying was going on. The independent stations, while not being shot at, certainly realized that whatever pattern emerged would apply to them. The networks were of course disturbed and their affiliates—about

500 serfs under Mr. Fly's conception, as expressed yesterday—were certainly not happy. These matters were up in the air: Frequency modulation, television, newspaper ownership, multiple ownership, network structures, network-station relationships, network managed and owned stations, exclusivity, clear channels and high power. There were not enough brain cells for each to take up an individual worry.

I felt that no sane operator of stations affected by questions pending before the commission would make a move; in short, that the industry was stifled. I felt it was tragic that an industry which depends so much for its development upon creative imagination should have to devote so much of its mental faculty to worrying about where the next flow from the Commission was coming from. More than that, I had a much deeper reason for not wanting to see a fight precipitated between the administration and the radio industry.

We are engaged in a war besides which the adjustment of the 19-year-old structure of radio is trivial. I am aware of the argument of Washington bureaucrats that they are always being told that "now is not the time to touch us." But it happened to be simple truth in this case.

Here is an industry that was born of regulation. The government was its midwife; it has certified, in granting licenses, to the legal, moral and financial responsibility of everybody who runs radio stations. It has set up every situation that exists in the country. If there be monopolies, the government made them, frequently by granting licenses to favorites. If there are restraints of trade in contracts, the government has been aware of them for years. It is not a case in which the government must suddenly step in to correct abuses which are victimizing the public. This is a case in which the 800 licensees have been suddenly told, in a burst of piety by the government, that they were in effect operating illegally. Told that after 19 years! Told that at a time when radio was doing perhaps the best job of any medium in bringing to the people the realization of what all of us face in international peril.

Simple truths are sometimes more unpleasant because they are simple. I said, and I repeat now, that it was no time drastically to alter the radio structure of this country in pursuance of will-o'-the-wisp theories. The most important job for all of us is to beat Hitler, and next to the military forces, there is no instrument more important in doing that than radio. I firmly believe the President was deceived as to the extent of radio's ills and almost betrayed in not being told the divisive possibilities of the sort of fight which was being invited. If that fight comes, he must blame the majority of the Commission which insisted upon it.

I did not want to see the fight. I felt it was tragic. When the President asked me to make a study and assured me that Mr. Fly would welcome it, I was glad to undertake it. (It turns out, of course, that Mr. Fly did not welcome it.) But I did undertake it in good faith, not with the idea of saving anybody's skin, but of making honest and objective recommendations. I carried on conversations with a great number of people in the industry and invited memoranda from a number of them, including the attorney for Mutual, from whom I have received nothing so far. I soon discovered that there were no insoluble problems; indeed, no problems that could not be worked out to the advantage of both the industry and the government if good faith were demonstrated on both sides.

I felt that the first gesture of good faith should come from the government, because, to my chagrin and disillusionment, I discovered that so many gestures of bad faith had come from the government. I do subscribe deeply to the idea that the air belongs to the people and that the government is merely the trustee for the people in issuing licenses. If that be true, there is one test, and one test only, that should be made to determine

who shall have them: who can best use them in the public interest. But nobody would pretend that that test has always been applied. All too frequently, licenses have been issued upon a basis of what appeared at least, to be, political pull.

I know of three instances in which the Commission laid down principles, or had the determination of principles under consideration, and violated them by almost immediate action in favor of people who were not unfriendly to the administration. I believe so strongly in democratic government that I am old-fashioned enough to insist that it should set higher standards than the people it regulates.

I have never defended the status quo in radio and I do not intend to do so. I am perfectly willing to admit there are situations that call for change; indeed, I have said so inside and outside the industry. Nobody could ever say that I have advocated a "hold-fast-to-what-you-have policy." But I must say in all honesty that I have found that the radio operator is willing to take his chances with the most stringent sort of government regulation if he is assured of two things: (1) That the regulation is honest and intelligent; (2) that he has assurance that what is done is not done to produce chaos, to further an eventual taking over by the government, but is done in pursuance of sound policy.

Personally, I do not believe you will have that assurance until the President and Congress jointly enunciate a policy under which the Communications Commission shall regulate—a policy so clear that there can be no mistake in the minds of anybody. I should like to see a new Commission, perhaps of three men, so hedged about by safeguards that members of Congress or radio operators or anybody else who approached them to suggest dispositions of licenses, except in open hearings, would be put in jail. I should like to see full and fair hearings where substantial interests are involved, the right of review and the assurance that the vague standard of public interest is not to be used arbitrarily to express and enforce personal predilections. I should like to see the SEC, or the National Association of Broadcasters given the right to intervene in connection with applications, so that known exploiters of radio licenses could be fought. I should like to see that section of the act as to fairness of the air strengthened. I should like to see the industry itself assume a greater degree of self-regulation and make a more enlightened approach to public service programs.

I think it is true, as it has often been said, that public discussion is on a higher level in England than in this country. The level of public life, or the education of public men in England may be higher, but nevertheless I think radio in America on its own motion can be more creative and more imaginative than it is. That will come not by fiat, but by voluntary action and the stimulus of a friendly commission.

I have not touched the Monopoly Report so far. I have been represented as having so many attitudes on that that it may come as a shock to some people to know that I had a very simple position. In everything I said, I never once urged that the Monopoly report be suppressed. I urged that it be brought out, "the sooner the better," but that it not be issued with rules and regulations until the industry as a whole had been given an opportunity to study the rules and regulations against their practical operating experience. I saw nothing presumptuous or unfair about that; as a matter of fact, I thought not to do that was both unreasonable and unfair on the part of the Commission.

Before it was issued, the Monopoly report had only one importance to me, in the light of what I was attempting to do. That was a psychological factor. I felt that if the time had really come when the administration—and I mean the leaders in all branches of government concerned—was ready to formulate a policy on radio, then it was pointless to effectuate regulations that made drastic changes in a structure under study. I felt that it would

be not only fair, but merely common sense, to go on and make the indictment and let all of us see what should be done about it.

I am not excited about whether the networks should have artists bureau or not. I am not excited about whether Columbia should give up some of its option time; I am not excited about whether the Red and Blue should be separated. I have no feeling against Mutual, although I believe if Colonel McCormick translated that rugged individualism he manifests in the newspaper field into radio, and spent some of his vast capital for development of Mutual, he might come out better than he will by having the government which he so much distrusts try to work matters out for him.

What I am excited about, however, is that the very way in which the report was issued raised a question of the good faith of an invitation to make the study. I know the President on his part issued the invitation in all good faith. But there has been a breach of faith, and I am perfectly certain that it can be pinned directly upon the Commission majority.

I am excited, too, about the disingenuous method by which the Commission seeks to accomplish its purposes. By directing the orders against the stations, rather than against the networks, the Commission gave frank recognition to the doubt of its powers to carry out its purposes, and in making the recognition resorted to sharp administrative practices. A more honest way would have been to seek the power from Congress.

I am excited, too, because the Commission, under cover of an alleged fear that some group would gain control of mass communication in this country—although there is every safeguard in law, in commission power and in American character against that—seeks to remake radically the system which it has set up itself—a system that, with all its faults, still has given the public the finest program service any people enjoys. I am excited about that because the Commission is transferring a latent power which has never been abused, but jealously safeguarded by the industry, to itself, where it may be abused.

The text of the new regulations demonstrates how dangerous it is for an administrative body clothed with the power of law to substitute its judgment for the experience gained over many years of trial and error by those who have built up a system of public service which is acknowledged to be the best the world provides. The Commission's order seems to take it for granted that the network affiliates are economic serfs whom it must take into protective custody to protect them from the so-called power of the networks. The fact is that every licensee who holds an affiliation contract with one of the networks has entered into it voluntarily, and prizes it as a valuable franchise, eagerly sought after.

Nobody can speak dogmatically about the effect of these regulations, but I believe that it is more than probable, that the Commission's regulations will induce a lowering, rather than an elevation of program standards. I believe, moreover, that they may have the effect of gutting small stations. It is perfectly true that the Commission has undertaken to provide against that, but the provision is in the form of a threat.

Regulation, to be successful, should be intelligent and deliberate. The new order, both from its text and from the tone of the utterances of its authors in public and in private is founded on a basis of bad temper, impatience and vindictiveness. It is intended to be punitive, not constructive. It will impair the very service which it is charged with protecting.

I feel strongly that the regulations are so impractical in their working out that the Commission will engage in a constant process of tinkering, which may be fun for the Commission but, I venture, hardly so amusing to the patient, or so beneficial to the public. To my mind the Commission has embarked upon a continuing process of adjustment that will lead us sooner or later to the easy solution

of having the whole thing taken over. The Chairman of the Commission has denied that is his intent and of course he speaks in all good faith, but people who set houses on fire frequently have no intent to do so.

In fairness I must point out to you the chairman's statement of yesterday that he is willing to sit down with responsible representatives of the industry to discuss the implementation, the timing and the procedure in connection with the rules and regulations, I venture the personal comment that the offer is equivalent to asking you whether you want six or eight pallbearers and whether you want to be cremated or put under ground.

My sole purpose in accepting a commission to review the status and needs of America, radio was to lay a basis for discussion in which both the industry and government could participate and out of which a new orientation of radio law and practice could emerge. I had, I felt, made considerable progress toward securing from the industry suggestions for change which would not only cure situations complained of, but considerably advance the status of radio as an instrument of public thought and national service. But, that work has been destroyed not only by the test and tone of the Commission's order but by the evident determination of the Commission by precipitate action, to forestall the expression of views by any other agency.

However, the introduction of the White resolution in the Senate yesterday provides a broader and more public forum in which can take place the very discussion and deliberation which the industry and, I believe, the public regard as essential. I therefore have decided to stand aside as an individual and to recommend to the radio industry and to the public which has a vital interest to be served, that the White resolution be supported by every proper means. I urge that all groups, individuals and interests concerned with radio, and its development recommend the passage of the White resolution and thereafter participate in hearings. Only in such an orderly manner can the pattern of radio for the future be defined.

## Vice President Wallace

In talking to the radio broadcasters, I wish first to express my high appreciation of all that you who work in radio have done. You have carried the love of good music to millions. To the lonely and sick you have brought messages of good will, and have made it possible for them to enjoy church services on Sunday. Today you are building good will in Latin America by means of a two-way radio bridge, carrying across the skyways programs which will better enable us to appreciate the culture and music of Latin America, while at the same time our good neighbors are learning through the radio to know us better. You are proving that the Latin culture of the south and the Anglo-Saxon culture of the north are fundamentally alike, because both are founded on belief in democracy and freedom. So many of the broadcasters have had an awareness of the public interest in many fields that it gives me an unusual pleasure to be here today to greet the National Association of Broadcasters.

The radio-listening audience demands of the broadcasters a great responsibility. They expect of you the wisdom, the decency, the good will and the enterprise which are the heritage of America. They appreciate the way in which you have kept them up to the minute in world events. But now, in this most critical year of the world, we who use the airways find our work hard and dangerous as never before because there is an organized effort by the agents of the Nazi government to confuse the minds of the American

people and to promote ill will and dissension among us. In spite of this evil interference continually distorting the news and spreading lies and confusion, we have to go on steadily with the democratic process of free discussion as best we can. We must defend the spirit of America in our own words and actions against the poisonous influences that are attacking us day by day. Radio has an especially deep interest in the freedom of discussion which permeates the very spirit of democracy.

When, in the year 1791, our ancestors adopted the Bill of Rights, political democracy as we understand it was a new thing in the world. The foundations of political liberty had to be laid down in freedom of speech, freedom of the press, freedom of worship, and freedom of assembly. That foundation was well and truly laid. We have not yet achieved perfection in the building of our political democracy, but we have made progress, and we are determined to hold the gains we have made and not to slip back to the savage tyranny that the Nazis threaten to impose on all free men.

But political democracy was not enough to maintain the liberty and decency that we Americans hold as our ideal for human life. We found we must also have economic democracy, and we began to establish in law and custom the rights of economic freedom. Especially since the first World War, in the feverish prosperity and the shattering depression that followed, the need of economic democracy became more and more clear. After 1929, as the unemployment deepened, men were saying in every town in America: "What good is the vote without a job?"

We had to establish the right of every man in good health to have a job at fair wages, and the right of those who were aged or sick to have help, the right of youth to a fair chance for education and opportunity, and the right of all the people to proper food and medical care. Here also we have not achieved perfection, but we have made encouraging progress. We are determined to go on and build an economic democracy that is fit for a free people, and not to let the Nazis solve all our problems for us by reducing us to slavery.

But while we were building a political and economic democracy to protect our rights, we found we must go further and build into our customs and laws, and above all into our personal lives, a democracy of responsibility for the general welfare. The threat of war brings powerfully to our attention that we have duties no less than rights. And when the danger of war is past, if we are to succeed this time in establishing a true peace at home and abroad, we shall establish that true peace only by carrying on the full duties that are the strength and support of democracy.

We know now that the failure of peace after the first World War was partly the result of our own mistakes. We did our duty in the war and we won all that any war can give—the right to make the terms of the peace. But when we had won the right to make the peace we were tired of facing hard responsibilities; and peace is a hard responsibility, at home and abroad. So we quit. We decided to go in for isolation, to mind our own business and let the world go where it would. The world has gone there.

Now we have a second chance to take up the responsibilities of a great nation in a world that desperately needs our help. This time our responsibility is greater than it was twenty-five years ago. This war will decide whether the Nazi tyranny shall impose its new order on the world, or whether the free peoples have another chance. This time, when we are called upon to play our part with the other free nations, to build and year after year to maintain a fair and democratic peace, we dare not shirk our responsibility.

To us here, who are not workers in what is called defense industry, it is clear that the duties of citizens go far beyond military defense. Total defense has no front line and no rear—where

is the front in England? Are the front line defenders of England the sailors who man the merchant steamers in the Battle of the Atlantic? Or the Australians fighting in the desert of Libya? Or the night flyers fighting 30,000 feet above the streets of London? Or are they the women who tend the wounded where the bombs are falling, or who sit through long hours listening to the short wave broadcasts of the enemy to decode his strategy from the pattern of his lies?

In our own country, too, there are many different services for our defense, but all are important. Some of our young men must serve in the armed forces. Many more, young and older, must give their time to building planes and ships and all the equipment for a military force. But the vast majority of the people must serve on the home defense front, and home defense goes far beyond the material job of supplying food and clothing and houses. The home front includes every kind of service, and high on the list is the service of entertainment, information and inspiration that is provided by the radio.

I hope to see the radio more and more reflecting the unbeatable spirit which is America in such a way as to make us genuinely proud of our defense effort and eager to go ahead producing with every atom of our strength. Our new army camps are ninety per cent complete. The army air fields, including the overseas bases, are fully half done. Many of our big defense projects are ahead of schedule. We have worked hard, we are working hard, but we still are not working hard enough. The speed of our production, the magnitude of our defense effort during the next six months, may easily make the entire difference between peace and war for the United States. The women must not only work themselves but stand back of the men, whether they be in management, in labor or in agriculture, so that all of us will put our heads, our hearts and our hands to the task. The job which we do in the next six months, turning out war materials in ever-increasing quantities, may easily make the difference between freedom and slavery for our children's grandchildren. Never has a generation of people had thrust on it such a responsibility as that which is ours.

Whatever opinions we may hold as to the American policy in the war, we are all of one opinion as to the need of building up the strength of America at home. We can use our talents and opportunities to help the American people meet the demands of the day with courage and confidence. We can help the people to understand what is going on, and where their service is most needed, and how they can find the greatest satisfaction in the responsibilities of citizenship.

For instance, if you are operating a local station, you can play a great part in home defense by calling attention to all the constructive things that are done to improve your community. Your neighbors want to be useful. They want to belong to the community and the nation. What can they do? We can't do all the planning and organizing in Washington, and we have no desire to centralize all the planning there. Most of the organization for strengthening the life of each community will be done by local people who are self-starters and who know what the community needs. The other people who are good workers but are not able to start the work, need to be told what is going on. The radio can help the people find their places by telling the facts about organizations that serve the public welfare, as well as by spreading the official information about defense jobs.

In addition, you can do a great service by spreading widely the news of any community activity that has been tried and found successful. There will be some among your hearers who will take up the idea and use it in their own towns. Let me give you an example.

In Ohio, several farmers and their wives were asked to invite

a dozen neighbors to spend the evening first in a discussion of farm problems and second in refreshments and sociability. These groups of neighbors began meeting once a month at different houses, and a remarkable thing happened. Almost everyone came and kept on coming to the meetings. The idea began to spread. Now I am told there are over 100 of these monthly meetings in Ohio, and the system is spreading to other States. It seems a simple thing, hardly worth telling about. But this simple story of neighborhood meetings is worth its share of time on a national hookup here and now, because these meetings fill a real need. Too many Americans are lonesome because the old-fashioned neighborhood has disappeared and has left them not belonging to anything. People can enjoy the movies, but they can't belong to a movie. These farmers in Ohio have built themselves a neighborhood to belong to, and there is new life in them. This story is an illustration of what you can do to help people find out how to take hold in their own communities. And of course, when you have told them what is being done, you will tell them where to get exact information. Exact information about farmers' neighborhood meetings in Ohio can be obtained by writing to the Farm Security Administration at Washington.

But I cannot tell you all the stories, nor work out all the methods that you know so much better than I. All I can do is to urge you to use your own imagination. The people are important, each one in his place, but sometimes they don't know how important they are, and so they are discouraged. Tell them, and let them know how to get the feeling of belonging to the team.

You know that a man working in a powder plant is not the only defense worker in his family. The woman who makes a home for him and who takes her share of the risk without losing her nerve, is as important as the man who does the labor in the plant. You know that not only in England under fire, but in America under the strain of national danger, women are as important as men, but the work that women do is more often left without recognition or understanding. You, the radio men of America, have the techniques to bring recognition and encouragement, and the sense of belonging to their country, to women as well as men who are bravely carrying their share of the load. You have done much good work along this line; I am urging you to do still more of it. You yourselves, when you do this kind of a job, are members of the team.

There is a second line of service that I should like to mention briefly, though the idea is entirely familiar to you. Everyone knows that news from abroad is censored, so that even what is said by American reporters is cut down to a pattern that represents the plan of the censorship. I believe it is worth while to emphasize continually the purpose of the governments that have colored our news. The Nazi government is lying even when it lets an American reporter tell a fact that is a true fact, because its purpose is to make Americans believe that Germany has already won the war and that we may as well quit. The pattern of truth and lies that comes out of Germany adds up to a planned attack on our security. We all know that. I suggest that we keep always in mind that the people who listen to us may be deceived unless we are careful to point out the purpose that lies behind the news and how that purpose is related to our interests as Americans. It is truth in advertising, not deception, to put the skull and cross-bones label on poison bottles.

Finally, and most important to my mind, is the opportunity that is given to all those who use the radio to promote unity inside the United States and a reasonable attitude toward all the world. We are under constant attack by the Nazi propaganda that tries to create bad feeling among us and false ideas about other countries. One of the greatest contributions any one of us

can make to our defense is to resist this propaganda of hate at every point.

We can help the defense of America by going out of our way to encourage the service of all those minorities in our country who are loyal to the democratic ideal and anxious to belong to our brotherhood. It is good to remember that the two chiefs of the defense program are both foreign born, both natives of conquered nations, and one a Jew. Let us make a special point of recognizing the full membership in America of Jews and Christians, of Whites and Negroes, of the Germans who came here for freedom's sake, of Italians who have no desire for a Nazi victory that would enslave their friends in Italy. Let us take a special pleasure in reporting the athletes, the great musicians, the business leaders, the successful Americans in every line, whose unusual names proclaim that they or their ancestors came from nations that now lie under the Nazi terror. They are glad to be Americans, and we are proud to have them among us. It is worth our while to say we are proud of Knudsen and Hillman, Einstein and Kreisler, DiMaggio and LaGuardia, and thousands of others who have made notable contributions to our life.

We shall also do well to keep our minds clear about the German people, here and in Germany. The German people are not the same as the Nazi gang that has seized control over Germany. Most Germans are not gangsters. In Germany, the majority of the people are caught in a trap. They do not dare resist the Nazis, and they are afraid if they quit the war they may be punished unmercifully for the Nazi crimes.

Let us do our part to show here in America that we can distinguish between the great majority of Germans, whom we know to be good citizens, and the few who belong to the Nazi gang. The time will soon come, I hope, when we can help to encourage the decent, civilized Germans who are still caught in Germany to release themselves from their Nazi masters. In all that we say over the radio, I believe, we shall do well to keep that object in mind, for the cure of Germany will be an essential part of a true peace.

These are the thoughts that I should like to leave in your minds. We who do the talking need to take pains to understand the democracy that we are defending. Democracy is to be understood only by getting down to cases, where people act on their own initiative to serve their country in the place where they are. Let us understand this democracy of service and responsibility, and tell the people what they are doing so that they can draw inspiration from one another. Let us do our part also to build the confidence of the people in their own strength and in the comradeship of all the free citizens of our country of every race, color and creed. By fortifying our own democratic spirit we shall help in protecting our country against the attacks that are made upon her. Beyond that, we shall help to carry the light of hope to the people of Europe who are waiting their chance to overthrow the conqueror and win back their freedom.

## General Richardson

I am most grateful for this opportunity to take part in the NAB convention. I come to discuss a problem of mutual and important concern to you and to the War Department: the functioning of American broadcasting throughout the present emergency.

Let me say at the start, that the officers of the Army have the highest admiration for American radio. Both at home and abroad, you have kept us informed and entertained. And, if you believe that a General cannot be as much amused at the boyish pranks of



a Charley McCarthy as is a private in the ranks, then behold, in the flesh, proof to the contrary. Thus in the Army, as well as in civil life, you are each day spinning a thread of entertainment and information which is drawn through every segment of our population, uniting us in common interests and common purposes.

The Army is not unmindful that the brilliant and useful record which radio has made in this country, has been based upon a typical American concept of competitive enterprise which has furthered the social and economic advance of our country. Your industry has demonstrated a will and a capacity to serve the public interest, fairly and squarely. Through the evolution of your own system of self-regulation you have demonstrated a capacity to eliminate social and commercial abuses within the ranks. So long as you continue to operate I believe you yourselves will justify the continuance of the American System of Broadcasting by your day to day service to the nation.

Some years ago, on a certain radio program, there was a word repeated over and over again. It was said to be a "horrid" word. Today, there is a word going the rounds in radio circles which is also regarded as "horrid." It's that word "control." "The control of broadcasting during a war" with connotations that the private system of broadcasting will be washed out should the war emergency become more critical.

I wonder what is meant by that word "control"? The Army Signal Corps is exclusively concerned with the military use of radio frequencies for essential systems of Army communications. I am told they have ample frequencies for such work. In time of an actual war, where certain stations in the long band may be used as homing stations by enemy aircraft, such stations will go off the air in defense of their country as well as of their own property. Should military combat occur in areas where American radio stations are located, quite naturally such stations in such areas will be taken over and used by the military forces. Such temporary dislocations are to be expected in time of war. But I believe this is not what is in most people's minds when they speak of "radio control." I believe what they mean is the control of programs, and of news and this is where another horrid word crops up—"censorship." This is what you really want to hear about.

The control of anything is absolutely barren, unless that thing be used. Will it be necessary for the Army to take over radio broadcasting in order to use it? I do not think so. Let us go further. Why does the War Department wish to use radio? The answer is obvious: to keep the nation informed, to build confidence in our new citizen-soldier Army now in the making, and to have instantly available the ear of every man, woman and child should invasion occur and their safety be imperiled. I believe the patriotism and the honest self-interest of this industry can be depended upon to cooperate with us voluntarily in this important mission; to impose such voluntary modifications of operating policy as best serves the nation's defense, to set up a system of defense program priorities balanced between the Army and the Navy and other defense agencies, and to establish a system of technical and programming procedure, that in the dire necessities of warning services or of information services, the transmitters of every station in the nation, regardless of network or non-network affiliation will be simultaneously available to the Army's call, nationally or regionally.

The start of this important cooperative venture has already begun. Late last fall, the War Department asked for the loan of an officer of this Association whose devotion to duty and patriotism was such as to earn your confidence and the confidence of the War Department. And so Mr. Kirby, your Director of Public Relations was loaned to us for the purpose of liaison between the War Department and the radio industry. It is his job to translate the Army's radio needs to you immediately and efficiently. To

assist him, a competent staff of writers and specialists has been drawn direct from your industry. These men have been selected not only because of individual abilities, but with due reference to their combined experience in every type of station and network. Thus in the Radio Branch, you will find someone conversant with your programming policies, whether yours be the smallest station or the largest network.

Now a word about that word "censorship." I believe that every thoughtful American knows that certain information such as the blueprint of the American bomb-sight—the most accurate in the world—or schedules of the movements of troops, must be restricted for our own welfare and the protection of our sons. Certainly this is not censorship. Outside of these, there is no censorship of news, now, or intended. The whole function of the Bureau of Public Relations of the War Department, and of its Press, Pictorial and Radio division is just the opposite: to get the story of the Army and to make it available to press, newsreel and microphone.

The type of news which has to do with the whole national defense program will probably originate either in Washington or most appropriately be collected there. It is with such information that the War Department's Bureau of Public Relations will work most regularly. Every effort will be made to follow up inquiries, and to consolidate, from various sources within the department, the information requested.

At each of the principal Army posts and camps you will find one or more public relations officers on regular assignment. These gentlemen have had, in practically all cases, an opportunity to adapt their functions to the special requirements of the radio stations in the surrounding areas. You will find in each case an earnest desire to cooperate fully in providing information and lining up broadcasts. At all stations provision has been made for receiving members of the press, radio and newsreels. There are files of Army regulations, bulletins, directories of personnel and other reference material. Many of the larger military units also have their own public relations officers, who are normally members of the intelligence staff. In the usual case the public relations officer on permanent duty at the camp or station is somewhat better equipped to meet the needs of radio in his locality; in most cases he can secure information which has been specially requested, on short notice.

Before I close, may I briefly give you a background of the Army's story, because I sincerely believe it may help you and your program builders in better understanding our purpose:

It may not be understood generally by the layman that the officials of the War Department are unable to act until the people, through Congress, have appropriated the money and passed the necessary legislation. Congress did not pass the Selective Service Act until September, nor did it authorize the President to call into Federal service the National Guard for one year; nor appropriate money for the construction of the cantonments until last September. Since that date, within the short period of 7 months, buildings have been constructed to house one million men who have been clothed, fed, armed, equipped and given basic training—all *this* in six months! This achievement is nothing less than a miracle of Democracy at work, American Style. Without going into too much detail, let me say that 32,000 individual buildings have been constructed, all over our country. New, and large cities of men have sprung up. There, peaceful minded men from peace-loving families are being trained in the science of war, lest anyone have the mistaken notion that Americans of 1941 will not fight to protect our individual rights of life, liberty and the pursuit of happiness, won through the years by those whose memories are already in your minds. We are, gentlemen, witnessing today the development of a tremendous story—the greatest *untold* story

of the decade; the development of the powerful, the intelligent, the *civilian* Army of the American people. This is where you of the radio and we of the Army, find common interest: *What is the story of our new Army?* Why are men in camps? What do they do? How do they live? Who are they? Let me tell you: They're your boys and mine. The new Army of the United States is composed of men from every walk of life and every section of our country. It reaches into every home; into every school; into every business; into every church; into every economical and social group. The people of the United States through the Congress have entrusted to the Army and to the Navy their sons, husbands and brothers for training. To the Army and Navy, likewise, have been entrusted huge sums of money for the defense of the nation. The American people, therefore, are *entitled* to receive daily from the camps and the War Department, news of their Army and periodic reports on the status of the defense program.

With this thought in mind the Secretary of War decided to establish, under his personal supervision, the War Department's Bureau of Public Relations in order to provide the American people with accurate information by means of our various media of expression: the press, the radio, the newsreels, the movies and the magazines. We, therefore, have a great responsibility toward the public to see that they are kept honestly informed. In turn the public has a great responsibility toward the Army because the Army, more than ever before, is "*Our Army,*" not "*The Army.*" Mutual understanding is needed and frankly sought.

It is the frank desire of this Bureau to be as helpful as possible to American radio. After all, freedom of expression is one of the cherished rights which we are preparing to defend. There is no request from your great institutions that can be considered too much trouble with which to comply. I have found during my short incumbency as Director of the Bureau of Public Relations the press, magazines, radio and screen are more than cooperative. Let me observe that, as the defense program develops the *untold* story of the Army is beginning to emerge. It is a constructive story counter-balanced now and then by failures, some minor, a few serious. Tell the story, good or bad. The story of the American Army can be *no better* nor *worse* than the story of the American people. For the story of the American Army and of the American people is *one* and *the same*. Personally, I think it's a good story. I think you do, too!

## Commander Thurber

It is my privilege to express to radio's representatives here today in annual convention the Navy's appreciation to radio organizations as a whole for their splendid cooperation in broadcasting the Navy's story during the past year. You have given us much—your wide experience in visualizing what would present the Navy's picture in words, your unflinching courtesy in arranging and dramatizing timely presentations. All this has benefited listener audiences as well as the Navy. To our far-flung, ocean-going efforts to the attention of those who cannot see our ships and their men at work is no small task. We in the Navy feel that radio has contributed to that visualization in no small measure.

There is much to be done in the days ahead. The tempo is accelerating each minute, calling for rapid, well-planned action. A minimum of confusion and a maximum of cool determination are in order. With that in mind, I wish to outline, as concisely as possible, the Navy's problems in public relations so that you in radio and we in the Navy may cooperate on close and practical lines.

Two major phases are presented—first, that which may be defined as constructive broadcasting, and second, that which involves withholding details of military value to potential enemies. Both these phases are vital—especially so today, and in the immediate future.

Let me enlarge for a moment on the negative phase—the withholding of information that affects military security. Believing that the war situation was growing serious for us, the Secretary of the Navy early this year requested all press, radio, and photographic agencies to avoid publicity, unless authorized or announced by the Navy, on four subjects affecting the success of the Navy's operations should war suddenly descend upon us. As was hoped and expected, the answers to this request were "yes"—just short of one hundred per cent. Radio set up its own list of precautions to ensure that this request was understood and carried out. From the first of this year to date, the adjustment from peacetime to emergency conditions has been accomplished with a smoothness that betokens nothing but successful continuance.

It was foreseen that in a national emergency, new situations would arise, and that inevitably there would be other requests for cooperation of this nature. Since the Secretary made his original request, new situations have developed, so that the "avoidance" list today for all publicity media is, briefly, as follows:

- (1) Presence, and actual or intended movements, of U. S. Navy vessels or aircraft;
- (2) Actual or intended movements of units of Naval (and Marine Corps) personnel;
- (3) Secret technical U. S. Navy weapons, or the development thereof;
- (4) Details of the armament, armor, speed, cruising radius of new U. S. Navy ships or aircraft;
- (5) Details of itemized assembly capacities, skilled machinery practices, and number of personnel employed in shipyards, aircraft factories, and industrial plants having Navy contracts;
- (6) Information of the military strength or defenses of our naval bases—continental and outlying;
- (7) Aerial photographs of U. S. Navy ships and shore establishments; and
- (8) Presence or movements of British warships—and merchant ships—in U. S. waters.

That list is a vital one from a military standpoint. Recognizing that there are many important factors contained in the list, the Navy Department announces regularly as much as can be released on those subjects so that the people of this country may know that the Navy is on watch and under full power. But unless details are announced or authorized by the Department or responsible naval commanders, it is far better, from a military point of view, that publicity be avoided on the subjects which have just been itemized.

Although casual reporting of those subjects may be unintentionally harmless, unauthorized release of information may reveal to the enemies' observer and espionage services a missing link they are trying to discover in the chain of valuable military information. In case of doubt it is recommended you refer your questions to the Navy Department or to the Naval Districts. Incidentally, and to answer such queries, the Department early in the year began operating the press (and news radio) section of its Public Relations Office on a 16-hour basis, and last week went to a 24-hour watch. Enlargement of the Navy's public relations facilities has been carried on in the Naval Districts, so that you also may look to headquarters of these Districts for assistance.

If this country should actually enter the present conflict, you undoubtedly will be asked by the Navy to avoid publicity on two or three additional subjects. For instance, during World War I there were 20 items on the original request list issued by the Committee on Public Information. These included Navy, Army, and State Department activities on which it was deemed unwise to

report in any form whatsoever. And those 20 items were augmented as new situations arose.

Obviously, we are fortunate in having been able to discuss these "negative" subjects in advance of a possible armed conflict. In the period of adjustment from the days of reporting all news to the present time, invaluable suggestions have been made, and steps have been taken, to clarify the atmosphere. The Navy appreciates the assistance given by all agencies in approaching a working agreement for voluntary cooperation. We feel that much has been accomplished—particularly so, when recalling the many aggravations that existed during the early days of World War I. Then, the problems of voluntary cooperation were hampered by the fact that there was no "list" for specific guidance until seven weeks after hostilities began. Intelligent analysis today has ironed away many of the acrimonious difficulties encountered in that time of stress.

We turn now to what may be called the constructive phase of radio broadcasting. The field of constructive broadcasting is large and deserves our best combined thought and energy. A few thoughts are registered here as an approach to our mutual problem.

Entertainment programs for naval personnel have been staged by radio and are being increased rapidly. It is self-evident that these morale-builders are a most important contribution to the Navy, and to those at home who have the welfare of our men close to their hearts.

Dramatizations of incidents in our naval history—and the Navy is rich in tradition—offer a comparatively untapped source which could be developed with excellent effects on the esprit de corps of the Navy and the country.

Feature stories based on the regular releases from Navy press conferences and public relations offices, supplemented by our research facilities, are another source of present-day interest. As examples of these, I mention but a few that were broadcast in recent months.

*Personality programs*—such as the six Patten brothers, aboard the *USS Nevada* far out in the Pacific, conversing with their father on the mainland; the Boston University football team indicating their intention to become Naval Aviation Cadets; and the many individuals involved in colorful graduation exercises at the Naval Academy; *Analyses* of the great progress being made in the Navy's building program;

*Launchings and commissionings* of many historically-named ships in our "two-ocean fleet";

*Activities* at our three major Naval Air Stations—Pensacola, Jacksonville, Corpus Christi—and at our 16 reserve aviation bases; and

*Programs* originating from naval aircraft, from our submarines, from our battleships far at sea.

To these valuable contributions by radio, there have been added, with the Navy's grateful appreciation, spot announcements and interviews which have aided the Navy in obtaining aviation cadets, reserve midshipmen, and enlisted personnel, so that our recruiting has remained on a voluntary basis to date, with no relaxation in the high standard of the Navy's requirements.

In furtherance of this outline of constructive cooperation, the Navy welcomes suggestions for radio broadcasts. Because of many emergency considerations, we cannot promise approval in every case. But it is the Navy's desire to render maximum cooperation with radio—to extend every effort, compatible with security, in obtaining, building, and staging naval programs of spot news, feature, special event, or other public interest. Indicative of this attitude are the cooperative measures of the Navy's public relations offices during the past year, and the steady expansion of these offices in anticipation of additional needs and requests as the pace quickens.

Your great industry, with its far-reaching voice, has been and can be of inestimable service to the Navy. We feel that radio

will continue this service as long as we are worthy of it—and, in closing, I wish to assure you that your Navy from the Secretary through all ranks and ratings, is working long hours, with all its experience and manpower, to be worthy of the trust the nation has placed in us.

## Resolutions

1. **THANKS.** The National Association of Broadcasters hereby extends its hearty thanks to those who have participated in its deliberations and who aided so materially in the success of the 19th Annual Convention.

The National Association of Broadcasters extends its most sincere thanks to the Honorable Henry A. Wallace, Vice President of the United States, for his kindness in sending to the convention such an interesting and inspiring address. While we regret his inability to be with us in person, we are doubly grateful for his taking time out from his arduous duties to address us in these critical times.

The National Association of Broadcasters wishes to thank the Honorable James Lawrence Fly, Chairman of the Communications Commission for his attendance at the convention, and in particular for his frank and open discussion of many controversial questions confronting our industry at the moment.<sup>1</sup>

The National Association of Broadcasters expresses its deep thanks to General Robert C. Richardson, Director of the Bureau of Public Relations, War Department, and to Commander H. R. Thurber, Director of Public Relations, U. S. Navy, and Lowell Mellett, Director of the Office of Government Reports, for their attendance at this convention, and for their fine expression of confidence in the patriotism and ability of this industry in setting up a system of voluntary self-regulation which makes of American Radio the strong right arm of the Army and Navy in these critical days of the war emergency.

We extend our thanks also to Major Edwin H. Armstrong, C. J. Burnside and Col. Willard Chevalier for their fine contributions to the convention program.

In addition, our thanks go to Honorable William Dee Becker, Mayor of St. Louis, to the Management of the New Jefferson Hotel, the Convention Committee, headed so ably by Merle Jones, to the wives of the St. Louis broadcasters, headed by Mrs. Merle Jones for providing such a fine program of entertainment for the ladies of the convention, and to all other individuals and groups from the City of St. Louis who have been exceedingly generous and cooperative with their time and talents.

2. The National Association of Broadcasters extends its thanks to the convention Entertainment Committee, headed by Bill West, to the Production Departments of CBS, MBS and NBC, headed respectively by Doug Coulter, Dolph Opfinger and Clarence Menser. We also thank Mr. Nat Abramson, the Producer of the Show and Miss Estelle Marantz and Dan Sayford for their untiring work and cooperation.

3. The National Association of Broadcasters expresses its appreciation to Edgar Bill, Chairman of the Code Committee and to those broadcasters who have served with that committee, which has given the industry a system of self-regulation and self-education bespeaking the industry's awareness of its social and economic responsibility, and which has demonstrated radio's ability to regulate itself in the public interest.

4. The National Association of Broadcasters looks with con-

<sup>1</sup> This resolution was adopted separately as well as with the others.

tinued favor upon the constructive work in the educational broadcasting field being done by the Annual Institute of Education by Radio at Ohio State University each spring, and at the Mid-West School Broadcast Conference in Chicago each December. It is pleased that an organization to serve as a connecting link between these two conferences is now being formed. It pledges its continued cooperation for the further spread and improvement in educational broadcasting.

5. The National Association of Broadcasters expresses its high appreciation for the constructive work done by the Radio Council on Children's Programs, and particularly to its distinguished Chairman, Mrs. Harold V. Milligan, and Vice-Chairman, Mrs. Dorothy Lewis who recently completed a nation-wide tour and survey which has uncovered valuable information upon which continued improved programming may be based.

6. The National Association of Broadcasters expresses its deep appreciation to Dr. Julio Barata, Minister of Information of the United States of Brazil, and to Mr. Glenn Bannerman, President of the Canadian Association of Broadcasters for their attendance at this convention, and for the expressions of comradeship from the Brazilian and Canadian broadcasters. The presence of these two distinguished broadcasters from our neighboring countries reflects the growing hemispheric solidarity which American radio is helping to achieve, linking the Nations of the new world in bonds of good-will and understanding by radio.

7. The National Association of Broadcasters hereby extends its thanks to its President Neville Miller and to the members of his staff for their untiring efforts in successfully scheduling and carrying out the largest convention the Association has ever held and for their extremely effective work done during the year just completed.

8. **RESOLUTION**

WHEREAS this convention assembled has heard the thoughtful study and inspiring report of Mark Ethridge on problems confronting the broadcasting industry, and

WHEREAS the courage, clarity, sincerity and soundness of this report has met with the overwhelming approval of the broadcasting industry as exemplified by the spontaneous approbation accorded his remarks

Now therefore,

BE IT RESOLVED that this convention express of record its sincere and grateful thanks to Mark Ethridge for the unselfish and inestimable service rendered the industry and the public by his timely presentation of his personal views pertaining to problems of fundamental importance to the nation and the industry.

9. WHEREAS Broadcast Music, Inc., has not only attained but has exceeded by far the expectations of the broadcasting industry in creating an alternative source of music; and

WHEREAS by so doing BMI has opened the door of opportunity to composers and publishers, has prevented the monopolistic control of radio by ASCAP as a means of music exploitation and has brought about the attendant benefits of competition, not only for the broadcasting industry but for all music users, and for the public at large; and

WHEREAS the industry recognizes a continuing obligation to maintain the open door in music;

NOW, THEREFORE, BE IT RESOLVED that this convention wholeheartedly endorses the ideals, accomplishments and purposes of BMI, and reaffirms its obligation to perpetuate BMI in the field of music as a service not only to its own industry but to composers, other music users, and to the public.

10. WHEREAS, precipitate promulgation of the Federal Communications Commission's new rules regarding network broadcasting threatens the freedom of radio and the American System of Broadcasting; and

WHEREAS, the National Association of Broadcasters is of the opinion that the listening public and the American people as a whole should be given the opportunity to learn just what the effect of these rules would be on American radio, particularly with regard to program service;

BE IT RESOLVED: that the National Association of Broadcasters urge the United States Senate to give prompt and favorable consideration to a resolution introduced by Senator Wallace White of Maine, which would result in a thorough investigation of the whole radio structure with a view to the enactment of a new radio law; and would request the Federal Communications Commission to suspend operation of the new network rules pending completion of the Senate investigation.

11. Since the observance of Daylight Saving Time in some sections of the United States and its non-observance elsewhere, disrupts radio time schedules and adds to the difficulty of the listener in knowing when to tune in programs of national importance; and since the disruption of radio time schedules twice each year curtails the effectiveness of radio broadcasting in making the people of the United States the best informed people in the world—the Association instructs its president to urge upon the duly constituted authorities, the vital necessity of establishing as a National policy Daylight Saving Time in all parts of the United States.

12. The National Association of Broadcasters reaffirms its position expressed at the time of its 1940 convention with reference to its desire and intention to cooperate in every manner possible, with the Federal Government in presenting a united front in the Defense of our free institutions and reiterates its desire to cooperate in the coordination and promotion of the country's defense activities.

13. The 19th Annual Convention of the National Association of Broadcasters hereby approves the official acts performed since the last annual convention by its duly qualified officers.

14. The National Association of Broadcasters does solemnly rededicate the American Radio industry, with whose freedom it is entrusted to the promotion of the American way of life, and to preservation of the unity and morale of the American people.

Submitted by the Resolutions Committee:

E. E. HILL, WTAG,  
ED YOCUM, KGHL,  
GEORGE CRANSTON, WBAP,  
LEE B. WAILES, Westinghouse  
Radio Stations, *Chairman.*

## New Board of Directors

- |              |   |
|--------------|---|
| Chairman     | Neville Miller, President<br>NAB, Washington, D. C.                 |
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| *District 9  | William H. West, Jr., President<br>WTMV, East St. Louis, Illinois   |
| *District 10 | John J. Gillin, Jr., Station Manager<br>WOW, Omaha, Nebraska        |

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KGNC, Amarillo, Texas
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WGPC, Albany, Georgia

##### Network

- District 2 Edward Klauber, Executive Vice President  
CBS, 485 Madison Avenue, New York City
- District 4 Frank M. Russell, Vice President  
NBC, Trans-Lux Building, Washington, D. C.

\* Executive Committee

### CONVENTION ATTENDANCE

There is no need to tell those who were present at the Nineteenth Annual Convention in St. Louis last week that it was the largest from standpoint of attendance in the history of the industry. The following table indicates the attendance by District with the percentage of NAB membership from each District shown. It is remarkable to note that almost 70 per cent of the total NAB membership was on hand to participate in the Association's business transactions. It is further gratifying to note that 22 of the 23 associate members were in attendance.

District	No. of Stations	No. of NAB		Convention	
		Members	Members	%	Non-Members
1	55	38	18	47.3	0
2	56	33	22	66.6	2
3	58	29	19	65.5	12
4	84	55	35	63.6	3
5	74	44	22	50.0	1
6	55	31	28	90.3	7
7	41	26	23	88.5	6
8	50	28	19	67.9	4
9	58	31	25	80.6	7
10	56	38	31	81.6	4
11	38	23	16	69.6	1
12	34	20	16	80.0	5
13	58	24	21	87.5	1
14	44	25	14	56.0	2
15	34	24	10	41.7	2
16	46	22	15	68.2	7
17	50	32	11	34.4	2
Grand Totals	891	523	345	66.0	66
FM Stations		6	5		
Associate Members		23	22		
		552	372	67.4	

### PROMOTION DISPLAY WINNERS

After viewing more than 275 panel displays entered by nearly one hundred radio stations, the Judges Committee of the Promotion Display at the NAB Convention today named the following stations winners of the six general classifications:

- Trade Paper Advertising—WABC, New York Statuette trophy presented by Sales Management Magazine.
- Direct Mail Advertising—WIBW, Topeka Certificate of Merit presented by Direct Mail Advertising Association.
- Special Events, Public Service—WAAB, Boston—Gold Plaque presented by Radio Daily.
- Station Backed Promotion—KMOX, St. Louis Statuette trophy presented by Young Men's Division, St. Louis Chamber of Commerce.
- Program Presentations—KNX, Los Angeles Desk Set presented by Standard Radio.
- House Organs—WOW, Omaha, Trophy presented by St. Louis University.

Although no trophy was awarded in the seventh classification, Special Activities, the Judges Committee decided special mention should be given KXOK, St. Louis, for an outstanding presentation.

Stations of all classes of power, wave length, and geographic locations were represented in the display—from Duluth, Minnesota, to New Orleans, Louisiana, and from New York City to Los Angeles—from Florida to Seattle, and from Texas to Massachusetts.

Judges who served on the committee were:

- Jack W. Laemmar, Lord and Thomas, Chicago, Chairman.
- Carlos Franco, Manager of Station Relations Bureau, Young and Rubicam, Inc., New York.
- John Crandall, Arthur Kudner, Inc., New York.
- Bernard J. Prockter, Radio Time Buyer, The Biow Co., Inc., New York City.
- Tom Lynch, Radio Time Buyer, Wm. Esty & Co., Inc., New York City.
- Oscar Zahner, Manager Ruthrauff & Ryan, St. Louis.
- Charles Gardner, Gardner Adv. Co., St. Louis.

In charge of the promotion display for the NAB were Howard O. Peterson, Promotion Manager, WOW, Omaha, chairman; Chick Allison Sales Promotion Manager, WLW, Cincinnati; J. Soulard Johnson, Promotion Manager, KMOX, St. Louis; and Robert Sampson, Promotion Manager, KWK, St. Louis.

### GOLF WINNERS

Paul H. Raymer of Chicago, station representative, and Peirce Raymer of New York, of the same firm, tied for first place (net scores, 60) in the NAB golf tournament for the *Broadcasting* trophy.

- Gene Pulliam, Jr. of Station WIRE, Indianapolis, won the cup offered by St. Louis broadcasters with a low gross of 75.
- Mrs. Robert T. Convey, wife of Bob Convey, Station KWK, won the women's trophy offered by St. Louis Broadcasters. Her score was 108.

## Sales

### DEALER-COOPERATIVE ADVERTISING BY TIRE MANUFACTURERS

As a result of a sales trip to Akron, Ohio, by Frank E. Pellegrin, Director of the NAB Department of Broadcast Advertising, the following information has been secured on the dealer-cooperative advertising policies of the four big tire manufacturers there. Briefly, the situation is this:

*Goodrich Tire Co.*—F. T. Tucker, Director of Advertising, says that a 50-50 dealer-cooperative advertising policy is in effect, with the dealer having a free choice as to which medium he prefers. Radio is on an equal basis with any other medium. If radio is bought, the dealer must use transcribed spot announcements furnished by the company, just as he must use approved mats and copy for newspaper ads, and the spot times selected must be approved by the company's advertising department. There are a few exceptions to the above, where dealers have been permitted to retain programs or other special services that have done an outstanding job over a period of time, but it is Mr. Tucker's desire to have all dealers conform to the general policy. In the case of company-owned stores, in place of the 50-50 division of costs the company pays 40%, and 60% is charged to the store's budget.

*Goodyear Tire Co.*—A 50-50 dealer-cooperative policy is in effect, with the dealer permitted to choose the medium he prefers. The company expresses a slight preference for newspapers because they believe it is easier to control and check, but this does not interfere with a dealer's choice of radio if he is sold on it. No special service must be purchased, but the company's advertising agency keeps a man at the Akron office who will furnish spot radio copy if requested, just as he will furnish recommended copy for newspapers or other media.

*General Tire Co.*—A new policy has been adopted whereby the company pays 100% of the cost of newspaper advertising placed on behalf of local dealers. R. H. Harrington, Advertising Manager, explains that this policy cannot be changed until the end of the fiscal year on December 1. The local dealer, who used to pay 50% of all local advertising, is expected to spend approximately as much as he formerly did, but now must pay in full for whatever advertising he buys. He of course has a free choice of media in spending his own money, and the advertising agency will furnish recommended radio copy upon request without charge. Mr. Harrington stated that this policy was adopted to give the company greater control of local advertising schedules. He said that under the old 50-50 system radio had been tried in many markets, but without unusual success. He believes it is harder to measure and control than newspaper, and said that overlapping coverage of radio stations, conflicting claims, difficulty of clearing desirable spots, etc., all played a part in determining the new policy. If the present plan does not work satisfactorily, the policy may be changed, but he advised stations to sell the local dealer on using radio with the funds that are supposed to be set up in his own budget.

*Firestone Tire Co.*—This company sponsors the "Voice of Firestone" on a national network, and feels that this gives them wide coverage of the radio market. The company also places advertising in all other national media, in its effort to do an all-around advertising job. District and local funds, however, must be placed on a 50-50 basis in newspapers only. The dealer, or the company-owned store, must pay 100% for radio, direct mail, or any other medium. Mr. Starbird, Advertising Manager, and Mr. McGinness, his assistant, emphasize that the company controls all dealer and

store advertising, even selecting the particular newspapers in which ads are placed, insisting that this is necessary in their operation. They declared that radio does not lend itself to their particular localized spot campaigns because of difficulty in getting just the coverage they want, in clearing desirable spots, and because they cannot trust their local dealers to buy radio effectively. They charged that too often in the past radio stations have "sold" local dealers on whatever was available for sale, without due regard as to how it would fit the advertising problem at hand. They said it is impossible to regulate or control local radio as easily and surely as it is to insert newspaper ads—and they won't trust their dealers to do the job for them. It was also learned unofficially that the company will not give up its newspaper advertising because of fear of the "editorial club". The company feels that it *must* maintain the goodwill of newspapers, especially in view of present industrial and labor conditions, etc. Radio, having no editorial policy, is thus handicapped.

Mr. Starbird indicated, however, that the "Voice of the Farm" series may be repeated via spot radio.

\* \* \* \*

In view of all the above, it appears that radio salesmen have their work cut out if all of these tire manufacturers are to be brought into the fold of spot radio for dealer-cooperative advertising. Each advertising manager was given as strong a selling as possible on the effectiveness of radio, and this work by NAB will continue until the job is done. Special presentations will be made, success stories submitted, evidence compiled and presented, and additional sales calls made. Every objection that was raised was answered, and additional answers are being prepared.

The job can be done better and quicker, however, with full cooperation from national radio sales representatives and especially from local sales managers. These forms of cooperation are suggested:

1. Work particularly with the local tire dealers in your market; sell them on radio to such an extent that they will request it from the company in overwhelming numbers.
2. Send to your national representatives and to NAB your particular reasons why radio should be used: your success stories on tire dealers, other automotive accounts, and various accounts in different fields but with similar problems.

With several million dollars of revenue in prospect, we suggest that it is well worth the effort.

### INTERNATIONAL ADVERTISERS AGENCY

A NAB member station reports that it broadcast \$756 worth of advertising for Father Hennepin's Ointment and the Grand Island Distributing Co., placed through International Advertisers Agency, Niagara Falls, N. Y.

The station says it has received no answer from the agency in response to its statements or letters regarding them, and asks for information from other stations that have carried this business as to whether the agency did pay its bills, or what action had to be taken.

Any information on this subject, sent to NAB, will be forwarded to the inquiring member.

### FINANCIAL ADVERTISERS' MANUAL

The NAB Department of Broadcast Advertising has made arrangements with the Financial Advertisers Association to prepare a complete section on radio advertising to be furnished by them to all their members as a part of their public relations manual.

This association is made up of nearly one thousand banks, savings and loan associations, and similar financial institutions, all of which need and use advertising. Heretofore their manual has con-

tained complete sections on newspaper, outdoor and other media, but not on radio.

Already a wealth of material has been compiled by NAB for inclusion in the radio section, but more can be used. If you have any success stories on the use of radio by local financial institutions, or other data that you think will be helpful, please send it to NAB as soon as possible.

## SAVINGS & LOAN REPRINTS AVAILABLE

Through the cooperation of Federal Home Loan Bank Board of Washington, the NAB Department of Broadcast Advertising has secured 500 reprints of a booklet entitled "Radio Advertising by Savings and Loan Associations", containing a variety of informative and helpful material that should assist stations in increasing this form of revenue.

While the supply lasts, copies are available to NAB members free upon request.

## TO SELL SATURDAY TIME

A promotion letter by KJBS of San Francisco, pointing out the desirability of Saturday time for radio advertising, should be helpful to all sales managers and salesmen in increasing station revenue. Therefore it is reprinted here:

Saturday is the heaviest shopping day of the week. But 60 to 70% of this shopping is done during the afternoon. *The purchases are PLANNED on Saturday morning!*

According to a N. Y. State Chamber of Commerce check, ten of New York's largest banks report that Friday is the greatest payroll day of the week. This indicates that *people have more available CASH on Saturday!*

The 40-hour week has come to mean a 5-workday week for most business concerns. The 5-day week has definitely created an ALL-FAMILY listening audience for Saturday.

1. 36% of all downtown shopping in 16 representative U. S. cities is done on Saturday.
2. Two-thirds of ALL Saturday grocery sales are made in the afternoon.
3. 21% of large New York department store sales are made on Saturday.
4. 40% of chain grocery sales are made on Saturday in Greater New York.
5. 30% of independent grocery store sales are made on Saturday in Greater New York.

43% of all KJBS accounts are "Saturday-wise", selling new thousands of Monday through Friday workers in addition to the regular, DAILY, daytime listeners—A *Sunday* audience on *Saturday* at *week-day* rates!

## PER-INQUIRY AND FREE-TIME

**Pondrom and Collins** Advertising Agency of Dallas, Tex., is endeavoring to secure per-inquiry advertising on behalf of the **Crazy Water Crystal Co.** Stations are advised to be especially careful of this account, since it was cited in a complaint by the FTC in September of 1940 for "misrepresentation in the sale of Crazy Mineral Water, Crazy Water Crystals and Crazy Fiz". For details of the complaint, see NAB REPORTS for September 20, 1940, page 4622.

**Frank R. Steel Associates** Advertising Agency of Chicago, is seeking free time on behalf of **Princess Pat** cosmetics by asking stations to sell lipsticks for 10 cents, and keep the dimes, saying "you can use this account as a 'bellwether' for the sale of other national advertising". The "slow summer months" angle is again stressed. One NAB member commented in reporting this: "Why can't we once and for all stop this kind of racket? If every station would refuse it wouldn't take long."

**The American Hotel Association** of Washington, D. C., is

seeking free spot announcements to promote **National Hotel Week.** NAB is advised that the association has no funds with which to purchase radio advertising. The association's director stated that newspapers are contributing some publicity in news and feature stories. NAB pointed out that "publicity" in the form of newsworthy items on regular newscasts is one thing, but "free plugs" are something else again, and suggested that local hotels be induced to pay for any announcements used.

**Bozell & Jacobs** Agency of Omaha, Neb., is seeking per-inquiry advertising for a hay-fever remedy called **HAYO**, using the angle of "spots that you probably could not sell anyway during July and August."

**Rogers & Smith** Agency, of Chicago, is seeking free time for **Schutter Candy Co.**, offering to give candy free as prizes to winners of a contest if the advertising time is donated by stations.

**"Radio Income Builders"**, of Des Moines, Ia., have a new approach on their per-inquiry fountain pen deal, not requiring stations now to buy a stock of the pens outright, but charging them an extra fee for handling the orders and mailing the pens direct. Whew!

**The Armand S. Weill** Agency of Buffalo, listed in REPORTS of May 9 as inviting stations to cut rates for **Sachinol Performers**, explain in answer to a letter from NAB that this was not their intention; that "The reason I put the cost per inquiry in was to show stations what we have done in the past, thus giving them a yardstick to decide whether or not they could produce enough mail to bring our cost per inquiry somewhere near this figure, based of course on their card rate." Since then, letters to stations from this agency have stated: "This is not a request to take this account on a cost per inquiry basis. We will pay full card rates if you feel you can produce the response we desire."

**Max Goldberg Advertising Agency** of Denver, Colo., is asking stations to cut rates for a campaign of 1-minute transcribed announcements to be placed on behalf of the **State of Colorado.** A form letter from the agency tells each station that its rates as published in Standard Rate & Data are too high, and asks that the local rate be granted. They also want preferred spots, next to network shows or News,—“preferably shortly before 6 p. m., at 5:59 if possible, paying the day rate.”

In two of the cases cited above, it will be noted that advertising agencies take the angle that in seeking per-inquiry deals, stations would give them "time during the summer months that you couldn't sell anyway." It is that attitude on the part of agencies that NAB objects to.

The psychology is all wrong from the station's standpoint. Who says that radio time cannot be sold during the summer months—during *any* months? Why should advertising agencies, who derive their living and their jobs from commissions paid by radio stations, undermine confidence in summer radio?

If this attitude is permitted to go unchallenged, the idea will spread and a defeatist attitude will creep into your sales staff—as well as among your advertisers. Tell a salesman often enough that "radio can't be sold in the summer" and he'll begin to believe it—and have a ready-made alibi for failure to work and failure to produce results. Tell it to your prospects often enough and their budgets will go into newspapers or other media that won't permit such defeatism.

NAB suggests that the best answer to such statements is to *prove* that summer radio *can* be sold, and to start by refusing to accept chisel deals offered on that basis. Some of these agencies need a few letters from you station men, in addition to those they get from NAB.

## RADIO PROGRAM AT AFA CONVENTION

The radio departmental program at the annual AFA convention has been completed for Wednesday morning, May 28. Sponsored by the Sales Managers Division of the NAB, the program includes "Increasing the Tune-In", by Walter J. Neff, President, Neff-Rogow, Inc., New York City; "The Effect on Advertisers of the Monopoly Report", by Russell Place, NAB Counsel; "Chimes and Gongs in Radio Advertising", by Frank E. Pellegrin, NAB Director of Broadcast Advertising, and "Highlights of the NAB Convention", an open discussion with questions and answers. Robert S. Peare, Advertising Manager of General Electric Co. and Manager of Broadcasting, WGY, will preside. All radio men are invited.

### Daylight Saving

A number of stations requested copies of the summary of the Daylight Saving Time Survey as submitted by the Director of Research at the Wednesday afternoon session at the Convention. This is repeated here for the benefit of all members:

"485 stations or 58% of the industry furnished information requested in the questionnaire. Network affiliated stations account for 73% of the replies and independent stations contributed 27%. Of all network affiliates, 68% replied. Of all independent stations, 45% replied.

"Of the 485 stations replying, 104 reported observance of Daylight Saving Time; 381 reported that their communities did not observe Daylight Saving Time.

"152 or 31.3% reported the attitude of people in their community was favorable to Daylight Saving Time. Unfavorable attitude was reported by 219 stations or 45.2%. Seventeen stations or 3.5% reported the public "on the fence". 97 stations, 20%, did not know.

"91.5% of the stations in communities observing Daylight Saving Time reported the public favorable. From communities not observing Daylight Saving Time, 31.3% of stations reported a favorable public and 45.2% an unfavorable public.

"281 stations reported the necessity for realignment of programs because of Daylight Saving Time. 80% of network affiliates and 12% of independents reported realignment problems.

"Monetary loss resulting from the shift to Daylight Saving Time was reported by 87 stations and amounted to \$664,786. Assuming that an adequate sample was represented by the 87 stations, the industry loss is approximately 5 million dollars per year.

"128 stations reported that partial observance of Daylight Saving Time affected their competitive program situation. Of these, 94 reported their competitive position impaired.

"Unsolicited listener reactions were reported by 285 stations. Favorable reaction was received notably when Daylight Saving Time was observed. Unfavorable reactions to stations in areas not observing Daylight Saving Time were predominantly complaints because of program schedule changes.

"The suggestions of stations of a solution to the problem—50% want a change from the present set-up; 23% want no change; 27% expressed no opinion. Of 241 stations wanting a change from the existing set-up, 62 stations (26%) want universal Daylight Saving Time; 78 stations (32%) want universal Daylight Saving Time or universal 'No Daylight Saving Time'; 33 stations (14%) want universal Daylight Saving Time or radio kept on Standard Time; 51 stations (21%) want radio kept on Standard Time; and 17 stations or 7% want all Daylight Saving Time abolished.

"Summary of the above shows 72% in favor of universal observance of Daylight Saving Time.

"Universal observance of Standard Time is suggested by 7%.

"The idea of keeping radio on Standard Time, regardless of whether Daylight Saving Time is observed in the communities or not, is favored by 21%, and, as an alternative to Daylight Saving Time observance, by 14%.

"Most stations emphasized that the solution to the problem lies in National regulation.

"The three bills in Congress today propose National observance of Daylight Saving Time as a defense measure to be accomplished by Federal regulation. *There is no National move to abolish Daylight Saving Time.*

"Stations report in various sections that observance of Daylight Saving Time this year missed by extremely narrow margins of vote.

"One California station reported that Daylight Saving Time was defeated at the last election by 'the theatrical lobby and a careless vote'. It was reported that San Antonio, Texas, missed having Daylight Saving Time by a narrow margin due to the last-minute opposition of night baseball and movie interests.

"Since the Survey was begun, Lexington and Louisville, Kentucky, have adopted Daylight Saving Time, and undoubtedly nearby cities will adopt it. Peoria, Illinois, has Daylight Saving Time this year for the first time, thus further extending the Daylight Saving Time area around Chicago. Indianapolis reported pending legislation for Daylight Saving Time observance. A Wisconsin law prohibiting Daylight Saving Time missed repeal at the last session of the legislature by one vote."

The following resolution was introduced by Willard D. Egolf of Station KVOO, Tulsa, Oklahoma, at the Sales Managers' meeting at the Convention:

"Whereas the Sales Managers of the Radio Industry are charged with the responsibility of selling Radio Time and further seeing that Radio Time is made productive for its purchasers and

"Whereas the observance of Daylight Saving Time in some sections of the United States and its non-observance elsewhere disrupts Radio Time Schedules and

"Whereas it is our opinion that this disruption of Radio Time Schedules is the direct cause of lost radio billing amounting to hundreds of thousands of dollars annually and

"Whereas this disruption of Radio Time Schedules occasions inconvenience to buyer, station and public,

"Therefore, Be It Resolved that all branches of the Radio Industry should cooperate in perfecting a plan whereby the observance of Daylight Saving Time shall have no effect on Radio Time Schedules and whereby 'Change of Time' shall be abolished permanently."

The resolution was referred to the Resolutions Committee of the Convention.

At the General Session of the Convention on Thursday afternoon, the Resolutions Committee presented to the Convention the following resolution which was unanimously adopted:

"Since the observance of Daylight Saving Time in some sections of the United States and its non-observance elsewhere disrupts radio time schedules and adds to the difficulty of the listener in knowing when to tune in programs of national importance; and since the disruption of radio time schedules twice each year curtails the effectiveness of radio broadcasting in making the people of the United States the best informed people in the world—the Association instructs its president to urge upon the duly constituted authorities, the vital necessity of establishing as a National policy Daylight Saving Time in all parts of the United States."



## ARMY PROGRAM DIRECTOR

Sterling Wright, program director, WSPA, Spartansburg, S. C., advises that Major Jones at Camp Croft is looking for an experienced radio program director or production man who is now in the army. If Major Jones learns where there is one, he will try to get him transferred to Camp Croft.

## Legislation

### RADIO INCOME TAX

Introduction in the House on Tuesday of a bill (H. R. 4806) by Representative Connery (D-Mass.) to provide a radio-broadcasting tax marks another step in the campaign of the International Allied Printing Trades Council to penalize radio allegedly for causing unemployment in the printing trades. The bill would levy an "amusement" tax of 20 per cent on gross income (radio time sales less agency commission not to exceed 15 per cent) on stations whose income exceeds \$500,000, a 15 per cent tax on stations whose income falls between \$250,000 and \$500,000, and a 10 per cent tax on stations whose income is more than \$150,000 and less than \$250,000.

A network "or group of stations owned, controlled or operated by substantially the same interests" would be subject to the tax on the network stations as a unit.

The measure has been referred to the Committee on Ways and Means, before which John B. Haggerty, representing the Printing Trades, appeared May 19 and urged special taxation of radio. NAB has laid the pertinent facts before the committee, and will resist any attempts to tax radio stations discriminatorily as against other media.

### FEDERAL LEGISLATION

#### HOUSE

H. R. 4703 (Secrest, D-Ohio) COPYRIGHT—To amend sections 12 and 13 of the Copyright Act of March 4, 1909, to secure the prompt deposit of copyrightable material into the Library of Congress, and prompt registration of claims of copyright in the Copyright Office, and for other purposes. Referred to Committee on Patents.

H. R. 4806 (Connery, D-Mass.)—RADIO TAX—To provide a radio-broadcasting tax. Referred to Committee on Ways and Means.

H. R. 4826 (Kramer, D-Calif.) COPYRIGHT—To amend section 8 of the Copyright Act of March 4, 1909, as amended, so as to preserve the rights of authors during the present emergency, and for other purposes. Referred to Committee on Patents.

#### SENATE

S. 1518, (Walsh, D-Mass.) COMMUNICATION—To prohibit the use of the mails or other channels of interstate or foreign commerce for the delivery or transmission of any advertisements, solicitation, statement, or other communication wherein the word "olympic" or any of its derivatives is used in such a manner as is likely to deceive the public. Referred to Committee on Interstate Commerce.

S. 1519 (Walsh, D-Mass.) COMMUNICATION—To prohibit the use of the mails or other channels of interstate or foreign commerce for the delivery, transportation, or transmission of any tickets, advertisements, solicitation, statements, or other communications containing false statements or representations as to the amateur character of any event, competition, or spectacle, for the purpose of selling tickets of admission to, or raising funds for the support of such event, competition, or spectacle. Referred to Committee on Interstate Commerce.

### SENATE RESOLUTION

S. Res. 113 (White, R-Maine.) COMMUNICATIONS—Authorizing a study of sundry communication problems. Referred to Committee on Interstate Commerce.

### STATE LEGISLATION

#### FLORIDA:

H. 68 (Luckie) PROPAGANDA—RACE—Relating to propaganda inciting race, color or religious hatred. Referred to Committee on Americanism.

H. 960 (Same as S. 268) (Perry) PHONOGRAPH RECORDS—SALE—To prevent claims for additional compensation after sale of phonograph records, transcriptions or any form of recorded music and entertainment. Referred to Committee on Judiciary 'A'.

H. 978 (Minshall, et al.) FOODS—MISBRANDING—Amending Sec. 15, Chap. 19656, Acts of 1939, relating to the disposal or movement in commerce of adulterated or misbranded foods, drugs, devices and cosmetics; prohibiting false advertising and guaranteeing thereof. Referred to Committee on Public Health.

H. 1038 (Committee on Americanism) RELIGIOUS HOSTILITY—Prohibiting the circulation or publication of statements tending to create hatred, violence or hostility, against persons by reasons of their religious belief. Referred to Calendar.

#### MASSACHUSETTS:

H. 2427 (Reported on P. D. 144-Con Law) RADIO—SLANDER—Relative to slander by radio.

H. 2432 (Reported on H. 189, 324, 1721) COPYRIGHTED MUSICAL COMPOSITIONS—Requiring the filing with the state secretary of contracts pertaining to the sale, licensing or other disposition of performing rights in copyrighted musical compositions and dramatico-musical compositions, and imposing a tax on the gross profits of such sales, licenses and other dispositions of such rights.

H. 2499 (Offered by Innis as substitute for H. 2427) SLANDER—Relative to slander by radio.

#### MISSOURI:

H. 593—RADIO ADVERTISING—BEER—LIQUOR—Prohibits radio broadcasts advertising beer or intoxicating liquor.

#### PENNSYLVANIA:

H. R. 76 (Jefferson) RADIO BROADCASTING—NEGRO SPIRITUALS—Requests radio broadcasting stations to refrain from desecrating negro spirituals. Referred to Committee on Rules.

## FEDERAL COMMUNICATIONS COMMISSION

### FLY DISCUSSES "MONOPOLY"

At a press conference early this week James Lawrence Fly, FCC chairman said, in answer to a question, that the network monopoly report is all settled, now that the report is out and he said that the Commission has received many offers of cooperation from the broadcast industry.

Answering another question Mr. Fly said that he had seen Senator Wheeler at a telegraph hearing at the Capi-

tol this week, but that he had not discussed the White resolution with Senator Wheeler.

The Chairman told the newsmen that he is still optimistic about selecting a person to head the new foreign short wave propaganda analysis set up. He said he had had great difficulty in filling the job. However he said he hoped to be able to announce the new head in a few days.

#### HARRIS ASSISTANT GENERAL COUNSEL

The FCC announced the appointment of Thomas E. Harris as Assistant General Counsel to succeed Joseph L. Rauh, Jr., who is resigning to take a position on the legal staff of the Lease-Lend Administration. Mr. Harris, who is now in the office of the Solicitor General, will join the Commission's staff within a week.

Born at Little Rock, Arkansas, on May 25, 1912, Mr. Harris attended the local schools and was graduated from the University of Arkansas in 1932. He received his legal education at the Columbia Law School, from which he was graduated in 1935 with high honors, having served on the Editorial Board of the Columbia Law Review.

Following his graduation from law school, Mr. Harris was appointed law secretary to Mr. Justice Harlan Fiske Stone of the United States Supreme Court, and served in that capacity for one year. From 1936 to 1937, Mr. Harris was employed at the Washington law firm of Covington, Burling, Rublee, Acheson and Shorb.

From 1937 to 1939, Mr. Harris was employed by the Lands Division of the Department of Justice, where he specialized in appellate work. He was Assistant Chief of the Appellate Section during the last six months of his tenure.

In 1939, Mr. Harris became a member of the staff of the Solicitor General's office, where he is presently employed. He has had extensive appellate experience, including numerous appearances in the Federal Circuit Court of Appeals, and five appearances before the Supreme Court of the United States. His appearances in the Supreme Court included the presentation of the Government's case in two important appeals from decisions of the National Labor Relations Board—the *Phelps-Dodge* case and the *Republic Steel* case. He also presented for the Government the important case of *Interstate Commerce Commission vs. American Trucking Association*, involving the classification of employees of trucking companies.

Mr. Harris is married, and resides in the District of Columbia.

In submitting his resignation, Assistant General Counsel Rauh explained:

"I have only one real regret in making this move. Before leaving the Commission, I should have liked to see the chain broadcasting regulations upheld in the forum of public opinion and in the courts, as I feel confident that they shall be. I should have liked to see them become an integral part of the structure of radio broadcasting in this country. The Chain Broadcasting Report

and regulations constitute, to my mind, the most forward-looking step toward the safeguarding of freedom of speech that has been taken for many years."

#### HILMER ASSISTANT GENERAL COUNSEL

The FCC announced the appointment of Lucien A. Hilmer as Assistant General Counsel in charge of the Broadcasting Division of the legal department. Mr. Hilmer succeeds to the position formerly occupied by Mr. George B. Porter, who resigned in the fall of 1940 to enter private practice. Mr. Hilmer has been in charge of the Broadcasting Division since Mr. Porter's resignation.

A native of New York, Mr. Hilmer is thirty-three years of age. He graduated from Williams College in 1928, and from Harvard Law School in 1931.

From 1931 to 1935 Mr. Hilmer engaged in the private practice of law in New York City. In 1935 he was appointed Assistant Counsel to the Senate Committee on Interstate Commerce, in connection with the Railroad Finance Investigation conducted by that Committee. In 1938 Mr. Hilmer was appointed as Associate Counsel to the Committee, and served in that capacity until his appointment as Special Counsel on the staff of the Federal Communications Commission in 1940.

Mr. Hilmer is married and resides in the District of Columbia.

#### TELEVISION APPLICATION FORMS

New application forms to expedite the transition of television stations from experimental to commercial basis have been made available by the FCC in preparation for the advent of television commercial service on July 1.

Form 330 covers construction permit for a new commercial television station under the rules and regulations and standards adopted by the Commission's order of April 30.

Form 333 covers construction permit, modification of construction permit, or modification of license for existing television stations, and can be used by the 21 present program stations for furnishing engineering information called for in the April 30 order. Information heretofore filed may be included in the application by reference.

#### WOC INCREASED FACILITIES

The FCC granted the application of Tri-City Broadcasting Company for a construction permit to install a new transmitter, erect a directional antenna system for nighttime use, move to another site, and to change the operating assignment of its station WOC, at Davenport, Iowa, from 1450 kilocycles, a local frequency, to the regional frequency of 1420 kilocycles, with power increase from 250 watts to 1 kilowatt, unlimited time.

In a Decision and Order (B-136), the Commission holds that operation of WOC under changes brought about by the North American Regional Broadcasting Agreement will not involve objectionable interference. However,

the grant is conditional upon WOC's submitting proof of performance of its proposed directional antenna system.

### NEW CALIFORNIA STATION

On the basis of evidence adduced at public hearing, the FCC proposes to grant the application of the Broadcasting Corporation of America for a radio station at Riverside, Calif., and, because of mutually exclusive interference, deny the application of the Riverside Broadcasting Company for a station at the same place.

There is no broadcast station in Riverside at present. The Broadcasting Corporation of America seeks authority to use 1420 kilocycles with 1 kilowatt power on unlimited time. The Riverside Broadcasting Company is applicant to use 1420 kilocycles with 250 watts power, unlimited time. Their simultaneous operation is impracticable.

The station proposed by the Broadcasting Corporation of America would render primary service to approximately 152,900 persons in the daytime and to some 114,600 persons at night, whereas the other applicant proposes primary service to about 90,400 persons by day and 33,500 by night.

On the basis of such showing, the Commission, in its Proposed Findings of Fact and Conclusions (B-137), concludes:

"1. Simultaneous operation of the stations proposed by the applicants herein would result in prohibitive interference and the granting of one application would necessarily preclude the granting of the other.

2. The station proposed in the application of the Broadcasting Corporation of America would render primary service to approximately 62,500 more persons during the day and 81,100 more persons during nighttime hours than would the station proposed in the application of the Riverside Broadcasting Company.

3. The applicant, Broadcasting Corporation of America, is legally, technically, financially, and otherwise qualified to construct and operate a radio-broadcast station as proposed.

4. The granting of the application of the Broadcasting Corporation of America (Docket No. 5780) subject to the selection of a satisfactory transmitter site and complete radiating system, will serve public interest, convenience and necessity; the application of the Riverside Broadcasting Company (Docket No. 5890) should be denied."

### JACKSONVILLE, ILL., BROADCAST GRANT

The FCC adopted and made final its Proposed Findings of Fact and Conclusions (B-130) to grant Hobart Stephenson, Milton Edge and Edgar J. Korsmeyer, a partnership, doing business as Stephenson, Edge and Korsmeyer, a construction permit for a broadcast station at Jacksonville, Ill., to operate on 1150 kilocycles, with power of 250 watts, daytime only.

Helen L. Walton and Walter Bellatti, another partnership, had applied for the same facilities. Joint hearing was held last September.

In today's amended conclusions the Commission finds:

"Where, as in this case, there are two qualified applicants seeking the same facilities, and the granting of the one precludes the granting of the other, it is necessary to select one of the two. Stephen-

son and Edge for some years have endeavored to obtain a license for a broadcasting station and have taken the initiative to obtain broadcast facilities to serve the vicinity of Jacksonville. Stephenson, Edge and Korsmeyer filed the instant application two months prior to the application of Walton and Bellatti seeking the same facilities. With the granting of the application of Stephenson, Edge and Korsmeyer there will be added to the Jacksonville area a medium for the dissemination of news and information to the public which will be independent of and afford a degree of competition to other such media in that area. All these circumstances and acts considered, the Commission concludes that the granting of the application of Stephenson, Edge and Korsmeyer will better serve the public interest."

### BROADCAST MEASUREMENTS

During April experts of the FCC measured 702 broadcast stations, leaving 182 not measured

Of the 702 measured 616 showed a maximum deviation within 0-10 cycles; 62 maximum deviation within 11-25 cycles; 10 maximum deviation within 26-50 cycles. No stations showed a maximum deviation over 10 cycles while 14 stations showed a maximum deviation over 50 cycles.

### 891 STATIONS

The Federal Communications Commission issued operating licenses to three stations and granted six permits for the construction of new stations during the month of April, 1941. Four operating stations and two CP stations were deleted. A comparative table by months follows:

	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1
Operating	779	783	791	799	806	810	816	825	831	835	836	837	836
Construction	47	53	56	58	57	54	52	51	51	46	54	54	55
	826	836	847	857	863	864	868	876	882	881	890	891	891

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, May 26. They are subject to change.

#### Tuesday, May 27

KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal of License, 930 kes; 1 kw night; 5 kw day; unlimited time.

#### Wednesday, May 28

WRDO—WRDO, Incorporated, Augusta Maine.—Renewal of License, 1370 kes; 100 w; unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

#### June 2

Hearing to be held in Pensacola, Florida, beginning June 2 and continued thereafter in Panama City, Florida and Ocala, Florida, as follows:

Pensacola, Florida, in Court Room, County Court Building.  
Panama City, Florida, in Court Room, County Court House.  
Ocala, Florida in U. S. Court Room, 2nd Floor, U. S. Post Office Bldg.

WTMC—Ocala Broadcasting Company, Inc., Ocala, Fla.—In the matter of revocation of license of station.

WDLF—Panama City Broadcasting Company, Panama City, Fla.—In the matter of revocation of license of station.

### June 25

KDRO—Albert S. and Robert A. Drohlich, d/b as Drohlich Bros., Sedalia, Missouri.—C. P., 800 **kes** (under NARBA) 1 kw day; daytime.

#### Consolidated Hearing

WCAM—City of Camden, Camden, New Jersey.—Renewal of license, 1280 **kes**; 500 w night; 500 w LS; shares WTNJ and WCAP.

WCAP—Radio Industries Broadcast Co., Asbury Park, New Jersey.—Renewal of license, 1280 **kes**; 500 w night; 500 w LS; shares WTNJ and WCAM.

WTNJ—WOAX, Incorporated, Trenton, New Jersey.—Renewal of license, 1280 **kes**; 500 w night; 500 w LS; shares WCAM and WCAP.

WTNJ—WOAX, Incorporated, Trenton, New Jersey.—C. P., 1230 **kes**; 1 kw night; 1 kw day; unlimited; DA-day and night.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pennsylvania.—C. P., 1260 **kes**; 1 kw night; 5 kw day; DA-night; unlimited.

### June 27

NEW—Parkersburg Sentinel Company, Parkersburg, West Virginia.—C. P., 1310 **kes**; 250 w; unlimited.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

KGEE—General Electric Co., Treasure Island, San Francisco, Calif.—Granted modification of construction permit for international broadcast station to move transmitter to near Belmont, Calif.; granted extension of completion date to July 1, only (B5-MPIB-25).

WHEB—Granite State Broadcasting Corp. (assignor), WHEB, Inc. (assignee), Portsmouth, N. H.—Granted consent for assignment of license from Granite State Broadcasting Corp., licensee of Station WHEB, to WHEB, Inc. (assignor), agrees to sell and assign all of the station property to assignee for a consideration of \$6,000; in addition assignee will pay the controlling shareholder of the assignor (H. J. Wilson), \$6,000 for surrendering his stock (80% of the common voting stock) for cancellation, and \$6,400 representing advances to the assignor for which he holds promissory notes.)

WBLJ—H. C. & T. W. Kenemer, d/b as Kenemer Bros. (transferees), J. B. Roach (transferor), Dalton, Ga.—Granted consent to transfer control of corporation, Dalton Broadcasting Corp., licensee of broadcast station WBLJ, from J. B. Roach to H. C. and T. W. Kenemer, a partnership doing business as Kenemer Bros. (59% of issued and outstanding capital stock for a cash consideration of \$10,000); station operates on 1230 **ke**; 250 watts; unlimited time (B3-TC-261).

WJBK—James F. Hopkins (transferor), Richard A. Connell and Henrietta Connell (transferees), Detroit, Mich.—Granted consent to acquisition of control by Richard A. Connell and Henrietta Connell (wife) of James F. Hopkins, Inc., licensee of Station WJBK (5-1/3% of common stock, par value \$10 per share, 5-5/9% of common stock, no par value, and 5.53% of preferred stock, par value \$10 per share; total consideration paid was \$5,173) station operates on 1490 **ke**; 250 watts night and day; unlimited time (B2-TC-259).

WDEL—WDEL, Inc., Wilmington, Dela.—Granted modification of construction permit for approval of directional antenna

for day and night use and transmitter site at 1.6 miles northeast of city of Wilmington, Dela., on Northeast Boulevard; granted subject to engineering conditions; present assignment (under construction permit) 1150 **ke**, 5 KW night and day; directional antenna night and day (B1-MP-1158).

KFIZ—Reporter Printing Company, Fond du Lac, Wisc.—Granted construction permit to install new transmitter and antenna and increase power from 100 watts night and day to 250 watts night and day; 1450 **ke**; unlimited time (B4-P-2986).

WNBI—National Broadcasting Co., Inc., Bound Brook, N. J., (international broadcast station).—Granted modification of construction permit to add frequencies 11890, 15150 **ke**, make changes in equipment, and extend commencement date to immediately and completion date to 30 days after grant (B1-MPIB-24).

W47P—Walker & Downing Radio Corp., Pittsburgh, Pa.—Ordered issuance of construction permit for new FM station without prejudice to determination of hearing under Order No. 79.

American Broadcasting Corp., of Kentucky, Lexington, Ky.—Granted construction permit for new high frequency (FM) broadcast station to operate on 45100 **ke**; area 6,298 square miles (B2-PH-34).

Paducah Broadcasting Co., Inc., Henderson, Ky.—Granted construction permit for new standard broadcast station to operate on 860 **ke**, 250 watts daytime only; exact site to be determined with Commission's approval (B2-P-3149).

WKY—WKY Radiophone Company, Oklahoma City, Okla.—Granted construction permit for approval of transmitter site approximately 6 miles north of center of Oklahoma City, Okla. and 1-1/4 mile east of Britton, Okla., and directional antenna for night use; granted subject to engineering conditions with respect to interference; station operates on 930 **ke**, 1 KW night, 5 KW day, unlimited time (B3-P-3114).

### DESIGNATED FOR HEARING

MSB Broadcast Co., Omaha, Neb.—Reconsidered Commission action of June 25, 1940, granting the application of MSB Broadcast Co. for construction permit for new station, and designated said application for hearing; designated for hearing the application of MSB Broadcast Co. for modification of said permit designating transmitter and antenna site; designated for hearing the application for consent to transfer control of MSB Broadcast Co. from C. J. Malmsten, John K. Morrison and Arthur Baldwin to Ross C., William W. and Blaine V. Glassman; hearings on these matters to be consolidated (B4-P-2697, B4-MP-1026, B4-TC-248).

KFXM—J. C. Lee & E. W. Lee (Lee Bros. Broadcasting Co), San Bernardino, Calif.—Application for construction permit to change frequency from 1240 to 1420 **ke**, increase power from 250 watts night and day to 1 KW night and day; increase hours of operation from shares with KPCC to unlimited, make changes in transmitter and make changes in vertical antenna (B5-P-3008).

Edward Tom O'Brien, David Shepard, Howard S. Johnson, & John W. Boler, d/b as Brainerd-Bemidji Broadcasting Co., Brainerd, Minn.—Application for construction permit for new standard broadcast station to operate on 1550 **ke**, 1 KW, unlimited time; exact transmitter and studio sites to be determined by Commission's approval (B4-P-2928).

Orange Broadcasting Corp., Orange, Tex.—Application for construction permit for new standard broadcast station to operate on 1600 **ke**, 1 KW, unlimited time (B3-P-3042).

The Gazette Company, Cedar Rapids, Iowa.—Application for construction permit for new standard broadcast station to operate on 1600 **ke**, 5 KW night and day, using directional antenna for night use and nondirectional daytime (B4-P-2283). *Above three applications to be heard at same time.*

Homer Rodeheaver, Winona Lake, Ind.—Application for construction permit for new standard broadcast station to operate on 1480 **ke**, 1 KW, daytime only (B4-P-3104).

### MISCELLANEOUS

WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Granted modification of construction permit (B3-P-2952, which authorized increase in power and installation of directional antenna for night use) for changes in directional antenna on 960 **ke** under NARBA (B3-MP-1292).

- WMRF—Lewistown Broadcasting Co., Lewistown, Pa.—Granted modification of construction permit (B2-P-2977 authorizing a new station) for installation of new transmitter, changes in antenna system, move of studio from Lewistown Heights, to 50 Market St., Lewistown, Pa., and extension of completion date to 180 days after grant (B2-MP-1276).
- WTSP—Pinellas Broadcasting Co., St. Petersburg, Pa.—Granted modification of construction permit (B3-P-2933), which authorized installation of new transmitter, changes in antenna, change frequency and increase power to change type of transmitter and extend commencement date to 30 days after grant and completion date to 90 days thereafter, and requesting 1380 kc. under NARBA (B3-MP-1213).
- WWNY—The Brockway Company, Watertown, N. Y.—Granted license to cover construction permit (B1-P-937) for new station. (B1-L-1388). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-829).
- WCSH—Congress Square Hotel Co., Portland, Me.—Granted license to cover construction permit (B1-P-2535, which authorized increase in power to 5 KW, and installation of directional antenna; 970 kc. under NARBA). (B1-L-1372). Also granted authority to determine operating power by direct measurement of antenna power.
- WCOV—Capitol Broadcasting Co., Inc., Montgomery, Ala.—Granted modification of construction permit for change in frequency from 1210 to 1240 kc.
- WDWS—Champaign News-Gazette, Inc., Champaign, Ill.—Granted special temporary authority to rebroadcast a 15-minute program, plane to ground, on May 8, 1941, in conjunction with the Air Corps Recruiting campaign only.
- KRKO—The Everett Broadcasting Co., Inc., Everett, Wash.—Granted modification of construction permit to change frequency from 1370 to 1400 kc.
- WMBD—Peoria Broadcasting Co., Peoria, Ill.—Granted special temporary authority to rebroadcast programs originating in U. S. Navy plane from 4:30 to 4:45 p. m., CST, May 8, 1941, only.
- W71NY—Bamberger Broadcasting Service, Inc., New York City.—Granted extension of special temporary authority to operate frequency modulation station commercially on 47100 kc., power 1,000 watts, special emission for frequency modulation at 444 Madison Ave., New York City, using Western Electric Co. 503-A1 transmitter, 1,000 watt driver for No. 504-A1 transmitter, for the period May 18 to not later than July 16, 1941.
- W51C—Zenith Radio Corp., Chicago, Ill.—Granted extension of special temporary authority to operate frequency modulation station commercially on 45.1 mc., with 5,000 watts power, special emission for frequency modulation with transmitter located at 135 South LaSalle St., Chicago, Ill., for a period beginning May 18 to not later than July 16, 1941.
- WSUI—State University of Iowa, Iowa City, Iowa.—Granted special temporary authority to operate a minimum of eight and one-half hours daily for the period May 19, 1941, to not later than June 7, 1941, in order to observe the University examination and vacation period.
- W47A—Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Granted special temporary authority to rebroadcast frequency modulation programs from W1XOJ and W1XPW, to supplement W47A original programs, for a period not to exceed 30 days, beginning June 1, 1941, provided station authorized to conduct program tests.
- K45LA—Don Lee Broadcasting System, Los Angeles, Calif.—Granted special temporary authority to operate frequency modulation station commercially on 44500 kc., 1,000 watts, special emission for frequency modulation, with transmitter located on top of Mt. Lee, Los Angeles, Calif., and described as Western Electric type 5030A-1, maximum rated power 1,000 watts and using a 4-bay turnstile antenna, for a period not to exceed 60 days, pending completion of construction pursuant to construction permit.
- KGMB—Hawaiian Broadcasting System, Ltd., Honolulu, T. H.—Granted special temporary authority to rebroadcast programs of Army Planes KY3, K57 and L35 on May 20, 1941, in connection with Honolulu blackout exercises only.
- KFUO—Evangelical Lutheran Synod of Mo., etc., Clayton, Mo.—Granted authority to determine operating power by direct measurement of antenna power on 850 kc. under NARBA (B4-Z-759).
- KARM—KARM, The George Harm Station, Fresno, Cal.—Granted authority to determine operating power by direct measurement of antenna power on 1340 kc. under NARBA (B5-Z-794).
- WIZE—Radio Voice of Springfield, Springfield, Ohio.—Granted authority to determine operating power by direct measurement of antenna power on 1340 kc. under NARBA (B2-Z-772).
- KWOS—Tribune Printing Co., Jefferson City, Mo.—Granted authority to determine operating power by direct measurement of antenna power on 1340 kc. under NARBA (B4-Z-796).
- WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Granted authority to determine operating power by direct measurement of antenna power on 1340 kc. under NARBA (Bz-Z-801).
- KTMS—News-Press Publishing Co., Santa Barbara, Cal.—Granted authority to determine operating power by direct measurement of antenna power on 1250 kc. under NARBA (B5-Z-786).
- KYCA—Southwest Broadcasting Co., Prescott, Ariz.—Granted authority to determine operating power by direct measurement of antenna power on 1490 kc. under NARBA (B5-Z-802).
- KPHO—M. C. Reese, Phoenix, Ariz.—Granted authority to determine operating power by direct measurement of antenna power on 1230 kc. under NARBA (B5-Z-766).
- KDNT—Harwell V. Shepard, Denton, Texas.—Granted authority to determine operating power by direct measurement (B3-Z-853).
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted authority to determine operating power by direct measurement (B4-Z-804).
- WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Granted authority to determine operating power by direct measurement (B3-Z-855).
- KGLU—Gila Broadcasting Co., Safford, Ariz.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-765).
- KGKB—East Texas Broadcasting Co., Tyler, Texas.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-816).
- KVSO—The Ardmoreite Pub. Co., Inc., Ardmore, Okla.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-846).
- KFXJ—Western Slope Broadcasting Co., Grand Junction, Colo.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-825).
- WJAC—WJAC, Inc., Johnstown, Pa.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-832).
- WCAZ—Superior Broadcasting Service, Inc., Carthage, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-668).
- WLB—Univ. of Minnesota, Minneapolis, Minn.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-819).
- KUJ—KUJ, Inc., Walla Walla, Wash.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-830).
- KGKY—Hilliard Co., Scottsbluff, Neb.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-827).
- KIUL—Garden City Broadcasting Co., Garden City, Kans.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-817).
- KHJ—Don Lee Broadcasting System, Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-824).
- KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-821).
- KIDO—Boise Broadcast Station, Boise, Idaho.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-807).
- KFI—Earle C. Anthony, Inc., Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-599).
- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-835).
- KOAM—The Pittsburg Broadcasting Co., Inc., Pittsburg, Kans.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-838).

- KWAT—Midland National Life Ins. Co., Watertown, So. Dak.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-826).
- KPHO—M. C. Reese, Phoenix, Ariz.—Granted license to cover construction permit (B5-P-3092, which authorized installation of new transmitter.) (B5-L-1353).
- WHN—Mareus Loew Booking Agency, New York City.—Granted modification of construction permit (B1-P-2899, for new transmitter, directional antenna day and night use, change in frequency to **1050 kc.**, increase in power to 50 KW and move of transmitter) for authority to install new transmitter, and make changes in antenna (B1-MP-1289).
- KORN—Nebraska Broadcasting Corp., Fremont, Neb.—Granted modification of license to move studio from 6th and Broad Streets, Pathfinder Hotel, to present transmitter location at East 16th St., Fremont, Neb. (B4-ML-1063).
- W49D—John Lord Booth, Detroit, Mich.—Granted special temporary authority to operate on RCA, 1 KW, transmitter on **44900 kc.**, and a temporary simple turnstile antenna having power ratio of .7 with the 1 KW transmitter for a period not to exceed 60 days, pending completion of construction in accordance with the construction permit.
- Jewel Lee Noble, E. Francis Egleston, M.D., and James W. Bonner, d/b as Physicians and Surgeons Emergency Radio Call Service, San Francisco, Calif.—Granted motion for continuance of hearing on application for construction permit for new Class 2 experimental station to operate on **2398 kc.**, 100 watts, A3 emission, unlimited time, from May 12 to August 18, 1941 (T5-PE-4022).
- KRBC—Reporter Broadcasting Co., Abilene, Tex.—Granted petition for leave to amend application to specify **1470 kc.**; directed that it be removed from hearing docket and hearing cancelled (B3-P-2553).
- KMA—May Broadcasting Co., Shenandoah, Iowa.—Granted motion for continuance of hearing on application for renewal of license from May 16 to May 27, 1941 (B4-R-531).
- WGN—WGN, Inc., Chicago, Ill.—Referred to Commission for consideration petition to intervene and to enlarge issues, filed by WGN, Inc., Chicago, Ill., in re hearing on application of Minnesota Broadcasting Corp. (WTCN), Minneapolis, Minn., for construction permit to change from **1250 kc.**, 1 KW night, 5 KW LS, unlimited time, to **710 kc.**, 10 KW, unlimited time, directional antenna night (B4-P-2439).
- WGN—WGN, Inc., Chicago, Ill.—Referred to Commission for consideration petition to intervene and to enlarge issues, filed by WGN, Inc., Chicago, Ill., in re hearing on application of WHB Broadcasting Co. (WHB), Kansas City, Mo., for construction permit to change from **860 kc.**, 1 KW daytime, to **710 kc.**, 5 KW, unlimited time, directional antenna day and night (B4-P-2873).
- KWLC—Luther College, Decorah, Iowa.—Granted modification of construction permit (B4-P-3003), which authorized change of frequency, increase in power, changes in hours of operation, installation of new transmitter and move) for **1240 kc.** under NARBA, and extension of commencement date to 30 days after grant and completion date to 30 days thereafter (B4-MP-1257).
- WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—Granted modification of construction permit (B2-P-2700 for new transmitter and increase in power from 100 to 250 watts) for new antenna, new transmitter, move of transmitter to North Parkersburg-Wheeling Highway, and requesting **1450 kc.** under NARBA; extension of commencement date to 30 days after grant and completion date to 180 days thereafter (B2-MP-1211).
- WBAL—WBAL Broadcasting Co., Baltimore, Md.—Granted modification of construction permit (B1-P-2200, which authorized installation of new transmitter and directional antenna for night use, change in hours of operation, increase in power and move of transmitter) for changes in directional antenna on **1090 kc.** under NARBA, and extension of completion date to 180 days after grant (B1-MP-1255).
- WDSU—WDSU, Inc., New Orleans, La.—Granted modification of construction permit (B3-P-2923, which authorized installation of new transmitter, move of transmitter, increase in power, and installation of directional antenna for day and night use) for changes in directional antenna on **1280 kc.** under NARBA (B3-MP-1271).
- WEOA—Evansville on the Air, Inc., Evansville, Ind.—Granted license to cover construction permit (B4-P-3079) which authorized move of transmitter (B4-L-1351).
- WAIM—Wilton E. Hall, Anderson, S. C.—Granted license to cover construction permit (B3-P-2935, for installation of new transmitter and antenna, and increase in power (B3-L-1381).
- KLS—Warner Brothers, Oakland, Calif.—Granted license to cover construction permit (B5-P-2826), which authorized increase in power, installation of new transmitter, and changes in antenna; **1310 kc.** 1 KW, unlimited time (B5-L-1379). Also granted authority to determine operating power by direct measurement of antenna power (B5-Z-810).
- WCLS—WCLS, Inc., Joliet, Ill.—Granted license to cover construction permit (B4-MP-824), which authorized changes in equipment, increase in power, and **1340 kc.** under NARBA (B4-L-1373).
- WHB—WHB Broadcasting Co., Kansas City, Mo.—Granted construction permit to install a new transmitter (B4-P-3160).
- KHMO—The Courier-Post Publishing Co., Hannibal, Mo.—Granted modification of construction permit (B4-P-1011, which authorized a new station) for approval of transmitter site, studio site and antenna. **1340 kc.** under NARBA; 250 watts, unlimited time (B4-MP-1256).
- Minn. Broadcasting Co., Minneapolis, Minn.; WHB Broadcasting Co., Kansas City, Mo.—The Commission on its own motion, continued the hearing now scheduled for May 19 on these applications, until June 2, 1941.
- KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Granted modification of construction permit (B4-MP-896, which authorized decrease in power, change in hours of operation, and installation of directional antenna for night use) for changes in directional antenna on **1070 kc.** under NARBA (B4-MP-1286). Also granted authority to determine operating power by direct measurement of antenna power (B4-Z-860). Also granted license to cover construction permit (B4-MP-896 as modified) for decrease in power, change in hours of operation, and installation of directional antenna for night use; **1070 kc.**; 1 KW night, 5 KW LS, unlimited time, DA at night (B4-L-1393).
- W2XWV—Allen B. DuMont Labs., Inc., New York City.—Granted license to cover construction permit for new television station; frequencies **78000-84000 kc.**; 1 KW power aural and visual. The license is granted upon an experimental basis conditionally (B1-LVB-25).
- W7-XGT—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Granted special temporary authority to operate a 40-watt Lear aircraft transmitter Type UT-6, on **12862.5 kc.** for a 15-minute test period on May 6, 1941, in connection with broadcast to be made from Pacific Alaska Airways plane in inaugural stratosphere flight between Seattle and Fairbanks over Radio Station KFAR.
- KVAN—Vancouver Radio Corp., Vancouver, Wash.—Denied request for special temporary authority to operate specified limited evening hours from 8:30 p. m. to 10 p. m., PST, on May 2, 9, 16, 23 and 30, 1941, in order to broadcast a series of weekly wrestling matches from Vancouver Barrecks only.
- KAWM—A. W. Mills, Gallup, N. M.—Granted extension of special temporary authority to remain silent for the period ending in no event later than May 30, 1941, pending action on application to install new equipment.
- WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 8:15 p. m., EST, to conclusion of Americanization Program only on May 6, 1941.
- WSBT—The South Bend Tribune, South Bend, Ind.—Granted extension of special temporary authority to operate unlimited time on **960 kc.**, 250 watts night, 500 watts daytime on commercial basis for the period May 9, 1941, pending completion of tests and survey now being commenced, filing of report to cover same, and application for license to cover construction, and issuance of program test authority by the Commission, but not to exceed 30 days.
- W2XMN—Edwin H. Armstrong, Alpine, N. J.—Granted extension of special temporary authority to operate an additional transmitter located at Alpine, N. J., on **43 mc.** with a power not to exceed 40 KW using frequency modulation for a period of 30 days beginning May 11, 1941 and ending not later than June 9, 1941, in order to conduct further experiments on adjacent channel operation of high frequency broadcast stations and to demonstrate such operation to certain engineering committees of the Radio. Mfg. Assn.
- WJLB—John L. Booth Broadcasting, Inc., Detroit, Mich.—Granted special temporary authority to rebroadcast program

- from Navy plane, as part of show in connection with Naval Aviation Week, Grosse Ile Naval Reserve Airport, from 11:30 a. m. to 12:30 p. m. on May 10, 1941, only.
- WWJ—The Evening News Assn., Detroit, Mich.—Granted special temporary authority to rebroadcast program from SNJ Navy plane 2017 on May 10 or 11, 1941, only.
- WTAM—National Broadcasting Co Inc., Cleveland, Ohio.—Granted special temporary authority to rebroadcast program originating in U. S. Navy plane flying in vicinity of U. S. Aviation Base, Grosse Ile, Detroit, between 2 and 2:30 p. m., EST, May 10, 1941, only.
- WOSU—Ohio State University, Columbus, Ohio.—Granted special temporary authority to transcribe 2 fifteen-minute programs to be sent to and broadcast by Government Broadcasting stations TGWA, TGWB, TGWC, Guatemala, Central America.
- W45B—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to rebroadcast frequency modulation programs of Station W1KPW for a period ending not later than June 30, 1941.
- W39B—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to operate frequency modulation station commercially on 43900 kc., 1,000 watts, special emission for frequency modulation, using the transmitter of high frequency experimental station W1XER at Summit of Mount Washington, Sargents Purchase, N. H., for a period beginning May 18, 1941 to not later than June 16, 1941, pending completion of construction (Permit No. B1-PH-13).
- WBPA—The National Life & Accident Insurance Co., Inc., Nashville, Tenn.—Granted special temporary authority to use an experimental 20-watt FM transmitter on 153750, 158400, 159300, 161100 kc., in order to relay program from Dedication Race, Iriquois Track near Nashville May 10, 1941.
- W39B—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to rebroadcast programs of high frequency station W10XOJ for the period May 18 to not later than June 16, 1941.
- Natchez Radio Corp., Natchez, Miss.—Denied petition of Natchez Radio Corp., requesting (1) reconsideration and grant without hearing application of Natchez Radio Corp. for construction permit for new station and (2) reconsideration and designate for hearing the application of Natchez Broadcasting Co. for construction permit for new station.
- Metropolis Company, Ocala, Fla.; Bay County Publishers, Inc., Panama City, Fla.—Denied motions for immediate specification of issues, fixing date and place of hearing, and for other relief. (Dockets Nos. 6092 and 6093.)
- KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—Denied petition for reconsideration and grant without hearing application for construction permit to change transmitter and site, change frequency from 1200 kc. to 1410 kc., increase power from 250 watts to 1 KW, install directional antenna for night use.
- Head of the Lakes Broadcasting Co., Duluth, Minn.—Placed in pending files pursuant to Order No. 79, application for construction permit for new FM station to operate on 44500 kc., with coverage of 2,754 square miles (B4-PH-74).
- Contra Costa Broadcasting Co., Richmond, Calif.—Placed in pending file pursuant to Order No. 79, application for construction permit for new standard broadcast station to operate on 1210 kc., 500 watts day and night, limited to WCAU (B5-P-2964).
- KTHS—Hot Springs Chamber of Commerce, Hot Springs Nat'l Park, Ark.—Granted special temporary authority to operate from 7 to 7:30 p. m., CST, May 29, in order to broadcast program of First Annual Report to Nation of the National Defense Program only (B3-S-426).
- WCAT—So. Dak. State School of Mines, Rapid City, S. Dak.—Granted special temporary authority to remain silent from June 1 to September 15, in order to observe summer vacation (B4-S-649).
- W47A—The Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Granted special temporary authorization to operate with main studio at the transmitter of FM broadcast station W47M for a period of 30 days from June 1, pending completion of STL transmitter at main studio specified in construction permit.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs Nat'l Park, Ark.—Granted authority to determine operating power by direct measurement (B3-Z-868).
- WMAS—WMAS, Inc., Springfield, Mass.—Granted authority to determine operating power by direct measurement (B1-Z-844).
- KDLR—KDLR, Inc., Devils Lake, N. Dak.—Granted authority to determine operating power by direct measurement (B4-Z-845).
- KOCA—Oil Capitol Broadcasting Assn., Kilgore, Tex.—Granted authority to determine operating power by direct measurement (B3-Z-851).
- KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Granted authority to determine operating power by direct measurement (B3-Z-861).
- KRBA—Red Lands Broadcasting Assn., Lufkin, Texas.—Granted authority to determine operating power by direct measurement (B3-Z-857).
- WORD—Spartanburg Advertising Co., Spartanburg, S. C.—Granted authority to determine operating power by direct measurement (B3-Z-865).
- KTBC—State Capitol Broadcasting Assn., Inc., Austin, Tex.—Granted authority to determine operating power by direct measurement (B3-Z-848).
- WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Granted modification of construction permit (B1-P-2704, which authorized new transmitter, change in power and time of operation, etc.), for extension of completion date to 7-25-41 (B1-MP-1291).
- KWK—Thomas Patrick, Inc., St. Louis, Mo.—Granted authority to install new automatic frequency control equipment (B4-F-221).
- WBIR—J. W. Birdwell, Knoxville, Tenn.—Granted license to cover construction permit for new station; 1240 kc., 250 watts, unlimited time (B3-L-1326). Also granted authority to determine operating power by direct measurement of antenna power (B3-Z-662).
- KBIZ—J. D. Flavey, Ottumwa, Iowa.—Granted license to cover construction permit for new station to operate on 1240 kc., 100 watts, unlimited time (B4-L-1392). Also granted authority to determine operating power by direct measurement of antenna power (B4-Z-847).
- WNEL—Juan Piza, San Juan, P. R.—Granted license to cover construction permit (B-P-2762), which authorized changes in equipment, antenna changes, increase in power to 5 KW, move of transmitter, and specifying 1320 kc. under NARBA (B-L-1397).
- KRLC—H. E. Studebaker, Lewiston, Ida.—Granted license to cover construction permit (B5-P-3020 which authorized changes in equipment and to specify 1400 kc. under NARBA). (B5-L-1395). Also granted authority to determine operating power by direct measurement of antenna power on 1400 kc. under NARBA (B5-Z-864).
- WQXR—Interstate Broadcasting Co., Inc., New York City.—Granted license to reinstate B1-L-1344 to use old 1 KW Composite transmitter as auxiliary transmitter for emergency use only (B1-L-1391).
- KALW—Board of Education of the San Francisco Unified School Dist., San Francisco, Calif.—Granted modification of construction permit (B5-PED-14, which authorized a new non-commercial educational broadcast station) for extension of completion date to August 14/41 (B5-MPED-5).
- WNBI—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate International station WNBI on frequency 17780 in order to permit simultaneous operation of WNBI and WRCA on frequencies 17780 and 9670 kc., for the period May 16 to June 14.
- WRCA—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate on 9670 kc. with effective power of 100 KW using separate power amplifiers feeding separate directional antennas for the period May 20 to June 19, 1941.
- W55M—The Journal Company (The Milwaukee Journal) Milwaukee, Wis.—Granted extension of special temporary authority to operate frequency modulation station commercially on 45500 kc., 1 KW, special emission for FM, with transmitter located at 606 West Wisconsin Ave., Milwaukee, for the period May 31 to June 29, subject to any rules and regulations that may be adopted by the Commission.
- WRDW—Augusta Broadcasting Co., Augusta, Ga.—Granted motion for indefinite continuance of hearing now scheduled for May 29, on application to change frequency, increase power and operating time.

- Trent Broadcast Corp., Trenton, N. J.—Granted petition for leave to amend application for new station to request some other frequency than **1230 kc.**, and application removed from hearing docket.
- WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted motion to continue hearing for a period of 30 days from May 26 on applications of WCAM, WCAP, WTNJ for renewal of licenses; and application of WDAS for change in frequency, increase in power, etc.
- Park Cities Broadcasting Corp., Dallas, Tex.—Referred to the Commission petition to intervene in the hearing on application of WHB, Kansas City, Mo., to change frequency, etc. Also motion for continuance of hearing now scheduled for May 19.
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Granted petition for leave to amend application to change type of equipment, in re construction permit to increase power to 5 KW; application to remain on docket.
- God's Bible School and College, Cincinnati, Ohio.—Granted motion in part, without prejudice to filing amended application, for extension of 2 weeks only, in which to file exceptions to Commission's Proposed Findings.
- Helen L. Walton and Walter Bellatti, Jacksonville, Ill.—Denied petition for indefinite continuance of oral argument now scheduled for May 22, in re applications of applicants and Stephenson, Edge & Kormeyer, for new station in Jacksonville, Ill.
- Fairfield Broadcasting Corp., Lancaster, Ohio.—Granted petition for leave to amend application for construction permit for new station, to request **880** instead of **820 kc.**, power 1 KW instead of 250 watts, and to specify another transmitter. Application removed from hearing docket.
- KOWH—World Publishing Co., Omaha, Neb.—Granted petition for leave to intervene in the hearing on the application of KFEQ, St. Joseph, Mo., to increase power to 5 KW.
- WTAQ—WHBY, Inc., Green Bay, Wis.—Granted request for dismissal of application for construction permit to make changes in directional antenna system.
- KFAB—KFAB Broadcasting Co., Lincoln, Neb.; WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—Granted petition of applicants for leave to amend application to specify new directional antenna, amendment to be filed by May 31, in re applications of KFAB to change frequency, etc., and WBT to install directional antenna for night use.
- KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Granted petition for extension of time for all parties in which to file Proposed Findings and Conclusions from May 19 to June 9, in re application for modification of license to increase night power to 500 watts on **1340 kc.**
- KOMA—KOMA, Inc., Oklahoma City, Okla.—Granted 30-day extension of time in which to file amendment to application for construction permit to change frequency from **1490** to **690 kc.**, and increase power to 50 KW.
- Staunton D. Bennett, d/b as Radio Station KFAR, Fairbanks, Alaska.—Granted special temporary authority to operate a composite 1 KW, Crystal Controlled transmitter on **12862.5 kc.** in order to relay broadcast program material in connection with Pacific Alaska Airways inaugural stratosphere flight of the plane Lodestar on May 16, 1941, only subject to condition that there is no interference with other stations.
- KFAS—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Granted special temporary authority to operate a 40 watt Lear aircraft transmitter Type UT-6 on 2830, 6425, 9135 and **12862.5 kc.** for two 15-minute periods on May 16, 1941, in connection with broadcast to be made from Pacific Alaska Airways plane in inaugural stratosphere flight between Seattle and Fairbanks over Station KFAR, subject to condition that no interference results to other stations.
- National Broadcasting Co., New York City, N. Y.—Granted special temporary authority to rebroadcast over Station KGO and the Blue Network program material scheduled for transmission by relay station KFAS from the Pacific Alaska Airways plane Lodestar, on May 16, 1941, only.
- National Broadcasting Co., New York City, N. Y.—Granted special temporary authority to rebroadcast over Radio Station KPO and the Red Network program material scheduled for transmission by special relay broadcast station KFAX from Fairbanks, Alaska, on May 16, 1941, only.
- W3XMC—McNary and Chambers, Washington, D. C.—Granted special temporary authority to operate on 42.8 and 43 megacycles with power not to exceed 100 watts beginning 10 days after grant for a period not to exceed 30 days, in order to permit engineering studies and observations as to possible alternate channel or adjacent channel interference.
- WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted special temporary authority to utilize the presently authorized WRCA **9670 kc.** power amplifier NRA50A Serial No. 1 for WNBI operation on **11890 kc.** for a period of 30 days from May 15, 1941.
- National Broadcasting Co., Inc., New York City.—Granted special temporary authority to rebroadcast over KPO, KGO, and the combined Red and Blue Networks of associated standard broadcast stations program material received over U. S. Navy radio facilities between 2 and 2:15 p. m. EDST, May 18, 1941 program entitled "Radio and National Defense," only.
- KFNF—KFNF, Inc., Shenandoah, Iowa.—Continued hearing on application for renewal of license, now scheduled for May 26, 1941, to June 16, 1941.
- KVAN—Vancouver Radio Corp., Vancouver, Wash.—Denied request for special temporary authority to operate specified hours from 9:15 to 10 p. m., PST, May 15, 1941 (B5-S-1027).
- The Gazette Co., Cedar Rapids, Iowa.—Placed in pending files pursuant to Order No. 79, the application for construction permit for new FM station to operate on **44,700 kc.**; 7,400 square miles (B4-PH-77).
- W6XCB—Columbia Broadcasting System, Inc., Los Angeles, Cal.—Made final the conditional grant of November 15, 1940, and authorized issuance of construction permit for an experimental television station; frequencies **162,000-168,000 kc.** conditionally; 1000 watts; A3, A5 emission.
- WWRL—Long Island Broadcasting Corp., Woodside, L. I., New York.—Granted request for extension of temporary license to operate on time previously utilized by station WMBQ, and extended effective date of Provision (3) of Commission order of December 5, 1938, for period of 60 days from May 22.
- KFRC—Don Lee Broadcasting System, San Francisco, Cal.—Granted request for issuance of a new license without condition as to providing protection to Canadian station CJAT.
- W9XYH—Head of The Lakes Broadcasting Co., Superior, Wisc.—Denied request for special temporary authority to operate experimental high frequency broadcast station upon a commercial basis.
- W2XQR—John V. L. Hogan, New York City.—Denied request for special temporary authority to operate experimental high frequency station upon a commercial basis.
- Symons Broadcasting Co., Ellensburg, Wash.—Denied petition for reconsideration and grant without hearing application for construction permit for new station, and the eighth issue having reference to conflicting application of Mosby's, Inc., specified in hearing notice, deleted.
- WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Denied petition to reconsider and grant without a hearing the application for renewal of license for station WPAY.
- Ralph L. Lewis, Greensboro, N. C.—Denied petition to reconsider and grant without a hearing, the application for a new station at Greensboro, N. C. (Docket No. 6017).
- KFI—Earle C. Anthony, Inc., Los Angeles, Cal., and 10 other Clear Channel stations.—Dismissed petition for rehearing directed against the action of the Commission on April 7, 1941, adopting as final the Proposed Findings of Fact and Conclusions made and entered by the Commission on December 4, 1940, in the matter of the application of WHDH, Matheson Radio Co., Inc., Boston, for a construction permit to increase power from 1 to 5 KW and operate unlimited time on frequency **850 kc.**
- KOA—National Broadcasting Co., Denver, Colo.—Denied petition for rehearing directed against the decision and Order of the Commission, April 7, 1941, granting the application of WHDH for construction permit and amending Rule 3.25.
- WEUU—Berks Broadcasting Co., Reading, Pa.—Denied petition for reconsideration and request for modification of order directed against the grant of the application of WHDH mentioned above.
- W6XAO—Don Lee Broadcasting System, Hollywood, Calif.—Granted special temporary authority to rebroadcast transmissions received from Radio Station KHJ over the sound channel of television station W6XAO, for a period not to exceed thirty days, in order to provide a continuous source of aural test material and as an accompaniment to test pattern transmissions.



Northwest Airlines, Inc., Washington, D. C.—Granted special temporary authority to relay broadcast program in connection with Red Cross from aircraft station KHCSF, NC-21711, 2790 kc. to Radio Station KJR on May 17, 1941, only.

KBPS—Benson Polytechnic School, Portland, Ore.—Granted special temporary authority to remain silent for the period beginning 3 a. m. EST, June 6, 1941, and ending not later than September 2, 1941, in order to observe regular school vacation.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 8:30 to 10 a. m. EST, May 30, 1941, in order to broadcast sustaining musical programs as described in letter dated May 10, 1941, only (provided WSVS remains silent).

WDLP—Panama City Broadcasting Co., Panama City, Fla.—Continued hearing in re revocation of license of Station WDLP, now scheduled for May 19, 1941, until June 2, 1941.

WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.—Continued hearing in re revocation of license of Station WTMC, now scheduled for May 19, 1941, until June 2, 1941.

#### APPLICATIONS FILED AT FCC

##### 550 Kilocycles

KOY—Salt River Valley Broadcasting Co., Phoenix, Ariz.—Authority to determine operating power by direct method.

##### 560 Kilocycles

WIS—The Liberty Life Insurance Co., Columbia, S. C.—Modification of construction permit (B3-P-2870) to make changes in directional antenna system and increase in power, requesting extension of commencement and completion dates from 12-15-40 and 6-15-41 to 7-15-41 and 1-15-42, respectively.

##### 600 Kilocycles

WMT—Iowa Broadcasting Co., Cedar Rapids, Iowa—License to cover construction permit (B4-P-2825) to increase night power to 5 KW and make changes in directional antenna for night use.

WMT—Iowa Broadcasting Co., Cedar Rapids, Iowa.—Authority to determine operating power by direct method.

##### 640 Kilocycles

WNAD—University of Oklahoma, Norman, Okla.—Modification of construction permit (B3-P-3074) for approval of antenna and transmitter site.

##### 680 Kilocycles

NEW—Herman Radner, Dearborn, Mich.—Construction permit for a new broadcast station to be operated on 680 kc., 1 KW, daytime.

##### 740 Kilocycles

NEW—Peter Q. Nyce, Alexandria, Va.—Construction permit for a new broadcast station to be operated on 740 kc., Class III, 1 KW, limited to local sunset at Houston, Texas.

NEW—Peter Q. Nyce, Alexandria, Va.—Construction permit for a new Class III broadcast station to be operated on 740 kc., 1 KW, limited time to local sunset at Houston. Amended: To request daytime hours of operation.

##### 750 Kilocycles

KMMJ—KMMJ, Inc., Grand Island, Nebr.—Authority to determine operating power by direct method.

##### 780 Kilocycles

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Authority to determine operating power by direct method.

##### 790 Kilocycles

KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Authority to determine operating power by direct method.

##### 820 Kilocycles

WTBO—Associated Broadcasting Corp., Cumberland, Md.—Authority to determine operating power by direct method.

##### 850 Kilocycles

WEEV—Berks Broadcasting Co., Reading, Pa.—Authority to determine operating power by direct method.

##### 910 Kilocycles

KFKA—Midwestern Radio Corp., Greeley, Colo.—Authority to determine operating power by direct method.

WCOC—Mississippi Broadcasting Co., Inc., Meridian, Miss.—Authority to determine operating power by direct method.

##### 920 Kilocycles

WMMN—Monongahela Valley Broadcasting Co., Fairmont, W. Va.—Modification of construction permit (B2-P-2913) for changes in directional antenna system and requesting 920 kc. under NARBA. Extension of completion date to 180 days after grant.

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Authority to make changes in automatic frequency control equipment.

##### 930 Kilocycles

KHJ—Don Lee Broadcasting System, Los Angeles, Calif.—Modification of construction permit (B5-P-2843) as modified for installation of new transmitter and extension of commencement and completion dates from 4-4-41 and 10-1-41 to 60 days after grant and 180 days thereafter, respectively.

WBEN—WBEN, Inc., Buffalo, N. Y.—Modification of construction permit (B1-P-2757) as modified for increase in power, directional antenna for night use, move transmitter, installation of new transmitter, change in frequency to 930 kc. under NARBA, for extension of completion date from 6-1-41 to 9-1-41.

WJAX—City of Jacksonville, Jacksonville, Fla.—Authority to determine operating power by direct method.

##### 980 Kilocycles

WRC—National Broadcasting Co., Inc., Washington, D. C.—Modification of construction permit (B1-P-243) as modified, for increase in power and installation of directional antenna for night use, requesting extension of completion date from 6-5-41 to 8-5-41.

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Modification of auxiliary license to increase power from 1 KW night, 2½ KW day to 2½ KW day and night, using directional antenna night.

##### 1030 Kilocycles

KOB—Albuquerque Broadcasting Co., Albuquerque, N. M.—Special service authorization to operate on 1030 kc., 25 KW night, 50 KW day, unlimited time for period of 180 days (using transmitter authorized under construction permit (B5-P-2783) as modified).

##### 1120 Kilocycles

KMOX—Columbia Broadcasting System, Inc., St. Louis, Mo.—Authority to determine operating power by direct method.

##### 1140 Kilocycles

KSOO—Sioux Falls Broadcast Assn., Inc., Sioux Falls, S. D.—Construction permit to change frequency from 1140 kc. to 1250 kc., hours from limited to unlimited time, install directional antenna for night use, requesting facilities WTCN when WTCN granted 710 kc., Class III-A. Amended: To request 1140 kc., 10 KW, unlimited time, new transmitter, changes in directional antenna system and move transmitter and to omit request for facilities of WTCN.

##### 1150 Kilocycles

WAPO—W. A. Patterson, Chattanooga, Tenn.—Modification of construction permit (B3-P-1939) as modified, for installation of new transmitter and directional antenna for night use, change of frequency, and increase in power, requesting changes in directional antenna for night use on 1150 kc. under NARBA, and extension of commencement and completion dates from 3-15-41 and 9-11-41 to 10 days after grant and 30 days thereafter.

Radio Sales Corp., Seattle, Wash.—Authority to determine operating power by direct method.

KSWO—Willard Carver and Byrne Ross, Lawton, Okla.—Authority to determine operating power by direct method.

KSWO—Willard Carver and Byrne Ross, Lawton, Okla.—License to cover construction permit (B3-P-2664) as modified for a new station.

#### 1160 Kilocycles

KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—Authority to determine operating power by direct method.

#### 1170 Kilocycles

WAPI—Voice of Alabama, Inc., Birmingham, Ala.—Authority to determine operating power by direct method.

#### 1190 Kilocycles

WOWO—Westinghouse Radio Stations, Inc., Ft. Wayne, Ind.—Construction permit to make changes in equipment, install directional antenna for day and night use, increase power from 10 to 50 KW and change hours from simultaneous day, share night with WWVA to unlimited time. Amended: re directional antenna.

#### 1200 Kilocycles

NEW—The Concord Tribune, Inc., Concord, N. C.—Construction permit for a new broadcast station to be operated on **1200 kc.**, Class II, 1 KW, limited time to local sunset at WOAI, San Antonio, Texas.

#### 1230 Kilocycles

NEW—Beauford H. Jester, Waco, Tex.—Construction permit for a new broadcast station to be operated on **1230 kc.**, Class IV, 250 watts, unlimited hours.

WFTC—Jonas Weiland, Kingston, N. C.—Authority to install automatic frequency control equipment.

KHBC—Hawaiian Broadcasting System, Ltd., Hilo, Hawaii.—Authority to determine operating power by direct method.

WABI—Community Broadcasting Service, Bangor, Me.—Modification of construction permit (B1-P-2349) for new transmitter and directional antenna for night use, change frequency, and increase power requesting approval of transmitter site and approval of directional antenna for night use.

WBOC—The Peninsula Broadcasting Co., Salisbury, Md.—Authority to determine operating power by direct method.

WAIM—Wilton E. Hall, Anderson, S. C.—Authority to determine operating power by direct method.

WFJB—Marshall Electric Co., Marshalltown, Iowa.—Authority to determine operating power by direct method.

WMPC—The Liberty Street Gospel Church of Lapeer, Lapeer, Mich.—Authority to determine operating power by direct method.

WJOB—O. E. Richardson and Fred L. Adair, Hammond, Ind.—Voluntary assignment of license from O. E. Richardson and Fred L. Adair to O. E. Richardson, Fred L. Adair and Robert C. Adair.

NEW—Glens Falls Broadcasting Corp., Glens Falls, N. Y.—Construction permit for a new broadcast station to be operated on **1230 kc.**, Class IV, 250 watts, unlimited hours. Amended to give transmitter site.

#### 1240 Kilocycles

KGY—KGY, Inc., Olympia, Wash.—Modification of construction permit (B3-P-3071) to move transmitter. Extend commencement date and completion date from 6-1-41 and 12-1-41 to 30 days after grant and 180 days thereafter, respectively.

WHBU—Anderson Broadcasting Corp., Anderson, Ind.—Authority to determine operating power by direct method.

NEW—Iowa Great Lakes Broadcasting Co., Spencer, Iowa.—Construction permit for a new broadcast station to be operated on **1240 kc.**, 100 watts, unlimited hours.

WSBC—Gene T. Dyer, Evelyn M. Dyer, John A. Dyer and Elizabeth M. Hinzman, d/b as Radio Station WSBC, Chicago, Ill.—Authority to determine operating power by direct method.

WSOC—Radio Station WSOC, Inc., Charlotte, N. C.—Authority to determine operating power by direct method.

WSOC—Radio Station WSOC, Inc., Charlotte, N. C.—License to cover construction permit (B3-P-2893) as modified, to install new transmitter, new antenna, move studio and transmitter, increase power specifying **1240 kc.** under NARBA.

WLAG—La Grange Broadcasting Co., LaGrange, Ga.—Authority to determine operating power by direct method.

WLAG—La Grange Broadcasting Co., La Grange, Ga.—License to cover construction permit (B3-P-2763) as modified for a new broadcast station.

KROY—Royal Miller, Sacramento, Calif.—Authority to determine operating power by direct method.

KDOW—Monterey Peninsula Broadcasting Co., Monterey, Calif.—Construction permit to install new transmitter, increase power from 100 watts to 5 KW day and night, change frequency from **1240 to 1470 kc.**, move transmitter and directional antenna for day and night use. Amended to change frequency from **1470 to 1590 kc.** and to change from directional antenna for day and night use to non-directional antenna.

KGBS—Harbenito Broadcasting Co., Harlingen, Tex.—Modification of construction permit (B3-P-2747) for a new station, requesting authority to install new transmitter, make changes in antenna system, and extend commencement and completion dates from 4-18-41 and 10-18-41 to 60 days after grant and 180 days thereafter.

NEW—Western Radio Corp., Pendleton, Ore.—Construction permit for a new class IV broadcast station to be operated on **1240 kc.**, 250 watts and unlimited hours.

#### 1280 Kilocycles

WNEW—Wodaam Corporation, 501 Madison Ave., New York, N. Y.—License to cover construction permit (B1-P-2687) as modified to install directional antenna for day and night use, increase power to 5 KW day and night, change frequency to **1280 kc.** under NARBA.

WNEW—Wodaam Corp., New York, N. Y.—Authority to determine operating power by direct method.

WKST—WKST, Inc., New Castle, Pa.—Modification of construction permit (B2-P-2809) as modified to install directional antenna for night use, change hours of operation from daytime to unlimited time, using 1 KW day and night and for **1280 kc.** under NARBA, requesting extension of completion date from 6-1-41 to 7-1-41.

#### 1310 Kilocycles

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Modification of license to change hours of operation from shares with WTNJ and WCAM to shares with WCAM (Facilities of WTNJ).

WCAM—City of Camden, Camden, N. J.—Modification of license to change hours of operation from shares with WTNJ and WCAP to shares with WCAP (Facilities of WTNJ).

#### 1330 Kilocycles

WEVD—Debs Memorial Radio Fund, Inc., New York City, N. Y.—Modification of construction permit (B1-P-2955) to install directional antenna for day and night use, increase power and install new transmitter, move transmitter, for change in frequency to **1330 kc.** under NARBA, make changes in directional antenna, extend commencement and completion dates from 4-18-41 and 10-18-41 to 60 days after grant and 180 days thereafter, respectively.

KFAC—Los Angeles Broadcasting Co., Inc., Los Angeles, Calif.—Authority to determine operating power by direct method.

#### 1340 Kilocycles

KHUB—John P. Scripps, nr. Watsonville, Calif.—Voluntary assignment of license from John P. Scripps to Luther E. Gibson.

WEMP—Milwaukee Broadcasting Co., Milwaukee, Wisc.—Authority to determine operating power by direct method.

NEW—William C. Hess, Fargo, N. D.—Construction permit for a new broadcast station to be operated on **1340 kc.**, 250 watts, Class IV, limited time (12 midnight to 7 a. m. and share with KVOX. Amended: to request authority to share time with KVOX (Facilities KVOX, midnight to 7 a. m. daily).

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Construction permit to make changes in transmitting equipment.

NEW—George Johnston, Jr., Birmingham, Ala.—Construction permit for a new broadcast station to be operated on 1340 kc., 250 watts, unlimited time.

WGTM—WGTM, Inc., Wilson, N. C.—Construction permit to move transmitter from approximately 2 miles from business district, Wilson N. C. to U. S. Hwy. 301, 1.3 miles N. of Courthouse, Wilson, and move studio to same site.

KOME—Oil Capital Sales Corp., Tulsa, Okla.—Authority to determine operating power by direct method.

KARM—Gilbert H. Jertberg, ex. of Estate of George Harm, Deceased, Fresno, Calif.—Construction permit to install new transmitter, change frequency from 1340 to 1430 kc., increase power from 250 watts to 1 KW. Amended: to change name of applicant to KARM, The George Harm Station, increase power to 5 KW, change requested type of transmitter, install directional antenna for day and night use and move transmitter.

WRAW—Reading Broadcasting Co., Reading, Pa.—Authority to determine operating power by direct method.

KAND—Navarro Broadcasting Assn., J. C. West, Pres., Corsicana, Texas.—License to cover construction permit (B3-P-3121) for equipment changes and increase in power.

KVOL—Evangeline Broadcasting Co., Inc., Lafayette, La.—Authority to determine operating power by direct measurement.

#### 1350 Kilocycles

KRNT—Iowa Broadcasting Co., Des Moines, Iowa.—Modification of construction permit (B4-P-2726) as modified, for move of transmitter, installation of directional antenna for night use and new transmitter and increase in power, requesting changes in directional antenna for night use on 1350 kc. under NARBA and extension of completion date from 6-22-41 to 120 days after grant.

#### 1360 Kilocycles

KRIS—Gulf Coast Broadcasting Co., Corpus Christi, Texas.—License to cover construction permit (B3-P-2230) as modified, for new transmitter, increase in power move transmitter and changes in antenna.

KGB—Don Lee Broadcasting System, San Diego, Calif.—License to cover construction permit (B5-P-2940) as modified for changes in transmitting equipment and to specify 1360 kc. under NARBA.

#### 1370 Kilocycles

KDTH—Telegraph-Herald, Dubuque, Iowa.—License to cover construction permit (B4-P-960) as modified for a new broadcast station.

KDTH—Telegraph-Herald, Dubuque, Iowa.—Authority to determine operating power by direct method.

#### 1380 Kilocycles

WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Authority to determine operating power by direct method.

WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—License to cover construction permit (B1-P-3105) to make changes in directional antenna.

KTSM—Tri-State Broadcasting Co., Inc., El Paso, Texas.—Authority to determine operating power by direct method.

#### 1390 Kilocycles

WTJS—The Sun Publishing Co., Inc., Jackson, Tenn.—Authority to determine operating power by direct measurement.

#### 1400 Kilocycles

KFVS—Oscar C. Hirsch, tr. as Hirsch Battery & Radio Co., Cape Girardeau, Mo.—Authority to determine operating power by direct method.

KWLK—Twin City Broadcasting Corp., Inc., Longview, Wash.—Authority to transfer of control of corporation from Hugh McClung, 55 shares common stock and Mrs. Marjorie McClung, 85 shares common stock, executrix Estate of Ray McClung, deceased, to C. O. Chatterton, 125 shares, and John M. McClelland, Jr., 15 shares.

WMFD—Richard Austin Dunlea, Wilmington, N. C.—Authority to determine operating power by direct method.

WJHO—Yetta G. Samford, C. S. Shealy, Thomas D. Samford, Jr., J. H. Orr, d/b as Opelika-Auburn Broadcasting Co.,

Opelika, Ala.—Authority to determine operating power by direct method.

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

WELL—Federated Publications, Inc., Battle Creek, Mich.—Authority to determine operating power by direct method.

NEW—Frank T. Nied and Perry Stevens, d/b as Nied and Stevens, Warren, Ohio.—Construction permit for a new Class IV broadcast station to be operated on 1400 kc., 250 watts, unlimited hours. Amended: To specify transmitter site.

WKWK—Community Broadcasting, Inc., Wheeling, W. Va.—Authority to determine operating power by direct method.

WKWK—Community Broadcasting, Inc., Wheeling, W. Va.—License to cover construction permit (B2-P-2967) for a new station.

WSRR—Stephen R. Rintoul, Stamford, Conn.—Modification of construction permit (B1-P-2789) for a new station, requesting approval of transmitter site and approval of antenna.

KMAC—W. W. McAllister and Howard W. Davis, d/b as Walmac Company, San Antonio, Texas.—Modification of license to change frequency from 1400 to 1240 kc. and hours from sharing with KONO to unlimited time.

#### 1420 Kilocycles

WWSR—Vermont Radio Corp., Inc., St. Albans, Vt.—Authority to determine operating power by direct method.

WWSR—Vermont Radio Corp., Inc., St. Albans, Vt.—License to cover construction permit (B1-P-3065) for a new station.

WFCI—Pawtucket Broadcasting Co., Pawtucket, R. I.—Authority to determine operating power by direct method.

WFCI—Pawtucket Broadcasting Co., Pawtucket, R. I.—License to cover construction permit (B1-P-1877) as modified, for a new broadcast station.

#### 1430 Kilocycles

WBYU—Unified Broadcasting Corp., of Brooklyn, Brooklyn, N. Y.—Modification of license to change name to WBYN—Brooklyn, Incorporated.

#### 1440 Kilocycles

KMED—Mrs. W. J. Virgin, Medford, Ore.—Authority to install automatic frequency control equipment.

KFJM—University of North Dakota, Grand Forks, N. D.—Authority to determine operating power by direct method.

#### 1450 Kilocycles

WWDC—Capital Broadcasting Co., Washington, D. C.—Modification of construction permit (B1-P-2679) as modified for a new broadcast station, requesting change in type of transmitter and extension of commencement and completion dates from 5-3-41 and 10-30-41 to 1 day after grant and 1 day thereafter, respectively.

KATE—Albert-Lea Austin Broadcasting Co., Inc., Albert Lea, Minn.—Authority to determine operating power by the direct method.

WRLC—R. G. LeTourneau, Toccoa, Ga.—Authority to determine operating power by direct method.

NEW—Midstate Radio Corp., Utica, N. Y.—Construction permit for a new Class IV broadcast station to be operated on 1450 kc., 250 watts, unlimited time.

KNET—John Calvin Welch, Wm. M. Keller and Bonner Frizzell, d/b as The Palestine Broadcasting Assn., Palestine, Tex.—Authority to determine operating power by direct method.

KFMB—Worcester Broadcasting Corp., San Diego, Calif.—Modification of construction permit (B5-P-2458) for a new station, requesting approval of vertical antenna, approval of transmitter site and studio site and install a new transmitter. Amended to change location of transmitter and make changes in antenna.

KGFF—KGFF Broadcasting Co., Inc., Shawnee, Okla.—Authority to determine operating power by direct method.

KRBC—The Reporter Broadcasting Co., Abilene, Tex.—Construction permit to install new transmitter, changes in antenna, change frequency from 1450 to 940 kc., increase power from 250 watts to 1 KW and move transmitter. Amended to make changes in equipment, install vertical antenna and to request 1470 kc. and specify transmitter site.

KRIC—KRIC, Inc., Beaumont, Tex.—Authority to determine operating power by direct method.

NEW—J. I. Sims, Orangeburg, S. C.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 250 watts, unlimited hours.

#### 1460 Kilocycles

KSO—Iowa Broadcasting Co., Des Moines, Iowa.—Modification of construction permit (B4-P-2727) for installation of new transmitter, move of transmitter, install directional antenna for night use, and increase in power, requesting changes in directional antenna for night use on **1460 kc.**

WHEC—WHEC, Inc., Rochester, N. Y.—Authority to determine operating power by direct method.

WBNS—WBNS, Inc., Columbus, Ohio.—Authority to determine operating power by direct method.

#### 1490 Kilocycles

WDNC—Durham Radio Corp., Durham, N. C.—Construction permit to install new transmitter, directional antenna for change in frequency from **1490 to 620 kc.**, increase power from 250 watts to 1 KW night, 5 KW day and move transmitter.

WDAN—Northwestern Publishing Co., Danville, Ill.—Authority to determine operating power by direct method.

WNBF—Wylie B. Jones Advertising Agency, Binghamton, N. Y.—Construction permit to install new transmitter, directional antenna for night use, increase in power from 250 watts to 5 KW and move transmitter, and change frequency from **1490 to 1200 kc.**

WNBF—Wylie B. Jones Advertising Agency, Binghamton, N. Y.—Authority to determine operating power by direct method.

WGKV—Kanawha Valley Broadcasting Co., Charleston, W. Va.—Authority to determine operating power by direct method.

KOVC—KOV, Inc., Valley City, N. D.—Authority to determine operating power by direct method.

NEW—Wesley E. Carter, South Bend, Ind.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited hours. Amended to give transmitter site.

NEW—J. Q. Floyd, John Thomas Franklin and Sam Anderson, d/b as The Helena Broadcasting Co., Helena, Ark.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time.

KBUR—Burlington Broadcasting Co., Burlington, Iowa.—Modification of construction permit (B4-P-1799) for a new station, requesting approval of transmitter and studio sites, approval of antenna and installation of new type of transmitter.

KBKR—Louis P. Thornton, Baker, Ore.—Authority to determine operating power by direct method.

WKBV—Knox Radio Corp., Richmond, Ind.—Authority to determine operating power by direct method.

#### 1500 Kilocycles

NEW—Barclay Craighead, Butte, Mont.—Construction permit for a new broadcast station to be operated on **1500 kc.**, Class IV station, 250 watts, unlimited time. Amended to change location of transmitter and studio, make changes in antenna and change type of transmitter.

#### 1510 Kilocycles

NEW—Louis Wasmer, Spokane, Wash.—Authority to determine operating power by direct method.

#### 1540 Kilocycles

NEW—Courier-Post Broadcasting Co., Camden, N. J.—Construction permit for a new broadcast station to be operated on **1540 kc.**, 500 watts night, 1 KW day, unlimited time.

#### 1590 Kilocycles

WAKR—Summit Radio Corp., Akron, Ohio.—Construction permit to increase power from 1 to 5 KW, using directional antenna for night use, request **1550 kc.** under NARBA, install new transmitter and changes in directional antenna. Amended to make changes in directional antenna and omit request for change in frequency.

KITE—First National Television, Inc., Kansas City, Mo.—Authority to determine operating power by direct method.

WBRY—American-Republican, Inc., Waterbury, Conn.—Authority to determine operating power by direct method.

#### 1600 Kilocycles

NEW—James F. Hopkins, Inc., Ann Arbor, Mich.—Construction permit for a new broadcast station to be operated on **1600 kc.**, 1 KW, unlimited time, directional antenna for day and night use. Amended to make changes in directional antenna and change location of transmitter site.

### FM APPLICATIONS

W71RF—Rockford Broadcasters, Inc., Rockford, Ill.—Modification of construction permit (B4-PH-56) for change in type of transmitter and to make changes in antenna system. Population given as 278,000.

NEW—Globe Democrat Publishing Co., St. Louis, Mo.—Construction permit for a new high frequency broadcast station to be operated on **44,700 kc.**, population, 1,858,665; Coverage, 15,850 square miles.

NEW—May Broadcasting Co., Mobile—Construction permit for a new relay broadcast station to be operated on **1616, 2090, 2190, 2830 kc.**, power 25 watts, A-3 emission, Mobile 150 mile radius, Shenandoah, Iowa.

W39B—The Yankee Network, Inc., Boston, Mass.—Modification of construction permit (B1-PH-13) for a new high frequency broadcast station, for extension of commencement and completion dates from 12-31-40 and 6-30-41 to 60 days after grant and six months thereafter, respectively.

NEW—The Outlet Co., Providence, R. I.—Construction permit for a new high frequency broadcast station to be operated on **44,300 kc.**, coverage, 16,370 square miles; population, 6,263,346. Amended: To change frequency to **48,500 kc.**, coverage to 4,840 square miles, population to 1,556,495, make changes in antenna system and move transmitter.

W63C—National Broadcasting Co., Inc., Chicago, Ill.—Modification of construction permit (B4-PH-31) for a new high frequency broadcast station, requesting changes in antenna system and change in type of transmitter. Population, 4,869,900.

W57A—General Electric Co., Albany County, N. Y.—Modification of construction permit (B1-PH-19) for a new high frequency broadcast station, requesting change in frequency from **45,700 to 43,500 kc.**, make changes in antenna system and change coverage from 6,600 to 15,200 square miles by using FCC formulas and 8,945 square miles by G. E. measurements and change population from 1,560,000 to 532,851 by using G. E. measurements of the contour.

W65H—WDR, Inc., Meriden, Conn.—Modification of construction permit (B1-PH-35) for a new high frequency broadcast station, requesting change in frequency to **43,500 kc.**, coverage to 13,944 square miles, change antenna system and increase power of transmitter. Population: 1,903,661.

NEW—Interstate Broadcasting Co., Inc., New York, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **48,700 kc.**, coverage, 8,550 square miles; population, 10,817,455.

### TELEVISION APPLICATIONS

W3XAU—WCAU Broadcasting Co., Philadelphia, Pa.—Modification of construction permit (B2-PVB-47) as modified for a new television broadcast station, requesting extension of completion date from 7-28-41 to 7-28-42.

W3XPP—National Broadcasting Co., Inc., Philadelphia, Pa.—Modification of construction permit (B2-PVB-59) for new television broadcast station, requesting approval of transmitter site and antenna system.

### MISCELLANEOUS APPLICATIONS

WELB—WAVE, Inc., Mobile—Construction permit to install a new transmitter and increase power to 50 watts.

NEW—Board of Education, City of Chicago, Chicago, Ill.—Construction permit for a new non-commercial educational broadcast station to be operated on **12,500 kc.**, special emission for frequency modulation, 1000 watts, unlimited time.

NEW—Merced Broadcasting Co., Portable-Mobile—Construction permit for a new relay broadcast station to be operated on

1616, 2090, 2190, 2830 kc., 15 watts, A3 emission portable-mobile area of Merced, Calif.

WENE—WJIM, Inc., Portable-Mobile.—Modification of construction permit (B2-PRE-368) for change in type of transmitter and increase in power, requesting extension of commencement and completion dates from 12-2-40 and 6-2-41 to 30 days after date of grant and 180 days thereafter, respectively.

WALH—Piedmont Publishing Co., Portable-Mobile.—License to cover construction permit (B3-PRY-333) for a new relay broadcast station.

WJRB—WJR, the Goodwill Station, Detroit, Mich.—License to cover construction permit (B2-PRE-370) for a new relay broadcast station.

WEPA—Edwin H. Armstrong, Portable-Mobile.—License to cover construction permit (B1-PRE-277) as modified, for a new portable-mobile special relay broadcast station.

NEW—University of Illinois, Urbana, Ill.—Construction permit for a new non-commercial educational broadcast station to be operated on 42900 kc., 250 watts, unlimited time and special emission for frequency modulation.

WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Modification of construction permit (B1-PIB-26) as modified for change in frequency, equipment and increase in power, requesting extension of completion date from 5-6-41 to 6-6-41.

W6XDU—Don Lee Broadcasting System, Portable-Mobile.—Construction permit to add a sound channel using special emission for frequency modulation, power 50 watts, frequencies: 318000-330000 kc.

W9XER—Midland Broadcasting Co., Kansas City, Mo.—License to cover construction permit (V4-PEX-35) for new developmental broadcast station.

WHER—Westinghouse Radio Stations, Inc., Mobile.—Construction permit to install new transmitter and increase power from 15 watts to 25 watts.

WEIE—Havens & Martin, Inc., Portable-Mobile.—License to cover construction permit (B3-PRE-373) for change in type of transmitter and to decrease power.

WAOB—National Broadcasting Co., Inc., Bellmore, N. Y.—Construction permit to change type of transmitting apparatus and move transmitter from Bellmore to Port Washington, N. Y.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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 Lecithin Company and others**—Five corporations occupying a dominant position in the production and importation of lecithin (a natural organic substance used in the manufacture of food, candy, rubber, leather and petroleum products), and certain of their officers, have been ordered to cease and desist from practices held to be in restraint of trade. The respondent companies are: American Lecithin Co., Elmhurst, Long Island, N. Y.; Ross & Rowe, Inc., New York; The Glidden Co., Cleveland; Archer-Daniels-Midland Co., Minneapolis, and American Lecithin Corporation, Atlanta.

The Commission dismissed its complaint as to Hansa-Muehle, Hamburg, Germany, and Aarhus Oliefabrik, Aarhus, Denmark, lecithin producers, who, due to difficulties arising from the war, were recently relieved by the other respondents in the case from contractual obligations with the American companies.

Commission findings are that:

The Glidden Co., Ross & Rowe, Inc., Archer-Daniels-Midland Co., American Lecithin Corporation, and the two foreign com-

panies, together with certain of their officers, on December 5, 1934, entered into an agreement providing, among other things, for formation of a new corporation, American Lecithin Co., an Ohio corporation, to which various patents held by them should be assigned and to which the lecithin-producing respondents would sell their output. Control and management of the new corporation was to be vested in the organizers, each agreeing to refrain from contesting patents transferred to the new corporation or subsequently obtained by it. The foreign corporations were not to export lecithin to the United States or Canada and the United States parties were not to export abroad. The respondents carried out the provisions of their agreement.

American Lecithin Co. and the other respondents, through it, have attempted to further monopolize trade in lecithin by disparaging competitors' products, by using patents in bad faith to induce purchasers to buy the respondents' lecithin, by misrepresenting labeling requirements of the United States Government and by other means.

The Commission order is directed against American Lecithin Co. and Joseph Eichberg, Armand May, Whitney H. Eastman, Clifton M. Kolb, Richard H. Horsburgh, and Adrian D. Joyce, its officers; Ross & Rowe, Inc., The Glidden Co., Archer-Daniels-Midland Co. and Shreve Archer, its president; and American Lecithin Corporation, a Delaware corporation. Individually or in combination, they are ordered to cease and desist from:

1. Using unlawfully any patent or patents which may be held by them or any of them concerning the use, production or processing of lecithin to divert trade in lecithin to themselves or away from competitors;

2. Threatening to sue purchasers or prospective purchasers of competitors' lecithin for infringement of patents held by the American Lecithin Co., or any of them, but not in good faith, to enforce any patent rights which they may have, for the purpose of compelling or inducing such purchasers or prospective purchasers not to purchase lecithin from competitors;

3. Threatening to sue agents, jobbers or sellers or other distributors of competitors' lecithin for contributory infringement of any patents held by the American Lecithin Co., or any of them, not in good faith, to enforce any patent rights which they may have;

4. Representing that lecithin sold by the American Lecithin Company or by Ross & Rowe, Inc., or by any of the other respondents, is recommended for use by the Food and Drug Division of the United States Department of Agriculture, or any other branch of the Federal or State Governments, if in truth and in fact such is not the case;

5. Disparaging competitors' products by creating or attempting to create in the minds of purchasers or prospective purchasers of lecithin the belief or understanding that lecithin produced, sold or distributed by competitors contains deleterious or foreign matter, requires labeling not required by the respondents' product, lacks refinement, is less efficacious and is otherwise inferior to the lecithin products of the respondents unless in truth and in fact such be the case;

6. Unlawfully using any patent or patents held by them or any of them in such a manner as to obtain income from the sale of unpatented lecithin rather than from the monopoly expressly granted by the patent or patents;

7. Combining, conspiring, agreeing or cooperating between themselves or any one or more of them, or with others, to eliminate, restrain or lessen competition between them in the sale of lecithin or lecithin products, by employing a common selling agency, or otherwise; provided, that nothing herein shall prevent the respondents from entering into or carrying out lawful arrangements for the exercise of rights under patents;

8. Carrying out or entering into any agreement or doing any acts in pursuance of an agreement or understanding, that the American Lecithin Co., or any of the respondents connected with the production or sale of lecithin in the United States should refrain from selling or exporting lecithin to foreign countries;

9. Entering into or carrying out any agreement or understanding with foreign producers or sellers of lecithin for the purpose of lessening, restricting or curtailing importation of lecithin into the United States or the territories thereof;

10. Carrying out or entering into any agreement or understanding to refrain from challenging or contesting patents, rights or privileges concerning the production or use of lecithin or lecithin products held by any of them jointly or individually, which said respondents are not legally precluded from challenging or contesting;

11. Combining, conspiring or agreeing or cooperating, or enter-

ing into or carrying out any contracts to restrain trade or commerce in lecithin or lecithin products among the several States or with foreign nations;

12. Monopolizing or attempting to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in lecithin among the several States or with foreign nations. (4173)

**American Rug & Carpet Co., Inc.**, 105 Madison Ave., New York, is charged, in a complaint, with violation of the Federal Trade Commission Act in the sale of rugs.

According to the complaint, the respondent designated certain rugs closely resembling true Oriental rugs in appearance by the names "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan."

Pointing out that there are true Oriental rugs known as "Sarouk," "Kashan," "Ardabil" and "Ardavan" and that "Iran" is the modern name for Persia, a place of origin of true Oriental rugs, the complaint alleges that the respondent's use of the names "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan" tends to create the mistaken impression that the rugs so designated are in fact genuine Oriental rugs when in fact they are woven on power looms in the United States, are not made by hand, and the individual threads are not knotted in the distinctive manner of the true Oriental rug.

According to the complaint, the respondent's rugs do not possess all the characteristics of true Oriental rugs but so closely simulate them in appearance as to be indistinguishable from them by a large portion of the purchasing public. (4499)

**J-Bee Distributing Company**—A complaint has been issued charging Louis Ulrich, trading as J-Bee Distributing Co., and Julius Weinfeld, manager of the business, 37 West 20th St., New York, with the use of lottery methods in the sale of watches, cameras, clocks and other merchandise. "Pull card" devices are used, according to the complaints.

Charging that the respondents' practices have been contrary to Federal Government public policy and the Federal Trade Commission Act, the complaint grants the respondents 20 days for filing answer. (4500)

**Philip R. Park, Inc.**—Charging misrepresentation in the sale of livestock feeds a complaint has been issued against Philip R. Park, Inc., San Pedro, Calif., and Philip R. Park, Harrison H. Havner, John S. Hunt and Philip E. Iversen, officers of the corporation.

The complaint charges that through certain livestock and dairy papers and other printed matter the respondents disseminated advertisements representing that their product "ManAmar," a feed or feed supplement, when consumed by cattle or other livestock, will eliminate and prevent mastitis, eliminate practically all breeding disorders, and eliminate the necessity of veterinary services within six months.

According to the complaint, the respondents also represented that ManAmar will cure Bang's disease, eliminate goitre, cause all serious reproduction troubles to disappear, and cause cows to show more profitable reproduction records; that it contains beneficial ingredients lacking in other livestock feeds, and will improve the health, growth, production and reproduction of all livestock and poultry.

The complaint alleges that ManAmar is practically the equivalent of linseed meal for its growth and milk-producing qualities, but that it is not a cure or remedy for cattle diseases and will not accomplish the results claimed. (4504)

**O. R. Pieper**—A complaint has been issued charging O. R. Pieper Co., 158 North Broadway, Milwaukee, with misleading representation in the sale of coffee.

The complaint alleges that the respondent disseminated advertisements by radio, in newspapers and by other means in various States representing, directly or through inference, that its "Gargoyl" coffee greatly exceeds other brands in strength and flavor; that a pound of the respondent's product will produce 12 more cups of coffee than will a pound of such other brands; that the oil in coffee imparts flavor and goodness, and that because of an unusual amount of coffee oil in the respondent's product it has

more flavor and goodness than other popular brands, when such are not the facts.

The complaint charges that the respondent represented its coffee as being blended according to a secret formula which cannot be duplicated, when in fact the blend of its coffee could be duplicated by capable and experienced coffee blenders. According to the complaint, the successful blending of coffee is not dependent on the existence of any secret formula but rather upon the ability of the coffee blender to interpret the taste effects of individual coffees and mix such coffees in proper proportions to achieve the best results obtainable. (4498)

**James J. Reiss Company, Inc.**—A complaint has been issued charging James J. Reiss Co., Inc., 417-423 Decatur St., New Orleans, with the use of lottery methods in the sale of candy.

The complaint alleges that the respondent has sold to wholesale dealers, jobbers and retail dealers certain assortments of candy so packed and assembled as to involve the use of a game of chance, gift enterprise or lottery scheme when the candy is sold and distributed to consumers.

Charging that the respondent's sales plan involves a practice contrary to established Federal Government policy and the Federal Trade Commission Act, the complaint grants the respondent 20 days for filing answer. (4502)

**Rockford Furniture Factories, Inc.**, 801 Passaic Ave., Newark, N. J., retail furniture dealer, is charged with misrepresentation in the sale of its products in a complaint.

The complaint alleges that through the use of its corporate or trade name, "Rockford Furniture Factories, Inc., and the designation, "Rockford Furniture Showrooms," and other representations, the respondent represents, directly or indirectly, that it is a manufacturer of furniture, that it owns, operates or controls the factories in which the furniture it sells is made, and that its furniture is manufactured in Rockford, Ill., well known furniture center, when in fact the respondent is not a furniture manufacturer or factory owner and stocks and sells little, if any, furniture manufactured in Rockford, Ill. (4503)

**Zippo Manufacturing Company**—A complaint has been issued charging George G. Blaisdell, Walter G. Blaisdell and Homer G. Barcroft, trading as Zippo Manufacturing Co., Bradford, Pa., with the use of lottery methods in the sale of cigar and cigarette lighters.

The respondents, according to the complaint, sell to dealers assortments of cigar and cigarette lighters so packed and assembled as to involve the use of games of chance, gift enterprises or lottery schemes when the merchandise is sold to the consuming public. Punch board devices are used, the complaint alleges.

Charging that the respondents' practices have been contrary to Federal Government public policy and the Federal Trade Commission Act, the complaint grants the respondents 20 days for filing answer. (4497)

## CEASE AND DESIST ORDERS

Following cease and desist orders have been issued by the Commission:

**American Medicinal Products, Inc.**, 6630 Santa Monica Blvd., Los Angeles, and Ernest G. Rurup, its president and directing manager, have been ordered to cease and desist from disseminating misrepresentations in the sale of "Re-Duce-Oids", advertised as a treatment for obesity.

The Commission order directs that the respondents cease disseminating advertisements which represent that Re-Duce-Oids is a cure or remedy or a safe or effective treatment for obesity, or which advertisements fail to reveal that this preparation should only be used under competent medical supervision and that its unsupervised use by persons unskilled in the diagnosis and treatment of thyroid conditions may result in serious and irreparable injury to health.

The respondents are further ordered to cease disseminating advertisements which fail to reveal that their preparation is defi-

nately harmful if used by persons having diabetes, goiter, tuberculosis, arteriosclerosis, or coronary diseases, and that its use over a long period may cause the breaking down of muscular and other tissues, as well as fat tissues, causing irritation of nerve tissue, nervousness, irritability, and increased heart rate, with possible irreparable injury to health even to a normal individual. (4159)

**American Plierench Corporation**, 4611 North Ravenswood Ave., Chicago, has been ordered to cease and desist from misrepresenting the earnings of persons who sell its patent tool product "The Eifel-Geared PlieRench Kit." Commission findings are the respondent advertised that earnings resulting from the sale of its kit by the purchasers thereof range from \$35 to \$125 a week and that purchasers who devote their entire time to selling the kits make as much as \$1,500 to \$4,000 a year, when such are not the facts. (3853)

**Empire Monument Company**—Mrs. Lillie M. Sentell, trading as Empire Monument Co., Atlanta, has been ordered to cease and desist from misrepresentations in the sale of cast stone tombstones, monuments, footstones or other grave markers.

Commission findings are that the respondent designated as "Marble Durastone" certain products manufactured by mixing approximately one part cement with three parts marble aggregate, moistening the mixture and compacting it in a mold. Findings are further that the respondent's products known as "Granite Durastone" were manufactured by mixing approximately one part cement and three parts granite dust and copper slag.

Such products, according to findings, were represented as being guaranteed not to fade, crumble or deteriorate when in fact their exposure to natural weather conditions would result in their showing deterioration in from 10 to 20 years.

The National Bureau of Standards conducted for the Commission tests of the strength and durability of the respondent's products.

The Commission order directs the respondent to cease representing that such products will not fade, crumble or deteriorate from natural causes or will retain their original beauty throughout the years; to cease representing as "free" any article the cost of which is included in the purchase price of other merchandise in connection with which such article is offered, and to cease representing that the customary prices of the respondent's products are "sale," "special sale," or other special or reduced prices.

The Commission dismissed its complaint as to Charles J. McClennon, a former partner in the Empire Monument Co., who was originally named a respondent but now has no interest in the business. (3939)

**Fredmorr, Inc.**, 110 West 42nd St., and Morris Weitz, trading as Morroco and an officer of Fredmorr, Inc., 107 West 41st St., New York, have been ordered to cease and desist from selling or distributing pencils, radios, watches, electric shavers or any other merchandise so packed or assembled that sales to the public are to be or may be made by means of a lottery, and from supplying others with push or pull cards, punchboards or other lottery devices, either with assortments of the respondents' merchandise, or separately, which devices are to be or may be used in selling or distributing such merchandise to the public. (3982)

**Jacob Holtz and Jay Holtz Company**—Jacob Holtz and Abraham L. Holtz, trading as Jacob Holtz and Jay Holtz Co., 889 Broadway, New York, have been ordered to cease and desist from selling or otherwise disposing of merchandise by means of a game of chance, gift enterprise, or lottery scheme.

The Commission order directs the respondents to desist from selling or distributing electric goods, clocks, lamps, household goods or other merchandise accompanied by a Bingo set or similar device which is to be used or may be used by the purchaser of the merchandise or others as a means of disposing of such articles by means of a lottery scheme.

The respondents are further ordered to cease supplying others with Bingo sets or similar devices, either with assortments of the respondents' merchandise, or separately, which devices are to be or may be used in selling or distributing such merchandise to the public.

Commission findings are that the respondents have sold their products to retailers, to organizations and to operators of amusement park concessions. (3979)

**M. J. & H. J. Meyer Co., Inc.**, 145 Hudson St., New York, has been ordered to cease and desist from misrepresentations in the sale of Worcestershire sauce.

Commission findings are that the respondent corporation packaged and sold its table sauce in containers simulating in appearance and dress those long used by Lea & Perrins, Inc., in the bottling and distribution of "Lea & Perrins Worcestershire Sauce," made from the original English recipe and sold in bottles of distinctive mark, size and shape.

The respondent's product, according to findings, although designated as "Pride of England Worcestershire Sauce," is not of English origin but is manufactured in the United States.

The Commission order directs the respondent corporation to cease representing, through the use of wrappers, containers or labels which simulate the distinctive wrappers, containers or labels used by Lea & Perrins, Inc., in marketing its Worcestershire sauce, or in any other manner, that the respondent's product is Worcestershire sauce manufactured and distributed by Lea & Perrins, Inc.

The respondent further is ordered to desist from using the words "Pride of England" or other words which designate English origin, in any way to describe Worcestershire sauce not made in England. (3086)

**Petalskin Toiletries, Inc.**, 67 West 44th St., New York, has been ordered to cease misrepresentations in the sale of cosmetic preparations sold under the name "Petalskin."

The respondent is ordered to cease and desist from disseminating advertisements which represent that "Petalskin Face Cream" penetrates deeply into the pores or cleanses the pores any deeper than their external openings; that use of this preparation furnishes nourishment to the skin, supplies Vitamin F, or has any value in restoring the skin, or that "Petalskin Face Tonic" will close or refine the pores of the skin.

The order also directs the respondent to cease disseminating advertisements representing that "Petalskin Cream Pastelle" will refine or close the pores, correct or remove the cause of enlarged pores or have any effect thereon in excess of removing superficial dirt accumulations from the pore openings; that "Petalskin Face Powder" will not clog the pore openings, and that "Petalskin Hand Cream" will penetrate the skin or counteract aging of the skin. (4128)

**Rex Merchandise Corp. of America**—Four New York companies and certain of their officers selling shaving creams, tooth pastes and other toilet articles to retail dealers, have been ordered to cease and desist from price misrepresentations in the sale of their products.

The respondents are Rex Merchandise Corporation of America, 1170 Broadway, and Peter Meyer, its president; Crown Laboratories, Inc., 48 East 21st St., and Arthur A. J. Weglein, Alexander Hirschbein and Frances Chorba, officers; Sheray, Incorporated, and Wilshire Sales Corporation, 33 Union Square, and William and Anna Scher, their officers.

Commission findings are that the respondents, acting in cooperation, sell their shaving creams and dentifrices in tubes and cartons marked with suggested retail sales prices of from 25 cents to \$1 a unit package; that the suggested prices are fictitious as the customary prices obtained by retailers for such products are actually anywhere from 10 cents to 29 cents, and that all of the respondents have known that the prices on the tubes and cartons have not been those at which the articles are customarily sold to the public.

Among the trade names under which the respondents' shaving creams and dentifrices have been sold, according to findings, are "D.D.S.," "Sheray," "Royal Blue," "Dr. Sachs," "Tally Ho," "Scientific," "Paramount," "Royal Crown," and "Her Majesty".

The Commission order directs the respondents to cease representing, through fictitious prices marked or stamped on, or affixed to, their products, or on the containers, or in any other manner, that such prices so marked, stamped or affixed are the regular or customary retail prices for such products, and to desist from representing as the customary or regular retail prices fictitious prices which are greatly in excess of the prices at which the products are regularly offered and sold at retail.

The Commission directed that its proceeding, in so far as it relates to Wyette Meyer, named in the complaint as respondent secretary of Rex Merchandise Corporation of America, be closed. (3142)

**Siegel & Alenikoff**—Joseph Henschel, Jacob Siegel, and Philip Alenikoff, trading as Siegel & Alenikoff, 520 Eighth Ave., New York, manufacturers of women's textile fabric coats and other garments, and their agents in four other cities, have been ordered to cease and desist from misrepresentations in the sale of such products.

The other respondents are: H. M. Thorman and Alfred Schuster, trading as H. M. Thorman, 2101 Superior Ave., Cleveland; Joseph Bloomfield, trading as Bloomfield Co., 75 Kneeland St., Boston; Lou Littman, trading as Lou Littman, 153 East Grand River Ave., Detroit, and Sugar, Feinberg & Frankel, 318 West Adams St., Chicago.

Commission findings are that the respondents disseminated misleading representations concerning garments made of fabrics composed of wool and cotton, or of rayon, wool and cotton, and having the appearance of silky, tightly curled fur closely resembling Persian lamb fur.

In the sale of textile fabrics, women's coats and other garments, the respondents are directed to cease and desist from using the terms "Persian," "Babelamm" or similar terms to describe textile fabrics which simulate in appearance, pattern or design the peltries of Persian lambs, the young of the Karakul breed of sheep; from using the term "fur" in connection with the term "Persian" or similar terms to designate any textile fabric which simulates or resembles the peltries of such Persian lambs, and from representing or implying in any manner that any textile fabric is made of the peltries of such Persian lambs, or that any textile fabric not made of the wool of such lambs is actually made of such wool.

The respondents also are ordered to cease using any pictorial design of a sheep or lamb or other wool-bearing animal in connection with any reference to a textile fabric not made from the wool of the animal so depicted; to desist from representing or implying that fabrics or garments of domestic manufacture are imported from a foreign country, and to cease advertising, offering or selling textile fabrics, garments or other products composed in whole or in part of rayon without clearly disclosing the rayon content by use of the word "rayon," and, in the case of fabrics made of both rayon and other materials, truthfully designating such other fabrics in immediate connection with the word "rayon" and in type of at least equal size and conspicuousness. (4429)

**Wholesale Radio Service Company, Inc.**—A complaint issued against Wholesale Radio Service Co., Inc., of New York, and others, has been dismissed without prejudice to its right to resume proceedings should future facts so warrant.

The respondents had been charged with certain representations in the sale and distribution of radios and radio parts.

The respondents are: Wholesale Radio Service Co., Inc., of New York, New York City; Wholesale Radio Service Co., Inc., of Massachusetts, Boston; Wholesale Radio Service Co., Inc., of Illinois, Chicago; Wholesale Radio Service Co., Inc., of Georgia, Atlanta; Wholesale Radio Service Co., Inc., of New Jersey, Newark, and Abraham W. Pletman, Samuel J. Novich and Max H. Kranzburg, trading as Wholesale Radio Service Co. (3722)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Baldwin Pen Company**—Under a stipulation entered into, Baldwin Co., Inc., trading as Baldwin Pen Co., Atlantic City, N. J., agrees to cease representing, directly or inferentially, that its fountain pens are non-breakable, have an ink capacity exceeding that of fountain pens generally, are tipped with iridium, and that it manufactures the pens it sells. The respondent further agrees to desist from use of the word "Guarantee" or similar words unless, whenever used, clear disclosure is made of exactly what is offered by way of security, as for example, replacement or repair without charge in a stated time; to cease issuing a guarantee for any period of time greater than reasonably can be estimated as the approximate usable existence of the products, and to cease designating any representation or agreement as a guarantee or warranty which involves a service charge or calls for payment of additional money by purchasers of the merchandise. (3105)

**Battle Creek Food Co.**, Battle Creek, Mich., stipulated to cease certain representations in the sale of the breakfast cereals "Fig Bran" and "Zo."

The respondent stipulated it will cease advertising that "Fig Bran," through its effect on constipation, will relieve any definite percentage of other complaints, and that this product is rich in Vitamins A, D or E, when such is not a fact.

The respondent also agreed to cease representing that "Zo" corrects the defects of other foods and contains all the elements required to meet the energy demands and other nutrient needs of the body, and that the product contains milk.

The respondent further stipulated it will desist from advertising that competitive breakfast foods are usually lacking in the bone building elements. (02790)

**Dr. Bentz Laboratory**—Trading as Dr. Bentz Laboratory, Felix J. Bentz, 268 School St., Athol, Mass., stipulated that in disseminating advertisements concerning his medicinal preparation "Regulator 68B" he will cease representing that toxic poisons in the blood stream are the result of undigested food stagnating or fermenting in the intestinal tract; that his preparation is a blood cleanser; that by its use poisons will be eliminated from the system; that it regulates or stimulates the bowels, liver or digestive system to normal activity or regularity, or that its therapeutic properties are other than that of a laxative or cathartic. (3108)

**Climalene Co.**, 1022 Ninth St., S. W., Canton, Ohio, has entered into a stipulation to cease making certain representations in the sale of its cleaning preparation "Climalene."

The respondent agrees to cease representations which imply that "Climalene" contains ingredients or has detergent qualities not possessed by any other products, and to cease representing that its product affords protection to fabrics laundered therewith, or, unqualifiedly, that it is safe for delicate fabrics or that its use will not cause colors to fade.

The respondent further stipulates that it will cease representing that its product will remove all tarnish and stain from silver or will polish silver without rubbing; that use of the product results in the complete lathering of soap or will prevent completely the formation of "soap scum," and that its product protects, saves or preserves any surface, article, fabric or material to which it is applied, or, unqualifiedly, that it is a safe detergent for use on floors, tiles or linoleum. (3099)

**Globe Laboratories**, Fort Worth, Tex., has entered into a stipulation to cease certain representations concerning the use of its preparations "Combination R. T. Tablets" and "Avi-Nic-Tol" in treating worms in poultry, and to cease disseminating advertisements which fail conspicuously to reveal that administration of "Combination R. T. Tablets" to poultry will reduce the number and size of eggs. The respondent further agrees to desist from representing that "Poultry Mineral" would be a source of essential minerals or that this preparation or the product "Kome-Glo" would be of value in preventing or controlling certain diseases. (3095)

**Kelso Norman Organization**—Kelso Norman and Louis L. Layne, trading as Kelso Norman Organization, San Francisco, an advertising agency, have entered into a stipulation to cease disseminating advertisements in behalf of Inspire, Incorporated, San Francisco, which represents that that corporation's device, the "Deep-Skin Electro-Mask," will normalize the skin, constitutes a remedy for wrinkles, crow's-feet, lines or enlarged pores, and accomplishes all the benefits of the most extravagant salon facial. The respondents Norman and Layne agree to cease employing the words "Deep Skin" as a part of the brand name of their client's device, or representing that the effect of this product extends deeply into the skin or is more than a surface application. (02789)

**Kleenmaster Corporation**, Wilmington, Del., formerly of South Bend, Ind., stipulated that it will cease advertising its product "Kleenmaster Concentrate," a cleaning compound, as being capable of removing all stains or spots, or ink stains specifically, and as being 25 times as concentrated as other products sold for the same general use. The respondent also agrees to cease advertising that its product is unconditionally guaranteed, utilizes a new or different method, or is the only product which cleans by means of a shampoo method. The respondent further stipulates that it will desist from representing that any offer is special or for a limited



time unless the offer expires at a definite, predetermined date. (02788)

**Lobl Manufacturing Co.**, Middleboro, Mass., and Glencoe Electric Corporation, 731 Broadway, New York, have entered into stipulations to cease certain representations in the sale of electrical heating pads.

The Lobl Manufacturing Co. agrees to cease using the words or symbols "3 Heat" and Glencoe Electric Corporation agrees to cease using the words "Three Heat," as descriptive of their pads or the switches used with them.

The Lobl Manufacturing Co. further stipulates it will cease employing the words "3 Heat" or "Low, Med., High," or other similar words or symbols, and Glencoe Electric Corporation agrees to cease employing the words or phrases "Three Heat," "Selective Heat Switch," "High-Medium-Low," or "Three Different Temperatures" or other similar words, so as to imply that their pads are capable of maintaining, or that operation of the switches results in maintaining, three distinct temperatures.

According to the stipulations, the operations of the switches merely regulates the time required to heat the pads to a single maximum temperature. (3096-3098)

**Magic Chemical Company**—Harry Douglas, trading as Magic Chemical Co., 2550 Quantico Ave., Baltimore, stipulated that in the sale of his product "Magic" insecticide, he will cease using the words or phrases "Forever," "Rids Them" or "Never to Return," or similar words, so as to imply that application of the product will afford permanent protection against or prevent the return of bedbugs, cockroaches or other insects. The stipulation relates that the product's effectiveness is limited to destruction of insects which it contacts and that the preparation will not afford permanent protection. (3103)

**Rogers Manufacturing Co., Inc.**, North Attleboro, Mass., distributor of women's suits, coats and dresses, entered into a stipulation to cease using the word "Manufacturing" as a part of its corporate name or the trade name employed by it in connection with the advertisement or sale of products which it does not manufacture. The respondent also agreed to desist from using the words "Manufacturers" or "Manufacturing" or the abbreviation "Mfg." or the word "Factory", or the phrases "Factory to You" or "Save the Middleman's Profit" or other similar words tending to convey the impression that the respondent manufactures the products it sells or owns or controls the factory in which they are made, when such is not a fact. (3107)

**Schwartz Manufacturing Co.**, Two Rivers, Wis., a manufacturer of cotton goods products for use in the dairy industry, stipulated that in the sale of its "Perfection" milk filter discs it will cease using in its advertisements statements tending to convey the impression that its discs are new or differ materially from the discs which have been in use in the industry for filtering milk; that they have a far greater surface contact and will always and under all circumstances filter ten gallons of milk in three minutes, or that their use will result in cleaner milk than ever before. (3097)

**Superior Shoe Company, Inc.**—In a stipulation entered into, Superior Shoe Co., Inc., 500 South Peoria St., Chicago, agrees to cease employing the word "Doctor" or the abbreviation "Dr." alone or in connection with a name or with any other words as a trade name, brand or designation for its products so as to imply that they are made in accordance with the design or under the supervision of a physician and contain special scientific or orthopedic features which are the result of medical determination or services. According to the stipulation, the respondent advertised as "Dr. Haines Shoes" certain shoes which were neither made under such design or supervision nor contained such special features. (3100)

**Unique Printed Products Co.**, trading as Crescent Products Co., 1270 Maple Ave., Terre Haute, Ind., entered into a stipulation to cease using the term "Non-Crumbling" as descriptive of its "Spotless Wall Paper Cleaner." The respondent also agrees to desist from employing that term or the statement "This cleaner does not crumble" or any other similar statement or term tending to convey the impression that its product does not crumble when used on certain types of wall paper. (3102)

**Walker Company**—Four distributors of electrical heating pads entered into stipulations to cease certain representations in the sale of their products. They are: The Walker Co., Middleboro, Mass.; Varick Electric Manufacturing Co., Inc., 10 Washington Place, New York; Fitzgerald Manufacturing Co., Torrington, Conn., and Son-Chief Electrics, Inc., Winsted, Conn.

The respondents agree to cease making representations which imply that their heating pads are capable of maintaining, or that operation of the switches in connection with the pads results in maintaining, three different degrees of heat. According to the stipulations, the operation of the switches merely regulates the time required to heat the pads to a single maximum temperature. (3101-3104-3106)



## The President

Events of worldwide importance have taken place since our Convention last August in San Francisco. Primarily, the changes caused and the conditions created by these events have brought greater opportunities for radio stations to render unusual public service—to report the news of world events as they happen—to carry talks of the leaders of the nations of the world—to furnish a forum for the free and open discussion of the many problems which our own people face and upon which decisions must be made—to cooperate with the various Government agencies in the nation's defense program—and, as the tempo of our life quickens, to provide those necessary aids found in programs of music, religion, education and entertainment, which are so necessary to maintain the morale at a time like the present.

It is not the purpose of this report to survey the whole field of radio, but rather to report briefly upon the activities of your Association during the past year.

The nine months since the last NAB Convention have been nine months crowded with activity and we can look back upon the accomplishments of that brief period with a real sense of satisfaction and pride. The individual reports of the members of the Staff give detailed information concerning the activities of the various departments. It would be repetitious for me to review what is set out in detail in those reports, but I urge you to carefully read each report, because I know of no better way to become familiar with the work of your Association. Our members are continuously making greater use of the services of our Staff, and I am confident that as they become better acquainted with the Staff's activities, they will make even greater use of the services offered.

The greater portion of your President's time this year has been devoted to activities connected with the music copyright controversy. Although this has necessitated almost continuous absence from Washington, I believe it has been justified due to the importance of the matter, and I believe we can confidently state that finally we have solved a problem which has vexed broadcasters for the last two decades.

To Sydney M. Kaye, Merritt E. Tompkins and Carl Haverlin, and to the entire BMI Staff and Board of Directors, we owe a debt of gratitude for the simply marvelous job which has been done. Not only have they performed miracles, but have secured the cooperation of the broadcasters and of many other industries, to the end that what many thought was impossible is now an accomplished fact. Radio has created a competitive market of music, has opened the door of opportunity to the young author and composer and has, despite many handicaps, continued to give the American public musical programs of high quality.

Apart from the work of the BMI Staff, the greatest single factor in accomplishing this result has been the realization by broadcasters that they could no longer afford the luxury of internal warfare. The skeptical, who have often repeated that broadcasters would never approach a problem as a united industry, and those who in the past have been successful by the pursuit of a policy of divide and rule, have been sorely disappointed.

It would serve no purpose here to review the events of the past six months which are fresh in the minds of all of you, but may I repeat once more what I have so often stated; namely, that the determined manner in which the industry has fought through this fight will give courage and determination to the industry in the future and for many years to come you will be gathering additional fruits of your well earned victory.

### NATIONAL DEFENSE

The past six months has seen a stepping-up of the activities of all Government departments with the inauguration of many campaigns in connection with the national defense programs. It is to the credit of the industry that it has cooperated wholeheartedly with all branches of the Government. The NAB Staff has been in daily contact with the officials of the various Government departments in an effort to coordinate the activities and render helpful service to both the industry and the Government.

### THE CODE

Time continues to prove the wisdom shown by the industry in the adoption of the Code. The highlights of this past year were evidences of continual public approval of the Code, the placing of commercial sections in effect, an exhaustive survey of children's programs prepared by Mrs. Dorothy Lewis, and the continuous intelligent work of the Code Committee, under the leadership of its able Chairman, Edgar Bill.

### MEMBERSHIP, DISTRICT MEETING & CONVENTION

Our membership has shown a continuous growth and is now the highest in our history, totaling 526 active members and 21 associate members, for a grand total of 547. Last winter, the Board of Directors adopted a new Associate Membership Plan and we wish to extend a most hearty welcome to our many new Associate Members. We believe that broadcasters have many problems in common with those engaged in other branches of the radio industry, and that through our Associate Membership Plan we shall have an opportunity to pool our energies and resources so as to better solve our common problems.

The District meetings this year have again afforded an opportunity for broadcasters to discuss their problems on an informal basis and have proven most helpful in developing an industry consciousness. The meetings of the Sales Managers in connection with the District meetings have proven successful and undoubt-

edly will be further developed under the new plans of the Bureau of Radio Advertising.

In keeping with the NAB policy of holding the Convention in a different part of the country each year, the Directors decided to hold the Convention this year in the Mid-West, since in the two previous years the Convention had been held in Atlantic City and San Francisco, respectively. Also, the time of the Convention was changed from summer to spring. We shall be interested in having the members' reaction to this change.

As is normal in any trade association, a large part of the work is performed by the Directors and members serving on various industry committees. On behalf of the entire industry, I wish to express to the members of the Board of Directors, to the members of the Executive Committee, and to those who served on the various committees, our sincere appreciation for so generously giving of their time and energy to the work of the Association. It would have been impossible to have carried on the work of the NAB without their assistance.

### STAFF

There have been two changes in the NAB Staff. At the request of the War Department, the Board loaned Edward M. Kirby, our Director of Public Relations, to the War Department on a dollar-a-year basis, to direct the Radio Division of the Public Relations Division of the Army. The NAB considered such a request from the War Department not only as a compliment to Mr. Kirby and to the NAB, but also as an opportunity to make a real contribution to the National Defense Program.

Frank Pellegrin, formerly of KOIL, Omaha, has recently succeeded Samuel J. Henry, Jr., in charge of the Bureau of Radio Advertising, and plans are being made for further development of this Bureau. During the year, the Unit Volume Measurement Plan has been put in operation. We believe that with the development of this plan and with the active cooperation of the Sales Managers Committee, this Bureau will become of increasingly greater value to the industry.

What of the future? Between now and our next Convention, we shall be brought face to face with problems which are today unknown, but which I am sure radio can solve. I have read with interest the President's statement contained in a recent letter, as follows:

"We are all agreed that we want to keep radio free . . . This technical limitation on the number of transmitters gives the Government its principal function in the realm of radio, that of referee to determine who the operators of the limited number of transmitters shall be."

May our actions and those of the public and of the Government be guided by the words of our President to the end that freedom of radio may continue to exist unimpaired and that democracy in America as we know it may be preserved.

I believe there are those in radio who have the experience and the ability and the patriotism to guide this industry and that radio as a privately operated competitive business will render a greater service than under Government control.

We in radio face the future with confidence and know that come what may, radio will perform its task with credit to itself, to the Government, and to the American public.

Respectfully submitted,

NEVILLE MILLER,

*President.*

## Secretary-Treasurer

The nine months that have intervened since the 1940 convention have been unusually active and busy ones at NAB headquarters. The work incident to the music controversy consumed a great deal of the time of the staff but, nevertheless, the other activities of the Association have been maintained upon a constructive and active basis. Every effort has been made to operate the Association in a manner that will best serve the interests of broadcasters in every field of their activity. The Association has been operated on a business basis and many economies in operation have been introduced with the result that while the services of the Association have been greatly expanded, the cost of operation has been kept well within the limit of the funds available.

### MEMBERSHIP

We are pleased to report that the membership of the National Association of Broadcasters as of May 1, 1941, stands at 547, an increase of 87 members since the date of the last annual convention in San Francisco in 1940. The membership is composed of 526 active and 21 associate members. Included in the 526 active members are 6 FM stations which were admitted to membership during the past year.

During the year, your Board of Directors approved a plan of associate membership which we are pleased to report has met with great success. Six industries and engagements closely allied with radio broadcasting are now eligible for associate membership in NAB as follows: transcription companies, equipment manufacturers, station representatives, news services, telephone and telegraph companies, and market research organizations. These companies hold from one to four \$250 units of associate membership depending on their gross volume of business. The NAB is proud to announce that we now have 21 associate members holding 35 units of membership. Included in these 21 members are 7 transcription companies, 10 equipment manufacturers, 3 station representatives and 1 research organization.

As to the active membership, we have been able to increase this to its highest point in NAB history due to the excellent cooperation of the District Directors and by following up our membership campaign of last year.

The following tables show the increase in membership by dues classifications and by NAB Districts from July 15, 1940, as reported at the last convention, to May 1, 1941.

#### NAB Membership by Dues Classification

Class	NAB Members	
	July 15, 1940	May 1, 1941
A	92	108
B	81	82
C	63	76
D	44	54
E	40	49
F	28	27
G	20	21
H	26	38
I	18	16
J	6	16
K	4	4
L	6	9
M	2	4
N	2	2
O	2	2
NBC	15	10
CBS	8	8
Associate	3	21
Total	460	547

## NAB Membership by NAB Districts

District	NAB Members	
	July 15, 1940	May 1, 1941
1	31	38
2	31	32
3	28	28
4	47	53
5	30	43
6	26	30
7	25	26
8	22	27
9	31	33
10	35	37
11	19	24
12	16	19
13	24	24
14	24	26
15	20	24
16	23	23
17	25	33
FM	—	6
Associate	3	21
<b>Total</b>	<b>460</b>	<b>547</b>

On May 1, 63% of all operating commercial stations in the country were members of the NAB. Disregarding the FM stations and the Associate members of NAB, the following table discloses some interesting percentages.

Operating Commercial Stations	Total Stations April 1, 1941	NAB Members May 1, 1941	Percent
Network Affiliates	490*	369*	75%
Independents	319	140	44%
<b>Total</b>	<b>809</b>	<b>509</b>	<b>63%</b>
Non-Commercial Stations	37	4	11%
Construction Permits	54	15	28%
<b>Grand Total</b>	<b>891</b>	<b>520</b>	<b>58%</b>

\* Includes 9 c.p. stations—8 NAB members.

- 75% of all NBC affiliates are NAB members.
- 85% of all CBS affiliates are NAB members.
- 70% of all MBS affiliates are NAB members.
- 67% of all newspaper owned stations are NAB members.

## FINANCIAL

The financial records of the Association were audited by certified public accountants at the close of the calendar year. Their report has been sent to the Directors and is available to any member on request. During the year 1940 we operated well within our budget and are at present within the budget as approved for 1941.

The following financial statement shows the receipts and disbursements of your Association for the nine months that have elapsed since the 1940 annual convention:

*National Association of Broadcasters  
Statement of Receipts and Expenditures  
For the Period July 1, 1940, to April 1, 1941*

### RECEIPTS

Cash on Hand, July 1, 1940.....	\$ 63,525.08	
(As reported at last convention)		
Receipts during period.....	211,006.63	\$274,531.71

### DISBURSEMENTS

Annual Convention .....	\$ 9,145.42
Board of Directors Meetings.....	6,366.08
Committee Expenses .....	6,291.49
Dues and Publications .....	2,413.54
Furniture and Fixtures.....	1,523.89

Investment—Government Securities.....	\$31,403.34
Legal, Engineering and Accounting Fees.....	19,856.67
Miscellaneous .....	16,843.76
NAB—BMI Special Promotion .....	12,632.67
NAB REPORTS .....	10,680.00
NAB—RMA Expenses .....	7,196.61
Office Supplies .....	2,248.22
Postage .....	3,394.72
Printing .....	8,337.25
Radio Council on Children's Programs.....	2,037.23
Rent .....	6,374.97
Salaries .....	84,720.45
Telephone and Telegraph .....	3,593.51
Travel .....	11,957.57
	<hr/>
	\$247,017.39
Cash on Hand, April 1, 1941 .....	\$27,514.32

## HEADQUARTERS PERSONNEL

Whereas our activities have increased greatly during the past year, our payroll on April 1, 1941, lists only 29 full and part-time employees as compared to 26 employees reported at the last convention, a net increase of only 3 employees. The only major change in our staff involved the resignation of Samuel J. Henry, Jr., on January 31, as manager of the Bureau of Radio Advertising. With his resignation, the Bureau was, upon the recommendation of the Sales Managers Committee, abolished by the Board and in its stead the Department of Broadcast Advertising was created. On April 1, Frank E. Pellegrin assumed his duties as Director of this newly created department.

A complete roster of NAB Headquarters employees follows:

### Staff Members

- Neville Miller, President
- C. E. Arney, Jr., Assistant to the President
- Edward M. Kirby, Director of Public Relations
- Joseph I. Miller, Director of Labor Relations
- J. Robert Myers, Assistant Director of Research
- Frank E. Pellegrin, Director of Broadcast Advertising
- Paul F. Peter, Director of Research
- Russell P. Place, Counsel
- Everett E. Revercomb, Auditor
- Helen H. Schaefer, Assistant Director of Research
- Lynne C. Smeby, Director of Engineering
- Arthur C. Stringer, Supervisor of Circulation and Promotion

### Secretarial, Clerical and Part Time

Jane E. Arnold	Miriam E. Moore
Isabel G. Campbell	Ella P. Nelson
Jean M. Chevanney	Harriet A. Page
Thomas I. Chase	Mildred M. Ramsay
Charles H. Dodge	Jean Smith
Ethel M. John	Molly A. Stonestreet
Nolan L. Kidwell	Anne J. Weir
Lynne M. Lamm	Pauline J. Willier
Hester M. Laster	

## MEETINGS

The following Board of Directors, Committee and District meetings have been held since the last annual convention:

Group	Date	Place
Board of Directors	August 6, 1940	San Francisco, Cal.
	December 5-6, 1940	New York, N. Y.
	March 17-18, 1941	New York, N. Y.
Executive Committee	August 7, 1940	San Francisco, Cal.
	September 13, 1940	New York, N. Y.
	October 25, 1940	Washington, D. C.
	December 5, 1940	New York, N. Y.
	January 7, 1941	Washington, D. C.
	February 19, 1941	New York, N. Y.

AAAA Conference Committee	October 30, 1940	New York, N. Y.
	November 15, 1940	New York, N. Y.
	November 27, 1940	Washington, D. C.
	December 3-5, 1940	New York, N. Y.
	December 20, 1940	New York, N. Y.
	January 6-7, 1941	New York, N. Y.
Code Committee	November 7, 1940	Chicago, Illinois
	February 4-5, 1941	New York, N. Y.
Engineering Committee	January 9, 1941	New York, N. Y.
	February 19, 1941	Columbus, Ohio
Engineering Executive Committee	September 26, 1940	Washington, D. C.
FCC Conference Committee	September 12-13, 1940	Washington, D. C.
Insurance Committee	March 24, 1941	New York, N. Y.
Legislative Committee	December 4, 1940	New York, N. Y.
Research Committee	November 25, 1940	New York, N. Y.
	January 10, 1941	New York, N. Y.
Sales Managers Execu- tive Committee	January 10, 1941	New York, N. Y.
	March 12, 1941	Chicago, Illinois
District 1	December 12, 1940 March 4, 1941	Worcester, Massachusetts Worcester, Massachusetts
District 2	December 20, 1940	Syracuse, New York
District 3	December 9, 1940	Philadelphia, Pa.
	April 7, 1941	Philadelphia, Pa.
District 4	December 13, 1940	Washington, D. C.
District 5	December 10, 1940	Orlando, Florida
	April 11, 1941	Jacksonville, Florida
District 6	January 13, 1941	Nashville, Tennessee
District 7	December 19, 1940	Detroit, Michigan
	April 4, 1941	Cincinnati, Ohio
District 8	December 19, 1940	Detroit, Michigan
District 9	December 18, 1940	Chicago, Illinois
	January 30, 1941	Chicago, Illinois
District 10	January 25, 1941	Omaha, Nebraska
District 11	November 15, 1940	Minneapolis, Minnesota
	March 14, 1941	Minneapolis, Minnesota
District 13	February 28, 1941	San Antonio, Texas
District 14	January 27, 1941	Denver, Colorado
District 15	January 18, 1941	San Francisco, California
	April 26, 1941	San Francisco, California
District 16	January 17, 1941	Los Angeles, California
District 17	January 22, 1941	Portland, Oregon

Respectfully submitted,

C. E. ARNEY, JR.,  
*Assistant to the President.*

## Engineering Department

### REALLOCATION

Of prime importance during the past NAB year has been the reallocation that took place on March 29, 1941. At 3 a. m. on this date, approximately 90% of the broadcast stations in the United States changed frequency. To the credit of all concerned the job of changing was accomplished in the remarkably short time of 56 days with very little trouble. A handful of stations were not able to effect the change-over of their directional antennas in such a short time and therefore were authorized to operate with reduced power non-directional until the work was completed.

Plans were started over a year ago to meet the emergency of a short notice period. This planning was formulated in meetings of the Engineering Committee and contacts with the FCC Engineering Department. The consulting engineers were invited to a special "Reallocation Meeting" of the Executive Engineering Committee

held in Washington. The Director of Engineering had prepared a 13-page analysis of the directional antennas that were to be shifted in frequency. This analysis was used as the basis of discussion. The deliberation of the meeting culminated in the preparation of a tabulation of the possible difficulties involved in the reallocation and the preparation of requests for certain concessions from the FCC during the reallocation period, such as, the easing of certain regulations. This was taken up with Mr. Ring, FCC Engineer in charge of broadcasting. Mr. Ring was very cooperative in this matter and he deserves a great deal of credit for the way in which he organized the engineering aspects of the reallocation. Subsequent to the reallocation meeting, it occurred to the Director that it would be helpful in making the changes if the normal test period from 1 a. m. to 6 a. m. were extended to midnight to 7 a. m. This was discussed with Mr. Ring and the members of the Executive Committee. The approval of the Committee resulted in NAB officially requesting this extension and the FCC granted the request. Many engineers have reported that this additional test time materially aided them in making the changes.

The Director has also worked with Arthur Stringer for over a year on plans for the promotional work in connection with the reallocation. This work resulted in an industry-wide plan that was ready for instant use at such time as the FCC gave the go ahead. Technical articles on the reallocation were written for the NAB REPORTS, BROADCASTING, Radio Trade Journals and Servicemen's Magazines. A frequency log was also prepared by the Director and this was extensively used by broadcasters and used by many who made up logs for general distribution.

### BROADCAST ENGINEERING CONFERENCE

NAB again officially cooperated in the Fourth Ohio State Broadcast Engineering Conference. This was held in February at Columbus. The preliminary program for the Conference was formulated at NAB headquarters during a two-day visit by Dr. W. L. Everitt, Director of the Conference. He was also assisted with the publicity. The Director of Engineering acted as Chairman of The General Discussion and Question Box conducted by A. D. Ring, Assistant Chief Engineer of the FCC in charge of broadcasting. The total attendance of 287 was an increase of 39 over the previous Conference. The members of the Conference presented Dr. Everitt with a wrist watch in token of appreciation for the work he has done in conducting the Conferences.

### INSURANCE COMMITTEE

The Insurance Committee has been aided in handling its questionnaire and in publicity of the work being carried on by the Committee

### MEMO RECORDING

In an FCC order on October 15, 1940, the International Broadcasters were ordered to record all of their transmissions. Because the recording time per year is great the cost per hour is of utmost importance. At the time of the order, the availability of equipment was not known. At the suggestion of Mr. Arney, information was requested of all known manufacturers of such equipment.

The information was tabulated and presented to the International Broadcasters at a meeting attended by Mr. Arney and the Director. The International Broadcasters decided to standardize on one type of equipment. Several recorders were loaned by a company to be used temporarily until the permanent machines could be delivered. In this way, the International Broadcasters were able to comply with the FCC rule sooner.

### BROADENING NAB MEMBERSHIP

Before the last Convention the Engineering Committee instituted proceedings for broadening the scope of NAB to include not

only standard band, but also any other broadcasters. This culminated in a suggested by-law revision that was adopted by NAB at San Francisco. All broadcasters are now eligible for NAB membership and a number of High Frequency stations have joined.

### INTERFERENCE RATING

The FCC Engineering Department has had under study for some time, an alteration in the RSS Method of Rating Interference, suggested by NAB. With the reallocation out of the way, the FCC Engineering Department is again active in considering this matter. It is hoped that this controversial rule will be modified soon.

### TELEVISION COMMITTEE

In line with its broadened scope, NAB participated in the deliberations of the National Television System Committee. John V. L. Hogan served on the main committee as NAB representative and the Director was a member of one of the panels and also Mr. Hogan's alternate on the main committee.

### INSTITUTE OF RADIO ENGINEERS

The Director has cooperated with the IRE in publicizing its Annual Convention. On February 6, F. E. Terman, President of IRE asked the Director to serve on the Board of Editors and on the same date, was requested by A. N. Goldsmith, Chairman of the Board of Editors, to serve on the Committee on Regular Papers. These two appointments were accepted. Mail discussions with Dr. Goldsmith and a conference with Dr. Terman have been directed toward the end that the IRE Proceedings papers be made more attractive to the Broadcast Station Engineers.

### RECORDING STANDARDS

During the past few months, discussions have been held with station managers, agency men and engineers concerning the divergence of quality on records and transcriptions produced by various companies and played on machines manufactured by various companies. The Engineering Committee passed a resolution recommending that NAB coordinate a plan to formulate recording and reproducing standards. This resolution was referred to Neville Miller for consideration by the Executive Committee and the project was subsequently authorized. Time has been asked for at St. Louis during the Annual Convention for open discussion of this project. It is planned that the work of formulating standards will be inaugurated by the engineers at the IRE Convention in June at Detroit. Everyone interested in the subject, whether he be an NAB member or not, will be invited to participate in the work.

### HEARING COVERED

All FCC Engineering hearings of general interest, including the monopoly hearing, during the past year, have been attended by the Director and reported in the NAB REPORTS.

### DEFENSE COMMITTEE

The Director was appointed Neville Miller's alternate on the Domestic Broadcast Committee of the DCB and was appointed NAB technical advisor. The Director is serving as Chairman of one of the Subcommittees.

### ENGINEERING HANDBOOK

A revision of the handbook is nearly completed. The time necessary to do this job has been seriously curtailed by other more pressing matters such as, work in connection with the reallocation and work in connection with the Defense Committee. It is anticipated that the revision will be ready for distribution shortly.

### SERVICE TO MEMBERS

Many minor functions have been carried on beside the main ones mentioned, not the least of these being individual services

to members. Many of the members have availed themselves of this service.

If you feel that the Director can be of help to you, please feel free to call on him.

### ENGINEERING COMMITTEEMEN

Without the wholehearted help of the members of the Engineering Committee, the work of the past year could not have been accomplished. Many of the members have given generously of their time in furthering industry-wide projects.

### COMMITTEE MEETINGS

The Engineering Committee met on January 9, 1941, in New York City and on February 19, 1941, at Columbus. An Executive Engineering meeting was held on September 26, 1940, in Washington.

### EXECUTIVE ENGINEERING COMMITTEE

1940-41

Edward L. Gove—Chairman, WHK  
Porter Houston—WCBM  
Paul deMars—Yankee Network  
E. K. Cohan—CBS  
J. R. Poppele—MBS  
O. B. Hanson—NBC  
L. C. Smeby—NAB—Ex-officio

### ENGINEERING COMMITTEE

1940-41

Edward L. Gove—Chairman, WHK	Julius Hetland—WDAY
F. M. Doolittle—WDRC	K. W. Pyle—KFBI
John V. L. Hogan—WQXR	W. G. Edgerton—KTSA
J. C. Leitch—WCAU	Eugene G. Pack—KSL
Scott Helt—WIS	R. V. Howard—KSFO
J. R. Donovan—WTOC	Jay Tapp—KGER
J. H. DeWitt—WSM	Francis Brott—KOMO
R. Morris Pierce—WGAR	E. K. Cohan—CBS
Walter Hoffman—WWJ	O. B. Hanson—NBC
Carl Meyers—WGN	J. R. Poppele—MBS
Paul Loyet—WHO	L. C. Smeby—NAB—Ex-officio

Respectfully submitted,

LYNNE C. SMEBY,  
*Director of Engineering.*

## Legal Department

This is the report of the activities of the Legal Department for roughly eight months since the last annual meeting.

**CONGRESS.** To date no adverse legislation has been enacted. In summary the radio bills and their history are as follows:

In the field of copyright, Executive E, the International Copyright or Berne Convention Treaty is again before the Senate. A sub-committee of the Committee on Foreign Relations held hearings at which NAB appeared in opposition. The perennial bill for legalizing copyright in recorded renditions and interpretations was again introduced under NAPA sponsorship, this time by Representative Sachs (D-Penna.); no hearings have been held or are believed likely in the near future. Companion bills for the preservation of authors' rights were introduced by Senator Bone and Representative Kramer; NAB appeared at the hearing and suggested perfecting amendments. A bill introduced by

Representative Keogh (D-N. Y.), incorporating the minimum damage clause of the Duffy bill, and generally acceptable, has not been set for hearing. The Thomas bill embodying the draft of the Committee for the Study of Copyright has not been introduced; broadcasters are opposed to it.

The Johnson bill to bar broadcast of advertising of alcoholic beverages was reintroduced; when set for hearing NAB will oppose it vigorously.

The Ditter bill to amend the Communications Act and provide for five year license period and to prevent indirect censorship by the Commission was again reintroduced. Hearings have not been scheduled to date.

Bills affecting interception of messages and amendatory of the Communications Act in this respect do not disturb us.

Bills affecting national daylight saving time have been actively supported; hearings have not been set.

Three bills for improvement of administrative procedure, successors to the Walter-Logan bill, are under consideration. The Federal Communications Bar Association's draft of a bill embodying the best features of each is acceptable to counsel. As in the past, no action on such measures has been taken by the NAB.

*STATE LEGISLATION.* Legislatures in forty-four states have been in session this year. District Directors cooperated with counsel by appointing broadcasters in each state, and wherever possible in the state capital, to serve as Legislative Contacts for NAB. By providing an additional safeguard against overlooking the introduction of bills affecting radio, and liaison for communication on legislative matters in each state, this innovation has been most useful in this department.

Chiefly of note at this year's sessions was the introduction of 35 so-called "anti-ASCAP" bills in 18 states. Other than enactment of the Wisconsin law to provide effective enforcement of existing provisions relating to investigators and music brokers, no such bills have been enacted. The NAB did not encourage or support any legislation of this character. The Montana law of this character was repealed.

The Perry bill to bar off-the-air recording of broadcasts was again introduced, in somewhat different form, in New York. New York State Broadcasters persuaded the author to strike the enacting clause, and the measure was killed. A committee is working to perfect an acceptable bill for introduction at the next session.

Oregon passed a radio libel law, relieving broadcasters from liability for radio defamation unless the plaintiff can prove that the broadcaster failed to exercise due care. A similar bill was vetoed by the Governor of Washington.

*LITIGATION.* The position of the NAB in *RCA v. Whiteman* was sustained in the Circuit Court of Appeals and again in the Supreme Court, thus establishing the law, except in Pennsylvania, that broadcasters are at liberty to play phonograph records without license from the record manufacturer of the performing artists. This was a notable accomplishment for the industry, particularly for the smaller stations. Stuart Sprague and White and Case were on the briefs.

*FACILITIES CONTRACT.* Nearly five months were required in conference with the AAAA Time-Buyers' Committee to determine that complete reconciliation of views on certain provisions was impossible. The Agency Contract, recommended by the NAB March 21, is the result of the protracted discussions.

*FCC APPLICATION FORMS.* In cooperation with FCC staff an NAB committee was successful in securing amendment to the standard and FM forms which greatly facilitates filling out of these forms.

*GENERAL.* Correspondence with stations and their attorneys on numerous matters as well as assistance to staff and general office work has consumed considerable time. Since Ed Kirby's going to the War Department, the duties of Secretary of the Code Committee have temporarily devolved on counsel. Service as alternate to Neville Miller on the International Broadcasting Committee of the Defense Communications Board has not been burdensome to date. There have been no meetings of the Committee on Cooperation Between Press, Radio and Bar since the last report. The New York Tax Committee, appointed to combat assessment by the City of New York of real estate tax on station equipment, was successful in its efforts.

Respectfully submitted,

RUSSELL P. PLACE,

*Counsel.*

## Labor Relations

Just three years ago this week the National Association of Broadcasters set up its labor relations department. Those three years—and especially the last one—have seen American industry plagued by labor trouble. One of the few exceptions has been the broadcasting industry. Paying its employees well, obeying the law and constantly seeking to understand labor's viewpoint on all questions of mutual interest, the broadcasting industry has enjoyed three years of comparative peace.

The industry's labor policy is highly respected not only in other quarters of the business world but by labor and government as well.

Here are a few comments on the department's last report:

Sidney Hillman, now co-director of the OPM—"May I congratulate you on your achievements and the fine record you have maintained . . ."

A. J. Altmeyer, chairman, Social Security Board—"May I send you my sincere congratulations on your good work?"

J. R. Steelman, director of conciliation, U. S. Department of Labor—" . . . The broadcasting industry and organized labor must be proud of their record for the past year."

William Green, president, American Federation of Labor—"Such a record must be interpreted as a tribute to collective bargaining, and to the wisdom and self-restraint of management and workers."

Thomas Kennedy, secretary-treasurer, United Mine Workers of America—"That the broadcasting industry and organized labor have gone through a year without any major labor trouble is a tribute to your work in this direction."

Any of these credits which appear to accrue to the NAB's director of labor relations must be interpreted as belonging to the entire industry, for the entire industry has given the labor relations director unstinted support in his efforts.

The NAB proposes to continue its current labor policy during the coming year. Members will be kept advised of trends and developments in the field of labor relations. They will be informed of any changes in labor laws that affect their operations. They may call upon the labor relations director for direct assistance with their individual or collective labor problems. They will find available at the NAB a growing fund of information useful in collective bargaining. The labor relations director will continue his efforts to preserve and foster the general goodwill between the industry and the labor movement, and will count on the continued assistance of the entire membership in this work.

Following is a topical review of labor developments related to the industry since the San Francisco convention last August.



## RADIO'S PAYROLL

Latest available FCC figures, for the week beginning October 15, 1939, showed that the average broadcasting employee, executives *excluded*, received \$41.08. There is every reason to believe that the Commission's next report will show a considerable increase, keeping broadcasting at or near the top of the list of all industries in this respect.

For comparative purposes it is necessary to *include* executives, in showing the increase in the industry's payroll and average weekly salary in recent years:

Week	Full-time Employees	Average Salary
March 6, 1938 .....	17,085	\$45.12
December 11, 1938 .....	18,359	45.20
October 15, 1939 .....	19,883	45.92

These figures do not include highly paid artists, musicians, announcers, writers and others employed for radio shows by advertising agencies. Their inclusion would raise the averages considerably.

## WAGE AND HOUR ACT

The headache that came with the first application of the Fair Labor Standards Act of 1938 is gradually wearing off. The remaining dull pain results largely from the disappearance of a give-and-take arrangement as to working hours that prevailed in much of the industry before federal regulation of wages and hours. Before 1938, the broadcasting employee who wanted a day or two off usually got it without question. When he worked a long day or a long week (as the nature of the industry frequently requires), he was usually given compensatory time off. Because of the overtime payment required by the law, these practices necessarily have been discontinued in many cases. Employees have not liked this any more than have employers.

Some relief came last fall with the Wage and Hour Administrator's redefinition of "executives, administrative employees, professionals and outside salesmen," four classes of employees who need not be paid overtime. The new definitions, much broader than the old, exempted a great many broadcasting employees who previously had been covered by the Act. Before the new definitions were drawn, for instance, the Wage and Hour Division maintained that the broadcasting industry's outside salesmen were not outside salesmen within the meaning of the Act. After the NAB labor relations director presented the industry's case at hearings on proposals for the new definitions, the report accompanying the new definitions specifically stated that radio's outside salesmen were exempt.

Only one broadcasting station got into any serious trouble with the Wage and Hour Division during the past year, and that trouble resulted largely from the station management's misunderstanding of how to apply the Act to its employees. A court order requiring payment of back wages and an injunction against future violation resulted. Failure to keep proper records has resulted in several other minor cases, all of which were adjusted out of court.

Last November, after the new definitions mentioned above were issued, the NAB Labor Relations Department published a booklet, "The Wage and Hour Act: How It Affects A Broadcasting Station," which summed up the Act in a-b-c form for broadcasters. It has proved tremendously popular, with distribution already above 1,000. When necessary, this booklet will be revised.

This spring, the labor relations director has taken steps toward further clarification of the status of broadcasting technicians and engineers under the Act. Through a series of conferences and field inspection trips, the labor relations director and Wage and Hour opinion attorneys expect to be able better to advise broad-

casters what technicians qualify as executives, professionals or administrative employees, and what ones are clearly non-exempt.

## WAGNER ACT

The National Labor Relations Board has cited only two stations during the past eight months for violation of the Wagner Act. One of these was directed to reinstate several employees alleged to have been discharged for union activity. The other case was settled "out of court."

This record is far from bad, considering the number of complaints in other industries, and also considering the number of times broadcasters have dealt with labor unions for the first time.

The NAB labor relations director has advised dozens of broadcasters how to avoid missteps which might be construed as Wagner Act violation, and also has advised them on the technique of collective bargaining. This service should be used even more than it is.

Appointment of Dr. Harry A. Millis as chairman of the Labor Board to succeed J. Warren Madden has been generally hailed throughout the country as a step toward more harmonious labor relations. Both Dr. Millis and Dr. William Leiserson, appointed to the previous vacancy, have long records as mediators and conciliators. Both firmly believe in that technique.

## STRIKES

Several incidents have led to the temporary withdrawal of union musicians from broadcasting stations, but there have been only two actual strikes in the industry during the past eight months. One was called at a southern station by the International Brotherhood of Electrical Workers (A. F. of L.) when six months of negotiations failed to produce an agreement on terms for a first contract covering technicians. The other was called by the American Communications Association (C.I.O.) at a New York City station during the course of negotiations toward a contract renewal. The latter was accompanied by sabotage. Neither strike had been settled when this report was prepared.

During a period when strikes made the headlines almost daily, the lack of any serious labor trouble in the broadcasting industry is a tribute to the industry, its employees, and the labor unions it deals with. Good wages, good working conditions, fair dealing and law obedience have paid dividends.

## "CLOSED SHOP"

More often than not, the chief obstacle to a first agreement between an employer and a labor union is the union's demand for a "closed shop." The "closed shop" may take several forms:

(1) *The real closed shop, or "hiring hall" system.* This not only requires all employees to belong to the union but also requires the employer to take whatever employees the union sends in when vacancies occur.

(2) *The preferential shop.* This requires all employees to belong to the union and requires the employer to ask the union for replacements when vacancies occur. However, if the union cannot furnish suitable replacements, the employer may hire non-union employees, provided they join the union when they go to work.

(3) *The union shop.* This requires all employees to belong to the union while they are working, but gives the employer complete freedom to hire whomsoever he pleases.

There are many variations of these fundamental definitions. By and large, the two principal technicians' unions in the broadcasting industry (I.B.E.W. and A.C.A.) have insisted upon the closed or preferential shops, although each has settled for a union shop

on several occasions. AFRA has asked only for a union shop.

The principal objection to a real closed shop or hiring hall system is obvious. The employer who has that relationship with a union, theoretically at least, has delegated to the union one of the functions ordinarily associated with management. On the other hand, furnishing competent employees places a tremendous responsibility upon labor unions. In some instances this responsibility has worked well, and the employer has not suffered. In other instances, it has led not only to foisting poor employees on the employer but to job-selling and other racketeering practices on the part of union leaders.

The preferential shop gives the employer, or arbiters, the ultimate word on employment, and thus should avoid most of the trouble that can result from a closed shop. Many employers have found it quite satisfactory, and have used a union to advantage as an employment agency. Others have had sad experiences with it, finding that the preferential shop, as it worked out, was really a closed shop with all the potential evils of a closed shop quickly developing.

The union shop has many advocates in both labor and industry. It is definitely to the advantage of the employer, many say, to have all his employees in the union for the sake of plant morale. Half in and half out means trouble no end, they say, with endless costly bickering. On the other hand, few employers like the idea of requiring any employee to join and pay dues to a labor union.

The NAB labor relations director sets forth these arguments for and against the various types of shops, without opinion, for the information of broadcasters who may sooner or later have to face this question in negotiations. He will be glad at any time to discuss this question further with any association members.

## ARBITRATION

Arbitration is a well established principle in the labor policy of the broadcasting industry. Its extension is constantly advocated by the National Association of Broadcasters as fundamental to the development of sound labor relations.

Every contract between stations and the International Brotherhood of Electrical Workers and the American Communications Association, the dominant technicians unions, provides for arbitration of disputes arising under the terms of the contract. Some of these contracts go even further in providing for the arbitration of *any* dispute that arises during the term of the agreement. The unions, in some instances, have been hesitant in accepting the latter type of provision. Arbitration of *all* disputes, however, guarantees a peaceful relationship between the employer and the union for a given period of time, and makes the employer far more willing to bargain collectively in good faith than if he is faced with the possibility of "wild cat" strikes after a contract is made. There is a great variation in technicians contracts in the method of selecting arbiters. The American Arbitration Association, the U. S. Labor Department, local judges, National Labor Relations Board, State Board of Arbitration, and the prominent panel of the American Newspaper Publishers Association, and the Printing Pressmen's Union are among those specified in contracts as arbiters or selectors.

All contracts with the American Federation of Radio Artists, the dominant union of announcers, singers, and actors, provide for arbitration of disputes arising under the contract by the American Arbitration Association.

The American Federation of Musicians, the other principal union in the broadcasting industry, both nationally and locally has refused to insert arbitration provisions in its agreements. These agreements usually have provided for the reference of disputes to the national officers of the union—an arrangement obviously unsatisfactory to the employers.

About eighteen months ago Thurman Arnold, assistant attorney general in charge of anti-trust prosecution, started to prosecute labor unions for some of their practices which he contended were in violation of the Sherman Act. His drive got into full swing about the time that the National Plan of Settlement between the American Federation of Musicians and Network affiliates was about to expire. As you know, the A. F. of M. permitted the National Plan of Settlement, with its "quotas", to lapse.

Mr. Arnold had listed "unreasonable restraints designed to compel the hiring of useless and unnecessary labor" as one of five restraints which he felt were "unquestionable violations of the Sherman Act". Last month, with this type of restraint at issue, Mr. Arnold was reversed by the Circuit Court of Appeals in New York City. A few days later, with this same type of restraint at issue, Mr. Arnold was reversed by the Supreme Court. Previously he had been reversed on most of his other types of labor prosecutions.

In the New York case, Mr. Arnold had prosecuted the truck drivers' union for requiring out of town trucks to put on an extra driver from the New York local when they entered New York and for requiring payment of New York local members for unloading out of town trucks whether or not they actually did the unloading.

The truck owners resisted these demands but the union forced its claims upon them in some instances by actual violence to their drivers and trucks; and some by threats of such violence; and others by persuading receiving clerks not to receive the loads. At times the truck owners refused to allow the New York union members to have any part in the handling of their loads; more often they let them do some of the unloading; but in almost all cases they were forced to pay a full day's wage.

Mr. Arnold accused the union of violating not only the Sherman Act, but the Anti-Racketeering Act as well. Judge Learned Hand, however, turned Mr. Arnold down on both counts. There was no violation of the Sherman Act, he said, "for there is no evidence of any concerted agreement to fix the price of trucking, or of the commodities carried; nor was there any evidence that the action of the accused had, in fact, affected those prices".

Nor was there any violation of the Anti-Racketeering Act (extortion), Judge Hand said, because "if the employee in good faith actually proffers his services, it is the same whether or not they are accepted".

"The position of the accused, when the operators refused to employ them, was like that of 'stand-by' orchestras, so called", Judge Hand added. "If a conductor brings an orchestra from outside into the territory of a union powerful enough to coerce him he must either employ local musicians in their place, or pay an amount equal to their aggregate wages if they had played. In such cases it may be doubtful whether the local players can, in fact, substitute for the outsiders, and that might condemn them; but there was no such doubt here, for the accused were competent drivers."

In the Supreme Court, the decision of District Judge Sullivan of Chicago was upheld, without comment, in Mr. Arnold's case against the common laborers' union. Mr. Arnold had prosecuted this union for requiring Chicago contractors to hire "stand-bys" when concrete mixers were used. The union made the contractors hire as many "stand-bys" as there were men replaced by the mixers.

"I am of the opinion that defendants (the union), under such circumstances, are immune from prosecution under the Sherman Act by reason of the provisions of the Norris-LaGuardia Act which enlarges the scope of section 20 of the Clayton Act," Judge Sullivan said.

After pointing out that no labor union could be prosecuted for "normal, legitimate and lawful activities" Judge Sullivan added:

"Such normal, legitimate and lawful activities of a labor union include the calling of strikes, or threatening to call strikes in order to obtain their demands, as in the present case, a demand against labor-saving devices which will displace their members or, in the alternative, the demand that if the labor-saving device is used, the same number of men be employed as if the other type of mixer were used. These are legitimate and lawful activities which a labor union is permitted to carry on in an effort to maintain employment and certain working conditions for its members, and restraint of trade or commerce attendant thereon, is only indirect and incidental."

Last month, the New York Court of Appeals enjoined the stagehands' union (I.A.T.S.E.) from striking at theaters against "Opera On Tour," a touring opera company using mechanized musical accompaniment. The stagehands issued the strike order at the request of the A. F. of M. The New York court held that the strike issue was not a legitimate labor dispute. This decision may prove to be of far reaching importance.

### A. F. OF M.

Only a few local incidents have marred eight months' peaceful relationship between the industry and the American Federation of Musicians (A. F. of L.).

Quite a few local contracts expired in January, and in some instances local demands for increased employment or expenditure for musicians led in several instances to temporary withdrawal of the musicians or withdrawal of name bands for network sustaining programs. Most of these situations have long since been straightened out, although a few were still pending when this report was prepared.

In the middle west, at least one local took a cue from Chicago and St. Louis, and demanded the employment of platter turners. Platter turners are union musicians whose sole duty is to place phonograph records or transcriptions on turn-tables, turn them and remove them. In the larger Chicago stations they are paid \$90 for a 25-hour week.

The networks last winter made new contracts with the union covering staff musicians in New York and Chicago. The new agreements provided a wage increase. The networks refused to agree to the union's demand that they would not furnish music to affiliates declared "unfair" by the union.

### A. B. T. U.

The Associated Broadcast Technicians Unit of the International Brotherhood of Electrical Workers (A. F. of L.) has continued its organization drive throughout the country with a great deal of success. This union said April 15 that it had contracts covering technicians at 150 stations, while organization or negotiations were underway in at least 75 others. The NAB labor relations director has assisted dozens of stations in negotiations with this union.

### AFRA

The American Federation of Radio Artists (A. F. of L.) has been so busy during the past eight months with projects previously undertaken that it has not expanded its territory to any considerable extent.

Last fall, the issue of whether Chicago staff announcers should receive extra pay for local commercials was settled by mediation and compromise. Those making \$75 or more a week staff salary are permitted to do a specified number of local commercials without extra compensation. This issue was so complicated by its

place in the general AFRA-network relationship that, at the same time, the commercial code was renewed until 1943; the sustaining talent agreements were renewed, with modifications; and NBC renewed its New York staff announcers' contract.

The "Chicago Formula" for payment of staff announcers is one of four now in effect. NBC at some of its managed and operated stations outside of New York and Chicago has agreed to turn over to staff announcers all talent fees it collects. CBS at some of its managed and operated stations outside of New York and Chicago has agreed to pay specified fees for local commercial announcing outside of regular hours. In New York, the networks pay specified fees for all commercials, local and network.

Negotiations toward an AFRA transcription code, covering actors, announcers and singers on transcribed programs, have continued throughout the winter and spring.

### IATSE

The International Alliance of Theatrical and Stage Employees (A. F. of L.) maintains it has certain jurisdiction in television, but the various jurisdictional issues in this field have not yet come to a head. This union last month also laid claim to network sound-effects men—a claim disputed by AFRA.

### ACA

The American Communications Association (CIO) continued to confine to the larger metropolitan centers in the northeast its efforts to organize technicians, announcers, salesmen and office help. The ACA now has contracts in Washington, Baltimore, Philadelphia, New York City and Buffalo.

Last winter, all broadcasting members were shifted from other locals to Broadcast Local 1, headed by Leonard Ohl of Philadelphia, and an organization drive was announced. Joseph Selley succeeded Mervyn Rathborne, resigned, as ACA president.

### ANG

The American Newspaper Guild (CIO) did not enlarge its activities in the broadcasting field.

### LABOR ON THE AIR

When the NAB Code of Program Standards was adopted two years ago, we were pretty sure that we could count on an unqualified endorsement from organized labor.

We had said that broadcasting stations were obligated to carry labor programs when they served the public interest. Time should not be sold for such programs. All parties to any controversy raised in a labor program should be afforded an equal opportunity before the microphone.

In other words, when a national labor issue of importance arose, a nation-wide network was obligated to give the justified amount of network time for discussion from all viewpoints.

When a labor issue of local importance arose, a local station was obligated to give the justified amount of its time for discussion from all viewpoints.

Time should not be sold for this discussion because the employer ordinarily could out-buy the union, and thus weight the argument in his favor. That wouldn't be fair play.

It turned out that labor wasn't with us, 100 per cent. A great majority of labor leaders, however, have given the code their enthusiastic support. We have heard nothing but praise of the national network policy in regard to the amount of time accorded labor leaders and government officials dealing with labor problems. The National Broadcasting Company alone had 43 labor talks

on the coast-to-coast network last year. William Green gave six of these; John L. Lewis, five. The Columbia and Mutual Broadcasting Systems carried about the same number.

Locally labor has fared well under the code. Let me cite an instance:

Out in Cincinnati, about 20,000 of those who work in town live across the Ohio river in half a dozen Kentucky communities. Until last fall, they commuted by two bus lines. One of these lines had a closed shop contract with the "Amalgamated," an A. F. of L. union of bus drivers and street car employees. The other had a closed shop contract with the "Brotherhood," an independent union of bus drivers and railroad employees. The two lines merged. A jurisdictional strike resulted. Service stopped completely. Taxis were at a premium. Thousands had to walk to work.

The issues in jurisdictional strikes are often confused and difficult for the general public to understand. And so L. B. Wilson, manager of Station WCKY, asked representatives of the two unions, the merged companies, government conciliators, and the city managers to sit around the microphone together, to explain the issues from their respective viewpoints.

Only the bus companies turned down the invitation. They said they would not have enough time before the broadcast to prepare their case.

The program was an outstanding success. Ideas were developed that aided materially in the settlement of the strike.

After the forum program, Mr. Wilson assigned several of his best news analysts to "cover" the strike. On a news basis, statements from all sides were carried as they were issued.

After the strike eventually was settled, the station reported to us:

"We found both the companies and the unions willing to cooperate in acquainting the public with the facts, and there was not a single case of objection by the unions, companies, or the listening public to the way our strike broadcast and our strike news was handled."

The forum type of program is not the *only* proper medium for a labor broadcast. It is an extremely fair means of presenting the issues and the arguments of all parties—because all sides reach the same audience—and round table discussion is often more fruitful than set speeches. A forum makes a good show, too. Labor leaders—and others as well—too often are inclined to forget that it takes showmanship to build and hold an audience.

There have been only two outstanding complaints against the operation of the code from labor quarters. They were much alike. Both came from the C. I. O. Both resulted from the refusal of stations to continue C. I. O. local "news" broadcasts for which C. I. O. unions bought time. The first was in 1939, against a small station in Akron, Ohio. The United Rubber Workers, a C. I. O. affiliate, had been broadcasting news *and views* about local labor troubles for some time. After the code went into effect, the station exercised a cancellation clause in its contract with the union, maintaining rightfully that sale of time for discussion of controversial issues would constitute code violation. As a display of good faith, the station staged a forum program to discuss the rubber workers' contention that the code was "unfair to organized labor" and union representatives took part. They refused the station's offer, however, of free time to discuss their problems from time to time, as the public interest warranted. Last fall, a San Francisco station refused to renew an expired contract with the local C. I. O. council for a similar program. Not only the station directly involved but all other stations in San Francisco offered the C. I. O. free time, as the public interest warranted, to

discuss labor questions of general public interest. To date, this offer has not been accepted. In both instances, the C. I. O. unions complained to the Federal Communications Commission. The Commission informed them that there was nothing in the Communications Act of 1934 to require a station to accept any program.

Most of the other complaints—and they have been few—have arisen from differences of opinion between local labor leaders and station managers over the air-worthiness of programs or speeches proposed by the labor leaders.

For instance, a local business agent is conducting a strike involving 200 factory employees in a city of 150,000 population. He has a great deal to say about the situation and he wants to tell the whole world, too. And so he goes to the manager of a 50,000-watt, clear channel station that serves not only the 150,000 city dwellers but farmers 100 miles around and asks to buy or get free time to air his views. The station manager informs him that he cannot buy time, under the code, and that he regrets he cannot give away the time, either, because that station's far-flung audience or a good share of it just wouldn't be interested in hearing about the merits and demerits of a small strike.

On the other hand, the size of a strike certainly is not the only criterion for a broadcaster in determining whether it should be discussed on his station. A strike of three employees in a power plant which threw a community into total darkness would surely be of prime public interest.

In this connection, the NAB code manual says:

"The broadcaster who denies time to a labor leader or organization solely because the broadcast might "stir up trouble" or disturb the *status quo* is treading dangerous ground.

"Of course, no broadcaster would permit his facilities to be used to incite to riot or bloodshed. When a broadcaster is in doubt on this score, after reading the proposed script, he might well consult the proper police officials.

"On the other hand, the opinion of an employer that a labor program dealing with his employees would be "dangerous" should be considered for just what it is worth. It is certainly not for the broadcaster to decide that labor unions are good or bad, and give or refuse to give them time accordingly.

Not long ago, the NAB labor relations director helped to arrange for a national network program for a labor leader who had made his first request for time. First, he was surprised that he received it, and received it so promptly. Then he submitted his script. In it, he quite strongly attacked three of the largest industrialists in the country. The network lawyers looked it over, found no libel, and gave it their O.K. The labor leader was amazed.

"Do you mean I can say all that?" he asked.

We think labor is getting a pretty good break on the air.

Just a few weeks ago, the International Ladies Garment Workers Union (A. F. of L) raised a new question which was immediately referred to the Code Compliance Committee. This union had prepared and used with a great deal of success on several stations on a commercial basis a dramatic serial type of program, frankly loaded with propaganda about the benefits of union membership. In one city, all stations refused to accept the serial on the ground that its acceptance would constitute Code violation. The union wanted to know what our attitude was. The union maintained it had as much right to sell union memberships by advertising on the air as had a soap firm to sell soap.

Respectfully submitted,

JOSEPH L. MILLER,  
*Director of Labor Relations.*

## Public Relations

*At the request of the War Department, Ed Kirby, NAB Director of Public Relations, was given an indefinite leave of absence by the Board of Directors to establish a radio department for the Army. As Chief of the new Radio Branch, Mr. Kirby reports directly to Major General Robert C. Richardson, newly appointed Director of Bureau of Public Relations of the War Department.*

*A full description of the organization and functioning of the new radio branch follows this annual report on the NAB's public relations activities.*

In 1941, American radio must win its service chevrons in a war emergency.

It is about to undergo vast economic and social readjustments.

It is already accommodating itself to a war condition in every aspect of management, programming and of engineering.

The American System of privately owned and competitively operated broadcasting is facing the most crucial test in its brief but brilliant twenty year record.

Such a thought underlies the deliberations of every broadcaster in attendance at this, the nineteenth annual convention of the NAB.

It is pertinent, therefore, that we prepare at once for a new order of things.

For every consideration of self-interest must be submerged in service to the national defense.

No other industry has a more important mission for no other industry reaches such vast audiences of people—and with the spoken word—directly and immediately from the scene of action or from the seat of government.

Radio has a twofold mission: to keep the nation informed, and to inspire a loyalty of country, a pride in the Army and Navy, as the facts warrant.

Its mission, also, is to keep open the channels of trade and commerce, and thus justify its economic existence; to interest and retain large audiences of people before their loud speakers that maximum numbers may be reached instantly, when information must be relayed to the civilian population without loss of time or coverage—and thus justify its social being. The one makes possible the other.

It must, in addition, continue to provide opportunity for the expression of honest diversity of opinion and ideas in accord with the democratic principles we are defending, that truth and the facts may come out, upon which we may base a course of common action.

At the same time, the microphone must be denied to those who would foul its naturally simultaneous unifying character by promoting social, racial or religious strife and discord; it must be denied those whose alien-inspired demands for broadcasting time are for no other purpose than the promotion of civilian and military hysteria and confusion.

Fortunately, this country has seen examples of both types of broadcasting at work abroad.

Again we know that what does *not* go into the microphone is as important as what does.

This is not censorship.

After all, such a diversity of expression was permitted in England, that the British government changed hands in the midst of the most serious war it has faced since the signing of the Magna Carta.

This is the democratic way of finding fault and placing responsibility.

But this is quite a different thing from the use of democratic channels of mass communication by those whose only purpose in invoking the right of freedom of expression is to destroy it; whose only purpose in invoking the right of freedom of worship is to kill it; whose only purpose in using our democratic rights and media is to further advance the ruthless march of those who have no friendly inclinations toward us or toward our institutions.

In a war, every radio transmitter is a military objective, and their control and use a military and political achievement.

What is to be done about it?

This is the question American radio faces at this convention, and will continue to face tomorrow, next week and next year, and perhaps for several years to come.

The beginning and end of all radio problems lies in the character and quality of program service broadcast and heard.

The public relations position of any station, of any network or of the entire broadcasting industry, fundamentally, can be no better nor worse than the character of program service heard by those served.

Through no other means can we create a story to tell, for program service is *the* story. All else is secondary.

Public relations activities which do not permeate the daily radio program structure, or which are not directly and completely in accord—each with the other—visibly and audibly embarrass broadcasting, which may be heard and checked by friend or foe, eighteen hours the clock round.

Broadcasting has earned and can continue to earn public confidence through no superimposed public relations program which is not imbedded in actual program structure and in program improvement, artistic, social and technical.

It is time we start our public relations thinking in the program department. In the critical days ahead, new and greater demands are going to be placed upon the limited hours available for broadcasting. How we use time and talent is all important. Each program, whether musical, entertainment or otherwise must serve some useful purpose. Each day's schedule must be balanced to serve the war-emergency needs of our civilian population, urban and rural, hungry for news, in need of diversion and entertainment, seeking information, relaxation and inspiration from their radio sets. These have been the goals of our operating policies in normal times; they become absolute necessities during times of the war emergency.

There is immediate need for a broader interchange of information, ideas and experiences among all stations through the NAB. There is immediate need for a broader coordination of program effort, for an expansion of contact work with press and other media, and among all social and governmental agencies, telling, interpreting, designing the story of radio. There is immediate need of a central NAB clearance agency that, from the ever-increasing multiplication of demands, program priorities may be established so that prime time is available for prime purposes; that the right time is not given to the wrong person or group.

There is immediate need for considering call of a second, but different, NAB convention in the months of June or July, to which management should send those responsible for programs, for news and for special events broadcasting, in order that these specialists, immediately concerned, will have opportunity to exchange and establish programming and news policies, commercial and sustaining, needed in the emergency we now face. Ample precedent exists for such a practical and intelligent separation in our older sister media: the American Newspaper Publishers Association who convene once a year—a *management convention*—and the American Society of Newspaper Editors who convene, separately, once a year—a convention of news *specialists employed by management*.

Since its inception three years ago, the Public Relations De-

partment has taken the position that so-called industry-wide public relations begins from the grass-roots up: that a radio station must serve the local needs of its community in accord with power, policy and income position, and in like fashion, a national network must serve similar interests in the national community. That, therefore, to the individual station or network is attracted every social, religious, educational, civic, political, labor and economic interest within its sphere,—the yardstick of local and national “public interest, convenience and necessity.”

That if these interests are honestly served and fairly balanced, the station or network has solved its own public relations problem. But that if an individual operation fails to recognize, balance and serve such social and economic interests and differences in its field, it has created a problem of public relations not only involving itself—from possibly regulatory, and perhaps economic and social standpoints—but it has also created ill-will for the entire industry.

For, unlike in the newspaper field, where an individual paper may be singled out for unfairness and cited for editorial distortion, what the individual radio operation does wrong is, somehow, seized upon as typical of all. Condemnation comes down, not upon the heads of the few, but upon the heads of the many—the whole structure.

Radio is no stronger in the public mind than its weakest operation.

Herein lies the basic reason for a program of self-education on the one hand, and an expanded public relations operation on the other.

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### Freedom of the Air

Throughout the past year a consistent effort has been made to drive home the importance of a free American radio. The campaign was inaugurated at the San Francisco Convention where a placque symbolic of freedom of the air was dedicated at the Golden Gate Exposition, with simultaneous ceremonies at the New York World's Fair, each ceremony being the occasion for a three network broadcast in which several hundred independent stations participated as well.

It is gratifying to report that both the concept and the phrase “freedom of the air” have now become part of the language of the day. Seldom does any prominent speaker fail to include “freedom of the air” where “freedom of the press”, “freedom of religion” and “freedom of the individual” are discussed.

At Radio's Twentieth Birthday Party held in the Hotel Willard, Washington, last November, both President Roosevelt and Wendell Willkie congratulated the industry for its fairness in the heated presidential campaign, and declared that a free American radio must continue to rank alongside a free American press as cornerstones of American democracy.

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### Continuing Benefits of the Code

The industry continues to receive social and commercial benefits from the operation of the NAB Code. This will be especially marked during the development of the war-emergency.

The development of the George Foster Peabody Awards for Public Service Broadcasting was one of the public relations highlights of the year.

Reflecting the public relations position over the past year of the radio industry in important related fields, are the following reports representative of outstanding national organizations and social groupings:

#### From the American News Publishers Association:

My feeling is that relationships between newspapers and radio have constantly improved in recent years. They should continue to improve with better factual understanding on both sides of the tasks involved in each of these fields of endeavor. I cannot speak too highly of the attitude displayed by the officers and staff of NAB in their consistent effort to promote such understanding. The NAB office has been both attentive and efficient

in meeting every request for information which I have had occasion to make as chairman of ANPA's radio committee.

JOHN S. GRAY, *Retiring Chairman,*  
ANPA Radio Committee.

#### From the United States Commissioner of Education:

Education by radio is becoming increasingly effective through the combined efforts of broadcasters and educators. Information being received by the Federal Radio Education Committee indicates that broadcasters throughout the country are adhering to the pronouncements in their Code by generously offering time and facilities to schools, colleges, and universities. This fact is substantiated by reports from the Educational Radio Script and Transcription Exchange, of the FREC, which each year offers practical services to approximately 15,000 educational and civic radio groups, many of which are working in close cooperation with their local broadcasters. Experimentation in the studio, the classroom, in listening groups, and in radio workshops is constantly creating programs and methods of utilization which are making radio a truly scientific aid to learning. Forums of the air, schools of the air, and news analyses organized and produced locally, regionally, nationally, and even internationally are but a few examples of the important contributions radio is making at every level of education.

Radio is our most instantaneous medium of mass communication. Its tremendous powers are being harnessed to the task of preparing our people to face unflinchingly the exigencies of the critical days ahead. People must have the facts upon which to base their judgments. Never in the history of our country has there been a greater need for clear and intelligent thinking.

Dictatorships strike with the speed of one man's decisions. Democracies act with the approval of the majority. Learning processes must be speeded up—education for democracy must go into high gear. Radio is playing an important part in meeting this great challenge.

J. W. STUDEBAKER,  
*U. S. Commissioner of Education.*

#### From the National Council of Women:

Women have become increasingly aware of the importance of radio in shaping public opinion. They have seen how radio has been used by the dictators to pave the way for the conquest of nation after nation. They realize fully that a propaganda offensive against the United States is now being waged from abroad in an attempt to spread confusion, to create disunity and to induce paralysis of thought and action in the United States. They know that the unremitting barrage of words hurled over the ether at the Western Hemisphere is aptly described by the Nazi propaganda machine as “bombs for the mind.” And because of their complete understanding of the technique being used to undermine our national morale and unity, American women turn with renewed confidence to their own American system of broadcasting for the truth. They know that the Code adopted by the National Association of Broadcasters insures an impartial presentation of controversial issues and that the news presented by American broadcasters is not tinged with propaganda.

They are indebted to the radio industry for keeping faith with the American people, and enabling them to keep informed. A nation armed with the truth can face the problems which confront it with confidence, courage and a determination to move together, as a united people.

Freedom of radio, then, along with freedom of speech, of worship, of assembly and of the press, is a sacred trust American women will guard zealously to preserve. And when in the future, a just and honorable peace will have been won, they look to radio to strengthen the bonds of international friendship and to help build a world in which the Golden Rule will again prevail.

MRS. HAROLD VINCENT MILLIGAN, *President.*

#### From the Radio Council on Children's Programs:

Under the joint sponsorship of the National Association of Broadcasters and the Radio Council on Children's Programs, with a grant of \$1,500, a survey was undertaken in 1940 to further implement the standards on children's programs as set forth in the Code, adopted by the industry in 1939. As Vice Chairman and field representative of the Council, I contacted 516 stations in 168 cities in 39 states, assembling data on children's programs and holding conferences with 5,000 club and civic leaders and 1,200 radio executives. The tour covered 23,500 miles in 5½

months, during which time 54,000 copies of the Code Manual and the "ABC of Radio" were distributed, through 89 conferences and 62 broadcasts over major stations.

The findings of the survey have been incorporated in a report that is available to broadcasters, advertisers and lay groups. It reveals that in the area checked there are 1,479 programs or program series, 12% of which are transcribed; 48% network series; and 40% local originations. There is an average of 4.5 programs per station contacted; 8.8 programs per city, and 37.9 programs per state visited. 24.2% of these 1,479 programs are sponsored, and 75.8% are sustaining. There are 22 stations out of 372 that carry no children's programs. Local programs are broken down into about 19 classifications with numerous variations.

It is most encouraging to note that the broadcasters indicated their sincerity and good will by a 100% response to the survey and its local requirements of cooperation and effort. Furthermore, by the ample opportunity that travel by car offered, hours of radio listening in each area confirmed the fact that Code compliance is excellent. There is no doubt that when the condition of the children's program field is fully understood, the broadcasters will make a determined effort to remedy indicated weaknesses. Already many stations are setting up better standards and new programs, and are cooperating with local councils or committees that are functioning toward a better understanding of radio. An intelligent industry and listening audience will maintain the American System of Broadcasting to the end that it exemplifies democracy and the essence of freedom.

MRS. DOROTHY LEWIS, *Vice Chairman*.

#### From the Federal Council of Churches of Christ in America:

The wise course charted by the National Association of Broadcasters in adopting the broadcasting Code has resulted in self-regulation and has removed any existing reasons for external regulation. For this accomplishment on the part of American radio, we are indeed grateful and watch with ever-increasing interest the steady growth of program standards at a time of national and world-wide uncertainty.

DR. FRANK C. GOODMAN, *Executive Secretary*.

#### From the National Council of Catholic Men:

Having made a survey of religious broadcasting by Catholics only a few months ago, and a similar survey in 1938, there is no doubt in our mind that radio's service to religion is expanding. To that majority of station operators who, conscious of their public service obligation, acknowledge that religion is a definite and an important part of the public service, we express our thanks.

But what is to be done about those operators who fail to see that in contributing good religious programs to their stations, the religious groups are helping them meet the "public interest, convenience, and necessity" clause of the Communications Act; who refuse to give sustaining time, or else the less desirable hours of early morning, for religious programs?

The whole of the radio industry pretty well stands or falls together in public opinion. Unfortunately, therefore, the broadcaster who conscientiously seeks to discharge his public service obligation stands in danger of suffering because of the defaults of the less conscientious members of the industry.

If the NAB Code not only forbade attacks upon another's race or religion but forbade the sale of time for religious programs: and if it went further and did the affirmative thing of at least recommending that all member stations do their best to serve the religious needs of their respective audiences, additional constructive benefit would result.

EDWARD J. HEFFRON, *Executive Secretary*.

#### From National Conference of Christians and Jews:

This year the national radio networks reached a new high in effective sustaining programs. The increasingly better quality may be due in part to the friendly competition in excellence, the rivalry in "good works" which radio in the American way produces. It takes several entries to make a good horse race. The privately operated radio systems, and the strong independent stations, struggle for the blue ribbon listening audiences. This set-up, by the way, is one reason for the superiority of democratic as compared with totalitarian radio.

An effect of this competition is the demand for good program content made upon public service and educational organizations which appeal for free time. A higher standard in program offerings is required of these organizations. Better showmanship, in the

refined sense of that term, is now as characteristic of sustaining programs as of commercials.

The National Conference of Christians and Jews has never been denied time by any broadcasting system when it had programs to offer which were up to the standards that the American listening public now demands. This, we think, is a tribute to NAB as well as to the individual network companies, and to independent stations.

Concomitant with this advance in radio standards there has been a more intelligent service of the radio corporations in advising organizations such as ours in the preparation of scripts, the casting of parts, and the use of proper personalities which together are factors in effective radio production.

Radio is coming of age.

EVERETT R. CLINCHY, *Chairman*.

#### The Radio Branch of the Bureau of Public Relations of the War Department

Last January all public relations of the War Department were re-organized under Major General Robert C. Richardson and placed directly under the Secretary of War.

The Bureau of Public Relations of the War Department consists of a Press Branch; a Pictorial Branch, for serving newsreels, motion picture industry and still picture agencies; a Radio Branch, to serve radio stations and networks, script writers and commentators; a Special Features Branch to serve magazine and feature writers; and a Press and Radio Intelligence and Analysis Branch.

The Radio Branch is, broadly, divided into two divisions: a writers section, and a special events division. An Administrative Executive, Robert C. Coleson, formerly in charge of Radio and Special Events at the San Francisco Golden Gate Exposition, is responsible for the assignment and scheduling of work, and the follow-through on all detail. In the writers' division, we have Jerry Ross, as Chief Script Writer, former New York Post newsman, free lance radio writer, formerly with Blackett-Sample-Hummert, and author of a dozen network script shows. Morris Jacobs, formerly with Benton and Bowes, and with Blackett-Sample-Hummert, who served as Program director for the Democratic National Committee in 1936, and who has had Army experience, is another staff writer. Also we have Joseph L. Brechner who has written the scripts on most of the Army Recruiting Transcription now on some 700 stations.

In charge of the Special Events Division we have Jack Harris, formerly in charge of News, Special Events and Sports at WSM, Nashville. As associates, are Brooks Watson, formerly in charge of News and Special Events for WMBD, Peoria, Illinois, and Ross Worthington, formerly producer of *We, The People*, and formerly with Pathe News. Mr. Worthington is responsible for coordinating the pictorial aspects of Army radio special events with the Pictorial Branch for newsreel and still picture coverage.

As liaison with educational broadcasters, commercial and non-commercial, is Captain Harold Kent, formerly in charge of Radio for the City of Chicago Public School System.

As Chief of the Bureau, they report to me, and I, in turn, am responsible directly to General Richardson.

The following information about War Department programs and policies will be helpful to members:

- 1 Clearances of all national network Army programs must be made through the Radio Branch.
- 2 Clearance of all commercial shows, local, regional, or national, who desire to originate from an Army Post, must be done through the Radio Branch in Washington.
- 3 It is not necessary to clear with Washington, any local program of a non-commercial nature. These can be cleared with the Commanding Officer of the post involved through the Public Relations officer at the Camp.
- 4 If you do not know the name of the Public Relations Officer in your area, it is my suggestion that your program manager write or phone the Public Relations at Camps so that your station may have direct and immediate contact with the Army in your area.
- 5 Army personnel may appear on commercial programs, provided it is done in their own leisure time and in accord with their own free choice as individuals. Under Army regulations, no endorsements or testimonials may be given or inferred.
- 6 Commercial programs from Army posts must be preceded and closed with a disclaimer in language substantially as follows:

- "The origination of this broadcast from (name of Fort or Camp) does not, in itself, constitute an endorsement by the War Department, or its personnel, of the product advertised, the origination of the broadcast from this station being made solely for the entertainment of the military personnel stationed here."
- 7 Army bands may not be used on commercial programs. Army bands may be picked up by remotes from camps, or on programs of strictly Army nature, they may now broadcast from the studios of the stations.
  - 8 Army radio program ideas, or special events features are offered radio stations and networks purely on their merits and inherent news interest.
  - 9 The transcriptions now being used by the Recruiting Service are regarded as its prime radio recruiting requirement; additional programs on individual stations are not requested, but there is nothing to prevent local stations from working with local recruiting officers in developing special events programs as the opportunity presents itself.
  - 10 News broadcasters should be especially careful to check unconfirmed reports. Definite evidence exists that deliberate attempts have been made by subversive elements to manufacture fear and hysteria by starting campaigns of rumors such as epidemics sweeping over camps, hoping for publication by air or press. Every rumor and unsupported "story" should be checked immediately with the Public Relations officer of the camp. The policy of the Army is to make all facts available, except those of a strictly military secret nature, or in time of war, such stories as movement of troops, and the like, which would be helpful to an enemy.
  - 11 The services of the Radio Branch writers division is available to any station or writer or advertising agency who desire to develop material upon which broadcasts may be based, such as the story of various divisions and regiments, their battle records, individual heroics and citations, their battle songs, traditions and story behind their insignia, etc.; human interest stories; procurement stories—stories showing the importance of the man on the production line backing up the man on the firing line; animal stories such as the training of carrier pigeons; women's interest stories such as the new corps of women Lieutenants, Army hostesses, and Army housekeeping stories, recipes, traveling laundries; educational stories showing the training of farm and city boys to be radio operators, machinists, parachute jumpers, flying cadets; etc.
  12. Our Special Events Division can, within regulation, make arrangements for clearance of broadcasts involving use of Army planes, equipment or troops. In the forthcoming Army maneuvers there will be many opportunities for exceptionally newsworthy broadcasts. These maneuvers will be the largest ever staged by any country in peace-time history. They will show the result of the intensive training our new Army has received and will test our combat ability as a fighting machine. All stations in areas concerned should contact their nearest Public Relations officers so that advance plans may be made now. The Signal Corps are ready to render such technical assistance as may be needed.
  - 13 Before making public commitment to broadcast any local event of a spectacular military nature, such as blackouts of a city where use of planes and anti-aircraft artillery may be contemplated, it would be helpful to all concerned if a check were made direct with the War Department in Washington through the Radio Branch, to ascertain if the use of military equipment will be authorized. One or two stations have been innocently embarrassed because of giving advance publicity for the broadcast of events based upon the over-enthusiastic statements by local civilian groups or, in some instances, by national guard officers whose units have not been inducted into Federal service and who are not authorized to make commitments for regular Army material or troops. Inquiries may be made by mail, wire or phone. There is always someone on duty in the Radio Branch, from 8:15 A.M. Eastern Time, through to 6:30 P.M. Later on these hours will be extended on through midnight.

The following are authorized to handle telephone inquiries direct with stations:

Robert C. Coleson; Jack Harris; Brooks Watson; Ross Worthington. The War Department telephone number is Republic 6700, Washington.

In case of doubt, call, anytime.

- 14 Captain Gordon Hittenmark, in charge of radio for the Morale Branch of the Army, is working through the Radio Branch of the Morale Officers of the camps, so that announcers of "early bird morning broadcasts," on stations within range of the soldiers in the various Camps, may procure personal items about the soldiers in camps, etc., which fit into the structure of typical early bird shows.
- 15 Attention of stations is called to days around which great patriotic interest centers, such as: Flag Day, June 14, the 4th of July, September 14, the day on which Francis Scott Key wrote the Star Spangled Banner, and November 11, Armistice Day.
16. A special service is being set up to serve domestic foreign language broadcasters.
- 17 The development of such additional programming policies as may be needed through the war-emergency, will be cleared directly through the NAB Code Committee as new conditions warrant.

The War Department is most grateful for the wholehearted cooperation it is receiving. General Richardson on many occasions has expressed his admiration for the public-spirited, patriotic manner in which the industry is going about the service of national defense.

To these, may I add my own expression of thanks.

Respectfully submitted,

ED KIRBY,  
*Director of Public Relations.*  
*Chief, Radio Branch, War Department.*

## Research

The NAB Research Department has materially expanded its work since the San Francisco Convention in August of 1940. The NAB Board of Directors and the San Francisco Convention approved the "Unit Plan For Measuring Broadcast Advertising Volume" which called for the collection of monthly information from radio stations giving a list of accounts and products advertised with basic information on source of business, type of rendition, broadcast time, broadcast length and the number of times per month. The information thus collected was to be tabulated in terms of time units by classes of accounts to fulfill the need in the industry for an analytical record of business done which can be used by the radio industry in selling more broadcast advertising.

The approved plan authorized experimental operation to the end of the year 1940 and asked that appropriation be made to continue the service until the Research Committee and the Research Director could recommend a permanent plan of operation.

Membership of the NAB Research Committee is as follows:

William J. Scripps, Chairman—WWJ, Detroit, Michigan  
 H. M. Beville, Jr., Research Manager, NBC, New York City  
 Arthur B. Church, President, KMBC, Kansas City, Missouri  
 James D. Shouse, Vice President, WLW-WSAI, Cincinnati, Ohio  
 Dr. Frank N. Stanton, Research Director, CBS, New York City  
 Theodore C. Streibert, Vice President, MBS, New York City  
 Lee B. Wailes, Manager, Westinghouse Radio Stations, Inc.  
 James W. Woodruff, Jr., President, WRBL, Columbus, Georgia  
 Neville Miller, NAB, Washington, D. C.  
 Paul F. Peter, NAB, Washington, D. C.—Ex officio

The experimental operation has been concluded. "Broadcast Advertising Unit Reports" were released for each month, September through December, 1940. Considerable time was spent in investigating various means of presenting the information and, for that reason, no definite schedule for the release of information has yet been evolved. The September Unit Report was released in the NAB REPORTS December 6, 1940. The October Unit Report was released January 7, 1941; the November Unit Report



ry 21, and the December Unit Report appeared in the NAB REPORTS March 21.

On resolution of the Research Committee in meeting January, 1941, notice was given in the December Unit Report that future reports would not appear in the NAB REPORTS, but would be sent to only those stations actually participating in the undertaking. Those stations submitting monthly reports of their business will receive monthly analyses of broadcast advertising.

## BROADCAST ADVERTISING RECORD

Beginning with the January analysis, the Unit Plan will be operated under the name "Broadcast Advertising Record". January "Broadcast Advertising Record", published and released in the week of May 5, is a completely new report—revised—a new format to increase the value of this sales tool to individual stations. The Research Department, in collaboration with the Department of Broadcast Advertising, considered the direct application of the analysis to the specific station problem. After careful consideration, it was decided to rearrange the Report, adding some features and eliminating others which did not have direct application.

"Broadcast Advertising Record" consists now of three basic tables. Table I is a detailed analysis of Local broadcast advertising. Local business is presented by type of account under both retail and general advertising and is given in total units for all stations reporting. In an adjacent column, new figures are presented showing average per station. A blank column follows, headed "your station", into which the monthly units for each station can be written in for direct comparison with the average figures. In the following five columns, Local advertising placed in five population classifications is presented to give a positive comparison of the type of business placed in markets of the size of the station using the "Record".

Table II presents the same information for national spot business showing by type of account, retail and general, for all stations reporting with average per station, a blank column to be entered by the individual station, and national spot business placed in each of five population groups.

In evolving these tables, it was realized that the sales problem in securing local broadcast advertising is usually handled within the offices of the individual station, with a sales manager in charge and a staff of salesmen making the contacts. Separate handling of this information, presenting its complete analysis in one table, increases its value manifold. Similar handling of national spot business, which, although completely controlled by the station, is usually handled through the use of branch offices or national representatives and contact with national advertising agencies, warranted separate treatment.

The third table presents totals for the entire industry—a consolidation—presenting by type of account Local units, National Spot units, Regional Network units and National Network units with a total of the four classifications.

It will be noted in the January "Broadcast Advertising Record" that a tabulation by type of station has been omitted. A decision was reached to eliminate the analysis by station classification because of its limited value. Separate grouping of clear, regional and local channel stations has statistical value, but does not contribute materially to the sales problem of selling within a specific market. Competition within the industry is seldom confined to class of stations within a metropolitan area. The real situation is that local, regional and clear channel stations compete for advertising business within cities.

The population classifications presented in the January "Record" were settled upon after considered study. In prior analyses, nine

classifications were used. However, these were regrouped because it was considered that the sales problems in broadcast advertising were not materially different in various cities to warrant the detailed breakdown. The new classification is as follows:

Less than 25,000 population
25,000 to 100,000
100,000 to 250,000
250,000 to 1,000,000
1,000,000 and over

Work is now well under way in the preparation of a master file by individual advertiser account. The record is started for the month of January. In the completed file a card will be kept for each individual advertiser showing product advertised, the stations used, with type of rendition, time of broadcast and total units. The reference value of this file will be immediately felt by the Department of Broadcast Advertising and, as it develops, its value will assume great importance to participating stations. "Broadcast Advertising Record" gives a quick answer to the question of the prospective advertiser, "How much broadcast advertising is placed by businesses like mine?" The master file will supply the normal question which follows, "What businesses?"

The suggestions of the Department of Radio Advertising and the Research Committee published in the January Broadcast Advertising Record are quoted here because they sum up the use of the "Record" in concise fashion. Those suggestions are as follows:

1. Fill in your own figures on Tables I and II.
2. See from what sources you get no business or are below average compared with other stations.
3. Compare your own Record with stations in markets of similar size and figure your own relative standing.
4. Pick out one or two sources where you are weakest. Concentrate for a time on a special drive to get such accounts, then later go on to others in turn.
5. Write to the NAB Department of Broadcast Advertising for general data on specific account classifications, plus success stories.
6. Call a meeting of your sales staff and department heads to plan a campaign with specific presentations, using this Record as a starter to show your prospect how others in this field are using radio. Add punch to your presentations with specific program ideas, announcement campaigns, success stories, etc.
7. Then let us know what success you have, so that others may profit, and vice versa."

## OPERATION OF THE "RECORD"

During the experimental period, the Research Department has experimented with a station reporting system designed to minimize the work involved in station cooperation. It is termed a "write-back" system. Essentially, it involves submitting forms on which the previous month's business is typed for the station's correction to conform with the current month's business. A service is rendered the station by rearranging the accounts in the exact classification of advertiser used in the "Record". This furnishes the station an analysis of its business which may be compared directly with the "Record" tabulations. Experimentation with this system of reporting has established its value and the Research Committee has decided to adopt it as standard procedure as soon as a final budget for the entire operation is adopted.

At the direction of the Research Committee, the Research Director has entertained bids from various tabulating houses for the work of machine tabulation. A recommendation will be submitted to the NAB Board at its meeting Monday, May 5, in St. Louis, on the budget required for the operation of the "Broadcast Advertising Record" and the details of how it is to be operated.

## URBAN SURVEY

On recommendation of the Research Committee and the Director of Research, the NAB Board of Directors authorized the publication of a "Survey of Urban Radio Listening in the United States." The field work of the Survey was conducted by quarter during the years 1938 and 1939 by the Research Organization, Crossley, Inc., for the Columbia Broadcasting System and the National Broadcasting Company. The method employed in developing information on radio ownership and listening habits is basically the same as that used by the Joint Committee on Radio Research in conducting the Rural Radio Ownership Study published in 1939. Since NAB was a participant in the Joint Committee on Radio Research and a party to the publication of the Rural Survey, it was eminently proper that it sponsor the publication of an Urban Survey to complete the information on radio listening in the entire country.

On March 24, the publication "Urban Radio Listening in the United States" was mailed over Neville Miller's signature to the NAB membership, principal radio advertisers and advertising agencies—a mailing list of some 8,000 names. The Survey was received with great enthusiasm from stations, advertisers and agencies. Letters to NAB, the Columbia Broadcasting System and the National Broadcasting Company have heralded the Survey as a major contribution to the knowledge of the broadcasting industry.

Requests for copies of "Urban Radio Listening in the United States" have just about exhausted the supply available at NAB. Consideration is now being given the possibility of printing an additional supply.

A great number of stations, advertisers and agencies have written for detailed information to CBS, NBC and the NAB following the suggestion printed on page 40 of the publication.

## METHOD STUDIES

The NAB Research Committee, in addition to the work involved in the operation of the "Broadcast Advertising Record" and the publication of "Urban Radio Listening in the United States," undertook a study of methods used in measuring program audience since the San Francisco Convention.

The Committee invited the C. E. Hooper Organization to present to it a report on the method employed in the "Hooper Radio Report 'National Returns' on Radio Programs." The Hooper reports are released monthly to subscribers. The method employed is known as "telephone coincidental." The method report, submitted to the Research Committee by Mr. C. E. Hooper and Dr. Matthew N. Chappell of C. E. Hooper, Inc., shed much light on the operation of the telephone coincidental method and sought to establish the merit of the method in competition with all others employed.

On invitation of the Committee, Mr. Paul West, President of the Association of National Advertisers, arranged to have Mr. A. W. Lehman, Managing Director of the Cooperative Analysis of Broadcasting, present a report on the method employed for that program rating service. The CAB method is described as that of telephone recall. Mr. Lehman delivered a very informative discussion of the method and showed the results of some exploratory studies of its operation in comparison to other types of measurements.

It is the intention of the Research Committee to hear further reports on methods employed in program audience measurement, preparatory to the preparation of a Research Manual for the use of the membership in placing or conducting audience measurement research.

## FACILITIES CONTRACT—4A CONFERENCE COMMITTEE

The Director of Research was appointed a member, ex officio, of the 4A Conference Committee. This Committee was appointed

by the Association to meet with a Time Buyers' Committee of the American Association of Advertising Agencies to effect needed changes in the "standard order blank for spot broadcasting," published in 1933.

The membership of the 4A Conference Committee was as follows:

Harry C. Wilder, Chairman,—WSYR, Syracuse, New York  
Roy L. Harlow, Vice President, The Yankee Network  
Richard H. Mason, Manager, WPTF, Raleigh, North Carolina  
Edward W. Petry, President, Edward Petry & Company, Inc.  
Frank A. Seitz, Vice President, WFAS, White Plains, New York  
Dale L. Taylor, Manager, WENY, Elmira, New York  
Lee B. Wailes, Manager, Westinghouse Radio Stations, Inc.  
Paul F. Peter, NAB, Washington, D. C.  
Russell P. Place, NAB, Washington, D. C.—Ex officio

John Benson, President of the 4A's, submitted to Neville Miller, prior to the San Francisco Convention, a list of points established by the 4A Time Buyers' Committee which were felt needed correction in a revision of the standard order blank.

At the first meeting of the NAB Committee with the 4A Committee, it was established that there existed a need for a complete revision and the NAB Committee undertook the task of drawing up a new form. The Committee felt that the form should be set up as a contract, rather than as an order blank, and obtained the approval of the 4A's on this feature.

Numerous meetings of the NAB Committee, alone and in conference with the 4A Committee, resulted in the publication, January 7, of the "Standard Facilities Contract (recommended by NAB)". Publication of this form was pursuant to the instructions of the Executive Committee of the NAB Board of Directors.

The American Association of Advertising Agencies objected to certain features of the Facilities Contract and joint meetings of the two committees were resumed. After a series of meetings, a revision of the contract was submitted to the NAB Board and approved. The new form, labeled "Agency Contract (recommended by NAB, March 21, 1941)," was published in the NAB REPORTS, March 21.

Subsequent to the publication of the March 21 Agency Contract form, the 4A's registered objections to certain features of it. It is quite apparent that the two Committees cannot reach complete agreement on the subject. However, the industry has gained much by the work of the 4A Conference Committee.

## RECOMMENDED INVOICE FORM—FOR THE ACCOUNTING COMMITTEE

The American Association of Advertising Agencies indicated their desire to standardize invoice forms used in station billing for advertising service. It was pointed out that a wide variety of forms are employed on which is listed a varying amount and arrangement of information on the subject of billing, which makes it difficult for the advertising agency and the radio advertiser to effectively handle the bills.

The handling of this problem with the American Association of Advertising Agencies was originally assigned to the 4A Conference Committee in conjunction with its work on the "Facilities Contract." Considerable progress was made in developing a recommended invoice form in consultation with the NAB Accounting Committee. The project was turned over completely to the Accounting Committee when the 4A Conference Committee had completed its work.

The membership of the NAB Accounting Committee is as follows:

H. K. Carpenter, Chairman,—Vice President, WHK-WCLE, Cleveland, Ohio  
S. R. Dean, Assistant Treasurer, CBS, New York City  
E. J. Gluck, President, WSOC, Charlotte, North Carolina  
Harry F. McKeon, Auditor, NBC, New York City

Glenn Snyder, Station Manager, WLS, Chicago, Illinois  
 Harold Wheelahan, Manager, WSMB, New Orleans, Louisiana  
 Paul F. Peter, NAB, Washington, D. C., Ex officio

The NAB Accounting Committee is currently reviewing invoice forms drawn up by the Research Department. The principal feature of the new forms will be the substitution of a certificate of performance offered to replace the affidavit of performance which has been used in the past. Discussions with the 4A Fiscal Committee have indicated their open-mindedness on the subject, contingent only on the NAB ability to educate advertisers and agencies on the significance of station logs.

It is hoped that agreement can be reached with the 4A's at an early date, and recommended invoice forms published as a revision of the NAB Accounting Manual.

### CENSUS OF 1940

NAB Research Department has been in contact with the Bureau of Census during the past year and has assembled a complete file of census information released to date. Final figures on population have been released by state and county. Preliminary figures from the Housing Census have been released on occupied and unoccupied dwelling units by state and county. The Bureau has started the release of valuable information to the broadcasting industry on population of metropolitan areas. The 1930 Census definition of metropolitan areas has been continued. However, rather than confine their study to areas of 100,000 population and more, the 1940 releases will include those of population down to 50,000.

Considerable information has been released on the Census of Manufactures, the Agriculture Census, the Census of Business and preliminary detail breakdowns of the Population Census.

No information has been released to date on radio ownership which was obtained in the Housing Census. The original schedule of the Census Bureau was to start releasing radio figures by state early in 1941. The work of the Bureau has been such that that schedule was abandoned and, as nearly as can be approximated now, the first releases of radio information will not be available before June. The Bureau of Census has displayed a spirit of cooperation and Mr. Howard G. Brunsman, Chief, Housing Statistics, Population Division of the Bureau, in a letter dated April 8, 1941, has indicated that the radio information will be presented in the following detail:

1. All occupied dwelling units.
2. All owner-occupied dwelling units.
  - a. White owners.
  - b. Nonwhite owners.
3. All tenant-occupied dwelling units.
  - a. White tenants.
  - b. Nonwhite tenants.

The radio statistics for tenure and race, as indicated above, will be presented for each of the following areas:

1. All dwelling units in each state.
2. All urban dwelling units in each state.
3. All rural nonfarm dwelling units in each state.
4. All rural farm dwelling units in each state.
5. Each city with 50,000 inhabitants or more, separately.
6. Each metropolitan district, separately.

Statistics regarding radio will be presented in the Second Series Bulletins for all occupied dwelling units as follows:

1. All occupied dwelling units in each county.
2. All rural nonfarm dwelling units in each county.
3. All rural farm dwelling units in each county.
4. All occupied dwelling units in each urban place.

### NAB DAYLIGHT SAVING TIME SURVEY

At the request of the NAB Board of Directors, the Research Department sent to all stations on March 12, 1941, a Daylight

Saving Time questionnaire. The Survey was designed to develop information on the experience of the radio industry with daylight saving in effect in certain sections of the country during summer months. The questionnaire was sent to 837 stations and replies were received from 483. This represents a return of 58%.

The Research Committee reported the results of the Survey to the NAB Board of Directors.

### SURVEY OF PROGRAMS ORIGINATING AT ARMY POSTS

At the request of the Public Relations Office of the War Department, the NAB Research Department conducted a survey of programs originating at army posts. A questionnaire on the subject was sent to 836 stations on March 5, 1941. The replies were received from 338 stations, a return of 40%. The questionnaires, as submitted, have been turned over to the Public Relations Department of the War Department.

### MERCHANDISING POLICY AND PRACTICE SURVEY

On request of the Sales Managers' Committee and the Department of Radio Advertising, the Research Department conducted a survey on merchandising policy and practice among a selected group of stations in the NAB membership to obtain information on the subject for use at the St. Louis Convention. A preliminary report on the subject will be made to the Sales Managers' meeting at the Convention.

### STATION ANALYSIS

As of April 1, 1941, the stations in the United States and Possessions numbered 891. An analysis of these by class of station is presented by the following table, together with the count of NAB member stations within each classification. These classifications agree with those used by the Federal Communications Commission in analyzing financial data furnished by stations. For purposes of comparison, figures as of July 15, 1940 are also presented.

	Stations as of July 1,	NAB Member- ship July 15,	Stations as of April 1,	NAB Member- ship May 1,
Clear Channel:	1940	1940	1941	1941
Unlimited (50kw)	33	32	37	35
Part-time (50kw)	4	4	4	4
Unlimited (5 to 25kw) . . . .	11	9	19	15
Part-time (5 to 25kw) . . . .	5	1	11	6
Regional Channel:				
Unlimited (High Power) . . . . .	8	6		
Unlimited (Other)	212	156	218	168
Limited and Day Part-time . . . . .	67	35	41	21
Part-time . . . . .	30	16	24	12
Local Channel:				
Unlimited . . . . .	330	168	385	221
Day and Part-time	40	15	48	14
Total . . . . .	740	442	787	496
Non-commercial . . . .	39	3	37	4
Territorial . . . . .	12	4	13	5
Construction permits	56(2-Ter.)	8	54(1-Ter.)	15(1-Ter.)
Grand Total . . . . .	847	457	891	520

The second analysis of radio broadcast stations by population of metropolitan district or city appears in the following table. The information presented here shows the total number of stations in each classification as of April 1, 1941 and NAB member stations as of May 1, 1941. The nine population classifications agree with those employed by the FCC in their financial analyses.

Metropolitan Districts (1930 Census)	Operating Commercial Stations Continental U. S.		Non-Commercial Stations		Territorial Stations		Construction Permit Stations		Total Stations	
	Total	NAB	Total	NAB	Total	NAB	Total	NAB	Total	NAB
2,500,000 and over	51	23	3	1	0	0	2	0	56	24
1,000,000 to 2,500,000	60	46	3		0	0	0	0	63	46
500,000 to 1,000,000	44	36	3		0	0	4	2	51	38
250,000 to 500,000	95	69	4	2	0	0	3	1	102	72
100,000 to 250,000	102	78	1		4	3	10	4	117	85
<b>City and Town</b>										
50,000 to 100,000	56	36	2		2	1	5 (1-T)	2	65	39
25,000 to 50,000	106	69	1		1	0	7	4	115	73
10,000 to 25,000	164	90	8		1	0	13	1	186	91
Less than 10,000	109	48	12	1	5	2	10	1	136	52
<b>Total</b>	<b>787</b>	<b>495</b>	<b>37</b>	<b>4</b>	<b>13</b>	<b>6</b>	<b>54</b>	<b>15</b>	<b>891</b>	<b>520</b>

### GENERAL RESEARCH ACTIVITY

In addition to the specific projects mentioned in the foregoing paragraphs, the Research Department has continued the work of assembling basic industry data and can report progress since the San Francisco Convention. The material now at hand has enabled the Research Department to better serve the various departments of the Association, the membership, and the many requests received from advertisers, agencies and the general public.

During the course of the last year, the Research Department has devoted much time to the music copyright problem under the direction of President Neville Miller.

The Department has rendered research counsel to the Engineering Department, the Labor Relations Department, the Public Relations Department, the Department of Broadcast Advertising, the Promotion Department and the Office of the Secretary-Treasurer.

During the course of the last year, the NAB Research Department has been called upon by the membership to a much greater extent than heretofore for research counsel and general industry information.

Your Research Director feels that the Association has advanced in matters of research during the past year. He has enjoyed his work for the industry and is looking forward to further progress during the coming year.

Respectfully submitted,

PAUL F. PETER,  
*Director of Research.*

## Promotion and Circulation

National Defense, Listen Before You Vote, Radio's 20th Birthday and Reallocation were focal points of attention for broadcasters and this department since last August.

Continuing aid to National Defense is in line with the Board of Directors' "Defense of the Nation" resolution adopted at the

San Francisco Convention. The aid is a demonstration of the desire, ability and capacity of the industry to assist the nation in this period of emergency. Indications are that these duties will increase.

Assistance to various government departments has been in accordance with the accepted industry understanding of the American

System of Broadcasting. This has resulted in outstanding service to the country and the economical use of facilities of broadcasters. In all contacts the fact is emphasized that listening is voluntary, cannot be commanded; that if stations were to sanction violation of the listener-interest principle, there would be only one result—less listening, fewer listeners.

### MAN POWER

Through NAB nearly 700 broadcast stations have pledged their cooperation to secure skilled man power for national defense projects by broadcasting Man Power announcements. Through radio at least 325,000 skilled workers were added to national defense employment rolls up to April 15, 1941, according to the United States Civil Service Commission.

### NAVAL AVIATION

Procurement of embryo flyers for the Navy continues to be another service to the nation. According to Captain F. E. M. Whiting, USN, the announcements have sharply increased the number of accepted candidates. Because of age, educational and physical requirements for Navy flyers this is one of the most difficult and exacting recruiting assignments. On April 10 Captain Whiting expressed his appreciation of the help the Navy had received from the broadcasting industry and urged its continuance.

Earlier in the year, broadcast stations throughout the country cooperated with selective service. They also cooperated with the Department of Justice in alien registration.

At this writing the Treasury Department has made known preliminary plans for the sale of securities to the public. Several conferences have been held with officials in charge.

Another service which falls into the national defense category is to provide information concerning various groups, organizations or individuals claiming to be engaged in or affiliated with national defense.

Contacts with the Army are handled directly with Ed Kirby, NAB Director of Public Relations, who has been loaned to the Army for the duration. It is anticipated that before convention time the local recruiting-radio problem will be satisfactorily adjusted.

## RADIO MOVIN' DAY

Months before FCC released its orders for stations to move to new frequencies the plan for marshalling the entire radio industry had been prepared. In actual practice servicemen, dealers, manufacturers, jobbers, utilities, electric associations, educators, civic groups, governors of states, mayors of cities, all contributed to the educational and promotional efforts of broadcast stations.

The nature and amount of united effort which taught the new dial locations to 100,000,000 listeners were presented in the brochure, "56 Days," mailed all stations and agencies on March 27.

A unique feature of the campaign was the assistance received from forty-seven of the forty-eight governors and the Governor of Puerto Rico. These men issued official proclamations or statements designating March 29 as Radio Movin' Day. Proclamations received wide newspaper publication. In some instances they were broadcast by every station within a state.

The cooperating governors and the names of the broadcasters who secured the proclamations on behalf of the radio industry follow:

Governor Frank M. Dixon, Alabama  
Howard E. Pill, WSFA, Montgomery

Governor Sidney P. Osborn, Arizona  
Dick Lewis, KTAR, Phoenix

Governor Homer M. Adkins, Arkansas  
Ed Zimmerman, KARK, Little Rock

Governor Culbert L. Olson, California  
Howard Lane, KFBK, Sacramento

Governor Ralph L. Carr, Colorado  
Gene O'Fallon, KFEL, Denver

Governor Spessard L. Holland, Florida  
W. Walter Tison, WFLA, Tampa

Governor Eugene Talmadge, Georgia  
J. Leonard Reinsch, WSB, Atlanta

Governor Chase A. Clark, Idaho  
C. G. Phillips, KIDO, Boise

Governor Dwight H. Green, Illinois  
Leslie C. Johnson, WHBF, Rock Island

Governor Henry F. Schricker, Indiana  
Eugene C. Pulliam, WIRE, Indianapolis

Governor George A. Wilson, Iowa  
J. O. Maland, WHO, Des Moines

Governor Payne Ratner, Kansas  
Ben Ludy, WIBW, Topeka

Governor Keen Johnson, Kentucky  
W. L. Coulson, WHAS, Louisville

Governor Sam Houston Jones, Louisiana  
James A. Noe, WNOE, New Orleans

Governor Sumner Sewall, Maine  
George Kelley, WCSH, Portland

Governor Herbert R. O'Connor, Maryland  
John Elmer, WCBM, Baltimore

Governor Leverett Saltonstall, Massachusetts  
John Shepard, III, Yankee Network, Boston

Governor Murray D. Van Wagoner, Michigan  
John E. Fetzer, WKZO, Kalamazoo

Governor Harold E. Stassen, Minnesota  
Earl H. Gammons, WCCO, Minneapolis

Governor Paul B. Johnson, Mississippi  
Wiley P. Harris, WJDX, Jackson

Governor Forrest C. Donnell, Missouri  
Merle Jones, KMOX, St. Louis

Governor Dwight Griswold, Nebraska  
John J. Gillin, Jr., WOW, Omaha

Governor E. P. Carville, Nevada  
W. D. Warren, KOH, Reno

Governor Charles Edison, New Jersey  
Albert J. McCosker, WOR, New York

Governor John E. Miles, New Mexico  
Ivan R. Head, KVSF, Santa Fe

Governor J. Melville Broughton, North Carolina  
Edney Ridge, WBIG, Greensboro

Governor John Moses, North Dakota  
F. E. Fitzsimonds, KFYZ, Bismarck

Governor John W. Bricker, Ohio  
Richard A. Borel, WBNS, Columbus

Governor Leon C. Phillips, Oklahoma  
Neal Barrett, KOMA, Oklahoma City

Governor Charles A. Sprague, Oregon  
C. Roy Hunt, KOIN, Portland

Governor Arthur H. James, Pennsylvania  
Dr. Leon Levy, WCAU, Philadelphia

Governor J. Howard McGrath, Rhode Island  
John J. Boyle, WJAR, Providence

Governor Burnet R. Maybank, South Carolina  
G. Richard Shafto, WIS, Columbia

Governor Harlan J. Bushfield, South Dakota  
A. A. Fahy, KABR, Aberdeen

Governor Prentice Cooper, Tennessee  
Harry Stone, WSM, Nashville

Governor W. Lee O'Daniel, Texas  
Harold Hough, WBAP, Fort Worth

Governor Herbert B. Maw, Utah  
S. S. Fox, KDYL, Salt Lake City

Governor James H. Price, Virginia  
C. T. Lucy, WRVA, Richmond

Governor Arthur B. Langlie, Washington  
H. J. Quilliam, KIRO, Seattle

Governor Matthew M. Neely, West Virginia  
Howard L. Chernoff, WCHS, Charleston

Governor Julius P. Heil, Wisconsin  
H. H. Born, WHBL, Sheboygan, and  
James F. Kyler, Janesville

Governor Nels H. Smith, Wyoming  
H. L. McCracken, KYAN, Cheyenne

Governor Guy J. Swope, Puerto Rico  
John A. Zerbe, WKAQ, San Juan

### Proclamation Statement

Governor Robert A. Hurley, Connecticut  
Thomas C. McCray, WTIC, Hartford

Governor Walter W. Bacon, Delaware  
J. Gorman Walsh, WDEL, Wilmington

Governor Robert O. Blood, New Hampshire  
Earle Clement, WLNH, Laconia

Governor Herbert H. Lehman, New York  
Harold Smith, WOKO, Albany

Governor William H. Willis, Vermont  
Charles P. Hasbrook, WCAX, Burlington

In addition to the governors' proclamations there were 148 proclamations issued by the mayors of cities.

Strong support was accorded Movin' Day by utilities which serve a large segment of the entire population. Among them were:

Appalachian Power Company  
Boston Edison  
Buffalo, Niagara & Eastern Power Company  
California Oregon Power Company  
Central Illinois Electric and Gas  
Central Illinois Public Service  
Cincinnati Gas and Electric  
Cleveland Electric Illuminating Company  
Columbus (Miss.) Light & Power Dept.  
Consolidated Edison of New York  
Consolidated Gas, Electric Light & Power Company of  
Baltimore  
Dallas Power & Light Company  
Duke Power Company  
Electric Power Board of Chattanooga  
Georgia Power Company  
Grays Harbor Public Utility District  
Indiana Service Corporation  
Kansas City Power and Light Company  
Kansas Gas & Electric Company

## RADIO CHRISTMAS

The December promotion, "50 Million Radio Sets by Christmas," was widely supported. The result is seen in the findings of NAB's Research Department that the total number of sets in operation in the United States at the year's end had increased to 50,100,000.

Respectfully submitted,

ARTHUR STRINGER.

Kentucky Utilities Company  
Los Angeles Bureau of Power and Light  
Louisville Gas & Electric Company  
Monongahela West Penn Public Service Company  
Nashville (Tenn.) Electric Service  
New Orleans Public Service  
Northern States Power Company (Minneapolis-St. Paul)  
Oklahoma Gas and Electric Company  
Pacific Gas and Electric Company  
Pacific Power and Light Company  
Peoples Power Company  
Philadelphia Electric Company  
Potomac Electric Power Company (Washington, D. C.)  
Public Service Company of Colorado  
Puget Sound Power & Light Company  
Rochester Gas & Electric Company  
San Antonio Public Service Company  
Southern California Edison Company  
South Carolina Electric & Gas Company  
Southwestern Gas and Electric Company  
Southwestern Public Service  
Toledo Edison Company  
Virginia Electric and Power Company  
Virginia Public Service Company  
Western Massachusetts Electric Company  
Wisconsin Power & Light Company

Most distributed stuffers but some, such as Virginia Electric and Power, bought newspaper space, air time and made car and bus cards available to local stations. One bus company included mention of the change over in a letter to a list of 100,000 patrons.

The Ohio Bell Telephone Company, Cleveland and Toledo, distributed stuffers as did the Southwestern Bell Telephone Company, San Antonio. In Tampa, the Peninsular Telephone Company included Movin' Day stuffers in bills, the practice followed by Inter-Mountain Telephone Company, Johnson City, Tenn., and Missouri Telephone Company, Columbia.

The Northwestern Ohio Natural Gas Company, Toledo, was among the exclusive gas utilities which cooperated in Movin' Day. Assistance was also had from the city of Richmond (Va.) Gas and Water Department.

Department stores in many cities, grocery chains and gasoline and oil marketing companies distributed hundreds of thousands of leaflets and logs.

Members of the Radio Manufacturers Association supplied several million logs and tens of thousands of window streamers and a smaller number of window trims. One company scheduled a page in the *Saturday Evening Post*.

### "LISTEN BEFORE YOU VOTE"

Preparation for the "Listen before You Vote" campaign began prior to the 1940 NAB Convention. Tempo increased in the early fall and peaked at election time. The emphasis laid on hearing both sides of the question resulted in an increase in the stature of radio. The use of radio is credited with producing the largest number of ballots ever cast in a presidential election. The 1940 total was 49,808,624, an increase of 4,200,000 over the 1936 record.

### RADIO'S 20TH BIRTHDAY

Radio's 20th Birthday was celebrated throughout the country between November 11 and 30, 1940. Station managers and their personnel proved particularly adept in building interesting programs which focused public attention on radio's contribution to the American way.

On November 26 the National Radio Birthday Party was held at Hotel Willard, Washington, D. C. Guests included all members of FCC, members of the Cabinet, Senators, Representatives and more than a score of men who had been in radio for twenty years. Letters were received and read at this birthday celebration from President Roosevelt and Wendell Willkie.

## Broadcast Advertising

From May 1939 to January 31, 1941, the NAB Bureau of Radio Advertising functioned as an agency to serve the entire industry in matters relating to the commercial aspects of its business. Under the direction of Samuel J. Henry, Jr., this Bureau inaugurated many services and activities of great value to all broadcasters. The Bureau was a sub-department of the Association and its work was largely experimental. The value of the activity was made so apparent and the demand for enlarged efforts in a commercial field was so widespread, that consideration had been given for some time to the affairs of the Bureau.

With Mr. Henry's resignation on January 31, 1941 as supervisor of the Bureau, the Sales Managers Committee recommended and the Board approved, the abolition of the Bureau and the creation of the Department of Broadcast Advertising as a coordinate department of NAB. Frank E. Pellegrin was named and on April 1 he assumed his duties as Director of the newly created Department of Broadcast Advertising.

### Annual Report—Department of Broadcast Advertising

Much of the time since that date has been spent on organization, the establishment of a central filing system to classify and make available useful material, in setting up policies and planning a program of action to be carried out with the assistance of the Sales Managers' Committee.

The aims and policies of the Department, as approved by the Sales Managers' Executive Committee, are as follows:

### Statement of Aims, Policies and Objectives Department of Broadcast Advertising, NAB

Recognizing that the whole structure of the American system of radio is dependent upon the steady flow of revenue from the sale of commercial time, it shall be the purposes of the Department of Broadcast Advertising of the National Association of Broadcasters:

1. To promote the use of radio as an advertising medium wherever and whenever possible. To accomplish this purpose by:
  - a) Maintaining a constant and practical contact with advertising agencies, manufacturers, trade associations;
  - b) Helping sales departments of member stations sell more radio time—locally, regionally, nationally.
2. To uncover new fields for broadcast advertising revenue; to develop dealer-cooperative advertising for radio; to eliminate discrimination by advertisers against radio in favor of competing media; to compile and publish lists of dealer-cooperative advertisers, with all helpful data such as percentage of cost shared by parent company.
3. To gather complete files of success stories on all types of radio advertising, and make these readily and freely available to all members; to continue Trade Studies in various fields and distribute through the "Results from Radio" series and in other usable forms. To build special Sales Manuals on pertinent topics, such as Real Estate, Department Stores, Automotive, Motion

Pictures, etc.; to build visual presentations promoting the sale of radio as an advertising medium, for the use of local salesmen of member stations.

4. To advise new stations in the establishment and organization of an effective sales department. To develop and distribute effective sales formulae; to make practical analyses of all available surveys; to interpret and distribute these to member stations. To build a lending library of tested, successful programs and campaigns, on transcription and in complete sales presentation form; to make these freely available to members.

5. To cooperate fully with all other departments of NAB; to interpret their work and findings to the sales managers of member stations; to review and summarize items of significance or interest to sales managers that originate in the NAB Department of Engineering, Legal Department, Research Department, the Departments of Public Relations and Labor Relations, and the Department of Circulation and Promotion, as well as in such NAB committees as the Code Committee, Program Standards Committee, etc. To work closely with the Department of Research in carrying on the BROADCAST ADVERTISING RECORD (formerly the Unit Plan of Volume Measurement); to articulate and explain its functions and purposes, and to point out its practical application by sales departments of member stations through using it as radio's media record to increase station revenue.

6. To encourage and give immediate attention to requests for advice, information or assistance, from stations, advertisers and potential advertisers.

7. By self-regulation through voluntary and cooperative action, to forestall and make unnecessary further governmental regulation of commercial broadcasting.

8. To cooperate with broadcasters, agencies and advertisers to increase the effectiveness of radio as an advertising medium.

9. To cooperate with broadcasters in various areas in the matter of agency recognition, with a view to establishing desirable standards and exercising wholesome control over such important commercial considerations as credit, per-inquiry or contingent offers, requests for free time for disguised commercials, requests for excessive merchandising and plus services, etc.; to persuade them to maintain ethical standards and to convert them whenever possible into buyers of commercial time at established rates; to go direct to clients if necessary to correct agency abuses.

10. To study, evaluate and provide the answers to claims of superiority by competing media.

11. To compile lists of trade papers and house organs by fields of interest; to achieve close cooperation with them and to seek publication of constructive and informative articles on the value of radio as an advertising medium. To call attention to and make available all books, articles, speeches and studies of radio as an advertising medium, wherever and whenever published in any form. To watch, study, interpret and report any significant trends by consumer groups and by organizations of all sorts that may affect commercial broadcasting. To build towards a weekly published report to sales managers.

12. To cooperate in the sales promotion work of all types now being carried on independently by all others interested in radio as a medium, such as the networks, the national radio sales representatives, the trade publications, etc.; to plan definite objectives and secure the voluntary acceptance of individual assignments from this list by each interested agency.

13. To encourage and implement effective public relations work by sales managers in their respective localities, and to supply them with material for public speeches and programs before business, advertising, civic and social groups. To collect all speeches and

articles prepared by members; to make these available to all other members; to arrange for publication in trade papers and house organs. To cooperate with schools, colleges and universities to the end that students of business and advertising may be properly and fully educated and kept abreast of the effective functions of radio as an advertising medium.

14. To attend district meetings of sales managers twice yearly; once for sales managers only and once in conjunction with the general district meeting; to carry on a year-round program of field work in cooperation with the Sales Managers' Committee. To participate and secure adequate representation of radio at meetings and conventions of other groups, such as the AFA, AAAA, NRDGA, ANA, etc. To cooperate along similar lines through the Sales Managers' Committee, with local advertising clubs everywhere.

15. To maintain governmental and informational contacts as necessary to handle questions and problems involving commercial radio, submitted to NAB by member stations. To observe and report on legislation affecting radio advertising.

16. To study and define "Station Promotion" and "Merchandising"; to make available a study on standards of practice; to act as a buffer against undue pressure from agencies and advertisers for exorbitant merchandising services not provided for in the rate structure.

17. To encourage a standardized, uniform radio contract form and other forms, and make these freely available to members. To encourage standardized frequency discounts; standardized lengths for spot announcements, with classification of stations according to network affiliation; standardized rate practices as to 1-minute ETs, 1-minute announcements, 100-word announcements, etc.; to encourage standard practices as to special charges for ETs or talent charges for live announcements, charges for network cut-in announcements, etc.

18. To explain and defend the American system of commercial radio as superior to all other systems; to make increasingly plain to the listening public that the preservation of our system depends upon the ethical and profitable use of radio as an advertising medium by those who make it possible.

19. To carry on these aims, policies and objectives, plus others that may be added in the future, through the constant cooperation with and suggestions from the sales managers of all member stations, expressed through the district chairman of each of the 17 Sales Managers' Divisions by proper channels to the Sales Managers' Executive Committee, which is recognized as the policy-making group for the Department of Broadcast Advertising; and thus through this modus operandi to carry on the administrative work of this Department through the united, correlated understanding and effort of all those whose responsibility it is to maintain the unceasing flow of revenue that supports the American system of broadcasting.

Work done by the Bureau of Radio Advertising since the last annual report was submitted, and by this Department since April 1, has included the continuation of the "Results from Radio" trade studies, with printed releases issued on these subjects:

Department Stores (2)	Light and Power
Laundries (2)	Automobiles
Furniture Stores	Drug Stores
Ice Cream and Confectionery	Alka-Seltzer
Garden and Field	Miscellaneous

Reprints of these studies, available at cost to NAB members, are being used by over 300 stations in direct solicitations by salesmen and as direct-mail promotion pieces with the station's individual message imprinted. Five thousand copies of each issue

are printed and distributed. Many direct sales have been reported by members through the use of this material.

Other sales helps have been furnished in the form of a visual presentation on "Radio Reaches People", and special manuals and reprints on "Radio Advertising by Savings & Loan Associations", "Dealer-Cooperative Advertising", "Radio for Cleaners & Dyers", "Radio for Chain Druggists", "The Case for Distribution", "The Case for Advertising", "Building Field Sales Manual", and "Sales Administration of Stations".

Special emphasis in the future will be placed on making this Department a national clearing house for radio success stories and other sales helps in all types of business, and much more of this material will be distributed to the sales departments of member stations.

Through the Bureau and Department, the radio industry was represented at many national and regional conventions of groups and associations important to the business of broadcasting, such as the Advertising Federation of America, the American Association of Advertising Agencies, the Association of National Advertisers, the National Retail Dry Goods Association, and others.

Other field work has entailed trips to NAB District meetings and meetings of Sales Managers' Divisions, and direct selling trips to call on advertisers, associations and agencies.

The Department has continued its investigation of requests for

free time and for contingent or pre-inquiry deals, and in each case has enlisted the cooperation of stations and endeavored to convert the advertiser to the proper use of radio on the basis of established rates.

Working contacts have been established with several governmental agencies to render better service to commercial broadcasters, and numerous requests from members for special information or assistance have been handled.

Work has been started by this Department in cooperation with the Department of Research to interpret the "BROADCAST ADVERTISING RECORD" (formerly the Unit Plan of Volume Measurement), to develop this into a practical means of increasing station revenue. Already useful when properly applied by sales managers, this record will become increasingly valuable from month to month as figures are gathered to show significant upward or downward trends.

At least one meeting of the Sales Managers' Division has been held in each district, providing a much-needed opportunity for a discussion of mutual problems, a helpful interchange of ideas, and recommendations to NAB, which have found expression in the statement of aims and policies given above.

Respectfully submitted,

FRANK E. PELLEGRIN,

*Director, Department of Broadcast Advertising.*







## WHITE RESOLUTION HEARING

The Senate Interstate Commerce Committee's hearing on the White resolution has been postponed from Saturday, May 31, to Monday, June 2. (For the text of the resolution, see NAB REPORTS, p. 437.)

## WOMEN ENDORSE RADIO

General Federation of Women's Clubs on Friday, May 23, adopted the following resolution:

"WHEREAS, the system of radio broadcasting extant in the United States is the most democratic in the world and is the greatest medium for the preservation of democracy, bring freedom of speech and the exchange of ideas and information directly into the homes of millions of citizens, and

"WHEREAS, American radio through its public service programs has contributed tremendously to culture and education, not only in the homes of this great nation, but throughout the world, and as a vehicle for entertainment has served to maintain high morale in these times of stress, therefore, be it

"Resolved, that in order to preserve the freedom of radio for the best interests of democracy, the General Federation of Women's Clubs approves and advocates further Congressional study and investigation of the problems facing the broadcasting system in this country and, be it further

"Resolved, that the General Federation of Women's Clubs be instructed to send a copy of this resolution to the President of the United States, the secretaries of the Interstate Commerce Committees of the United States Senate and House of Representatives, and to the Secretary of the FCC."

## ASCAP LOSES IN SUPREME COURT

The United States Supreme Court on Monday, May 26, in an opinion rendered by Associate Justice Black, in *Watson, Attorney General of Florida v. Buck, as President of ASCAP, and Buck v. Watson*, sustained the anti-monopoly provisions of the Florida statute which was enacted in 1937.

Two cases involving the Florida statute were before the court for determination. The special three judge lower court had held the entire 1937 statute unconstitutional on the grounds that several sections were unconstitutional and that these sections could not be separated from the remainder of the statute. A second statute of Florida, enacted in 1939, was held by the lower court to be constitutional, with the exception of two paragraphs. The two paragraphs held unconstitutional by the lower court were one which prohibited the copyright owner from imposing a license fee on programs which did not use the material coming under the license and the provision which requires a combination of two or more separate copyright owners to afford licensees the option of paying on a per-piece basis at prices fixed by the individual copyright owner and filed with the Comptroller of the state. The Attorney General appealed from the decision covering the 1937 statute and from the ruling of the lower court that the two sections of the 1939 statute were unconstitutional. ASCAP appealed from the decision of the lower court holding the 1939 statute to be constitutional

except with regard to the above-mentioned two sections. The lower court had entered a permanent injunction against the enforcement of the 1937 statute and the two sections of the 1939 statute on the grounds that they violated the federal Copyright Act and the federal Constitution.

The Supreme Court reversed the lower court with instructions to vacate the injunction and to dismiss ASCAP's bill of complaint on the grounds that the monopoly provisions of the 1937 law were constitutional and that "*ASCAP comes squarely within the definition of the combinations prohibited by Section 1 of the 1937 Act.*" The opinion then points out that, since ASCAP is a prohibited association within the meaning of the 1937 act, the Court is not called upon at the instance of ASCAP "*to pass upon the validity of other provisions \* \* \* which might cover other combinations not now before us. It is enough for us to say in this case that the phase of Florida's law prohibiting activities of those unlawful combinations described in Section 1 of the 1937 act does not contravene the copyright laws or the federal Constitution.*"

The decision leaves both the 1937 and the 1939 statutes in full force and forever lays at rest ASCAP's contention that the copyright laws granted it and copyright owners special privileges. As stated by the Court, "*This contention is based on the idea that Congress has granted the copyright privilege with relation to public performances of music, and that with reference to the protection of this particular privilege, combination is essential. We are therefore asked to conclude from the asserted necessities of their situation that Congress intended to grant this extraordinary privilege of combination. This we cannot do. We are pointed to nothing either in the language of the copyright laws or in the history of their enactment to indicate any congressional purpose to deprive the states, either in whole or in part, of their long-recognized power to regulate combinations in restraint of trade.*"

Attorneys express the belief that, since Associate Justice Black wrote the unanimous opinion of the Court, it is proper to consider that opinion in conjunction with Justice Black's minority opinion in the preliminary hearing before the Supreme Court in the same case in 1939. It was in this minority opinion that Associate Justice Black characterized ASCAP as "*a price fixing combination that actually wields the power of life and death over every business in Florida, and elsewhere, dependent upon copyrighted musical compositions for existence.*"

Attorneys representing the State of Florida were Tyrus A. Norwood, Assistant Attorney General, Lucien H. Boggs of Jacksonville, and Andrew W. Bennett of Washington, D. C. Thomas G. Haight represented ASCAP.

At the same time, the Supreme Court reversed the lower court in the Nebraska-ASCAP litigation (*Swanson v. Buck, et al.*), in which the lower court had held Nebraska's 1937 statute to be unconstitutional in its entirety. This statute was substantially the same as the 1937 Florida law. The short opinion stated that the case was reversed and remanded with instructions to dismiss on authority of *Watson v. Buck* (the Florida case). The attorneys representing Nebraska were John Riddell, Assistant Attorney General, and William J. Hotz, Special Assistant to the Attorney General. Thomas G. Haight represented ASCAP.

(Continued on page 476)

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## ASCAP LOSES IN SUPREME COURT (Continued from page 475)

The texts of the decisions follow:

### SUPREME COURT OF THE UNITED STATES

Nos. 610, 611.—OCTOBER TERM, 1940.

J. Tom Watson (Gibbs), individually and as Attorney General of the State of Florida, et al., Appellants,

*vs.*

Gene Buck, individually and as President of the American Society of Composers, Authors and Publishers, et al.

Gene Buck, individually and as President of the American Society of Composers, Authors and Publishers, et al., Appellants,

*vs.*

J. Tom Watson (Gibbs), individually and as Attorney General of the State of Florida, et al.

Appeals from the District Court of the United States for the Northern District of Florida.

[May 26, 1941.]

MR. JUSTICE BLACK delivered the opinion of the Court.

In broad outline, these cases involve the constitutionality of Florida statutes regulating the business of persons holding music copyrights and declaring price-fixing combinations of "authors, composers, publishers, [and] owners" of such copyrights to be illegal and in restraint of trade.

The American Society of Composers, Authors and Publishers (ASCAP), one of the appellants in No. 611 and one of the appellees in No. 610, is a combination which controls the performance rights of a major part of the available supply of copyrighted popular music. The other appellants in No. 611 (appellees in No. 610) are individual composers, authors and publishers of music controlled by ASCAP. The appellees in No. 611 (appellants in No. 610) are the Attorney General and all the state prosecuting attorneys of Florida who are charged with the duty of enforcing certain parts of the statutes in question.

These two cases were originally a single action, in which ASCAP and its co-parties sought to enjoin the state officials from enforcing a 1937 Florida statute.<sup>1</sup> A federal district court, composed of three judges under §266 of the Judicial Code, granted a temporary injunction, and this Court affirmed without passing upon the merits of the constitutional questions involved. *Gibbs v. Buck*, 307 U. S. 66. A supplemental bill of complaint was then filed, asking that the three judge court enjoin a 1939 Florida statute relating to the same subject.<sup>2</sup> On final hearing, the three judge court again enjoined the state officials from enforcing any part of the 1937 statute,

but granted the injunction only as to certain sections of the 1939 act. 34 F. Supp. 510. No. 611 is an appeal by ASCAP and its co-complainants from the refusal to enjoin the state officials from enforcing the remainder of the 1939 act. No. 610 is an appeal by the state officials from the order granting the injunction as to the 1937 act and as to certain sections of the 1939 act.

The court below, without passing at all upon the validity of thirteen out of twenty-one sections and subsections of the 1937 act, held that the remaining eight sections deprived copyright owners of rights granted them by the federal copyright laws, and that the statute must fall in its entirety. This it did upon the premise that the sections held invalid and the other parts of the bill were intended by the Florida legislature to form "a harmonious whole" and to "stand or fall together." The ultimate questions involved are such that we must first determine whether this ruling was correct. We hold that it was not, for the following reasons.

The Florida legislature expressed a purpose directly contrary to the District Court's finding. For what the legislature intended in this regard was spelled out in section 12 of the Act in the clear and emphatic language of the legislature itself. That section reads:

"If any section, sub-section, sentence, clause or any part of this Act, is for any reason, held or declared to be unconstitutional, imperative [sic] or void, such holding or invalidity shall not effect the remaining portions of this Act; and it shall be construed to have been the legislative intent to pass this Act without such unconstitutional, inoperative or invalid part therein; and, the remainder of this Act, after the exclusion of such part of parts, shall be held and deemed to be valid as if such excluded parts had not been included herein."

This is a flat statement that the Florida legislature intended that the act should stand and be enforced "after the exclusion of such part or parts" as might be held invalid. Unless a controlling decision by Florida's courts compels a different course, the federal courts are not justified in speculating that the state legislature meant exactly the opposite of what it declared "to have been the legislative intent." But the Supreme Court of Florida recognizes and seeks to carry out the legislative intent thus expressed. Speaking of a similar severability clause of another statute, that court said: "The Act as a whole evinces a purpose on the part of the Legislature to impose a license tax on chain stores and Section fifteen provides that if any section, provision or clause thereof, or if the Act as applied to any circumstance shall be declared invalid or unconstitutional such validity shall not affect other portions of the Act held valid nor shall it extend to other circumstances not held to be invalid. Under the liberal terms of Section fifteen it may be reasonably discerned that the Legislature intended that the Act under review should be held good under any eventuality that did not produce an unreasonable, unconstitutional or an absurd result. . . . The test to determine workability after severance and whether the remainder of the Act should be upheld rests on the fact of whether or not the invalid portion is of such import that the valid part would be incomplete or would cause results not contemplated by the Legislature." *Louis K. Liggett Co. v. Lee*, 109 Fla. 477, 481. Measured by this test the court below was in error, for there can be no doubt that section 1 and the other sections upon which the court failed to pass are complete in themselves; they are not only consistent with the statute's purpose but are in reality the very heart of the act, comprising a distinct legislative plan for the suppression of combinations declared to be unlawful. For as pointed out by the court below, the sections that were not passed on are those which outlaw combinations to fix fees and prescribe the means whereby the legislative proscriptions against them can be made effective.<sup>3</sup> Since, therefore, that phase of the act which aimed at unlawful combinations is complete in itself and capable of standing alone, we must consider it as a separable phase of the

<sup>3</sup> The Court said:

"There remain: Sections 1, 2-C and 3, in effect declaring ASCAP and similar societies illegal associations, outlawing its arrangements for license fees, and proscribing and making an offense, attempts to collect them; Section 7-B making persons, acting for such a combination, agents for it and liable to the penalties of the Act; Section 8 fixing the penalties; Section 9 giving the state courts jurisdiction to enforce the Act, civilly and criminally; and Sections 10-A, 10-B, 11-A and 11-B, prescribing procedure under it." 34 F. Supp. 516. With the possible exception of section 3, nowhere in the course of the opinion were any of these sections held invalid.

<sup>1</sup> Fla. Laws 1937, ch. 17807.

<sup>2</sup> Fla. Laws 1939, ch. 19653.

statute in determining whether the injunction was properly issued against the state officials.

As a matter of fact, as the record stands the right of ASCAP and its co-complainants to an injunction depends upon this phase of the statute and is not to be determined at all by the validity or invalidity of the particular sections which the court below thought inconsistent with the federal Constitution and the copyright laws passed pursuant to it. The ultimate determinative question, therefore, is whether Florida has the power it exercised to outlaw activities within the state of price fixing combinations composed of copyright owners. But before considering that question it is necessary that we explain why we do not discuss, and why an injunction could not rest upon, any other phase of Florida's statutory plan.

Defendants in the injunction proceedings are the state's Attorney General, who is charged with the responsibility of enforcing the state's criminal laws, and all of the state's prosecuting attorneys, who are subject to the Attorney General's authority in the performance of their official duties.<sup>4</sup> Under the statutes before us, it is made the duty of the state's prosecuting attorneys, acting under the Attorney General's direction, to institute in the state courts criminal or civil proceedings. The original bill alleged that the defendants had threatened to—and would, unless restrained—enforce the 1937 statute “in each and all of its terms and the whole thereof, and particularly against these complainants and others similarly situated . . .”, and that as a consequence complainants would suffer irreparable injury and damages. The supplemental bill contained similar allegations as to the 1939 act. Both bills were drawn upon the premise that complainants were entitled to an injunction restraining all the state's prosecuting officers from enforcing any single part of either of the lengthy statutes, under any circumstances that could arise and in respect to each and every one of the multitudinous regulations and prohibitions contained in those laws. In their answers, the state's representatives specifically denied that they had made any threats whatever to enforce the acts against complainants or any one else. In their answer to the supplemental bill, however, they said that they would perform all duties imposed upon them by the 1939 act. The findings of the court on this subject were general, and were to the effect that “Defendants have threatened to and will enforce such State Statutes against these Complainants and others similarly situated in the event that such Complainants and others similarly situated refuse to comply with said State Statutes or do any of the acts made unlawful by said State Statutes.” It is to be noted that the court did not find any threat to enforce any specific provision of either law. And there is a complete lack of record evidence or information of any other sort to show any threat to prosecute the complainants or any one else in connection with any specific clause or paragraph of the numerous prohibitions of the acts, subject to a possible exception to be discussed later. The most that can possibly be gathered from the meager record references to this vital allegation of complainants' bill is that though no suits had been threatened, and no criminal or civil proceedings instituted, and no particular proceedings contemplated, the state officials stood ready to perform their duties under their oath of office should they acquire knowledge of violations. And as to the 1937 act, the state's Attorney General took the position from the very beginning, both below and in this Court, that under his construction of the earlier act no duties of any kind were imposed upon him and his subordinates except with relationship to prohibited combinations of the type defined in section 1.

Federal injunctions against state criminal statutes, either in their entirety or with respect to their separate and distinct prohibitions, are not to be granted as a matter of course, even if such statutes are

<sup>4</sup> The Secretary of State and the State Comptroller were added as parties defendant by a “Further Supplemental Bill of Complaint” filed October 19, 1939. The ground given by the complainants for adding parties was that certain duties were imposed on these officials by the 1939 act. The duties, however, required only that certain fees be collected, and not that actions be brought to enforce the law.

In the course of this litigation, Florida has had three Attorneys General. The present Attorney General took office on January 7, 1941, and all the parties have joined in a motion to substitute him as a defendant in place of his predecessor in office. There is no objection to the substitution, and the motion is granted.

unconstitutional. “No citizen or member of the community is immune from prosecution, in good faith, for his alleged criminal acts. The imminence of such prosecution even though alleged to be unauthorized and hence unlawful is not alone ground for relief in equity which exerts its extraordinary powers only to prevent irreparable injury to the plaintiff who seek its aid.” *Beal v. Missouri Pacific Railroad Corp.*, 312 U. S. 45, 49. A general statement that an officer stands ready to perform his duty falls far short of such a threat as would warrant the intervention of equity. And this is especially true where there is a complete absence of any showing of a definite and expressed intent to enforce particular clauses of a broad, comprehensive and multi-provisioned statute. For such a general statement is not the equivalent of a threat that prosecutions are to be begun so immediately in such numbers, and in such manner as to indicate the virtual certainty of that extraordinary injury which alone justifies equitable suspension of proceedings in criminal courts. The imminence and immediacy of proposed enforcement, the nature of the threats actually made, and the exceptional and irreparable injury which complainants would sustain if those threats were carried out are among the vital allegations which must be shown to exist before restraint of criminal proceedings is justified. Yet from the lack of consideration accorded to this aspect of the complaint, both by complainants in presenting their case and by the court below in reaching a decision, it is clearly apparent that there was a failure to give proper weight to what is in our eyes an essential prerequisite to the exercise of this equitable power. The clear import of this record is that the court below thought that if a federal court finds a many-sided state criminal statute unconstitutional, a mere statement by a prosecuting officer that he intends to perform his duty is sufficient justification to warrant the federal court in enjoining all state prosecuting officers from in any way enforcing the statute in question. Such, however, is not the rule. “The general rule is that equity will not interfere to prevent the enforcement of a criminal statute even though unconstitutional. . . . To justify such interference there must be exceptional circumstances and a clear showing that an injunction is necessary in order to afford adequate protection of constitutional rights. . . . We have said that it must appear that ‘the danger of irreparable loss is both great and immediate’; otherwise the accused should first set up his defense in the state court, even though the validity of a statute is challenged. There is ample opportunity for ultimate review by this Court of federal questions.” *Spielman Motor Sales Co. v. Dodge*, 295 U. S. 89, 95-96.

Such “exceptional circumstances” and “great and immediate” danger of irreparable loss were not here shown. Tested by this rule, therefore, and with the possible exception of that phase of the statute outlawing Florida activities by combinations declared unlawful in section 1 of the 1937 act (which we shall later consider separately), neither the findings of the court below nor the record on which they were based justified an injunction against the state prosecuting officers.

In addition to the fact that the situation here does not meet the tests laid down in the decided cases, the very scope of these two statutes illustrates the wisdom of a policy of judicial self restraint on the part of federal courts in suspending state statutes in their entirety upon the ground that a complainant might eventually be prosecuted for violating some part of them. The Florida Supreme Court, which under our dual system of government has the last word on the construction and meaning of statutes of that state, has never yet passed upon the statutes now before us. It is highly desirable that it should have an opportunity to do so.<sup>5</sup> There are forty-two separate sections in the two acts. While some sections are repetitious, and while other sections are unimportant for present purposes, there are embraced within these two acts many separate and distinct regulations, commands and prohibitions. No one can foresee the varying applications of these separate provisions which conceivably might be made. A law which is

<sup>5</sup> Cf., e.g., *Arkansas Corporation Commission v. Thompson*, 312 U. S. —; *Railroad Commission of Texas v. Pullman Co.*, 312 U. S. —; *Railroad Commission of Texas v. Rowan & Nichols Oil Co.*, 311 U. S. 570, 575; *Thompson v. Magnolia Petroleum Co.*, 309 U. S. 478, 483; *Ex parte Baldwin*, 291 U. S. 610, 619; *Gilchrist v. Interborough Rapid Transit Co.*, 279 U. S. 159, 207.

constitutional as applied in one manner may still contravene the Constitution as applied in another. Since all contingencies of attempted enforcement cannot be envisioned in advance of those applications, courts have in the main found it wiser to delay passing upon the constitutionality of all the separate phases of a comprehensive statute until faced with cases involving particular provisions as specifically applied to persons who claim to be injured. Passing upon the possible significance of the manifold provisions of a broad statute in advance of efforts to apply the separate provisions is analogous to rendering an advisory opinion upon a statute or a declaratory judgment upon a hypothetical case. It is of course conceivable that a statute might be flagrantly and patently violative of express constitutional prohibitions in every clause, sentence and paragraph, and in whatever manner and against whomever an effort might be made to apply it. It is sufficient to say that the statutes before us are not of this type. Cases under the separate sections and paragraphs of the acts can be tried as they arise—preferably in the state courts. Any federal questions that are properly presented can then be brought here. But at this time the record does not justify our passing upon any part of the statute except, possibly, that phase which prohibits activities in Florida by combinations declared unlawful. While the proof and findings in this regard are not as clear and specific as they might and should be, we nevertheless, under the circumstances of this case, proceed to this ultimate and decisive question.

In the consideration of this case, much confusion has been brought about by discussing the statutes as though the power of a state to prohibit or regulate combinations in restraint of trade was identical with and went no further than the power exercised by Congress in the Sherman Act. Such an argument rests upon a mistaken premise.<sup>6</sup> Nor is it within our province in determining whether or not this phase of the state statute comes into collision with the federal Constitution or laws passed pursuant thereto to scrutinize the act in order to determine whether we believe it to be fair or unfair, conducive to good or evil for the people of Florida, or capable of protecting or defeating the public interest of the state.<sup>7</sup> These questions were for the legislature of Florida and it has decided them. And, unless constitutionally valid federal legislation has granted to individual copyright owners the right to combine, the state's power validly to prohibit the proscribed combinations cannot be held non-existent merely because such individuals can preserve their property rights better in combination than they can as individuals. We find nothing in the copyright laws which purports to grant to copyright owners the privilege of combining in violation of otherwise valid state or federal laws. We have, in fact, determined to the contrary with relation to other copyright privileges.<sup>8</sup> But complainants urge that there is a distinction between our previous holdings and the question here. This contention is based on the idea that Congress has granted the copyright privilege with relation to public performances of music, and that with reference to the protection of this particular privilege, combination is essential. We are therefore asked to conclude from the asserted necessities of their situation that Congress intended to grant this extraordinary privilege of combination. This we cannot do. We are pointed to nothing either in the language of the copyright laws or in the history of their enactment to indicate any congressional purpose to deprive the states, either in whole or in part, of their long-recognized power to regulate combinations in restraint of trade. Compare *Waters-Pierce Oil Co. v. Texas* (No. 1), 212 U. S. 86, 107.

Under the findings of fact of the court below, ASCAP comes squarely within the definition of the combinations prohibited by

section 1 of the 1937 act. Section 1 defines as an unlawful combination an aggregation of authors, composers, publishers, and owners of copyrighted vocal or instrumental musical compositions who form any society, association, or the like and the members of which constitute a substantial number of the persons, firms or corporations within the United States who own or control such musical compositions and "when one of the objects of such combination is the determination and fixation of license fees or other exactions required by such combinations for itself or its members or other interested parties." Section 8 of the 1937 act makes it an offense for such combinations "to act within this State in violation of the terms of this Act." The court below found that there were 1425 composers and authors who were members of ASCAP; that the principal music publishers of the country are members; that the Society controls the right of performance of 45,000 members of similar societies in foreign countries; and that the Board of Directors of ASCAP have "absolute control over the fixing of prices to be charged for performance licenses. . . ." Since under the record and findings here ASCAP is an association within the meaning of section 1 of the 1937 act, we are not called upon at its instance to pass upon the validity of other provisions contained in the numerous clauses, sentences, and phases of the 1937 or 1939 act which might cover other combinations not now before us. It is enough for us to say in this case that the phase of Florida's law prohibiting activities of those unlawful combinations described in section 1 of the 1937 act does not contravene the copyright laws of the federal Constitution; that particular attacks upon other specified provisions of the statutes involved are not appropriate for determination in this proceeding; that the court below erred in granting the injunction; and that the bill should have been dismissed. All other questions remain open for consideration and disposition in appropriate proceedings. For the reasons given, the judgment below in No. 610 is reversed and the cause remanded to the lower court with instructions to dismiss the bill. The judgment in No. 611 is affirmed.

*It is so ordered.*

Mr. Justice MURPHY took no part in the consideration or decision of this case.

A true copy.

Test:

*Clerk, Supreme Court, U. S.*

## SUPREME COURT OF THE UNITED STATES

No. 312.—OCTOBER TERM, 1940.

Harry R. Swanson, as Secretary of State of Nebraska, et al.,  
Appellants,

*vs.*

Gene Buck, Individually and as President of The American Society of Composers, Authors and Publishers, et al.

Appeal from the District Court of the United States for the District of Nebraska.

[May 26, 1941.]

Mr. Justice BLACK delivered the opinion of the Court.

Most of the questions presented by this case are the same as those that were raised in Nos. 610 and 611, this day decided. Here, as there, at the request of ASCAP and its co-complainants a federal District Court composed of three judges enjoined various state officials from enforcing a state statute<sup>1</sup> aimed primarily at price-fixing combinations operating in the field of public performance of copyright music.<sup>2</sup> Here, as there, the complainants alleged, and the defendants denied, that enforcement of the act had been

<sup>6</sup>We have been referred to a recent consent decree against ASCAP in the federal district court for the Southern District of New York, the theory being that the decree might have some bearing upon the state's power to pass the legislation now under attack. But it has not. In matters relating to purely intrastate transactions, the state might pass valid regulations to prohibit restraint of trade even if the federal government had no law whatever with reference to similar matters involving interstate transactions.

<sup>7</sup>The court below concluded as a matter of law that "enactment of the said Statute was not necessary to protect, nor does it serve the public interest of the State of Florida. . . ."

<sup>8</sup>*Interstate Circuit, Inc. v. United States*, 306 U. S. 208. Cf. *Fashion Originators' Guild of America v. Federal Trade Commission*, 312 U. S. —; *Ethyl Gasoline Corp. v. United States*, 309 U. S. 436.

<sup>1</sup>Neb. Laws 1937, ch. 138.

<sup>2</sup>33 F. Supp. 377.

threatened. Here, as there, the court below found that threats had been made, that some of the sections of the act were invalid, that the invalidity of those sections permeated the whole, and that the state officials should be enjoined from enforcing any of the numerous provisions of the act. But, as in the Florida case, the court below proceeded on a mistaken premise as to the rôle a federal equity court should play in enjoining state criminal statutes. Here, there was no more of a showing of exceptional circumstances, specific threats, and irreparable injury than in the Florida case. In his brief in this Court, the Attorney General of Nebraska stated that "Appellants, as law enforcement officers, sincerely hope that no action under this law will be required. None was threatened before nor since the suit was started." With one possible exception, the record bears out the statement of the Attorney General; there was no evidence whatever that any threats had been made, but in his answer the Attorney General stated that he would "enforce the act against the complainant Society . . . [if] the complainant Society would operate in the State of Nebraska in violation of the terms of the statute by conniving and conspiring to fix and determine prices for public performance of copyrighted musical compositions. . . ." As we have just held in *Watson v. Buck*, it was error to issue an injunction under these circumstances.

In other material respects also, this case is like the Florida case. The court below failed to pass on what we consider the heart of the statute because of what it regarded as the pervading vice of the invalid sections. But section 12 of the Nebraska statute is similar to section 12 of the Florida statute and provides that "If any section, subdivision, sentence or clause in this Act shall, for any reason, be held void or non-enforceable, such decision shall in no way affect the validity of enforceability of any other part or parts of this Act." The legislative will is respected by the Supreme Court of Nebraska,<sup>3</sup> and the court below should have followed state law in this regard. That part of the statute on which the court did not pass—and the part which the Attorney General said he stood willing to enforce if violated—set up a complete scheme for the regulation of combinations controlling performing rights in copyright music. On the authority of *Watson v. Buck*, the decision below is reversed and the cause is remanded with instructions to dismiss the bill.

*It is so ordered.*

Mr. Justice MURPHY took no part in the consideration or decision of this case.

## Sales

### HOW TO IMPROVE COMMERCIALS

In response to numerous requests from NAB members who attended the Sales Managers' meeting at the convention and heard the talk by Horace Schwerin on "Improving Your Commercials," this digest is provided.

Mr. Schwerin is General Manager and Director of Research of the Raymond Spector Agency of New York City, and his talk was the result of research carried on during the past several years with the "Program Analyzer" machine, developed by Dr. Paul Lazarsfeld and Dr. Frank Stanton.

Thousands of typical radio listeners were tested for their reaction to radio commercials, in conditions as closely as possible approximating normal home listening. The machine recorded their likes and dislikes, and after a great number of tests were conducted on

<sup>3</sup> See *Petersen v. Beal*, 121 Neb. 348, 353, quoting and approving the following excerpt from *Scott v. Flowers*, 61 Neb. 620, 622-623: "The general rule upon the subject is that where there is a conflict between an act of the legislature and the constitution of the state, the statute must yield to the extent of the repugnancy, but no further [Citing authorities]. If, after striking out the unconstitutional part of a statute, the residue is intelligible, complete, and capable of execution, it will be upheld and enforced, except, of course, in cases where it is apparent that the rejected part was an inducement to the adoption of the remainder. In other words, the legislative will is, within constitutional limits, the law of the land, and when expressed in accordance with established procedure, must be ascertained by the courts and made effective."

all types of programs and all types of commercials, it was possible to work out a practical application of these findings. Subsequent tests showed that the new commercials, written according to the new principles, enjoyed much greater attention and acceptance from listeners.

Mr. Schwerin explained in detail the methods used, illustrating his discussion with charts, graphs, transcriptions, phonographs and other material. Admitting the possibility of some errors and not claiming infallibility for the tests, he nevertheless stated that several advertisers, participating in the research, had applied its finding with their definitely improved results. He suggested that sales managers confer with their program and continuity departments in a discussion of these points, and that by working cooperatively each station could improve results for its advertisers. The conclusions reached following the tests are:

1. Program personalities should give all the commercials. This means that in news programs, for example, the newscaster should deliver the commercials.

2. The style of the commercials should be in the same tempo as the program content. For example, in a variety show the commercials should be in dialogue.

3. The commercial sentence structure should follow the same general pattern as the rest of the program (indicating collaboration between commercial copy writer and program writer). For example, news commercials should be written in short, pithy sentences.

4. Axioms make poor openings for news commercials, although they may be effective on other types of programs. The opening: "How many times have you heard it said that what you don't know will never hurt you" is a typical example of a bad opening for a news commercial.

5. The lead into a commercial should tie-in with the mood, or "gestalt", of that program. For example in news, one effective way of doing this is to refer directly to the news itself, even if this reference is a very general one. For example: "All the news of war and blockades these days," and "News is the story of change", are both highly effective openings when used in commercials. However, leads into news commercials need not be news items.

6. Do not allow listeners to "anticipate" commercials. This can be avoided by shifting the middle commercial forward or back from day to day; closing commercials should be followed by part of the program; there should never be a noticeable pause, change of tone or different emphasis and delivery at the beginning of any commercial, and commercial should not be "telegraphed" by the use of certain opening words such as "Friends," "Well, friends," etc.

### MILLINERS BLAME RADIO

P. W. Judah, of the Associated Millinery Industries, St. Louis, Mo., writes NAB as follows:

"The millinery industry of America, giving employment to approximately 100,000 people, has been very materially and adversely affected in the past two years by radio entertainers making jokes on the styles of the hats of today.

"We realize this harm has been done in an unconscious way, and not at all maliciously; however, this entire industry is having quite a struggle at this time, and I am sure any influence you men can exert to forestall these jokes in the future, will be highly appreciated."

It is suggested that you call this to the attention of those who are responsible for writing comedy at your station.

### IMPORTANCE OF LOCAL BUSINESS

FTC figures show that the smaller the market, the more the radio station depends on local advertising. In cities of less than 25,000 population, 74 per cent of a station's revenue comes from local advertisers. This drops to 67 per cent in cities of 25,000 to 50,000 and to 50 per cent in cities of more than 50,000.

### IS RADIO ADVERTISING ECONOMIC?

The charge that radio advertising is an economic waste, so often made, is eloquently answered by Richard R. Deupree, president of Proctor & Gamble Co. Using the soap business to illustrate, he said that in 1880-90 the housewife paid 5 cents for Ivory Soap,

a It paid only 5 cents in 1941, although raw materials have doubled in price and wages have risen tenfold, and Federal taxes, unknown 50 or 60 years ago, now cost the manufacturer a sum equal to his factory payroll.

"It does not seem possible," he stated, "that expenses such as I have mentioned could be absorbed if we had not advertised Ivory almost continuously since 1882. If through false reasoning or any other cause, honest advertising is crippled and hampered, it would be the death blow to real industrial development."

## HOTELS INCLUDE RADIO

It was reported to NAB that the current cooperative advertising campaign sponsored by hotels, with payment on a duebill basis, would exclude radio. Upon investigation, we are assured by the American Hotel Association that all media are equally acceptable in the campaign and will be treated impartially, provided radio stations, like other media, are willing to accept duebills in payment. Many NAB members report that they are now refusing this type of payment.

## DEFENSE STAMPS AS PRIZES

Station WKAT, Miami Beach, is awarding National Defense Stamps in place of cash awards on quiz and similar programs. The suggestion has been made that if this plan were adopted by a large number of stations, it would result in increased savings, and widespread and continuing publicity to defense stamp sales.

## WHY ADVERTISING IS ESSENTIAL DURING THE NATIONAL DEFENSE EMERGENCY

Some business men are prone to believe that during the period of capacity production brought about by business stimulation of the national defense program, it is unnecessary to maintain an advertising campaign. During such periods demand often exceeds supply; a "seller's market" exists, and sometimes the problem is not one of distribution and sales, but rather of producing enough to satisfy the market. Advertising expenses therefore, they say, can be curtailed or eliminated altogether.

That this reasoning is economically unsound has been demonstrated during similar periods in the past, notably 1915-1919. Chief reasons why advertising should be continued by every business man are:

1. To maintain his market, his established routes of distribution through jobbers and dealers, consumer acceptance of his product and consumer consciousness of his brand name, so that when the crisis is over and the impetus of national defense is taken away, he can continue operating on a normal pre-crisis basis. Otherwise all these factors in successful selling may be lost to more aggressive competitors who seize upon this opportunity to establish their competitive brands.

2. During periods of national emergency we must have the highest efficiency possible in manufacturing and distribution. It is admitted that advertising contributes much to this efficiency, and therefore is of extreme importance to the economic welfare of a nation during an emergency period.

3. The nation's economic and social life must be maintained as nearly normal as possible, because normalcy in a democracy is a contributing factor to success. Advertising helps make normalcy possible in a social economy that has been so dependent upon advertising.

4. Civilian morale in a democracy requires that we maintain a standard of living unknown under dictatorships. Advertising contributes greatly to our higher standard of living, and thus to the maintainance of civilian morale.

5. We must strive for a reasonable price stability. Advertising and a free competitive system aid greatly in stabilizing prices. As an example, consider P & G Ivory soap, a common household item: In the past 60 years, the price of raw materials for this product has doubled, wages have increased 10-fold, and taxes have been increased enormously. At the same time, research and constant improvements in manufacture and distribution have given

the consumer a much better product—without a penny of increase in the price. Without advertising this would have been impossible.

6. During this period it is necessary to eliminate unemployment insofar as possible, so that all those not engaged in national defense can earn salaries to help pay the costs of defense, rather than be an added burden upon government or public charity. Advertising contributes directly and indirectly to greater employment in private industry.

7. Civilian morale likewise depends greatly upon a firm belief in the democratic system, and in its features of free enterprise and competition. Advertising is of extreme importance in their maintainance.

8. In a democracy, to build civilian morale, it is important that we continue our media of entertainment and enlightenment: the press, the magazines, and the radio. Advertising supports all of these and makes them possible.

9. During times of national emergency it is important that consumers be given adequate market information: where to buy what they need, when to buy, and how to buy, in order that they may get the most out of the products and services they purchase. It is also important to regulate supply and demand, and to diversify as much as possible the spending of consumers, so that all business may prosper. Advertising is of the utmost importance in all these efforts.

10. An intangible value, and yet one of the most important possessed by any business man, is the "franchise value" of his product or business, established over a period of many years at great effort and expense. Advertising protects this priceless ingredient until return to normalcy.

11. Staggering national defense costs must be borne by taxes, which can only be paid by business and by wage earners in business. Therefore sales, wages, incomes and profits must not only be maintained but increased if possible. Advertising is of material aid along these lines.

12. Finally, advertising is a vital, inherent and integral part of our national economy. To stifle or curtail it would be to upset the economic balance; to foster and maintain it would be to preserve that balance, so essential to efficiency and national well-being.

## NO MOVIE CHISEL FOR CISLER

Attempts by the movies to chisel free time have increased many fold since the MBS-ASCAP rapprochement, according to evidence collected by Steve Cisler, general manager of station WGRC, Louisville.

Harry Loud, Air Trailer Division, Metro-Goldwyn-Mayer was the writer of one of the letters to Mr. Cisler which solicited free time.

"Now that the ASCAP controversy has been settled and ASCAP music is returning to Mutual affiliated station," he wrote on May 15, "we believe you will be interested in Metro-Goldwyn-Mayer's Hollywood Radio Reporter recorded programs," etc.

Mr. Cisler replied:

"Your letter of May 15 is one of the reasons this station and others don't want ASCAP music back on the air. You movie people are getting out the chisel once again with this offer of movie radio trailers that some stations are just crazy enough to accept.

"For your own information, WGRC did not vote yes on the Mutual deal with ASCAP because we didn't think it was worth the money, and we knew that the chiseling would start from movies with plugs on this or that picture, etc.

"Your local theaters are especially abusive in not buying radio time. It is chisel, chisel, chisel, free, free, free.

"So stop kidding yourself and radio that you have something we need . . . free. Take some of that big money you pay newspapers, billboards, and magazines and BUY radio.

"So far as Louisville radio . . . movies . . . and WGRC the rule is 'no cashee . . . no talkee . . . no singee'."

In a memorandum, same day, Mr. Cisler said to Fred Weber, general manager of Mutual:

"I am alarmed at the rising tide of chiseling by the movie boys in connection with Mutual's return of ASCAP music.

"It was my understanding that the new Mutual agreement did not require the announcement of movie or show titles with the playing of ASCAP tunes.



"The 'Adventures in Rhythm' show on Wednesday—May 21—specifically mentioned 'Last Time I Saw Paris' . . . from the forthcoming MGM picture . . . blank blank.

"Today I received this chisel letter from MGM. The answer is 'NO.'"

"ASCAP publishers are flooding us with mailed music, asking in practically all cases that the show or movie be credited when the number is used. We are returning all such music.

"Fred, the radio business is never going to get one dollar from movies if we keep giving it away. How about considering the evil and ask originating stations to lay off such credits?"

"We have instructed our program department to refuse all movie premieres, Hollywood chatter and to have the control man pull the switch on any network announcer who *seems about* to put in a plug for a movie or show.

"Plenty of radio stations didn't like these free plugs for movies on all networks prior to 1941, and lots of us don't want them restored now."

## NATIONAL DEFENSE

Local recruiting personnel of the United States Army will no longer solicit time on broadcast stations. This change in practice became effective by order from Washington to Commanding Generals of all Corps Areas.

The weekly transcribed programs, being broadcast by more than 700 stations and the live announcements handled from NAB headquarters comprise all of the programs released in finished form for the air in behalf of recruiting.

This entire change will be discussed in detail in a letter, dated June 2, addressed to all stations by Arthur Stringer.

### Radio Branch, Bureau of Public Relations, War Department

This Branch, headed by Ed Kirby, prepares nothing for broadcasting in finished form. It operates on the theory that what the Army does is news, purely from the standpoint of audience interest; and that a richer variety will be provided if it depends upon the various interpretations placed upon factual information by individual stations.

The Radio Branch is ready to serve all broadcasters even to the extent of doing necessary research for any program or series of programs a program manager may have in mind. Write, teletype or telephone. The number is Republic 6700, Extensions 3887, 4787 and 4788.

### Army Maneuvers

This summer U. S. Army maneuvers will be the biggest in peacetime history of any country in the world. They involve 1,500,000 men.

Such an outstanding event, occurring at this time, will naturally be covered by radio as well as by the press, magazines, syndicates and news reels. But it is much easier for fifty correspondents, armed with pencils, to cover maneuvers than for radio.

Accordingly, the Radio Branch of the Army has assigned four men from headquarters to establish a radio pool of interest and prepare schedules of events so that the stations can make a broadcast:

Ross Worthington will officiate in Texas; Jack Harris in Tennessee; Brooks Watson in Louisiana and Bob Coleson on the West Coast where he is already in action.

### What a Station Can Do in Advance

Stations can tell the public what these maneuvers mean. The purpose is to test the combat effect of the Army by simulating warfare. The boys are going to miss their meals and they are going to get dirty and dusty. The Army is going through a hardening process. Like all athletes, the boys must have conditioning and training.

And the stations can do this: in these simulated combat areas the highways will be crowded with trucks carrying troops and

supplies. Because of the simulated warfare there will be no advance announcement of troop movements. When the news of a troop movement is known, the station can explain that it is unwise from a safety point of view for civilian motorists to cut through the line of travel of the convoy. These soldiers are driving trucks under order. They are instructed to observe safety measures, yet they must remain in convoy. If the residents of your service area understand these facts, accidents will be avoided. This can also be done in advance.

## Two New News Services

This week the Radio Branch inaugurates a special service for news announcers. It contains undated material processed for radio and prepared at the request of numerous smaller stations that wished to have a human interest story or a fact or two readily included in a news show.

The other news service is the story of our Army throughout the entire range of American history. In reality it is a daily diary, in one or two sentences especially prepared for radio. The facts can be used in a chatter program, a home economics program, a variety show or news.

## Educational Bulletin

The Radio Branch issues each week an educational bulletin to the educational directors of stations.

## Red, White and Blue Network

This is the name given to stations near Army camps which may care to use, on already scheduled "early bird" shows, bits of information concerning the group in their immediate neighborhood. Through the efforts of Gordon Hittenmark, late of station WRC, the public relations officer of the camps, the station managers and the "early bird" announcers have been brought together. The idea of this procedure is simply to facilitate the supply of suitable material for the stations.

## History of 55 Divisions

The Script Section, Radio Branch, War Department, Bureau of Public Relations has in preparation a brief history of each of the 55 Army Divisions. The information already distributed for radio writers and radio producers concerns The "Fighting First" Division and its component units. These short histories have been condensed from hundreds of pages in the files of the War Department. Writers and producers interested in additional facts can secure them by writing directly to: Radio Branch, Bureau of Public Relations, War Department, Washington, D. C.

## Stations Can Work Out Special Stunts

Stations that desire are naturally free to work out special stunts. The local public relations officer will lend assistance. And, on request, the Radio Branch, Bureau of Public Relations, will supply stations with needed information for the preparation of programs.

## Warning

At the same time if an individual comes to station executives proposing some spectacular stunt, such as a black-out, it is advised that stations check with the Radio Branch, Washington, address as above, before making commitments and issuing publicity.

## IRE CONVENTION

The Institute of Radio Engineer's summer convention will be held in the Hotel Statler, Detroit, Michigan, June 23-25. The program this year will be of unusual interest to broadcast engineers and among other subjects, are the following: UHF Antennas; Frequency Modulation; Television; Electronic Applications; Broadcast Transmitters; Standard Band Transmitting Antennas; Rectifiers; Transmission Lines; Mechanical Calculation For Di-

rectional Antenna Patterns; UHF Tubes; Plate Modulated Amplifiers; Square Waves and UHF Propagation.

Interesting inspection trips have been scheduled and among these are: Trip to Harper Hospital to inspect electronic medical apparatus; trip to Edison Institute Museum and Greenfield Village; trips to automobile factories and a trip to the Shrine of the Little Flower.

An interesting program has been laid out for the entertainment of the ladies.

Full details concerning the Convention can be obtained by addressing the, Institute of Radio Engineers, 330 West 42nd Street, New York City.

### SEND NAMES TO NAB

NAB has been requested to secure the names and present whereabouts of radio men who have been drafted into the Army. Will station managers please send this information to NAB headquarters immediately? The request was made by the War Department in the hope that many of these men could fill public relations posts.

### LARRY SUNBROCK

S. A. Cisler, Radio Station WGRC, Louisville, Kentucky, would appreciate a collect wire from anyone knowing the whereabouts of Larry Sunbrock. Sunbrock promoted a thrill show and rodeo in Louisville recently.

### NAME BAND TAX

The Bureau of Internal Revenue advised the NAB this week that it was appealing a lower court decision which held that the leader of a name band was not liable for social security taxes for band members. (Griff Williams v. Collector of Internal Revenue). Under the lower court decision, a broadcaster would be responsible for social security taxes on payments to name bands.

The NAB intends to review for its members soon all applicable social security tax regulations.

### INSURANCE

The manual rates for compensation insurance enumerated in the NAB REPORTS, Page 368 of April 25th are adjusted each year to comply with the experience of the insurance companies writing compensation insurance. The rates quoted in the bulletin of April 25th are as of the date of April 4, 1941. Please correct Minnesota's rating under Code #8742 from 8 cents to 57 cents. Michigan's rating under Code #8742 should be changed from 8 cents to 39 cents. Since April 4, 1941, the rate in Utah (Code #7609) has changed from \$1.13 to \$1.33 and the rate under Code #7610 in Maine has been changed from 9 cents to 12 cents.

## BMI

### BMI Receives Canadian Fees

Broadcast Music, Inc. was recognized as a new competitive performing rights society by the Canadian Government in a decision made public on May 12th. The Canadian Copyright Appeal Board granted BMI a tariff of 1¢ per licensed set, the amount requested in October 1940 when BMI was required to file its proposed tariff for 1941. This was at a time when the music heard on the air was predominantly ASCAP's and before BMI was licensing the catalogues of many of its more important publishers.

The Canadian body, looking forward to 1942, announced that there should be a comprehensive study of the problem of per-

formance fees. Recognizing that the basing of copyright fees upon actual use is the most satisfactory method, it requested an appropriation of \$5,000 to defray the cost of making an investigation. In speaking of the necessity of a survey of this kind, the Board said:

"The entry of a second musical works licensing company in the Canadian field of radio broadcasting introduces a problem of considerable difficulty, and if this continues it is one that may require in the early future a careful reconsideration of the whole question of the licensing and performance of musical works in so far as radio broadcasting is concerned."

### Britain Accepts BMI

The BMI hit, *There I Go*, received its first major broadcast in Great Britain recently by Bebe Daniels. Bebe and her husband, Ben Lyon, are among the best loved personalities in Great Britain. Their radio program, "Hi, Gang", has enjoyed the longest run 'on the air' of any show produced since the war began.

Another popular American in England, band leader Carroll Gibbons, introduced *There I Go* and *So You're the One* to British listeners, sharing the honors with the British band leaders, Jack Payne and Geraldo.

### BMI FEATURE TUNES

June 2 - June 9

1. MY SISTER AND I
2. WALKIN' BY THE RIVER
3. WISE OLD OWL
4. FRIENDLY TAVERN POLKA
5. G'BYE NOW
6. WHAT D'YA HEAR FROM YOUR HEART
7. HERE'S MY HEART
8. WITH A TWIST OF THE WRIST
9. I WENT OUT OF MY WAY
10. THE RELUCTANT DRAGON
11. ALL ALONE AND LONELY

### Hollywood Report

*Hi, Neighbor*, a new BMI song by Jack Owens, cowriter of the *Hut Sut Song*, will be sung by the Merry Macs in the new Universal picture, *San Antonio Rose*. One of the Macs, Ted McMichael, collaborated with Owens on the *Hut Sut Song*.

This information is brought to New York by Harry Engel, head of BMI's west coast division, who points out that everyone in Hollywood with the exception of the motion picture producers owning music publishing companies is completely satisfied with the music situation as it is.

"We have had no complaints of any kind for the past three months," said Mr. Engel. "The advertising agencies and performing artists, as well as the broadcasters, are finding all the material they want for performance without difficulty. We are continuing to receive the same favorable comment from the Mutual stations that we received in the past."

### Songwriters All

A galaxy of the people in all walks of life who write songs will be staged soon in the Grill Room of the Hotel Taft by Frankie Masters who has asked BMI for as large a company of talented and photogenic writers as can be assembled in New York. Those who write songs as a hobby as well as those who have become prosperous from the fat checks received from their creation will be included. Frankie will endeavor to play as many as his high standard of entertainment permits.

Among the many BMI candidates are: Joan Whitney, night club singer; Jack Baker, business executive; Helen Bliss, department store clerk; Lanny Ross, vocalist; Kent Cooper, head of Associated Press; Robert Sour, broker; Hy Zaret, lawyer; Jean Barry, clerk in Macy's; Norman Weiser, magazine writer; Leah Worth, clerk in Hosiery shop; Kay Twomey, model and designer; Sylvia Dee, housewife.

### They Buy Ballads

Romantic ballads lead all other types of popular songs by a big margin in popularity with the radio audience, it is revealed in a survey of the best selling numbers published by BMI. Radio listeners buy about four times as many ballads as rhythm numbers and novelties. In the first year of operation, BMI has had some twelve outstanding hits—an unusual record for any one publishing house, and, of these, only three fell in the rhythm and novelty classification, *Practice Makes Perfect*, *So You're the One*, and *The Wise Old Owl*.

Of BMI's twelve big sellers, nine are ballads, headed by *I Hear a Rhapsody*, a 200,000 copy number that is 1941's most popular song thus far. Other BMI ballads that have been great favorites all over the country are *There I Go*, *You Walk By*, *High On A Windy Hill*, *May I Never Love Again*, *I Give You My Word*, *Walkin' By the River*, *It All Comes Back To Me Now*, and *My Sister And I*.

*My Sister And I*, the newest hit to come from BMI, is creating a sensation along Tin Pan Alley—comparable to the furor aroused by *I'll Never Smile Again* last year. Written by BMI's 'Big Three', Hy Zaret, Joan Whitney and Alex Kramer, the touching ballad retells in song the recollections of a little Dutch boy and his sister who were forced to leave Holland by the Nazi invasion. Although the number has just begun to hit its stride, it has already sold more than 100,000 copies, including arrangements, and is a best seller on nine phonograph records.

### "All Alone and Lonely"

When Jimmy Dorsey's Decca recording of *All Alone and Lonely* was released last week, a lot of people were very happy. Swing master Dorsey was certain that he had another topnotch record to follow his last great success, *Amapola*. BMI, publisher of the new song, felt that *All Alone and Lonely* was another hit song to add to the string of BMI hits that began last August with *Practice Makes Perfect*. But David Sanders and Al Pearson, the two Detroit boys who wrote the song, were probably the happiest of the lot.

A few months ago they had given up hope of becoming songwriters. Music publishers in Detroit were not very receptive and neither one of the boys could leave home and try to interest publishers in Chicago or New York. But you can't keep a good song down these days. After passing through the hands of many musicians who had heard *All Alone and Lonely*, played by the four piece rhythm band David Sanders leads in Detroit's 'Frog's Club', a copy of the song found its way into the hands of Jimmy Dorsey.

Jimmy Dorsey, who is billed as the "World's Greatest Saxophonist" might well add "World's Greatest Tune Picker" to his billing. One of the first leaders to see the potential of *High On A Windy Hill*, *I Hear A Rhapsody*, *Amapola* and a score of other Hit Parade favorites, Dorsey played the new song once and put it down for immediate recording. Convinced of the commercial possibilities of the ballad, he brought it to BMI and within a few days contracts were signed with Pearson and Sanders for immediate publication of the song.

*All Alone and Lonely* marks the first successful venture into songwriting for this newest team of composers. Sixfooter Sanders plays the piano, organ, and solovox, and has been a professional musician since the age of sixteen when he was regular organist at a Baptist Church in Wilmington, Delaware. Following that ecclesiastical booking, he went to work in Toledo speakeasies as pianist and eventually formed the small rhythm band he is now leading. His major ambition is to "be a good songwriter" and everybody at Broadcast Music, Inc. is convinced that he is on his way.

Al Pearson, the other writer of the song, is a guitarist who studied at the Detroit Conservatory of Music for three years. He

has played in night clubs as master of ceremonies, tenor vocalist and featured guitarist. Pearson is still a little dazed by his new found success. After he had signed the publication contract he asked that he be notified by wire whenever his song is played on the air. If Jimmy Dorsey has picked another hit song, and BMI succeeds in making a spot on the Hit Parade for it, there'll be a long line of messenger boys making its way to the Pearson front door.

### Torch Tune

BMI's *I Went Out Of My Way*, is being hailed with the same professional enthusiasm that greeted *My Sister And I*. Six recordings have been made or scheduled: Joan Merrill (Bluebird), Teddy Powell (Bluebird), Jan Savitt (Victor), Orrin Tucker (Columbia), Frankie Masters (Okeh), and Connie Boswell (Decca). Both words and music are by Helen Bliss who wrote *The Moon Won't Talk*.

## STATE LEGISLATION

### FLORIDA:

H. 1429 (BURWELL, et al.) MUSICAL COPYRIGHT—COLLECTIONS—Relating to the collection of fees and royalties from persons doing business in this state for the privilege of using, selling, performing or broadcasting, publicly or privately, any musical device of any nature, compositions, songs, or plays. Referred to Committee on Finance and Taxation.

## FEDERAL COMMUNICATIONS COMMISSION

### FLY DISCUSSES TELEVISION, FM

Progress of FM broadcasting and television are not likely to be interfered with because of government priorities, FCC Chairman James Lawrence Fly said at a press conference early this week. Mr. Fly said that he has not received any official reports on this subject and the Commission is keenly alive to the problem.

The Chairman said that naturally as requirements become heavier there will be less and less supply of everything. He said that it particularly and naturally affects the entire radio field in terms of new production. He stated that priorities are inclined to weigh heavier on FM than on a going outfit, such as standard broadcast. Mr. Fly said that he doubted whether the Commission should delay commercialization of FM and television. He doubted the wisdom of such a move contending that postponing this would only be another disturbing influence. He said that he didn't think that the Commission should move in and out in such a way. Even under present conditions, he said, the industry has an opportunity to square away and use the time to good advantage.

### SUPPLEMENTAL FORM ADOPTED

Pursuant to its new chain broadcasting regulations, the FCC has adopted a supplemental form (FCC Form No. 335, "Supplement Concerning Chain Broadcasting to Application for Standard Broadcast Authorization"), in which all applicants for such broadcast facilities must attest to network affiliation, if any. Licensees are required by Section 43.1 of the Rules and Regulations to keep the Commission informed of contracts and arrangements, including changes, covering chain affiliations.

To fulfill the assurance given in the Commission report on chain broadcasting, the Rules of Practice and Procedure have been amended (Sections 1.71 and 1.81) to provide a hearing in cases where the applicant desires to enter into or retain a contract not in conformity with the chain broadcasting rules.

## NEW FCC RULE

FCC has adopted Section 2.92 of the General Rules and Regulations under the heading "National defense-emergency authorization" as follows:

"The Federal Communications Commission may authorize the licensee of any radio station during a period of national emergency to operate its facilities upon such frequencies, with such power and points of communication, and in such a manner beyond that specified in the station license as may be requested by the Army or Navy."

## RULE AMENDED

FCC amended its Rules of Practice and Procedure by striking the third proviso of Section 1.71 thereof, reading as follows:

"Provided, further, That in cases where an applicant desires a modification of a rule or regulation, he shall submit a formal petition setting forth the desired change and the reasons in support thereof."

The Rules of Practice and Procedure are amended by adding the following new provision:

### "AMENDMENT OF RULES"

"Sec. 1.81—*Requests for amendment of rules.* Any person may petition for amendment of any rule or regulation. Such petition shall show the desired change in the rules and regulations and set forth the reasons in support thereof.

\* \* \* \* \*

Paragraph (b) of Section 1.72 of the Rules of Practice and Procedure is hereby repealed, and the following provisions adopted in lieu thereof:

(b) If an applicant is requested by the Commission to file any documents or information not included in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

(c) Applications which are not in accordance with the Commission's rules, regulations or other requirements will be considered defective unless accompanied either (1) by a petition in accordance with Section 1.81 to amend any rule or regulation with which the application is in conflict, or (2) by a request of the applicant for waiver of, or an exception to, any rule, regulation or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof.

(d) Defective applications will not be considered by the Commission."

The Commission also extended the effective date of Section 3.32(b) of Standard and High Frequency Broadcast Rules which prohibits broadcasting of commercial programs under experimental authorizations, to July 29, 1941.

## SHORT WAVE PROPAGANDA

James Lawrence Fly, Chairman, Federal Communications Commission, gave the following address before the Committee on Communications, American Bar Association, at luncheon, May 23, 1941:

I am happy to be here with you this noon, and to join you in showing appreciation for the services rendered by the editors of the Federal Communications Bar Journal. All of us know how important it is to have a medium for the reporting of legal news and the discussion of legal problems in the communications field. Such a medium is important for the functioning of any bar group, and these young men are to be congratulated for having undertaken this significant task, and for having devoted their time to it so unselfishly.

My subject this noon is foreign short-wave propaganda, and the Foreign Broadcast Monitoring Service, recently established by the Federal Communications Commission to record, transcribe, and analyze foreign short-wave programs.

The amount of this stuff aimed by various countries at the United States is really amazing. Thus, the Italian radio sends us more than four hours of broadcasts a day; the British Broadcasting Company (BBC), about six and one-half; and the German radio nearly eleven. Japan's North American service now runs to about four and one-half hours daily. To this total must be added various

programs directed at American audiences by radio stations in Australia, the Soviet Union, and fifteen or twenty other nations. To increase the possibilities of good reception, programs are usually broadcast on three, and often as many as five frequencies.

The contents of these broadcasts range from dance music to learned discourses on economics or anthropology, with regular news the standard fare for stations in almost every country. All sorts of devices are used to attract listeners. Lord Haw-Haw was Germany's chief drawing card, but his popularity, I am informed, has declined. Both England and Germany announce lists of prisoners taken, in order to build up audiences on the other side; they know that relatives and friends of soldiers at the front will listen for familiar names. Other devices are used to attract American listeners: Britain has its equivalent of our March of Time on the Air; Germany has Fritz and Fred, an "ersatz" version of Lum 'n' Abner or Amos 'n' Andy. The Rome radio has a musical request program for American listeners; Berlin spends much radio time reading and replying to cables and letters from the United States. ASCAP music was available on the short waves throughout the period when favorite ASCAP tunes could be heard on few American stations.

No one really knows just how many Americans listen to these broadcasts. Private surveys indicate that there are few regular short-wave listeners in the United States; my own guess is that foreign broadcasts—except, of course, those relayed over American networks—reach a relatively small American audience. For example, I doubt whether more than half a dozen of you have listened to a foreign short-wave propaganda broadcast during the past month. How about that? How many of you have actually listened in on short-wave to British, German, Italian or other foreign broadcasts during the past month?

Experts in the field inform me that few of the propaganda devices used in broadcasting are new; they are chiefly the old devices of exaggeration, suppression, distortion, appeals to vanity, pride, and self-interest, and exploitation of previously existing jealousies and hatreds. Thus, the Germans point to the period of the American Revolution and the War of 1812; the English point to the century of good feeling which has existed since.

Even a slight difference in emphasis may have very real significance. When the Italians seized the British fort Sidi Barrani last fall, for example, the Italian radio acclaimed the victory as of great importance. When the British recaptured it thereafter, Italian announcers called it a "miserable victory," and depreciated its importance. Similarly, during the very first days of the Greek campaign when the Greeks were retreating, the British radio talked about the *Greek* army. But when the tables were turned and the Italians were hurled back into Albania, the British radio stressed the Italian defeat at the hands of "*allied forces*." You seldom hear much about "German victories" over the Italian radio; it always speaks of "Axis victories."

In general, programs beamed at the United States are of three types. Some are intended to appeal to Americans in general. News broadcasts and talks on current issues are of this type. A second type of program is aimed at particular groups of Americans. One night last week, for example, BBC broadcast to the United States a program appealing primarily to American ministers of the gospel, while a simultaneous German program was appealing primarily to tenant farmers, share croppers, and the Oakies portrayed in "Grapes of Wrath." In general, the BBC seems to concentrate upon American groups which are in a position to influence public opinion, while Germany caters to larger but less articulate sections of the American public.

A third type of propaganda program is aimed specifically at Americans of foreign descent. Frequently these programs are in a foreign language, and it is interesting to contrast the news broadcast to the United States in English with the news broadcast immediately before or after by the same foreign station in its own language.

The real significance of such programs is seldom visible upon their face. The German radio, for example, hinted not long ago of certain frictions between the French government at Vichy and the German government, and portraying the French government as taking a firm stand. Did this indicate actual friction between the two? Probably not. The underlying significance was presumably either an attempt by Germany to paint the French government as independent of German domination, in order to procure for Vichy a more favorable treatment from the United States; or else a move to prepare American listeners for some new action by the French. Other examples can be given of how motives, and hence probable future actions, can be inferred from propaganda by radio.

The significance of such broadcasts often lies less in what is said than in the frequency with which it is said and the proportion of time devoted to saying it. The various themes which each foreign station dwells upon can be charted in almost the way that the rise and fall of a stock on the stock exchange can be charted. The former director of the Princeton University listening center, now on the FCC Monitoring Service staff, has prepared a chart showing the shift in emphasis of Nazi broadcasts to the United States which occurred about May 1940, when Belgium and Holland were invaded. Prior to that time, somewhat more emphasis was placed upon praise of United States isolationism than upon criticism of the United States. After May 1940, more than twice as much emphasis was placed upon criticism of the United States as upon praise of isolationism.

One of the chief motifs of German broadcasts today seems to be the attempt to drive a wedge between the American people and what the German radio now calls "Washington politicians." Another is the driving of a wedge between Jews and non-Jews in the United States. This German short-wave anti-Semitism appears to be aimed less at injuring the Jews of the United States than at attempting to stir up American disunity and domestic strife.

I should say that the British broadcasts aimed at the United States have vastly improved in effectiveness during recent months. The British Broadcasting Company once sent us learned but dull discourses by university professors about the niceties of international law, or descriptions of Buddhism by retired army officers. Today, listeners on short-wave can hear Somerset Maugham, a novelist popular with the American public, or Leslie Howard, an actor well-known to American movie audiences. Similarly, the North American broadcasts of the French Government station, Paris-Mondial, were, when first inaugurated in the spring of 1938, extremely dull and uninspired. With the invasion of Denmark and Norway in April, 1940, a significant change occurred. "Cultural" talks and features designed particularly for women and students of art and literature were substantially replaced by news and comment designed to inspire confidence in France and hatred of Germany.

Frequently American listeners are given varying treatments of the same theme from different sources almost simultaneously. Thus, when our ambassador to England, Mr. John G. Winant, spoke at a luncheon in London some days ago, the British transcribed his address and broadcast portions of it that very evening. German listening posts evidently picked it up and transcribed it, for the following evening the German radio carried portions of the speech, interlarded with German analysis and comments. Similarly each major American speech or diplomatic move is variously interpreted from London and Berlin. In such cases, the American short-wave listener has available something approaching the forum debates broadcast over domestic stations, except that on the short waves he must tune to various stations to get various points of view.

The first American agencies to engage in systematic rather than casual listening to foreign short-wave broadcasts were probably the newspapers. Various newspapers, news gathering agencies, and the news divisions of our broadcasting networks set up listening posts during 1939, as a supplement to their more formal news gathering routines. Shortly thereafter, political science and journalism departments in our universities took an interest; listening posts were established at Princeton, Leland Stanford, and elsewhere. The Federal Communications Commission has had the aid and advice of these pioneers in establishing its own Foreign Broadcast Monitoring Service.

The first step in this monitoring is to record the programs picked up on phonograph records, a task performed by the regular FCC National Defense Operations Section, and then to transcribe the records to paper. This transfer of the programs to paper is essential, for as repeated psychological studies have shown, human beings accept spoken words less critically than written words. With a typed script before you, you can analyze, criticize and deduce. When listening to spoken words, the tempo is such that you can only accept or reject.

Once scripts are reduced to writing, and those in foreign languages translated into English, the task is to condense. The British alone broadcast each week more words than are contained in the Bible or in the works of Shakespeare; this flood of material must be reduced to manageable proportions.

In sifting the grain from the chaff, trends are often more important than specific statements. A discussion of the invasion of England from a German station, for example, or a discussion of Far Eastern developments from Great Britain, may have little significance. But if an increasing proportion of German radio time

were to be devoted to invasion stories, or an increasing proportion of British radio time to the Far East, we might safely infer the preparation of some move in these directions. Likewise, much is to be learned from a comparison of daily broadcasts sent to different parts of the world. Thus, while the Nazi broadcasts aimed at Britain and North America in the summer of 1940 dealt menacingly and often with invasion of England, domestic German broadcasts seldom alluded to the subject. The obvious deduction was that early invasion was not actually contemplated since the German home front was hearing little or nothing about it and was not being led to expect it.

Careful analysis of foreign short-wave broadcasts should keep the United States informed of the objectives which other countries are pursuing, and of their attitude toward the United States. The Report Section of the FCC's new Foreign Broadcast Monitoring Service will prepare confidential daily summaries, both factual and interpretative, of foreign broadcasts. These summaries will be made available for the information of various government departments.

Fear has been expressed in some quarters that foreign propaganda aimed at the United States by short-wave may corrupt the American listening public. I am very much inclined to doubt it. Listening in over the short-wave band of my own radio, and then turning back to the domestic broadcast band, I do not believe that any appreciable proportion of Americans are going to rely upon broadcasts from abroad so long as American broadcasting stations adhere to high standards of impartiality and completeness in their news and discussion programs. In a country where neither the press nor the radio is free, propaganda broadcasts from abroad may have considerable influence. But so long as the public trust in the impartiality of domestic news and discussion is maintained, few if any listeners will be misled by partisan propaganda from abroad.

## FROM THE FCC MAIL BAG

Various letters suggesting that broadcasts in foreign languages be discontinued by domestic radio stations have been received by the Federal Communications Commission. The Commission advises that it has issued no ruling which precludes such broadcasts. An extensive study, however, has been made of foreign language programs. Each licensee has the initial responsibility under the law for the selection of program material, and foreign language broadcasts are subject to the same considerations that govern general broadcast service. Specific complaints regarding programs which appear to be contrary to the public interest receive prompt attention.

To a national group which urged that foreign language programs be not "ruled off the air without further consideration," Chairman James Lawrence Fly stated these personal views:

"In my opinion foreign language broadcasts are of considerable value. I believe that it would be a serious mistake for either the Government or the broadcast stations to take any action at this time to discontinue or curtail them. These programs have an important place in the lives of foreign-born citizens and residents, and it is likely that their elimination would be regarded as a senseless discrimination, arousing antagonism and hostility. In particular, I wish to censure in your opinion that these broadcasts can play an important role in the 'Americanization process.' It seems clear to me that any persons . . . who are bringing pressure on stations to discontinue all foreign language programs are pursuing a shortsighted policy and should not be encouraged."

The Commission has received numerous letters regarding alleged refusal of broadcasting time to Charles A. Lindbergh. Such inquirers are informed:

"Broadcast stations are expressly declared by the Communications Act not to be common carriers and, accordingly, determination as to who shall appear on programs is a matter resting in the first instance with the individual broadcast station. Broadcasters have the duty of serving the public interest, convenience, and necessity and the discretion left to them in the selection of who may use broadcast facilities and the conditions with respect to such use is subject to this legal requirement.

"In carrying out the obligation to render a public service, stations are required to furnish well-rounded rather than one-sided discussions of public questions. This duty does not imply any requirement that the use of broadcast facilities shall be afforded to any particular individual or group. In other words, the duty of the station is to present both sides of public issues fairly rather

than to allow any one man to use its facilities. The Commission will give consideration to any evidence that both sides of the questions upon which Colonel Lindbergh sought to speak are not being fairly presented by any radio station."

To a woman who wants to be guest on the "I'm an American" program, the Commission reiterates that it is without authority to put anybody on or take anybody off the air; that such determination rests with the individual broadcast station. The same explanation is given to another woman who would force radio stations to use a particular song, and to a Dayton listener who protests rendition of classical music in syncopated style, and to a citizens' group which adopted a resolution favoring "less time for broadcast programs of an emotional nature and more time for programs with constructive and educational features." In the case of letters objecting to particular programs the Commission suggests that such comments be transmitted directly to the station involved.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, June 2. They are subject to change.

### Monday, June 2

- NEW—Symons Broadcasting Company, Ellensburg, Wash.—C. P., 1110 kc., 1 KW, unlimited time.  
 WHB—WHB Broadcasting Company, Kansas City, Mo.—C. P., 710 kc., 5 KW, DA-night and day, unlimited time.  
 WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—C. P., 710 kc., 10 KW, unlimited time, DA-night.

### Monday, June 2

Hearing to be held in Pensacola, Florida, beginning June 2 and continued thereafter in Panama City, Florida, and Ocala, Florida, as follows:

- Pensacola, Florida, in Court Room, County Court Building.  
 Panama City, Florida, in Court Room, County Court House.  
 Ocala, Florida, in U. S. Court Room, 2nd Floor, U. S. Post Office Building.

- WTMC—Ocala Broadcasting Company, Inc., Ocala, Fla.—In the Matter of Revocation of License of Station.  
 WDLP—Panama City Broadcasting Company, Panama City, Fla.—In the Matter of Revocation of License of Station.

### Tuesday, June 3

Broadcast

Consolidated Hearing

To be held in Portsmouth, Ohio, in the Scioto County Probate Court Room

- WPAY—Chester A. Thompson (Transferor) and The Brush-Moore Newspapers, Inc. (Transferees), Portsmouth, Ohio.—Transfer on control of corp., 1370 kc., 100 watts, unlimited time.  
 WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, 1370 kc., 100 watts, unlimited time.

### Friday, June 6

- NEW—Butler Broadcasting Corporation, Hamilton, Ohio.—C. P., 1420 kc., 250 watts, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

June 27

- NEW—Parkersburg Sentinel Company, Parkersburg, W. Va.—C. P., 1310 kc., 250 watts, unlimited time.  
 WRDO—WRDO, Incorporated, Augusta, Maine.—Renewal of license, 1400 kc., 100 watts, unlimited time.

July 28

- KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal of license, 930 kc., 1 KW night, 5 KW day, unlimited.

August 1

To be held in Atlanta, Georgia

- WGST—Georgia School of Technology, Atlanta, Ga.—Renewal of license (main and auxiliary), 890 kc., 1 KW night, 5 KW LS, unlimited time.

August 4

- KFRO—Voice of Longview, Longview, Texas.—Modification of C. P., 1340 kc., 5 KW, unlimited, DA-night. Present assignment: 1340 kc., 1 KW, unlimited, DA-night.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

- KENO—George Penn Foster, Maxwell Kelch and Calvert Charles Applegate, d/b as Nevada Broadcasting Co. (assignor), Nevada Broadcasting Co., a corporation (assignee). Las Vegas, Nevada.—Granted consent to consignment of license of station KENO from George Penn Foster, Maxwell Kelch and Calvert Charles Applegate, d/b as Nevada Broadcasting Co. to Nevada Broadcasting Company, a corporation; station operates on 1400 kc., 250 watts, unlimited time.  
 W3XE—Philco Radio & Television Corp., Philadelphia, Pa.; W3XP—Philco Radio & Television Corp., Portable (area of Philadelphia, Pa.).—Present license for television station further extended on a temporary basis only, for period June 1 to not later than July 1, 1941, pending determination upon application for renewal (B2-SVB-8) and (B2-SVB-19).  
 W2XVP—City of New York, Municipal Broadcasting System, New York City.—Present license for high frequency broadcast station further extended on a temporary basis only, for period June 1 to not later than July 1, 1941, pending determination upon application for renewal (B1-SHB-71).  
 W9XLA—KLZ Broadcasting Co., Denver, Colo.—Present license for high frequency broadcast station further extended on a temporary basis only, for period June 1 to not later than July 1, pending determination upon application for renewal (B5-SHB-48).  
 W4XA—The National Life & Accident Ins. Co., Inc., Nashville, Tenn.—Present license for high frequency broadcast station further extended on a temporary basis only, for period June 1 to not later than July 1, 1941, pending determination upon application for renewal (B3-SHB-51).  
 W5XAU—WKY Radiophone Co., Oklahoma City, Okla.—Present license for high frequency broadcast station further extended on a temporary basis only, for period June 1 to not later than July 1, 1941, pending determination upon application for renewal (B3-SHB-21).  
 WERC—Presque Isle Broadcasting Co., Erie, Pa.—Granted modification of construction permit to change type of transmitter originally specified (B2-MP-1146).

### DESIGNATED FOR HEARING

- George Grant Brooks, Jr., Scranton, Pa.—Application for construction permit for new broadcast station to operate on 1400 kc., 250 watts, unlimited time, exact site and antenna system to be determined with Commission approval; requests facili-

ties of WARM. Joint hearing with application of WARM for renewal of license and application of Anthracite Broadcasting Co., Inc., for new station at Scranton to operate on **1400 kc.**, 250 watts, unlimited, requesting facilities of WARM.

WICA—WICA, Inc., Ashtabula, Ohio.—Application for construction permit to install a new transmitter and directional antenna for night use; increase power from 1 KW to 5 KW day, 1 KW night, and change hours of operation from daytime only to unlimited (B2-P-3081).

WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—Application for construction permit to change frequency from **1490** to **970 kc.**; increase power from 250 watts to 1 KW night, 5 KW day; install new transmitter, move transmitter to 1½ miles north of McKees Rocks Boro, Stowe Twp., Pa. (3 miles NW center of Pittsburgh), and install directional antenna for day and night use. To be heard jointly with application of WICA listed above (B2-P-3055).

WAPI—Voice of Alabama, Inc., Birmingham, Ala.—Application for construction permit to change frequency from **1170** to **1070 kc.**; increase power from 5 to 50 KW; move transmitter, install new transmitter, and directional antenna for night use.

#### APPLICATIONS PLACED IN PENDING FILES

KMMJ—Don Searle, G. A. Searle, Jr., Helen Searle Blanchard and Herbert Hollister (Transferors); Grand Island Independent Publishing Co. (Transferee), Grand Island, Neb.—Placed in pending files pursuant to Order No. 79, application for consent to transfer all the outstanding stock of station KMMJ, Inc., from Don Searle, H. A. Searle, Jr., Helen Searle Blanchard and Herbert Hollister, to the Grand Island Independent Publishing Co. (B4-TC-268).

WTFL—Tom M. Bryan (Assignor), Ralph A. Horton (Assignee), Fort Lauderdale, Fla.—Placed in pending files pursuant to Order No. 79, application for consent to the assignment of license of station WTFL, from the individual licensee, Tom B. Bryan to Ralph A. Horton (B3-AL-305).

WOKO, Inc., Albany, N. Y.—Placed in pending files pursuant to Order No. 79, application for new FM station (B1-PH-80).

Courier-Journal and Louisville Times Co., Louisville, Ky.—Placed in pending files pursuant to Order No. 79, application for new FM station (B2-PH-88).

#### MISCELLANEOUS

W2XVT—Allen B. DuMont Labs., Inc., Passaic, N. J.—Granted special temporary authority to operate a 100 watt transmitter with special emission for FM on channel No. 1 (**50000-56000 kc.**), in order to conduct tests, for the period May 21 to June 19, providing no interference is caused to other stations.

KRME—Merced Broadcasting Co., Merced, Calif.—Granted special temporary authority to operate the relay transmitter covered by pending application for construction permit (B5-PRY-245) in order to broadcast races on Inland Lake, Yosemite, San Joaquin Valley, for the period May 25 to May 31, only (B5-S-896).

KGU—Marion A. Mulrony & Advertiser Publishing Co., Inc., Honolulu, Hawaii.—Granted special temporary authority to rebroadcast transmissions of U. S. Army planes EY3, HF7 and L35 operating on **6500 kc.** for a period of about one-half hour on the evening of May 20, in connection with territory "Blackout" scheduled to take place throughout Hawaii only (B-S-124).

High Point Broadcasting Co., High Point, N. C.; Ralph L. Lewis, Greensboro, N. C.—The Commission on its own motion consolidated the hearing now set for May 21 on these two applications and continued same until May 28, 1941.

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7 p. m. until conclusion of Modesto Music Festival from Junior College Auditorium on May 23 only (B5-S-825).

WDAE—Tampa Times Co., Tampa, Fla.—Granted special temporary authority to rebroadcast transmission between 5:30 and 5:45 p. m. EST, May 26, of Florida Forest and Park Service, radio station WRQO on **2226 kc.** in special demonstration of forest fire prevention service program only (B3-S-437).

W2XBS—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate a specially constructed 1 KW peak power, special emission laboratory model FM visual transmitter alternately with the regular W2XBS transmitter on Channel No. 1 for the purpose of making field observations, for the period May 25 to June 25, 1941.

W2XBS—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate television broadcast station W2XBS with special emission in addition to A3 emission on Channel No. 1, in order to conduct experimental tests for the NBC for period May 26 to June 24.

KOY—Salt River Valley Broadcasting Co., Phoenix, Ariz.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-889).

WTAW—Agricultural & Mech. College of Texas, College Station, Texas.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-852).

WSBC—Radio Station WSBC, Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-872).

KHBC—Hawaiian Broadcasting System, Ltd., Hilo, T. H.—Granted authority to determine operating power by direct measurement of antenna input (B-Z-901).

KROY—Royal Miller, Sacramento, Calif.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-900).

WEMP—Milwaukee Broadcasting Co., Milwaukee, Wis.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-869).

KTSM—Tri-State Broadcasting Co., Inc., El Paso, Texas.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-883).

KGA—Louis Wasmer, Spokane, Wash.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-903).

KLBM—Harold M. Finlay, La Grande, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-850).

KYA and Aux.—Hearst Radio, Inc., San Francisco, Calif.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-866) and (B5-Z-870).

KFVS—Hirsch Battery & Radio Co., Cape Girardeau, Mo.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-877).

KFNF—KFNF, Inc., Shenandoah, Iowa.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-858).

KVOX—KVOX Broadcasting Co., Moorhead, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-792).

WMPC—The Liberty St. Gospel Church of Lapeer, Mich.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-881).

KFJB—Marshall Electric Co., Marshalltown, Iowa.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-893).

KFKA—The Mid-Western Radio Corp., Greeley, Colo.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-854).

WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-837).

KMED—Mrs. M. J. Virgin, Medford, Ore.—Granted authority to install automatic frequency control equipment (B3-F-187).

WFTC—Jonas Weiland, Kinston, N. C.—Granted authority to install automatic frequency control equipment (B5-F-187).

KHUB—John F. Scripps, Watsonville, Calif.—Granted authority to determine operating power by direct measurement (B5-Z-836).

WCBD—WCBD, Inc., Chicago, Ill.—Granted authority to determine operating power by direct measurement (B4-Z-871).

WDAN—Northwestern Publishing Co., Danville, Ill.—Granted authority to determine operating power by direct measurement (B4-Z-842).

WHBU—Anderson Broadcasting Corp., Anderson, Ind.—Granted authority to determine operating power by direct measurement (B4-Z-818).

KGHI—Arkansas Broadcasting Co., Little Rock, Ark.—Granted authority to determine operating power by direct measurement (B3-Z-878).

- Regional Broadcasting Co., Jonesboro, Ark.—Granted authority to determine operating power by direct measurement (B3-Z-856).
- KVNU—Cache Valley Broadcasting Co., Logan, Utah.—Granted authority to determine operating power by direct measurement (B5-Z-874).
- KENO—Nevada Broadcasting Co., Las Vegas, Nev.—Granted construction permit to move studio and transmitter from The Meadows to El Rancho Vegas, Las Vegas (B5-P-3135).
- WEBQ—Harrisburg Broadcasting Co., Harrisburg, Ill.—Granted construction permit to change type of transmitter, make changes in antenna and change location of transmitter to lower floor level same address; 1240 kc. under NARBA (B4-P-3133).
- KELD—Radio Enterprises, Inc., El Dorado, Ark.—Granted construction permit to change tubes in last radio stage from four RCA 209-A to two RCA 805 (B3-F-3123).
- KHJ—Don Lee Broadcasting System, Los Angeles, Calif.—Granted modification of construction permit (B5-P-2843, which authorized increase in power, installation of DA for day and night use, changes in equipment, and move of transmitter) for installation of new transmitter, and extension of commencement date to 60 days after grant and completion date to 180 days thereafter (B5-MP-1293).
- KGB—Don Lee Broadcasting System, San Diego, Calif.—Granted license to cover construction permit (B5-P-2940) which authorized changes in transmitting equipment and to specify 1360 kc. under NARBA (B5-L-1398).
- WRDO—WRDO, Inc., Augusta, Me.—Granted authority to determine operating power by direct measurement of antenna power on 1400 kc. under NARBA (B1-Z-758).
- KOMA—KOMA, Inc., Oklahoma City, Okla.—Granted authority to determine operating power by direct measurement of antenna power on 1520 kc. under NARBA (B2-Z-771).
- KUSD—University of South Dakota, Vermillion, So. Dak.—Granted special temporary authority to remain silent for the period June 9 to 2:30 p. m., September 15, 1941, in order to observe University summer vacation (B4-S-651).
- WCKY—L. B. Wilson, Inc., Cincinnati, Ohio.—Denied special temporary authority to operate daytime with non-directional antenna until sunset at Sacramento, Cal., for a period not to exceed 30 days (B2-S-762).
- KFJZ—Tarrant Broadcasting Co., Fort Worth, Tex.—Granted modification of construction permit (B3-P-2497, which authorized new transmitter, installation of directional antenna, increase in power and move of transmitter to ½ mile NW of Birdville, Texas) for extension of completion date to August 15/41 (B3-MP-1292).
- GMYR—F. W. Meyer, Denver, Colo.—Granted license to cover construction permit (B5-P-2067, which authorized a new station to operate on 1340 kc., 100 watts night, 250 watts-LS, unlimited time) (B5-L-1394). Also granted authority to determine operating power by direct measurement of antenna power (B5-Z-862).
- KPRC—Houston Printing Corp., Houston, Tex.—Granted modification of construction permit (B3-P-2791, for authority to install directional antenna and increase power to 5 KW) for changes in directional antenna requesting 950 kc. under NARBA and extension of completion date to 120 days after grant (B3-MP-1264).
- WAPO—W. A. Patterson, Chattanooga, Tenn.—Granted modification of construction permit (B3-P-1939, which authorized installation of new transmitter and directional antenna for night use, change of frequency and increase of power) for change in directional antenna for night use on 1150 kc. under NARBA, and extension of commencement date to 10 days after grant and completion date to 30 days thereafter (B3-MP-1299).
- WDSU—WDSU, Inc., New Orleans, La.—Granted modification of construction permit (B3-P-2923, which authorized move of transmitter, increase in power and installation of directional antenna for day and night use) for extension of completion date to September 1/41 (B3-MP-1288).
- High Point Broadcasting Co., High Point, N. C.; Ralph L. Lewis, Greensboro, N. C.—The Commission on its own motion, continued the consolidated hearing now set for May 21 on these two applications, to May 28, 1941.
- WHBQ—Broadcasting Station WHBQ, Inc., Memphis, Tenn.—Granted license to cover construction permit (B3-P-3075, for new transmitter and increase in power to 250 watts), 1100 kc., unlimited (B3-L-1396). Also granted authority to determine operating power by direct measurement of antenna power (B3-Z-867).
- KRIS—Gulf Coast Broadcasting Co., Corpus Christi, Texas.—Granted license to cover construction permit (B3-P-2230) for new transmitter, changes in antenna, increase in power to 1 KW and move; 1360 kc., unlimited (B3-L-1390).
- WFCI—Pawtucket Broadcasting Co., Pawtucket, R. I.—Granted license to cover construction permit (B1-P-1877) as modified (B1-MP-1223), for new station to operate on 1420 kc., 1 KW, directional antenna, unlimited time (B1-L-1403). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-887).
- WLAG—LaGrange Broadcasting Co., LaGrange, Ga.—Granted license to cover construction permit (B3-P-2763) as modified (B3-MP-1183) for new station to operate on 1240 kc., 250 watts, unlimited time (B3-L-1402). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-884).
- KALE—KALE, Inc., Portland, Ore.—Granted license to cover construction permit (B5-P-2729, for installation of directional antenna for night use and increase in power to 5 KW) (B5-L-1339). Also granted authority to determine operating power by direct measurement of antenna power (B5-Z-739).
- W47PH—Penna. Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit (B2-PH-69, covering new FM station) for change in type of transmitter and to make changes in antenna system (B2-MPH-21).
- W6XAO—Don Lee Broadcasting System, Hollywood, Cal.—Granted license to cover construction permit (B5-PVB-38 as modified), for new television broadcast station upon an experimental basis only; 50000-56000 kc.; visual power 1 KW; 150 watts aural power (B5-LVB-26).
- WBOS—Westinghouse Radio Stations, Inc., Hull, Mass.—Granted license to cover construction permit (B1-PIB-23 as modified) to move international broadcast station, increase power to 50 KW, and makes changes in equipment (B1-LIB-15).
- KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 3:30 to 4:30 p. m. and from 5:30 to 6:30 p. m. CST, May 24, in order to broadcast baseball game with Upper Iowa University; from 3:30 to 4:30 and 5:30 to 6:30 p. m., CST, May 30, in order to broadcast baseball game with Upper Iowa University; from 3:30 to 4:30 p. m. and from 5:30 to 6:30 p. m., CST, June 2, in order to broadcast baseball game with Univ. of Wisc. only (B4-S-520).
- KFDY—So. Dak. State College Brookings, S. Dak.—Granted special temporary authority to operate from 2 to 4:30 p. m., CST, May 24, in order to broadcast State Collegiate track meet; from 7:30 to 10:30 p. m., CST, June 9, in order to broadcast State College graduation exercises only (B4-S-645).
- WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 9:15 p. m., EST, to conclusion of President's Address on May 27, in order to broadcast said address only (B1-S-748).
- KFRO—Voice of Longview, Longview, Tex.—Granted motion for continuance of 60 days of hearing now set for June 4, 1941, on application for modification of construction permit to change power from 1 to 5 KW.
- The Metropolis Co., Ocala, Fla.; Bay County Publishers, Inc., Panama City, Fla.—Granted motions to accept amendments to applications for licenses for new stations so as to change answers to Question 15(a) re pending applications.
- WGST—Georgia School of Technology, Atlanta, Ga.—Granted motion for continuance of 60 days of hearing on application for renewal of license, now set for June 7, 1941.
- KMA—May Broadcasting Co., Shenandoah, Iowa.—Granted motion for continuance of 60 days of hearing on application for renewal of license, now set for May 27, 1941.
- WRDO—WRDO, Inc., Augusta, Me.—Granted motion for postponement of hearing on application for renewal of license, for 30 days.
- Ralph L. Lewis, Greensboro, N. C.—Dismissed motion and supplemental motion for continuance of hearing on application for construction permit for new station; on Commission's own motion continued indefinitely consolidated hearing on Lewis application and application of R. B. Terry, D. A. Rawley, C. M. Waynick and H. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C., for new station; referred to Commission the petition of



APPLICATIONS FILED AT FCC

550 Kilocycles

Lewis to sever his application from the High Point Broadcasting Co. application.

KTBC—State Capitol Broadcasting Assn., Inc., Austin, Tex.—Granted special temporary authority to operate from 8:30 to 9 a. m. and from 10 a. m. to local sunset, CST, on May 25, June 1, 8, 15 and 22, 1941, in order to broadcast a program originating in the Governor's mansion, provided WTAW remains silent.

WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Authority to determine operating power by direct method.

560 Kilocycles

WTAW—Agricultural & Mechanical College of Texas, College Station, Tex.—Granted special temporary authority to operate from 9 to 10 a. m., CST, on May 25, June 1, 8, 15 and 22, 1941, in order to cooperate with KTBC in a special broadcast, provided KTBC remains silent.

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—Authority to determine operating power by direct method.

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—License to cover construction permit (B4-P-1990) as modified to increase power from 1 KW night, 5 KW day, to 5 KW day and night; changes in directional antenna system, and new transmitter.

WHKC—United Broadcasting Co., Columbus, Ohio.—Granted special temporary authority to remain on the air from regular sign-off time (10 p. m., EST) to conclusion of Joe Louis-Bill Conn fight on June 18, 1941; to conclusion of Fritzie Zivic-Al Davis fight June 25, 1941, in event these bouts should run later than 10 p. m.

WGAN—Portland Broadcasting System, Inc., Portland, Maine.—License to use formerly licensed WE 352-E-1 main transmitter as an auxiliary using 500 watts.

WBML—Middle Georgia Broadcasting Co., Macon, Ga.—Granted special temporary authority to rebroadcast a portion of the U. S. Army plane-to-plane communication in connection with the arrival of 160 U. S. Army training planes, 80 of which will be stationed at U. S. Army Flying School No. 1, between May 28 and June 5, 1941, only.

580 Kilocycles

WSOC—Radio Station WSOC, Inc., Charlotte, N. C.—Granted license to cover construction permit as modified to install new transmitter, new antenna, move studio and transmitter, increase power specifying 1240 kc. (B3-L-1399). Granted authority to determine operating power by direct measurement of antenna input.

NEW—Martha M. Russell, d/b as Russell Plantation, Russelltown, Tex.—Construction permit for a new broadcast station to be operated on 580 kc., 1 KW, unlimited hours. Class III-B. Amended to specify transmitter site as site to be determined.

WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate additional time May 27, 1941, in order to broadcast President Roosevelt's address only.

590 Kilocycles

WOWO—Westinghouse Radio Stations, Inc., Fort Wayne, Ind.—Denied request for special temporary authority to operate on an unlimited time basis for a period of one month.

WKZO—WKZO, Inc., Kalamazoo, Mich.—Authority to determine operating power by direct method.

WKZO—WKZO, Inc., Kalamazoo, Mich.—License to cover construction permit (B2-P-3060) to install a new directional antenna for night use.

WWVA—West Virginia Broadcasting Corp., Wheeling, W. Va.—Denied request for special temporary authority to operate on an unlimited time basis for a period of one month.

610 Kilocycles

W47A—Capitol Broadcasting Co., Inc., Schenectady, N. Y.—Granted special temporary authority to install at New Scotland, N. Y., and operate through a temporary antenna mounted on a 65-foot telephone pole, for a period not to exceed 90 days, pending installation of antenna described in construction permit.

WIOD—Isle of Dreams Broadcasting Corp., Miami, Fla.—Construction permit to move formerly licensed RCA 1-DB main transmitter to be used as an auxiliary transmitter with power of 1 KW.

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 4 to 6 p. m., CST, on June 8, 1941, in order to broadcast complete Commencement Service of Purdue University only.

620 Kilocycles

WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted extension of special temporary authority to remain silent for the period ending in no event later than June 19, 1941, pending completion of adjustments made necessary by fire.

WTMJ—The Journal Company (The Milwaukee Journal), Milwaukee, Wisconsin.—Authority to determine operating power by direct method.

WTMJ—The Journal Company (The Milwaukee Journal), Milwaukee, Wisconsin.—License to cover construction permit (B4-P-2696) as modified to install directional antenna for night use and increase power.

WGEO—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to operate with the last intermediate power amplifier as the last radio stage; last radio stage consists of 6 General Electric GL858 tubes, maximum rated carrier power 50 KW for a period ending not later than September 1, 1941.

760 Kilocycles

KEX—Oregonian Publishing Co., Portland, Ore.—Petition for reconsideration and grant of application for renewal of license for station KEX, granted, hearing heretofore scheduled, cancelled, and renewal of license granted on regular basis.

WJR—WJR, The Goodwill Station, Detroit, Mich.—Authority to determine operating power by direct method.

770 Kilocycles

KGA—Louis Wasner, Spokane, Wash.—Petition for reconsideration and grant of application for renewal of license for KGA, granted, cancelled hearing heretofore scheduled, and renewal of license granted on regular basis.

WCAL—St. Olaf College, Northfield, Minn.—Authority to determine operating power by direct method.

780 Kilocycles

WGN—WGN, Inc., Chicago, Ill.—Granted petitions of WGN to intervene and to enlarge issues in the hearing on the applications of WTCN, Minneapolis, and WHB, Kansas City, Mo., for construction permits to change frequency to 710 kc.

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Construction permit to install new transmitter and directional antenna for night use, change frequency from 770 to 1080 kc., power from 10 to 50 KW, hours from Simul. D, share WBBM night to unlimited time and move transmitter. Amended to request 1110 kc. under NARBA and make changes in directional antenna.

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Authority to determine operating power by direct method.

790 Kilocycles

Park Cities Broadcasting Corp., Dallas, Texas.—Granted motion for leave to intervene in the hearing on the application of WHB to change frequency to 710 kc., and dismissed motion for continuance of hearing.

WEAN—The Yankee Network, Inc., Providence, R. I.—Authority to determine operating power by direct method.

850 Kilocycles

WEEU—Berks Broadcasting Co., Reading, Pa.—Authority to install new automatic frequency control equipment.

### 910 Kilocycles

WFDF—Flint Broadcasting Co., Flint, Mich.—Modification of construction permit (B2-P-2451) as modified, for installation of new transmitter and directional antenna for day and night use, increase power, change frequency, and move transmitter, requesting extension of completion date from 6-14-41 to 8-14-41.

### 950 Kilocycles

WORL—Broadcasting Service Organization, Inc., Boston, Mass.—License for reinstatement of auxiliary license (B1-L-1271).

### 980 Kilocycles

NEW—Southwestern Michigan Broadcasting Corp., Kalamazoo, Mich.—Construction permit for a new broadcast station to be operated on **980 kc.**, 1 KW, unlimited hours, employing directional antenna at night. (Facilities WHAL, construction permit of WHAL to be surrendered if and when this application is granted.)

### 1000 Kilocycles

WINS—Hearst Radio, Inc., New York, N. Y.—Modification of construction permit (B1-P-3026) for approval of directional antenna system and approval of present licensed site. Amended to make changes in proposed directional antenna system, approval of studio and transmitter sites.

WINS—Hearst Radio, Inc., New York, N. Y.—Authority to determine operating power by direct method.

### 1040 Kilocycles

W9XC—Central Broadcasting Co., near Mitchellville, Iowa.—Modification of construction permit (B4-PEX-34) for increase power and new equipment, to change frequency from **1000 kc.** to **1040 kc.**, make changes in antenna and extend completion date from 10-11-41 to 150 days after date of grant.

### 1090 Kilocycles

WJAG—The Norfolk Daily News, Norfolk, Nebr.—Authority to determine operating power by direct method.

### 1110 Kilocycles

WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—Construction permit to install directional antenna for night use. Amended to request **1110 kc.** under NARBA and changes in directional antenna.

### 1150 Kilocycles

WTAW—Agricultural and Mechanical College of Texas, College Station, Texas.—License to cover construction permit (B3-MP-1006) as modified, for new transmitter, increase in power and change frequency under NARBA.

WDEL—WDEL, Inc., Wilmington, Del.—Authority to determine operating power by direct method.

### 1240 Kilocycles

NEW—R. O. Hardin, tr. as Nashville Broadcasting Co., Nashville, Tenn.—Construction permit for a new broadcast station to be operated on **1240 kc.**, 250 watts, unlimited hours, Class IV. (Facilities of WSIX if and when vacated.)

WRAL—Capitol Broadcasting Co., Inc., Raleigh, N. C.—Construction permit to install new transmitter, install directional antenna for night use, change frequency from **1240 kc.** to **630 kc.**, increase power from 250 watts to 1 KW night, 5 KW day, and move transmitter.

WRAL—Capitol Broadcasting Co., Inc., Raleigh, N. C.—Authority to determine operating power by direct method.

WEBQ—Harrisburg Broadcasting Co., Harrisburg, Ill.—Authority to determine operating power by direct method.

KGY—KGY, Inc., Olympia, Wash.—Authority to determine operating power by direct method.

### 1300 Kilocycles

KGLO—Mason City Globe-Gazette Co., Mason City, Iowa.—License to cover construction permit (B4-P-2329) as modified to install new transmitter, directional antenna for night use, increase power, change frequency; approval of transmitter site, changes in directional antenna on **1300 kc.** under NARBA.

KGLO—Mason City Globe-Gazette Co., Mason City, Iowa.—Authority to determine operating power by direct method.

### 1330 Kilocycles

WLOL—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Construction permit to change frequency from **1330 kc.** to **630 kc.**, power from 1 KW to 1 KW night, 5 KW day, install new transmitter, make changes in directional antenna for day and night use and move transmitter. Amended to give transmitter site.

WHBL—Press Publishing Co., Sheboygan, Wisc.—Authority to determine operating power by direct method.

### 1340 Kilocycles

KXRO—KXRO, Inc., Aberdeen, Wash.—Authority to determine operating power by direct method.

KGEZ—Donald C. Treloar, Kalispell, Mont.—Authority to determine operating power by direct method.

KMYR—F. W. Meyer, Denver Colo.—Modification of license to increase power from 100 watts night, 250 watts to 250 watts day and night.

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Authority to determine operating power by direct method.

WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Authority to determine operating power by direct method.

WCLS—WCLS, Inc., Joliet, Ill.—Authority to determine operating power by direct method.

### 1350 Kilocycles

KGHF—Curtis P. Ritchie, Pueblo, Colo.—Authority to determine operating power by direct method.

### 1360 Kilocycles

NEW—McKeesport Radio Co., McKeesport, Pa.—Construction permit for a new broadcast station to be operated on **1360 kc.**, Class IV, 250 watts and daytime hours.

### 1380 Kilocycles

WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—License to cover construction permit (B3-P-2933) as modified, to install new transmitter, make changes in antenna, change frequency and increase in power.

### 1400 Kilocycles

NEW—Frank T. Nied and Perry Stevens, d/b as Nied and Stevens, Warren, Ohio.—Construction permit for a new broadcast station to be operated on **1400 kc.**, class IV, 250 watts and unlimited hours. Amended to specify transmitter site.

NEW—South Jersey Broadcasting Corp., Vineland, N. J.—Construction permit for a new broadcast station to be operated on **1500 kc.**, 250 watts, unlimited hours. Class IV, facilities of WDAS. Amended to request **1400 kc.**, Class IV, facilities of WDAS when WDAS goes to **1260 kc.**

WGIL—Galesburg Broadcasting Co., Galesburg, Ill.—Authority to determine operating power by direct method.

WFOR—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—Authority to determine operating power by direct method.

NEW—William J. Bray, James L. Ewing, T. B. Lanford and John C. McCormack, d/b as The Capitol Broadcasting Co., Port Allen, La.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited hours.

NEW—Henry Norman Saurage, Baton Rouge, La.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited hours.

WJZM—Wm. D. Hudson and Violet Hutton Hudson, Clarksville, Tenn.—Modification of construction permit (B3-P-2983) for a new station, requesting approval of antenna, transmitter, and transmitter and studio sites.

WEST—Associated Broadcasters, Inc., Easton, Pa.—Authority to determine operating power by direct method.

WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Authority to determine operating power by direct method.

NEW—Air-Waves, Inc., Baton Rouge, La.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited hours.

#### 1410 Kilocycles

WALA—W. O. Pape, tr. as Pape Broadcasting Co., Mobile, Ala.—Modification of construction permit (B3-MP-932) as modified, for increase in power, installation of new equipment and directional antenna for night use, and move transmitter, requesting extension of completion date from 6-29-41 to 9-29-41.

#### 1420 Kilocycles

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited hours. Class IV. Facilities of WARM.

#### 1440 Kilocycles

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

#### 1450 Kilocycles

KFIZ—The Reporter Printing Co., Fond du Lac, Wisc.—Authority to determine operating power by direct method.

WNAB—Harold Thomas, Bridgeport, Conn.—Modification of construction permit (B1-P-2410) as modified, for a new broadcast station, requesting change in type of transmitter, approval of studio site and extension of completion date from 6-30-41 to 90 days after grant.

WRLC—R. G. LeTourneau, Toccoa, Ga.—Authority to determine operating power by direct method.

WRLC—R. G. LeTourneau, Toccoa, Ga.—License to cover construction permit (B3-P-2767) as modified, for a new station.

WAZL—Hazleton Broadcasting Service, Inc., Hazleton, Pa.—Authority to determine operating power by direct method.

WILM—Delaware Broadcasting Co., Wilmington, Del.—Authority to determine operating power by direct method.

NEW—Forward Wheeling Radio Corp., Wheeling, W. Va.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 100 watts and unlimited hours. Class IV.

WWDC—Capital Broadcasting Co., Washington, D. C.—License to cover construction permit (B1-P-2679) as modified, for a new station.

WWDC—Capital Broadcasting Co., Washington, D. C.—Authority to determine operating power by direct method.

WWDC—Capital Broadcasting Co., Washington, D. C.—License to cover construction permit (B1-P-2679) as modified for a new station (Amplifier).

WWDC—Capital Broadcasting Co., Washington, D. C.—Authority to determine operating power by direct method (Amplifier).

KBPS—Benson Polytechnic School, R. T. Stephens, Agt., Portland, Ore.—Construction permit to install new antenna and increase power from 100 to 250 watts. Amended: to request unlimited time.

WMVA—Wm. C. Barnes and Jonas Weiland, d/b as Martinsville Broadcasting Co., Martinsville, Va.—Voluntary assignment of license to Martinsville Broadcasting Co., Inc.

WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—License to cover construction permit (B2-P-2578) as modified to install new transmitter, new antenna and increase in power.

KGIW—E. L. Allen, Alamosa, Colo.—Authority to determine operating power by direct method.

WEED—William Avera Wynne, Rocky Mount, N. C.—Authority to determine operating power by direct method.

#### 1490 Kilocycles

NEW—Luther E. Gibson, Vallejo, Calif.—Construction permit for a new station to be operated on **1490 kc.**, 250 watts, unlimited time. Class IV. Amended: re antenna changes.

WGAL—WGAL, Inc., Lancaster, Pa.—Authority to determine operating power by direct method.

WKBZ—Ashbacker Radio Corp., Muskegon, Mich.—Authority to determine operating power by direct method.

## FM APPLICATIONS

NEW—James F. Hopkins, Inc., Detroit, Mich.—Construction permit for a new high frequency broadcast station to be operated on **46500 kc.**; coverage, 2130 square miles; population, 2,196,632. Amended: To change coverage to 6,790 square miles; population to 2,697,132, move transmitter and make changes in antenna system.

NEW—Ashland Broadcasting Co., Ashland, Ky.—Construction permit for a new high frequency broadcast station to be operated on **46100 kc.**; coverage, 5,119.5 square miles; population, 421,990. Amended: To change coverage to 4,160 square miles, population to 398,692 and make changes in antenna system.

NEW—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—Construction permit for a new studio transmitter link broadcast station to be operated on **331000 kc.**, power 50 watts, emission: special for frequency modulation (to be used in conjunction with FM station W55M).

NEW—Debs Memorial Radio Fund, Inc., New York, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **48700 kc.**; coverage, 8,600 square miles; population, 12,300,000.

## TELEVISION APPLICATION

W9XAK—Kansas State College of Agriculture and Applied Science, Manhattan, Kansas.—Modification of construction permit (B4-PVB-25) for a new television broadcast station, for extension of completion date from 7-15-41 to 10-15-41.

## MISCELLANEOUS APPLICATIONS

WCRC—Columbia Broadcasting System, Inc., Brentwood, N. Y.—Modification of construction permit (B1-PIB-26) as modified, which authorized a new international broadcast station, requesting the additional frequencies of **6120, 6170, 21570 kc.**, and sharing time on all frequencies with WCBX and share on **6060, 9650, 11830, 15270** and **21520 kc.** with WCAB.

W2XB—General Electric Co., New Scotland, N. Y.—Modification of license to change frequency from **60000-86000** to channel No. 3, **66000-72000 kc.**

NEW—Rome Broadcasting Corp., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on **30820, 33740, 35820, 37980 kc.**, 15 watts, A3 emission.

WCBX—Columbia Broadcasting System, Inc., near Wayne, N. J.—Modification of construction permit (B1-PIB-27) for move of transmitter and increase in power, requesting additional frequencies **6060, 21520 kc.**, and sharing time on all frequencies with WCRC and share on **6060, 9650, 11830, 15270** and **21520 kc.** with WCAB.

NEW—James Broadcasting Co., Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on **30820, 33740, 35820, 37980 kc.**, 25 watts, A3 emission.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Callaway Mills**—Charging price discrimination in violation of the Robinson-Patman Act, a complaint has been issued against Callaway Mills, Lagrange, Ga., which manufactures tufted bedspreads, bath mats, rugs and allied products and sells them for use and for resale.

The complaint alleges that the respondent has discriminated in price between different purchasers of its products of like grade and quality by selling to certain purchasers at lower prices than the

prices at which it sells products of the same grade and quality to other of its purchasers, and by allowing certain purchasers adjustments, rebates or discounts not given other purchasers.

According to the complaint, the respondent grants a five per cent rebate to any retail customer or "individual recognized department store" customer on its purchases if such purchases exceed \$500 a year, the rebate being denied others of this class of customers whether or not their purchases of the respondent's products exceed \$500 a year. Mail order houses, according to the complaint, are allowed a discount of five per cent and a rebate of five per cent without regard to quantity qualifications.

The complaint alleges that one customer classified by the respondent as a special wholesale distributor is allowed a 10 per cent discount while other jobber customers are allowed a five per cent discount. The complaint further alleges that such jobbers are granted additional rebates based on annual volume ranging from two per cent on net volume if the volume totals \$10,000, to 5 per cent on net volume if the volume totals \$25,000 or more. (4506)

**Kemico**—A complaint has been issued alleging that F. W. Johnson, trading under the name Kemico, Park Ridge, Ill., has made misleading representations in the sale of 15 formulas for various medicinal and cosmetic preparations and in advertising the therapeutic values of the preparations compounded from the formulas.

According to the complaint, the respondent advertised, among other things, that: "Greaseless Massage Cream" is a cure or remedy for skin imperfections; "Hair Lay Cream" promotes hair growth and relieves itching scalp; "Dandruff Remedy" is a cure or remedy for that condition, and "Teeth Whitener Formula A," "Teeth Whitener Formula B," "Pine Oil Nasal Spray," "Menthol," "Camphor Nasal Spray," and "Nose Inhalant" are effective for the purposes advertised and are safe for use.

The complaint alleges that the preparations so advertised do not accomplish the results claimed; that "Dandruff Remedy" is of no therapeutic value in treating dandruff in excess of affording temporary relief from the itching symptom associated with dandruff and assisting in the temporary removal of dandruff scales, and that "Teeth Whitener Formula A," "Pine Oil Nasal Spray," "Menthol," "Camphor Nasal Spray," and "Nose Inhalant" are not entirely safe for use. (4505)

**Reed Drug Company, Inc.**—A complaint alleging misrepresentation in the sale of a medicinal preparation has been issued against Reed Drug Co., Inc., 103 East Main St., West Frankfort, Ill.

The complaint charges the respondent with disseminating advertisements in which it represents directly and by implication that the preparation designated as "Mrs. Bee's Femo Capsules," "Femo-Caps," and "Bee Caps," constitutes a safe, competent and effective treatment for delayed menstruation.

According to the complaint, the product sold by the respondent is not a competent or effective treatment for delayed menstruation and is not safe for use in that it contains certain drugs in quantities sufficient to cause serious and irreparable injury to health, if used under the conditions prescribed in the advertisements or under customary or usual conditions.

The complaint further charges that the advertisements disseminated by the respondent constitute false advertisements in that they fail to reveal that use of the preparation under such conditions may result in gastro-intestinal disturbances or other serious injury. (4507)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Allied Specialties, Inc.**, 621 Nobel St., Indianapolis, and Ralph J. Bicy and Anne Springer, its officers, have been ordered to cease and desist from misrepresentations in the sale of "Ko-Pak-Ta" warming devices employed for displaying peanuts, and of nuts for use in the devices.

Commission findings are that:

Salesmen for the respondents advertise in local newspapers, a typical advertisement reading: "\$2,600 cash will purchase controlling interest in business. Worth \$500 monthly to right man. Party selected must be between 25 and 55 years of age, and furnish references. Gentile. Unusual circumstances have made this opening available. Address Box No. \_\_\_\_\_."

Persons responding to advertisements receive special appointments with the respondents' representatives and are usually told that large profits will result from operating the nut display warmer. However, the respondents' representations are exaggerated and untrue and none of the purchasers have earned as much as \$500 monthly. Instead, it has been the experience of some purchasers that the method of vending as proposed by the respondents is impractical and will not induce a sufficient amount of sales to cover operating costs.

The Commission order directs the respondents to cease misrepresenting the possible earnings or profits of those who purchase or operate the nut display warmers and to cease representing, directly or by inference, that the respondents guarantee any specified amount as earnings or profits to purchasers or operators.

The respondents also are ordered to cease representing, directly or by inference, that they assign exclusive territorial rights in any certain trade area, when such territory is not so allotted; that they obtain locations for nut display warmers when locations for all the warmers sold by the respondents are not so obtained, and that the respondents resell or permit the return of warmers for refund of investment in case a purchaser is dissatisfied, unless such devices are so disposed of and the investment is returned.

The Commission dismissed the complaint in this proceeding as to William G. White, former vice president of Allied Specialties, Inc., who had not participated in the respondents' acts and practices, as found. (3360)

**Capital Drug Company**—Max Caplan, trading as Capital Drug Co., 18 East Campbell Ave., Roanoke, Va., has been ordered to cease and desist from misrepresentations in the sale of "Mrs. Bee Femo Caps," a medicinal preparation.

The Commission order directs the respondent to cease disseminating advertisements which represent, directly or through inference, that this preparation constitutes an effective treatment for delayed menstruation; that the preparation does not cause the user any discomfort, and that it is safe or harmless; or which advertisements fail to reveal that use of the respondent's product may cause gastro-intestinal disturbances and other serious consequences. (4343)

**Colonial Drug Co.**, Tulsa, Okla., and M. A. Younkman, president of Colonial Drug Co. and trading as Colonial Sales Co., have been ordered to cease and desist from misrepresentations in the sale of "Natural Mineral Extract," a medicinal preparation.

Commission findings are that the respondents disseminated advertisements in various States representing, directly or by implication, that the external application of their product constitutes a cure or remedy for various skin conditions and other ailments, and that its internal use will purify the blood and be a competent treatment for indigestion and stomach, intestinal and other disorders when in fact its use does not accomplish the results claimed and its therapeutic value is limited to that of a mild laxative or mild diuretic.

The Commission order directs the respondents to cease disseminating advertisements which represent that "Natural Mineral Extract" constitutes a cure or remedy for, or poses therapeutic value in, the treatment of eczema, acne, athlete's foot, rheumatism, and some 25 other ailments; that it possesses germicidal, antiseptic, or astringent properties; that it has therapeutic value as a tonic or a blood purifier or in the treatment of women's ailments, and that it constitutes a competent or effective treatment for ill-nourished, backward or defective children. (4260)

**Compressed Air Institute**—A complaint charging Compressed Air Institute, 90 West St., New York, and others, with certain acts and practices in the sale and distribution of compressed air machinery and pneumatic tools, has been dismissed. The other respondents in the case were C. Clifford Rohrbach, secretary and manager of the institute, and Independent Pneumatic Tool Co., 600 West Jackson Boulevard, Chicago; Gardner-Denver Co., South Front St., Quincy, Ill.; Ingersoll-Rand Co., 11 Broadway, New York; Worthington Pump and Machinery Corporation, Harrison, N. J.; The Cleveland Pneumatic Tool Co., 3734 East 78th St., Cleveland; The Cleveland Rock Drill Co., 3734 East 78th St., Cleveland; Sullivan Machinery Co., Michigan City, Ind., and Chicago Pneumatic Tool Co., 6 East 44th St., New York, members of the institute. (3958)

**Gordon-Gordon, Ltd.**, and its selling agent, **Princess Pat, Ltd.**, 2709 South Wells St., Chicago, has been ordered to cease and desist from making misleading representations in the sale of cosmetics.

Commission findings are that the respondents, in radio broadcasts and printed matter, made various representations purporting to be descriptive of the quality and effectiveness of their cosmetics and the harmful effects of certain ingredients used in face powders by their competitors.

Findings are further that the respondents represented, among other things, that the use of face powders containing orris root causes the pores of the skin to clog, irritates the skin and causes skin roughness, when in fact the evidence shows there is no indication that orris root will clog the pores; that face powder containing orris root does not generally cause irritation or skin roughness; that some persons are allergic to orris root and their use of face powder containing it would tend to cause skin irritation and roughness (tests showing that from 10 per cent to 24 per cent of the persons tested might be so affected), and that at the time of hearing in the Commission proceeding, only about 10 per cent of face powder manufacturers used orris root as an ingredient.

The Commission order directs the respondents to cease making the representations found to have been made concerning the effect of orris root in face powder unless such representations are limited to cases in which the user is allergic to orris root.

The respondents also are directed to cease representing that "Princess Pat Powder" is non-allergic to all persons, and that its application will smooth the skin, make the skin soft or pliant, or prevent coarse pores and blackheads; that use of their preparation designated "Muscle Oil" and "Princess Pat Irradiated Muscle Oil," will prevent crow's feet, wrinkles or sagging facial muscles or will penetrate beneath the skin surface and beneficially affect underlying facial muscles; that "Skin Cleanser" will penetrate beneath the surface or prevent coarse pores, pimples, blackheads or rough skin texture, and that the preparation "Skin Food Cream" or "Anti-Wrinkle Cream" will nourish or feed the skin, or that it is a tonic for the underlying nerves or will smooth out or prevent lines or wrinkles.

The order also prohibits the respondents from using any designation for their product formerly known as "Skin Food Cream" and as "Anti-Wrinkle Cream" which includes the word "Food." (3793)

**Hearst Magazines, Inc.**, of which Good Housekeeping Magazine is a wholly owned subsidiary, has been ordered to cease and desist from misrepresentations in its periodicals, magazines and other publications, in connection with the use of seals, emblems and other insignia, purporting either to guarantee the quality of various advertised products or to indicate the nature and extent of respondent's testing of such products.

The respondent maintains departments known as Good Housekeeping Bureau and Good Housekeeping Institute for testing various products. In connection with the activities of these departments, the respondent issues seals of approval, usually elliptical in form, containing the words "Tested and approved," a cut of a star followed by a serial number with the name "Good Housekeeping Institute" or "Good Housekeeping Bureau." When the respondent issues a certificate certifying that the product has been tested and approved, it authorizes the use of seals of approval on the applicant's merchandise and the reproduction of such seals in various advertising and in circulars as may be desired.

The Commission finds that the respondent has represented that all products, services or commercial offerings advertised in Good Housekeeping are guaranteed by the respondent. The representations with reference to guaranty of certain products advertised in Good Housekeeping Magazine, the Commission finds, have the tendency to mislead readers of the magazine and to cause them to believe that the guaranty of the respondent is an unlimited guaranty. In addition to this, the respondent authorizes advertisers in the magazine to publicize such guaranty in other publications, on labels attached to their products, and on containers of products by use of an emblem or shield reading "Guaranteed by Good Housekeeping as advertised therein" or "Guaranteed as advertised in Good Housekeeping." Such advertisers, when advertising in newspapers and publications not owned or controlled by the respondent, and on labels and in circulars and other advertising material, use the above-described emblem or shield.

Based upon the testimony of various witnesses with reference to the extent to which their products were investigated by the respondent and the volume of business conducted in said products,

the Commission finds that while tests were made before seals of approval were issued by either of the above-mentioned departments of Good Housekeeping Magazine, such tests were generally not sufficient to assure the fulfillment of the claims made for such products.

The Commission also finds that the use and authorization by the respondent of many different forms of seals, shields, emblems and insignia, and the association therewith of the testing facilities and operation of its various departments in various magazine articles and in booklets, circulars and other advertising material, are confusing to the average reader and have the tendency and capacity to mislead and deceive purchasers and readers of the respondent's magazine into believing that all products bearing a seal, shield, emblem or insignia of Good Housekeeping Magazine have been thoroughly and adequately tested and approved and are guaranteed by the respondent when, in fact, such products are not guaranteed by the respondent and some have not been adequately tested by it.

The Commission finds that the respondent also, by means of articles in its magazine and by other statements and representations, represents, directly and by inference, that all representations of, and claims made for, products, services, or other commercial offerings appearing in advertisements in its periodicals are true. Such representations are usually made in connection with discussion of the testing facilities of Good Housekeeping Magazine and the effect or purport of the guaranty by it of all advertising appearing in its issues.

Based upon testimony concerning advertisements issued on various products, the Commission finds that many of the advertisements appearing in Good Housekeeping Magazine contained false, deceptive and misleading statements and representations with reference to the therapeutic value of medicinal preparations, the properties and effectiveness of cosmetic preparations, the fiber content and qualities of fabrics and wearing apparel, the properties and purity of food products; the results to be obtained from the use of various articles of merchandise, and the efficiency and reliability of services and other commercial offerings.

The Commission orders that Heart Magazines, Inc., its officers, directors or representatives, in connection with the offering for sale and distribution of its periodicals, magazines or other publications, and the issuance or authorization of various seals of approval, emblems, shields or other insignia, cease and desist from:

1. Representing, directly or indirectly, that all representations of, and claims made for, products, services or other commercial offerings described in advertisements appearing in any of its periodicals, magazines or other publications are true when any representation or claim contained in such advertisements is not in fact true;

2. Using, or authorizing, or allowing others to use, seals, emblems, shields or other insignia, which represent in any manner that any food, drug, cosmetic, or therapeutic device, has been tested, or tested and approved, by, or at the instance of, the respondent, or any organization owned or controlled by it, or otherwise representing, or authorizing or allowing others to represent in any manner, that any such product has been tested, or tested and approved, by, or at the instance of, the respondent or any organization owned or controlled by it, unless and until the product concerning which such representation is made has, in fact, been adequately and thoroughly tested in such a manner as to insure, at the time such product is sold to the consuming public, the quality, nature and properties of such product in relation to the intended usage thereof and the fulfillment of the claims made therefor in connection with the use of such insignia or representation;

3. Using, or authorizing, or allowing others to use, seals, emblems, shields or other insignia which represent in any manner that any mechanical device or article of household equipment, other than those included in paragraph 2, has been tested, or tested and approved by, or at the instance of, the respondent, or any organization owned or controlled by it, or otherwise representing, or authorizing or allowing others to represent, that such product has been tested and approved, unless and until the product concerning which such representation is made has, in fact, been adequately and thoroughly tested in such manner as reasonably to assure, at the time such product is sold to the consuming public, the quality, nature and properties of such product in relation to the intended usage thereof and the fulfillment of the material claims made in connection with the use of such insignia or representation;

4. Authorizing, using or allowing the use of seals, emblems, shields or other insignia which represent, directly or by implication, that an inquiry or investigation has been made by, or at the instance of, the respondent, or any organization owned or controlled by it, of a service or other commercial offering (not including any product) in connection with which such seal, emblem, shield or

other insignia is used, unless and until the respondent has, in fact, made a sufficiently adequate and thorough investigation or inquiry as to assure the fulfillment of the claims made for such service or commercial offering in connection with the use of such insignia or representation;

5. Representing, directly or by implication, that any product, service or other commercial offering advertised in its magazines, periodicals or other publications, or for which respondent has authorized the use of any seal, emblem, shield or other insignia, is guaranteed by respondent, unless such guaranty is without limitation, or, if limited, unless all limitations upon such guaranty are clearly, conspicuously and explicitly stated in immediate conjunction with all such representations of guaranty;

6. Authorizing, or allowing others to represent, directly or by implication, that any product, service or other commercial offering advertised in its magazines, periodicals or other publications, or for which respondent has authorized the use of any seal, emblem, shield or other insignia, is guaranteed by respondent, unless such guaranty is without limitation, or, if limited, unless all limitations on such guaranty are clearly, conspicuously and explicitly stated in immediate conjunction with all such representations in the guaranty.

The provisions of the order do not prohibit the use of the word "recommended" on any seal, emblem, shield or other insignia when the product on which the insignia is used has been adequately and thoroughly tested by the respondent in such a manner as reasonably to assure the quality, nature and properties of such product in relation to the intended usage and when the form of the insignia is readily distinguishable by the consuming public from any seal, emblem, shield or any other insignia bearing any guaranty. (3872)

**Witol, Inc.,** Witol Beauty Laboratories, Inc., and William Witol, president of Witol, Inc., all of 1700 Broadway, New York, has been ordered to cease and desist from misrepresentations in the sale of cosmetic preparations.

The order directs the respondents to cease disseminating advertisements which represent that their preparations "Witol's New Liquid Skin Peel" or "Take-Off" will remove the outer layer of the skin and give the user a new, fresh surface skin; that these preparations are effective in treating pimples, blackheads, whiteheads, freckles, or superficial blemishes, or will cause large pores and fine lines to diminish, or that the respondents' preparations are sold by means of a special or limited offer when in fact the distribution method is the usual means employed by the respondents in the customary course of business and there is no limitation of the sale of such products.

The Commission dismissed its complaint in this proceeding as to the former respondents Ann Felix, who was vice-president of the two corporations, and Hattie Blankfeld, formerly secretary of Witol Beauty Laboratories, Inc. (3934)

## STIPULATIONS

Following stipulations have been entered by the Commission:

**Benson & Dall, Inc.,** an advertising agency, of 327 South LaSalle St., Chicago, has entered into a stipulation to cease certain representations in the dissemination of advertisements concerning "Stuart's Laxative Compound Tablets" on behalf of F. A. Stuart Co., Marshall, Mich.

The respondent agency agrees that it will cease disseminating advertisements of the Stuart preparation which represent, directly or by implication, that the product will in no case have deleterious effects or is safe to use in all cases, or which advertisements fail to reveal (1) that use of the preparation should be discontinued where a skin rash appears; (2) that it should not be used when abdominal pains or other appendicitis symptoms are present, and (3) that its frequent or continued use may result in dependence on laxatives.

The stipulation provides, however, that such advertisement need contain only a statement that the preparation should be used as directed on the label if and when the label contains the proper warnings. (02791)

**Ruth Clark's Products**—Ruth Clark, trading as Ruth Clark's Products, 430 South Broadway, Los Angeles, have entered into a stipulation to cease certain representations in the sale of food, drug and cosmetic products.

The respondent agrees to cease representing, directly or by implication, through use of the abbreviation "Vit" or the word "Vitamin," in connection with the letter "A" in the brand name of her products, "Vit-A-Pac," "Vitamin 'A' Beauty Cream," and "Vit-A-

Hair and Scalp Oil," that the Vitamin A content has any beneficial influence or effect on the skin, hair or scalp, and to desist from representing, through use of the word "manufacturer" in connection with the advertising of her products, that she manufactures or compounds all of the products which she sells.

The respondent further stipulates she will cease advertising that her food product, "Re-Chemicalizing Bouillon," is of value or effect in the relief, treatment or correction of arthritis, neuritis, colds, nervousness or skin troubles, or as a reducing aid of itself or when combined with "Blendavita Tea"; or that "Re-Chemicalizing Bouillon" has value in treating or correcting anemia or an underweight condition in excess of such benefits as may accrue from its food elements.

Under her stipulation, the respondent also agrees to cease representing, by use of the word "Re-Chemicalizing" in the brand name or by any other means, that "Re-Chemicalizing Bouillon" will re-chemicalize the system.

In the sale of "Blendavita Tea," the respondent agrees to cease advertising that it has any value in the treatment of kidney, bladder, and skin ailments; that it is an aid to digestion or in the relief of insomnia, or acts as an alkalizing agent; that it is of value of itself or when combined with the product "Re-Chemicalizing Bouillon" as a reducing aid; that, when combined with "Re-Chemicalizing Bouillon," it is of value in the treatment of arthritis or neuritis, or that when so combined it is of value in the relief of an underweight condition in excess of such benefits as may accrue from the food elements contained in the combined products.

The respondent also stipulates she will desist from representing that "Oils of Youth" will keep the body internally clean, and that "Vitamin 'A' Concentrate" would be valuable to persons suffering from frequent colds, sinus trouble or skin infections, unless the claims reveal that this product would be of value only in cases of Vitamin A deficiency. (02792)

**Clyde Collins, Inc.,** Memphis, Tenn., stipulated that in disseminating advertisements of flavorings designated "Vanilla Extract," "Lemon Extract," "Strawberry Extract," "Pineapple Extract," and "Banana Extract," it will cease using the words "Lemon," "Strawberry," "Pineapple," or "Banana" in combination with the word "Extract" unless the products are composed of genuine ingredients, as distinguished from synthetic chemical substitutes, and such ingredients are suspended in ethyl alcohol. The respondent further agrees to desist from employing the term "Vanilla Extract" to describe a flavoring product, unless it is prepared with a vehicle of ethyl alcohol and contains a flavoring content at least 50 per cent of which consists of true vanilla made from the vanilla bean. (02796)

**H. Fendrich, Incorporated,** 101 Oakley St., Evansville, Ind., entered into a stipulation in which it agrees to cease certain representations in the sale of cigars. The respondent agrees to desist from representing that its "La Fendrich" cigars contain an "imported Havana-rich long filler," or from making any other representation referring to the origin of the filler tobacco of these cigars, unless the country of origin of each of the filler tobaccos used is set forth in the order of their respective predominance by weight and with equal emphasis. The respondent also agrees to cease advertising that the price of this cigar was formerly 10 cents and is now only 5 cents, or any other representation indicating a price reduction unless the price of the particular cigar referred to has recently been the price stated and the reduction has only recently become effective, or unless the date of the price reduction is stated conspicuously in conjunction with the former price. (02794)

**Forster Neckwear Co., Inc.,** 12 West 27th St., New York, entered into a stipulation to cease certain representations in the sale of men's neckwear.

The respondent corporation agrees to cease using the words "Silk" or "Imported Silk" or any other word or coined words connoting silk in or on advertising trade literature, labels, invoices, or otherwise, to describe fabrics or merchandise not composed of silk.

The stipulation provides that (1) if the products are composed partly of silk and partly of some other fiber material, the word "Silk," or similar words, if used to refer to the silk content, shall be accompanied by other words in equally conspicuous type indicating clearly that the products are not made wholly of silk; and (2) if the fiber other than silk constitutes the major content of the product, the name of the predominating material shall precede the word "Silk," as for example, "Cotton and Silk."

The respondent also agrees to cease advertising, branding, labeling, invoicing or selling neckwear or other products as "Imported Fabrics" which are composed in whole or in part of rayon without clearly disclosing the rayon content by use of the word "Rayon"; and, when materials other than rayon are also present, without disclosing in type equally as conspicuous as the word "Rayon," each constituent fiber in the order of its predominance by weight. (3111)

**General Beauty Products Company**—Trading as General Beauty Products Co., and having their headquarters at 2110 West Madison St., Chicago, Hec Barth, Samuel Barth and Mrs. Hec Barth, co-partners, stipulated to cease certain representations in connection with the mail order sale of beauty supplies and equipment.

In their stipulation, the respondents agree to cease employing the words "Crystal-Sheen," alone or in connection with the particular label and design of the container of their hair-rinse product, or in any other way implying that the product is the widely and favorably known "Sparkle-Sheen" hair rinse, a competitive product, and to cease using any word as part of the trade name for, or any representation relating to, the product "Dandruff Eradicator," so as to imply that the product, when locally applied to the scalp, will eradicate, remove or destroy dandruff or promote hair growth or feed or nourish dry scalps.

The respondents also stipulate they will cease using as a brand name for their emulsion the word "Lanoleen," or any other phonetic spelling of the word "Lanolin," alone or in connection with other words so as to imply that their product is a Lanolin product or that its Lanolin content is substantial and contributes any value.

In their stipulation the respondents, in connection with the illustration of any product, agree to cease employing the legend "Weight 4 oz." or any other weight indication the effect of which tends to convey the impression that such indication refers to the weight of the contents of the product when in fact it actually refers to the mailing weight. (3112)

**General Electric Co.**, Bridgeport, Conn., entered into a stipulation to cease certain representations in the sale of electrical heating pads.

According to the stipulation, the respondent advertised heating pads by means of the descriptions "Three Heats," "Three Heat Switch" or "Low, Medium or High Heat" so as to imply that operation of the switches results in maintaining three distinct temperatures, when in fact they merely regulate the time required to heat the pads to a single maximum temperature.

The stipulation further recites that the respondent described covers for its heating pads as "Eiderdown" when they were composed not of eiderdown but wholly or partly of rayon, a fact not disclosed in advertising matter.

Under its stipulation, the respondent agrees to cease representing its heating pads in a manner implying that they are capable of maintaining three different degrees of heat and to cease the representations made concerning the composition of the covers, unless properly qualified to show the rayon and other content. (3110)

**General Vitamins Company**—R. V. Annen, trading as General Vitamins Co., 565 West Washington, Blvd., Chicago, has entered into a stipulation to cease certain representations in the sale of "Vev," a medicinal preparation.

The respondent agrees to cease advertising that "Vev" is a vitamin laxative, or, by any other terminology, that it contains vitamins in an amount sufficient to accomplish any therapeutic or dietetic effect.

The respondent also agrees to cease representing, by use of the words "end" and "eliminate" or similar words that the preparation is a remedy for or will cure constipation or has any value in treating this condition in excess of affording temporary relief from its symptoms. The respondent further stipulates that he will cease advertising the product as having value for any symptom or condition in excess of affording temporary relief or benefit for such symptoms or conditions as are due to constipation.

The respondent stipulates that he will cease disseminating advertisements which fail to reveal (1) that his product should not be used when abdominal pain or other appendicitis symptoms are present, and (2) that its frequent or continued use may result in dependence on laxatives. The stipulation provides, however, that

such advertisements need contain only a statement cautioning that the preparation should be used as directed on the label, if and when the label contains the proper warnings. (02795)

**Jeri Yarn Mills**—Herman Rosenberg, trading as Jeri Yarn Mills, 345 Grand St., New York, has entered into a stipulation to cease and desist from certain representations in the sale of yarn.

The respondent agrees to cease employing the word "Mills" as a part of his trade name and to desist from using this word or similar words to imply that he manufactures the products sold by him or owns and operates a factory or mill in which they are made.

Under his stipulation the respondent further agrees to cease advertising, branding, labeling or selling yarn or other products composed in whole or in part of rayon without clearly disclosing the rayon content and, when the products contain both rayon and other materials, each constituent fiber or material in the order of its predominance by weight.

The respondent also stipulates he will desist from employing the words "Worsted," "Tweed" or other words connoting wool to designate a product not composed of wool; or the word "Cashmere" to describe a product not composed of the hair or fleece of the Cashmere goat. The stipulation provides that in the case of a product composed in part of either wool or cashmere, the words "Worsted," "Tweed" or other wool connoting words or the word "Cashmere," if properly used to describe the wool or cashmere content, respectively, shall be accompanied by other words in equally conspicuous type accurately describing each constituent fiber or material of which the product is composed, in the order of its predominance by weight. (3109)

**Petpak Products Co.**, 3264 North 33rd St., Milwaukee, has entered into a stipulation to cease certain representations in the sale of bird foods. The respondent agrees to desist from advertising that the use of its "Petpak Mating Food" or any of its products will insure fertile eggs or strong, healthy fledglings, or that its products reduce bird mortality or produce stronger or healthier birds. The respondent also stipulates that it will cease representing that "Petpak Special Baby Bird Food" contains no filler, or that the potency of the vitamins in its products is preserved. (02793)

**Knapp-Monarch Co.**, St. Louis, and Dominion Electrical Manufacturing, Inc., Mansfield, Ohio, entered into stipulations to cease certain representations in the sale of electrical heating pads.

The respondents agree that in the sale of electrical heating pads not equipped with adequate thermostatic or other heat controls calibrated for three different degrees of heat, they will cease making representations which imply that the pads are capable of maintaining, or that operation of the switches used in connection with the pads results in maintaining, three distinct temperatures.

According to the stipulations, the operation of the switches merely regulates the time required to heat the pads to a single maximum temperature for which the heat control units are calibrated. (3114-3115)

**Vogue Silks**—Irving Roth and Arthur Bassin, co-partners trading as Vogue Silks, 724 Fifth Ave., New York, have entered into a stipulation to cease and desist from certain representations in the sale of textile fabrics.

The respondents agree to cease employing the words "Pure Dye" or any other words connoting silk to describe a product not composed of silk. The stipulation provides that if a product is composed partly of silk and partly of other fibers or materials, the words "Pure Dye" or other silk connoting words, if properly used to describe the silk content, shall be immediately accompanied by other words in equally conspicuous type to accurately designate each constituent fiber or material in the order of its predominance by weight.

Under their stipulation, the respondents further agree to cease advertising, branding, labeling, invoicing or selling products composed wholly or partly of rayon without clearly disclosing (1) the rayon content by use of the word "Rayon" and (2) each constituent fiber of products composed of both rayon and other materials in the order of each fiber's predominance by weight, and in immediate connection with the word "Rayon." (3113)







1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 2, 1941

## WHITE SHOCKED AT FCC'S ATTITUDE

Senator Wallace H. White today urged a study by Congress of all phases of American radio, including an investigation of the Federal Communications Commission and its recently promulgated regulations affecting network broadcasting. Senator White's statement was made at the opening of hearings by the Senate Interstate Commerce Committee on the resolution he introduced May 13 demanding such study.

"I have long been an advocate of a comprehensive study of this whole radio problem and of the administration of our present radio law," Senator White said.

### Still Favors Study

"As far back as 1937 I offered in the Senate a resolution which was pretty general in its character, and I strenuously urged at that time that we should undertake a study of the whole radio situation, and that the Congress should particularly concern itself with matters of principles and policies as they should guide the industry, whereby we would guide our regulatory body in its efforts to administer the law.

"I still favor a comprehensive study of the whole radio situation.

"I still feel that the Congress perhaps ought to lay down more definitely than we have in the existing law, the policies and principles which should guide us and which should control the regulatory body, and which should keep the industry itself in what we believe to be the appropriate bounds."

Referring to the regulations recently promulgated by the FCC, Senator White continued, "I think those regulations suggest such an altered course and are of such importance, both to us as representatives here in the Congress, and to the industry—and I might include the

regulatory body itself—that there ought to be a study of the questions raised by those regulations.

### "Surprised and Shocked"

"I am very frank to say that it never occurred to me there would be any substantial opposition in any quarter to a study of the possible or probable or feared effects of those regulations. I have thought and I might as well say it here openly, that I have been rather surprised, even shocked, that the Commission itself feels it appropriate to oppose the study which this resolution suggests.

"I have been here in Congress quite a while; I think there is only one member about this table who has served longer than I, and this is the first time so far as my knowledge goes that a regulatory body of the Government, a creature of the Congress itself, has felt it appropriate to challenge either the wisdom or the right of a committee of Congress to review its acts and the policies which it is undertaking to put into effect."

### Fly Opposes Review

Chairman Fly opposes a Congressional review although the broadcasting industry has gone on record as favoring one.

"I repeat," Senator White went on, "that that position came to me as something of a shock, because I cannot recall another instance in the years I have been in Congress when a regulatory body set up by the Congress, as I say, has challenged the wisdom of a congressional survey of what it was doing and of its claimed rights.

“Now, I confess that I rather resent that attitude. It seems to me it indicates the thought that the creature has become at least as important as, if not of greater importance than, its creator. So I just do not like that attitude.

### Industry Stirred by Regulations

“The radio industry has been greatly stirred by these regulations. I do not know whether the criticisms of the industry are justified or are not justified.

“I have wanted to keep an open mind as to the objectives of the Commission. I have wanted to keep an open mind so far as I could as to the effects of those

regulations upon the industry. But I confess I had thought the resolution would be reported out, and that then in the orderly course of events we would begin a detailed study of the questions raised. And, so far as I am concerned, I would have no objection to expanding this study to any appropriate length.”

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FCC Chairman Fly, the only witness heard during the first day, devoted much of his time to a resume of the procedure and the hearings upon which the majority of the Commission based the regulations. His testimony was not completed.



THE NATION

1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 3, 1941

## WHITE RESOLUTION HEARING: SECOND DAY

James Lawrence Fly, FCC chairman, was on the stand throughout the second day of the Senate Interstate Commerce Committee's hearing on the White resolution (Tuesday).

Senator White (R-Maine), author of the resolution, opened with a statement that he felt Congress, not the FCC, should lay down the policies governing radio. He pointed out that in March, 1937, he had urged a congressional survey of both the industry and the FCC, and that he had reiterated this position in May, 1938, with particular reference to network broadcasting.

The Senator said he was making this statement to clarify any misunderstanding that might have grown out of Mr. Fly's remarks the previous day. Mr. Fly had said the FCC had undertaken the "monopoly" investigation and had formulated the new network rules as a result of congressional pressure, and had quoted from one of Senator White's speeches in that connection.

The Senator concluded his statement by asking why the FCC had not submitted its "monopoly" findings, along with recommendations, to Congress, and adding: "I shrink from commission-made law."

Mr. Fly opened his day's testimony by defending the FCC's right to make the new network rules. He cited the history of anti-monopoly law among the English-speaking peoples and said the feeling of Congress was so strong against monopoly that it had written an anti-monopoly policy into the radio laws of '29 and '34; and had empowered the FCC to make special regulations for chain broadcasting. At one point, Senator White stopped Mr. Fly to state that the chairman was inferring that he (the Senator) was an advocate of monopoly. Mr. Fly said he had no such intention and was sorry.

Mr. Fly then turned to the charges made yesterday by

Senator Tobey (R-NH) that the commission was subject to political pressure in awarding licenses, giving power increases, etc., and had given special attention to applications from Governor Cox and Jesse Jones. Yesterday, Mr. Fly had said that a transfer application from Governor Cox had gone through with unusual speed because there were no engineering problems to consider and because the governor's financial position and other qualifications were well known. As to any Jesse Jones case, Mr. Fly said today, there had been no extraordinary speed in putting through the only one that had aroused any comment.

Mr. Fly also said he had not meant to imply by his remarks yesterday that there was no political pressure brought to bear on the commission.

"We are subject to an unmerciful line of political pressure," he said, adding that this was true "never as much as now from a scandal-mongering section of the industry."

Senator Tobey then suggested that the FCC ask all stations and networks to submit lists of all their speakers on the issue of whether this country should get into the war, along with the texts of all the speeches. He indicated that he felt some stations had not given the "anti-war" side an equal amount of time. When he asked Mr. Fly whether he felt this should be done, Mr. Fly said he concurred. Both Senator Wheeler and Senator Tobey pointed out at that point that they felt the networks had been fair in this respect, but that some individual stations had not been.

Mr. Fly then turned to that section of the new rules dealing with "exclusivity" which he discussed at great length. He was interrupted frequently by questions from the committee. At one point, in reply to a question, he

said he thought it would be “healthy” to have six national networks, and that each could be a “good, healthy, profitable operation.” He was not certain that this was the proper number, however, nor was he at all certain that the establishment of any new networks (aside from the separated Blue) would result from the new rules.

Any talk that the new rules would result in a general shake-up of the industry, he said, was “just so much moonshine.”

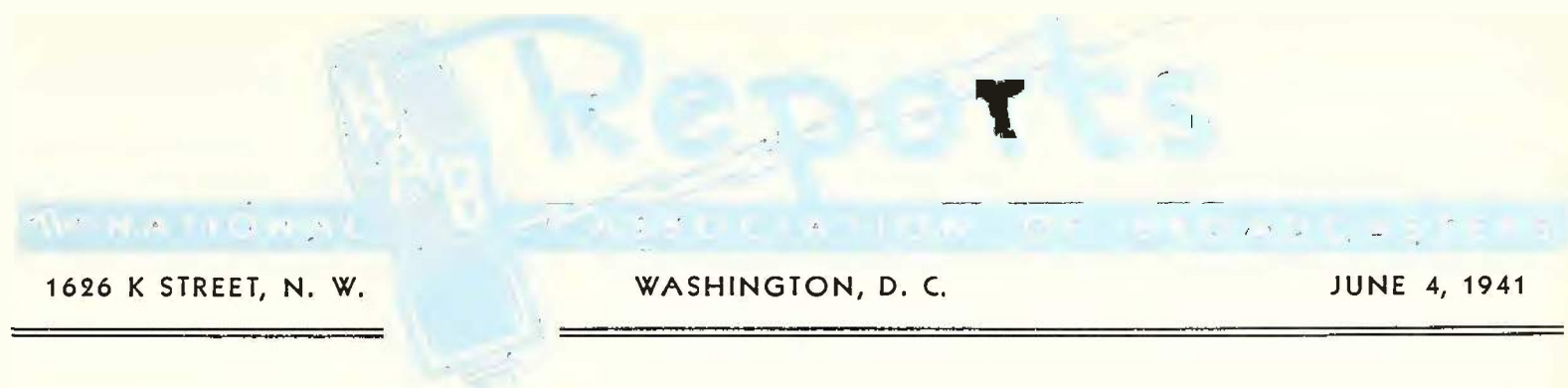
He indicated that the commission expected the new rules to be tested by litigation, and said that no punitive action would be taken against any station that entered into any *bonafide* litigation in this respect. Such a station, he said, could continue to operate as at present, pending the outcome of the litigation. He also said that the 90-day limit on sale of the Blue network by NBC could

and probably should be extended to prevent a forced sale. Some observers thought that Mr. Fly did not answer definitely a question as to whether the operation of the new rules would be suspended in entirety pending the outcome of any litigation.

Senator Smith (D-SC) at one point asked Mr. Fly whether there wasn't in fact unlimited competition between the networks—“Are these two companies competing with each other or are they in cahoots?”

“I have thought in my observation that they were pretty footy-footy,” Mr. Fly replied.

As the session neared a close, Mr. Fly repeated that the new rules constituted “a minor operation on a few small clauses in these (network affiliation) contracts” and “not a wrecking operation . . . except for the Red and Blue.”



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 4, 1941

## WHITE RESOLUTION HEARING: THIRD DAY

Senator Wheeler announced at the opening of the hearing Wednesday that after today's session the hearing would be adjourned until next Monday. Some discussion of the order of appearances indicated that Chairman Fly would conclude his testimony next Monday; that he would be followed by Mutual witnesses; that Commissioner Craven would follow these; and that industry proponents of the White resolution would appear, starting next Thursday or possibly Friday.

Mr. Fly and Senator White continued their debate as to whether the FCC had the authority to make the new network rules. The Senator contended it was never the intention of Congress to delegate such authority to the Commission and pointed out that he had some intimate knowledge of Congressional intention since he drafted several of the sections of the law upon which the FCC based its authority. The Senator said it was not the intention of Congress to give the FCC power to determine whether stations violated the anti-trust laws. That was left to the courts. The commission, he said, had been given power only to revoke licenses of those stations which the courts had found guilty of anti-trust law violation. Mr. Fly answered that surely Congress did not want the FCC to sit by and watch monopoly develop, without doing anything about it. He also quoted from a speech by Senator Dill, made at the time the radio law was being considered in the Senate, which Mr. Fly said showed that Congress intended the commission to prevent the growth of radio monopoly.

Senator Wheeler said that Congress did have in mind, when the radio law was enacted, that monopoly should not be built up in the industry, and that the FCC in issuing licenses should consider whether they tended to build up a monopoly. Senator White reiterated, how-

ever, that he was "as certain as anything human that we didn't intend by that (Section 303(i)) to give the FCC power to write an anti-trust statute of its own. . . ." He suggested that this section should be rewritten to both grant and limit powers to the FCC in this respect. Senator Wheeler pointed out, at one point in the discussion, that radio stations had the right to go into court to determine the issue, while at another point Senator McFarland of Arizona said that there seemed to be confusion and asked why Congress shouldn't interpret what it meant and write it into law.

When Mr. Fly returned to his discussion of the "exclusivity" sections of the new rules, Senator Wheeler asked him whether it was not possible that advertising agencies in many instances would single out the most powerful stations in the best markets for their programs, thus depriving many smaller affiliates of network revenue they now enjoy. Mr. Fly said this would be possible but that he didn't think it would be feasible since the agencies then would have to go into the network business—getting wires, setting up studios, and all.

As to territorial exclusivity, Mr. Fly said he agreed that duplicate coverage in one market was not desirable, but that other stations should have the opportunity to take programs rejected by an affiliate, particularly speeches by senators and members of Congress.

As to program rejection and the terms of current network affiliation contracts dealing with this subject, Mr. Fly said the discretion for acceptance or rejection of programs was rightly lodged with the licensee and should not be transferred to "a couple of New York Corporations."

Senator Tobey remarked, "I think that is elementary."

When he turned to the sale of the Blue, Mr. Fly said he didn't think NBC would have any difficulty in mak-

ing the sale. Under independent ownership, he said, "it ought to be a much healthier network" and "will make more money than it is making today."

In connection with the sale, discussion again turned to possible court action. Mr. Fly said he would welcome a court test, but indicated that the Commission might take steps against those involved "if they attempted to paralyze the rules through long delays," such as the introduction of bills in Congress and similar actions.

Senator Wheeler commented that he thought the industry should not be penalized for going to court, and that the NBC should be given reasonable time to dispose of the Blue. At that point Senator Smith asked Mr. Fly whether he had understood him to say that the industry should be given time to go to court but not to go to Congress for relief. That led to an exchange between Senator White and Mr. Fly in which Mr. Fly accused the industry of "marching behind" Senator White in an effort to stymie the operation of the new rules. When the senator objected to this, Mr. Fly hastily assured him that he did not mean to imply that the senator's motives were anything but the highest.

Senator Wheeler remarked during this discussion that there had been "too much heat" generated by both the broadcasters and the Commission in connection with the monopoly issue and that "it ought to stop." "Those who are doing it are making a mistake from their own standpoint," he said.

Senator Johnson asked Mr. Fly why so many affiliates didn't want all the liberty that the FCC was proposing to give them. Mr. Fly said they hadn't had the opportunity to express an independent opinion. Senator Wheeler added that there were two things the industry feared: the FCC and the industry. "I found out in St. Louis that they weren't afraid of me," Mr. Fly laughed. He agreed with Senator Wheeler about the "heat."

At the end of the day's hearing, Mr. Fly reiterated his frequently made assertion that "I don't think for a moment that we ought to have government ownership" of radio. The growth of monopoly, he said, was a step toward government ownership, and the industry was "moving step by step, hour by hour, toward monopoly."

## White Hearing

Indications this week-end were that industry proponents of the White Resolution (S. 113) would start their testimony before the Senate Interstate Commerce Committee either Thursday or Friday. It is possible, however, that this testimony will not start until the third week of the hearing. The hearing, recessed Wednesday noon, will be resumed Monday at 10 a. m. Chairman Fly will appear for the fourth day. Mutual Broadcasting System witnesses are scheduled to follow Mr. Fly with about two days of testimony. Commissioner Craven who, with Commissioner Case dissented in the Monopoly Report, is to follow Mutual. Industry proponents are scheduled to follow Mr. Craven.

Following are some portions of the transcript of remarks at the hearing this week which may be of interest to members. Remarks of **THE CHAIRMAN** are those of Senator Wheeler, Chairman of the Interstate Commerce Committee.

### Commission vs. Congress

**SENATOR WHITE.** About 15 or 20 minutes ago my attention was called to a newspaper account of some of the testimony of yesterday. It made particular reference to quotations by the witness from a speech which I made in the Senate in 1937. At the time the Chairman of the Commission was making reference to that speech I had not had occasion to read it for a substantial length of time. I know it was a good speech, and I recommended its reading to the chairman some time back, but I had not read it myself.

I recall that the Chairman of the Commission said that that speech of mine was a part of the motivating force for the investigation conducted by the Commission. I have no objection to that at all, because I do approve of the Commission's studying these problems, but I rather pull away from the suggestion that I think is involved in what the Chairman of the Commission said, that I necessarily approve of the findings of the Commission or of the specific recommendations by the Commission.

As a matter of fact, Mr. Chairman, I have very definite ideas as to the responsibility of the Congress itself for the determination of principles and for the laying down of policies which should guide a regulatory body in the performance of its duties; and I think, if one will read that 1937 speech I made, it will show beyond all peradventure that what I was urging was not any specific action by the Commission, and certainly they will agree that I was not approving any recommendations that the Commission might hereafter reach, but what I was undertaking to do in that speech was to stress the obligation of the Congress itself to give study to these problems and to reach its conclusions with respect to these problems, and lay down rules which should guide the regulatory body.

For the purposes of the record I want to read the very first paragraph of the speech from which the Chairman of the Commission quoted yesterday. I do not challenge the accuracy of the references or the quotations of the Chairman of the Commission, but I think

a conclusion has been drawn as to what I had in mind which was not and is not justified.

This is a speech made on March 17, 1937—and I do not suppose there ever was a talk of mine so long remembered, before.

**THE CHAIRMAN.** We can all agree with you on that.

**SENATOR WHITE.** I said at the very start (reading):

“Mr. President, the pendency in the other body of the Congress of a resolution authorizing an investigation of various phases of the radio industry, and reports that the Senator from Montana (Mr. Wheeler), Chairman of the Interstate Commerce Committee of the Senate, contemplates the introduction of a resolution of similar purposes, prompts me to bring to the attention of the Senate some of the principles and policies embodied in existing law, summarizing the present facts which have relation to those declared policies and to voice my approval of a Congressional survey of law and facts, that we may more wisely consider what the public interest in this field of communications is, whether present law rightly declares this public interest and is calculated to serve it, and whether the Federal Communications Commission is respecting the law and, in its administration, is furthering its interest or is heedless of the Congressional purpose.”

I have read that because I think it clearly states in the very opening of the talk I made my major purpose, which was an effort to induce the Congress to undertake these studies and to reach its own conclusions.

I did not mean to suggest at all that the study by the Congress was to be exclusive of study by the Communications Commission, but I mean to say that it was then my thought, and it is now my thought, that major questions of policy should be the responsibility of the Congress to determine, and that the obligation of the regulatory body is only to make its studies and its recommendations to the Congress and to administer the law as the Congress has laid it down in accordance with the purpose of the Congress so far as that purpose can be ascertained.

And then, if I may go on for a moment, I made another speech in 1938, and in that speech I spoke of various problems. I want to quote two or three extracts from that speech, because I think they reinforce and make still clearer what my purpose was in this whole matter.

**THE CHAIRMAN.** We have all made speeches at times that we wish we had not made.

**SENATOR WHITE.** I still stand by this. I said (reading):

“Most of the problems which are confronting us today involve questions of policy and questions of principle, and I conceive it to be the duty of the legislative body to determine matters of fundamental policy and to lay down the principles which shall guide an administrative body in the performance of its legitimate functions.

“Mr. President, the Federal Communications Commission should neither have the right nor should it have placed upon it the burden of determining questions of governmental policy.”

And then there was an interruption from the Senator from Montana; but I shall not quote what he said. I will pass that over in such silence as I can. Then I went on and said this:

“One of the questions which has been under agitation for a long while is the question of chain broadcasting. As early as 1927 Con-

(Continued on page 498)

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## WHITE HEARING

(Continued from page 497)

gress recognized that there might be special and peculiar problems arising from the development of chains throughout the United States, and it wrote into the original Act of 1927 authority in the Communications Commission to make special rules and regulations for the government of stations engaging in such activities."

Then I went on and mentioned the fact that back in 1935 one of the Commissioners had moved in the Commission that the Commission undertake a study of this problem, and I mentioned the fact that although that motion had been made in 1935, up to this time—that is, May, 1938—nothing had been done, although it was understood that the Commission was about to undertake a study of the problem.

Then I went on and discussed chain broadcasting somewhat, the number of stations that were controlled by the chains, the power utilized by the chains, the hours upon which the chains had unlimited time, and so forth and so on. And then I said this:

"That, in a very brief way, is the story of the chains and of the stations associated therewith. I submit to the Senate that those facts present a problem not only to the Commission but to this body which, together with the House of Representatives, has a responsibility in the determination of the policies which shall obtain and the principles which shall be followed in the regulation of the broadcasting industry. I do not see how we, as responsible public officials, can turn our backs upon the questions presented by these facts and leave to an administrative body, a quasi-judicial body, the determination of matters of grave public policy."

Then I referred to the Senator from Montana; but I will pass him by and keep him in the background for the moment.

**SENATOR HILL.** That is impossible.

**THE CHAIRMAN.** A lot of people have tried to keep me in the background.

**SENATOR WHITE.** I understand that; and that is why I know better than to attempt it.

Then there was the question of the wattage which should be assigned to chains, and in what I said I had reference particularly to a suggestion that we were to have a governmental station of 500,000 watts, or something of that sort, that would be disseminating the views of the United States throughout the world.

**MR. FLY.** That is socialism, Senator.

**SENATOR WHITE.** Yes. I did not say I approved of it. I said:

"This is a question of public policy. It is not a judicial question; it is not an administrative problem to be dealt with solely by an administrative body, but is a question involving the public interest, on which the Congress of the United States ought to have opinions and ought to express them."

Then I went along and said a lot of interesting things, I hope, and then I turned again to the question of monopoly. I said that the question of monopoly was involved, monopoly of the transmission of information to the American people, and that I happened

to be one of those who did not want to see such a monopoly developed in the United States. I said, further:

"There are other questions. All of these are, in my opinion, of supreme importance to the American people. They are all problems involving principles and policies, and we in the Congress have no right to evade our responsibility. We ought to undertake a study of the problems. We ought to undertake to find an answer for them. We ought to lay down the general and the broad rules which shall guide and which shall control our creature, the administrative body."

I hope those quotations make clear my general thought about this whole subject matter, about the relative obligations of an administrative body or regulatory commission and of the Congress itself. I had felt, too, that in the very legislation proposed to guide us we had indicated clearly to the Communications Commission that in its annual reports to be made to Congress it should tell us of the results of its studies and should make its recommendations as to legislation.

Those things are all fundamental with me, and I just have the feeling—and it is one of the questions which trouble me most gravely about this whole problem—that there is a question whether you really should not have submitted to the Congress your findings of fact and your recommendations as to legislation, for I have the thought that what you are doing or attempting to do here is to lay down a principle or a basic public policy and as I said a while ago, I rather shrink from Commission-made law and from the determination of what I call basic policies by anybody other than the Congress of the United States.

I apologize for making this statement; but I did not interrupt you when you were making references to me yesterday morning, and I wanted to get this before both you and the other members of the Commission and anybody else who is interested.

**THE CHAIRMAN.** We all read your speech without your calling it to our attention.

**SENATOR WHITE.** But I do not think you profited sufficiently.

**MR. FLY.** May I have the liberty of amplifying Senator White's views slightly?

**THE CHAIRMAN.** Proceed.

**MR. FLY.** God forbid such immodesty on my part as to claim to be the originator of the ancient struggle against monopoly. I certainly did not originate it. I do claim the credit of having some small part in the enforcement of the Sherman Act. But going even beyond the Sherman Act, back into days immemorial, so far as we are concerned, anti-monopoly has been the policy of the English-speaking peoples. We go back beyond the days of Adam Smith; we go back to the laws against engrossment and forestalling, and come down in the American commonwealth to the common law outlawing contracts and combinations in restraint of trade, and we come to July 2, 1890, and find that with the aggressive development in America of new industries and with the tendency to monopoly in a number of those, involving interstate commerce on a great scale, the ancient policy against monopoly demands Federal implementation. At that time Congress passed the Sherman Act, and since that time the Congress, ever cognizant of that same basic philosophy and the problems arising in new American industries, under that philosophy has supplemented that Act with such measures as the Clayton law and the Federal Trade Commission Act; and at no time has the Congress of the United States receded from that policy. Now, without further ado, the anti-trust philosophy, the rules against monopoly, become applicable to the broadcasting industry engaged in interstate commerce, and the Congress, being especially mindful of the problem of monopoly in the radio industry, took the extraordinary pains to write the policy against monopoly into the Radio Act of 1927 and into the Federal Communications Act of 1934.

I do not think that under those circumstances there can be any suggestion that this Commission has undertaken to fix that policy or to establish any rule of law other than that laid down as a clear mandate by this body.



Now, as to the implementation in matters of detailed and specific enforcement—and I think that is a much smaller question than the question as to whether or not we fixed the policy; that is, basically it is smaller, although in this situation I think it is an important question—there the Congress took special pains again to move into this particular field and to provide for special regulations applicable to stations engaged in chain broadcasting; and to further elaborate Senator White's views, I again refer to the speech of March 17, 1937 (reading):

"Study of the facts with respect to ownership and control of stations brings the conviction that Congress must either recede from its position of hostility to monopoly or it must take steps to insure that its wishes be respected by the regulatory body.

"The provisions of the 1927 Act, which are also found in the 1934 Act, leave no possibility of doubt as to the will of Congress; they confer ample powers to make that will effective.

"The Congress at the time the 1927 Act was passed, while perhaps not fully appreciating the growth of the chain system, did recognize the possibilities of the situation and wrote into this early Act the authority to make special regulations applicable to radio stations engaged in chain broadcasting."

The situation that the distinguished Senator was referring to there was the monopoly situation.

**SENATOR WHITE.** You say that with reference to 303 (i) I was referring especially to the monopoly situation?

**MR. FLY.** I was quoting from your speech, sir, and the reference, I take it, was to 303 (i), although I think that apart from 303 (i), with the general regulatory power and with the mandate against monopoly in the Act, then that the Commission would be obliged to use its licensing power in the public interest to forestall the establishment of monopoly.

I cannot conceive that we should continue to hold that the building up of a monopoly is in the public interest, when the Congress has taken the pains to say in this Act, "You must observe this basic law." To say that it is in accordance with public opinion to continue to build up these monopolies I think is a fallacious contention.

**SENATOR WHITE.** Does anybody contend that? I do not think anyone contends that, and I do not think you ought to impute that thought to anyone.

**MR. FLY.** I am sorry, sir, if we are not in agreement upon that. I certainly did not intend to misrepresent your position. I did not intend to embarrass you in any way.

**SENATOR WHITE.** You cannot embarrass me. I will take care of myself when it comes to the matter of embarrassment. But you have no right to suggest that in anything that I have ever said or that in any vote that I have ever cast with respect to monopoly in radio communications I have been an advocate of monopoly.

**MR. FLY.** I would not suggest that, sir.

**SENATOR WHITE.** You were getting pretty close to it.

**MR. FLY.** I think your advocacy has been all in the other direction.

**THE CHAIRMAN.** I did not understand Chairman Fly's statement in that way.

**MR. FLY.** I am sorry if there is any misunderstanding on that point.

## POWERS OF THE FCC

**SENATOR WHITE.** Of course what troubles me about the situation is that I see in these present regulations the very definite suggestion of an assertion of authority in the Commission to do pretty nearly whatever it wants to do if it says it is in the public interest. It is pretty hard to see, if we accept these regulations as being within the authority of the Commission, why the Com-

mission could not assert almost anything as being in the public interest and then going ahead to do it.

**MR. FLY.** I would say this: If anything were written into a statute in such clear terms and into the philosophy of the whole system of laws, and into the matter of public interest, as is the policy against monopoly, we ought to be able to do any and every thing within reasonable and proper bounds to prevent such a monopoly, and to that extent I do agree with you.

**SENATOR WHITE.** But of course you cannot turn to a line in the present law which authorizes the Federal Communications Commission to determine the acts which singly or in their totality are to be regarded as in restraint of competition or as monopolistic practices.

**MR. FLY.** Sir, I would say—

**SENATOR WHITE** (continuing). On the contrary the penalty for control of monopolistic practices is reposed in the courts, and under the Act as it now stands whatever authority you may have to declare a license forfeited because of monopoly, or to refuse to issue a license because of monopoly, must rest first upon the determination by a court that a licensee or an applicant has been guilty of monopolistic practices. Then you have same authority. But there was never in this Act, and there cannot be found language, nor was there the purpose to give to this Commission authority to say what constitutes a breach of the anti-trust statutes. And that is pretty nearly what you have undertaken to do in these regulations. The question of whether a person or a corporation is guilty of violating the penal statutes of the United States was left to the determination of the courts, and after such determination then the Commission has authority to act.

**MR. FLY.** I, of course, would not urge that such a decision is not with the courts, but I would say that clearly under the statute it is not exclusively with the courts, and I do not think the Senator would urge that we should build up a monopoly if one would assume that we have the power to do it.

In order to avoid monopoly is it the Senator's suggestion, for example, that while litigation is in progress—or I will put it this way: Suppose the Department of Justice procures an indictment, or suppose it brings an equity action alleging that there is a monopoly here, and that there is a growing tendency toward monopoly and to restraint of interstate commerce, and suppose we thoroughly agree with that. Then in the two or three years that cases are pending must the Commission go right ahead and be guilty of building up the very thing that other agencies of the Government are tearing down? And, I ask: Is that in the public interest? I think the question answers itself I will say, because I know it is not my privilege to ask you, Senator White, questions.

**SENATOR WHITE.** I just said to the Chairman, and to my colleague on my left (Senator Tobey) that I had not up to this time gone into the phase of the question which most deeply interested me in connection with these regulations, and that is, the authority of the Commission to issue any such regulation. However, it does seem to me that basically you have undertaken in these regulations to describe acts which you believe are monopolistic, are monopolistic practices, and therefore against public policy.

Now, I do not believe it is within the authority of the Commission to declare what are acts violative of the antitrust statutes of the United States. It may be that the law should specify the things, should proscribe certain practices. But my complaint is that you did not make—and when I say "you" I do not refer to you personally but to the Commission—that the Commission did not report its findings as to these exclusive contracts, as to the effects of these exclusive contracts, to the Congress; that the Commission did not make recommendations to the Congress for such changes in the law as it thought would be right and proper; that the Commission did not put upon the Congress the burden to determine that matter.

**MR. FLY.** Since we disagree upon that, Senator White, is not that the job of the courts?

## ADVERTISING AGENCIES

**THE CHAIRMAN.** While on that question let me ask you this: What is there to the idea that has been abroad to the effect that if these stations did not have exclusive contracts, or optional time, then some advertising agency could come in and pick out just the stations they wanted and operate in that way, without taking the matter up or going through the chain broadcasters? Have you looked into that matter?

**MR. FLY.** I do not think that would be wholly feasible for two or three reasons: In the first place there are a number of these big basic stations that are owned by the networks; and then the agency would have to go into the full network business except for the ownership of stations. The agency would have to do the programming and have its own studios, either directly or indirectly, and do that entire job. Then it would have to arrange for its own wire facilities. And then, due to failure to get access to various key points, it has to be scattered, with stations long distances apart, even assuming that they do complete contracts for certain stations. So I cannot think that anything short of a pretty thoroughgoing network system is going to be feasible. I do not believe that advertisers can run in spasmodically and make a system of that kind.

## COURT REVIEW

**SENATOR WHITE.** I assume that if you have power to make these regulations you have the power to modify them and change them or to wipe them out in their entirety.

**MR. FLY.** I do not so assume, sir, unless the modifications that we would make would be in accordance with the law, as these regulations are.

**SENATOR WHITE.** Do you want to start another debate?

**MR. FLY.** We can modify them, of course.

**SENATOR WHITE.** If you can make them, you can modify them or un-make them.

**MR. FLY.** I think, from the tone of your voice you suggest absolute discretion. But we are bound by the law and its very clear principles and we do not have that discretion that the tone of your voice suggests, sir.

**SENATOR WHITE.** All right. We will let that answer stand. But if your regulations are now in effect, unless you do modify them you cannot reissue the license of any station in the Red network or any station in the Blue network, can you?

**MR. FLY.** We can modify them in any case.

**SENATOR WHITE.** Of course you can modify them; but, I say, unless you do modify them, and if you stand on that regulation as it is now written you cannot renew the license of one of the Red network stations or one of the Blue network stations until at least there is a divorcement.

**MR. FLY.** We must conform to these principles in the rules. I do not think it should be suggested that there would be any tendency not to give the ample time that is necessary. If there is an attempt in good faith to move this network out, with all of the success and the glory that it ought to have in going into this field and making an effective sale of it, if there is a good faith attempt to do that, you need not worry about the attitude of the Commission. And I want to make this point, because it is basic in this whole thing. If the attempt is to get these principles of the Commission held up and the processes of the administrative agency paralyzed while an effort then is made to tear down the basis of it, in effect, to wreck the decision through long delays, through extensive debates, the pendency of bills that never come out of the Senate or the House, and if in the meanwhile these gentlemen can enforce their will, their publicly announced will, by saying who shall sit and who shall not sit upon regulatory bodies, then I think you have something that challenges the very integrity of an orderly and democratic system of government.

**SENATOR WHITE.** If I get the real significance of what you have just said, if I or any other member of the Congress should introduce a bill which challenges the authority of these regulations, or if one of these chains or one of these affiliated stations appeals to the court, are you suggesting that there will be further penalties imposed upon them by the Commission?

**MR. FLY.** Oh, no, sir. Do not misunderstand me. I welcome their going to court. I think that is where these terribly legalistic questions ought to be decided; and no station is going to be injured by going to court. That is a course that I have advocated and will continue to advocate.

**SENATOR WHITE.** I thought there was rather a punitive suggestion in what you said, and I wanted to get that clear.

**MR. FLY.** No. I want to reiterate that, sir.

**THE CHAIRMAN.** I am afraid that you are both thinking of punitive action, and in this matter it seems to me we ought to look at it from a reasonable standpoint. Let us consider the Blue network. I do not feel that the Commission ought to say to them, "You have got to dispose of this in 90 days time."

**MR. FLY.** I do not, either.

**THE CHAIRMAN.** If in good faith they are making an effort and saying that they are going to dispose of it, I think they ought to be given six months time or such reasonable time as is necessary to dispose of it.

**MR. FLY.** I agree wholly, sir.

**THE CHAIRMAN.** And I do not think that they ought to be penalized if they go into court. I would be one of the first to criticize the Commission if I thought you or the Commission itself for one moment was going to penalize any of these people if they went into court. I think that is the wrong spirit with which the Government should act.

**MR. FLY.** And I would expect that criticism if we did, sir.

**THE CHAIRMAN.** On the other hand I know, as we all know, that in certain matters there has been an attempt, not in the radio industry, to my knowledge, but in some other matters, to go into court with litigation and tie it up, through injunctions, for a long period of time. I assumed that was what you had reference to.

**MR. FLY.** Yes.

**SENATOR WHITE.** Perhaps that was not a fair comment of mine, but your statement rubbed me a little the wrong way.

**MR. FLY.** I was referring to what these gentlemen are proposing, and that is a reorganization of the Commission, to be composed of men of whom they approve—stating who may and who may not go upon the Commission. It is an unfortunate fact for you, sir, that the forces that are taking that position are flying your flag. They are marching behind this particular bill which is designed to obstruct the decision of the Commission and to play for time during which the other results can be brought about. If great pressures and great schemes of propaganda can be used to such an end by the very industry that has this great public trust in its hands—and it has a tremendous public trust in its hands in the form of licenses and in the effect upon public opinion and, indeed, in the effect upon political opinion—then if they are successful in accomplishing those results, which I know you and I disagree with, then to that tragic extent democratic government is impaired.

**SENATOR WHITE.** You say that I disagree, and yet in the same breath you say I am flying their flag. I am flying mine. That is a wholly gratuitous and unnecessary reflection on me.

**MR. FLY.** I did not say that, Senator. I certainly apologize if I approached that suggestion. I say they are marching behind you, and I do not think it is your intention to lead them in that sort of a fight.

**SENATOR WHITE.** Let me ask you another thing about this. Let us assume that the National Broadcasting Company wanted to dispose of the Blue network: is there anybody, outside of the other chains, to whom they could dispose of it in totality as a practical proposition?

**MR. FLY.** As a practical proposition, in choosing between purchasers? I know there is a ready market for the network, sir.

**THE CHAIRMAN.** Considering the amount of money that these networks have made, they ought not to have any trouble in selling.

### THE SMALLER STATIONS

**SENATOR JOHNSON** of Colorado. How do you account for the fact that many of the stations do not want the liberty and freedom which you say they should have?

**MR. FLY.** Senator, I do not accept the premise that, in view of their close relations and the power which these networks exercise over the stations and over the means of assembling the stations and getting opinions, that we have ever had any independent expression of opinion from the stations themselves.

**THE CHAIRMAN.** The chains are in position to exert, if they want to—I do not know that they have, but they are certainly in position to—a tremendous economic pressure against any station against whom they want to exert it.

**MR. FLY.** I think that is utterly inescapable in this picture. I do not think there is any doubt that in any procedure those New York gentlemen dominate, you would get anything other than that sort of a general result; though I may say that the suggestions of unanimity, even amongst any particular groups, are just not true, because there are many dissents.

**THE CHAIRMAN.** There are two things that the stations are afraid of: they are afraid of the Commission and they are afraid of the industry.

**MR. FLY.** I found out in St. Louis that they were not afraid of me.

The following members of the committee attended the hearings:

Monday: Senators Wheeler (chairman), Smith, Bone, Truman, Andrews, Johnson of Colorado, Hill, Stewart, Clark of Idaho, Tunnell, McFarland, White, Shipstead, Tobey, Gurney and Brooks.

Tuesday: Senators Wheeler (chairman), Smith, Bone, Schwartz, Hill, Stewart, Clark of Idaho, Tunnell, McFarland, White, Shipstead, Tobey, Gurney and Brooks.

Wednesday: Senators Wheeler (chairman), McFarland, White, Tobey, Gurney and Brooks.

## National Defense

### Constructive Suggestions Welcome

During the past two weeks many stations have written NAB to register opinions on matters centering in requests for free time by various agencies. The St. Louis convention authorized the appointment of a Radio National Defense Committee and these letters will be referred to that committee.

Prior to its first meeting, it is suggested that other broadcasters may care to make constructive suggestions. Address your letters to Arthur Stringer, at headquarters, and he will bring the file to the attention of the committee at first session.

### Two Changes for the Better

Two constructive changes in handling Army and Navy recruiting announcements have already been made. In both branches local recruiting personnel has been directed to discontinue the solicita-

tion of time. Henceforth it is planned to channel the distribution of live recruiting announcements through NAB to all stations.

Both services take the attitude that is shared by broadcasters that every effort should be made to produce maximum results with a minimum of time. This minimum time becomes extremely productive for the Army and Navy because there is almost 100 per cent cooperation by stations.

### The Navy's Recruiting Campaign

The Navy's present recruiting campaign is limited to three suggested announcements per week. At the end of the current test period it will become evident whether the frequency should be reduced, maintained or increased. This can be done because broadcasters, themselves, have been good enough to specify whether they have been able to find time on their schedules for such announcements.

### The Army's Recruiting Campaign

The Army's recruiting radio campaign also embraces three suggested announcements per week. These likewise are sent to all stations through NAB. There is also a weekly 15-minute program which has been on the air for many months. The availability of this program has been unknown by some broadcasters and this week, WTEL, Philadelphia, and WHLN, Harlan, Ky., requested it.

### Radio Men in Service

WDZ—TUSCOLA, ILL.

Larry Sanford, Battery D-123rd F. A.,  
Camp Forrest, Tullahoma, Tenn.  
J. Kent Saunders, 47th Infantry,  
Camp Bragg, N. C.  
Robert B. Harrington,  
Scott Field,  
Belleville, Ill.—next July.

WMBD—PEORIA, ILL.

Lt. Frank C. Schroeder,  
Fort Knox, Ky.

WQXR—NEW YORK

William D. Strauss,  
Fort Jackson, S. C.  
Herman Kuch,  
Fort Riley, Kans.

WIBX—UTICA, N. Y.

John Frederick Sullivan, V-6 RM3C, General Detail Receiving  
Ship,  
Brooklyn, N. Y.

### 635 Stations Take Army Recruiting

Up to the middle of the week 631 stations had reported that they had found time for Army recruiting announcements. Since the list was compiled such news has come in from:

WORL—Boston  
WLW—Cincinnati  
WSAI—Cincinnati  
WTOC—Savannah

Joseph Ries will coordinate defense programs for WLW, WSAI and the Crosley international station, WLWO.

## BMI

### Supreme Court Decision

Copy of letter to BMI Affiliated Publishing Companies:

Statements have been made that the recent decisions against ASCAP, rendered by the Supreme Court of the United States,

may affect BMI's ability to serve its associated affiliated publishing firms. This is not the case. The decisions will in no substantial way affect either the structure or activities of BMI, which has already taken steps to comply with the provisions of all State statutes applicable to it. The very premise upon which BMI was founded was that there should be an avoidance of all of the monopolistic features of ASCAP which have now been held to be illegal.

You may, therefore, be assured that BMI will continue to be able to make all of the music licensed by it available to all music users in all of the States of the United States.

Very truly yours,

BROADCAST MUSIC, INC.

### Hymn of Freedom

*Ode To America*, new BMI patriotic song by Jules Bledsoe, negro baritone, owes its inspiration to a trip to the nation's Capital. While looking down from the Washington Monument across to Lincoln Memorial, Mr. Bledsoe was stirred by the thought of what Washington and Lincoln had contributed to the freedom-loving spirit of the United States and the vitality of this spirit when it came in open conflict with the dominating philosophies of the totalitarian states.

"Conditions have not been ideal in the United States for the negro race," said Mr. Bledsoe, "but we have sound reasons to be thankful that we are Americans, as have the people of every other minority living in our country."

A line of the song, "Oh, thou land by God inspired," grew to a complete lyric by the time Mr. Bledsoe reached his home in California following his trip to Washington. He sang *Ode To America* on his recent concert tour where the audience was asked to join with him in this paen of triumphant praise to a freedom-loving country. He believes that as the war sentiment grows, the people of the United States will seek closer communion with religion and that much of the strength of our country will lie in genuine religious conviction.

### BMI FEATURE TUNES

June 9 - June 16

1. I WENT OUT OF MY WAY
2. ALL ALONE AND LONELY
3. MY SISTER AND I
4. WALKIN' BY THE RIVER
5. WISE OLD OWL
6. FRIENDLY TAVERN POLKA
7. G'BYE NOW
8. WHAT D'YA HEAR FROM YOUR HEART
9. HERE'S MY HEART
10. WITH A TWIST OF THE WRIST
11. THE RELUCTANT DRAGON

In preparation: *Wasn't It You?*, by the writers of *You Walk By*.

With *My Sister and I* leading the Hit Parade as well as the list of best selling retail records, BMI entered the month of June well represented in the tunes that are "coming up," those that are "going strong," and in the surprises that await. *Amapola* continues its sensational run for the tenth week; the "now" songs, *Oh, Look At Me Now* and *G'Bye Now*, rank second and fifth respectively in the leading music machine records on Billboard's music popularity chart. Among those fighting for the first division

are *Maria Elena*, *Daddy*, *The Hut Sut Song*, *Do I Worry*, *Friendly Tavern Polka* and *Walkin' By the River*. Just around the corner are *I Went Out of My Way* and *All Alone and Lonely*. Awaiting introduction is *Wasn't It You*, a new torch tune by the writers of *You Walk By*, which has two of the best lyric lines that have been heard at BMI since Hy Zaret and Irving Weiser led with their hearts in *There I Go*. George Marlo, BMI's Professional Manager, has a theory that two good lines coupled with a good tune spell H-I-T in the popular song field. He believes that *Wasn't It You* says more in two lines than most popular songs say in an entire chorus.

### BMI Decree Conformed to ASCAP's

Judge F. Ryan Duffy, of the Federal Court in Milwaukee, has signed an order eliminating the technical differences between the consent decrees signed by ASCAP and BMI. ASCAP's decree permitted freedom in contractual relations with licensees which was not permitted in the BMI decree. In the opinion of BMI counsel, this gave ASCAP a competitive advantage not contemplated by the Government in making the decrees. The modifications, which put BMI and ASCAP on a parity, have the approval of Thurman Arnold, Chief of the Anti-Trust Division of the Department of Justice, and Victor O. Waters, Special Government Counsel.

### Exhibit

"The Evolution of My Sister And I," which was displayed at the NAB Convention in St. Louis, is now on exhibition at the High School of Music and Arts, Convent Avenue and 135th Street in New York City, and has been requested by other schools and colleges for its educational value. During the past week, the leading Kresge store in Detroit, devoted a window to *My Sister And I*. The center of interest was a rotating model of a little Dutch refugee boy and his sister.

### Comic Strip Meets Love Song

For the first time a popular song has been written specifically for a comic continuity. The title of the song is *How Long Has This Been Going On*. The two hit song writers, Bobby Worth and Stanley Cowan (*Do I Worry and Til Reveille*), wrote the music and the lyrics are by Fred Fox. The title page of the song, published by Melody Lane and controlled by BMI, carries the subtitle, *From a celebrated NEA comic strip, "Freckles and His Friends," by Merrill Glosser*.

According to the story in the comic strip, the song, which Dick Jurgens will play on June 14th, has been "written" by Freckles and one of his friends. Its acceptance for performance by Jurgens and its introduction over the air from Catalina Island will be part of the story related in the continuity running in some 720 newspapers throughout the country.

### Daddy

Sammy Kaye has the biggest hit of his career on his hands, and it's all the "fault" of a young University of Pennsylvania student.

Bob Troup is a senior at the University, and only 21. When he isn't studying he spends his time writing tunes. Recently he concocted a ditty he called *Daddy*. It had a certain bounce and some clever lyrics but Troup figured it was no better or worse than any of a half dozen others he had turned out.

Sammy Kaye was eating dinner at the Embassy Club in Philadelphia one night and heard a small four-piece band play the Troup tune. He inquired as to who wrote it, and three days later met Troup in person. Kaye, who operates Republic Music Corp., bought *Daddy* on the spot and published it. Soon the Kaye band was playing it. And in twenty-four hours the public was clamoring for it. Sammy's recording of *Daddy* sold 15,000 copies eight days after it was released.

## Sales

Please direct this section to the attention of your sales manager.

### NAB Sales Calls

Acting on the request of NAB Members, the Director of the Department of Broadcasting Advertising last week began a campaign to sell the J. C. Penny Co. and the W. T. Grant Co. on the use of local radio advertising. Facts learned are as follows:

**J. C. Penny Co.**—The Pedlar & Ryan agency has discontinued the transcribed serial story "Adopted Daughter," but local Penny store managers can buy radio advertising if they want it. As a general policy the home office does not encourage radio because they claim it is more difficult to control than newspaper; that local managers can easily spend an excessive amount on radio advertising without an adequate day-to-day check; that home office approval depends to some extent on the particular market involved: the number of Penny stores in that area, the comparative rates of radio and newspaper advertising, etc. The agency is understood to be seeking an effective way of returning to radio on a wide scale. Meanwhile, local store managers can buy spot radio if they are sufficiently sold to insist upon it, and stations are urged to exercise special care in developing and selling a wisely planned, economical and effective campaign, for the sake of long-range objectives. In time, by the accumulation of local successes, this company and many like it can be developed into important radio buyers.

**W. T. Grant Co.**—This company reports that each local store has its own advertising budget, charged entirely against that store, and that these budgets are so small as almost to preclude the possibility of consistent use of radio. Spot campaigns, chiefly announcements, have been tried by various stores but without general success. The company frequently buys programs to advertise the opening of new stores. Some local Grant managers are using spot radio, and others can do so if they are sufficiently sold to insist upon it, despite a general policy of discouragement by the home office, based on past experience. Here again the long-range objective can be attained only by careful selling and servicing on the part of local stations, so that an accumulation of successful experiences can be built up to counteract past carelessness and lack of success.

### Per-Inquiry and Free Time

**Harry M. Miller, Inc.**, of Columbus, O., is seeking cost-per-inquiry deals on behalf of a representative of the **American Schools**.

**Metro-Goldwin-Mayer Pictures**, of Culver City, Cal., is seeking free time for a series of "Hollywood Radio Reporter" programs. Writes James L. Howe, manager of WBTV, Danville, Va., to NAB: "I believe if all of the radio stations in the country would stick together on this proposition, for once, we might convince the movie industry they can't play us for suckers any longer."

Mr. Howe's letter to Harry Loud of M-G-M states:

"We are very sorry to be unable to schedule your 'Hollywood Radio Reporter.' We have no bone to pick with the motion picture industry but we have a rate card and a policy which says that such programs come under the classification of commercial advertising and as such must be paid for at card rate.

"We cannot agree with your premise that you are offering us the biggest names in the entertainment world and that because of that fact we should schedule the programs on sustaining time. In that event, few of the fine commercial programs on the air at the present time would be paid for as they are composed of the biggest names in the entertainment world also.

"We would like to call to your attention the fact that anything that is worth asking for free is usually worth paying for. It has been our practice to cooperate with our local motion picture theatres and we have no objections in cooperating with you as a motion picture firm, but we feel that advertising must be paid for if we are to successfully operate a good radio station."

"**Radio Income Builders**", of Des Moines, Ia., previously listed in these columns, are seeking per-inquiry deals on behalf of **Speed King Hot Water Heaters**.

The **Max Goldberg Advertising Agency**, Denver, Colo., previously reported in these columns as attempting to purchase radio time for the state of Colorado at local rates, in response to correspondence from NAB states: "Because this is the first national order we have ever placed, our over-anxiety to get as much as possible for the money allotted resulted in a letter which wasn't worded exactly as it should have been. It certainly never occurred to us that the national radio rate was so much higher than the local rate, and it is our last thought in the world to do anything that would undermine established radio rates. Please accept this letter as a sincere apology, and completely disregard our last letter. From now on all our letters will be clear and with highest respect to established rates as well as the hours governing those rates. A letter to the member stations of NAB clearing up any uncomplimentary impression our letter brought about, would be most appreciated." Mr. Goldberg has been advised that NAB members are now being assured that they can work with him in the future in all confidence.

### Effective Retail Selling

Because Bruff W. Olin, Jr., manager of WKIP, Poughkeepsie, N. Y., has had unusual success in selling radio advertising to retailers, he was asked by NAB to outline his sales technique, and his contribution is printed fully here for the benefit of all NAB sales executives:

I have held strictly to two basic beliefs in the selling of radio time: (1) Selling on the *facts* is much more permanently effective, and (2) Radio's story of greater circulation per advertising dollar spent is really a potent sales weapon.

It has been my experience that many stations (in this whole discussion I refer to small local stations with which I am most familiar) sell the Jones Store because the Smith Store is on the air and getting good results. In the process of getting over such a sales story, the salesman inadvertently overstates Smith's results and instills in the prospect the belief that radio's power is so potent that his business is bound to grow beyond all reasonable expectations as soon as he goes on the air. Thus is many a 13-week schedule doomed to a three-month death because the prospect is led to expect far more than any radio station can produce—far more than *any* medium can produce.

How much better to let your hair down and admit that only 25% of the total number of home radios are being listened to at the "peak" day-time period! But, when you do that, be armed with sufficient information about newspaper ad readership to use this information as a yard-stick by which your prospect can judge for himself whether a fair estimate of your station's portion of the "available audience" is worth his investment.

Here is the procedure that I have found to be the most effective in selling radio. Here is the sales story, step by step:

1. Most advertisers will admit that no medium can do more than "deliver a message"; they'll admit that advertising, therefore, is circulation—the greater the circulation, the greater the results therefrom. This is your premise.

2. Don't even intimate that newspaper advertising is "no good"; to do so insults the intelligence of every prospect who has ever spent good money in newspapers, and most radio prospects have. Admit that it "pays out". Then, show him, by using newspapers as a yard-stick, why radio should be *even more effective*.

3. Make full use of NAB's "Radio Listening" studies. Request from NAB the break-down of their listening studies into half-hour periods from 6:00 A. M. to Midnight. If possible, obtain a copy of ANPA's studies showing newspaper ad readership. I believe the basic idea is conveyed in the fact that a Gallup study of newspaper readership published in the February 8, 1940, issue of "Editor and Publisher" estimated the actual readership of a "better-than-average" half-page advertisement to be only 10% of the newspaper's total circulation. Know your competing newspaper's rates. You know, of course, your own.

4. Tear out one of the newspaper ads your prospect has run recently. Point out the probable "effective circulation" of that ad. (Note: I have found that many *local* newspaper advertisers have never consciously analyzed the *effective* circulation of their newspaper advertising; rather, they have hazily

thought of their ad's circulation as approximating the total circulation of the newspaper.) Estimate the cost of the ad.

5. Analyze the proposal for the radio time you are offering the prospect in the light of *known radio audience factors*. Show him the NAB report of total actual audience at the time of day you propose he advertise on your station. Admit you haven't all the audience. Point out factors that would indicate a good audience for your station at that time. Then, agree with him upon a fair estimate of your probable audience percentage. The chances are that the resulting "agreed fair estimate" will seem extremely small. But then, apply that percentage to the total number of radio homes in your station's primary area. (Here is the first factor that will boost your estimated circulation far above the newspaper's; because, the chances are that your station's primary includes far more radio homes than the total homes represented in the newspaper's circulation figure.)

6. Point out the cost of the proposal you suggest. Here is the factor that will lower your cost-per-listener-per-broadcast far below the newspaper's cost-per-reader-per-insertion; because, the chances are that the cost of a *single* half-page newspaper ad would be more than enough to buy a heavy series of announcements or a good program on your station. Compare the cost-per-listener-per-broadcast of your proposal with the cost-per-reader-per-insertion of the newspaper advertisement. My experience has been that these comparative costs will show the newspaper's figure to be several times greater than the figure for a well-thought-out radio advertising proposal. The difference is *so great* that your prospect can make all further allowances for possible errors in estimates, *plus* all reasonable allowances for the oft-repeated claim that "impressions through the ear are less effective than through the eye" (don't argue about this point; it's endless), and he'll still have to admit the bare possibility that "you've got something there."

This may seem like a complicated procedure. Actually, it is as simple as A-B-C if you have the information necessary, and I'm certain NAB can supply it. And, it's worth its weight in increased time sales. (I was going to say "in gold".)

During the entire sales story, you haven't *promised* a single result—you haven't led your prospect to expect the world with a fence around it; you have merely given him all facts necessary to form a logical conclusion. He is impressed with your evident honesty in revealing facts that, unexplained, might seem to reflect upon radio's ability to produce. He has confidence in your knowledge of your product. Frankly, I have found him to be more impressed with radio as a medium than if I had gone in with a briefcase full of testimonials that would lead him to believe in radio's ability to cure all business ills. But, more than that, I have found the prospect thus sold to have a more *solid belief* in radio and a more *permanent belief* in its effectiveness—even though it is not immediately justified by consumers pounding down the aisles to get at radio-advertised merchandise.

## Double-Billing Condemned

The practice of doubling-billing by some media (whereby service is rendered an advertiser at a local rate but he is billed at the national rate for collection on a cost-sharing basis from the manufacturer) is clearly unethical and dishonest. Any collusion on the part of media with local dealers or retailers is purely and simply a matter of defrauding the manufacturer or national advertiser.

A recent case was reported by an NAB member where his local newspaper competitor was engaging in this practice. NAB took the matter up with the American Newspaper Publishers Association, and received this reply:

"The ANPA does not have any control over its individual members as to what rates they should charge and how they shall make out bills.

"It goes without saying that the ANPA does not countenance a statement or bill of any kind except that it represents the real facts of the true situation . . ."

NAB also took this up with the Association of National Manufacturers, and received this reply:

"We have never had occasion to take any action with regard to the practice of double billing by advertising media. To the best of my knowledge such cases are relatively few and

we have usually found that as soon as they are discovered by the advertiser he refuses to pay a higher rate. Certainly such practice is to be deplored and discouraged.

"Therefore, anything which the media can do along this line would be of very constructive service in their own interests as well as that of their customers."

It is the opinion of NAB that radio stations encountering such unfair competition are entitled, in self-defense, to notify national advertisers using the competitive medium that a double-billing practice is being carried on.

## Excessive Merchandising

Few radio stations will object to doing a reasonable merchandising job for a good client. It is the abuse of this service that causes most of the trouble, and NAB notes an alarming tendency on the part of some advertisers and agencies to over-reach themselves with excessive and exorbitant demands. So all NAB members may be fully informed, and may keep these tendencies in check, we reprint parts of a letter written by "Red" Cross, Commercial Manager of WMAZ, Macon, Ga., to George Duram of the Kastor Agency, Chicago:

"I am being deluged by your B. F. Green with requests that seem to me to be slightly beyond the pale of good business. . . . We are requested now to prepare banners and do a bill posting job on all personal appearances and we are told that many stations are providing their talent with sweaters emblazoned with some reference to Groves. To cap the climax, we are now asked to post Chill Tonic road signs and to do so without compensation to property owners or space owners. Please let me assure you we want to do everything possible *within reason* for any national client, but we cannot be expected to follow every mental aberration of some merchandising expert whose main job seems to be the procuring of as much free advertising as possible.

"Please note that the client in this instance is now receiving free advertising weekly on the spots which are used to trail the Groves program, thereby eliminating one spot in our schedule that has a salable value. If you will check the entire setup of correspondence and our telephone conversations, the subject of Porter's Oil was never brought up until after the orders were issued covering the Chill Tonic show. No one knew that the show was carrying a tail end parasite.

"I would sincerely suggest that if the client wants the wholehearted cooperation of his talent, including boosting on all personal appearances, that you immediately make available an extra \$30 weekly in talent money, retroactive. . . . While we have facilities for the creation of drugstore displays and dealer calls, we are not in the bill posting business. This may sound like a hard letter, but the requests made by your promotion department exceed anything we have ever seen before. . . ."

It is not meant to single out this advertiser or agency, but merely to cite this as the latest example to come to our attention of the growing tendency towards exorbitant merchandising demands. Unless NAB members stand squarely together in enlightened discouragement of such excesses, they will surely grow worse, because no agency can be blamed for attempting to get as much service as possible for its client, and for attempting to outdo its competitors in this regard.

What the end result would be, of course, is obvious, and the *only* people who can put an effective brake on this snowball rolling down hill *are the station operators themselves*.

## Deupree Talks Available

Through the cooperation of the ANPA, 100 copies are available of the talk given by Richard R. Deupree, president of the Procter & Gamble Co., on "Advertising Is Essential to the Proper Growth of the Nation and Its People," before the ANPA convention in New York, April 23.

As long as this supply lasts, they are available free upon request by NAB members.

## FTC Radio Script Review

Figures released May 27 by the Federal Trade Commission show that during the year ending December 31, 1940, a total of 701,197 radio commercial continuities were examined from 718 stations in 500 cities, and only 1.87% set aside as "questionable" and marked for further investigation. This percentage relates only to an initiation of inquiry, and does not represent any final adverse action taken by the Commission.

## Labor

### AFRA, IBEW Oppose Tax

Both AFRA and the IBEW went to bat for the industry this week against the Connery (D.-Mass.) special income tax on radio—instigated by the printing trades unions.

Said AFRA in a telegram to the House Ways and Means Committee:

"We see no justification whatever for imposing a discriminatory tax that affects radio employees only and which is class legislation not directed against any industry other than that in which we are working."

The IBEW, in a letter, called the proposed tax "unreasonable, discriminatory, arbitrary" and "partaking of the character of class legislation," with its sole purpose to shift advertising from radio to the printed media.

### Wage and Hour Act

The NAB frequently is asked whether a talent fee, when greater than required overtime payment, can be used to cover the overtime an announcer spends on the sponsored show for which he receives the talent fee.

For example:

An announcer works 40 hours for \$40. He spends his 41st hour each week doing a sponsored show, for which he receives a \$5 fee. Does the \$5 cover the overtime?

The answer: No.

He is entitled to his \$40, plus his \$5 fee, plus overtime. His regular hourly rate is determined by dividing his gross earnings (\$45) by his total hours (41), or \$1.10. He works one hour overtime, and so he is entitled to half his regular hourly rate extra, or a total of \$45.55.

The only alternative is not to give the announcer the \$5 fee, but to pay him a total of \$41.50 (40 hours at his regular rate plus \$1.50 for an hour's overtime).

The NAB is of the opinion that neither announcers (save, possibly, chief announcers) nor technicians (save, possibly, chief engineers or supervisors) can be classified as "administrative employees" under the definitions issued by the Wage and Hour Administration. Announcers who meet the salary qualification (\$200 or more a month) can usually be classified as professional employees. Ordinary technicians, usually, are subject to the hours provisions of the act, even though they make \$200 or more a month. The facts must be known in each case to obtain a definite opinion.

### Rennaker Heads ABTU

Russell Rennaker became business manager of the Associated Broadcast Technicians Unit of the I.B.E.W., effective June 1, succeeding D. J. Dunlop. Rennaker has been an organizer for the ABTU and has been an engineer at Stations WBBM, WJSV and WFBM.

## Miscellaneous

### Broadcast Business Up 19%; Industry Income Up 39%

The broadcast business in the United States reached a new high of \$154,823,787 last year, which was an increase of \$24,855,761, or 19 per cent, over the figures for 1939, according to annual financial data released May 31 by the FCC. This amount was for sale of time only, as reported by three major networks, five regional networks, and 765 stations.

In addition to time sales, the industry derived \$13,181,948 from the sale of talent and other services during 1940, which was \$1,871,696 better than the year previous.

In consequence, the broadcast service income (operating profit) of the entire industry increased in 1940 by more than \$9,000,000 over 1939, or about 39 per cent. This despite the fact that the industry's expenses increased by \$13,806,089, of which \$994,573 was for 62 new stations.

The three major networks (National, Columbia, and Mutual) had combined time sales of \$71,919,428 for the year, which is up about 15 per cent over 1939. They paid out \$22,123,760 to stations and regional networks compared with \$18,023,195 the year previous. Thus, the three major networks recorded a broadcast service income (operating profit) of \$13,705,043. This came from operation of their own stations as well as their networks and constituted 41 per cent of the broadcast income of the entire industry compared with 46 per cent in 1939.

National, Columbia and Mutual had net income down to about half a million dollars after taxes and other payments accounted for \$8,885,694. The three major networks had net income of \$9,313,856 in 1939. These three network organizations paid two and one-half million dollars more in Federal income tax for 1940 than 1939.

Of the business of the major network group, National Broadcasting Company, through its dual network, accounted for \$37,137,823 of the total major network time sales of \$71,919,428, and had a net profit of \$3,918,772, including operation of its own stations. Columbia Broadcasting System's amount was \$31,137,823, with a net profit of \$5,006,634, including its own stations. Mutual Broadcasting System's share of the business was \$3,600,161. It had a loss of \$39,712.

The purely non-network business of the industry—i.e., time sold to local and national advertisers by the 765 stations—was \$81,897,236, bettering the previous year by \$14,109,409, or 20 per cent.

The broadcast income of 734 stations not operated by or for the networks amounted to \$19,123,609, being up \$6,345,807, or half again as much as for 1939. This non-network business showed an increase in the station sales to local advertisers of 20 per cent, and station sales to national advertisers of 22 per cent, as well as a 21 per cent increase in amounts received from networks.

The total time business of \$154,823,787 for the entire industry includes \$956,925 with respect to the 62 stations which operated less than the full year 1940. So the networks and stations which were on the air in 1939 obtained \$23,898,836 of new business during the year 1940. The 62 new stations as a class had expenses in excess of their sales for 1940 and showed loss from operation in the aggregate amount of \$37,648.

All told, there were 187 stations losing money in 1940. These stations had total time sales of \$8,402,886, total expenses of \$9,778,019, and lost in the aggregate \$1,551,812, after considering their talent and incidental sales.

These figures include losses for 27 of the 62 new stations, the remaining 35 having operated at a profit. However, the number of stations losing money was under the figure for 1939, when 227 stations lost \$2,220,471. The number 187 includes 61 stations which have lost money every year since 1937.

There were 457 network stations and 308 non-network stations operating last year compared with 397 and 308 respectively for 1939.

## EXCESS PROFITS TAX

Following an appearance by the NAB, the House Ways and Means Committee on Wednesday, June 4, in a preliminary vote rejected a Treasury Department request for a change in method for computing the excess profits tax that would have been adverse to the broadcasting industry. The Treasury Department request seeks a net revenue from defense profits of \$585,000,000. In order to obtain this amount it was proposed that the optional method of average income during the base period, or normal income, be set aside in favor of the percentage of invested capital method for computing excess profits.

The House Committee is still committed to the request for \$585,000,000 revenue from excess profits tax but has rejected the method proposed.

NAB testified at the committee's hearings on the subject. J. Robert Myers, Assistant Director of Research, appeared before the committee Wednesday, May 28th to oppose the proposed method change. Mr. Myers stated that NAB's appearance was in no way to be construed as opposition to the raising of revenue required for national defense since "when more revenue is needed, the radio industry along with every other branch of American business will gladly pay the necessary taxes." NAB did oppose the method change which in effect redefined the term—excess profits—to include far more than profits in excess of normal return during the base period, particularly as it applies to the broadcasting industry. The business of broadcasting embodies to a great extent personal service as well as invested capital, but fails to qualify as a personal service business under the excess profits tax law definition, and would be severely penalized if the average earnings method were withdrawn.

The House Ways and Means Committee is still considering the excess profits tax question and is reported to be studying various bracket changes in the present structure of the law which can increase the tax yield to the desired amount. There is every indication that the committee will evolve a revision which will materially increase the tax by raising the rates or lowering the exemptions.

## NATIONAL DAYLIGHT TIME

The Office of Production Management is reported to be ready to recommend nation-wide observance of daylight saving time to conserve electric power needed for national defense production.

The OPM has been asked to report to Congress on a pending bill advocating adoption of daylight time throughout the country as a defense measure. It is reported that many of the OPM officials feel this move desirable.

## NEBRASKA ASSOCIATION

Nebraska Broadcasters Association held their annual session in Norfolk on May 24 and elected the following officers and directors:

Vernon H. Smith, KOWH, Omaha, President  
L. L. Hilliard, KGKY, Scottsbluff, Vice President  
Art Thomas, WJAG, Norfolk, Secretary-Treasurer  
W. I. LeBarron, KGNF, North Platte, Director  
Don Searle, KOIL, Omaha

The annual meeting also authorized a request to NAB that something constructive be done regarding the competition of various government agencies for free time.

## FATHER BURK ILL

Father W. A. Burk, S.J., director of Station WEW, St. Louis, has returned to St. Mary's Hospital following a heart attack May 24. Father Burk was scheduled to return June 15 to Station WWL, New Orleans, but his return has now been postponed indefinitely.

# FEDERAL COMMUNICATIONS COMMISSION

## Newspaper Stations

The FCC announced June 2 that it would formally open its investigation with respect to the joint control of newspapers and radio stations, with public hearings beginning on June 25. It is felt that a substantial portion of the testimony can be taken at that time, but the Commission may schedule subsequent hearings to permit the development of more extensive studies.

This is pursuant to Commission Order No. 79 of March 20th which seeks to determine what policy or rules, if any, should be promulgated with respect to applications for high frequency (FM) broadcast stations and for the future acquisition of standard broadcast stations by newspapers without impairing existing investment.

At the time it promulgated its order, the Commission stated that its investigation does not imply that it is opposed to newspaper ownership of radio stations in general or in any particular situation. The purpose of the inquiry is to obtain for the Commission sufficient information to decide whether or not a general policy should be adopted, and if a general policy seems advisable, to shape such a policy for application in the future to particular cases involving newspaper interests.

This action was prompted by the large number of applications for FM facilities. The Commission deemed the inquiry advisable at this time, in the early development of FM broadcasting when FM is just starting and there is opportunity for evaluating the situation before there has been any considerable investment in the new service.

## EDUCATIONAL FM

Applications by the Board of Education of the City of Chicago, the San Diego (Calif.) Unified School District and the University of Illinois to engage in non-commercial educational broadcast service is indicative of the value of FM in developing the five high frequency channels reserved by the Federal Communications Commission for non-profit educational use.

Common interest in making the most of the new opportunity to use these facilities is evinced in the following letter to Dr. John W. Studebaker, Commissioner of Education, from Edwin H. Armstrong, prominent in the practical utilization of FM, which was read at the recent Twelfth Institute for Education by Radio:

"I have been much gratified with the reports that are reaching me about the experiments with FM transmission conducted by the Cleveland Board of Education and I have been considering for some time what might be done to further encourage other, similar, projects.

"From time to time letters have come in from educational institutions requesting information about royalty rates under my Frequency Modulation patents in the event that these institutions should decide to erect stations and construct transmitters themselves. It has seemed to me that it might help the development of this new branch of radio if I should arrange to issue licenses, to those educational institutions which are interested in going ahead, at a nominal royalty of One Dollar. This is to advise you that I am willing to do that.

"I am writing this letter, therefore, in order that you may, if you see fit, make whatever announcement would be most effective in reaching those of your institutions that you feel could successfully carry on an educational program. This offer would, of course, apply only to stations whose purpose is educational and which do not obtain income from their broadcasting activities.

"Should there be any way in which I could assist the cause of educational broadcasting by the furnishing of technical advice or information, I hope that you will always feel free to call upon me for it."

Commissioner Studebaker hailed the offer as a spur to school systems and colleges interested in setting up an ultra-high frequency



educational radio station because it provides a sizable reduction in the cost of such a station.

"FM's value as a unit of the school system has been demonstrated by these pioneers", Commissioner Studebaker comments. "An FM station, useful to the classroom, also makes possible adult education. Educational FM channels adjoin the new commercial bands just being developed and, as FM receivers are introduced into homes, adults may tune in programs of educational radio stations."

An average school station can now be installed at the price of one classroom, according to officials of the Federal Radio Education Committee, of which the Commissioner is chairman, and requires in personnel only a radio engineer and a program director, both of whom may be drafted from the regular school staff.

"In a city", Commissioner Studebaker points out, "the potential educational value of this radio classroom is probably greater than that of any other room or shop in the school system—and the home radio class may be from ten to a hundred times as large.

"In rural areas, its comparative value is even greater. Radio can bring scattered one-room schools as close together as the classrooms of a city school building. The radio classroom in a rural area may be reasonably expected to serve all who live in the county."

When the Federal Communications Commission authorized regular FM broadcast service last year, five channels adjacent to the high frequency broadcast band were set aside for non-commercial educational use. These channels are 42,100; 42,300; 42,500; 42,700 and 42,900 kilocycles.

This rearrangement of the high frequencies to make commercial FM broadcast service possible has a distinct advantage in that the close proximity of the non-commercial educational bands and the new FM commercial bands makes it possible to adapt standard FM receivers to receive both types of broadcast. In other words, the FM receivers now being marketed are capable of receiving non-profit educational as well as the regularly sponsored programs.

Until that time only two educational bodies were making actual use of the high frequency bands long open to non-profit educational service employing amplitude modulation. They were WNYE, the Board of Education of the City of New York, and WBOE, the Cleveland City Board of Education.

However, the University of Kentucky had received a construction permit for a system to bring educational program service to some 50 mountain schools, available to adults as well as students. The University of Kentucky, Station WBKY, now plans to substitute FM for the standard transmission.

Subsequently, the Board of Education of the San Francisco Unified School District was authorized to use radio for instructional, administrative, supervisory and other functions through the medium of 13 studios in schools in that area, all connected with the central broadcast station KALW, by leased wires.

More recently the Cleveland Board of Education, which serves more than 150 receivers in its municipal school system, received permission to change to FM.

Detailed regulations regarding non-commercial educational stations are contained in Sections 4.131 to 4.137, inclusive, of Part 4 of the Commission's Rules and Regulations. This pamphlet, which is obtainable from the Superintendent of Documents, Government Printing Office, Washington, at a cost of 10 cents, also includes standards of good engineering practice applicable to non-commercial educational broadcast stations.

The Commission in Section 4.131 defines a non-commercial educational broadcast station as a station licensed to an organized nonprofit educational agency for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public. In Section 4.132 the Commission provides that a non-commercial educational broadcast station will be licensed only upon a showing that the station will be used for the advancement of the agency's educational program, particularly with regard to use of the educational system consisting of several units.

The Commission recognizes two phases of the service of educational broadcast stations: First, the transmissions to specific schools for classroom work and, second, the transmission of adult educational and entertainment programs to the general public.

The Commission requires each applicant for a non-commercial

educational broadcast station to make a complete showing as to the plans for programs of the station. For example, a municipal or common school system may use an educational station for classes transmitted simultaneously to the several units comprising the educational system. Where a prospective applicant is not itself engaged in the operation of several units of an educational system, a complete showing should be made of the cooperation with the several schools in the proposed service area which should include agreements or statements from the heads of such schools, for example, a university or college.

Development of education through radio is also being furnished by the Federal Radio Education Committee. Organized in 1935 under the Federal Communications Commission, this committee is a cooperative effort on the part of broadcasters and educators to advance the cause of education on the air. The committee has operated under private grants, chiefly from the National Advisory Council on Radio in Education, National Association of Broadcasters, Rockefeller Foundation, and General Education Board.

## ILLEGAL BROADCASTER APPREHENDED

Incident to its national defense monitoring operations, the FCC uncovered, at Salida, Colorado, an unlicensed radio station which, using the unauthorized call letters "KIDA", was rendering transcription entertainment with the evident idea of soliciting commercial sponsors.

The operator, a mature man who described himself as O. W. Trueblood, was held in \$1,000 bail in consequence. He was broadcasting on 890 kilocycles with 15 watts power.

The FCC announces that the work, business and functions of the Commission for the month of June have been assigned as follows:

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

Commissioner Thompson: 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 hearings, including all 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.

## STATE LEGISLATION

### CALIFORNIA:

A. 2645 (HAWKINS) COPYRIGHTS—Provides that any person may file with the Secretary of State a copy of any lecture, sermon, address, dramatic composition, story, radio script, radio program, or motion picture scenario, together with an affidavit of authorship, and thereby be entitled to all rights and benefits accruing therefrom. Referred to Committee on Judiciary General.

### FLORIDA:

H. 1396 (Same as S. 641) (OVERSTREET) TRANSMISSION OF NEWS—Relating to the regulation, transmission of news and in-

formation from within the premises of horse race tracks. Referred to Committee on Finance and Taxation.

H. 1792 (CRARY, et al.) MUSICAL COMPOSITIONS—Amend Chap. 17,807, Acts of 1937, repealing certain sections and relating to an unlawful monopoly for the privilege of rendering musical compositions. Passed by the House.

S. 815 (WHITAKER) MUSIC COPYRIGHTS—Amends Chap. 17,807, Acts of 1937, an "Act declaring to be an unlawful monopoly and combination of persons or firms which determine the amount of money to be paid to it for the privilege of rendering privately or publicly for profit copyrighted vocal or instrumental musical compositions." Referred to Committee on Judiciary "C".

#### ILLINOIS:

H. 914 (J. G. RYAN) LICENSES EMPLOYMENT AGENCIES—Authorizes Department of Labor to license and regulate employment agencies or agents. Referred to Committee on Judiciary.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

No broadcast hearings or oral arguments are scheduled to be heard before the Commission during the week beginning Monday, June 9.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

#### July 21

KGO and Auxil.—National Broadcasting Company, Inc., San Francisco, Calif.—Renewal of license, main: **810 kc.**,  $7\frac{1}{2}$  KW, unlimited time; auxiliary: **810 kc.**,  $2\frac{1}{2}$  KW, unlimited time.  
KOA—National Broadcasting Company, Inc., Denver, Colo.—Renewal of license, **850 kc.**, 50KW, unlimited time.  
WMAL—National Broadcasting Company, Inc., Washington, D. C.—Renewal of license, **630 kc.**, 5 KW, unlimited time.

#### August 1

NEW—Symons Broadcasting Company, Ellensburg, Wash.—C. P., **1110 kc.** (**1140 kc.**, NARBA), 1 KW, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WNAX—WNAX Broadcasting Co., Yankton, S. Dak.—Granted modification of construction permit to make changes in directional antenna system; station operates on **570 kc.**, 5 KW night and day; directional antenna night, unlimited time (B4-MP-1182).  
KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted special service authorization to operate with 25 KW night time and 50 KW day for a period of 180 days, using transmitter authorized under construction permit (B5-P-2783), and frequency **1030 kc.**; this authority is granted subject to the condition that in the event the proposed operation cause interference which in the judgment and discretion of the Commission is objectionable, the authority for such operation may be modified or cancelled without prior notice or hearing (B5-SSA-1).  
WGNY—WGNY Broadcasting Co., Inc., Newburgh, N. Y.—Granted construction permit to install new transmitter, change frequency from **1250** to **1220 kc.** and increase power from 250 watts to 1 KW, daytime only (B1-P-2948).  
KRLH—Clarence Scharbauer, Midland, Texas.—Granted modification of construction permit to change frequency from **1450**

to **1230 kc.** and extend commencement and completion dates to 20 days after grant and 30 days thereafter, respectively (B3-MP-1260).

KWBG—W. B. Greenwald (transferor), Stanley Marsh, William Wyse and Wesley E. Brown (transferees), Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—Granted consent to transfer control of The Nation's Center Broadcasting Co., Inc. (KWBG), from W. B. Greenwald (owner of all licensee's outstanding stock), to Stanley Marsh (50%), William Wyse (49.9%) and Wesley E. Brown (.1%), for a cash consideration of \$40,000, or on terms, at the option of the seller; station operates on **1450 kc.**, 100 watts night and day (construction permit for 250 watts), unlimited time (B4-TC-251).

WQXR—Interstate Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit to make changes in equipment, install directional antenna for day and night use, increase power from 5 KW night and day to 10 KW night and day, **1560 kc.** Dismissed request for classification as a I-B station (B1-MP-1086).

WSAZ—WSAZ, Inc., Huntington, W. Va.—Reconsidered action taken in morning session in designating for hearing application for construction permit and granted same, authorizing approval of changes in directional antenna and approval of transmitter site at 3 miles southwest of center of Huntington, W. Va. (B2-MP-1290).

### MISCELLANEOUS

KFDY—South Dakota State College, Brookings, S. D.—Granted special temporary authority to operate from 10 to 11:30 a. m. CST on June 9, 1941, in order to broadcast the inauguration of the President of South Dakota State College only (B4-S-645).

KFDY—South Dakota State College, Brookings, S. D.—Granted special temporary authority to remain silent on May 30, 1941, in order to observe Memorial Day.

KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Granted special temporary authority to operate on May 27, 1941, in order to broadcast the President's speech only.

WALB—Herald Publishing Co., Albany, Ga.—Granted special temporary authority to operate unlimited time on **1590 kc.** with power of 1 KW, employing a directional antenna at night for a period of 10 days.

WFNC—W. C. Ewing & Harry Layman, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Granted special temporary authority to operate additional time to broadcast President Roosevelt's address on May 27, 1941, only.

WSAZ, WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate additional time to broadcast the President's speech on May 27, 1941, only.

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Denied request for special temporary authority to operate from 7:30 p. m. to the conclusion of broadcast in honor of the 20th Anniversary of the Founding of the Modesto Junior College, on May 28, 1941, only.

W2XOY—General Electric Co., New Scotland, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on **43200 kc.**, 2500 watts, for period May 31 to June 29, 1941, conditionally.

KGBS—Harbanito Broadcasting Co., Harlingen, Texas.—Granted modification of construction permit (B3-P-2747 covering a new station) for installation of new transmitter, changes in antenna system and extension of commencement date to 60 days after grant and completion date to 180 days thereafter (B3-MP-1305).

WBEN—WBEN, Inc., Buffalo, N. Y.—Granted modification of construction permit (B1-P-2757) for increase in power to 5 KW, installation of directional antenna for night use; move transmitter, installation of new transmitter, change frequency to **930 kc.** under NARBA, to extend completion date to September 1, 1941 (B1-MP-1302).

WRLC—R. G. LeTourneau, Toccoa, Ga.—Granted license to cover construction permit (B3-P-2767) for new station to operate on **1450 kc.**, 250 watts, unlimited time (B3-L-1408). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-897).

WAIM—Wilton E. Hall, Anderson, S. C.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-914).

- WJAX—City of Jacksonville, Jacksonville, Fla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-631).
- KFAB—KFAB Broadcasting Co., Lincoln, Neb.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-904).
- WCOB—Mississippi Broadcasting Co., Inc., Meridian, Miss.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-923).
- KRSC—Radio Sales Corp., Seattle, Wash.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-921).
- KVGB—Helen Townsley, Great Bend, Kans.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-822).
- WGKV—Kanawha Valley Broadcasting Co., Charleston, W. Va.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-907).
- KOVC—KOVC, Inc., Valley City, N. D.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-895).
- KATE—Albert Lea-Austin Broadcasting Co., Inc., Albert Lea, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-885).
- WBOC—The Peninsula Broadcasting Co., Salisbury, Md.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-894).
- WJHO—Opelika-Auburn Broadcasting Co., Opelika, Ala.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-863).
- WBKR—Louis P. Thornton, Baker, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-911).
- WHEC—WHEC, Inc., Rochester, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-880).
- WICA—WICA, Inc., Ashtabula, Ohio.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-879).
- KDTH—Telegraph-Herald, Dubuque, Iowa.—Granted license to cover construction permit (B4-P-960) for new station to operate on 1370 kc., 1 KW power, unlimited time, using directional antenna at night (B4-L-1410). Also granted authority to determine operating power by direct measurement of antenna input (B4-Z-902).
- KIJG—Eagle Broadcasting Co., Inc., area of Brownsville, Tex.—Granted further extension of relay broadcast station license upon a temporary basis for the period ending July 1, 1941, pending determination upon application for renewal of license (B3-ZRY-10).
- WAOB—National Broadcasting Co., Inc., Port Washington, N. Y.—Granted construction permit to change type of transmitting equipment and move relay transmitter to Port Washington, N. Y. (B1-PRY-246).
- May Broadcasting Co., Portable-Mobile (Shenandoah, Ia.).—Granted construction permit for new relay broadcast station to be used with standard broadcast station KMA; frequencies 1616, 2090, 2190, 2830 kc., 25 watts (B4-PRY-243).
- The Tribune Co., Portable-Mobile (area of Tampa, Fla.).—Granted construction permit for new relay broadcast station to be used with applicant's standard station WFLA; frequencies 1622, 2058, 2150, 2790 kc., 40 watts power (B3-PRY-240).
- The Tribune Co., Portable-Mobile (area of Tampa, Fla.).—Granted construction permit for new relay broadcast station to be used with applicant's standard station WFLA; frequencies 1622, 2058, 2150, 2790 kc., 40 watts power (B3-PRY-241).
- Merced Broadcasting Co., Portable-Mobile (area of Merced, Cal.).—Granted construction permit for new relay broadcast station to be used with applicant's standard station KYOS; frequencies 1646, 2090, 2190, 2830 kc., power 15 watts (B5-PRY-245).
- WALH—Piedmont Publishing Co., Portable-Mobile (area of Winston-Salem, N. C.).—Granted license to cover construction permit (B3-PRY-233) for new relay station to be used with applicant's standard broadcast station WSJS; frequencies 1622, 2058, 2150, 2790 kc., 100 watts power (B3-LRY-225).
- W47NV—The National Life & Accident Ins. Co., Nashville, Tenn.—Granted license to cover construction permit (B3-PH-44) which authorized a new FM station (B3-LH-1).
- WKST—WKST, Inc., New Castle, Pa.—Granted modification of construction permit (B2-P-2809, covering installation of directional antenna for night use; change hours of operation from daytime to unlimited, using 1 KW night and day, and for 1280 kc. under NARBA) for extension of completion date to July 1, 1941 (B2-MP-1303).
- WTAL—Fla. Capitol Broadcasters, Inc., Tallahassee, Fla.—Granted construction permit to make changes in transmitting equipment (B3-P-9175).
- WTAW—Agricultural and Mechanical College of Texas, College Station, Texas.—Granted license to cover construction permit (B3-MP-1006, for new transmitter, increase in power to 1 KW, and change in frequency under NARBA (B3-L-1414).
- KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to conclusion of broadcast of Annual Commencement Exercises of the Modesto Junior College on June 12, 1941, only.
- WHKC—United Broadcasting Co., Columbus, Ohio.—Granted special temporary authority to operate from 9:45 p. m., EST, to conclusion of President Roosevelt's address only, approximately 10 p. m. EST on May 27, 1941.
- KWJJ—KWJJ Broadcasting Co., Inc., Portland, Ore.—Granted extension of special temporary authority to operate on 1080 kc., 500 watts, limited time, and resume operation from 9 p. m. or until WTIC and KRLD sign-off, to 3 a. m. PST, for the period March 29, 1941, and ending at completion of construction, proof of performance and grant of an application for license to cover construction permit (B5-S-87).
- WCNW—Arthur Faske, Brooklyn, N. Y.—Denied request for special temporary authority to operate daily from 12:01 a. m. to 1 a. m. on a non-commercial basis in order to broadcast Associated Press and Standard News Association news reports, Americanization programs; also musical selections by means of records and transcriptions only, for period June 2, 1941 to not later than July 1, 1941.
- W2XMN—Edwin H. Armstrong, Alpine, N. J.—Granted special temporary authority to rebroadcast program of W71NY on May 27, in order to carry speech of President Roosevelt, only.
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted extension of special temporary authority to operate from local sunrise, Glenside, Pa., to local sunset Knoxville, Tenn. (radio station WNOX), instead of daytime as stipulated in reallocation for the period May 28, 1941, and ending not later than June 26, 1941, pending action on formal application for such authority.
- WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted special temporary authority to operate from 9 to 10 p. m. EST on June 14, 1941, in order to broadcast the Convention Dinner held in Boston on Flag Day only (B1-S-205).
- KIUP—San Juan Broadcasting Co., Durango, Colo.—Granted special temporary authority to remain silent from 7 to 10 p. m. LST for a period of 10 days beginning June 1, to not later than June 10, 1941.
- KSUB—Southern Utah Broadcasting Co., Cedar City, Utah.—Granted special temporary authority to remain silent after 7 p. m. MST for a period not to exceed 30 days.
- WNYE—Board of Education, New York City, N. Y.—Granted extension of special temporary authority to continue to operate non-commercial educational broadcast station WNYE on 4110 kc., for the period May 31, 1951, to not later than June 29, 1941, pending completion of construction under construction permit (B1-PED-18).
- KEHR—Donald C. Treloar, Kalispell, Mont.—Granted special temporary authority to operate on 2058 kc. for test and broadcast of farmers convention to be held 15 miles north-east of Kalispell to KGEZ during the week beginning June 8 and ending not later than June 14, 1941.
- WGN—WGN, Inc., Chicago, Ill.—Granted special temporary authority to rebroadcast a program originating in U. S. Army plane 1B-18M 36-274 flying over Soldiers Field, Chicago, on May 29, 1941, from 9 to 9:30 p. m. EST only.
- WDLP—Panama City Broadcasting Co., Panama City, Fla.; WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.—Continued hearings in re revocation of licenses of Stations

WDLP and WTMC, now scheduled for June 2, 1941, until June 16, 1941. (Dockets Nos. 6001 and 6000.)

W71SB—South Bend Tribune, South Bend, Ind.—Granted issuance of construction permit for FM station without prejudice to determination of hearing on Order No. 79 (B4-PH-54).

Gibraltar Service Corp., Philadelphia, Pa.—Placed in pending file pursuant to Order No. 79, application for construction permit for new FM station (B2-PH-92).

Texas Star Broadcasting Co., Houston, Tex.—Adopted order denying petition for reconsideration and grant without hearing application for construction permit for new standard broadcast station to operate on 1250 kc., 250 watts, unlimited time (B3-P-6089).

WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Adopted decision and order denying petition for rehearing filed by Drovers Journal Publishing Co. (WAAF), directed against the action of the Commission January 28, 1941, granting the application for modification of construction permit of The Evening News Association (WWJ), Detroit, Mich., for approval of directional antenna for nighttime use.

Ralph L. Lewis, Greensboro, N. C.—Adopted order denying petition of Ralph L. Lewis, Greensboro, N. C., to sever and disassociate the hearing on his application for construction permit for new station from the application of R. B. Terry, D. A. Rawley, C. M. Waynick, and Y. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C., for construction permit for new station, which were designated for consolidated hearing.

#### APPLICATIONS FILED AT FCC

##### 550 Kilocycles

WKRC—The Cincinnati Times-Star Co., Cincinnati, Ohio.—Authority to determine operating power by direct method.

##### 570 Kilocycles

KUTA—Jack Powers, David G. Smith, Frank C. Carman and Grant R. Wrathall, d/b as Utah Broadcasting Co., Salt Lake City, Utah.—Authority to determine operating power by direct method.

##### 580 Kilocycles

WTAG—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Authority to determine operating power by direct method (auxiliary transmitter).

##### 610 Kilocycles

WAYS—Inter-City Advertising Co., Charlotte, N. C.—Modification of construction permit (B3-P-2878) for a new station, requesting approval of directional antenna for day and night use.

WMUR—The Radio Voice of New Hampshire, Inc., Manchester, N. H.—Modification of construction permit (B1-P-2897) as modified for a new broadcast station, requesting extension of completion date to July 1, 1941.

##### 650 Kilocycles

WSM—The National Life and Accident Insurance Co., Nashville, Tenn.—Authority to determine operating power by direct method for auxiliary transmitter.

WSM—The National Life and Accident Insurance Co., Inc., Nashville, Tenn.—Authority to determine operating power by direct method.

##### 670 Kilocycles

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Authority to determine operating power by direct method.

##### 680 Kilocycles

WISR—David Rosenblum, tr. as Butler Broadcasting Co., Butler, Pa.—Modification of construction permit (B2-P-3046) for a new station, for approval of antenna and approval of studio and transmitter sites.

KPO—National Broadcasting Co., Inc., San Francisco, Calif.—Authority to determine operating power by direct method.

##### 710 Kilocycles

WOR—Bamberger Broadcasting Service, Inc., New York, N. Y.—Authority to determine operating power by direct method.

##### 770 Kilocycles

WJZ—National Broadcasting Co., Inc., New York, N. Y.—Authority to determine operating power by direct method.

WJZ—National Broadcasting Co., Inc., New York, N. Y.—Authority to determine operating power by direct method. (Auxiliary transmitter.)

##### 790 Kilocycles

WMC—Memphis Publishing 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. Amended: to request 790 kc. under NARBA and make changes in directional antenna.

##### 810 Kilocycles

KGO—National Broadcasting Co., Inc., San Francisco, Calif.—Authority to determine operating power by direct method.

##### 860 Kilocycles

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Authority to determine operating power by direct method.

##### 910 Kilocycles

KPOF—Pillar of Fire (a corporation), Denver, Colo.—Authority to determine operating power by direct method.

##### 920 Kilocycles

NEW—Trent Broadcast Corp., Trenton, N. J.—Construction permit for a new broadcast station to be operated on 1230 kc., 1 KW, unlimited hours, Class III-B, directional antenna day and night. Amended: to request 920 kc., changes in equipment and directional antenna.

##### 950 Kilocycles

KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Modification of construction permit (B5-P-2848) as modified, for installation of directional antenna for night use, and increase power, requesting extension of completion date from 6-22-41 to 8-1-41.

##### 1020 Kilocycles

KFVD—Standard Broadcasting Co., Los Angeles, Calif.—Authority to determine operating power by direct method.

KDKA—Westinghouse Radio Stations, Inc., Pittsburgh, Pa.—Authority to determine operating power by direct method.

##### 1030 Kilocycles

WBZA—Westinghouse Radio Stations, Inc., Boston, Mass.—Authority to determine operating power by direct method.

##### 1100 Kilocycles

WTAM—National Broadcasting Co., Inc., Cleveland, Ohio.—Authority to determine operating power by direct method.

KJBS—Julius Brunton & Sons Co., San Francisco, Calif.—Authority to determine operating power by direct method.

##### 1110 Kilocycles

WMBI—The Moody Bible Institute of Chicago, Chicago, Ill.—Authority to determine operating power by direct method.

##### 1170 Kilocycles

KVOO—Southwestern Sales Corp., Tulsa, Okla.—Authority to determine operating power by direct method.

##### 1190 Kilocycles

WOWO—Westinghouse Radio Stations, Inc., Ft. Wayne, Ind.—Authority to determine operating power by direct method.

### 1230 Kilocycles

- KWNO—Maxwell H. White and Herman R. Wiecking, d/b as Winona Radio Service, Winona, Minn.—Authority to determine operating power by direct method.
- WMIN—WMIN Broadcasting Co., St. Paul, Minn.—Authority to determine operating power by direct method.
- WJBC—Arthur Malcolm McGregor, Dorothy Charlotte McGregor and Hugh L. Gately, d/b as Radio Station WJBC, Bloomington, Ill.—Authority to determine operating power by direct method.
- KYSM—F. B. Clements and 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 method.
- WCOL—WCOL, Inc., Columbus, Ohio.—Authority to determine operating power by direct method.
- KGDE—Charles L. Jaren, Fergus Falls, Minn.—Authority to determine operating power by direct method.
- NEW—R. M. Wallace and G. E. Schnibben, d/b as Norfolk County Broadcasting Co., Norfolk, Va.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited hours (contingent on WBOC going to **1230 kc.**).
- KGJF—Ben S. McGlashan, Los Angeles, Calif.—Authority to determine operating power by direct method.
- WBBZ—Adelaide Lillian Carrell, Exe. of Estate of Charles Lewis Carrell, Deceased, Ponca City, Okla.—Authority to determine operating power by direct method.
- WLOG—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—License to cover construction permit (B2-P-3109) for changes in equipment and increase in power on **1230 kc.** (Section 10c).
- WHVC—The Ohio Broadcasting Co., Canton, Ohio.—Authority to determine operating power by direct method.
- KVOS—KVOS, Inc., Bellingham, Wash.—Authority to determine operating power by direct method.

### 1240 Kilocycles

- KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—Authority to determine operating power by direct method.
- WCOV—Capital Broadcasting Co., Inc., Montgomery, Ala.—License to cover construction permit (B3-P-2802) to make changes in equipment and increase in power.
- WIBU—Wm. C. Forrest, Poynette, Wis.—Authority to determine operating power by direct method.

### 1270 Kilocycles

- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—License to cover construction permit (B4-P-2568) as modified to change type of transmitter, make changes in directional antenna.
- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Authority to determine operating power by direct method.
- KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Authority to determine operating power by direct method.

### 1280 Kilocycles

- WMRO—Martin R. O'Brien, Aurora, Ill.—Authority to determine operating power by direct method.

### 1290 Kilocycles

- KUOA—KUOA, Inc., Siloam Springs, Ark.—Authority to determine operating power by direct method.

### 1310 Kilocycles

- KFBB—Buttrey Broadcast, Inc., Great Falls, Mont.—Modification of construction permit (B5-P-2920) as modified, for increase in power and installation of directional antenna for night use, requesting extension of completion date from 6-30-41 to 7-31-41.

### 1330 Kilocycles

- WEVD—Debs Memorial Radio Fund, Inc., New York, N. Y.—Authority to determine operating power by direct method.

### 1340 Kilocycles

- WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Construction permit to change frequency from **1340** to **1320 kc.**

under NARBA, power from 250 watts to 1 KW night, 5 KW day, using directional antenna night, make equipment changes and move transmitter. Amended: to request change in frequency to **1560 kc.**, power to 10 KW day and night, change type of transmitter, make changes in directional antenna for night use, and change requested location of transmitter.

### 1360 Kilocycles

- KGB—Don Lee Broadcasting System, San Diego, Calif.—Construction permit to increase power from 1 to 5 KW, install new transmitter and new antenna and move transmitter and studio.

### 1400 Kilocycles

- WSVS—Board of Education, City of Buffalo, Buffalo, N. Y.—Authority to determine operating power by direct method.
- WCOS—Carolina Advertising Corp., Columbia, S. C.—Authority to determine operating power by direct method.

### 1440 Kilocycles

- WROK—Rockford Broadcasters, Inc., Rockford, Ill.—Authority to determine operating power by direct method.

### 1450 Kilocycles

- WGL—Westinghouse Radio Stations, Inc., Ft. Wayne, Ind.—Authority to determine operating power by direct method.
- KSAN—Golden Gate Broadcasting Corp., San Francisco, Calif.—Authority to determine operating power by direct method.
- KEUB—Eastern Utah Broadcasting Co., Price, Utah.—Authority to determine operating power by direct method.
- WNAB—Harold Thomas, Bridgeport, Conn.—Modification of construction permit (B1-P-2410) as modified, for a new broadcast station, requesting extension of completion date from 6-30-41 to 9-30-41.

### 1460 Kilocycles

- KGNF—Great Plains Broadcasting Co. (a Corporation), North Platte, Nebr.—Authority to determine operating power by direct method.

### 1490 Kilocycles

- WBTA—Batavia Broadcasting Corp., Batavia, N. Y.—Authority to determine operating power by direct method.
- WRDW—Augusta Broadcasting Co., Augusta, Ga.—Authority to determine operating power by direct method.

### 1590 Kilocycles

- WAKR—Summit Radio Corp., Akron, Ohio.—Authority to determine operating power by direct method.
- WALB—Herald Publishing Co., Albany, Ga.—Authority to determine operating power by direct method.

### 1600 Kilocycles

- KPMC—Pioneer Mercantile Co., Bakersfield, Calif.—Authority to determine operating power by direct method.

## FM APPLICATIONS

- NEW—Tribune Building Co., Oakland, Calif.—Construction permit for a new high frequency broadcast station to be operated on **46500 kc.**; coverage, 1,216 square miles; population, 1,350,000.
- NEW—Columbia Broadcasting System, Inc., St. Louis, Mo.—Construction permit for a new high frequency broadcast station to be operated on **44700 kc.**; coverage, 10,950 square miles; population, 1,708,332. Amended: To change coverage to 12,900 square miles, population to 1,847,060 and make changes in antenna system.
- W53H—The Travelers Broadcasting Service Corp., Hartford, Conn.—Modification of construction permit (B1-PH-12) for a new high frequency broadcast station, requesting approval of transmitter and antenna system and change population from 4,893,439 to 1,036,400. Amended: To make changes in transmitter and antenna system and population to 936,448.

## TELEVISION APPLICATION

W2XCB—Columbia Broadcasting System, Inc., Portable-Mobile.—Modification of construction permit (B1-PVB-46) as modified for new television broadcast station, requesting change in frequency from 336000-348000 to 346000-358000 kc.

## MISCELLANEOUS APPLICATIONS

- NEW—Hagerstown Broadcasting Co., Hagerstown, Md.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 50 watts, emission A3. Amended: re location.
- NEW—Morgan County Board of Education, West Liberty, Ky.—Construction permit for a new non-commercial educational broadcast station to be operated on 42100 kc., 500 watts, A3 emission.
- W8XO—The Crosley Corp., near Mason, Ohio.—Modification of license to change maximum power of transmitter from 500000 watts to 750000 watts, increase power from 100000 and 500000 watts to 100000 and 750000 watts, and make minor changes in equipment.
- WHAЕ—Courier-Journal and Louisville Times Co., Louisville, Ky.—License to cover construction permit (B2-PRE-361) for a new relay broadcast station. (C. P. EXPIRED. SHOULD FILE FOR REINSTATEMENT.)
- NEW—Board of Education of the Memphis City Schools, Memphis, Tenn.—Construction permit for a new non-commercial educational broadcast station to be operated on 42100 kc., 250 watts, A3 emission, unlimited time. (SECTION 6 of Form 313, SECTIONS 17, 21b, 23, 24, 28d of Form 309.)
- WAUR—University of Illinois, S. of Champaign, Ill.—License to cover construction permit (B4-PRY-226) for a new relay broadcast station. (SECTIONS 5g and 7b and SHOULD FILE FOR REINSTATEMENT.)
- NEW—WSAZ, Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 40 watts, emission A3.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Concord Distributing Company, Inc.**—A complaint has been issued charging Concord Distributing Co., Inc., 603 6th Ave., New York, with the use of lottery methods in the sale of cameras, souvenirs, thermometers, clocks and other merchandise.

According to the complaint, the respondents, in selling such articles, furnish various devices and plans of merchandising which involve the operation of a lottery scheme or game of chance by which the merchandise is sold to the consuming public. (4508)

**Kay's Cut Rate**—A complaint has been issued against David L. Silver and O. C. Colwes, trading as Kay's Cut Rate and as Kay's Cut Rate Drugs, Beckley, W. Va., alleging misrepresentation in the sale of a medicinal preparation.

The complaint charges the respondents with disseminating advertisements in which they represent, directly and by implication, that their preparation designated as "Madame Bea's Capsules" constitutes a competent and effective treatment for delayed menstruation, and is safe and harmless.

According to the complaint, the product sold by the respondents is not a competent or effective treatment for delayed menstruation, and is not safe or harmless in that it contains certain drugs in quantities sufficient to cause serious and irreparable injury to health, if the preparation is used under the conditions prescribed in the advertisements or under customary or usual conditions.

The complaint further charges that the advertisements disseminated by the respondents constitute false advertisements in that they fail to reveal that use of the preparation under such conditions may result in gastro-intestinal disturbances or other serious injury. (4510)

**Seamless Rubber Co.**, New Haven, Conn., in a complaint is charged with misrepresentation in the sale of electrical heating pads intended for use in treating diseases.

The complaint alleges that advertisements disseminated by the respondent in various States represented, directly or through inference, that its heating pads are capable of generating and maintaining three different sustained levels of temperature, and that the temperature may be controlled and the desired uniform heat obtained by simply setting the switches at points marked "L", "M" or "H".

According to the complaint, the respondent's heating pads do not maintain three levels of temperature and the temperature cannot be controlled, except by alternately attaching and detaching the connecting electric current cords. The complaint alleges that the pads, if connected to the current and turned on, eventually attain their maximum level of temperature and are thermostatically controlled at that level regardless of the positions at which the switches may be set. The sole function of the switches, according to the complaint, is to regulate the input or wattage of electric current used by the pads and thus to some extent control the speed with which the maximum temperature will be attained. (4509)

### CEASE AND DESIST ORDERS

Following cease and desist orders have been issued by the Commission:

**Edwin Cigar Co., Inc.**, 100 East 16th St., and House of Westminster, Ltd., 191 Fourth Ave., New York, and four individuals have been ordered to cease and desist from misrepresentations in the sale of cigars, smoking tobacco, pipes, tobacco pouches, razor blades, shaving cream, and novelties.

The respondent individuals are Leonard R. Edwin and Jules M. Cole, officers and directors of the two corporations; Max Rosenblum, formerly both an officer of Edwin Cigar Co., Inc., and a director of House of Westminster, Ltd., and Sadie Rosenblum (Mrs. Max Rosenblum), formerly an officer and director of Edwin Cigar Co., Inc., and a stockholder in the Westminster corporation.

The Commission order directs the respondents to cease using the name "House of Westminster, Ltd.," as a corporate, trade or other name, or employing any other distinctively British name to describe a business which is not a British concern or branch, or agent of or affiliated with a British concern. In connection with any such business, the order further prohibits the use on letterheads or otherwise of pictorial representations simulating the British Royal Arms, or a Gothic cathedral or abbey, or similar representations.

The respondents further are ordered to cease employing the names "Park Royal", "The Duke of Windsor", or other distinctively British names to refer to pipes not imported from England, and the name "Belvedere London Plug Cut British Pipe Mixture" and other distinctively British names, separately or in conjunction with pictorial representations implying British origin, to refer to smoking tobaccos not imported from England.

The Commission order also bars the respondents from using the fictitious name "Westminster Steel Co." or otherwise representing that they manufacture the razor blades they sell.

The respondents also are ordered to discontinue representing that small-sized or defective cigars are full-sized, full-bodied and fine-flavored, and to cease using the term "Havana" or other terms indicative of tobacco grown in Cuba, alone or in combination with other terms, to designate cigars not made entirely of tobacco grown there. The order makes the exception that cigars containing a substantial amount of tobacco grown in Cuba may be referred to as "blended with Havana", or by any similar term, provided that the words "blended with" or other qualifying words are set out in immediate conjunction with the word "Havana" or other term indicative of tobacco grown in Cuba, and in equally conspicuous type.

Certain misrepresentations of price and the nature, size or extent of the respondents' business also are prohibited under the order.

The Commission dismissed its complaint in this proceeding as to Fredi Mannara and John Schwab, former employees of Edwin

Cigar Co., Inc., and associates in the Cigar Makers' Federation, and Ruth Hess, Charles Grothe, and Park G. Shaw, former associates in that federation. (4085)

**Fong Wan**—Fong Poy, also known as Fong Wan, a distributor of Chinese herbs, 576 10th St., Oakland, Calif., and his co-partners, Fong Kwongii, Yee Nun Yet, Chan Woon Sheung, and Lee Bing Lim, individually and trading as Fong Wan, has been ordered to cease and desist from misrepresentation in the sale of their herbs.

Commission findings are that the respondents have advertised Fong Poy as being qualified to diagnose diseases, and their herbs, when administered in the form of tea, as constituting cures or remedies for, or as possessing therapeutic value in the treatment of cancer, tuberculosis, ulcers and numerous other diseases and disorders.

Fong Poy, according to Commission findings, is not a physician and has had no formal medical or scientific training. The contention that he is qualified to diagnose human ailments and prescribe for them is based entirely on his claim that he has made a study of ancient Chinese writings upon the subject of herbs.

According to further findings, Fong Poy's methods of diagnosis are based upon doctrines which are of historical interest only, and which have had no acceptability in the scientific sense for several centuries. One such doctrine involves analogy between color of plant preparations and color of organs of the body or color of symptoms that may occur in the body.

In his purported diagnosis, the findings continue, Fong Poy places particular emphasis on the nature and sound of the patient's voice. His theory, as stated in the respondents' publication "Herb Lore," is that: "Many sufferers make a low moaning sound. This is the tone of the Yii and signifies kidney trouble. A loud, cranky, quick-tempered voice indicates an ailment of the heart. A crying, choking voice signifies trouble in the lungs, while a sighing sound directs one to the spleen, intestines, etc. \* \* \*" For persons writing to the respondents Fong Poy has selected herbs on the basis of information contained in the letters.

The evidence shows and the Commission finds that it is impossible correctly to diagnose human ailments or disorders through the method employed by the respondents.

The Commission order directs the respondents to cease disseminating advertisements which represent, directly or through inference, that their herbs constitute cures or remedies for, or possess therapeutic value in the treatment of, cancer, tuberculosis, diabetes, Bright's disease, influenza, prostate gland disorders, paralysis, varicose veins, hardening of the arteries, cross-eyes, obesity, gallstones, stomach ulcers, or pyorrhea; that the herbs are cures or remedies for heart, kidney, bladder, liver and stomach troubles, blood disorders, high or low blood pressure, or bronchial disorders; that the respondent's herbs will build up the body, purify the blood, renew strength, and wash away diseases from the body, or that Fong Poy or any of the respondents have the ability to diagnose diseases or prescribe remedies.

The respondents further are ordered to cease representing that their herbs have therapeutic value in the treatment of (1) arthritis or rheumatism, beyond affording temporary relief from symptoms of pain; (2) asthma, in excess of temporary relief from paroxysms of asthma; (3) colds, in excess of temporary relief from symptoms of congestion of the mucous membrane; and (4) goiter, in excess of supplying iodine in cases where there is iodine deficiency, and that the herbs are cures or remedies for any of these ailments. (3964)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Quaker Stretcher Co.**, 2500 60th St., Kenosha, Wis, has entered into a stipulation that in the sale of curtain stretchers it will cease using any representation, either by printed statement, pictorial illustration or otherwise, the effect of which may cause the impression that certain stretchers are equipped with ball point pins when in fact they are not so equipped; or that the pins used in stretchers cannot loosen or come out when in fact they can loosen and come out. (3118)

**Sheer Mold Company**—LaVel Co., trading as Sheer Mold Co., 1019 North Las Palmas Ave., Hollywood, Calif., distributor of a

garment designated "Sheer Mold Reducing Girdle", and the General Advertising Agency, Inc., 1265 North Vermont Ave., Los Angeles, have entered into stipulations to cease disseminating certain advertising matter in connection with the sale of this garment.

Under their respective stipulations, the respondents agree to cease employing in advertising matter the word "Reducing" as part of the trade name of the product, and to cease using the word "Reducing" or similar words as descriptive of the product or of the accomplishments which purportedly result from its use, so as to imply that the wearing of this garment will cause a reduction of local or bodily tissue or will effectively remove fat and thus overcome or lessen a condition of fatness or weight.

The stipulation of the LaVel Co. recites that while the wearing of this garment may change physical appearance by compressing that portion of the body about which it is placed, it will not effectively remove fat. (3116-3117)

**Victor Silk Hosiery Corporation of Maryland**, Hagerstown, Md., entered into a stipulation to cease certain representations in the sale of women's hosiery.

The respondent corporation agrees to cease using the word "Silk" as part of its corporate or trade name, and such word or any other word or coined words connoting silk in or on advertising, trade literature, labels, invoices, or otherwise, in describing stockings or merchandise not composed wholly of silk.

The stipulation provides that (1) if the products are composed partly of silk and partly of some other fiber material, the word "Silk", or similar words, if used to refer to the silk content, shall be accompanied by other words in equally conspicuous type to indicate clearly that the products are not made wholly of silk; and (2) if the fiber other than silk constitutes the major portion of the product, the name of the predominating material shall precede the word "Silk", as for example, "Rayon and Silk".

The respondent further agrees to cease advertising, branding, labeling, invoicing or selling hosiery or other products composed wholly or partly of rayon without clearly disclosing (1) the rayon content by use of the word "Rayon" and (2) each constituent fiber of products composed of both rayon and other materials in the order of each fiber's predominance by weight, and in immediate connection with the word "Rayon".

Under its stipulation, the respondent corporation further agrees to cease advertising, branding by transfer or otherwise labeling, invoicing or selling hosiery marked "42 gauge" when in fact it is not "42 gauge". (3120)

**Westinghouse Electric & Manufacturing Co.**, Pittsburgh, has entered into a stipulation to cease certain representations in the sale of electrical heating pads. The respondent stipulated that in the sale of such pads not equipped with adequate thermostatic or other heat controls calibrated for three different degrees of heat, it will cease making representations which imply that the pads are capable of maintaining, or that operation of the switches used in connection with the pads results in maintaining, three different temperatures. According to the stipulation, the operation of the switches merely regulates the time required to heat the pads to a single maximum temperature for which the heat control units are calibrated. (3119)

**Wohl Shoe Co.**, St. Louis, and Stern Brothers, a New York department store, entered into stipulations to cease certain representations in the sale of shoes.

Under their respective stipulations, Wohl Shoe Co. agrees to cease using the word "Alligator", alone or in connection with the word "Calf", or other similar words, and Stern Brothers agrees to cease employing the word "Alligator" or other similar words, to describe such of their products as are not made from alligator hide, provided that the word "Alligator" may be used to describe the finish of shoes which are made from materials other than alligator leather and are finished or embossed to resemble it, when this word is immediately accompanied by other words clearly indicating that the designation refers only to the pattern embossed on such materials. (3121-3122)

## FTC CASES DISMISSED

The Federal Trade Commission dismissed complaints which charged 11 tile concerns with price discrimination in the sale of their products in violation of the Robinson-Patman Act.

Nine of the 11 concerns are: United States Quarry Tile Co., Canton, Ohio (2951); Superior Ceramic Corporation, Anderson, Ind. (3546); Mosaic Tile Co., Zanesville, Ohio (3548); C. Pardee Works, Perth Amboy, N. J., Matawan Tile Co., Matawan, N. J., and their jointly owned distributing agency, Pardee Matawan Tile Co., Perth Amboy, N. J. (3549); Wenczel Tile Co., Trenton, N. J. (3550); Wheeling Tile Co., Wheeling, W. Va. (3551), and National Tile Co., Inc., Anderson, Ind. (3553).

The Commission orders note the record does not establish that the 9 concerns named had discriminated in price between purchasers competitively engaged, as had been alleged.

Complaints also were dismissed in the cases of Trent Tile Co., Inc., Trenton, N. J. (3547), and Architectural Tiling Co., Inc., Keyport, N. J. (3552), the Commission order in the Trent case noting that that concern had been adjudicated a bankrupt and dissolved.

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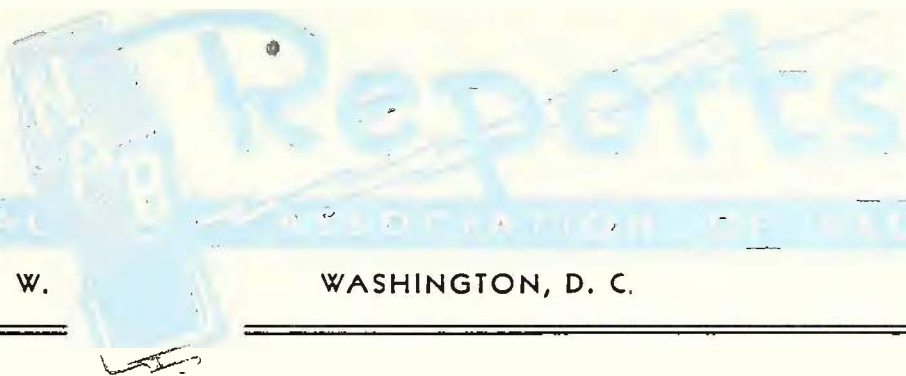
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1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 9, 1941

## FCC HITS INDIVIDUAL STATIONS TO REACH NETWORKS

Chairman Fly, of the Federal Communications Commission, indicated today under questioning before the Senate Interstate Commerce Committee, that the Commission does not have the power directly to regulate network broadcasting but attempts to do so indirectly by "placing a duty upon the stations."

One of the contentions of the broadcasting industry regarding the Commission's new rules is that the Commission is using these new rules to reach the networks by threatening the licenses of individual stations.

Chairman Fly was asked by Senator Johnson, of Colorado: "You do not deal with the chains directly?"

"Not directly, no sir," responded Mr. Fly. "I think there are strong arguments why the networks ought to be brought within the scope of the Communications Act."

"I do not mean to say that I think it is correct to have them excluded from regulations, in view of their great importance to the public and the great impact of network broadcasting upon the entire public of the United States. I do not believe there can be any doubt that there ought to be very explicit means of regulating these networks in the public interest. That is quite apart from the construction of the Act at the moment."

### Deals With Networks Through Stations

Senator Johnson asked: "How do you control the chains—by licenses or permits?"

"By these regulations here, sir," replied Mr. Fly, "we govern all licenses of all stations, and there are particular provisions relating to stations engaged in chain broadcasting. You will note that these regulations control

the station's relations to the network by means of placing a duty upon the station."

In another interchange of questions and answers, Chairman Fly first declared that under the new regulations the Commission already has the power to force the networks to carry certain programs, and then amended his answer to say the Commission cannot force any station to carry "a particular program," a contradiction which left his listeners confused as to just how the Commission interprets the new rules and how it intends to apply them.

Senator Smith, of South Carolina, had asked Chairman Fly why the Commission has not the power to force all networks to carry "important things."

"I think we have the power," declared Mr. Fly, "by applying these regulations," but he added that the Commission cannot require a station to "carry a particular program."

### Effect on Small Stations

Senator Wheeler again indicated that he feared the new rules might transfer a great deal of business from the smaller to the larger stations.

Senator Wheeler: "I was going to say that some of these small stations have been worried for fear all the good programs would just go to the big stations, and that under your rules they would simply say: Well, we will not put it on the little station. For instance, we will say that NBC has a small station in a certain town, and Mutual has a big station, or vice versa, and the advertiser or advertising agency will say: We do not want to take Mutual, or National, as the case may be, on the small station, but wish to transfer it to the big station. If

that were permitted it would seem to me you would be eliminating the small station. . . .

“Take for instance a location in the western country, and say I want to advertise in Denver, or in Salt Lake City. If I am going to advertise in that area I will want to get the largest number of listeners possible. Consequently it is probable that as an advertiser I would not want to put my program on the smaller station in Spokane or in Salt Lake City or in Denver.

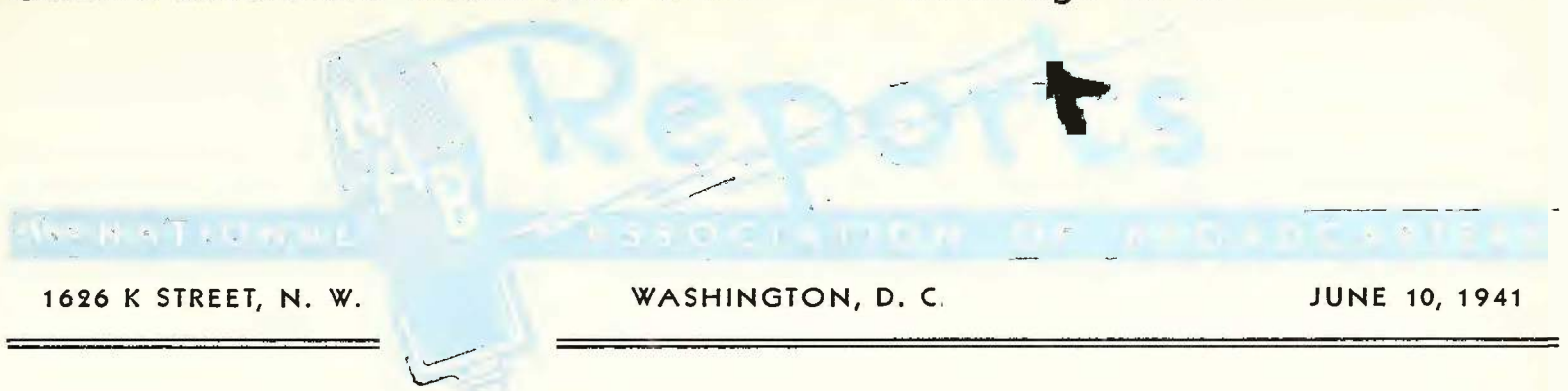
“As to the use of stations, if one can just switch them over I think an advertiser would want to go on the big stations because the big stations get the listeners; and unless the small station can get good programs you will be giving the big stations a monopoly.

“I think that is one thing you have to guard against

because certainly when you are trying to tear down one monopoly you do not want to be building up another—putting the small stations out of business. That is one thing you have to guard against.”

Chairman Fly gave several reasons indicating why he does not believe this will happen, ending with this statement, “Of course it is not the intention of the Commission that the big stations shall take advantage of the small ones. If that starts to happen we will have to re-examine that phase of the subject.”

In completing his testimony today, Chairman Fly said that the Commission approves of this hearing and stands ready to produce any further information called for by the Senate committee.



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 10, 1941

## FURTHER NEED OF CONGRESSIONAL REVIEW REVEALED AT SENATE RADIO HEARING

Necessity for revision by Congress of the law governing radio broadcasting was indicated by Senator Clark, of Idaho, at today's hearing before the Senate Interstate Commerce Committee on the White resolution calling for a Senate investigation of the broadcasting industry. Senator White introduced his resolution following promulgation by the FCC on May 2nd of new rules imposing drastic restrictions upon network broadcasting operations.

"The only question that is troubling me," Senator Clark asserted, "is whether this law is in proper shape. You see these networks have grown up largely since the law was enacted. Probably Congress at the time did not contemplate the exact situation in which we are today. It is 14 years since the law was enacted."

Doubt as to just what will be the effect of the new rules was expressed a number of times during the first few days of the hearing, when FCC Chairman Fly appeared.

Further evidence of such confusion resulting from application of the rules was brought out at today's hearing during questioning of Louis G. Caldwell, counsel for the Mutual Broadcasting System, and Fred Weber, Mutual's general manager, who took the stand together.

Referring to previous discussions of difficulties which would confront radio broadcasting if exclusive contracts and option time are eliminated under the new rules, Senator Clark said, "You would have a lot of chaos there unless there is some right to option time."

Senator Clark said he can see where network broadcasters would not have a whole lot to sell an advertiser if they did not have some right to option time adding that "you would end up by having your time all messed

up, particularly if other networks could come in and contract with that station for time, too."

With stations shifting from network to network under the new rules, Senator Clark asked if the result would not be that the Mutual Broadcasting System, which is supporting the new rules, would get the benefit of placing programs on stations where facilities and listening audience have been built up over a period of years in the course of affiliation with competing networks.

Senator Clark cited as an example a situation in which under the new rules Mutual would be able to offer its program to a station which had become the leading broadcasting outlet in its city through a ten-year period of affiliation with Columbia. When such a program is announced as being broadcast for the Mutual Broadcasting System, he said, "you are getting time on a station that has really been made valuable by your competitor."

During his testimony, Mr. Caldwell said that "Mutual had nothing whatsoever to do with the Commission's action initiating the investigation of chain broadcasting. Neither it nor its stockholders nor its lawyers had made any complaint to the Commission. We simply responded when asked to appear and set forth our situation as accurately and fully as we could."

Later, he said, Mutual did suggest that the Commission adopt a regulation, temporary in character, to serve somewhat the purpose of a temporary injunction "designed to preserve the status quo until the court has made its decision."

In regard to the World Series baseball games broadcast exclusively by Mutual, and mentioned several times previously during the hearings as being denied to some stations having exclusive contracts with other networks,

Senator Gurney asked Mr. Weber if Mutual did not have "an exclusive contract with the baseball people." Mr. Weber said that was true.

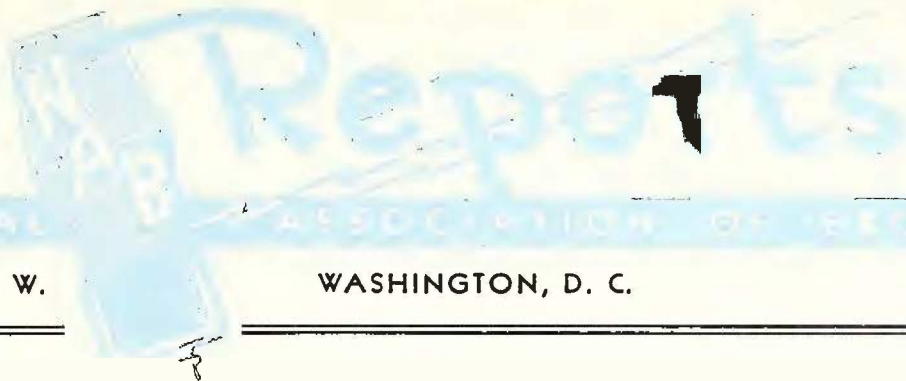
"You cannot," declared Senator Gurney, "stand on one leg and say the other stations could not get the program, and then on the other leg have an exclusive contract with the baseball people."

At yesterday's hearing, FCC Chairman Fly said he understood Station WCAU in Philadelphia had refused broadcasting time to Charles A. Lindbergh. Today Senator Wheeler read the following telegram from Leon Levy, president of WCAU:

"I wish to call your committee's attention and to have also entered into the record the fact that no request was made of this station to broadcast the speech. A request was made, however, to buy announcements for this meeting, but a member of the sales division interpreting the broadcasting code as applying also to such announcements

refused to sell them. When my attention was directed to this fact, I issued instructions to the WCAU staff that announcements calling attention to a meeting do not come under controversial subjects and are therefore acceptable. A statement was issued to the press about these announcements and also the fact that no request was made to broadcast Lindbergh's speech and if such request was made it would receive due and careful consideration and if broadcast would be done without charge. . . . May I respectfully call your committee's attention to the fact that during the same month WCAU broadcast Lindbergh's speech on May tenth and also Senator Wheeler's speeches on May twenty-third and May twenty-eighth."

Senator Wheeler said, "I am very glad indeed to have the statement from Mr. Levy and to correct the impression which I myself and many others had with reference to the matter."



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 11, 1941

## RADIO LAW REVISION AGAIN SUGGESTED AT HEARING

Need for amendment of the law under which the radio broadcasting industry operates was again expressed at today's hearing before the Senate Interstate Commerce Committee on the White resolution asking a study of the industry by Congress.

Yesterday Senator Clark, of Idaho, expressed doubt as to whether "this law is in proper shape," pointing out that "it is 14 years since this law was enacted," and that the radio networks have grown up since then.

Today, Senator White, of Maine, who introduced his resolution after the FCC issued new rules which would drastically affect network broadcasting, said, "I think there may be a vast difference between what the law is and what the law ought to be. I am not sure but what that is the difficulty which is confronting all of us at this time.

"I have thought the appropriate time for me to discuss that matter was when we meet in executive session. I want to discuss that matter and give the committee my views on what the law now is; but I have not felt that I wanted to make my observations a part of the testimony in the case because I do not like to be in the dual position of acting as a member of the committee and also as a witness in behalf of my own resolution."

### FCC Jurisdiction Not Settled Question

At today's hearing Louis G. Caldwell, attorney for the Mutual Broadcasting System, and Fred Weber, general manager of Mutual, continued their testimony.

Asked by Senator Wheeler for his opinion on the disputed question of the jurisdiction of the FCC in promulgating the new rules, Mr. Caldwell, who was the first general counsel of the old Federal Radio Commission,

summed up his opinion by saying, "I think there is fair legal authority, although not as precise as you might want right now, to the effect that the Commission does have this jurisdiction. I can't say that it is a settled question."

In a discussion of whether under the present legislation the principle of free competition in radio is accepted, Senator White said he does not think that is the fact at all.

"Everyone recognizes, I think," said Senator White, "that we cannot have free competition under this Act because of definite technical and physical limitations upon it. At the most, all we do is approach that, but we approach it within the limits of the legislation and within the limits of physical facts."

In the matter of control over programs, Mr. Caldwell said, "There are others who do not agree with me, but the Commission, in my estimation, has, with the help of Congress, gone a little further than it should have into that field of control."

### Wants Stations To Be Free

Speaking of the freedom of stations, which he said was an object the Committee members should keep in mind, Senator Wheeler declared that he wants the stations to be free from all "domination" including that by the Commission.

"In other words," Senator Wheeler continued, "I do not like the idea of the Commission simply saying to a radio station, 'You should not put on this program, because it does not represent the views of the Administration—' whichever administration it might be.

"I do not like the idea of the Commission's holding a club over some station if the station happens to be

owned by one who is unfavorable to the administration that might be in power at that particular time. I think there has been entirely too much of that in the past.

“As a matter of fact, the Commission for a long time was dominated as a political commission. That was true in the Republican administration, and it has been true, to some extent, in the Democratic administration.”

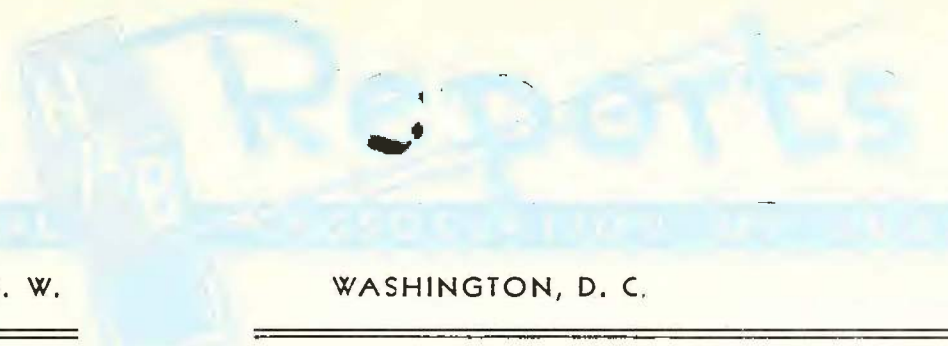
In a discussion of a suggestion previously made as to whether the Commission has the right to alter the power of stations in any city when granting licenses, Mr.

Caldwell referred to Louisville, Kentucky, where he said there is a 50-kilowatt clear channel station, a 5-kilowatt regional station and two 250-watt local stations.

In a jocular aside, Senator Wheeler suggested that perhaps the 50-kilowatt clear channel station might be taken away from the *Louisville Courier Journal* and given to Mutual, whose present affiliate is one of the 250-watt stations.

In the same spirit, Mr. Caldwell responded, “I was going to say take the 5-kilowatt station first.”





1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 12, 1941

## COMMISSIONERS HIT FCC RULES AT SENATE HEARING

Two members of the Federal Communications Commission told the Senate Committee on Interstate Commerce today they believe that the Commission has usurped power not vested in it by Congress in issuing its new rules affecting radio broadcasting.

The FCC proposals, they said, are more likely in their effects to be "destructive rather than constructively remedial."

These views were expressed in a joint statement by Commissioners Norman S. Case and T. A. M. Craven, which the latter presented at hearings on the resolution introduced by Senator White, of Maine, proposing that the Senate conduct a study of the Commission's action and a general investigation of radio broadcasting.

Among other developments at today's hearing were:

Refusal by Fred Weber, general manager of the Mutual Broadcasting System, which is supporting the FCC's position, to answer yes or no when asked by Senator White if it is not true that "the great majority of broadcasting stations in the United States are today fearful of these regulations and are substantially opposed to them."

Senator White's statement that the "Commission has put the cart before the horse in this matter by first determining whether a fellow is guilty of monopoly or not and then going on to determine whether what he is doing is in the public interest or not."

### Craven States Issues

In opening his testimony today, Commissioner Craven said that the real issues between the Commission majority and minority are first, whether the majority has usurped power, and second, whether the majority would

not in fact create a monopoly in broadcasting "more devastating in its effect upon the public than that which is alleged to exist today."

Mr. Craven said the Commission minority believes, that by its action in promulgating the new rules the Commission "asserted power not vested in this agency by Congress."

Senator Tobey, of New Hampshire, asked Commissioner Craven, "As among the three large concerns now, is there comity or unity or a gentlemen's agreement that sets up a monopoly between any two of them?"

"Not in my opinion," Mr. Craven replied.

"Then," continued Senator Tobey, "there are three free individual networks, all operating separately?"

"That is my understanding, sir," responded Commissioner Craven.

### Unfortunate Consequences Feared

He and Commissioner Case believe, Mr. Craven stated, that "the solution of the problem now confronting the Commission requires a balanced and dispassionate consideration of the many factors which contribute to broadcast service in the public interest.

"We feel that a limited approach or conclusions based on overemphasis of one phase of the problem will result in unsound administration and unfortunate consequences to the radio service to which the public is entitled. It is with extreme regret that we conclude the majority has taken this limited approach."

Speaking of the licensing power which the FCC already has over broadcasting, Commissioner Craven said, "In itself, the power to punish licensees by refusing to renew licenses constitutes a vast control," adding that "if this

l...ing power is augmented with jurisdiction to determine guilt of violation of any law of the land under the guise that such violations constitute acts against public interest, there is concentrated in the Commission undue power.”

Commissioner Craven said he believes that the FCC should have made its recommendations to Congress instead of putting the new rules into effect.

Pointing out that by its new regulations the Commission proposes to interfere with the “business practices”

of the broadcasting stations, Commissioner Craven said that the Supreme Court recently held in the Sanders case that the Commission is prohibited from doing that.

As at yesterday’s hearing, Senator White again today came out strongly for enactment of new legislation governing radio broadcasting.

“I should like to see,” Senator White asserted, “legislation declaring in specific terms the powers of the Commission with respect to what they may do in the regulation of chain broadcasting.”



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 13, 1941

## FCC RULES WOULD HARM SMALL STATION, SENATORS TOLD

Small stations would be hard hit by the new FCC rules, Commissioner T. A. M. Craven and Mark Ethridge, vice-president and general manager of the Louisville Courier-Journal and Times, told the Senate Committee on Interstate Commerce at today's hearing on the White resolution asking a Senate investigation of the radio broadcasting industry. Both witnesses and several Senators urged a revision of the Federal Communications Act.

Commissioner Craven and Mr. Ethridge were the only witnesses at today's hearing. Both asked for new legislation to clear up the confusion resulting from the Commission's action which, the industry contends, hits at stations in an attempt to reach chain broadcasting.

Senators White, of Maine, author of the resolution, and Clark, of Idaho, likewise declared new legislation is needed. They said they favor holding the rules in abeyance until the legislation is enacted. Senator Wheeler, of Montana, Chairman of the Committee, agreed that the Act should be revised but said that Congressional action might take two or three sessions, and opposed holding up the rules, adding that there is a great divergence of opinion in Congress as to what the new law should be.

### Says Rules Change Radio Pattern

"What is involved here," Commissioner Craven stated, "is a fundamental change in the pattern of American broadcasting. In effect it amounts to new legislation." He added that he believed the Communications Act of 1934 "should be reappraised by the Congress, rather than have the Commission institute a radical change in the pattern."

Mr. Ethridge said: "Here is an industry saying we want a new law and are willing to take our chances with Congress. We believe that the public interest demands such study be made."

Referring to the assertion of FCC Chairman Fly, during his testimony at the start of the hearings, that the Commission's action in issuing the new rules started in Congress, Mr. Ethridge asserted, "That's why we're here,

with the industry as the aggressor and the FCC as defendant. To say we have no right to come to Congress is to say we have no right of petition."

### Law Written 14 Years Ago

The radio law, Mr. Ethridge added, was written 14 years ago, "when neither you nor we nor anybody else knew very much about broadcasting."

Senator Clark observed, "It occurs to me that since we shall have a lot of time free this summer, we might have a subcommittee go to work on a bill, rather than a resolution, looking toward a revision of the law, and yet not unduly hold up the regulations of the Commission as issued. In that way something might be accomplished."

Commenting on Senator Clark's suggestion, Senator White said, "I have been working on a tentative draft of legislation which I think will cure some of the serious defects in the law as it now stands. I have definitely in mind some things that ought to be dealt with that are in addition to anything I now have in the drafts to which I have referred.

"The situation which now exists has been growing up over the years, and it took the Commission all of three years to make up its mind—the majority of the Commission, I should say—which course to pursue in dealing with the thing.

"I felt it was proper and highly desirable that we ask the Commission just to hold up on the execution of its regulations until the Committee had a chance to study and possibly until the Committee had a chance to formulate legislation.

"I still believe that if the effective date of these regulations could be postponed a reasonable time, only a part of the time which it took the Commission to bring them forth, legislation could be presented which would form, at least, a basis for Committee consideration."

He suggested that Senator Clark ask Senator Wheeler

ay to the Commission, "We want to study this thing. I want to undertake some changes in the radio law. It took you three years to evolve these regulations. No public calamity will follow if you just hold up for a little while."

Later in the hearing, when Mr. Ethridge was testifying, Senator Wheeler stated, "I am not going to disagree with you as to the need for new legislation." But, he added, such legislation might require a long time and he thought the rules ought not to be held up.

### Effect on Small Stations

Both Commissioner Craven and Mr. Ethridge pointed out that the new rules will harm the smaller stations.

One effect of the new rules, Commissioner Craven said, "is that the small stations will not be benefited and that the bulk of the business will gravitate toward the larger stations in each community.

"This will result in monopoly and will help the rich to get richer and the poor to get poorer."

Mr. Ethridge elaborated on this point by referring to the situation in Louisville, where his newspaper owns the largest of four stations in the city. With stations shifting from network to network under the new rules, he pointed out, it would be possible for this station to carry the most popular programs on all networks.

In spite of this, he said, he opposed the rules, which "were no answer to the plight of the small station."

Referring to the Mutual Broadcasting System, which is supporting the rules, he said they would benefit the owners of Mutual but would "gut" the small stations.

### Says Commission Confused

During previous hearings, the point has often been made that there is much confusion over just what the rules mean and what their effect will be. The Commission itself, according to Commissioner Craven's testimony today, is as confused as is the industry. "I will wager that the majority itself does not know what the rules mean," he said.

He went on to say that "it is no exaggeration to predict that the decision of the majority, instead of resulting in free competition, would more likely create anarchy, or a kind of business chaos in which the service to the public would suffer.

"Not only will the application of the rules increase the inequalities between the small and large broadcasting stations, but the revolutionary change proposed by the majority will result in the destruction of the present excellent national program distribution system and the substitution of some new kind of system, the effects of which the majority does not adequately visualize."

This was admitted in the original draft of what is now

the majority report of the Commission, Commissioner Craven testified. This draft, he said, in reference to contract provisions, contained this statement:

"We cannot now determine the competitive effect of such contractual provision; or how they will work out in actual practice. They will have to be examined later in the light of all developments in the field of network broadcasting."

This statement, Commissioner Craven brought out, was eliminated in the final draft of the report.

While, under the new rules, stations may still make affiliation contracts, and networks and advertisers may contract for outlets, Mr. Craven said he and Mr. Case believe "this can be done only for individual programs and for blocks of time."

He pointed out that "this is a 'piecemeal' basis, and affords no continuity of stability to the industry."

### "Fraught With Peril"

It is axiomatic, he said, that "unlimited availability of the few existing radio facilities and efficient national program distribution cannot both be attained at the same time.

"There is no open market condition in the business of broadcasting as in other businesses. Nature has determined that. To attempt to circumvent these basic economic laws is fraught with peril to an industry which has hitherto achieved a marked degree of success.

"Regulation in disregard of economic laws may foster a situation in which competition among competently managed networks would be replaced by an unwholesome conglomeration of local monopolies in the various towns and cities of the nation."

With regard to the question of the power of the Commission, Mr. Craven stated: "A Commissioner is constantly confronted with the charge of either failing to do his duty under the term 'public interest, convenience and necessity,' or of exceeding his authority. So my plea to you is to clarify this law, to the end that the powers of the Commission may be clearly defined, and that the responsibilities of the industry may be clearly defined. I think when and if you do that you will end a great many things which I think are wrong. You will end a great deal of trouble on the Commission."

Mr. Ethridge said that FCC Chairman Fly had built up a "big, bad wattage" theory during his testimony. He pointed out that wattage does not determine a station's audience; that in Louisville a survey he had made showed that the other three stations, with only a little more than a fourth of his station's wattage, had almost half the total number of listeners in the city. The "wattage" theory, he said, was a "straw man built up in boogie-woogie style," referring to claims made by Mr. Fly that NBC and CBS had most of the night-time power.

## White Hearing

Following are some sections from the transcript of the Senate Interstate Commerce Committee's hearing on the White Resolution (NAB REPORTS, p. 437) which may prove interesting to broadcasters who have been unable to attend. *The Chairman* is Senator Wheeler, committee chairman.

### STRONG ARGUMENTS FOR AMENDMENT

**Senator Johnson** of Colorado. How do you control the chains—by licenses or permits?

**Mr. Fly.** By these regulations here, sir, we govern all licenses of all stations, and there are particular provisions relating to stations engaged in chain broadcasting. You will note that these regulations control the station's relations to the network by means of placing a duty upon the station.

**Senator Johnson** of Colorado. That is an indirect control; it is not a direct control, is it?

**Mr. Fly.** I would say it is the sort of impact that frequently occurs where clearly on one end of the contract it is wholly illegal. Then, of course, the contract may fall.

**Senator Johnson** of Colorado. But you do not deal with the chain directly?

**Mr. Fly.** Not directly; no, sir. I think there are strong arguments why the networks ought to be brought within the scope of the Communications Act. I do not mean to say that I think it is correct to have them excluded from regulation, in view of their great importance to the public and the great impact of network broadcasting upon the entire public of the United States. I do not believe there can be any doubt that there ought to be very explicit means of regulating these networks in the public interest. That is quite apart from the construction of the Act at the moment.

**The Chairman.** Why should not the Commission have the right to regulate chain broadcasting?

**Mr. Fly.** I think it should. I do not think there can be any logical argument against it.

**The Chairman.** I do not think there is any question about it at all. I think it has reached the point where we have got to have regulation of chain broadcasting.

**Senator Johnson** of Colorado. In your opinion, how many chains should there be in order to serve the United States? The channels are very limited now in any given city. Perhaps four or five stations would describe the average city. How many chains should there be?

**Mr. Fly.** Of course that is not a job that I have undertaken or a right that I have of saying who shall go into the network business or how many there must be. It is my guess, sir, that

in the course of a year or so you will have a fifth network. That is wholly a conjecture. I think that the broadcasting structure at this time can support, and support in a healthy and profitable condition, five networks.

**Senator Johnson** of Colorado. That is counting separately the Blue network and the Red network, counting them as two networks?

**Mr. Fly.** Yes, sir. But you have already the limitation here which limits the number that can come in, so long as there must be a search for a good station in a city. We are up against that now, very much as the railroads were up against the problem of getting into St. Louis where there were limited terminal facilities that were available or possible. I do not think there can be a great number of networks. I think that ultimately there might be six networks.

Of course, Senator, I think we ought to bear in mind, in viewing this whole problem, that frequency modulation, which is an improved form of radio broadcasting, has already come into commercial operation. That is going to move out and will give us to a substantial degree a more diversified and improved radio service.

**Senator Johnson** of Colorado. That will be a chain in itself, will it not?

**Mr. Fly.** I think the chains will develop there. There is one now that is in the making. I think considerable progress is being made. That is something that is cooperative in nature. I think that is the present plan. And television, of course, will sweep across a broad field in the course of a few years.

### EFFECT ON REMOTE STATIONS

**Senator Gurney.** How would you handle a situation like this? Take a program in North Dakota—Fargo or Bismarck—that came on the wire from the Twin Cities. Both of them are on the N. B. C., as I understand it, speaking of Fargo and Bismarck. Suppose they did not have exclusive contracts and that the Fargo and Bismarck stations were left free to take a program from any network they wanted to. Suppose the Bismarck and Fargo stations did not decide to take the same program. One wanted to take Columbia, and another Mutual. Then, Fargo would have to pay—I am assuming it had the same hour—would have to pay the line charge from the Twin Cities to Fargo, and Bismarck would also have to pay the line charge from Bismarck to the Twin Cities. On a financial basis it would not be economical for the Bismarck station to get that program. Now it is possible, because they are on the same chain but split the wire charge and, therefore, can have the same program. How would you handle that situation?

**Mr. Caldwell.** Of course it does present considerable difficulty, but it seems to me in a situation like that, where you have great distances involved and heavy wire-line expense, we are going to get an improved situation eventually through the networks, either directly or indirectly, in the matter of dividing the expense for those wire lines. You understand that all advertisers

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Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## WHITE HEARING

(Continued from page 517)

may not want to take, for instance, Fargo, and yet there will be some advertisers on each network that do wish to take Fargo.

**The Chairman.** May want to take one program and not take another.

**Mr. Caldwell.** Yes.

**Senator Gurney.** And one advertiser may not want to take Bismarck.

**Mr. Caldwell.** Oh, yes. You can now always find a difference between stations.

**Senator Gurney.** And the windup of the situation will be that Bismarck will not get some program.

**Mr. Caldwell.** I would think not. I think the two stations together would get selections from all of the networks. Some arrangement will have to be made to share the expense of the wire lines. All the stations are anxious to get network commercial programs.

**Senator Gurney.** I take it some suitable arrangement will have to be worked out. These stations represent a long wire line and someone must pay the charge. Bismarck cannot pay that long line charge now.

**Mr. Caldwell.** I cannot imagine any serious difficulty about working that matter out satisfactorily. I think you have to consider that situation in the matter of both the attractiveness of programs and the compensation to be derived therefrom. There is not likely to be any great trouble, I think, in that matter.

**Senator Gurney.** And if the network has to pay for it, even though an affiliate might want to carry the program, the network will not bear that long line charge?

**Mr. Caldwell.** In the long run it has to come out of the advertiser. This opens the road for more commercial programs to go into Bismarck and into Fargo, by reason of three networks.

**Senator Gurney.** I take it your answer would mean that you would raise the ante on the advertiser so that programs would get around the country?

**Mr. Caldwell.** Well, I do not know how that could happen. Still, you have only one wire to those two cities when you get through.

## WORLD SERIES

**Senator McFarland.** What is your explanation of why the people of Arizona were denied the privilege of hearing the World Series baseball game broadcast?

**Mr. Webber.** We could produce a tremendous sheaf of correspondence and requests and pleas from stations in that territory, and they just would not carry the program.

**Senator McFarland.** Why?

**Mr. Webber.** Because of contract restrictions, from all the information we have available; because of other network contracts.

**Senator Gurney.** Those stations could not take the program because the National Broadcasting Company and Columbia had exclusive contracts. Was not that it?

**Mr. Webber.** I know of no other reason.

**Senator Gurney.** I know of one other reason. Mutual had an exclusive contract with the baseball people and they could not get it.

**Mr. Webber.** Who could not get it?

**Senator Gurney.** The National Broadcasting Company and Columbia.

**Mr. Webber.** You mean, the rights to the World Series broadcast?

**Senator Gurney.** That is right.

**Mr. Webber.** It has been customary practice to buy rights for sporting events on the part of the networks. The National Broadcasting Company has had exclusive rights for prize fights—

**Senator Gurney** (interposing). You cannot stand on one leg and say the other stations could not get the program, and then on the other leg have an exclusive contract with the baseball people.

## MUTUAL LAWYER WANTS AMENDMENT

**Senator Clark** of Idaho. May I ask whether or not you think the law itself ought to be gone into, in view of later developments and the coming in of television shortly? Is the industry generally fairly well satisfied with the existing statutes?

**Mr. Caldwell.** I do not want to try to answer for the industry. There are some other people here who are going to purportedly speak for them. I can only give you my personal views and those of others that I know of.

With specific reference to television, I see no necessity for revision of the law. The Commission has had very extensive hearings on that subject, in which I have participated personally. The result arrived at may have been arrived at slowly; I do not know. But the result, so far as I know, is not the subject of very great complaint. I think the rules in general are sound, and I know there is no basis for investigation. I suppose your question was more general than that, however.

**Senator Clark** of Idaho. I was not referring specifically to the White resolution which is pending, which is a sort of hybrid thing, anyway. It may be a very good thing, but it is a little "betwixt and between." I was thinking of a general investigation if there is some dissatisfaction with the law itself, in view of the developments that have taken place in the industry since the law was enacted. Is the law, in your judgment, adequate—that is, the existing statute—to cover the smooth and efficient operation of the whole industry?

**Mr. Caldwell.** Yes, subject to the qualification that there are particular defects that I think you may want to cover by amendment. There is no substantial defect in this Act. It is susceptible of application and enforcement, I think, in a thoroughly just and satisfactory way.

**Senator Clark** of Idaho. You mentioned, though, uncertainty in the Commission's regulations. Some of the literature that I have read and also some conversations I have had would indicate that the law was so broad that it has caused confusion; that perhaps the law itself could be amended in such a way as to write salutary regulations into the statute itself, so that the

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**IS RADIO LIKE TOPSY? DID IT "JUST GROW"?**

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*(Second Edition)*

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**NATIONAL ASSOCIATION OF BROADCASTERS**

1626 K STREET, N. W.

WASHINGTON, D. C.

June 13, 1941 — 519

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industry, if I may use that term, and include you therein, would have a stable basis of not only present operation but future operation. I do not know whether I make myself clear or not.

**Mr. Caldwell.** I think so. I cannot answer it in a word. I can give you the type of defect that I see in the present law and you can see what I am talking about.

There are two avenues of appeal under the Act: one, certain types or classes of cases that go to the Court of Appeals of the District of Columbia; every other order of the Commission follows the same route that the Interstate Commerce Commission happens to follow, going to the courts around the country. Due partly to court construction, I think, just as much that as through any fault of the law, there are two types of orders that I think ought to go to the Court of Appeals, and yet they go to the courts in the rest of the country. I am referring particularly to orders on assignments and attempts to sell licenses. There is one; and then there is another type of order under Section 325 (b) and (c) that has to do with exporting programs. The defect is quite serious.

**Senator Clark** of Idaho. There might be some procedural defects, but no substantial defects; is that it?

**Mr. Caldwell.** There is a defect that I think is rather important. There is a case which is still pending in the Court of Appeals, and under decisions so far rendered you cannot get a stay order in that case to protect you during the pendency of the appeal. We thought the law was otherwise until last year, and that question is still pending before the full court.

**Senator Clark** of Idaho. That is pretty important, is it not?

**Mr. Caldwell.** It is very important, and until last year we had had that right granted by that court, and it was regularly exercised. To my mind, that ought to be remedied.

### NEWS COMMENTATORS

**The Chairman.** Of course I do think this, in fairness to radio, that it must be said that it has very materially assisted in bringing about more freedom of discussion and freedom of speech in the country than we had before the radio came into being. For instance, we had the newspapers of the country to quite an extent dominated in many places by the same concerns, and when radio came in, with the provision that both sides should be heard, it made the newspapers of the country, in many instances, give more prominence to views that they perhaps did not agree with, because they knew they could be heard and were being heard over the radio.

**Mr. Caldwell.** I think that is true, and I think the industry should be given credit, although it may have made a few slips here and there, for its developing the principle of being fair to both sides of a case. That did not come from the Government; it sprang up from the industry itself.

**The Chairman.** I think that is true, and I think that the radio industry as a whole has done a good job. I think we can undoubtedly criticize it for some things and we can undoubtedly try to better it, but I should hate to be one to condemn it and say that it had not done a good job, because certainly the newspapers of the country have not always published both sides of a question, and many of the newspapers at the present time do not publish both sides of a controversy. They only give their own viewpoint or the viewpoint of their editors, and they do many times color their news stories much more than has been done by the radio industry.

**Senator Clark** of Idaho. Do you think that the Federal Communications Commission has the power to compel either the networks or the individual stations or somebody to see to it that when a speaker is advertised as a news commentator he restrict

himself to the news and not to editorial opinion? To amplify that a little, 75 per cent of the news reports advertised as news reports in the prepared programs published in the papers are nothing more than editorial opinions. There is possibly a perfectly legitimate field for editorial opinion on the radio, exactly as there is in the press. But is there any way that you know of by which the Commission could compel a station or a network, when it advertises that a news reporter will come on at a certain time, to confine that program to news and not to editorial opinion?—because people think they are getting news and actually they are getting colored news in regard to issues that confront the country today.

**Mr. Caldwell.** Senator, I agree with your feeling about the individuals you are talking about, and I do think that in many things they are doing they are reprehensible. I do not think that the Commission has that power, although it has come close to exercising an analogous power in the past. But I do not think the Commission ought to have that power. Once you get over that line, you have censorship. The sort of power that the Commission has exercised in the past has been backwards. When a station comes up for renewal of license the Commission says, "We are entitled to take into consideration the programs during this preceding license period." It has no standards, of course, to judge by. It just throws a whole hodge-podge into evidence and then comes to its conclusion that the programs are or are not in the public interest.

I do not say it is doing that now, because there has been a vast improvement; but that has happened in the past, and some men, a few years ago, were thrown off the air, and I am not sure that those men were wholly wrong. I happen to be fairly familiar with the records. I think that once you give a government agency the power, either backwards or forwards, to control what is said, you have a dangerous experiment in government tyranny. I think that you should rely instead on competition, so that if NBC's commentaries get too one-sided, Columbia's will be the other way or Mutual's will be the other way, and vice versa. That is your answer.

**Senator Clark** of Idaho. I do not object at all if the announcement is made that this man is expressing his views, or something of that kind, but I do object to putting on editorial commentators as news reporters. There is a place for both; and I think everyone will agree with me that the proper practice is not being followed today by the stations and by the networks. They advertise, "Edwin C. Hill—News." And I am not criticising him; he may be all right. In addition to that, you get editorial talks, and I do not think it is fair to the public. Unless the Commission does something about those things you are going to find that you will have some kind of legislation at some time to compel it to be done.

**Mr. Caldwell.** I hope not. I think it gets pretty close to censorship. The suggestion was made the other day that maybe we should have licensing of networks. I should be very much opposed to that. I hope the Commission has ample power to take care of the situation under the present laws. But if you look at the essence of our networks, they are agencies of program production and sales. But if you are going to have direct government licensing of networks you are going to have licensing of program production; and I am afraid of the power that will be given to the Government if you do that.

**The Chairman.** The Commission could at the present time, it seems to me, correct this evil that Senator Clark speaks of by asking the station, when the case comes up for renewal of license, to bring in the script that John Smith had and see whether or not that was propagandizing for one side, and say to the manager of the station, "If you are going to have propaganda for one side you ought to put on an equal amount on the other side. In other words, if you are going to have a commentator on the air who expresses one view, then you have got to have a commentator on the air to give the other side of the picture."

**Mr. Caldwell.** That principle, I think, is the answer, if they are fair to both sides and do not penalize anyone for being on one



side or the other, as long as that balance is preserved. But I do not like to see the Commission get into that field any more than is necessary. It seems to me now to be refraining from too much interference with programs.

**Senator Clark** of Idaho. I want to clear my position a little bit there. There are several commentators on each of the systems today who purport to give news and do give it in a colorful fashion. They are, in my judgment, a minority, but there are several on all of the chains. It is these other fellows that I complain about.

### WILL AGENCIES "GO NETWORK"?

**The Chairman.** The idea has been expressed to me that if, for instance, some large advertising agency in the city of New York had advertising contracts for General Foods, General Motors, or some others of the larger companies, such as the Ford Motor Company, five or six of those companies, would it not be in a position to have the say?

**Mr. Weber.** It would not, unless each combination of advertisers was prepared to follow a network broadcasting system, because just the supplying of commercial programs will not supply a full service. Under these rules and regulations each station is left free to take the programs that it wants to take. There is no requirement on them. If any system is developed which destroys network broadcasting to its affiliated stations they are not going to participate in developing anything that would destroy the continuous flow of sustaining and commercial programs to them.

**The Chairman.** Supposing the advertising agency went to various stations in the country and said, "Here is the Ford hour; here is the General Motors hour and here are the better programs that come from these big concerns. We will furnish you six or eight or ten programs." Every station would like to get those programs from the standpoint of making money, and in addition to that they would like to have them probably because of the fact that they are good programs.

**Mr. Weber.** That would not be adequate. They would have to have engineering facilities; they would have to have studio facilities, promotion organizers, publicity departments. They themselves would have to go into the function of network broadcasting. They could not just simply buy a few programs. The station would have to perform the function of network broadcasting and, in addition, they would have to assure the costs of wire lines at \$8 a mile to reach across the country on a permanent basis; and once you install permanent lines it is an additional service that has to be supplied in addition to good commercial programs. You have got to give sustaining service; you have got to give the whole set-up, promotion, merchandising, studios, engineering, announcers, and everything else. You could not just buy some time.

**Senator Clark** of Idaho. How are these wire line charges arrived at? By agreement between the networks and the telephone company?

**Mr. Weber.** No; there is a tariff established and filed with the Commission, established by the A. T. & T.

**Senator Clark** of Idaho. That tariff is established by the Federal Communications Commission?

**Mr. Weber.** Yes, sir.

**Senator Clark** of Idaho. When were the line charges established?

**Mr. Weber.** There have been, to my knowledge, in 15 years of broadcasting, modifications of the charges. Initially they used to charge for lines on the basis of railroad routing, and then later they changed to a system of air mile charges, and now you pay so much per mile per month, \$8 per mile per month, on an air line basis, and in addition you pay for connections and loops in each community.

**Senator Clark** of Idaho. Was the broadcasting industry represented when those line charges were fixed?

**Senator White.** I suppose, under the general provisions of the law, they would make up their schedules themselves in the first instance, and they would be the legal charges unless altered by the Commission.

**Senator Clark** of Idaho. I have no knowledge of the fairness of them at all, but I do know that it appears to be difficult to get adequate service, by virtue of these high line charges, into the more sparsely settled areas, and I was wondering if that situation would bear looking into. Are the companies satisfied with the line charges?

**Mr. Weber.** We certainly would like lower line charges if it were possible to obtain them.

**Senator Clark** of Idaho. Of course you would, but have you conducted any independent study of them which would lead you to the belief that they might be out of line?

**Mr. Weber.** There has been discussion of a study. It is quite a difficult thing to determine, because the Telephone Company is in the position of stating that facilities are not available, or they have to take circuits out of telephone service to supply broadcasting. Generally with regard to the costs of lines there has been some reduction. One of the principal problems in costs of our lines was the so-called connections and loops at the stations. You have to buy them on a monthly basis, even if you use them for an hour, to connect to a permanent line. That is the thing that would act to really restrict any development of one company or one agency buying a certain number of hours, because you have to pay a monthly service to connect the station. Once you pay for a monthly service it is a pretty excessive cost.

**The Chairman.** Like Senator Clark, I have had complaints made to me. I have not given them any study, but why do they charge \$8 per mile?

**Mr. Weber.** The mileage charge is \$8 per mile per month, and they charge \$175 a month for a connection to the station.

**The Chairman.** That might be perfectly all right with the bigger stations in congested areas, but certainly when you get out into the rural areas where they do not get as much advertising, where they do not get as much of a charge for their advertising, it does work a hardship on many of the rural communities.

**Mr. Weber.** We have argued that. I have argued that myself, personally, and the explanation is that the cost is so great to get out into the sparse locations, that that is why the charge can be lower in the larger cities, and they divide it up over the country. That is the position they have taken in regard to the charges, that it would be higher in the smaller communities if they did not average it up.

**The Chairman.** I think it is something that the Commission ought to go into with reference to the rural areas particularly, to see what can be done so that programs can get in there and so that the smaller stations can operate more efficiently.

## Sales

*Please direct this section to the attention of your sales manager.*

### Selling Points for Saturday

Jack Laemmar, radio time buyer for Lord & Thomas advertising agency in Chicago, recommends Saturday time for radio advertising in a letter to the NAB Department of Broadcast Advertising. He writes:

"In trying to get the advertising message to the consumer as close to the time of purchase as possible, it would seem that Saturday would be the most logical day. In every type of retail outlet, from

department stores to drug stores. Saturday ranks the highest. For example, Saturday accounts for 40% of the grocery and meat store sales of the week.

Figures for other types of radio stories are given in a study compiled by the National Retail Grocers' Association. Based on a study of fifty-one Cincinnati grocers, 69% of Saturday sales are made after 12 Noon. This, in conjunction with the fact that 40% of the week's sales come on Saturday, should surely make Saturday morning an attractive time for an advertiser to broadcast his message.

"With regard to payroll, the Federal Reserve Bank of New York in reporting wages and salaries paid in cash, shows that 60% of the total week's payroll comes on Friday and Saturday; 40% comes on Friday, but the payment of this is generally made at the close of the day, which is too late to shop; therefore, there is a carry-over until Saturday.

"With regard to the radio set availability, some interesting figures are available in a joint NBC-CBS study of the use of radio sets, which was compiled by Crosley, Inc. The sample is somewhat small, but it gives a good idea as to the sets available by times of the day. While no definition of the word 'available' is given in this study, I am sure that it is the generally accepted standard of 'someone at home and awake in a radio home.' One of the most interesting findings is that the availability of radio sets on Saturday morning is greater than on Sunday evening at the time when Jack Benny and Charlie McCarthy are on the air, and runs very close to the radio set availability on a Monday through Friday average.

"In 1938, C. E. Hooper conducted a survey in 16 cities on a Saturday to determine the availability of radio sets by half-hour periods, and there was actually a greater availability on Saturday morning than at the same time on week days. This does not agree exactly with the material found in the NBC-CBS joint study on the use of radio sets, but I believe the important factor is that in all cases Saturday ranks as high as it does. Whether or not it is equal to, or slightly above Monday through Friday, is really of minor consequence at the moment.

"In October 1938, 'Advertising & Selling' magazine carried an article by C. E. Herring, Director of the Market Research Division of the Hooper Homes Bureau, Inc., dealing with the use of radio sets. Saturday was found to be tied with Wednesday as the top listening days on an overall basis. In Mr. Herring's article he mentioned:

"Incidentally, advertisers and agencies seem to be overlooking a good bet on Saturday. In spite of the fact that Saturday's programs are, as a whole, the weakest of the seven days, the listening audience on Saturday ranks with the largest of the week.' However, based on C.A.B. figures, the Monday through Friday average is still ahead of Saturday.

"I have been trying to get late figures on the number of people who now work on a five-day-a-week basis, but to date, these figures are not available. Except for the present emergency, I believe that there will be an ever increasing number of companies turning to a five-day week, which will mean greater family availability for radio programs and greater listening.

"Another factor in favor of Saturday morning, at least for the present, is that program competition is relatively weaker, making it easier for the Saturday advertiser to win and hold a large audience.

"There are few success stories regarding Saturday morning broadcasting because the idea is comparatively new. 'The Breakfast Club,' which is on six days a week, had the highest rating on Saturday than any other day. The average for the first five days of the week based on a coincidental survey in 1937 was 5.6, and the rating for Saturday 6.9.

"A good commercial success story is one on the Benjamin Moore program. The advertiser has used an NBC network program consistently since 1931. The program was a single 15-minute daytime period, once a week, which consisted of organ music and a talk by Betty Moore on 'How to Brighten Up the Home With Paint.' In 1939 the program was shifted to Saturday, with the result that the effectiveness was increased greatly. Actually, the success of the program must be, to a large extent, dependent upon mail, and the mail of the 1939 Saturday morning program was 37% greater than the mail received during 1938, when the program was on a week day."

### Success Story Form

The new standard form for radio success stories adopted by the Department of Broadcast Advertising has also been adopted by several NAB member stations. Although it was not intended that this form should be universally used, since many stations already have their own very effective forms, any station wishing to adopt it is perfectly free to do so.

A sample copy was sent each station over a month ago, but any members desiring additional samples may have them free upon request.

### Making Radio Effective

Three problems worthy of sales managers' consideration, particularly at small stations, are presented by KVEC, NAB member at San Luis Obispo, Cal., in the industry's effort to increase the effectiveness of radio advertising.

The first outlines the necessity of giving close attention to the proper scheduling of programs and announcements. Writes Christiana M. Jacobson:

"The sponsor on the average small station buys so many spots either locally or through an agency. The time suggested may not be right for his product in a rural area (people rise earlier, retire earlier, live at a slower pace), but our personal observation is that often no one seems interested enough to rectify the error or even make the suggestion. There are always at least two parties involved in the transaction and one or the other feels that the trouble involved is not warranted because of the size of the account. So the matter rests and at the expiration of the contract, there isn't a renewal.

"For example, a program running on this station, produced in a metropolitan center and having metropolitan appeal, requires mail, and the extremely low response to date proves the program has no appeal in this area. The agency was contacted in an attempt to persuade the sponsor to use a local show with a proven mail record, but the agency answered with a definite no. Its reason was that the sponsor favors the show from a personal angle, and any effort to change would result in a two-week cancellation rather than permitting the program to run the length of the contract. I can't understand why a sincere desire by a station to do a good job should be detrimental to that station. After all, six satisfied sponsors across the board for 52 weeks is better business than 24 accounts on short contracts in that same period with no renewals, and all 24 with the opinion 'I tried radio and it doesn't get results.'"

The second recommendation offered is that advertising agencies and advertising departments should furnish copy to station and sponsor, carefully prepared and attractively presented. Stating that most copy now received is poorly mimeographed, or on second sheets, often with no heading or reference to the account or product, it is stated that this cannot impress the station which is advertising this "outstanding product", and has a very bad effect upon the sponsor who is spending good money for radio time.

"In newspaper advertising, on the other hand, advertising campaigns generally come attractively prepared, with folders containing all available mats and with proofs run on fine paper, usually bound with colorful, attention-getting covers. Why cannot radio continuity be presented the same way, to impress the station, the sponsor, and his dealers or sales force? If radio stations will comment to those responsible for continuity poorly presented, and make these suggestions, many advertisers and agencies will adopt them."

The final suggestion, along similar lines, is that stations do likewise by furnishing each sponsor a clear and attractively-presented copy of his radio advertising, if produced by the station. "Copy is now often poorly presented, or is merely read to him over the telephone." Standard forms could be used, it is suggested, with space for sponsor's name, the names of continuity writer and announcer, and even a selling message from the station. It is pointed out that sponsors are given checking copies and proofs of advertising run in printed media, as evidence and a record of their campaigns, but money spent in radio advertising, unless the sponsor hears each program or announcement, often seems to leave no trace. At little extra trouble or expense, it is claimed, radio stations could thus constantly make good impressions on advertisers to the ultimate benefit of the industry.

### Recording Standards

As broadcasting has developed the problem of reproducing transcriptions with uniform results, it has become of much concern

to broadcasting stations. Quite a number of different characteristics have been used by the various manufacturers of transcriptions, recording equipment and reproducing equipment. Most of these characteristics produce good results by themselves when the proper playback equalization is used. Some companies have coordinated the three elements, however, in many instances this has not been so. This has made it exceedingly difficult for broadcast stations to obtain uniform results from transcriptions manufactured by various companies and reproduced on equipment manufactured by various companies.

This problem has been discussed with a number of transcription and equipment manufacturers and they have all indicated that they will cooperate in the formulation of standards.

A subcommittee of the NAB Engineering Committee was appointed by Edward L. Gove, WHK, chairman, comprised of Paul Loyet of WHO, chairman, Morris Pierce of WGAR and Robert Morris of NBC. The subcommittee formulated a questionnaire on recording and reproducing. The questionnaire was sent to all broadcasting stations. The answers to the questionnaire show that broadcast stations use as high as ten different equalizer settings for reproducing various transcriptions. Even with such an elaborate set of equalizers it has not been possible to entirely obtain uniform results from various transcriptions.

The Engineering Committee recommended that NAB coordinate the formulation of "Recording and Reproducing Standards". Neville Miller has informed the Engineering Committee that the Executive Committee has authorized this project. In accordance with this the first meeting of the "Recording and Reproducing Standards Committee" will be held at the Statler Hotel in Detroit on Thursday, June 26, the day after the Institute of Radio Engineers Convention. All parties interested in this project are invited to appoint an engineering member to the Committee. Correspondence regarding this project should be addressed to Lynne C. Smeby, director of engineering.

## BMI

### New Log Service

A daily logging service to get underway within the next two weeks, has been set up under the supervision and control of John G. Peatman, Director of the Office of Research of the Department of Psychology of the College of the City of New York. BMI will pay the costs of operations.

Service of the listening post thus established, will consist of the following:

- a. A full daily report of all programs on stations WEA, WJZ and WABC between the hours of 8 a. m. and 5 p. m.
- b. A full daily report of all programs on stations WABC, WEA, WJZ, WOR, WMCA, WHN, WOV and WNEW between the hours of 5 p. m. and 1 a. m.

Report sheets of the new Service will contain a complete record of the number of performances received by each composition heard during the above listening periods as well as a detailed log showing program listings of all musical compositions heard on each of the stations. The Service's full program report will include:

1. Time of the program.
2. Contents of the program, including each individual composition broadcast.
3. Sponsor or place of origin of the broadcast.
4. Name of the performing artist.

In addition, it will indicate whether the individual composition was performed in whole or in part. It is understood that the Department of Psychology of C. C. N. Y. will have full control of the operations of the project, including the hiring of all employees and that BMI shall in no way be responsible. The Department expressly agrees that it shall act independently and not as an agent or representative of BMI.

## New Compositions

Broadcast Music, Inc., announces the addition of nine new compositions to its catalogue of original material and twenty-five copy-righted arrangements of familiar music in the public domain. Prominent among the popular songs made available to the radio station members of BMI, was *Dixie Girl*, a ballad by Kent Cooper, head of the Associated Press. Other numbers released at the same time included *All Alone and Lonely*, by Milton Schwartz, David Sanders and Al Pearson, and *I Went Out of My Way*, by Helen Bliss, for both of which BMI officials predict a great success. Olsen and Johnson, stars of *Hellzapoppin'*, were represented with *My Heart's in America*, an original composition from their production, *New Hellzapoppin'*.

Among the twenty-five "cross-cued" arrangements of public domain material, now bringing this portion of the BMI library to approximately 600 selections, were such familiar compositions as Tchaikowsky's *Dance Chinoise* from the *Nutcracker Suite*; John Phillip Sousa's *On Wings of Lightning*; Schubert's *Serenade*; Sibelius' *Romance in D Flat*, and Grieg's *Repose of the Forest*.

## License Forms Approved

The Board of Directors of BMI, at a meeting on Tuesday (June 10), approved the forms of blanket and per program contracts for broadcasting stations, as well as a contract permitting optional clearance at the source for electrical transcriptions. Forms of contracts are understood to be undergoing minor technical revision and will be sent out to broadcasting stations shortly. As announced at the Convention, holders of BMI blanket contracts may ratify the same and thus obtain a one-third reduction in present license charges bringing the present scale of payment down from a maximum of 2½% to a maximum of 1⅔%, and the minimum from 1½% to 1%. Per program rates run from 3⅓% to approximately 5½% for commercial programs using BMI music, and from ½% to 1% for sustaining programs using BMI music, the latter charge being figured on card rates applicable at the time of broadcast. Directors also approved numerous plans for the development and expansion of BMI's activities, subject to the discretion of the management. The directors announced with regret the resignation of Ted Streibert as a director of the company. Mr. Streibert is an officer of Bamberger Broadcasting Service, Inc., which has resigned from the National Association of Broadcasters, and he stated that he felt that as a representative of that company he should also resign from BMI which represents a type of industry activity. It was confirmed that Mr. Streibert's resignation would have no effect on the continued support of BMI by WOR.

## BMI FEATURE TUNES

June 16 - June 23

1. I WENT OUT OF MY WAY
2. ALL ALONE AND LONELY
3. MY SISTER AND I
4. WALKIN' BY THE RIVER
5. WISE OLD OWL
6. FRIENDLY TAVERN POLKA
7. G'BYE NOW
8. WHAT D'YA HEAR FROM YOUR HEART
9. HERE'S MY HEART
10. WITH A TWIST OF THE WRIST
11. THE RELUCTANT DRAGON

In preparation: "Wasn't It You"? by the writers  
of *You Walk By*.

## Extra Copies

There are extra copies available of the first volume of the BMI Index. These volumes will be sent to any BMI subscribers who desire them until the supply on hand is exhausted. There will be no charge to subscribers except the necessary postage which will be collected on delivery.

## Requests

The following quotation is from the head of the music division of two stations having ASCAP licenses:

"My particular purpose in writing you at this time is to inform you that of the request programs currently running on both stations it is interesting to note that over 75 per cent of the requests are for BMI or for BMI controlled tunes. Also, as you know, we are now in a position to use ASCAP material, but our BMI users have not fallen appreciably when considered on the basis of monthly use."

And speaking of preferences, Bill Brennan, WORC, Worcester, Mass., stopped in this week to tell us that a request program on that station, "Five O'Clock Varieties", received no letters asking for ASCAP music from January 20th to May 1st. All requests were for either BMI published or BMI controlled tunes. There were no calls for the "Old favorites" which ASCAP claimed so loudly around the first of the year were indispensable. Among the tunes that led in number of requests were: *I Hear a Rhapsody*, *High on a Windy Hill*, *There I Go*, *Wise Old Owl*, and *G'Bye Now*.

## BMI Opens the Door

In its first year, BMI brought the public the music of more than 500 writers who had little if any opportunity to reach the public under the conditions which prevailed prior to April 1940. This music came from all parts of the country and from all walks of life. It did not reflect the ideas of any one group; it included the work of those who devote their entire time to the creation of music and those to whom this creation has been a happy interval in an otherwise busy life. Broadcasters can take pride not only in the effectiveness of their work in the formation of BMI, but in the development of the conditions which made BMI essential. The growth of a lively interest in music in all parts of the country and in all sections of the people was fostered by the progress of commercial broadcasting. During the past twenty years, American symphonic orchestras have grown from about twenty to about three hundred and the interest in their maintenance has broadened from that of a few rich families to thousands of music lovers throughout the country. During the same period, an awakening of interest of music in the public schools has built some 50,000 bands, nearly as many orchestras and almost twice as many choral groups.

That radio has been the principal factor in this musical growth goes without saying. A common feeling for melody, rhythm and harmony resulted from radio carrying the best music to all of the people at the same time. Never before the period of commercial broadcasting would such a unified musical movement have been possible.

## Native Latin American Music to Be Popularized

Maurice Russel Goudey (outstanding authority on the interpretation of South American folk music), who has spent the last six years teaching and directing radio orchestras in Buenos Aires, has been selected by Peer International Corporation to set up a catalogue of the native Latin American music available for broadcasting in the United States.

Mr. Goudey plans to start with what he calls the A-B-C of South American music—Argentine, Brazil, and Chile. As the field develops, he plans to introduce the tunes of the smaller countries, such as Columbia, which he states is particularly rich in beautiful and unusual music.

"My job," says Mr. Goudey, "will be to select the repertory, aid the American orchestras in their arrangements and rehearsals with an eye to combining authenticity of interpretation with popular performance."

## Available

Announcement is made of the availability of the publications of Cundy-Bettoney Co., Inc., in Boston, Mass., for broadcasting. This company has lists of the band and orchestra music and solos for wind instruments available for this purpose.

Lists of suggested music material for Independence Day programs has been issued. Included is a list of marches for military bands from the catalogue of Jean Missud.

## The Mud and the Stars

Under the headline, "And Some of Them Saw Stars", the Everybody's Weekly section of the *Philadelphia Enquirer* makes the following comment on the new BMI song *Stars Went to Sleep*, which was written by three prisoners within the walls of the Oklahoma State Penitentiary:

"Thus the chance meeting of two prisoners was made into a song; then into a partnership of many songs . . . the idea of a poet proved true:

Two men looked through prison bars,  
One saw mud, the other stars. . . ."

"At the same time scores of other prisoners were heartened to new efforts by the experiences of these two. Hearing or reading the story, they resolved to make the best use of their enforced separation from the world and to prepare themselves for an eventual return to that world as more useful citizens."

## Soaring

Sales of *My Sister and I* passed the 150,000 mark early this week and are going strong. It looks as if the song will set up a new high record for BMI.

## The Career Open to Merit

Additional evidence that if a song has a germ of a good idea, BMI editors will spare no effort to place it before the public is illustrated by the history of the new tune *Have You Changed*. This song was first submitted in August of 1940. It came in the mail one morning in August 1940 from Jay Gordon of Wilmington, Delaware, without benefit of even so much as an accompanying letter. A reviewer referred it to the Editorial Committee. The title, the tune and the first line of the lyric inspired enthusiasm. The rest was silence. In other words, the various questions asked under the *Have You Changed* inquiry were not appealing, as they completely lacked the nostalgic quality necessary to awaken pleasing memories. A lengthy correspondence ensued asking for additional lyrics and one after another were submitted, all equally bad, until Mr. Gordon's permission was obtained to call in Sylvia Dee, an experienced lyric writer, and see what she could do. Miss Dee "sparked" immediately on the idea. She liked it and turned out three good lyrics over night. That was about three weeks ago. Since that time, the best lines have been merged from these three lyrics, one or two new ones added, and it looks as if BMI has another potential hit.

## IRNA Committee Meets ASCAP

From SAMUEL R. ROSENBAUM, Chairman of IRNA:

A committee of officers and directors of IRNA supplemented by several other representative affiliates met Wednesday afternoon at NAB with Messrs. Paine, Mills and O'Connor of ASCAP. ASCAP explained fully the present status of the ASCAP deal as consummated with Mutual and as modified in the offer to the other networks, and the present status of the ASCAP deal to be submitted to affiliates in the form submitted to Mutual affiliates and as supplementally modified. The IRNA representatives made it clear that they were not a negotiating committee and were meeting with ASCAP in order to learn fully the status of the present ASCAP offers which would be reported back to the IRNA Board for consideration and further discussion. Those present for IRNA were: Rosenbaum, Morency, Craig, L. B. Wilson, Kennedy, Myers, Shouse, O'Fallon and Moseby.

## MIRNA Disbands

Mutual Broadcasting System announced Thursday that it had been notified by S. A. Cisler, WGRC, that the Mutual Independent Radio Network Affiliates, a committee set up at the St. Louis convention, had been disbanded. Difficulties between Mutual and some of its affiliates which led to the organization have been straightened out, MBS announced.

## FEDERAL COMMUNICATIONS COMMISSION

### WFMC

The FCC, on June 10, approved the application of W. C. Ewing and Harry Layman (Cumberland Broadcasting Company) to transfer the license of Station WFMC, Fayetteville, North Carolina, to W. C. Ewing and T. K. Weyher (Cumberland Broadcasting Company) and renewed the station's license.

### KEVR

The FCC, on June 10, approved the application of Evergreen Broadcasting Corporation (KEVR) of Seattle, Washington, for a construction permit upon assurance to the Commission that within one year it will file an application for a new construction permit requesting authority to operate with power of 5 kilowatts to effect a more efficient use of the frequency (1090 kilocycles).

### FCC Propaganda Study

The FCC announced the appointment of Lloyd A. Free as Director of its Foreign Broadcast Monitoring Service and the retention of Harold N. Graves, Jr., as Administrative Assistant of that unit. They will supervise the recording, translating and analysis of foreign short-wave broadcasts, a duty undertaken last March by the Commission in cooperation with the Defense Communications Board.

### From the FCC Mail Bag

A broadcast station seems perplexed about whether to pick up a bellow-by-bellow description of a bullfight. The question of programming is a matter for the station itself to decide in the first instance. The FCC has no specific regulation on this subject but points out:

"However, there is language in some of the decisions (see e.g., in re Station WMCA, 2 F. C. C. 76, 77; United States Broadcasting Corporation, et al., 2 F. C. C. 208, 219) to the effect that 'broadcast programs which are offensive to the sensibilities of the people generally are not in the public interest.' As bearing on the determination of this matter, your attention is invited to the fact that bullfighting has never been legalized in this country, and it is believed the history of efforts to legalize it in some of the States will disclose considerable public opposition on the ground that it involves cruelty to animals. The extent of this feeling undoubtedly varies as between different sections of the country."

To a New Yorker who complains about rates for broadcast time, the Commission cites the Communications Act in declaring that broadcast stations shall not be deemed "common carriers," hence the Commission cannot prescribe the rates charged by them. Nor can the Commission entertain the notarized complaint of a Long Islander about advertising broadcast on Sunday. Also, it is equally without authority to pass upon advertisements in a telephone directory. Or to require a magazine to readjust its radio schedule to the satisfaction of a California reader.

Since the Commission functions primarily as a licensing authority, it has no say in the selection of radio station personnel. Conse-

quently, it has no rules or regulations governing the hours that an employee may work. To a Massachusetts inquirer on the latter subject, it advises that the radio-broadcast industry is subject to the Fair Labor Standards Act and that any complaint on that score should be made to the Wage and Hour Division of the Department of Labor.

The Commission receives many complaints about radio interference of local electric origin. To such persons, it explains that it is without power to intervene, but points out that some municipalities have ordinances on the subject, adding: Many public service companies maintain investigation departments and upon request are generally willing to assist in locating the source of the trouble and in correcting it, if possible.

The Commission is unable to help a New Yorker who claims his invention "for the development of music" has been suppressed by certain business interests. And the only thing the Commission can do with a sample of corn remover sent to it is to turn it over to the Federal Trade Commission, to which it should have been addressed.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, June 16. They are subject to change.

Monday, June 16

### Broadcast

- WHB—WHB Broadcasting Company, Kansas City, Mo.—C. P., 710 kc., 5 KW, DA-night and day, unlimited time. Present assignment: 880 kc., 1 KW daytime.
- WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—C. P., 710 kc., 10 KW, unlimited time, DA-night. Present assignment: 1280 kc., 1 KW, 5 KW LS, unlimited time.
- KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, 890 kc., 500 watts night, 1 KW day, SH-KUSD.

### Television Broadcast

- W2XD—General Electric Company, Schenectady, N. Y.—For license to cover C. P., 162000-168000 kc., 40 watts, emission A-5, Sec. 4.4(a).
- W2XI—General Electric Company, New Scotland, N. Y.—For renewal of license, 162000-168000 kc., 10 watts, emission A-5, Sec. 4.4(a).
- W2XB—General Electric Company, New Scotland, N. Y.—For renewal of license, 60000-86000 kc., A-3 KW, V.-10 KW, Sec. 4.4.

Wednesday, June 18

- WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—C. P. to erect a synchronous station, 1310 kc., 100 watts, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

Monday, June 23

- WFNC—W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co. (Assignor) and W. C. Ewing and T. K. Weyher, tr/as Cumberland Broadcasting Co. (Assignee), Fayetteville, N. C.—Voluntary assignment of license, 1340 kc., 250 watts, daytime.
- WFNC—W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Renewal of license, 1340 kc. (1370 kc. under NARBA), 250 watts, daytime.

Tuesday, June 24

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—C. P., 1500 kc., 250 watts, unlimited. Present assignment: 1310 kc., 100 watts, S-WHAT.

Wednesday, June 25

Investigation to determine what policy or rules, if any, should be promulgated in connection with operation of new high frequency (FM) broadcast stations and for future acquisition of standard broadcast stations by newspapers, pursuant to Order No. 79.

Thursday, June 26

WKZO—WKZO, Incorporated, Kalamazoo, Mich.—C. P., 590 kc., 5 KW, unlimited, DA-night. Present assignment: 590 kc., 1 KW, unlimited, DA-night.

Monday, June 30

NEW—KNOE, Incorporated, Monroe, La.—C. P., 1420 kc., 250 watts, unlimited.

Monday, July 7

KWTO—Ozarks Broadcasting Company, Springfield, Mo.—C. P., 560 kc., 1 KW night, 5 KW day, unlimited, DA-night.

#### Consolidated Hearing

NEW—R. B. Terry, D. A. Rawley, C. M. Waynick and H. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C.—C. P., 1370 kc., 100 watts, unlimited time.

NEW—Ralph L. Lewis, Greensboro, N. C.—C. P., 1370 kc., 100 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

#### APPLICATIONS GRANTED

New STL Broadcast Station—Capital Broadcasting Co., Inc., Schenectady, N. Y.—Granted construction permit for new STL (studio transmitter link) broadcast station to operate on frequency 331000 kc. (experimentally); power not in excess of 50 watts; special emission for frequency modulation with a maximum frequency swing of 200 kc. (B1-PST-1).

KVIC—Fred W. Bowen (Individually and as Trustee), Charles C. Shea and Walter T. Martin (Transferors), Morris Roberts (Transferee), Victoria, Texas.—Granted consent to transfer control of Radio Enterprises, Inc., licensee of station KVIC, from Fred W. Bowen (individually and as trustee), Charles C. Shea and Walter T. Martin, to Morris Roberts, representing 100% (250 shares) voting stock ownership in Radio Enterprises, Inc., for a total consideration of \$42,500. Station operates on 1340 kc., 250 watts unlimited time (B3-TC-253).

#### DESIGNATED FOR HEARING

Washington Broadcasting Co., Washington, Pa.—Application for construction permit for new station to operate on 1450 kc., 250 watts power, unlimited time (B2-P-3088).

#### APPLICATION PLACED IN PENDING FILES

Star Times Publishing Co., St. Louis, Mo.—Placed in pending file pursuant to Order No. 79, application for construction permit for new FM station (B4-PH-2).

#### MISCELLANEOUS

KMPC—The Station of the Stars, Inc., Beverly Hills, Calif.—Granted petition to intervene and to enlarge the issues in

re hearing on application of Minnesota Broadcasting Corp. (WTCN), Minneapolis, Minn., for construction permit to change frequency from 1280 to 710 kc., increase power from 1 KW night, 5 KW day to 10 KW unlimited, using directional antenna night.

KIRO—Queen City Broadcasting Co., Inc., Seattle, Wash.—Granted petition to intervene and to enlarge the issues in re hearing on application of Minnesota Broadcasting Corp. (WTCN), Minneapolis, Minn., for construction permit to change frequency from 1280 to 710 kc., increase power from 1 KW night, 5 KW day to 10 KW unlimited, using directional antenna night.

KIRO—Queen City Broadcasting Co., Inc., Seattle, Wash.—Granted petition to intervene and motion to enlarge the issues in re hearing on application of WHB Broadcasting Co. (WHB), Kansas City, Mo., for construction permit to change from 880 to 710 kc., from 1 KW daytime to 5 KW unlimited, using directional antenna at night.

WDAE—Tampa Times Co., Tampa, Fla.—Granted petition for leave to withdraw without prejudice application for construction permit to change frequency from 1250 to 740 kc., and increase power from 5 KW to 10 KW, unlimited time, using directional antenna for night only.

W1XG—General Television Corp., Boston, Mass.—Granted petition to amend application by filing an application for a commercial broadcasting television construction permit and that the record remain open and directed that the amendment be filed within two weeks.

Symons Broadcasting Co., Ellensburg, Wash.—Granted motion to continue hearing on application for new station, now set for June 2, 1941, for 60 days.

KRLD—KRLD Radio Corp., Dallas, Texas.—Granted petition to intervene in hearing on application of Mid-American Broadcasting Corp., Louisville, Ky., for construction permit for new station.

Olympic Radio Co., Hoquiam, Wash.—Referred to Commission petition to hold hearing on application for new coastal harbor station in Hoquiam or Aberdeen, Wash.

W2XMN—Edwin H. Armstrong, Alpine, N. J.—Granted extension of special temporary authority to operate an additional transmitter at Alpine, N. J., on 43 mc. with a power not to exceed 40 KW, using frequency modulation for a period of thirty days beginning June 10, 1941, and ending not later than July 9, 1941, in order to conduct further experiments on adjacent channel operation of high frequency broadcast stations and to demonstrate such operation to certain engineering committees of the Radio Manufacturing Association.

WRNL—Richmond Radio Corp., Richmond, Va.—Granted special temporary authority to broadcast a two-way conversation between a Navy airplane and a mobile unit of Station WRNL on June 3, 1941, only.

WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Granted license to cover construction permit for increase in power and installation of directional antenna for night use (B3-L-1346). Granted authority to determine operating power by direct measurement of antenna input (B3-Z-709).

KFNF—KFNF, Inc., Shenandoah, Iowa.—Granted authority to make changes in automatic frequency control equipment (B4-P-222).

WIOD—Isle of Dreams Broadcasting Corp., Miami, Fla.—Granted construction permit to move formerly licensed RCA 1-D-B main transmitter locally to be used as an auxiliary transmitter with power of 1 KW (B3-P-3184).

WKWK—Community Broadcasting, Inc., Wheeling, W. Va.—Granted license to cover construction permit as modified for new station (B2-L-1412). Granted authority to determine operating power by direct measurement of antenna input (B2-Z-922).

WPDF—Flint Broadcasting Co., Flint, Mich.—Granted modification of construction permit (for installation of new transmitter and directional antenna for day and night use, increase in power, change frequency and move transmitter) for extension of completion date from June 14 to August 14, 1941; 910 kc., 1 KW, unlimited time, directional antenna day and night (B2-MP-1314).

WKZO—WKZO, Inc., Kalamazoo, Mich.—Granted license to cover construction permit for installation of new directional antenna for night use (B2-L-1416). Granted authority to determine operating power by direct measurements of antenna input in compliance with Sec. 3.54 (B2-Z-950).

- KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Granted authority to determine operating power by direct measurement of antenna input (B-Z-873).
- WBRE—Louis G. Baltimore, Wilkes-Barre, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-939).
- KITE—First National Television, Inc., Kansas City, Mo.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-929).
- WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-940).
- KRIC—KRIC, Inc., Beaumont, Tex.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-935).
- KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-890).
- WCAL—St. Olaf College, Northfield, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-948).
- WGEZ—Donald C. Treloar, Kalispell, Mont.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-947).
- WJNO—WJNO, Inc., West Palm Beach, Fla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-811).
- WMBH—Joplin Broadcasting Co., Joplin, Mo.—Granted authority to determine operating power by direct measurement of antenna input on 1450 kc. (B4-Z-703).
- WELB—WAVE, Inc., Portable Mobile (area of Louisville, Ky.).—Granted construction permit to install a new transmitter and increase operating power of relay broadcast station to 50 watts (B2-PRE-389).
- WHER—Westinghouse Radio Stations, Inc., Portable mobile.—Granted construction permit to install new transmitter and increase power to 25 watts, for relay broadcast station (B2-PRY-244).
- WEIE—Havens and Martin, Inc. Portable mobile area of Richmond, Va.—Granted license to cover construction permit for changes in type of transmitter and to decrease power to 2 watts. (B3-LRE-349).
- W3XAU—WCAU Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit (for new television station) for extension of completion date to July 28, 1942 (B2-MPVB-41).
- W9XER—Midland Broadcasting Co., Kansas City, Mo.—Granted license to cover construction permit for new developmental broadcast station; 46500 kc., 1500 watts, special emission for frequency modulation with a maximum frequency swing of 75 kc., granted on experimental basis only, conditionally (B4-LEX-16).
- KRNT—Iowa Broadcasting Co., Des Moines, Iowa.—Granted modification of construction permit (for move of transmitter, install directional antenna for night use and new transmitter and increase in power) for changes in directional antenna for night use on 1350 kc., and extension of completion date from June 22, 1941, to 120 days after grant (B4-MP-1300).
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted motion to amend application to specify power of 1 KW instead of 5 KW, unlimited time, using directional antenna for night, operating on 690 kc.
- Orange Broadcasting Corp., Orange, Tex.—Granted motion for dismissal without prejudice, application for construction permit for new station to operate on 1550 kc., 1 KW, unlimited time.
- KSEI—Radio Service Corp., Pocatello, Idaho.—Granted motion for withdrawal of application for construction permit to change from 900 kc., 250 watts, 1 KW LS, to 600 kc., 1 KW, unlimited time, using directional antenna night and day.
- KGU—Marion A. Mulrony and Advertiser Publishing Co., Ltd., Honolulu, T. H.—Referred to Commission petition to intervene in re hearing on application of Hawaiian Broadcasting System, Ltd., for construction permit for new station to operate on 1340 kc., 250 watts, unlimited time. Also referred to Commission petition to hold hearing in Honolulu and to set date of such hearing.
- Olympic Radio Co., Hoquiam, Wash.—Granted motion for continuance to July 15, 1941, of hearing on application for construction permit for new coastal harbor station, now set for June 30, 1941. Also, granted motion for authority to take depositions, upon condition that authority to take depositions is automatically cancelled in the event the Commission grants the pending motion to transfer hearing to State of Washington.
- C. R. Anderson, business manager of The Lamar Broadcasting Co., Lamar, Colo.—Dismissed without prejudice to participation in the hearing in accordance with Section 1.195, petition to intervene in hearing on application of The Lamar Broadcasting Co. (KIDW) for renewal of license.
- Airport Charter Service, Alaska Air Transport, Ellis Air Transport, Marine Airways, Alaska Aeronautical Radio, Inc.—Granted motion to amend, filed jointly by Aircraft Charter Service (KAWA), Alaska Air Transport (KBJW, KFWC, KANG, KANU, KAYP), Ellis Air Transport (KBOY), Marine Airways (KAIK), and Alaska Aeronautical Radio, Inc., to substitute Alaska Aeronautical Radio, Inc., as party to proceedings in Docket Nos. 5696, 5697, 5763, 5624, 5625, 5725, 5722, 5723, 5724, 5576, 5765, for aeronautical facilities in Alaska.
- God's Bible School and College, Cincinnati, Ohio.—Denied petition to hold record open in re application for construction permit for new international broadcast station; Application dismissed without prejudice to the filing of a new application.
- Natchez Radio Corp., Natchez, Miss.—Granted request for dismissal of petitioner's application for construction permit for new station to operate on 1370 kc., 250 watts.
- KIDW—The Lamar Broadcasting Co., Lamar, Colo.—Granted special temporary authority to determine operating power by the indirect method for a period not to exceed 30 days.
- WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to broadcast sustaining musical programs from 8:30 to 10 a.m. Monday through Friday from June 16 to July 15, 1941, provided WSVS remains silent.
- WCLE—United Broadcasting Co., Cleveland, Ohio.—Granted special temporary authority to operate from local sunset (June 8 p.m.) to conclusion of night baseball game between the Cleveland and Boston American League Professional Baseball Clubs on June 4, 1941, only.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate from 7:30 to 10 p. m., CST, on June 5, 6 and 18, in order to broadcast the community high school graduation exercises of the Oswego Community High School; West High School, Aurora; and East High School, Aurora, respectively.
- WRC—National Broadcasting Co., Inc., Washington, D. C.—Granted modification of construction permit for increase in power and installation of directional antenna for night use, for extension of completion date from June 5 to August 5, 1941; 980 kc., 5 KW, unlimited time (B1-MP-1309).
- KXOK—Star-Times Publishing Co., St. Louis, Mo.—Granted special temporary authority to rebroadcast program of Army plane to ground communications in connection with Army Flying Cadet week, between 9:45 and 10 p. m. on June 5, 1941, only.
- KMO—Carl E. Haymond, Tacoma, Wash.—Granted special temporary authority to rebroadcast transmissions of amateur radio stations W7LB, W7BHQ, W7IMB, W7AEA, and W7IIU between 9:45 and 10 a. m., June 7, 1941, in connection with program entitled "Amateur Radio in National Defense."
- KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Granted special temporary authority to operate simultaneously with station KRKO on Sunday, June 8, from 2:45 to 4 p. m., to carry a special broadcast of the Seattle Council of Churches only.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate until 10 p. m., CST, on June 12 and 13 only, in order to broadcast graduation exercises of the Batavia Elgin High School (B4-S-995).
- WSAJ—Grove City College, Grove City, Pa.—Granted special temporary authority to remain silent for the period June 12 to Sept. 18, in order to observe college vacation (B2-S-340).
- The Cincinnati Times-Star Co., Cincinnati, Ohio.—Granted special temporary authority to operate relay broadcast stations WLWE and WLWF licensed to the Crosley Corp. on 30820 kc. on June 13 and 14 only, in connection with golf tournament to be broadcast by WKRC (B2-S-280).
- WAAU—Columbia Broadcasting System, New York City.—Granted special temporary authority to operate relay broadcast station WAAU in an Eastern Airlines Plane flying over Birmingham, Ala., for purpose of relaying description of Air

Carnival for broadcast over station WAPI, Birmingham, on June 7 and 8.

W45D—The Eve. News Assn., Detroit, Mich.—Granted extension of special temporary authority to operate FM station commercially on **44500 kc.** using 3 KW power for period of 30 days from July 5 ending August 3, pending installation and preparations necessary to operate the complete transmitting plant in accordance with construction permit (B2-PH-21) and modification (B2-MPH-3) without prejudice to determination of the issues in the hearing on Order 79.

W39B—The Yankee Network, Boston, Mass.—Granted extension of special temporary authority to operate FM station commercially on **43900 kc.**, 1 KW power, special emission for FM, using transmitter of FM experimental station W1XER at summit of Mount Washington, Sargents Purchase, N. H., for period June 17 to July 16, 1941, pending completion of construction (B1-PH-13).

KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to conclusion of broadcast of High School Commencement Exercises on June 11, only (B5-S-825).

KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Granted petition for reconsideration and grant of application for construction permit to change frequency from **1460 to 1090 kc.**, increase power from 100 watts to 250 watts day and night; increase hours of operation from sharing with KRKO to unlimited; and move transmitter and studio, and install new equipment. Removed application from hearing docket.

Tri-State Broadcasting Corp., Wheeling, W. Va.—On request of applicant the application for a new station to operate on **1450 kc.**, 100 watts night and day, unlimited time, was dismissed without prejudice (B2-P-3080).

W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co. (Assignor), and W. C. Ewing and T. K. Weyher, trading as Cumberland Broadcasting Co. (Assignee), for assignment of license of WFNC, Fayette, N. C., and W. C. Ewing and Harry Layman, d/b as Cumberland Broadcasting Co., for renewal of license of WFNC.—Granted petition to reconsider and grant without hearing their applications for consent to assignment of license and for renewal of license, respectively, of station WFNC; hearing scheduled for June 23 cancelled, and the application for renewal of license granted for **1370 kc.**, 250 watts daytime, and voluntary assignment of license to a new partnership was likewise granted (B3-AL-288 and B3-R-1070).

KGU—Marion A. Mulrony and Advertiser Publishing Co., Ltd., Honolulu, T. H.—Granted petition for leave to intervene in the hearing on the application of Hawaiian Broadcasting System, Ltd., Honolulu, T. H., for a new station. Denied petition to hold hearing on said application in Honolulu; said hearing to be held in Washington on July 28.

## APPLICATIONS FILED AT FCC

### 600 Kilocycles

WICC—The Yankee Network, Inc., Bridgeport, Conn.—Authority to determine operating power by direct method.

### 610 Kilocycles

WAYS—Inter-City Advertising Co., Charlotte, N. C.—Modification of construction permit (B3-P-2878) for a new station, requesting approval of directional antenna, for day and night use.

### 620 Kilocycles

North Jersey Advertising Co., Elizabeth, N. J.—Construction permit for a new broadcast station to be operated on **620 kc.**, 250 watts, unlimited time. Amended: re corporate structure and finances.

### 630 Kilocycles

KVOD—Colorado Radio Corp., Denver, Colo.—Construction permit to install new transmitter and increase power from 1 to 5 KW, directional antenna for day and night use. Amended: to make changes in directional antenna for day and night use.

### 640 Kilocycles

WHNC—United Broadcasting Co., Columbus, Ohio.—Authority to determine operating power by direct method.

### 680 Kilocycles

WPTF—WPTF Radio Company, Raleigh, N. C.—Authority to determine operating power by direct method.

WPTF—WPTF Radio Company, Raleigh, N. C.—License to cover construction permit (B3-P-2216) as modified to install new transmitter, increase power, and make changes in directional antenna for night use only.

WPTF—WPTF Radio Company, Raleigh, N. C.—License to use old RCA Type 1005-B 5 KW transmitter as an Auxiliary.

### 710 Kilocycles

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Modification of construction permit (B1-P-2319) as modified, for changes in directional antenna system, for extension of commencement date from 1-1-41 to 7-1-41 and extension of completion date from 7-1-41 to 1-1-42.

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Modification of construction permit (B1-P-2319) for changes in directional antenna, requesting further changes in directional antenna and extension of commencement and completion dates to 60 days after grant and 180 days thereafter, respectively.

### 790 Kilocycles

KECA—Earle C. Anthony, Inc., Los Angeles, Calif.—Authority to determine operating power by direct method.

KECA—Earle C. Anthony, Inc., Los Angeles, Calif.—License to cover construction permit (B5-P-2698) as modified for increase in power and installation of directional antenna for night use.

### 810 Kilocycles

KOAM—The Pittsburg Broadcasting Co., Inc., Pittsburg, Kans.—Construction permit to change power and hours of operation from 1 KW daytime to 500 watts nighttime, 1 KW daytime, unlimited time, and install directional antenna for night use.

KGO—National Broadcasting Co., Inc., San Francisco, Calif.—Authority to determine operating power by direct method (Aux. Transmitter).

### 840 Kilocycles

WHAS—Courier-Journal and Louisville Times Co., Louisville, Ky.—Authority to determine operating power by direct method.

### 870 Kilocycles

WKAR—Michigan State College, East Lansing, Mich.—Authority to determine operating power by direct method.

WHCU—Cornell University, Ithaca, N. Y.—Authority to determine operating power by direct method.

### 880 Kilocycles

Fairfield Broadcasting Corp., Lancaster, Ohio.—Construction permit for a new broadcast station to be operated on **820 kc.**, 250 watts, daytime. Amended: To request **880 kc.**, 1 KW, changes in transmitting equipment, antenna, and make changes in finances.

### 910 Kilocycles

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Authority to determine operating power by direct method.

WQAN—The Scranton Times (co-partnership), E. J. Lynett, Wm. R. Lynett, Elizabeth R. Lynett and Edward J. Lynett, Jr., Scranton, Pa.—Authority to determine operating power by direct method (auxiliary transmitter).

WRNL—Richmond Radio Corp., Richmond, Va.—Construction permit to install new transmitter, make changes in directional antenna for night use, and increase power from 1 to 5 KW. Amended: To request **910 kc.** under NARBA and changes in directional antenna.

### 920 Kilocycles

KUSD—University of South Dakota, Vermillion, S. D.—Authority to determine operating power by direct method.

WBAA—Purdue University, West Lafayette, Ind.—Modification of construction permit (B4-P-2604) as modified, for in-



stallation of new transmitter and directional antenna for night use, increase in power, change in hours of operation, and move of transmitter, requesting extension of completion date from 6-22-41 to 9-22-41.

WBAA—Purdue University, West Lafayette, Ind.—Authority to determine operating power by direct method.

WBBB—Alamance Broadcasting Co., Burlington, N. C.—Modification of construction permit (B3-P-3093) for a new broadcast station, requesting approval of antenna and approval of transmitter and studio sites.

#### 930 Kilocycles

WPAT—North Jersey Broadcasting Co., Inc., Paterson, N. J.—License to cover construction permit (B1-P-2624) as modified for a new broadcast station.

WPAT—North Jersey Broadcasting Co., Inc., Paterson, N. J.—Authority to determine operating power by direct method.

#### 950 Kilocycles

WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Authority to determine operating power by direct method.

#### 1080 Kilocycles

KYOS—Merced Broadcasting Co., Merced, Calif.—Authority to determine operating power by direct method.

#### 1130 Kilocycles

KGDM—E. F. Pepper, Stockton, Calif.—Authority to determine operating power by direct method.

#### 1150 Kilocycles

KSWO—Willard Carver and Byrne Ross, Lawton, Okla.—Authority to determine operating power by direct method.

KSWO—Willard Carver and Byrne Ross, Lawton, Okla.—License to cover construction permit (B3-P-2664) as modified, for a new broadcast station.

WAPO—W. A. Patterson, Chattanooga, Tenn.—Authority to determine operating power by direct method.

WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Authority to determine operating power by direct method.

WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—License to cover construction permit (B3-P-2766) as modified, for increase in power, installation of new equipment, and directional antenna for day and night use.

#### 1190 Kilocycles

KEX—Oregonian Publishing Co., Portland, Ore.—Authority to determine operating power by direct method.

#### 1210 Kilocycles

WCAU—WCAU Broadcasting Co., Philadelphia, Pa.—License to cover construction permit (B2-P-3106) for installation of new auxiliary transmitter.

#### 1230 Kilocycles

KAST—Astoria Broadcasting Co., Astoria, Oreg.—Authority to determine operating power by direct method.

KVEC—Christina M. Jacobson, tr. as The Valley Electric Co., San Luis Obispo, Calif.—Authority to determine operating power by direct method.

WISE—Radio Station WISE, Inc., Asheville, N. C.—Authority to determine operating power by direct method.

WJOB—O. E. Richardson and Fred L. Adair, Hammond, Ind.—Voluntary assignment of license from O. E. Richardson and Fred L. Adair to O. E. Richardson, Fred L. Adair and Robert C. Adair. Amended: To change name of assignee from O. E. Richardson, Fred L. Adair and Robert C. Adair to O. E. Richardson, Fred L. Adair and Robert C. Adair, d/b as Radio Station WJOB.

WLOG—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—License to cover construction permit (B2-P-3109) for changes in equipment and increase in power.

WLVA—Lynchburg Broadcasting Corp., Lynchburg, Va.—Authority to determine operating power by direct method.

#### 1240 Kilocycles

KDON—Monterey Peninsula Broadcasting Co., Monterey, Calif.—Authority to determine operating power by direct method.

KWJB—Bartley T. Sims, tr. as Sims Broadcasting Co., Globe, Ariz.—Authority to determine operating power by direct method.

KWOS—Tribune Printing Co., Jefferson City, Mo.—Modification of license to change frequency from 1340 kc. to 1240 kc.

WGGB—Harry H. Carman, Freeport, N. Y.—Authority to determine operating power by direct method.

WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—Authority to determine operating power by direct method.

WJLS—Joe L. Smith, Jr., Beckley, W. Va.—Authority to determine operating power by direct method.

WHAR—John W. Haigis, Greenfield, Mass.—Authority to install new automatic frequency control equipment.

WOMT—Francis M. Kadow, Manitowoc, Wis.—Authority to determine operating power by direct method.

WSAY—Brown Radio Service & Laboratory (Gordon P. Brown, Owner), Rochester, N. Y.—Authority to determine operating power by direct method.

#### 1250 Kilocycles

KWSC—State College of Washington, Pullman, Wash.—Authority to determine operating power by direct method.

#### 1260 Kilocycles

WNAC—The Yankee Network, Inc., Boston, Mass.—Authority to determine operating power by direct method.

#### 1270 Kilocycles

WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Authority to determine operating power by direct method.

#### 1300 Kilocycles

WASH—King-Trendle Broadcasting Corp., Grand Rapids, Mich.—Authority to determine operating power by direct method.

WOOD—King-Trendle Broadcasting Corp., Grand Rapids, Mich.—Authority to determine operating power by direct method.

#### 1310 Kilocycles

WIBA—Badger Broadcasting Co., Inc., Madison, Wis.—Authority to determine operating power by direct method.

WRR—City of Dallas, Texas, Dallas, Tex.—Modification of construction permit (B3-P-2229) for new equipment, increase in power, move of transmitter, and installation of directional antenna for night use, requesting extension of completion date from 6-30-41 to 9-30-41.

#### 1320 Kilocycles

WATR—The WATR Company, Inc., Waterbury, Conn.—Modification of construction permit (B1-P-3032) for increase in power, installation of new transmitter, and changes in directional antenna for day and night use, requesting changes in directional antenna and extension of commencement and completion dates from 6-22-41 and 12-22-41 to 30 days after grant and 180 days thereafter respectively.

WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Authority to determine operating power by direct method, auxiliary transmitter.

#### 1340 Kilocycles

KCKN—The KCKN Broadcasting Co., Kansas City, Kans.—Authority to determine operating power by direct method.

KCRJ—Central Arizona Broadcasting Co., Jerome, Ariz.—Authority to determine operating power by direct method.

KFPL—C. C. Baxter, Dublin, Tex.—Construction permit for authority to make changes in tubes in last radio stage.

KFYO—Plains Radio Broadcasting Co., Lubbock, Texas.—Authority to determine operating power by direct method.

KROS—Clinton Broadcasting Corp., Clinton, Iowa.—Modification of construction permit (B4-P-1907) for a new station, requesting approval of antenna, approval of transmitter and studio sites, and installation of new type transmitter.

KSUB—Southern Utah Broadcasting Co., Cedar City, Utah.—Authority to determine operating power by direct method.  
 WAIR—C. G. Hill, George D. Walker & Susan H. Walker, Winston-Salem, N. C.—Authority to determine operating power by direct method.  
 WCMJ—The Ashland Broadcasting Co., Ashland, Ky.—Authority to determine operating power by direct method.  
 WDMJ—Lake Superior Broadcasting Co., Marquette, Mich.—Authority to determine operating power by direct method.  
 WGH—Hampton Roads Broadcasting Corp., Newport News, Va.—Authority to determine operating power by direct method.  
 WJMA—John and Marcia Arrington, d/b as Arrington and Arrington, Covington, Va.—License to cover construction permit (B2-P-3066) for a new station.  
 WJMA—John and Marcia Arrington, d/b as Arrington and Arrington, Covington, Va.—Authority to determine operating power by direct method.  
 WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Authority to determine operating power by direct method.

#### 1350 Kilocycles

KID—KID Broadcasting Co., Idaho Falls, Idaho.—Authority to determine operating power by direct method.

#### 1360 Kilocycles

KMO—Carl E. Haymond, Tacoma, Wash.—Authority to determine operating power by direct method.  
 WKAT—A. Frank Katzentine, Miami Beach, Fla.—License to cover construction permit (B3-P-3120) to use formerly licensed W. E. 310-B, 250-watt transmitter as auxiliary and install new crystal oscillator.  
 WKAT—A. Frank Katzentine, Miami Beach, Fla.—Authority to determine operating power by direct method.

#### 1380 Kilocycles

WAWZ—Pillar of Fire, Zarephath, N. J.—Authority to determine operating power by direct method.  
 WAWZ—Pillar of Fire, Zarephath, N. J.—Construction permit to install new transmitter and increase power from 1 KW day and night to 1 KW night, 5 KW day, directional antenna for day and night use.  
 WMBG—Havens & Martin, Inc., Richmond, Va.—Construction permit for changes in directional antenna system, for night use only. (Modified license granted for 5 KW, subject to filing this application.)

#### 1390 Kilocycles

KLPM—John B. Cooley, Minot, N. D.—Authority to determine operating power by direct method.  
 WTJS—The Sun Publishing Co., Inc., Jackson, Tenn.—Modification of construction permit (B3-P-2525) as modified, for change in frequency, increase in power, and installation of directional antenna for night use and new transmitter, requesting authority to change type of transmitter and extend completion date 180 days after grant.

#### 1400 Kilocycles

Air-Waves, Inc., Baton Rouge, La.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited time.  
 KEVR—Evergreen Broadcasting Corp., Seattle, Wash.—Authority to determine operating power by direct method.  
 KFGQ—Boone Biblical College, Boone, Iowa.—Authority to determine operating power by direct method.  
 KFPW—Southwestern Hotel Co., Fort Smith, Ark.—Authority to determine operating power by direct method.  
 KRE—Central California Broadcasters, Inc., Berkeley, Calif.—Authority to determine operating power by direct method.  
 KTOK—Oklahoma Broadcasting Co., Inc., Oklahoma City, Okla.—Authority to determine operating power by direct method.  
 KTUC—Tucson Broadcasting Co., Tucson, Ariz.—Authority to determine operating power by direct method.  
 KWLK—Twin City Broadcasting Corp., Longview, Wash.—Authority to determine operating power by direct method.  
 WBLK—Charleston Broadcasting Co., Clarksburg, W. Va.—Authority to determine operating power by direct method.  
 WBTM—Piedmont Broadcasting Corp., Danville, Va.—Authority to determine operating power by direct method.

WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.—Authority to determine operating power by direct method.  
 WJLB—John L. Booth Broadcasting, Inc., Detroit, Mich.—Authority to determine operating power by direct method.  
 WKPT—Kingsport Broadcasting Co., Inc., Kingsport, Tenn.—Authority to determine operating power by direct method.  
 WRDO—WRDO, Incorporated, Augusta, Maine—Authority to transfer control of corporation from Adeline B. Rines, Executrix of the last will and testament of Henry P. Rines, Deceased, to Adeline B. Rines (100 shares).  
 WSRR—Stephen R. Rintoul, Stamford, Conn.—Modification of construction permit (B1-P-2789) for a new station, requesting approval of transmitter site and antenna. Amended: to change requested location of transmitter from Barrett St., Stamford, Conn., to Lindstrom Road, Stamford, Conn.

#### 1440 Kilocycles

WSFA—Montgomery Broadcasting Co., Inc., Montgomery, Ala.—Authority to determine operating power by direct method.  
 WAAB—The Yankee Network, Inc., Worcester, Mass.—Construction permit to increase power from 1 KW to 5 KW, install new transmitter and directional antenna for day and night use, move transmitter from Quincy, Mass., to Paxton, Mass., and move studio from Boston, Mass., to Worcester, Mass.  
 WAAB—The Yankee Network, Inc., Boston, Mass.—Authority to determine operating power by direct method.  
 WHIS—Daily Telegraph Printing Co., Bluefield, W. Va.—Authority to determine operating power by direct method.  
 KGNC—Plains Radio Broadcasting Co., Amarillo, Texas.—Authority to determine operating power by direct method.

#### 1450 Kilocycles

Dyke Cullum, Washington, D. C.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 250 watts with 100 watt amplifier, unlimited time. Facilities of WWDC.  
 Forward Wheeling Radio Corp., Wheeling, W. Va.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 100 watts, unlimited time.  
 KWBG—The Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—Authority to determine operating power by direct method.  
 KFAM—The Times Publishing Co., St. Cloud, Minn.—Authority to determine operating power by direct method.  
 KVAK—Carl Latenser, Atchinson, Kans.—Authority to determine operating power by direct method.  
 KXL—KXL Broadcasters, Portland, Ore.—Authority to determine operating power by direct method.  
 WGNC—F. C. Todd, Gastonia, N. C.—Authority to determine operating power by direct method.  
 WHLN—Blanfox Radio Company, Harlan, Ky.—Authority to determine operating power by direct method.  
 WHLN—Blanfox Radio Company, Harlan, Ky.—License to cover construction permit (B2-P-2885) as modified for a new station.  
 WHLS—Harmon LeRoy Stevens and Herman LeRoy Stevens, d/b as Port Huron Broadcasting Co., Port Huron, Mich.—Authority to determine operating power by direct method.  
 WMFJ—W. Wright Esch, Daytona Beach, Fla.—Authority to determine operating power by direct method.  
 WMSD—Muscle Shoals Broadcasting Corp., Muscle Shoals City, Ala.—Authority to determine operating power by direct method.  
 WOC—Tri-City Broadcasting Co., Davenport, Iowa.—Authority to determine operating power by direct method.  
 WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—Authority to determine operating power by direct method.

#### 1480 Kilocycles

KTBS—Tri-State Broadcasting System, Inc., Shreveport, La.—Construction permit to change frequency from **1480 kc.** to **1060 kc.**, change power from 1 KW to 5 KW night and 10 KW day, install a new transmitter, install directional antenna for night use, and move transmitter. Amended: to change requested location of transmitter.  
 KTBS—Tri-State Broadcasting System, Inc., Shreveport, La.—Authority to determine operating power by direct method.

#### 1490 Kilocycles

KBIX—Oklahoma Press Publishing Co., Muskogee, Okla.—License to cover construction permit (B3-P-3112) for new transmitter, increase in power, and new frequency under NARBA.

KPLT—North Texas Broadcasting Co., Paris, Texas.—Authority to determine operating power by direct method.

KTOH—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—Authority to determine operating power by direct measurement of antenna power.

KVWC—Northwestern Broadcasting Co., Vernon, Texas.—Authority to determine operating power by direct method.

KXO—Valradio, Incorporated, El Centro, Calif.—Authority to determine operating power by direct method.

WMRF—Valradio, Incorporated, El Centro, Calif.—Authority to determine operating power by direct method.

WMRF—Lewistown Broadcasting Co., Lewistown, Pa.—License to cover construction permit (B2-P-2977) as modified for a new broadcast station.

WNLC—Thames Broadcasting Corp., New London, Conn.—Authority to determine operating power by direct method.

WSYB—Philip Weiss, tr. as Philip Weiss Music Co., Rutland, Vt.—Authority to determine operating power by direct method.

WTMV—Mississippi Valley Broadcasting Co., Inc., East St. Louis, Ill.—Authority to determine operating power by direct method.

WWSW—Walker and Downing Radio Corp., Pittsburgh, Pa.—Authority to determine operating power by direct method.

WWSW—Walker and Downing Radio Corp., Pittsburgh, Pa.—Authority to determine operating power by direct method (auxiliary transmitter).

#### 1590 Kilocycles

WALB—Herald Publishing Co., Albany, Ga.—Modification of construction permit (B3-P-2774) as modified, for a new broadcast station, requesting changes in directional antenna for night use, and extension of commencement and completion dates from 3-8-41 and 6-6-41 to 1 day after grant and 2 days thereafter respectively.

#### 1600 Kilocycles

WWRL—Long Island Broadcasting Corp., Woodside (L. I.), N. Y.—Authority to determine operating power by direct method.

### FM APPLICATIONS

K45LA—Don Lee Broadcasting System, Los Angeles, Calif.—Modification of construction permit (B5-PH-26) as modified for a new high frequency broadcast station, requesting extension of commencement and completion dates from 12-31-40 and 6-30-41 to 60 days after grant and 180 days thereafter, respectively.

W2XCB—Columbia Broadcasting System, Inc., Portable-Mobile.—Modification of construction permit (B1-PVB-46) as modified for new television relay station, requesting extension of completion dates from 7-7-41 to 1-7-42.

W6XLA—Television Productions, Inc., Portable-Mobile.—Modification of construction permit (B5-PVB-73) for a new television station, requesting extension of commencement and completion dates from 1-15-41 and 7-15-41 to 6-15-41 and 10-15-41, respectively.

W9XCB—Columbia Broadcasting System, Inc., Chicago, Ill.—Modification of construction permit (B4-PVB-74) for a new television station, requesting extension of completion date from 7-15-41 to 1-15-42.

W39B—The Yankee Network, Inc., Sargents Purchase, N. H.—Modification of construction permit (B1-PH-13) for a new high frequency broadcast station, requesting changes in antenna system and extension of commencement and completion dates from 12-31-40 and 6-30-41 to 60 days after grant and 180 days thereafter, respectively.

W75C—The Moody Bible Institute of Chicago, Chicago, Ill.—Modification of construction permit (B4-PH-5) for a new high frequency broadcast station, requesting change in coverage from 10,800 to 10,950 square miles and change in antenna system.

### MISCELLANEOUS APPLICATIONS

Birney Imes, Tupelo, Miss.—Construction permit for a new broadcast station to be operated on **1240 kc.**, 250 watts, unlimited time. Amended: To change requested frequency from **1240 kc.** to **1490 kc.**

WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Modification of license to change frequency, power, and hours of operation from **1390 kc.**, 1 KW, daytime, to **1470 kc.**, 500 watts nighttime, 1 KW daytime, unlimited time.

Don Lee Broadcasting System, Berkeley, Calif.—Construction permit for a new high frequency broadcast station to be operated on **43500 kc.**; coverage, 3,080 square miles; population, 1,428,331. Amended: To change transmitter site, make changes in antenna system, change coverage to 18,050 square miles and population to 1,098,612.

King-Trendle Broadcasting Corp., Detroit, Mich.—Construction permit for a new high frequency broadcast station to be operated on **47300 kc.**; coverage, 6,900 square miles; population, 2,564,008. Amended: To change coverage to 6,750 square miles and population to 2,674,580.

The La Crosse Tribune Co., east of La Crosse, Wis.—Construction permit for a new high frequency broadcast station to be operated on frequency of **46500 kc.**; coverage, 4,520 square miles; and population, 166,600.

National Broadcasting Co., Inc., New York, N. Y.—Authority to transmit programs to a foreign country; CMQ, Havana, Cuba, via International Broadcast Stations WRCA and WNBI.\* PROGRAM—Recorded Spanish translation of the previous night's news commentary by Raymond Gram Swing on Monday, Tuesday, Wednesday, Thursday, and Saturday evenings from 7:00 to 7:15 p. m., EST.

Tri-State Broadcasting Co., Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on **1622, 2058, 2150, and 2790 kc.**, 50 watts, A3 emission.

The Sun Company of San Bernardino, California, Crestline, Calif.—Construction permit for new high frequency broadcast station to be operated on **44100 kc.**; coverage, 17,101 square miles; population, 803,524.

R. M. Wallace and G. E. Schnibben, d/b as Norfolk County Broadcasting Co., Norfolk, Va.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time, contingent on WBOC going to **1230 kc.**

KAOY—Don Lee Broadcasting System, Portable-Mobile.—Modification of construction permit (B5-PRE-297) as modified, for a new relay broadcast station, requesting change in type of transmitter and extension of commencement and completion dates from 12-23-40 and 6-21-41 to 60 days after grant and 180 days thereafter, respectively.

KGDM—E. F. Peffer, Stockton, Calif.—Construction permit to change frequency from **1130** to **1140 kc.**, change hours of operation from daytime to unlimited time, using 1 KW day and night, and install directional antenna for night use.

WCBJ—Lehigh Valley Broadcasting Co., Portable-Mobile.—License to cover construction permit (B2-PRY-231) for a new relay broadcast station.

WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Modification of construction permit (B1-PIB-28) as modified for change in frequencies, equipment and increase in power, requesting extension of completion date from 6-19-41 to 8-6-41.

\* NBC studios at 30 Rockefeller Plaza, N. Y.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition 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.

**Electro-Health Appliance Co.**, 2709½ West 7th St., Los Angeles, has been served with a complaint alleging misrepresentation in the sale of its "Electro-Health Short Wave Diathermy" device, intended for use in treating diseases.

The complaint alleges that in newspaper, radio and other advertising matter the respondent has represented that its apparatus may safely be used by the unskilled lay public in treating self-diagnosed diseases and ailments by individual self-application in the home without professional supervision. According to the complaint, the respondent has represented that its device is a scientific, safe, harmless and effective means for treating rheumatism, arthritis, sinus, hay fever, laryngitis, neuritis, high blood pressure and some thirty other diseases and pathological conditions, and that use of the device will have no ill effects upon the user.

The complaint alleges that the individual self-application of the respondent's device by unskilled persons in the home, either under conditions prescribed in the advertisements or under customary or usual conditions, will not accomplish the results claimed and is not a scientific, safe, harmless or effective means for treating the ailments or conditions mentioned.

Pointing out that there are many diseases and conditions in which diathermy is contra-indicated and in which its use will aggravate the disease and be injurious to health, the complaint charges that the advertisements disseminated by the respondent are false in that they fail to reveal that use of the device under customary conditions, or under conditions prescribed in the advertisements, may result in serious and irreparable injury to health, and in that they fail to conspicuously reveal that the device may be safely used only after a competent medical authority has determined, as a result of diagnosis, that diathermy is indicated, and has prescribed the frequency and amount of application, and the user has been adequately instructed by a trained technician in the operation of the device. (4501)

**Graphic Arts Club of Charlotte, Inc.**—A complaint has been issued charging the Graphic Arts Club of Charlotte, Inc., Charlotte, N. C., its officers and directors and 14 member commercial printing companies in Charlotte, with entering into and carrying out agreements, combinations and conspiracies to suppress competition and create monopoly by fixing and maintaining uniform prices and discounts in the interstate sale of printed products.

The complaint charges that pursuant to their agreements and combinations the respondents fixed and maintained uniform prices and discounts and other terms and conditions for the sale by the respondent members of their printed products, including stationery and forms and paper upon which printing or engraving has been effected.

According to the complaint, respondent officers, who are also directors of the club, are: Fred H. Plexico, president; Norman Foust and Elliott Hall, vice presidents; James Webb, secretary; William S. Wallace, treasurer, and Albert Stowe Blankenship, executive secretary, all of Charlotte. Other respondents, who served at various times during 1940 as directors, are: Alf Asten, Banks R. Cates, Steve Kokenas, W. W. Kale, and Haines Lassiter. Stephen G. Roszell, Savannah, Ga., who served as executive secretary of the respondent club from March to October, 1940, is also named a respondent.

The complaint points out that the respondent club and its respondent officers and directors and the respondent Roszell, while not in their official capacities, engaged in commerce, aided and abetted and were instrumentalities of and parties to some or all of the understandings and agreements alleged.

According to the complaint, representative "active" or "regular" members of the respondent club are: Roy T. Barbee, trading as R. T. Barbee Co.; F. William Cullingford, trading as Commercial Printing Service; John Goines, A. C. Goines and Charles Goines, trading as Economy Printing Co.; The Herald Press, Inc.; Huneycutt Printing Co., Inc.; Ivey Printing Co., Inc.; Kale-Lawing; Lassiter Press, Inc.; The Observer Printing House, Inc.; Pound and Moore Co.; Fred H. Plexico, trading as R. & W. Printing Co.; Samuel L. Rush, Sr., and James Webb, trading as Rush Printing Co.; Standard Printing Co.; and Washburn Printing Co., Inc., all of Charlotte, N. C. (4517)

**International Parts Corporation**, 1814 South Michigan Ave., Chicago, is charged, in a complaint, with misrepresentation in the sale of replacement mufflers for use on automobiles.

The complaint alleges that in catalogs, pamphlets and other printed matter the respondent represents that its mufflers have "Electric welded seams throughout—not locked, crimped or spot-welded," and that the occupant of a car equipped with a locked-seam, crimped or spot-welded muffler is in danger of injury from

carbon monoxide gas through leakage of exhaust gases through the seam.

The complaint further alleges that the respondent's mufflers are in fact spot-welded. According to the complaint, occupants of a car equipped with a locked-seam, crimped or spot-welded muffler are in no danger from carbon monoxide gas escaping from openings of the seam in the muffler as such methods of manufacture produce seams equally as effective as that used by the respondent in preventing the escape of exhaust gases. Furthermore, the complaint alleges, the escape of exhaust gases through a defect in the seam of the muffler on a car would not place the occupants in danger of carbon monoxide injury.

According to the complaint, the respondent also represents that its mufflers increase gas mileage; that the baffle-plates in its mufflers are a new engineering achievement; that because of their double-shell construction its mufflers are more efficient than those offered for sale by other manufacturers and vendors; and that its products are coated with a metallic finish which permanently prevents rust and corrosion, when such are not the facts. (4513)

**Master Artists' Association, Inc.**—A complaint has been issued charging Eugene M. Woolard, trading as Master Artists' Association, Inc., East St. Louis, Ill., and 12 business associates, with violation of the Federal Trade Commission Act in the sale of tinted or colored enlargements of photographs or snapshots and the frames for such pictures.

The 12 associate respondents are: Walter O. Wyatt, Danville, Ill.; Walter E. Sneed, Dahlgren, Ill.; Bessie Swanson, Alexandria, La.; L. E. Harrison and E. R. Malone, McLeansboro, Ill.; William Nadeau, Dexter, Mo.; G. D. Hill, Gilmer, Tex.; Caesar Morales, San Antonio, Tex.; Carl Rhine, D. Edwards and Eva Metcalf, East St. Louis, Ill., and R. McIsaac, Arnold, Neb.

According to the complaint the respondents, under the control and direction of the respondent Woolard, and pursuant to various understandings, agreements, combinations and conspiracies, visit prospective customers in various parts of the country to sell the respondents' products, making various representations, among which are that they are advertising agents of an association of artists known as Master Artists' Association, Inc. and that the respondents' products are "paintings", "hand-painted portraits" or "polychrome portraits" worth \$30 or a like amount.

The complaint alleges that the respondents' representations are deceptive and misleading; that the Master Artists' Association, Inc., is not and never has been an art association but is a business enterprise, and that the pictures sold by the respondents are not portraits or paintings but cheap, quickly made photographic enlargements.

The complaint further alleges that the respondents' selling methods are directed primarily at selling picture frames at exorbitant prices. According to the complaint, they conceal from purchasers at the time a "portrait" is ordered the fact that the finished product will be delivered in a peculiar, convex form, shape and size, and that it will be impossible for the customer thereafter to obtain a frame to fit the "portrait" except from the respondents and at prices which they fix.

The complaint charges that purchasers are given the impression that photographs which they loan the respondents for reproduction will be returned upon delivery of the finished picture. However, according to the complaint, the respondents, in many instances where the purchaser refuses to buy a frame, retain the loaned photograph and refuse to deliver the finished picture, regardless of whether or not it has previously been paid for in full, until a frame is ordered or a claimed balance is paid in full. (4514)

**Mineral Wells Crystal Producers, Inc.**—A complaint has been issued charging Mineral Wells Crystal Producers, Inc., of Mineral Wells, Tex., with misleading representation in the sale of mineral crystals intended for use in treating diseases.

According to the complaint, the respondent advertises as follows: "Mineral Wells Crystal Producers, Inc., Manufacturers, Certified Mineral Wells Crystals"; "Made in Mineral Wells, Texas"; "Made from Texas mineral water"; "Here's to Health, Use Certified Mineral Crystals"; " \* \* \* ".

Through these and other representations, the complaint alleges, the respondent represents that its mineral crystals are produced exclusively from mineral water obtained in its natural state from the earth at or in the vicinity of Mineral Wells, Tex., and that such product has been endorsed as to quality and fitness by some governmental, scientific or other recognized agency empowered and qualified to certify as to the product's attributes.

The complaint charges, however, that the respondent's product is not processed from mineral water obtained in its natural state in the Mineral Wells, Tex., vicinity, nor is it made directly from Texas mineral water or any other natural mineral water. On the contrary, according to the complaint, the preparation is produced by mixing ordinary city water with commercial chemicals, heating the solution until it reaches a proper gravity and then cooling the concentrate in refrigerated compartments. The complaint alleges that the product is not properly described as "Certified" because it has not been endorsed by qualified authorities.

The complaint further alleges that the respondent's use of the words "Mineral Wells" as part of its corporate name constitutes a false and misleading representation that its product is produced from mineral water obtained from the wells at Mineral Wells, Tex., which are favorably known for their mineral water containing certain constituents. (4512)

**Parfum L'Orle, Inc.**—Charging unfair and deceptive practices in the sale of perfumes and related products, a complaint has been issued against Parfum L'Orle, Inc., 6 East 39th St., New York.

The complaint alleges that the respondent represents, directly or by inference, through use of its corporate name "Parfum L'Orle, Inc.," and of French names for its perfumes and the names "London" and "Paris," in advertising or other printed matter, that it is a French company; that it has offices and business connections in London and Paris, and that its products are made or compounded in France and imported into the United States, when in fact the respondent is not a French company and does not have the foreign connections indicated, and its products are made in the United States.

According to the complaint, the respondent's sales plans include the furnishing to dealer-customers of so-called "re-order blanks" and other printed matter containing in parallel columns a list of the French names of the respondent's products opposite a list of trade names of certain well known perfumes manufactured by others. The complaint alleges that the respondent has attempted to show a marked similarity in odor between its own products and the well known perfumes listed and that it uses the parallel lists in a plan to fill orders for perfume with its own products instead of the well known perfumes listed. (4511)

## CEASE AND DESIST ORDERS

Following cease and desist orders have been issued by the Commission:

**Altman Neckwear Corporation**, 333 Fifth Ave., New York, has been ordered to cease making misleading representations in the sale of neckties and other similar merchandise.

Commission findings are that the respondent sells one style of neckties labeled "Cherokee Indian Homespun Wool" with the likeness of an Indian depicted thereon, when in fact these ties are not made from materials woven or manufactured by the Cherokee or any other Indians. Another style of tie is labeled "Duo-Silk-All-O Lined Throughout," when in fact these ties are not made entirely from silk but, instead, the tie materials consist of a mixture of silk and rayon, usually with rayon predominating, and with a lining of rayon and an interlining of wool or cotton.

The Commission order directs the respondent to cease using the unqualified term "silk" or other terms of similar meaning to designate any fabric or product not composed wholly of silk; provided that such terms may be used as descriptive of the silk content of fabrics or products composed in part of silk and in part of other materials if accompanied in conspicuous type by words truthfully designating each constituent fiber.

The respondent also is ordered to cease employing the term "Duo-Silk-All-O" or other terms of similar meaning on labels or otherwise to refer to fabrics or products not composed wholly of silk.

The order further prohibits the advertisement or sale of neckties or other products composed wholly or partly of rayon without clearly disclosing the rayon content and, in the case of fabrics or products composed partly of rayon and partly of other fibers or materials, truthfully designating each constituent fiber or material including the rayon in equally conspicuous type.

The respondent is further directed to cease using the term "Cherokee Indian Homespun Wool" or other terms of similar

meaning on labels or otherwise to describe a fabric or product not woven or manufactured by the Cherokee Indians; to cease employing any pictorial design of an Indian in connection with descriptions of fabrics or products not woven or manufactured by the American Indian, and to discontinue using the term "Indian" or any term which includes it or any colorable simulation thereof, or other term of similar meaning on labels or otherwise to designate fabrics or products not made by the American Indian. (4226)

**Art-Web Manufacturing Co., Inc.**, 86 Meserole St., Brooklyn, A. M. Webb & Co., Inc., 93 Worth Street, New York, and Leon J. Isaacs and Jesse Kohn, officers and owners of the capital stock, of the two corporations, have been ordered to cease and desist from misleading representations in the sale of wearing apparel.

Commission findings are that the respondents sold polo shirts labeled with the words "Edward VIII Sportwear 'Fit for a King'" surmounted by a pictorial representation closely simulating the British Royal Crown. These products, according to findings, were packaged in containers bearing similar wording, with a depiction simulating the British Royal Crown and the word and figures "Edward VIII".

According to findings, during part of the time that the respondents were using these designations Edward VIII was King of Great Britain. The labels used by the respondents represented and implied approval of the respondents' products by a member of the British royal family and that the goods bearing the labels were of English manufacture and imported into this country, when such were not the facts.

The Commission order directs the respondents to cease using the designation "Edward VIII", either separately or in conjunction with any pictorial representation simulating the British crown, as a label for, or to designate or describe, any article of wearing apparel; or otherwise representing or implying that such products are of British manufacture, or imported from Great Britain, or have the approval of or warrant from any member of the British royal family. (3471)

**Joseph Gluck & Co., Inc.**, 305 Seventh Ave., New York, importer and distributor of rugs, have been ordered to cease and desist from violation of the Federal Trade Commission Act in the sale of rugs.

Commission findings are that prior to about August 15, 1940, the respondent had used the names "Kirman," "Karavan," "Mossoul," and "Irak" and Oriental depictions to designate certain of its rugs which closely resembled true Oriental rugs but which neither were made by hand in the distinctive manner of the true Oriental rug nor possessed all of its characteristics, and which had been woven on power looms in French factories.

The Commission order directs the respondent to cease using the words "Kirman," "Karavan," "Mossoul," "Irak," or any other words or names indicative of the Orient, or pictorial representations of a star and crescent simulating the Turkish emblem, or other Oriental emblems, to designate rugs not made in the Orient and which do not possess all the essential characteristics and structure of the type of Oriental rug which they purport to be. (4221)

**Sol. Raphael, Inc.**, 333 Seventh Ave., New York, an importer and distributor of rugs, has been ordered to cease and desist from certain representations in the sale of his products.

The Commission order directs the respondent to cease using the words "Khandah", "Aristan", "Karachi", "Numdah", "Calcutta", "Burma", "Daria", "Damascus", "Bagdad", "Tamur", or "Chinese", or any other words or names indicative of the Orient, or pictorial representations or simulations of the Persian coat of arms or other Oriental arms or of typically Oriental scenes, to mark, describe or refer to rugs not made in the Orient and not possessing all the essential characteristics and structure of the type of Oriental rug which they purport to be. (4205)

**Stephenson Laboratories Trust**, also trading as Stephenson Laboratory, 5 Irvington St., Boston, has been ordered to cease and desist from making misleading representations in the sale of licenses to manufacture foot supports and foot exercisers, and of correspondence courses in the treatment of foot troubles.

Commission findings are that the respondent represented in periodical and circular advertisements that its devices, corrective system and instruction are developed in and disseminated by a "laboratory"; that persons of ordinary intelligence mastering its courses are able to distinguish between surgical and non-surgical foot conditions and cure all foot troubles not requiring operative surgery, and that such students of its system can earn large incomes, when such are not the facts.

The Commission order directs the respondent to discontinue employing the term "Laboratory" or "Laboratories" or other terms of similar meaning in its name or in any trade name which it uses in the conduct of its business, or otherwise representing that it maintains a laboratory in which its system of foot culture or instruction courses in that subject were or are developed or prepared.

The respondent is further ordered to cease representing that its course will equip anyone with learning and proficiency adequate to: (1) diagnose and determine whether or not foot troubles require surgical treatment; (2) effectively and successfully treat non-surgical foot troubles, regardless of the origin or cause; and (3) effectively and successfully treat foot troubles which may result from systemic causes, such as aching feet, excessive or insufficient perspiration, foot neuralgia, painful heel, and enlarged joints; or foot troubles which may require operative surgery, such as Morton's toe, hammer toe, and bunions; or foot troubles which require immobilization as a part of any competent treatment, such as stretched ligaments, exclusively by foot supports and exercise.

The Commission order further directs the respondent to cease representing that any purchaser who masters its correspondence course is assured of a profitable business or will be able to obtain trade without solicitation, delay, or expense. (3622)

**Wood & Hyde Co.**, Gloversville, N. Y., manufacturer of glove leathers, has been ordered to cease and desist from violation of the Federal Trade Commission Act in the sale of its products.

Commission findings are that the respondent uses the trade name "Kinkid" in connection with branding, labeling and advertising part of its products made from "capekin" and "cabretta" sheepskin leathers; that many of its best pieces of leather sold and shipped to glove manufacturers bear the "Kinkid" label; that various glove manufacturers using the respondent's glove leathers are supplied with "Kinkid" transfer stamps for stamping the name "Kinkid" on the inside of gloves manufactured by them from such products, and that the respondent's use of the name "Kinkid" tends to lead consumer-purchasers into believing that such gloves are made from genuine kidskin.

The Commission order directs the respondents, in connection with the sale of glove leathers and other similar products, to cease and desist from using the word "Kid" or other words of similar meaning, alone or in combination with any other words, in advertising or otherwise, to describe or refer to any leather product which is not made from the skin of a young goat; and to cease employing the term "Kinkid" or any other term which includes the word "Kid" or any colorable simulation of it, or using other terms of similar meaning on labels or otherwise, to designate or refer to any leather product not made from the skin of a young goat. (4235)

## STIPULATIONS

The Commission has entered into the following stipulations:

**Adolph's Beauty Products Co.**—Adolph R. Phillips and Daniel B. Scott, Jr., trading as Adolph's Beauty Products Co., 330 North 55th St., Philadelphia, entered into a stipulation to cease advertising that their preparation "Formula-X," consisting of two medicinal preparations known as "Formula-X Liquid" and "Formula-X Pomade," will cause hair to grow or is of value in the treatment of dandruff and eczema in excess of temporarily relieving itching, and that this product is of value in the treatment of falling or brittle hair. The respondents further agree to cease and desist from disseminating any advertisement of Formula-X Liquid which fails to reveal that unless used in specified proper dilution it would cause a marked local inflammation or other injury. The stipulation provides, however, that the advertisement need contain only a statement that the preparation should be used only as directed on the label, if the label contains the proper cautionary language. (02802)

**Curtis Furniture Co.**, 20th St. and 6th Ave., New York, stipulated that in connection with the advertisement or sale of furniture it will cease representing that such product is "hand-constructed" or "hand-carved", or that it is manufactured by the respondent corporation when in fact such products have been made by others either complete or complete except as to the upholstery. The stipulation recites that the respondent's furniture is not hand-constructed, but is merely finished by hand. (3125)

**Lucky Tiger Manufacturing Co.**, Sixth and Delaware Sts., Kansas City, Mo., entered into a stipulation to cease advertising that either of its products known as "Lucky Tiger" and as "Lucky Tiger with Oil" removes the cause of dandruff or has therapeutic value in treating it in excess of temporary removal of loose dandruff scales; that either product will permanently stop scalp itching; that either preparation, as a part of the respondent's "Sulpho-Olive Treatment," will reduce or prevent the loss of hair or eliminate or end scalp disorders, and that no competitive product will produce like results. The respondent further agrees to cease representing that "Lucky Tiger" removes the cause of or cures dry hair or that "Lucky Tiger with Oil" removes the cause of, cures or affects this condition other than by supplementing with oil to relieve the condition temporarily. (02801)

**Midget Radio Co.**—W. P. Beshore, C. S. Beshore, D. L. Beshore and P. S. Beshore, co-partners trading as Midget Radio Co., Kearney, Nebr., entered into a stipulation to cease certain representations in the sale of radio sets. The stipulation is supplemental to one accepted by the Commission in July, 1937, from Tinytone Radio Co., a corporation formerly owning and operating the business and in which the respondent co-partners were officers or directors.

Under the supplemental stipulation the respondents agree to cease representing that their crystal type of midget or pocket radio receiving set is other than a crystal or crystal type set or is "wireless"; that the dial of this radio is of such luminosity as to be visible in the dark, or will afford perfect tuning; that this radio is guaranteed, without setting forth all essential terms and conditions; that this radio, as newly designed, weighs but four ounces or is smaller than the ordinary cigarette package; and that all competitive crystal radio sets with walnut cabinets are of the same quality and value, or that any of such sets retailing for more than 69 cents are necessarily excessively priced.

The respondents further agree to cease making any statements which misrepresent the quality or value of competitive sets or which otherwise falsely disparage such sets. (01798)

**Montgomery Ward & Co.**, Chicago, entered into a stipulation to cease certain representations in the sale of "Wards Supreme Electric Fence Controller" and "Wards Standard Electric Fence Controller."

Under its stipulation, the respondent agrees to cease representing that the use of its electric fence controllers is a positive or certain method of confining livestock or that use of these devices will prevent the escape of livestock under all conditions, and that the respondent's electric fence controllers or fences require no attention, care or maintenance service.

The respondent corporation further agrees to desist from advertising that the use of its controllers will effect any stated amount or percentage of saving in "farm fencing costs" as compared with the costs of other types of fences, without stating the type or types of fence used as a basis for such comparison, and without taking into consideration in such comparison all costs including both initial costs and costs of maintenance.

The respondent also agrees to cease representing that all parts necessary for construction of an electric fence cost two cents a rod or any other amount less than the actual cost of construction, and that its electric fence controllers automatically adjust voltage, amperage or time interval of the electrical charge in a fence necessary for varying conditions of operation. (02797)

**Ne-Wa-Te Company**—Oscar F. Fox and W. Harvey Patterson, trading as Ne-Wa-Te Co., Greenville, S. C., has entered into a stipulation to cease representing that "Ne-Wa-Te Native Herbs" is an effective treatment or competent remedy for stomach, liver and kidney diseases and other ailments, and that the use of the

preparation will help to avoid appendicitis, catarrh, fevers, asthma, indigestion and other ailments or any other affliction or condition except as a purgative or laxative which should be sold with a caution notice. The respondents also agree to discontinue representing as the customary prices of their product prices which are fictitious and in excess of the regular prices. (3123)

**Paramount Hosiery Co.**—Holland E. Shoaf and Robert Shoaf, trading as Paramount Hosiery Co., Lexington, N. C., entered into a stipulation to cease certain representations in the sale of hosiery, lingerie, or other textile fabrics.

The respondents agree to cease using the words "Silk," "Satin," "Crepe," "Chiffon," or other silk-connoting words to describe a product not composed of silk, and, when the silk content of a product consisting partly of silk and partly of other fibers or material is properly described by the word "Silk" or other silk-connoting word, to accurately designate each constituent fiber or material in equally conspicuous type in the order of its predominance by weight.

Under their stipulation, the respondents further agree to cease advertising, branding, labeling, invoicing or selling products composed wholly or partly of rayon without clearly disclosing the rayon content by use of the word "Rayon," and without disclosing in type equally conspicuous as the word "Rayon" each constituent fiber in the order of its predominance by weight when a product consists partly of rayon and partly of other fibers or materials.

The respondents also stipulate that they will cease quoting fictitious prices which exceed their customary prices as the value of their products, and will discontinue using the word "slightly" as modifying the word "imperfect" or in any manner so as to imply that imperfections in hosiery or other wearing apparel are slight or negligible when, in fact, they are such as to be improperly referred to by the word "slightly." (3126)

**Ray Products Co.**—Marvin W. Ray, trading as Ray Products Co., 80 Federal St., Boston, stipulated that he will cease advertising his preparation for treating hosiery and lingerie and known as "Marv-Ray" as being a mysterious new preparation or new discovery. The respondent further agrees to cease representing that "Marv-Ray" stops runs in women's hosiery or banishes forever the fear that hosiery will run; that it makes hosiery more elastic, splash-proof or fade-proof, and that one treatment lasts the lifetime of the hose. The respondent also stipulates that he will cease representing in any manner that he owns and operates a laboratory. (02803)

**Paul Rieger & Co.**, trading as Dorothy Boyd Art Studios, 220-230 Commercial St., San Francisco, selling pajamas, kimonos and other apparel for women, entered into a stipulation to cease using the words "Silk," "Silk Crepe," "Silk Pongee," or "Satin," alone or in combination with other words of similar meaning to describe any fabric or other product not composed wholly of silk.

The stipulation provides that such terms may be used to describe the silk content of fabrics or products composed in part of silk and in part of other materials if they are accompanied in conspicuous type by words truthfully designating each constituent fiber or material. The respondent further agrees to cease representing that it imports any article, when such is not a fact. (02799)

**John Shea Co.**, trading as Shea Feed Stores, 53 Railroad St., Lawrence, Mass., entered into a stipulation to cease advertising that the feeding of "New England Economy Laying Mash" to hens will cause the resulting eggs to be better tasting, larger, better shelled or more uniform in color, than eggs produced when hens are fed other similar products. The respondent further agrees to desist from representing that the feeding of this mash will develop a proper gizzard or purify the entire system of the bird and will produce high gear egg production at all times. (02800)

**United Radio Co.**, Herman Lubinsky, 58 Market St., Newark, N. J., stipulated that in the sale of radio accessories he will cease representing by any specified sum or in any other manner that the regular price of any product is any amount in excess of the price for which the article is regularly sold; that the price of any article is a special price when in fact it is the regular price, and that any article cannot be purchased elsewhere for less than the represented amount, when such is not a fact. The respondent Lubinsky further agreed that when the former price of an article is quoted, he will with equal conspicuousness disclose the fact that such price was the price of the article before it became obsolete. (02798).

**Waltham Pen Co.**—Joseph Starr and William Starr, co-partners trading under the names Starr Pen Co., and Waltham Pen Co., 300 West Adams St., Chicago, have entered into a stipulation to cease certain representations in the sale of fountain pens.

According to their stipulation, the respondents adopted the name "Waltham Pen Co." as one of their trade names and used the name "Waltham" in a manner tending to cause the belief that their "Waltham" fountain pens were manufactured and guaranteed by the Waltham Watch Co., well known watch manufacturer.

Under their stipulation, the respondents agree to cease using the word or name "Waltham" in connection with or as part of their trade name or as a brand or label for fountain pens, and to desist from the issuance and dissemination of "Life Time Service" certificates or "Guaranteed for Life" certificates as pertaining to such merchandise; or the designation of any representation or agreement as a guarantee, guaranty or warranty which involves a service charge or calls for payment of additional money by the purchasers of the merchandise.

The respondents further agree to cease using purported retail selling prices which are fictitious and in excess of the customary prices asked for the pens, and to discontinue representing that the respondents manufacture such pens. (3124)







1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 16, 1941

## SENATOR WHEELER SAYS RADIO LAW SHOULD BE AMENDED

Senator Wheeler, Chairman of the Senate Committee on Interstate Commerce, during testimony today before the Committee by William S. Paley, president of the Columbia Broadcasting System, said he thinks the radio law ought to be amended and intimated that a new bill might be introduced. He suggested that a way might be found through court procedure for staying the effective date of the new FCC rules.

For several weeks the Committee has been holding hearings on a resolution to investigate the broadcasting industry introduced by Senator White, of Maine, following promulgation by the Federal Communications Commission on May 2 of regulations drastically affecting network broadcasting.

### "What's the Rush Here?"

In his testimony, Mr. Paley pointed out that there is no wide-spread public demand for any such radical procedure as that followed by the FCC, and said the industry is asking, "What's the rush here?"

He reminded the Committee that the Federal Communications Act was passed 14 years ago and that in the meantime radio broadcasting in the United States had grown swiftly in national importance. Now, he asserted, the FCC has decreed new rules, effective 90 days from the date of promulgation, and that he and his associates, "were at a loss as to how to operate a network successfully" under them.

Senator Wheeler said he did not want to be understood as agreeing entirely with the Commission's report, in which the new rules were embodied. He agreed there was need of clearing up some points in the present radio law. If a new bill is introduced, he added, there would be hearings on it. If there are any objections to points in the law, the industry could appear so that all such points would be threshed out.

Mr. Paley declared he was appearing primarily to urge that Congress enact a new radio law.

### Paley's Suggestions for Legislation

"There are four things," he asserted, "that I think it is most important to have in that new law:

"First of all, I think that radio networks should be licensed by the Commission.

"Second, I think fairness in dealing with controversial

questions and with news, already voluntarily adopted as the code of practice by the vast majority of networks and stations, should be made a condition to having or holding a network license or a station license.

"Third, I think the powers and duties of the Commission should be very much better defined than they are today, so that the Commission will know exactly what the Congress desires it to do and so that we broadcasters will know exactly what it is empowered to direct us to do.

"Fourth, I think, because of the grave danger of a Commission abusing the licensing power over the most important single means of mass communication in America with the inevitable ultimate effect of destroying freedom of the air, there should be a Commission divorced from the common carrier field, with which the regulation of broadcasting is now intertwined. Also there should be clear and specified provisions for proper judicial review which cannot be evaded by subtle legal technicalities either by the Commission or by any broadcaster."

### Need for Licensing Networks

On licensing of networks, Mr. Paley recalled that no one foresaw when the radio law was first enacted that network broadcasting would become such a major part of radio in the United States. So swiftly has broadcasting developed, he said, that the 14 years since the law was enacted "may well be the equivalent of 50 years in an older and less dynamic industry."

Radio's popularity both with the listening audience and with advertisers shows, he added, that it has developed along the lines most acceptable to the American radio audience.

"While all this has been happening," Mr. Paley asserted, "the Commission seems to have been obsessed in its whole thinking by the fact that it is radio stations and not networks that hold the licenses. It seems to feel that under the circumstances the success of the networks must be in some way improper. From this they have gone on to reason that virtually every practice which we in long experience have found to be essential is wrong and must be stopped regardless of the effects on programs and the public service.

"That is why I said to you at the very outset that I think the time has come when the Congress should recognize the validity of networks and should license them.

"Once they are licensed it should cease to be fashion-

able in Commission circles to indicate that they are an illegitimate factor in the industry or that in any sense they are evading their responsibilities or inducing licensees to evade theirs."

Broadcasting has never been, Mr. Paley said, a recalcitrant or defiant industry, nor is it now. "We are perfectly willing," he added, "to abide by the decision of the Congress if it will only make an unprejudiced examination of all the facts and then tell us the answer. The very fact that in the things it seeks to do right now the Commission seems to find it necessary to slip through the back door and strike at us through the licensing power it holds over our affiliated stations is proof that there is something inadequate in the statute itself."

By being licensed under a properly drawn statute, the status of the network, Mr. Paley believes, will be recognized and its rights safeguarded.

### Fears Oppression

In regard to making fairness a condition to having or holding a license, Mr. Paley pointed out that he had advocated this six years ago and added that he believes it more emphatically now than then.

"If this policy is not set and implemented by the Congress, I fear, from what I have observed in the past few years, that we will drift into an exercise of vague and undetermined powers by the Commission. I can even see conditions under which such vague powers can be used by a Commission, however confident it may be in the righteousness of its own intentions, as an instrument of oppression and a threat to genuine freedom of the air."

Powers and duties of the Commission should be better defined, Mr. Paley stated, because "any responsible business would always rather obey a law than obey a man."

"Certainly there has been ample evidence that some who have appeared here and the members of this Committee itself differ on the meaning of the law and the powers of the Commission. The Commission at times seems to rely upon a vague phrase here and there in the statute in seeking to exercise constantly broader powers."

### Not Common Carriers

His fourth recommendation, the need for divorcing the Commission which administers the broadcasting law from the administrative body dealing with common carriers, such as the telephone and telegraph companies, has long been apparent to some students of broadcasting, Mr. Paley said.

"Congress," he pointed out, "very wisely decreed in the beginning that we were not common carriers subject to the precise and minute kind of regulation appropriate in that field. Yet a single group of men is now trying every day to think one minute in terms of that kind of common carrier regulation and in the next minute to think about the mere licensing regulation of a non-carrier which is in part a business and in part an art which deals so incessantly with public affairs."

"The passage of the White resolution will give this Committee and the Congress an opportunity to investigate and determine whether in the public interest there should be a separation of these two fields of activity, one calling for close and detailed regulation and the other calling for a large measure of unrestricted freedom."

As to judicial review, he said that "it does seem to me

that it should be possible and that it certainly is desirable for Congress to make the legal rights in this field crystal clear. There should not be any chicanery or evasion or technical fencing in such an important matter.

"I do not believe that a sensible businessman today wants to use the courts just to create delay. What he really wants to do is to find out where he stands and to know that there is reasonable protection against infringement of his rights. That is all we ask in this respect, and certainly the present Act does not seem to afford us that much."

In advocating network licensing and a new radio law, Mr. Paley said he did not want to create the false impression he was suggesting the industry should be put "into a strait-jacket of hampering and restricting regulation."

The industry could neither grow nor render the fullest public service in that way, he added, and "the harm that would be done to a medium of free expression and creative programming would be far greater than any theoretical good that might be accomplished."

Saying that the Commission had come into being because there had to be a "sort of traffic policing of the air," Mr. Paley asserted he thinks the new law should, in effect, limit the Commission to three things:

"1. To doing this unquestionably necessary traffic job.

"2. To insuring that the medium is used fairly and without editorial bias.

"3. To reviewing the operations of any network or station and making a broad general decision based upon competent evidence as to whether that network or station is operating in the public interest."

### Stations Now Benefit

As far as Mr. Fly's charge of monopoly is concerned, Mr. Paley said that under the existing physical situation there is, of course, a limit on radio facilities, and that as a result there is a corresponding restriction on the number of networks that can compete with each other.

"There is no testimony whatsoever," he declared, "except the suppositions of Chairman Fly that this condition has harmed the public. It is scarcely conceivable that a greater number of networks using the existing facilities, and therefore each reduced to scant resources, would have served the public better."

"Certainly money-wise the public has not been hurt because the public in America gets radio broadcasting service free. It is equally evident that the advertiser has not been hurt because he weighs our medium against other competitive media with extreme care and has over a period of years spent an increasing amount of money for network broadcasting. When Congress makes a thorough study of this subject, as eventually it must, I am sure it will find that the stations generally instead of being hurt have been economically benefited by the present system of operation."

The testimony so far in the hearings has not only failed to reassure him and his associates, Mr. Paley said, but has made them more uneasy.

"The repeated, easygoing assurances of Mr. Fly to the effect that he will take care of everything and that everything will be all right, despite his evident difficulties encountered in these very hearings in applying his theoretical reforms to the problems of practical operation, do not jibe with my practical experience over many years."

"I want to tell you that if a surgeon suddenly decided to cut off my leg without even giving me an anesthetic, his assurances that he was performing a minor operation and that no substantial injury to my person was intended would neither ease my pain nor save me from spending the rest of my life on crutches."

The statement of Mr. Fly that "two men control 86 per cent of the nighttime power of broadcasting in the United States" was characterized by Mr. Paley as an "unjustified accusation," and "demagogic" twisting of the fact that "most of the radio stations in America turn to the best program services."

The real heart of this "charge of domination," Mr. Paley asserted, "is the implication that the networks either can or do somehow manipulate public opinion to serve their own ends or the ends of favored persons or causes. This whole charge is false."

"The public today is too well educated for any broadcaster even to dare to try to use his facilities for sinister purposes. Public opinion will stop him, the code will stop him, and Congress certainly could, would and should if it ever became necessary."

In trying to create this "bogy man," Chairman Fly and the Commission in its report overlook, according to Mr. Paley, the fact that the local station has access to the news of the press associations, the local newspapers and the news and views of its local community. Under these circumstances, he asked how it would be possible for the networks to "dominate and control" public opinion.

### Describes CBS Operations

The operations of Columbia were described by Mr. Paley, who said CBS had more than 2,000 employes in general management, sales, engineering, advertising, publicity, sales promotion, research, administrative and creative program functions and supervision.

CBS is set up, according to Mr. Paley, to originate programs in various parts of the country, principally at the key stations in New York, Chicago and Los Angeles, and to pick up programs from outside points, sometimes producing and broadcasting as many as four different programs to different sets of stations at the same time. He described the care taken to maintain a balanced program service, without too many programs of the same kind or an overweighting of commercial programs.

CBS network overhead, he said, is more than \$10,000,000 a year, not including payments to stations for commercial programs, and sustaining programs alone cost more than \$5,000,000 a year, the network agreeing to provide in most instances a minimum of 60 hours of sustaining programs a week to affiliates, which are not required to take any of these programs unless they wish to do so.

Moreover, the local station, Mr. Paley declared, can always displace a network commercial program with any event of local interest it wants to carry on a sustaining basis.

"The exclusive arrangement here," Mr. Paley told the Senators, "is a two-way street. The station and the network agree with each other that it is in their mutual interest to operate in this way. Neither is compelled to make the bargain."

When the contract is terminated, either party is free to negotiate for new terms or new arrangements, and, he added, more often than not it is the station which is more

insistent upon exclusive and long-term contracts because it knows the network will not then switch to another affiliate.

### Station Network Income Increasing

"In 1931," said Mr. Paley, "the independent stations affiliated with us received 21.53 per cent of the income we received from the sales of these stations on commercial hookups. In 1940 this percentage had risen to 45.58 per cent. Thus in 10 years the stations' receipts had more than doubled percentage wise. This hardly sounds as if they were helpless captives with no bargaining power."

Mr. Paley said that national advertisers have invested so heavily in radio advertising only because they were assured of time for their programs and a nationwide audience, adding that he thinks the Commission has failed to grasp this fundamental of how broadcasting and advertising work. The advertiser must plan his program and time requirements well in advance, and Mr. Paley asserted he would not be able to do this under the new rules.

Against the background of the CBS operations, Mr. Paley took up the rules in detail. Before adjournment he covered only three: the rule forbidding a station to contract exclusively with only one network, that forbidding a station to contract for a network's exclusive services in a particular territory, and that forbidding the present arrangement under which a network has an option on a certain portion of the time of a local station.

The Commission, he declared, forbids "exclusivity anywhere in the country and under all circumstances, even in places like New York, Chicago and Los Angeles where there are three or four times as many stations as there are networks."

Some markets, he went on, will support only two stations just as some towns will support only two newspapers or movie houses or restaurants.

### Says Rules Would Hit Smaller Stations

If two stations in a town make their facilities available to all four networks as the new rules provide, instead of to two networks, as is the existing practice, he reminded the Committee that each network would receive only half the income possible at present. Multiply this by 50 stations, he said, and the reduction in income would be considerable with a corresponding decrease in the network's ability to provide sustaining service.

Moreover, the advertiser, he continued, would want the larger stations, so the smaller would suffer a decrease in income, as had previously been contended by other witnesses.

Mr. Paley intimated the rule forbidding exclusive contracts with any network might benefit the Mutual Broadcasting System, which is supporting the rules, but said it would severely hurt the other networks. If Mutual wants to compete on an equal basis and provide network service instead of carrying sustaining programs originating on local stations, Mr. Paley asserted the way is already open for it.

### World Series Broadcasts

The World Series baseball games, mentioned a number of times previously in discussions of this rule, Mr. Paley

termed one of the "most misrepresented" topics presented at the hearing. He said NBC and CBS "had believed for years that nobody should try to sew up the World Series," since baseball is the national game, and had urged the baseball managements to make the games available to all networks on a sustaining basis.

They were shocked, he went on, when "Mutual suddenly turned up with an exclusive contract to broadcast the World Series on a commercial basis."

Although NBC and CBS wrote to Judge Landis offering to broadcast the games on a non-commercial and non-exclusive basis with courtesy announcements for Mutual's sponsor and the baseball clubs, Mr. Paley said they received no response.

This information had been given to Mr. Fly, according to Mr. Paley, who said Mr. Fly "sat here before you and tried to make it appear that it was Columbia and National who were responsible for a large number of stations not having the World Series, whereas Columbia and National year after year had worked to the opposite end and it was Mutual which was simply and solely responsible."

#### **Cites CBS Study**

A study by CBS traffic experts, was cited by Mr. Paley as showing that it would be feasible under the rules for an advertiser or advertising agency to take his pick of stations and link them in a temporary network for commercial programs, thus freezing out regular networks and many small stations normally included in such hookups, because the advertiser or agency would furnish no sustaining or similar network service so that his cost would be less.

The rule forbidding a station to contract for a network's exclusive services in a particular territory would work similar hardships upon the stations, and networks, Mr. Paley said. In addition, he continued, "if the local station affiliated with the network does not wish to take any particular program from the network, it must face the possibility, if the new rule is in operation, that if another station in its territory desires to take that program

the refusing station not only contributes to the success of a competitor, but actually faces competition for audience supplied by the very network with which it is affiliated."

#### **"A Masterpiece of Disruption"**

The rule forbidding option time was characterized by Mr. Paley as a "masterpiece of disruption."

"The more I realize its actual effects," he said, "the more evident does it become to me that the Commission either did not know or did not care what was going to happen to network broadcasting.

"This rule means that network broadcasts, local broadcasts and phonograph records, including the large-size records known as transcriptions are all on a parity, and the necessary priority of network operations is ignored. Since a network can only exist when a number of stations are joined together for simultaneous broadcasting, it seems evident that there must be some kind of priority for the through program unless the whole network operation is to be haphazard, accidental, difficult and often impossible except on a patchwork basis.

"The national advertiser is interested in nationwide coverage and must be able if he is to use our medium to reach his whole market and to prorate the great expense of his program over the many millions of listeners from Coast to Coast who are his potential customers."

Unless the network can get an option on station time, Mr. Paley contended, a network will be blocked, even when only a few key stations are tied up either by local programs or phonograph records.

Under this rule, Mr. Paley said, "our schedule of available time across the country would be like a jig-saw puzzle, except that if you have time and patience you can put the pieces of a jig-saw puzzle together, and there is absolutely no assurance of how often we can put a network together under these conditions."

Mr. Paley had not concluded his testimony when the hearings adjourned today. He will take the stand again tomorrow morning.



1626 K STREET, N. W.

WASHINGTON, D. C.

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## NETWORK HEADS ASK CONGRESS TO ENACT NEW RADIO LAW

Heads of the two major network broadcasting companies, testifying before the Senate Committee on Interstate Commerce, today asked Congress to enact a new radio law which would define the powers of the Federal Communications Commission and the position of the industry.

As a first step toward clarification of the 14-year-old statute, all three of the witnesses heard today, William S. Paley, president of the Columbia Broadcasting System, Niles Trammell, president of the National Broadcasting Company, and Judge John B. Burns, CBS counsel, urged approval by the Committee of the White resolution calling for a congressional investigation of the broadcasting industry and the Commission.

The White resolution was introduced following the promulgation by the FCC on May 2 of new rules which both network presidents said today would have disastrous effects upon the broadcasting structure of the nation.

### Says Agencies Given Too Much Power

At one point in the testimony, Senator Wheeler, chairman of the Committee, said, "I think there has been too much power given to various agencies of the Government, and I have opposed it from time to time. We are fast getting into a position in this country today where we are having government by man as distinguished from government by law."

At another time he said, "I do not want you to get the idea that I am upholding entirely the procedure of Commissions. I realize the fact that they become exceedingly arbitrary at times, and when they once have made up their mind they do not want to recede from it in the slightest degree."

Previous testimony during the hearings has brought out the fact that there is great confusion over the meaning of the rules. Today Senator Wheeler said to Mr. Paley, "You stated upon this witness stand that your lawyers and yourself did not know what those rules mean; and I can agree with you on that because I think different conclusions can be reached as to them."

Commenting upon a statement by Judge Burns concerning one part of the Commission's report in which the new rules are embodied, Senator White, of Maine, author of the resolution, indicated that there the Commission majority seemed to "proceed on the basis that what is possible is probable and may be assumed to be true."

In closing his testimony this morning, Mr. Paley said, "We have told you as earnestly as we can that we believe these regulations really imperil the broadcasting structure of this country."

He added that testimony, questions asked by Senators and other developments during the hearings cast "doubt on the workability of the whole scheme and suggest that the public interest cannot be seriously damaged by holding up the effectiveness of these rules until you can reach your own orderly decision.

"We are hopeful that a careful, impartial and judicial examination of broadcasting by Congress will provide us with a law that is clear and a manner of administration that is fair.

"We are hopeful that as a result of your deliberations we will no longer be besieged by doubt and confusion and threatened with punitive action, and that we will be allowed to bend our energies toward evolving a constantly improving broadcasting service.

"We are hopeful that an investigation such as is called for by the White resolution will provide a law that insures freedom of the air and eliminates the threats which radio is now facing.

"We are hopeful of all these things, and I am convinced they can be accomplished."

### Congressional Study Asked

In opening his testimony late this afternoon, Mr. Trammell said he advocated approval of the White resolution because of three things:

"First, as one who has been in the radio industry since its inception, it is my firm belief that the orders and regulations recently issued by the Federal Communications Commission will disastrously affect the entire broadcasting structure of the nation.

"Second, the issues raised by the new regulations are not merely industry issues; they are distinctly public issues. They affect the users of fifty million radio receiving sets; they affect thousands of radio programs and those public interests which provide them; they affect the business life of the nation; and they affect the morale and welfare of the American people.

"Third, a national radio policy defined by Congress is urgently needed, at the present time, to protect by clear mandate the freedom of the air against either private or governmental control, and to insure the con-

tinued operation of broadcasting under the American system of private enterprise."

Judge Burns, in his testimony, called the roll on those who are favoring and opposing the new legislation which the industry is asking.

### Support New Legislation

Among those who are on record as supporting such legislation, he listed President Roosevelt, who in 1939 asked a new radio law in a letter addressed to Senator Wheeler. Mr. Burns pointed out that Senator Wheeler, too, has stated several times that the present law needs amendment.

Commissioner T. A. M. Craven, who appeared last week to present to the Committee his own views and those of Commissioner Norman S. Case, strongly advocated new legislation clearly defining the powers and duties of the Commission, Judge Burns continued.

Even Louis G. Caldwell, counsel for the Mutual Broadcasting System, the only network supporting the FCC's position, indicated, said Mr. Burns, under questioning by Senator Clark, of Idaho, that he believes clarification of some points in the present law to be desirable. In an article Mr. Caldwell wrote for the Annals of the American Academy of Political and Social Science in 1935, Mr. Burns went on, he was more explicit, declaring that too much power was being exercised by the Commission.

To these, Judge Burns said, practically the entire broadcasting industry except Mutual, may be added.

A number of Senators, including White and Clark, have likewise indicated during the hearings that they believe new legislation should be enacted.

Chairman Fly, Judge Burns asserted, is thus practically alone in opposing the legislation.

When he resumed his testimony today, Mr. Paley took up the new FCC rule forbidding stations to contract with a network for more than one year at a time.

### Says Rules Harm Small Stations

"This is not practical," Mr. Paley said, "for either the network or the station and seems to me a glaring example of the lengths to which the Commission has gone to upset existing arrangements and practices just for the sake of upsetting them, although its announced purpose is to protect the stations.

"You are going to have a reshuffling of network alignments every year, assuming that these alignments mean anything at all in face of the total effect of the various rules. One result of this one-year rule if these major outlets come into the market every year will be annual competitive bidding for the most desirable outlets in the large markets.

"This can well force networks to pay those stations which are already exceedingly prosperous so much money that there is not going to be enough of the network dollar left properly to compensate stations in smaller markets where the competition for outlets is not so keen."

Such things as studio construction and engineering installations cannot be undertaken on a one-year basis, Mr. Paley reminded the Committee. Artists, features like the Philharmonic Symphony Orchestra, management and personnel likewise must be reasonably secure, he added.

Citing an investment of \$700,000 in a studio annex in New York by CBS a little more than a year ago, Mr. Paley

said that with "the uncertainties now projected into our business" such investment would not be justified.

"No responsible business management," he stated, "can enter into such normally necessary business arrangements knowing that it can continue to do business only on a transient basis."

On the rule regarding network ownership of stations, Mr. Paley pointed out that CBS owns seven and leases one of the 127 stations in the Columbia network.

"Should we arbitrarily," asked Mr. Paley, "and without any evidence in the record that we have abused this ownership, be stripped of interests lawfully acquired?"

"When I recall to you that in relicensing these stations year after year the Commission has certified that we have operated them in the public interest, I think you will find yourselves confronted, among other things, with the plain issue of fairness.

"If the Commission can find a single one of the stations we own which, in the testimony of its own community, is not a better station today than it was before we owned it, I will agree right here and now to give up that station without an argument."

The rule on network ownership of stations is based, he said, on the argument that such stations will naturally favor the network to which they belong, and thus make their facilities unavailable to other networks.

### Sees Threat To Broadcasting

"If there is any validity to this restriction," asserted Mr. Paley, "then I do not see how a network organized on a mutual plan is to be allowed to operate at all. If the network is owned by the stations affiliated with it, won't those stations favor their own network? And is this not in the Commission's view an evil? In the light of Mutual's own testimony here that it now has seven stockholders, and is about to add two or four more, the Commission's argument that it should disturb our ownership and leave Mutual's unmolested seems pretty lame.

"I am not upholding the validity of the Commission's argument; I am just pointing out how here again it strains and strives to injure Columbia and NBC and help Mutual. Its argument that there is some kind of evil in affiliates leaning toward a network seems to me one of the most destructive it has ever advanced, but it does argue that way, and yet insists that it is all right for Mutual to be owned by 15 stations and all wrong for us to own seven."

The rule forbidding stations to agree with networks as to rates was termed by Mr. Paley "a threat as dangerous to the individual radio station as it is to the networks."

CBS, he said, does not have any agreement with its network affiliates as to rates which they shall charge other users of their time.

### Industry Harassed and Worried

"We point out, however," he went on, "That private contractual arrangements designed to prevent unfair competition are not necessarily undesirable.

"Moreover, if the Commission can do this there is no apparent limit to the extent to which it can control the whole financial structure of radio. Once let it control the economics of the industry, and its power over broadcasting will know no bounds."

The whole industry, Mr. Paley declared, is harassed, worried and jittery as the result of the new rules.

"If Chairman Fly," he said, "can successfully assert these revolutionary powers over the business practices of the networks and the stations, make no mistake about it, his control will be so absolute that we will have in this field regulation by raised eyebrows, in which a nod will put one program on the air and a frown will keep another off. If this type of regulation is dangerous with respect to a business dealing with wholly physical things, how much more deadly is it in the whole realm of information, ideas and culture."

Commenting on the statement that the issue is one for the courts, Mr. Paley said, "May I point out to you that we could well suffer irreparable damage in the years while the legal fight was in progress, and if I am sound in my contentions, the public would suffer with us at the very time when broadcasting should, more than ever before, be a powerful instrument for the public good. If we win, it may well be too late. If we lose on the technical issue of the Commission's power, the important issue of public policy still is this: Did the Congress intend and does the Congress now want a radical revision of the whole broadcasting structure by administrative fiat?"

### Public Interest Seen at Stake

Pointing out that the five men comprising the Commission majority constituted the sole complainant, Mr. Paley asked the Committee to stay the regulations and "call off the wrecking operation."

Mr. Trammell told the Senators that not only are the operations of NBC seriously affected and the welfare of the 2,300 NBC employes at stake, but that NBC's interests are closely interwoven with the public groups the network serves, the independent radio stations affiliated with it and the "vast radio audience which has so heartily approved our service."

He did not oppose, he said, proper regulation of broadcasting under the licensing powers authorized by Congress and administered by the FCC.

"Such regulation is essential," he went on, "but we are operating under a law conceived fourteen years ago and before the present problems of network broadcasting could be foreseen. The vagueness of this old law, the lack of clarification of certain vital principles, and the limited rights of appeal all argue strongly for new legislation as the only solution of the major problem confronting us."

### Says Rules Would Disrupt Service

The American public today, Mr. Trammell said, receives the greatest broadcasting service in the world.

"The changes decreed by the orders of the FCC," he continued, "will disrupt the present orderly distribution of this broadcast service. They are not the result of public demand or a deficiency of service. They are the result, apparently, of unproven charges of domination, control and monopoly. They stem from the competitive cry of those who seek, through Commission edict and without competitive effort, to replace the pioneers who developed our American system of network broadcasting."

"The Commission now essays to regulate the business practices of the industry. Therein lies the great danger of the new regulations. We have not believed Congress

intended to give the Commission the power to prescribe business rules or program practices for the broadcasting industry. We have believed that Congress intended to give the Commission power to regulate the industry, not to operate it."

Mr. Trammell said that neither the broadcasters, nor the Commission, nor Chairman Fly knows how the American system of broadcasting can operate under the new rules.

He pointed out that while the Commission promises to go to Congress for legislative help "if the new order does not function," the industry is asking for that help now.

"I believe," Mr. Trammell declared, "that we are properly apprehensive about the willingness of the Commission to perform a serious, and perhaps fatal, operation while limiting Congressional help to post mortem relief."

"There is no substitute, I am convinced, for legislative study and action on the problems that confront broadcasting."

### Warns Against Chaos

The uncertainty of the Commission itself as to the effects of the new rules, Mr. Trammell indicated, is shown by the statement that if they do not achieve the purposes hoped for, Congress "should amend the Communications Act to authorize and direct regulations appropriate to a non-competitive industry."

He charged that "the Commission foresees the possible breakdown in the competitive system of broadcasting now maintained by private enterprise. It is perfectly willing, when the chaos and business anarchy predicted by the dissenting Commissioners becomes a reality, to recommend that a government controlled monopoly be legislated by Congress as the only alternative method of operation."

"The confusion and chaos that must follow the sudden removal of the business and contractual props upon which chain broadcasting now rests will signal the assumption of more and more control by the Commission. Neither the industry nor the FCC has any illusions about that."

Certain clauses in the contract between NBC and its affiliated stations, Mr. Trammell said, had been criticized by FCC Chairman Fly in his testimony earlier in the hearings. These were the clauses requiring the stations to give five years' notice of cancellation of agreement as against one year's notice for the network, preventing stations from having local rates below network rates, and that requiring stations cancelling network commercial programs for local commercial programs to rebate the difference between what the network would have paid for the network commercial and what the station received for the local program.

### Eliminates Clauses from Contracts

None of the clauses, he said, has ever been a matter of issue between NBC and the stations, the first two never having been enforced, and the third invoked "only on rare occasions when a supplemental arrangement had been mutually agreed upon by the station and NBC." In addition, many of the affiliated stations, he continued, do maintain different rates for local and national spot business.

Nevertheless, Mr. Trammell stated, he had asked all NBC affiliates affected by these contract provisions to

agree to eliminate those clauses from their contracts.

In addition, he said that a total volume discount permitted by NBC since 1927 to advertisers on both the Red and Blue networks is being eliminated.

Mr. Trammell told the Senators he had taken this action to eliminate any need for consideration of lesser matters and so that there can be no confusion between the major and minor issues to be considered.

Of the 233 contracts NBC now has with affiliated stations, he said, 117 are firm commitments with equal rights of cancellation on the part of stations and NBC, and the other 116 contracts give NBC an option to cancel on a year's notice.

"The history of NBC," Mr. Trammell stated, "is public property. Its progress has been a source of pride to those in the company and of satisfaction to a vast American radio audience. The list of its contributions to broadcasting development, both in engineering technique and program service, is a matter of record. If it is a crime to grow, to extend service, to make reasonable profits—then we are guilty. But I submit that our record of achievement and public service is a matter for *commendation*, not *condemnation*."

In his statement to the Committee, Judge Burns attacked the Commission's majority report both as to content and the manner in which it had been arrived at. He also supplemented Mr. Paley's testimony with respect to the destructive effect of the new rules and analyzed the difficulties which will confront the networks if they attempt to secure relief through judicial review of the Commission's action.

Mr. Burns said that FCC Chairman Fly had gone "to great length to make out a very appealing case of due process" in connection with promulgation of the rules by having made a demonstration of holding lengthy hearings, taking voluminous testimony and giving opportunity for briefs, suggestions and arguments.

Nevertheless, he said, the Commission's report "still does not reflect what the testimony was before that Com-

mission." He added that the Commission had never produced, during its so-called "monopoly investigation," any testimony to contradict evidence by the industry that the abolishment of the existing type of contract relationships between the stations and the networks would be "serious."

Mr. Burns pointed out that Commissioner Craven has already testified before the Senate Committee that an earlier draft of the report contained a statement confessing the majority's inability to predict what the effect of the rules might be in "actual practice."

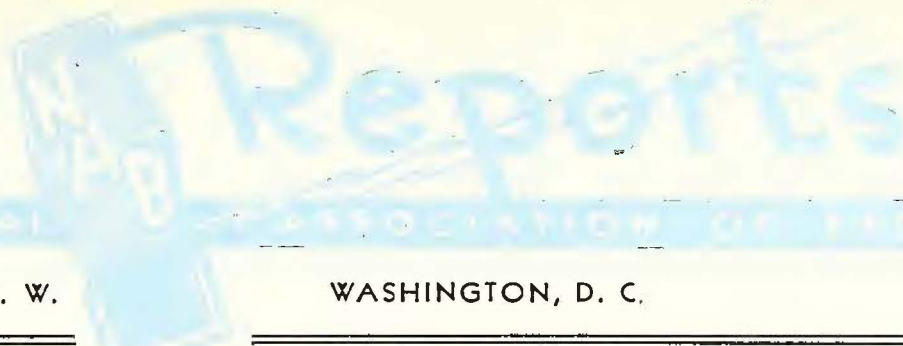
"This," he said, "is the very guts of the problem: What is going to happen to the business when you put these new, revolutionary, radical, undreamed-of reforms into effect?"

Mr. Burns quoted at length from a brief filed by the FCC in the Sanders case, in which the Commission argued that "there is not a single provision in the Act from which it can be inferred that Congress intended, by providing a licensing procedure for the use of radio transmitting equipment, to subject to regulation the business of the licensee." In addition, the Commission added in this brief that it "is not authorized to regulate the business of selling radio advertising or any other commercial use of radio frequencies; it is not authorized to regulate the rates for radio service or to limit the return upon the investment in radio broadcast stations."

In his review of alternative methods of seeking judicial relief, Judge Burns said that the primary difficulty was that in recent years the courts had demonstrated a disposition to reverse administrative rulings only where there was error in law.

The Commission, he said, has been "notorious in its efforts to immunize itself from judicial review and to free itself from any supervision by the courts. It has successfully established in the courts the principle that only errors of law will be considered by the reviewing court."





1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 19, 1941

## INDEPENDENT STATIONS OPPOSE RULES, ASK NEW LAW

Owners and operators of independent radio broadcasting stations joined with representatives of the industry's principal trade associations at today's hearing on the White resolution before the Senate Committee on Interstate Commerce in opposing the new rules promulgated by the Federal Communications Commission and in urging Congress to enact a new radio law.

Witnesses today included Neville Miller, president of the National Association of Broadcasters, Paul W. Morency, vice-chairman of Independent Radio Network Affiliates, John J. Gillin, Jr., general manager of Station WOW, in Omaha, Neb., Samuel H. Cook, co-owner of Station WFBL, in Syracuse, N. Y., and D. M. Patrick, counsel for the National Broadcasting Company.

These witnesses pointed out that the present radio law was enacted 14 years ago when broadcasting was still in its early, experimental stages and network broadcasting was only beginning to develop.

### Stations Oppose Rules

Mr. Miller placed in the record a resolution adopted by unanimous vote of the industry present at the Association's annual convention in St. Louis, May 12-14, urging passage of the White resolution "with a view to enactment of a new radio law," and a stay of the Commission's rules.

Mr. Morency presented a similar resolution adopted by the independent radio affiliates group and testified that polls of the membership showed they opposed the new rules by at least ten to one.

"Broadcasters are very apprehensive of these regulations," Mr. Miller said. "They believe, as has been stated here so many times, that the proper procedure is to have the Senate make a study and draft new legislation."

The rules, he testified, may cripple a vital instrument of national defense in a time of crisis.

There has been no complaint from either the public or the advertisers about radio service, Mr. Miller said. He questioned the claim by FCC Chairman Fly that the rules would be the "Magna Carta" to free the stations from the networks.

"Mr. Fly talked about this 'Magna Carta' for the small stations," said Mr. Miller, "as if he were freeing a group of slaves, as if he were issuing a second Emancipation Proclamation. I was not alive when the first Emancipation Proclamation was issued, but I am quite sure that it was received with a great deal more enthusiasm than this is being received by these stations which, as far as I can find out, do not want to be liberated from the con-

dition they are in, because they are not being dominated and they are getting along very nicely.

"I think this is just a technique that Mr. Fly has developed for the purpose of beclouding the issue."

Mr. Miller said he would be remiss in his duty if he did not tell the Committee the broadcasting industry is operating in a very fearful state of mind.

"I think," he continued, "that emphasizes one thing which I should like to say, and that is that we are getting very close to censorship. Stations have to come up every year for licensing. The licensing power is very broad. Whether or not they take a speech may come into the question of whether they get a renewal of license.

"If it gets to be known that the Commission or those in authority feel that this is a good kind of program, that this is a good speech, or that this is a bad speech, you are going to find the radio stations, as they are today, becoming very fearful, and you are going to get to the place where we lose freedom of speech over the radio.

"I think that one thing we overlook is that Chairman Fly seems to believe that you can tinker with radio and that you will not hurt radio sets at all. If you start knocking off sustaining programs and start knocking off the good programs, you are going to find out that you will have fifty million idle radio sets and that the public will turn for its information to other places. You will not have the system you now have."

### Advertisers Concerned

Mr. Miller also placed in the record a letter from John Benson, president of the American Association of Advertising Agencies, who said national advertisers are disturbed over the new rules. Mr. Benson's letter asked adoption of the White resolution, revision of the present law and that the rules be held up until a proper study can be made.

Mr. Morency said the present radio law "gives no recognition whatever to the fact that national service is network service," because the law deals exclusively with licenses to individual stations.

The new regulations, he pointed out, are "aimed primarily at the terms of the contracts and relations between affiliates and networks, although the entities consisting of network organizations are unknown to the present law."

Mr. Morency declared that "it is clear that the overwhelming majority of contract affiliates believe the regulations as drawn go too far and will impair service to the public."

Describing radio as a part of the daily life of the

American home, Mr. Morency said, "It would be tragic to disrupt this medium of cheer and recreation in the world of trouble of today only to try out a theory of operation which most of the more experienced broadcasters believe is not practical.

"Before this risk is taken, affiliates believe the field should be studied more broadly, so that a new statement of the law may be made to catch up with the progress of the art since 1927."

Mr. Gillin, who said that his station, WOW, owned by the Woodmen of the World, is one of the oldest in the United States, testified that in his opinion as a broadcaster of fourteen years' experience, the rules would make national public service programs a "thing of the past," and would harm the small station.

An exclusive arrangement between the broadcaster and the network, forbidden under the new rules, means "reasonable permanency," Mr. Gillin asserted. He said "this is the only way that a broadcaster can be assured of a steady program, a continuing program of outstanding national public service programs and international news broadcasts and national special events."

If a station does not have an exclusive contract, Mr. Gillin told the Committee, "you can rest assured that the national public service programs that are not of a commercial character will be a thing of the past, because the network does not have any assurance under the rules and regulations that it can clear, even for commercial programs.

"Certainly it is not going to have the initiative it has had in the past to try to clear for public service programs."

Concerning the rule forbidding affiliation of a station with a network for more than one year, he said if this rule becomes effective "there will be a continual jockeying on the part of networks to get the best possible stations in each market, and, in the last analysis, the larger stations, namely the clear channel stations, will for the most part be the beneficiary."

### Says Small Stations Would Get "Leavings"

Mr. Gillin said that under the new rules the stations with the poorer frequencies in each market will "receive only the leavings," whereas "the best station in each market will receive a great preponderance of the commercial programs available in that market, and, naturally, will receive the most money.

"The other stations in the market proportionately would be hurt. The second, third and fourth stations, which are now associated with some network exclusively, would not receive the proportion of commercial programs they are receiving today. Therefore, the second, third and fourth stations in each market in attempting to keep their heads above water, would take on the commercial programs of a much less desirable type of advertiser. This would do much harm to radio."

Mr. Gillin said he believes Congress should specify the power of the FCC in a new radio act and that the present rules should be stayed.

Mr. Cook, president of the Onondaga Radio Broadcasting Corporation, which owns and operates WFBL, told the Committee that as the result of a building and improvement program involving an outlay of approximately \$140,000, he and his associates had sought and obtained an extension of their network contract, because they wanted to be assured of service for as long a period

as they could obtain it. The contract, which would have expired in January, 1943, was extended last year until January 1, 1945.

"Had we known," Mr. Cook said, "of the impending regulations to be issued by the Federal Communications Commission, we might not have gone ahead with such ambitious plans."

Mr. Cook told the Committee that although the network had an option on all the station's time, this "has never prevented us from rendering commercial service to our local advertisers desiring to use our facilities," nor "from carrying all the local public service programs required by our community interests."

The station was always free, he said, to cancel network commercial programs whenever they conflicted with local public service programs.

"We are definitely convinced," Mr. Cook asserted, "that the granting of option time to a network and term contracts longer than one year, and fully as long as at present, are necessary both for the orderly operation of a station and for its sales, and that these are good business practices, essential to the best interests of both station and network.

### Station Owners Disturbed

"My associates and I regret, with all due respect, that the Commission saw fit to issue regulations at this time, especially when we have made this expenditure, so drastically changing the system of broadcasting, which we as station operators have felt has been doing a thorough and inclusive job of broadcasting with the interests of the public always in mind.

"As businessmen, we would like to know where we are going. We confess we are completely in the dark and are greatly concerned about what may happen to the networks and to the stations when and if the regulations of the FCC go into effect next August 2.

"We urge this Committee to pass the White resolution. We urge that a thorough study be made looking toward the enactment of a new law which will definitely set out the powers of the Commission and will leave to Congress the determination of terms and policies under which we are to operate in the future."

Mr. Patrick's testimony dealt with questions of the power of the FCC and of judicial review. He pointed out that the United States Court of Appeals for the District of Columbia in the Scripps-Howard Radio case, decided last February that it did not have power to grant a stay order during the pendency of an appeal, a reversal of the Court's previous position.

He asked Chairman Fly, who is to take the stand again, if he thinks the District Court of Appeals has power, in view of its decision in the Scripps-Howard case, to grant interim relief; under what circumstances the FCC would consent to granting such relief; if the FCC could extend a license on a temporary basis while an appeal is pending; whether if the Court does not have power to grant interim relief how the Commission would grant interim relief under certain conditions; and if interim relief were granted by the FCC or the Court, and the Court decided in favor of the Commission, would the FCC relicense the station immediately after demonstration that it would conform to the disputed regulation.

Mr. Patrick charged that the promulgation of the rules by the FCC was "usurpation of legislative power."



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 18, 1941

## TRAMMELL ASKS CONGRESS TO INSURE FREEDOM OF RADIO

Niles Trammell, president of the National Broadcasting Company, asked Congress today to free radio broadcasting in the United States from the danger of political domination by the Federal Communications Commission by laying down a clearly defined national radio policy in new legislation.

Mr. Trammell, the only witness at today's hearing before the Senate Committee on Interstate Commerce on the White resolution calling for a Congressional investigation of the broadcasting industry and the FCC, declared that "the worst domination that could be visited upon public opinion is domination by a political commission."

Senator White, of Maine, introduced his resolution following promulgation by the FCC on May 2 of new rules which both Mr. Trammell and William S. Paley, president of the Columbia Broadcasting System, have testified would imperil the whole structure of broadcasting in this country. Both Mr. Trammell and Mr. Paley have urged Congress to enact a new radio law to replace the present 14-year-old statute adopted before broadcasting had developed to its present position.

### Fear Revolutionary Change

Two members of the FCC, Commissioners T. A. M. Craven and Norman S. Case, have also said they "fear the revolutionary change proposed by the majority will result in the destruction of the present excellent national program distribution system."

One of the new rules would force NBC to divest itself of its Blue network. Speaking of this rule, Mr. Trammell said, "If the majority of the Commission are allowed now to compel us to dispose of half our property, lawfully acquired and lawfully operated for fourteen years, on their determination alone, and if Congress does nothing about it, don't be surprised if six months from now Mr. Fly comes in and tells us to get rid of half the Red network. It will then be too late to protest, because his power has been conceded.

"Not only is the subject matter, in our opinion, outside the power delegated to the Commission by Congress but nowhere in the history of administrative regulation has so brutal a method for the amputation of a major portion of a great enterprise been invoked.

"Here, in effect, Chairman Fly proclaims: 'Bend your knee, concede my power, give up the Blue, and I will let you live—you may keep the Red.'

"The first cracks in the structure of democracy are often invisible to the unaided eye, but if Congress, by failure to act now, concedes to Chairman Fly the power

to force us to give up half our property, then Congress need not be surprised when it learns, in the not too distant future, that Chairman Fly has taken over the entire radio industry."

### Wheeler Favors Option Time

Another of the Commission's new rules forbids a station, under penalty of losing its license, from giving a network a firm option on any part of its broadcasting time. Senator Wheeler, of Montana, chairman of the Committee, today said he thinks the Commission is wrong in its attitude on option time and that he sees no reason why a station, if it wishes to do so, should not give a network an option to sell part of its time.

In his testimony, Mr. Trammell reviewed the growth of the National Broadcasting Company.

"In 1926," he said, "before the Radio Act was adopted by Congress, the NBC was organized in a pioneer attempt to provide a truly national service of broadcasting. It established what is now known as the NBC Red network. This network had no competitors, because no one else was ready to take the investment risks and hazards of such a major venture.

"In January, 1927, because of the requests of competing local stations in the same cities for another broadcasting service, NBC established its second network service, known as the Blue. Today the NBC operates only ten of the 828 stations in the United States. Because of its Red and Blue network services, it has been licensed for many years to operate two stations in New York, in Washington, in Chicago, and in San Francisco."

### Public Service Endangered

The new FCC rules, Mr. Trammell asserted, would strike a heavy blow at the public service programs now provided by NBC. He pointed out that the National Farm and Home Hour, in which the United States Department of Agriculture participates, has been on the air for 12 years and is presented over the Blue network, which NBC could no longer operate under the new rules.

Among other programs created and maintained as Blue network features by the NBC, Mr. Trammell listed the Toscanini Concerts, the Town Meeting of the Air, the Damrosch Music Appreciation Hour, the Metropolitan Opera broadcasts and many others. These are endangered, he said, by the new rules.

"A fifteen-year record of constantly improving service," he said, "ought not to be so lightly overlooked or brushed aside. Disregarding questions of jurisdiction, disregard-

ing the rewards due pioneering enterprise, service to the public should be the major test.

"I may add that the National Broadcasting Company has expended more than forty-five million dollars on sustaining programs—that is, programs that carry no advertising—to carry out its responsibilities towards the government and public which it serves.

"I do not say these things boastfully. I merely list them to indicate the extent to which NBC has rendered service in the public interest, convenience and necessity through the operation of its Red and Blue networks."

NBC has spent millions of dollars in developing television, Mr. Trammell pointed out, adding that it has established and maintained television program service without any revenue for more than two years.

### Network Revenues Support Television

"We are now ordered," he continued, "to divest ourselves of one of our network services, and threatened with the loss of operation of standard broadcast stations, while, at the same time, the licensing policy of the Commission encourages our entrance into the operation of new stations in the fields of television and frequency modulation.

"The older service of broadcasting is profitable, but the new services are yet to produce any revenue. Apparently the Commission favors our loss of present investments and revenue, but wants us to invest in new fields.

"Under such circumstances how can anyone know what to do? We cannot plan our course until the Congress has determined, definitely, what it expects of those engaged in the business and service of broadcasting sound and sight."

During the hearings, Mr. Trammell reminded the Committee, a reference was made to the inability of the Mutual Broadcasting System, which is the only major network supporting the rules, to get a full-time station affiliation in Cleveland.

"The Commission's files on the Cleveland situation," Mr. Trammell said, "indicate clearly that a fourth full-time station could have been established years ago in the sixth largest market of the country."

Applications for such station have been rejected by the Commission, he continued, although it "has granted regional stations in areas with greater interference than they contend would exist in Cleveland."

### "Too Much Favoritism," Wheeler Charges

Senator Wheeler interjected, "perhaps the political pull was not so great in Cleveland as it was some place else. That is really one of the bad things that have gone on down at the Commission, that there has been too much favoritism shown here or there."

The Commission's policy on hearings for licenses or transfers was also criticized by Senator Wheeler, who said, "The Commission goes ahead without hearings and grants licenses or transfers, and in other instances it holds hearings. It seems to me there ought to be a general rule laid down by the Commission so that everybody who comes in there, regardless of whether he is poor or rich or whether he is influential or whether he has political backing or not, would know what is going to happen, and that rule should be adhered to.

"I think some of the things done in that respect are outrageous."

In regard to the rules themselves, Mr. Trammell said,

"By preventing a station from being the exclusive outlet of a network, and a network from offering a fixed and definite lineup of stations, these rules cut an essential link out of the broadcasting chain, and set stations and networks adrift. In essence the rule more viciously fosters monopoly than could any possible restraint which now exists.

### Rules Favor Monopoly

"Under the new rule all will be chaos and confusion. Stations will rush for the best features of every network service. Advertisers will try to preempt the best hours on the best stations. Time brokers will inject unfair methods of competition. Advertising agencies will make their own arrangements for 'front-page' position with the bigger and better stations.

"If the existing networks lose key stations and therefore advertising support, the responsibility for public service from the national standpoint will be nobody's business. Then the FCC will have the opportunity it foresees in its Report on Chain Broadcasting. Private enterprise will have failed, and a non-competitive, government-controlled operation will be necessary."

Large advertisers, Mr. Trammell declared, could put together networks made up of the best stations from all the existing networks. He introduced maps to illustrate this possibility. One map showed a 64-station network that would reach approximately 92 per cent of all the radio families in the country. To approximate this coverage, the second map showed another advertiser would have to include 160 of the remaining stations and then could reach only about 76 per cent of the radio families. A third advertiser, according to another map, would not be able to approximate the coverage of the other two regardless of the amount of money spent or time bought on the remaining stations.

"True national coverage," asserted Mr. Trammell, "under the new regulations, will become the opportunity of a relatively few major advertisers. The bulk of the advertising revenue under these new regulations will go to a relatively few of the country's major stations."

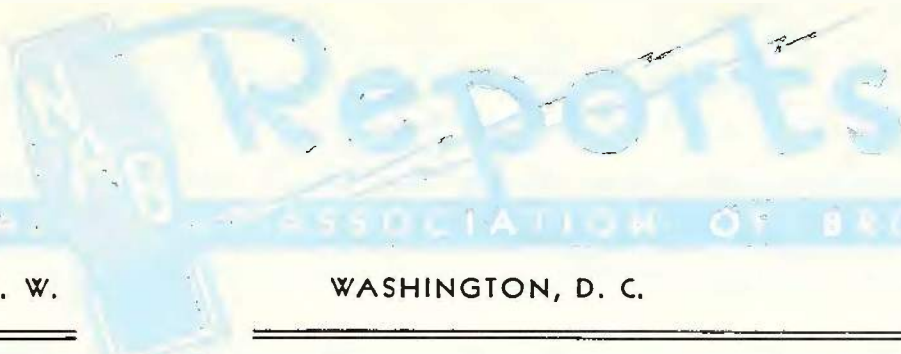
### Choice is Government vs. Free Radio

The rule prohibiting option time, he said, "strikes directly at the heart of network broadcasting," because the networks cannot reserve definite fixed time for fixed features. Likewise, the rule forbidding contracts between stations and networks for more than a year threatens broadcasting stability, he asserted.

Mr. Trammell said that the question involved in the new rules is that of extent of business control of broadcasting by the FCC. Business control, he added, is program control.

"Involved here," he declared, "is the choice between operation of broadcasting by private industry and operation by government. The breakdown of our present broadcasting structure inevitably would make it incumbent on the government to step in and, perhaps, finally to subsidize stations or to tax listeners.

"While I am concerned as to the future of the company which I represent, I am deeply apprehensive concerning the continuance of our American system of broadcasting. Its freedoms are in jeopardy. To safeguard them, I earnestly urge approval of Senator White's resolution."



1626 K STREET, N. W.

WASHINGTON, D. C.

JUNE 20, 1941

## ASK CONGRESS TO INSURE FREEDOM OF RADIO IN NEW LAW

Representatives of church groups and women's clubs together with owners and operators of small broadcasting stations in various sections of the country today appeared before the Senate Committee on Interstate Commerce to express their concern over the effects of the rules recently promulgated by the Federal Communications Commission and to ask Congressional consideration of the present broadcasting situation with a view to enactment of new legislation.

Frank C. Goodman, executive secretary of the Federal Council of Churches of Christ in America, representing approximately 140,000 churches, Mrs. Harvey W. Wiley, chairman of the department of legislation of the General Federation of Women's Clubs, representing 14,600 clubs and 2,000,000 women, and Edward J. Heffron, executive secretary of the National Council of Catholic Men, appeared for their organizations.

Mr. Goodman also placed in the record statements by the International Council of Religious Education, the Foreign Missions Conference of North America, representing 188 foreign mission boards of the Protestant groups in America, the American Bible Society, one of the oldest and largest Bible organizations in the country, and a copy of the letter addressed to President Roosevelt by Dr. Harry Emerson Fosdick and 60 other leading clergymen of the Protestant church.

### Effects of Rules Feared

All the statements and letters voiced misgivings over the effects of the new rules on broadcasts of public service programs in which the groups are especially interested and asked Congress to make sure that no hasty and ill-considered action is taken to imperil broadcasting.

Clarence Wheeler, vice-president of Station WHEC, in Rochester, N. Y., Jonas Weiland, owner of Station WFTC, in Kinston, N. Car., J. W. Lee, manager of Station KGFF, in Shawnee, Okla., and C. P. Hasbrook, owner of WCAX, in Burlington, Vt., told the Committee they believe Congress should study the broadcasting industry and enact a new radio law because they fear the rules issued on May 2 by the FCC will harm their stations.

Addressing the Committee, Mr. Goodman said, "In my 24 years of service to the churches, I do not recall any development that has concerned the leaders of our major Protestant organizations quite as much as the unexpected new regulations of the Federal Communications Commission.

"Radio has furnished the first opportunity of develop-

ing an appreciation of the message of the Christian gospel, on the part of the unchurched people of our country, and any move by a government agency that may cause confusion within the radio industry, is looked upon with grave misgivings by the delegated leadership of a large section of our churches."

Mr. Goodman told the Committee that to expedite the hearings, which have extended over a period of three weeks, he was asking permission to place in the records his own statement and those of four interdenominational church groups, each with a nation-wide constituency.

### Says Churches Have Stake in Radio

In his statement, Mr. Goodman pointed out that he has had a long period of experience in religious radio in an executive relationship.

Reminding the Senators that this is a time of crisis for the churches as well as for the rest of the country, Dr. Goodman stated that during the depression "the Church lost surprisingly little in influence and activity, and we attribute this to the facilities we received from the free and uncensored American system of radio."

Under the direction of the Radio Department of the Federal Council of Churches, he said, 1,100 church men produced 8,000 network programs in the last 18 years, and 800 churchmen appointed by denominations produced 5,000 non-network programs in the last five years.

In the production of these programs, Mr. Goodman declared, "we have not received one complaint of censorship or control" on the part of the networks, the stations associated with them, or the other radio stations of the country.

More than five million letters from urban and rural audiences were received, he said, while more than two million requests for sermons were made to his office in the last six years.

The churches of the country, he continued, "have a real stake in American radio, and the Congress, we feel, should recognize this as our reason for requesting a thorough investigation of the American broadcasting system.

"Any compulsory re-organization of a fully developed business, charged with national and international commitments of far-reaching importance, may prove most unfortunate for the Church at a time of stress and strain, and if the new regulations of the Federal Communications Commission are likely to disrupt the radio industry, it will surely be a blow to national unity, and the spiritual and mental well-being of our people."

Mrs. Wiley presented a resolution adopted by the General Federation of Women's Clubs at Atlantic City on May 23 advocating "further Congressional study" of the present broadcasting problems to preserve the "freedom of radio for the best interest of democracy."

"The women of the Federation," Mrs. Wiley stated, "are grateful to the radio chains and stations for their splendid cooperation. They do not wish to see the aid which broadcasters have given to the work of their Clubs interrupted or jeopardized in any way."

Citing in his statement the aid given to the Catholic Radio Bureau of his organization, Mr. Heffron told the Committee that he believes there should be "a sound basis for the assurance" that public service network broadcasts should not be destroyed or impaired.

"We hope that this Committee," he testified, "will not only see to it that this assurance is given but that it is properly implemented and capable of being backed up."

### Says Rules Would be Detrimental

The first of the station owners to appear at today's hearing, Mr. Wheeler said, "I think the proposed regulations would be very detrimental to the industry, would injure the program structure, and would certainly be detrimental in many ways, as far as WHEC is concerned."

He testified he believes it would be helpful if "the Congress would consider the whole question of regulation of radio and enact new legislation."

Network affiliation, he said, is "of real value to a station like WHEC," because it helps to build up the station audience and makes available a national sales force.

The only change in the terms of his station's contract with CBS was made, he stated, at the station's request and added that "I have never seen any evidence of monopolistic power on the part of the networks," contrary to the FCC majority contention of "monopolistic powers" alleged to be held by the networks.

Since 1931, he stated, WHEC has invested upwards of \$200,000 in improving facilities, and added he is fearful the rules would make valueless "this affiliation that we have deemed so stable and made it possible for us to make these large expenditures."

Mr. Wheeler said he fears that important network commercial programs may be shifted under the new rules to another station with a clear channel and higher power.

Mr. Weiland told the Committee his station, WFTC, was "right in the middle of a lot of trouble" over the new rules.

Until June 1, WFTC and another station at Wilson, N. C., according to Mr. Weiland, had shared the costs of a line to Raleigh where the Mutual Broadcasting System has a line, and the two stations had been affiliated with Mutual, which, unlike NBC and CBS, does not pay all wire charges to affiliated stations.

On June 1, the Wilson station, Mr. Weiland testified, canceled its arrangement, "based upon the fact that the present rules would seem to necessitate it, and we were sitting right down at the end of the line without any network service available to us."

He said his station could not afford to pay the whole cost of the line from Raleigh to Kinston, since that would be "in the vicinity of \$500 a month."

Arrangements were made for affiliation of his station with NBC Blue, he testified.

"I applied," said Mr. Weiland, "to the FCC for per-

mission to sign the contract. They advised me that the present rules are in operation.

"It is very difficult for us to operate without a network affiliation because our listeners have become used to network service, and as a local station we cannot give the type of service the network was able to give us."

Saying that he favored a long-term contract and option time provisions, Mr. Weiland declared, "the present rules promulgated by the FCC puts our station out of the possibility of network service and possibly they would have the same effect upon a whole lot of small broadcasting stations that are trying to serve their communities."

Mr. Lee told the Committee, "We desire affiliation with only one network. We have tried affiliation with two networks. For four and a half months of this year we were affiliated with both the Mutual network and the NBC Blue network. We found that to be impractical and confusing to our listeners. It created an insurmountable traffic problem."

Conflicts in time, he said, prevented giving the station's listeners major features of the two networks.

"I think," Mr. Lee asserted, "the matter of line charges has not been stressed enough in these hearings from the point of view of the small station. For four years our station paid line charges to bring the Mutual service into our station, and paid in cash. We never derived enough revenue from the Mutual network to offset this cash outlay for line charges.

"Now we have no cash outlay for our NBC affiliation. We pay for the lines that bring these programs to us in time, a commodity that we can afford to pay with. We have a net saving of several thousand dollars a year that can now be diverted into improving our local station."

### Thinks Rules Have Damaged Station

Mr. Lee said his station wanted an exclusive long term contract and that option time is "no handicap to us."

"The Chairman of the FCC," he declared, "has said that if the small stations are harmed by the regulations in practice, something will be done about it. That is not enough assurance for us. That is like calling the doctor after the patient is dead. We feel that the FCC has already damaged our station in creating a public misunderstanding as to the fate of the Blue network."

Senator Bone asked a number of questions about line charges and indicated he thinks these should be studied.

Mr. Hasbrook testified that the new rules "will bother me very seriously. What they are doing is to take the foundation out from under me when I am halfway across the bridge."

After being granted permission by the FCC to increase the power of his station from 250 watts to 1,000 watts, Mr. Hasbrook said, he had started construction of a new station.

His station, he testified, has a contract with CBS, which has been paying the line charge, quoted, he added, at the time of contract negotiations, at from \$7,500 to \$10,000 a year.

Mr. Hasbrook told the Committee he couldn't afford to pay for the line in money instead of time, and feared he might lose his network affiliation due to the rules.

Saying he has never been able to find out "who has been hurt by the present method of broadcasting," Mr. Hasbrook declared, "I just do not understand why in these times we have to change the whole system."

## White Hearing

The following excerpts from the transcript of the Senate Interstate Commerce Committee's hearing on the White Resolution may prove interesting to broadcasters. *The Chairman* is Senator Wheeler.

**The Chairman.** Let me ask you a question right there: Let us suppose that the National Broadcasting Company, or the Columbia Broadcasting System, or any one of them, should come to the Commission and ask for a station—or, let me put it this way: ask permission to buy all broadcasting stations in the country, what would you say about that?

**Mr. Craven.** It is my understanding that in the Communications Act of 1934 our power with respect to concentration of stations in the hands of any one person is in the licensing authority, and I feel that we cannot grant licenses for too many stations to one person.

**The Chairman.** Why cannot you do that?

**Mr. Craven.** Because it would be against public interest.

**The Chairman.** And why would it be against public interest?

**Mr. Craven.** Because I think the Act implies that we shall not have concentration of licenses in the hands of a few.

**The Chairman.** Exactly. And that is because of the fact that to do so would be in effect to create a monopoly. I mean if you were to have all broadcasting stations in the hands of one person, owned by one person.

**Mr. Craven.** But that is quite a different thing, Mr. Chairman, in my view of passing upon business practices.

**The Chairman.** Just one minute.

**Mr. Craven.** Excuse me.

**The Chairman.** If you have that power, and then, as you say, you have the right to say that there shall not be too much concentration of broadcasting stations in the hands of one chain—and you do feel that you have that right, do you not?

**Mr. Craven.** In the matter of the licensing power.

**The Chairman.** Yes, that is in the licensing power. Now, if instead of giving them the actual license you give them control, is not that after all in effect the same thing?

**Mr. Craven.** No, sir. There is another section of the Communications Act, Section 309 (b) (2) and Section 310 (b) which gives explicit instructions with respect to control and transfer of control of stations. But that is a different thing from this.

**The Chairman.** But when you transfer control over a station and give all of the time of that station to anybody, you are giving him control of that station.

**Mr. Craven.** That would depend a good deal upon the circumstances. My position is that the type of contracts which the chain has with its affiliates does not represent transfer of control of operation of stations in the same sense as is meant in Sections 309 and 310 of the Communications Act. If that were the case then any time they made a sale to anybody of time it would be implied.

**Mr. Chairman.** I have some constructive suggestions I should like to make later on as to modification or amendment of the Act that I think would help to solve some of these situations.

**Mr. Craven.** I will admit that the question of the power of the Commission is a most debatable subject, and so far as I know there is a vast difference of opinion existing even in Congress and among the members of this committee. Yes, among the members of the Commission, among the Commissioners who are lawyers, as well as among the lawyers on the staff of the Commission. And I will say that there is a vast difference of opinion among lawyers engaged in outside practice.

It seems to me there is a real doubt in the matter, and that is the reason why the minority feel a clarification of the intent of Congress might go far toward pouring oil on the troubled waters.

Furthermore, we were deeply concerned when we were convinced that the majority desired to usurp the power rather than refer the matter to Congress for a clear determination of our power and an unequivocal standard of public policy.

**The Chairman.** The trouble about that is that whatever Congress might write into the law there would still be contention in the minds of lawyers as to what Congress meant. That would be true regardless of what Congress actually meant, and consequently I think the only way it can be cleared up is for the courts, which have the final say as to what the intent of a statute is, to decide whether or not in their opinion it means this, that or the other. They may be right or wrong in their construction, but anyway they have the final say.

**Mr. Craven.** Might I say something on that point?

**The Chairman.** Yes, certainly.

**Mr. Craven.** I agree with you. There is nothing wrong in anyone going to court; and it is a pity that the industry has not the courage to take that course of action.

However, I think more than that is required in this instance. What is involved here is a fundamental change in the pattern of American broadcasting. In effect it amounts to new legislation. I believe regardless of the power of the Commission the Communications Act of 1934 should be reappraised by the Congress rather than have the Commission institute a radical change in the pattern.

**Senator Clark** of Idaho. This resolution that is pending before us does not, of course, look to that end, as I understand it. It seems to be more or less a resolution calling for a committee review of the Commission's order or regulations looking to an order.

Suppose that the pending resolution were held in abeyance and that extensions were granted by the Commission for the going into effect of its regulations and order. Then, suppose a bill were introduced in the Senate and in the House looking toward hearings

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THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NATIONAL 2080

Neville Miller, *President* C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## WHITE HEARING

(Continued from page 537)

on an ultimate revision of the law as it now exists and that the Commission would agree to grant reasonable stay orders on the effectiveness of its regulations, while a subcommittee appointed by this committee acted in good faith expeditiously. Do you think something would then be gained in the revision of this entire law? I do not know whether or not I have made myself clear.

**Mr. Craven.** Yes, sir, you have. I hesitate, however, to tell the committee things which it knows, but I should think that would be helpful.

**Senator Clark** of Idaho. This resolution as introduced is a peculiar thing. It is not the ordinary resolution looking toward legislation—with all due deference to the dean of the committee in point of service—I suppose—Senator White. Is that right?

**Senator White.** No. Not in point of capacity, anyway.

**Senator Tobey.** Scripture says: "He that humbleth himself shall be exalted."

**Senator Clark** of Idaho. I know, of course, that Senator Wheeler is the chairman, but I thought perhaps Senator White had served longer; however, that is of no consequence in my remarks.

I was just wondering whether this thing could not be approached, perhaps, from a little broader aspect than this resolution contemplates. If the law should be revised, Mr. Chairman, I think there is one particular in which it might well be done. Now the stations are required to give equal time on political broadcasts, but they are not apparently required to give equal time on public service programs. It occurs to me that since we shall have a lot of time free this summer, we might have a subcommittee go to work on a bill, rather than on a resolution, looking toward a revision of the law, and yet not unduly hold up the regulations of the Commission as issued. In that way something might be accomplished.

Do you care to comment, Commander Craven?

**Mr. Craven.** I prefer not to, sir; I think that is a matter for the committee.

**Senator White.** Mr. Chairman, may I say a word about the suggestion of Senator Clark? I think I have said that I have been working on a tentative draft of legislation which I think will cure some serious defects in the law as it now stands. I have definitely in mind some things that ought to be dealt with that are in addition to anything I now have in the drafts to which I have referred.

I introduced this resolution because I could not see any immediate prospect of legislation and because I thought there was presented to us a definite and a clear-cut issue to which we should give study and which we ought to face. I felt very definitely that this was not something emergent that had arisen in front of us. The situation which now exists has been growing up over the years, and it took the Commission all of three years to make

up its mind—the majority of the Commission, I should say—which course to pursue in dealing with the thing.

I felt it was proper and highly desirable that we ask the Commission just to hold up on the execution of its regulations until the committee had had a chance to study and possibly until the committee had had a chance to formulate legislation. I still believe that if the effective date of these regulations could be postponed a reasonable time, only a part of the time which it took the Commission to bring them forth, legislation could be presented which would form, at least, a basis for committee consideration.

If the chairman of this committee would just say to this commission, "We want to consider legislation. We want to deal with this subject matter to which these regulations are primarily addressed. We want to consider some other phases of the present law that are not satisfactory to us. We suggest to the Commission that it hold up until we have had a reasonable chance to do it," I think this whole problem could be solved, for the moment anyway.

Of course, you are always going to have problems, because the law is never going to keep up with the changes in the industry, the art, and the science; it will always be lagging somewhat behind. But I would definitely join with the Senator from Wyoming.

**The Chairman.** From Idaho.

**Senator White.** From Idaho. Excuse me. I knew it was out in the open spaces.

**The Chairman.** One of those backward states, like Maine.

**Senator White.** It is backward because it is so far away from Maine. (Laughter.)

I want to concur with the Senator from Idaho.

**Senator Clark** of Idaho. I was just thinking out loud when I made that suggestion.

**Senator White.** That is what I am doing, so I think I must be somewhere near right. All that needs to be done is to have you work on the chairman. (Laughter.)

Get him to say to this commission, "We want to study this thing. We want to undertake some changes in the radio law. It took you three years to evolve these regulations. No public calamity will follow if you just hold up for a little while."

I think we could accomplish something really worthwhile.

**Mr. Craven.** I think that if we need power, we should come to this Congress and ask for it, in order to do certain things; that we should recognize that there are other jurisdictions. One is the Federal Trade Commission, and the other is the Department of Justice. I do not think it is in the public interest—

**Senator Tobey.** And one is the courts on appeal?

**Mr. Craven.** Yes, sir. I do not think, Senator, that it is in the public interest for the Communications Commission to usurp power. I think that is just as much of importance in this whole matter of public interest as anything else.

**The Chairman.** I entirely agree with you in your idea that the Federal Communications Commission should not usurp power. I agree with you entirely when you say they should not usurp power.

The question here is as to whether or not they did usurp power, and secondly, if they did usurp power, of course, there exists the right to go into court to test the Commission's authority.

I also agree that the law is not as explicit as it should be. It can easily lead to some confusion. Probably it should have been made cleaner with reference to monopolies. There is confusion as to whether or not the Commission has the right, under the language of the statute, to regulate monopolistic practices and to say, "This is a monopoly; therefore we are going to find that it is a monopoly and punish you."

On top of that, you have the question of public interest. The term "public interest" has been recognized by the courts generally and in these regulatory commissions as giving the commissions very broad authority.

It seems to me, therefore, that the real question is whether or



not the Commission, under the provisions with reference to public interest and under the provisions giving them special authority with reference to chain broadcasting, have usurped authority. I think that probably the law ought to be clarified, but in the meantime there is the question whether or not Congress ought to go ahead now and say to the Commission, "Hold up all your orders while we pass a law," because if we undertake to pass a law, it may be at this session of Congress, it may be at the next session of Congress, or it may be that it will not be for two or three sessions of Congress that we will get a law passed that we might like to see.

**Senator White.** Mr. Chairman, may I comment just briefly on what Senator Tobey said?

**The Chairman.** Of course.

**Senator White.** I am, of course, in complete agreement with him that the Commission was entirely within its authority when it determined upon the investigation of these subject matters. I think it was within its authority, and I think it was meeting the obligation which had rested on it for a long while.

It does not follow, however, that because the law authorized the Commission to make an investigation, and the Commission upon its own responsibility determined to go ahead and make an investigation, that any and every regulation which it may agree upon as a result of that investigation is either in the public interest or is within its authority to make a particular recommendation which they presumed to make.

**Senator Tobey.** Right there, who is to determine whether or not it is in the public interest? The courts?

**Senator White.** I want Congress to say something about it.

**Senator Tobey.** That puts Congress in the position of reviewing decisions of bureaus. We would then become a body reviewing every decision that is made.

**Senator White.** As a matter of fact, when we look at the legislative history—and we do it only occasionally—we will not find many occasions when that has been done.

Of course, basically it does not involve criticism of the Commission because it has made its study. It does not involve criticism of the Commission because it has reached conclusions of law. The criticism rests upon my deep conviction that the Commission undertook in these regulations to define monopolistic acts. I do not think that is within its province, and I do not think we should yield to that situation. I do not think it is the right of a regulatory body to say that this thing is a monopolistic act, that thing is a monopolistic act, and the other thing is a monopolistic act.

Then, I would not think it is within the right—and we never ought to concede it—that it is within the right of a regulatory body to determine whether you have breached the particular things which they say constitute monopoly, and pass judgment on it. You, if you go down to the Commission, are not advised, except perhaps in the most general terms, of the issue before the Commission. They have conducted hearings in which they did not permit a man to put on witnesses in his own behalf. They have conducted hearings there where they did not permit the interested party to examine, through his counsel, hostile witnesses. They have no set rules of evidence, and they have a vagrant authority and a vagrant practice and procedure. I just think that it is fundamentally wrong that we should permit that type of authority and that degree of authority in a regulatory body.

**The Chairman.** I am sure you would not feel that this committee, or any other committee, as a practical matter of administration of law, every time a commission decides some case or makes some rule which a particular industry or a particular party may feel affects them adversely, should permit them to come to Congress and ask us to review the decisions of that particular commission. If that should happen, then as a practical matter you would not have any decent administration of law by these commissions. It is, frankly, in my judgment, and always has been assumed to be very bad practice. But I can understand that. If that is done, then the committee, as a matter of fact, ought to lay

down the rules, instead of having the Commission do it. From a practical standpoint we just could not do that. We have to leave a lot of these matters to the Commission. In this particular instance I am not going to disagree with you at all about the need of some clarifying legislation. I certainly hesitate to do it. While we have done it in some few instances, it has been generally recognized as a bad practice. Every time the Interstate Commerce Commission hands down a decision or makes some rule, we might disagree with it or the industry might disagree with it, as has happened in the past. But if we undertook to try to correct it, then you are going to have these commissions constantly looking to the Congress and being afraid to act because of the fact that they might be yanked up here to Congress. In some cases we have a right to investigate the commission, the same as we have the right to investigate the industry itself. But I am extremely hesitant about simply taking over and saying that the Interstate Commerce Commission or this or that commission, every time it makes a rule that the industry does not like or that somebody else does not like, should be brought up here before the Committee.

I think the hearings that have gone on will do some good for both sides. I think probably they will.

**Senator White.** May I make an observation in answer to what you have said, Mr. Chairman?

**The Chairman.** Certainly.

**Senator White.** If this were a decision by the Commission in a particular case I would have a good deal of sympathy with your point of view; but the truth about it is that this is a declaration by the Commission of a far flung and revolutionary policy. It is something that the Commission has determined to do after three years of study. That might suggest that the Commission was right. But I think it also cries aloud that the Commission was dealing with something which it itself recognized as a basic change in the practice which had been followed by the previous Commission and by this Commission over a period of many years. There is a vast difference, I submit, Mr. Chairman, between reviewing an isolated or a particular case and giving consideration by a committee to the effects of such a change as the Commission now proposes; and I think there is a vast difference between passing upon a particular case and this committee and the Congress giving consideration to whether or not the action of the Commission is authorized by law.

That is where I pull away from you; and when I pull away from you I always have doubt as to whether I am right, but I feel very strongly that I am right with respect to this matter.

**Mr. Ethridge.** May I add this, Senator? I hope you will read the first two pages of my statement. I think you were out of the room when I made it. I stated then, and I repeat it, not to embarrass you, but to express the point—

**The Chairman.** You cannot embarrass me; too many people have tried that.

**Mr. Ethridge.** In the high power situation you felt it was of great moment and you introduced a resolution which was a direction of policy to the Commission. Now, I feel very strongly that this body, the Senate and the House, are responsible to the public and the public will in a degree that an administrative agency is not, and that where you have a major matter of national policy and an imminent action, as you have here, paralleling your high power matter, it is eminently proper for this body to take cognizance of it. I have rested on that particular thing and said that it was an anomalous situation where the industry was the aggressor and the Commission more or less the defendant in resisting a study of its action.

The radio industry subscribes heartily to the President's desire for a new law—in fact, much more heartily than ever since Mr. Fly has testified, because his testimony is in conflict with another expression from the President:

"This technical limitation on the number of transmitters gives the Government its principal function in the realm of radio, that of referee to determine who the operators of the limited number of transmitters shall be."

In the same letter the President also expressed the desire to know how to keep radio free "as part of our purpose to keep all channels of public information free . . . how to prevent monopoly of radio operation or ownership and how best to utilize radio in the public interest."

We do not feel, therefore, that we are either improperly or whimsically before this committee. Personally, I am hoping that the committee will share the feeling of Senator Smith when he said, "I wish I knew more about this whole operation," and undertake to find out more; and of Senator Wheeler, when he said on page 213, "There are vital problems of national policy involved in this matter."

We of the radio industry might not like the result when it is transformed into law, but it will at least be more democratic if 96 Senators and 435 Representatives make the law than if seven men make it.

Personally, I feel that it will be a fairer law and a fairer administration if you make the rules.

Mr. Fly occupied almost four pages setting out the number of witnesses and the number of words in the hearing in giving the radio people what he called "not only the due process of law to which they are legally entitled but a full measure in excess" in the hearings on the regulations. The only figures he left out were the weight of the volumes in pounds and how much they would measure if laid end to end. But what he did not say was what he could not say, but which we can—that at least a great many of us in the radio industry feel that the verdict was arrived at before the indictment was drawn.

When I was a newspaper man in Georgia there was a negro by the name of John Downer who was arrested for rape in north Georgia. He was granted a change of venue to the adjoining county. The National Guard was called out and lined the walk way from the jail to the court house and occupied all of the seats in the court house except those reserved for the jury, the judge, and counsel. In the afternoon of the day he was arrested, or the day the Guard was called out and the indictment was drawn, he was tried and convicted and sentenced to be electrocuted. Everybody knew in advance what would happen, but the State of Georgia was proud that it had not lynched him. It had given him due process of law, but none of the substance of justice.

That is the way I feel about this matter. I feel that it is only necessary to have the Commission's order for hearing, which is in the record at page 95 and was read earlier by Senator Tobey, to know in general terms what the outcome will be. I think that is probably true in the newspaper case as well. The order is indeed likely to be a death sentence.

I favor the White resolution because I hope it will result in a new law clarifying what Congress intends and defining the Commission's powers, duties, and limitations.

**The Chairman.** It seems perfectly simple to the laymen; but if the White resolution holds up the orders of the Commission—and I am frank to say that we are too severe in giving such a short time in some instances, but they have the right to go to court, and I think they not only should have the right to go to court in a particular instance where it is felt that the Commission has exceeded its jurisdiction, but the Commission ought to grant them a stay. I do not agree with the Commission's actions in refusing a stay. I think it is wrong, particularly if application is made in good faith. But I think you can appreciate some of the difficulties you are going to have with new legislation, because you will find that there will be a great divergence of opinion both in the House and the Senate upon what the provisions of the new law should be. That is going to be particularly true when you come to write into the law specific rules and regulations. You are going to have a very wide divergence of view upon that question, both in the committee and on the floor of the Senate and in the House, which will probably mean a long delay in getting legislation through. That is where most of the difficulty comes in connection with legislation, when you begin to write out the rules and regulations which should govern the Commission.

**Mr. Ethridge.** I am speaking of the course of regulation. The Pottsville case and the subsequent decision the Circuit Court

gave the industry no great hope as to regulation. I for one felt it was bad to abolish the system of open examinations of license applications in public hearings. I felt that under the Commission's theory, set out in one section of the Sanders case, cited by the Chairman of the Commission in his testimony, too little attention was being paid to the economic consequences of indiscriminate license granting. By that I mean I had thought just a mere granting of more licenses for the sake of removing restraint of trade or creating competition might be a good thing in some circumstances but one must consider the consequences that may arise. I have seen that happen in the case of newspapers where they took all sorts of advertising.

**The Chairman.** I think it a mistake to grant too many stations in a community because you may force them to put on more advertising.

**Mr. Ethridge.** Yes, sir.

**The Chairman.** Or to put on cheap advertising that would destroy the effectiveness of programs.

**Mr. Ethridge.** But, Senator Wheeler, the Sanders case is the Commission's theory at the moment that does not conform to the economics of the situation. That is another argument moving us to ask the Senate to give us a new law. I think it is bad for radio.

**The Chairman.** You cannot disagree with me in the matter of the need for a new law.

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We have been very happy to hear the Chairman of this Committee say on several occasions that he thinks the networks have been fair in broadcasting discussion of current controversial questions. At the same time, it is apparent that there is in his mind and in the minds of many other thoughtful persons uneasiness on this score. I stated publicly six years ago that I thought fairness in news and discussion, and freedom from editorial bias, should be a condition to holding a broadcasting license. In that public statement I said that the Commission if it had the power, and the Congress if the Commission did not, might well make such fairness a condition to receiving or holding a license. I have come now to believe more emphatically than I did six years ago that such fairness is absolutely essential on the part of a limited medium if it is to fulfill its social obligations in a democracy. I am absolutely confident that under Columbia's publicly proclaimed code and under the similar codes of the National Association of Broadcasters, the other networks and most of the individual broadcasters, this fairness is assured.

**The Chairman.** I should think it would be helpful to the industry itself if something of that kind were written into the law, because then, in instances in which pressure was brought to bear you could turn to the law.

**Mr. Paley.** At least it would eliminate the vagueness that now exists in the minds of some broadcasters and, I think, in the minds of some Commissioners.

**The Chairman.** It would eliminate vagueness when people undertook to put pressure on you. You could simply turn to the law and say, "This is what we have got to do."

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**The Chairman.** Did they not serve you with a copy of these rules prior to their adoption?

**Mr. Paley.** There were suggestions made, I think, at the December hearing, various suggestions, none of which went to the extremes that the rules now represent. I think, as a matter of fact, there were three or four alternative suggestions as to what the Commission might do; and at that time we objected to the rules very strenuously and tried to point out why, even in the form when they were not quite so drastic, we thought our operations would suffer tremendously and that public service as such would also suffer.

**The Chairman.** Did you ever give the Commission any constructive alternative suggestions yourself? I understood from Chairman Fly that you did not.

**Mr. Paley.** Our suggestion made at that time, and it is the suggestion we have been making ever since, that if anything as drastic and revolutionary as that is to be done to any broadcaster or any group of broadcasters, that should be a problem for the Congress or some higher authority, for them to have something to say about that.

**The Chairman.** But it does seem to me that, in the first place, you ought to have tried to work things out; that when they made certain suggestions which you thought were wrong you should have pointed out to them the mistakes as you saw them, and made to them some alternative suggestions. Instead of that as I understand the situation, you turned everything down.

**Mr. Paley.** Well, Senator Wheeler, I can remember one conversation I had with Chairman Fly when we were given to understand that we would probably be outlawed about these things, and he said maybe they were not so drastic as I thought them. I said, "Now, really what have you in mind? How do you intend to offer a solution of this? How do you answer the practical suggestions that we make?" And the only answer I got was, "Wouldn't I be a fool to tell you what I have in mind." That was as far as I got with Chairman Fly in trying to work this thing out.

**The Chairman.** And what do you think he had in mind?

**Mr. Paley.** Oh, I know what he had in mind—these very rules we are now here talking about; rules that I think will destroy our industry, or at least destroy network broadcasting as a part of the industry.

**Mr. Paley.** Going back to the argument about exclusivity, I want to point out that unlike the publication field a station affiliated with a network has two functions. In the publication field you have the local newspaper and you have the national magazine, each attempting to do a part of the job. A broadcasting station affiliated with a network has to do the combination of the local and the national job. He provides his own local programs in an attempt to render the public service necessary for that community to have in that regard. Then he turns to us to do the national job. So, as you will see, it is the over-all job. As long as we are doing a complete national job over that station we can do a very well ordered and balanced national job, one which, from the record, a record that has been made by the broadcasters of this country, demonstrates the fact that we have been able to respond to the public desires and needs, and demonstrates that we can take care of the public service in a very fine way. When a station starts out to take this national service from two or three sources it gets a certain amount of duplication. And you start to take our incentive away from us, because someone will be cashing in on what we have built up.

**The Chairman.** Oh, now, I do not think they will take your incentive away.

**Mr. Paley.** Well, if stations won't take our time that will happen.

**The Chairman.** It might and it might not, but I do not think it will happen that it will take your incentive away.

**Mr. Paley.** I see that I have not convinced you, Mr. Chairman. Nevertheless I want to say to you that I think I am right, that I feel certain I am right about it.

**The Chairman.** You have not convinced me that it will take your incentive away when you have done the job you have; when you came into the radio broadcasting field without anything and licked N. B. C. you certainly cannot convince me that you are not going to continue.

**Mr. Paley.** I am only talking now about the incentive toward developing that kind of service, that kind of service you want from us.

**The Chairman.** You are going to have the same incentive and the same service; yes, you must have the same incentive in your own system, and each of the other companies will have it. You will want to build up your stations and you will want to build up the Columbia Broadcasting System.

**Mr. Paley.** But we do not want to build it up for someone else to come in and cash in on us. Let us suppose that a lot of advertising hook-ups developed. In that case I think you would have chaos and that it would be destructive.

**The Chairman.** I think it can be worked out in fairness to the chains. I think we want to be fair to the chains and at the same time be fair to everybody else.

**Mr. Paley.** I want to say one thing right there as we seem to disagree on this particular point and yet we seem wholly to agree on other points I have discussed here. For instance, this whole question of option time—

**The Chairman** (interposing). This has to be worked out.

**Mr. Paley.** But elimination of option time is a part of the rules under which we are supposed to operate.

**The Chairman.** I understand that, and am not agreeing entirely with the report of the Commission by any manner of means.

**Mr. Paley.** And is not that a good reason for passing this White resolution?

**The Chairman.** No, I do not think so. From a practical standpoint the contention here is that what you want first is a hearing and an investigation of the matter. You are getting that without the adoption of the resolution. If we were to pass the resolution and hold hearings the only thing would be that you would come here and testify all over again.

**Mr. Paley.** Oh, no.

**The Chairman.** This is just a cold-blooded practical matter. You would not get as many people to attend those hearings as you have now, because to a large extent you have covered that same thing. Frankly it may be necessary and probably some think it would be best to have an entirely new law, or at least some amendment of the present law. I think that subject should be gone into, and it may very well be gone into. I do think the law ought to be amended in some particulars. I think some of these points should be clarified to the end that the industry may know as definitely as possible what they are going to have to do, and what rules of the game will be set out, instead of depending on those who may be on the Commission at the time. I think there is a great deal in that. I have had that feeling for a considerable period of time.

Now, there is the probability of a bill being introduced, and when it is introduced you will have a hearing upon that particular bill. We will discuss its various provisions, and doubtless some of them you will oppose and then that bill will be threshed out.

In the meantime I think you can go into court, if you wish to do so, and have, as Chairman Fly intimated, the knowledge that the matter of the rules will be held up by stay order while the case is in court.

**Mr. Paley.** If you think there is going to be a new radio law, and I certainly devoutly hope so, would not that be the time to have all these considerations looked into? What is the rush here? We have had the law for 14 years and have operated pretty well. Why have these drastic and revolutionary ideas from day to day when broadcasters are giving the best public service any industry has ever been called upon to give?

**The Chairman.** You will have to ask the Commission about that.

**Mr. Paley.** We are asking you to hold up the Commission's action by passing this resolution. That is the only way we can have any assurance it will be held up. We can very well wait a

year or so if necessary; and if a new law is to be written is not that the time to look into all these things so that we may have a well-rounded radio law? Would not that be better than having the radio industry damaged to a great and unnecessary degree? And that is just what will happen if we have to live under these rules or parts of these rules for the next year or so. Why jump onto something that has rendered pretty good service indeed?

**The Chairman.** You do not think it necessary to prove that?

**Mr. Paley.** As a matter of fact I would like to have you see some of the serials that have been gotten out.

**The Chairman.** I think on the whole the chains have rendered a very good service. On the other hand, I do not think you are lily white by any manner of means in all of your dealings.

**Mr. Paley.** I agree with that.

**The Chairman.** Either in your dealings with the Commission or in your dealings with the public or anybody else. But nobody is. Candidly I think every new industry that has come up as chain broadcasting has shows some of these situations, but for a new industry you are less subject to criticism than almost any new industry that has sprung up.

**Mr. Paley.** Then, what is the rush? Why cannot this thing be held up until you gentlemen here in the Congress have had an opportunity to write a new law that will take care of the advance in the art, that will take care of the changes that have come about since the present law was enacted?

**The Chairman.** That is a question you will have to propound to the Commission.

**Mr. Paley.** I did, and my answer was the eight rules and regulations we are now complaining about; and that is why we come before you, to try to get relief. Give us peace while you have an opportunity to examine the whole radio structure. Then, after you have decided what if anything is wrong with us, you can put into the new law those things you think ought to be prohibited, or those things that would spell the kind of regulation you think we should have in the future.

As a matter of fact, even if the Commission has the power now, and let us forget for the moment the question of jurisdiction, they may not be wisely exercising it. They may be doing things you would not go along with.

The radio industry comes to this committee and asks that you give us peace, so that these things may not happen. We ask you to examine this question very carefully and at the end of the hearing give us a law, a well-defined law, under which we may live. We think that is not asking too much.

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And now, finally, gentlemen, may I just very briefly tell you why I fell that if the Commission can exert the kind of powers it now seeks to exert, can regulate the whole business of network broadcasting and network station relationship, can impose a whole multitude of conditions under which it threatens to jerk stations' licenses, nobody in broadcasting is going to have the faintest conception of what its ultimate powers may be and nobody is going to be able to call his soul his own.

The whole industry today is harassed, worried and jittery and finds itself threatened and condemned as if its history were shabby and evil. If Chairman Fly can successfully assert the revolutionary powers over the business practices of the networks and the stations, make no mistake about it, gentlemen, his control will be so absolute that we will have in this field regulation by raised eyebrows, in which a nod will put one program on the air and a frown will keep another off. If this type of regulation is dangerous with respect to a business dealing with wholly physical things, how much more deadly is it in the whole realm of information, ideas and culture.

I have heard it argued that since the Commission's lawyers assert the broad powers which we here assail, and our lawyers

strenuously deny, the whole issue is one for the courts. May I point out to you that we could well suffer irreparable damage in the years while this legal fight was in progress, and if I am sound in my contentions, the public would suffer with us at the very time when broadcasting should, more than ever before, be a powerful instrument for the public good. If we win, it may well be too late. If we lose on the technical issue of the Commission's power, the important issue of public policy still is this: Did the Congress intend and does the Congress now want a radical revision of the whole broadcasting structure by administrative fiat?

I want to say this. We have been operating under the present law for fourteen years. I believe that every Government department and every defense agency in Washington will tell you that we are doing a job for national defense. Our stations are satisfied, and only a Commission majority, which has been constantly cynical about the major networks, and only a small segment of the industry, are complaining; and this small segment of the industry complains solely in the interest of being enabled to sell commercial programs to the affiliates of other networks. If this monkey wrench is to be thrown into the machinery it should not be thrown at a time like this. I hope you will stay these regulations and work out a new law. Under such a program we can devote ourselves immediately, completely, and fully to our broadcasting again and play an important part in the present emergency.

You have expressed some hesitancy, Senator Wheeler, on the score of how long it will take legislation to go through. I cannot dispute with you as to how long it will take to get new legislation. You know and I do not.

**The Chairman.** I do not think anybody knows.

**Senator White.** I can tell you how long it will take to pass it in the Senate if Senator Wheeler gets back of it. He can produce a draft in 24 hours, can get it reported out of his committee in 48 hours, and get it through the Senate in ten days' time.

**The Chairman.** I will say you are stretching it.

**Mr. Paley.** I can assure you in complete good faith that the broadcasters will do everything they can to expedite the obtaining of whatever information your committee may want in this connection. I am told that there are Senators on this particular committee who are perfectly competent to work out problems as intricate as ours, with fairness to the public and to all parties concerned, and to do so with reasonable dispatch.

We have told you as earnestly as we can that we believe these regulations really imperil the broadcasting structure of this country. The questions that have been asked by a number of the Senators on this committee, and the statements which have been made have indicated to you about the wisdom of some of these rules. Chairman Fly himself seems to have made some on the spot modifications while he was testifying, and he has just released a telegraphic interpretation of one rule and a formal modification of another. All this casts doubt on the workability of the whole scheme and suggests that the public interest cannot be seriously damaged by holding up the effectiveness of these rules until you can reach your own orderly decision.

We are hopeful that a careful, impartial and judicial examination of broadcasting by Congress will provide us with a law that is clear and a manner of administration that is fair.

We are hopeful that as a result of your deliberations we will no longer be besieged by doubt and confusion and threatened with punitive action, and that we will be allowed to bend our energies toward evolving a constantly improving broadcasting service.

We are hopeful that an investigation such as is called for by the White Resolution will provide a law that insures freedom of the air and eliminates the threats which radio is now facing.

We are hopeful of all these things, and I am convinced they can be accomplished.

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First of all, I do not think that the primary issue before this committee is a question of jurisdiction, because, after all, if the

Commission did not have jurisdiction, if it exceeded its powers and if we can get into court to test that—and about that there are some handicaps which I will explain later, pursuant to Senator White's suggestion that we address ourselves to the question of procedure—why, then, we will get to court, and if we are right, the action of the Commission will be set aside.

But, as has been pointed out by Senator Johnson and mentioned by Mr. Ethridge, the Supreme Court has recently pointed out how limited is the scope of judicial review in administrative affairs. In the Pottsville case Mr. Justice Frankfurter practically invited those who quarrel with the wisdom or lack of wisdom on the part of administrative agencies to come to Congress, saying, in effect, that Congress is the agency to correct administrative mischief.

**The Chairman.** Of course the reason he probably said that was to "pass the buck" back to Congress.

**Mr. Burns.** I do not think that is so, Senator Wheeler. Apart from any judgment you might want to express about the Court, I think for the last ten years there has been a steady development in our system whereby the courts, either because of words in the statutes or because of a feeling that under our constitutional system it is not a judicial task to review administrative action, they have said, "We will only look to see whether or not errors of law have been committed."

Where can you go except to this committee? We say, quite apart from the issue of jurisdiction, that these regulations are unwise. The issue of jurisdiction is important, because if the Chairman and his majority associates have acted without jurisdiction, it certainly throws light upon the question of wisdom. Secondly, in the Supreme Court it may well be that our activities will be so circumscribed that serious damage to private and public interests will have been brought about.

**The Chairman.** I think that there probably is a very close question as to whether or not the Commission has jurisdiction in certain instances. Of course if it has exceeded its jurisdiction, certainly the courts would take cognizance of that and say that it had exceeded its jurisdiction; there is not any question about that.

**Mr. Burns.** But, in the meantime, we may have been very seriously damaged, because it may take a year or a year and a half before that issue is ultimately decided; and in any event we will be back here, because when a commission can make a judgment after 14 years, and when you have considered the other factors which have been brought out here, and additional ones which I hope to call to your mind, it is plain that the law needs clarification; it has to be stream-lined and brought up to date, because 14 years ago what is today a major force in radio broadcasting, namely, the networks, was virtually unknown. Certainly networks were unknown in so far as their present operation is concerned.

The quarrel we have with the Commission is that it did not pay any attention to our evidence but went ahead on preconceived prejudices, and out of it came first the committee report. Some of you Senators are familiar with the shortcomings of that report, where it was shown in a committee hearing that it was false in many particulars.

When the question of writing the Commission report was undertaken, smarter gentlemen were called in as draftsmen, because it is a slicker, more crafty, more clever, and more workmanlike job, but it still does not reflect what the testimony was before that Commission.

The only evidence dealing with exclusivity and time option was what we ourselves offered and what was offered by Mutual. But even Mutual only pointed out that the combination of exclusivity and time option made their access to the markets rather difficult. Even they did not offer any evidence on the question of what would be the practical effect on the advertising business if these practices were abolished.

We had no idea while that was going on that the Commission had designs on the contractual provisions of the station outlet con-

tract. It is true that they wanted them, and they went into them. On cross-examination they asked questions as to how they operated. But the Commission did not put on an advertising expert. It did not even put on an expert from its own staff to contradict our evidence that the abolishment of these two touchstones of the present radio network business would be serious.

**The Chairman.** It was not necessary for them to put it on. In the trial of lawsuits you sometimes prove your case by your adversary's witnesses.

**Mr. Burns.** I give you my word that that was not this kind of case.

I am not going to take your time to read excerpts from the record, but I suggest that this record should show reference to page 57, where there is a beautiful example of the lack of logic on the part of the authors of this report. They proceed from hypothetical instances of probability and they draw sweeping conclusions of certainty. They do not even salt it with a phrase, "Well, perhaps," but they say, "Certainly this will happen."

**Senator White.** They proceed on the basis that what is possible is probable and may be assumed to be true.

**The Chairman.** One thing I have never been able to understand about the Commission is why in certain instances they deny a station on some particular ground and grant it to somebody else where the same identical objections are raised. Is not that due, to a large extent, to the engineering side of it?

**Mr. Trammell.** Senator, of course I cannot answer that, but here is a case where the interference in Cleveland would be up to the 4.8 millivolt line, and the Commission has subsequently, in spite of the need, as Mutual has stated here, for a full time station in Cleveland, denied the application, and later in other cities it has granted applications where the interference was much greater.

**The Chairman.** Perhaps the political pull was not as great in Cleveland as it was some place else. That is really one of the bad things that have gone on down at the Commission, that there has been too much favoritism shown here or there. I do not think that NBC has suffered any from it.

**Mr. Trammell.** I would not know anything about that, Senator.

**The Chairman.** No; I know you would not. I do not think NBC or Columbia either, has suffered any at all.

**Mr. Trammell.** We have certainly not opposed any station coming into Cleveland, Senator.

**The Chairman.** No; I did not mean to infer that you had. There is another thing: The Commission goes ahead without hearings and grants licenses or transfers, and in other instances it holds hearings. It seems to me there ought to be a general rule laid down by the Commission so that everybody who comes in there, regardless of whether he is poor or rich, or whether he is influential or whether he has political backing or not, would know what is going to happen, and that rule should be adhered to.

**Mr. Trammell.** I agree with you fully.

**The Chairman.** I think some of the things done in that respect are outrageous. That is one of the reasons why the Interstate Commerce Commission with all of its difficult problems has certainly in my time not been accused of being influenced by members of Congress. I certainly would hate to try to do it myself.

**Senator White.** Mr. Chairman, you have made a good statement on that score and I will remain silent. I have some ideas myself on that subject but will let your statement stand for me, if you do not object.

I note in the Wednesday, June 18, 1941 issue of Variety, a headline reading: "Rivals Exploit Radio Grief. Say Air Ads to

Cost More. Network Sales Departments Aware of Newspaper and Magazine Contact Staffs Making Capital of Present Trouble with FCC—but They Are Ready to Counter-Blasts When Hearings Are Out of Way.”

**The Chairman.** What is that paper?

**Mr. Trammell.** That is Variety.

**The Chairman.** That does not worry you very much?

**Mr. Trammell.** I do say this, Senator: Without our being able to deliver stations, without having any option time, and in trying to sell coast to coast, advertisers will be going into other media.

**The Chairman.** Frankly, I cannot see very much excuse for not giving you option time. I may be wrong about it, but I cannot see very much reason why you should not be able to have it. If I wanted to give you an option on some of my time, I do not see any reason why I should not be permitted to give you some option time. I am frank to say that, unless there is some reason I do not know of now, I think the Commission is wrong in saying you should not have any option time at all.

### Chairman Interprets Regulations

In response to many requests made to him for a brief interpretation of the Federal Communications Commission's new chain broadcasting regulations, Chairman James Lawrence Fly today released the text of a recent telegram to a broadcast station covering certain phases of this subject:

“May 24, 1941  
Day Letter Prepaid

“Mr. Gordon P. Brown  
Radio Station WSAY  
192 S. Goodman Street  
Rochester, New York.

Retel May 23 you are authorized to release following statement as my interpretation of the chain broadcasting regulations. The regulations do not prohibit a contract establishing a network and station affiliation whereby a network agrees to offer all its programs to one particular station in a community. However, the station must make a reasonably prompt determination whether it will carry any program and there can be no restriction upon the right of other stations in the community to make arrangements for the broadcast of any refused or rejected programs. Nor do the regulations prohibit a contract whereby a station agrees to take all the programs of a network if the time is available when such programs are offered, subject to the station's right to refuse or reject the programs pursuant to section 3.105 of the regulations.

JAMES LAWRENCE FLY,  
*Chairman, Federal Communications Commission.*”

### Chairman's Letter to Committee

Chairman Fly made public the text of a letter he has addressed to Senator Burton K. Wheeler, Chairman of the Senate Interstate Commerce Committee. It reads as follows:

“June 14, 1941.

“The Honorable  
Burton K. Wheeler,  
United States Senate,  
Washington, D. C.

Dear Senator Wheeler:

“I shall, of course, remain at the service of the Committee during the course of the current investigation and shall be prepared to appear later to assist the Committee to the best of my ability. Meanwhile, I think it may be helpful to comment now on two significant points mentioned by recent witnesses:

“1. Witnesses have urged that the large stations may take over the good programs from the small stations. On the contrary we have consistently pointed out that a station may make a contract with a network which will give that station first call upon

all the network's programs. This being true, no station can deprive another station of its network programs unless the latter station, itself, has voluntarily rejected those programs. This was made clear in my telegram to Gordon Brown of Rochester, New York, on May 24. For the information of the Committee, I attach herewith a copy of that telegram. I have checked the point with the Commission and we are agreed upon the foregoing construction of the rule.

“2. It has been suggested that there has been a reversal of the practice by which the Commission has maintained a station on the air throughout the administrative proceedings and throughout the litigation involving the question as to whether the station should continue on the air. This is a long-standing policy of the Commission and this is the policy which I, as Chairman of the Commission, assured the Committee would be applied in connection with the antimonopoly rules. The case urged upon your Committee was that involving the *granting* of nighttime operation to Station WHDH at Boston on the same wave length as Station KOA at Denver. KOA unsuccessfully sought to stay the grant to WHDH. There was no threat to the continued existence of KOA as a 50 kw station and there is no real impairment of its day or night service. Permitting the Boston station to operate at night during the period of litigation is a far cry from the notion that the license of any station would be *terminated* without a completion of any judicial proceeding involving that question.

Respectfully yours,

JAMES LAWRENCE FLY,  
*Chairman.*”

### Commission Clarifies “Blue” Order

To clarify the Commission's intent that the National Broadcasting Company shall have ample time in which to dispose of one of its two networks in order to conform to the new chain broadcasting regulations, the FCC amended the last paragraph of its order of May 2 so as to leave no question but that the stipulated 90-day deferment period pertains to disposal of one NBC network as well as to the disposition of individual stations by networks, and, further, that the effective date of compliance in either case “may be extended from time to time in order to permit the orderly disposition of properties.”

The concluding paragraph of the order, as amended, now reads:

“IT IS FURTHER ORDERED, That these regulations shall become effective immediately: *Provided*, That, with respect to existing contracts, arrangements, or understandings, or network organization station licenses, or the maintenance of more than one network by a single network organization, the effective date shall be deferred for 90 days from the date (May 2, 1941) of this Order: *Provided further*, That the effective date of Regulation 3.106 with respect to any station and of Regulation 3.107 may be extended from time to time in order to permit the orderly disposition of properties.”

In thus clarifying its purpose that the networks and stations concerned shall have ample time for adjusting themselves to the new requirements, the Commission points out that it is now permissible for stations to enter into new affiliation contracts with NBC, pending disposal by the latter of one of its networks, if such contracts satisfy all other requirements of the May 2 regulations.

## Technicians Shortage

Following is a summary of a survey of the shortage of broadcast technicians which the NAB is sending to the National Selective Service Board. That board, if it finds it advisable, can recommend that local boards give special consideration to broadcast technicians. Under the law, no blanket exemptions are permitted. Broadcasters may be able to use this information to advantage in discussing individual problems with local boards.

Seventy-six percent of the radio technicians employed by the Broadcasting Industry May 1, 1941, are either within the Selective Service ages 21-35 or hold reserve commissions.

More than six percent of the radio technicians have been drawn from the industry to the armed forces by Selective Service, enlistment or call to duty as reservists. Three percent of presently employed technicians hold reserve commissions and are subject to immediate call. Twenty-three percent of presently employed technicians are single men, subject to early Selective Service call.

In addition, heavy toll in technical ranks has been taken by the FCC, apparently for monitoring service; by the Civil Service Commission for specialized training courses; by other Federal Agencies, and by other defense industries in need of men with such training.

This heavy drain is not being replaced. Training schools which formerly trained men for technical positions in the broadcasting industry are now devoting their entire facilities to training men for Army, Navy and Aircraft communications services.

The stringency of the situation is reflected in the majority of stations reporting difficulty in securing technical replacements. Many stations report inability to obtain any replacements and are forced to operate "short-handed" with costly over-time payments. Others have been forced to take inexperienced replacements who lack the required FCC operator's license and are of little value until trained for six months. Those reporting no particular difficulty yet are, for the most part, larger stations. These have drawn replacements from the ranks of the smaller stations by the ability to pay higher salaries.

As of the time of this survey the situation is difficult, but the above facts reveal that it is rapidly moving to a point where continued operation of the nation's broadcast stations is endangered.

## BMI

### BMI Composers Hit the Jack Pot

Broadcast Music, Inc., announced today that checks were being sent out to authors and composers in compensation for the performance of their works on the air during the first quarter of 1941. This marks the first time in the history of music that authors and composers have been paid performance royalties on popular music in direct ratio to the performance of their compositions in the United States. They are receiving 2c per performance per station, representing double the amount which BMI originally stated it would pay. In the case of a network hookup, payment is made for each participating station. Publishers' payments will go out next week and will include a 1c bonus per performance per station over the contract price.

Under the BMI system of performance payments, individual hit numbers earned from \$800 to \$1200 for their writers in the first quarter of this year. Research reveals that the amount BMI is paying on performances for a hit number for a quarter-year is higher than that paid heretofore to all but approximately 175 writers for the performance of their works for an entire year.

Authors and composers of BMI hits are individually receiving more than five thousand dollars a quarter from their combined royalties (air, sheet music and mechanicals). These payments are going to writers who, for the most part, have not been able to earn any money from their talents for musical composition prior to the formation of BMI.

### ASCAP Decrees Suit

ASCAP has announced that it has authorized its legal counsel to institute civil suit for damages under the Sherman Anti-Trust Act against the NAB, BMI, NBC and CBS. The suit, if brought, will be vigorously defended.

### New Radio Logging Begins

The radio log and program analysis of popular music compiled by the Office of Research, Radio Division, and directed by Dr.

John G. Peatman, Professor of Psychology of the College of the City of New York, got under way on Monday, June 16th with the most complete records of performance which have been made available. BMI is financing the research job by Dr. Peatman following a refusal by the Accurate Reporting Service to check performances on all New York Stations. The work is done both day and night and distributed the following morning to those interested in performance compilations. The figures constitute a valuable record which will be useful later on in combining trend studies in regard to popular music.

### Suit to Clarify Performance Rights in Marks' Songs

Broadcast Music, Inc. and Edward B. Marks Music Corporation commenced suit against ASCAP for a declaratory judgment in the Supreme Court of New York today (Wednesday). The action is a test case which does not seek damages but asks that "the court declare the rights and other legal relations of the plaintiffs and ASCAP" in certain musical compositions. The compositions selected for the test case are *Bluer Than Blue* by Lew Pollack and Tot Seymour, *You Fit Into The Picture* by Bud Green and Jesse Greer, and *Mississippi River* by J. Rosamond Johnson and Frank Abbott. All of the composers of these compositions, except Abbott, are members of ASCAP.

Edward B. Marks Music Corporation resigned from ASCAP at the end of 1940 and granted all of its performing rights in the works included in their catalogue to BMI. The suit does not involve in any way the numbers in the Marks' catalogue which are presently being performed by BMI licensees. However, BMI has to date voluntarily refrained from the performance of works written by ASCAP members during the period of their membership in ASCAP as ASCAP has asserted certain rights in these works.

BMI officials pointed out that a clarification of the issues involved would be beneficial to all parties concerned and to the public as the result of ASCAP's claims has been to prevent certain works from being performed. Under the agreements between ASCAP writers and their respective publishers, an executive of BMI said, ASCAP writers assigned all of the performing rights in their works to their publishers. As a result, Edward B. Marks Music Corporation claims that it owns all of the performing rights in the works named in the suit. ASCAP has not hitherto made clear whether it contends that the performing rights under these works are the property of ASCAP's publisher members or ASCAP's composer members. The suit is intended to have the court declare who owns the rights so that the compositions involved will be available for performance.

### Let's Look at the Record

Listening to musical radio programs has increased since January 1st.

The "vested interests" of the musical world said it couldn't be done. They said that after January 1st, 1941 the public would stop listening to musical programs on the radio. They said their music was indispensable.

What actually happened? Let's look at the record.

Average C.A.B. Rating for Period	Popular Music	Concert Music
Jan. 1940 to April 20, 1940.....	10.0	9.6
Jan. 1941 to April 20, 1941.....	10.2	10.2
Percent of Increase 1941 over 1940..	2.0%	6.2%

Listening to musical programs went up. This increase ran against the general listening trend. More network programs of popular music are being sponsored. The Hooper analysis shows an increase of 9% in the number of hours devoted to sponsored popular music on networks.

### Musical Feast

There are so many solid hits now among the BMI controlled tunes that coin machines are not only reaping a harvest, but records

are selling unusually well. The *Hut Sut Song* is the sensation of the year having climbed to the top more rapidly than any other song this season.

*Amapola* is still going strong; *G'bye Now* is fighting for the top and *My Sister And I*, *Maria Elena* and *Daddy* are all in the first division. Coming into the spot light of popularity are, *Everything Happens To Me*, *A Little Bit South of North Carolina*, *Green Eyes*, *Let's Get Away From It All*, *Friendly Tavern Polka*, and *The Things I Love*. Among the possibilities, Billboard has this to say in regard to BMI's *The Reluctant Dragon*: "This song comes from the soon-to-be-released Walt Disney movie cartoon feature of the same title. It is quite possible that it may be a strong follow-up to the currently popular *Daddy*".

### BMI FEATURE TUNES

June 23 - June 30

1. I WENT OUT OF MY WAY
2. ALL ALONE AND LONELY
3. MY SISTER AND I
4. WISE OLD OWL
5. WALKIN' BY THE RIVER
6. BECAUSE OF YOU
7. G'BYE NOW
8. WHAT D'YA HEAR FROM YOUR HEART
9. HERE'S MY HEART
10. WITH A TWIST OF THE WRIST
11. THE RELUCTANT DRAGON

In preparation: *Wasn't It You* by the writers of *You Walk By*

### "Dipping Into the Claret"

Under date of June 18th, *Variety* points out in a Hollywood dispatch that a lifetime studio job awaits the songwriter who can get picture tunes on the air. Says the correspondent:

"Understood studio heads have grapevined the word that the one who comes through with a solution to the problem goes on the payroll for life, or rather the life of the studio. Unique arrangement is the result of the alarm felt at 20th-Fox and other major studio front offices over the dismal grosses of musicals. Since the first of the year, when the broadcasters broke with ASCAP, not a single musical has earned its keep and the red smears are said to be broad and scarlet. . . .

"While in somewhat of a dilemma over the reasons behind tobogganning grosses, studio heads concede it is no secret why musicals are hitting so many sour notes at the box office. It is pointed out that in previous depressions in picture revenue, musicals more than held their own and showed profit where the others dipped into the claret. Once back on NBC and CBS, to get the millions of listeners humming and whistling ditties from the filmusicals, it is assumed that biz will take the upbeat fast-like. In support of this contention they have but to scan receipts of musicals released prior to the muting of ASCAP tunes on the major webs. Black ink was used with few exceptions."

## Labor

### Pay Averages

Radio's 21,646 full time employees the week of October 13, 1940, received an average of \$47.13—probably the highest weekly wage in any industry in the country. This average compared with

\$45.92 the corresponding week of 1939, and with \$45.12 the week of March 6, 1938.

These figures are based on statistics made public by the FCC. They do *not* include the employees of advertising agencies and thus do not reflect the pay of stars on the big commercial shows.

Here are some of the averages for classifications of most interest:

	Stations	Networks
All Executives	84.69	251.68
Operators	40.49	62.05
Production	41.03	62.56
Writers	32.43	57.99
Announcers	34.63	61.86
Staff Musicians	48.01	111.92
Outside Salesmen	55.59	105.22

### ACA Plans

The ACA (C.I.O.) has decided to concentrate its drive to organize broadcasting employees to the area "bounded roughly on the north by the Great Lakes, on the east by Boston, on the south by Virginia and on the west by Pittsburgh." This was decided at an executive committee meeting May 17 in Philadelphia.

### Cost of Living

The Labor Department reports that the cost of living advanced 0.7 per cent from April 15 to May 15, and on the latter date was 2.4 per cent above the level of last June. The increase since August, 1939, has been 4.4 per cent.

### A. F. of M. Convention

The Seattle convention of the A. F. of M. directed the union's executive board to "make every endeavor . . . at the earliest possible moment" to solve what the delegates apparently thought was an extremely serious situation growing out of the use of recordings.

This action was taken in lieu of action on several resolutions directed at the making and use of recordings.

The convention rejected a resolution which would have revoked a recent rule by the national officers against the announcement of engagements by bands playing on the radio.

All officers were reelected, and Dallas, Texas, was chosen for the next convention.

James C. Petrillo opened the convention with a lengthy attack on Thurman Arnold.

## Sales

Please direct this section to the attention of your sales manager.

### Bankers Hear Talk on Radio

Representing the NAB, Craig Lawrence, commercial manager of the Iowa Broadcasting Co. and member of the NAB Sales Managers' Executive committee, addressed the annual convention of the American Industrial Bankers Association June 17, at Colorado Springs, Colo., on "Radio and the Industrial Banker."

Highlights of Mr. Lawrence's speech are given here. A limited number of complete copies of the talk are available free upon request while they last.

Broadcasting is one of the greatest social forces of our time, as its growth during the past ten years will illustrate. In 1930 there were 12 million radio homes in the United States; in 1940, over 29 million, a gain of 250 per cent. In 1930 there were no automobile sets; last year there were 8 million. Ten years ago the total sets in use were 13 million; today we have the staggering total of 50 million sets, exceeding the number of telephones, electric refrigerators and washing machines combined.



Radio has an especially significant social aspect, representing the quickest way to communicate with our millions of citizens. Seventy per cent of the radio homes in the United States—the Glutzes and the Morganbilts—heard President Roosevelt declare a total emergency, *by radio*, meaning that 90 million people in over 20 million homes were listening.

Although a child of the depression years, radio advertising has increased from a gross of 62 million dollars in 1930 to 207 millions in 1940. While radio was *increasing 850 per cent*, magazine advertising declined 30 per cent, newspaper declined 31 per cent, outdoor declined 41 per cent, and farm paper advertising fell 51 per cent—chiefly because radio is extremely sound as a social force.

The real meat of radio consists not merely of entertainment, but in the free services given the radio public: the broadcasting of News, fast, accurate, unbiased; of such undramatic things as weather forecasts, temperature reports, livestock and grain quotations, and other public service features of that type. It is the broadcasting of King Edward's abdication speech, a Roosevelt Fireside Chat, Winston Churchill reporting to an empire, America's Town Meeting of the Air, a Toscanini Symphony, the New York Philharmonic, and dozens of other educational and cultural features for men, women and children. That's why Americans listen to 50 million radio sets an average of four and one-half hours per day. That's what really makes broadcasting.

David Sarnoff has said "The richest man cannot buy for himself what the poorest man gets free by radio." That is radio as a social force. *To me it is actually remarkable that business men are permitted to buy advertising (and fellows like me are permitted to sell it) in connection with an instrument of so much public influence. It could probably only happen in America. Yet, that is what has built American broadcasting and that is why the American public gets the most complete, the most satisfactory and the most expensive radio service in the world today.*

## Comparison of Media

Since our organization publishes four newspapers and operates four radio stations, I can regard both forms without prejudice. They have several points in common: circulation, space, and selling copy.

In all media, circulation is *potential*: the total distribution of newspapers and total number of radio homes; and it is *actual*: the number that actually *sees* or *hears* your advertisement. Radio leads among all media in establishing means of learning the actual circulation of its programs. Continuous listener check-ups, organizations such as the C.A.B., the C. E. Hooper Co. and others are constantly enabling advertisers to follow the trends of their programs, and making it easier to buy radio because it is the only medium so far in which there is a constant over-all check-up of *net*, or *actual*, circulation.

The primary function of the newspaper advertisement or the radio program is to attract attention and arouse interest. In the newspaper this is done by the proper combination of layout, art work and heading; in radio by a well-balanced, well-produced program of entertainment or service value. The size of the ad or length of the program has a bearing on the amount of *actual* circulation you get, and the favorable setting created for the selling copy.

In both media, selling copy must complete the job, because all media are only a means of contact between you and your prospect. You can influence your results by the effectiveness of what you say.

*The one big advantage radio enjoys is the human voice. Since time began the voice has been the natural and most used form of communication, and now through the miracle of radio it reaches bigger audiences than were ever before possible by any means. Our educational system is based on it (what if we had to depend entirely upon correspondence schools?); most business is conducted upon exchange of ideas or agreements through the spoken word. You can complete arrangements for a loan with a man and his wife much easier in your office than you can by mail. Experiments by institutions such as Harvard and Ohio State College show*

*that the ear gets information easier and retains it longer than the eye.*

To advertise your product, which is money, first give plenty of attention to the subject of whom you wish to reach and the best way of doing it. Who are your prospects? What type of people are they? How do they live? Are they married or single?

*Radio is an extremely elastic medium.* You can build your program or select your time to reach any type of person, or any income group; by using the proper program content you can control your circulation to an amazing degree.

Borrowing or investing money is a serious concern in the business of running a home, decided nine times out of ten by the board of directors which consists of Mr. and Mrs. America. Here is another of radio's unique advantages; you have the family board of directors together, listening to your program. There is no competition from any other advertising at the time they are listening, no big or little advertisements playing around on all sides of it, vying for their attention—extremely important from a sales and public relations standpoint. *Radio's ability to deliver uninterrupted and undivided attention for your message in the homes of your prospects is definitely worth money to you.*

The Federal Home Loan Bank System, querying its 1200 members, learned that the average spent by each of these on radio advertising was \$898 per year, but the most successful advertisers spent more than that. When expenditures were over \$1000 the ratio of satisfied sponsors to dissatisfied sponsors was three to one; the average expenditure of those experiencing good or excellent results was \$1518 per year, and the average duration of their campaign was 32.3 weeks per year. There is a great argument there for *consistency*, true of any advertising but particularly true of radio.

The most satisfactory unit of time was 15 minutes; next, 5 minutes; next, one minute, and next, 30 minutes. The most satisfactory frequency was a five-per-week schedule for programs; most announcement users were on the air either six or seven days per week. One-third of all campaigns consisted of spot announcements; music and News programs ranked next, and News sponsors reported the highest proportion of good or excellent results.

## Answers to Questions

"Which is most effective, intensive broadcasting or periodic broadcasting?" Unless your short-time schedule is very sensational, it will probably not be as effective as regular, consistent, 52-week advertising, because of the habit-forming characteristics of radio, because constant repetition in selling is a strong factor, because of the economy of frequency discounts. Stop-and-go advertising is often expensive.

"What percentage of the budget should be devoted to radio?" That depends upon the size of the total appropriation, competition and other factors. To do a thorough, consistent job, in some cases it might require 90 percent, or 50 percent, or only 15 or 20 percent.

"What type of radio is most effective?" The Federal Savings and Loan report lists News and popular music programs as highly effective, but also shows a great variety including news commentators, five-minute talks, Musical Clocks, women's participating programs, man-on-the-street, historical, little-known facts about the city, etc. Let's put it this way: find a program with a built-up audience among the type of people you want to reach, at a time they are available, or build one which will create such an audience quickly. I suggest you put the burden of proof and selection on the radio station; all radio men I know are anxious to get results for their advertisers. Talk over your problems, the type of people who borrow or invest with you, determine your budget, and let him deliver the maximum on your investment.

"Do you recommend large stations and fewer announcements or programs, or small stations and more advertising for the same budget?" This depends on the coverage you want, relative station popularity, and whether or not your budget will buy a consistent, adequate service

"Is radio more effective in large or small cities?" There is prac-

no difference; radio success stories come from markets of a s.

"Is it effective for a small company in a large city?" Especially so; few people can compare one institution with another and tell which is bigger or more substantial, and very few care to look at financial statements to find out. To them the size of the company is *whatever they make it in their own minds*. In creating this mental picture of your business and the desirability of doing business with you, they depend upon your advertising. A small business, advertising creditably on a good radio station in association with leading advertisers, benefits from this association.

"How much commercial should a 15-minute News program contain?" This is a matter of judgment, of course, but generally not over 2½ to 3 minutes, preferably divided into two sales talks at approximately the 5-minute and 12-minute points, and with the commercials in the same tempo and mood as the program itself.

"What times and frequency are most effective for spot announcements?" Personally, we have had best results from spot announcements scheduled three or more times per day, seven days per week. A morning-afternoon-and-evening schedule gives you a very large circulation; otherwise, times should be selected to reach the type of audience you want.

"What length of campaign is most effective?" I would say that your first contract should preferably be for 52 weeks, with 26 weeks as a minimum. A large agency states that from its records it can usually gauge a program's success at the end of the 26th week. Their formula requires checks at the end of the 6th, 13th and 26th weeks; they say the 13-week response should double the 6th, and the 26th should double the 13th. Some programs draw immediate response; others require a longer build-up. I recall one large bakery which saw no sales increase at the end of 11 weeks, and almost cancelled the program which later the same year gave them increases up to 25 per cent of their monthly volume.

"Can 50-word announcements have real advertising pull?" Absolutely, if you have an interesting story to tell. The highlights can easily be told in 50 words.

"What type of bank clients are secured by radio advertising?" Mr. Pittman, president of the Morris Plan Bank of Philadelphia, says: "We were told before our broadcast started that radio would reach a lower income group mass audience; however, we found that many of our new customers came from a higher income group than our advertising had previously attracted. The size of our average loan increased 21 per cent in the first eight months of our radio campaign. Results not only kept pace but each succeeding month produced greater results than the previous one. During our first year on the air our loan volume increased 51.7 per cent over the same period the previous year; our savings increased by the unbelievable total of 152.9 per cent." This firm sponsors a daily evening News broadcast.

Let me add an evangelistic note. *More people are listening to more radio sets more hours every day than ever before, because radio is basically sound, is the most direct and fastest means of communication in existence today, and is one of the greatest social forces of our time.* In any business, such as yours, where public relations is such a vital factor, you must look to the future. Advertising, your chief means of public relations, is also communication, and communication changes. The jungle method of smoke fires and tom-toms seems ludicrous today. Who knows what the next ten years will bring, such as in the fields of frequency modulation and television? In other words, radio is of today and tomorrow. Every business firm which is in tune with progress and is looking to its future will do well to begin to use radio broadcasting, and find the most effective formula for its use today. It is something that will pay great dividends—immediately and in the years to come.

### Per-Inquiry and Free Offers

**Regnis Advertising**, New York, is seeking per-inquiry deals for the **Nu-Phonic Corporation**, manufacturers of phonograph records.

**Metropolitan Life Insurance Co.**, New York, offers a free "information service" to broadcasters.

**Miami Beach, Fla.**, is reported by NAB members as securing considerable free radio time by promoting a contest to select the "Radio Queen of the South." In a newspaper publicity story the contest director boasts that last year's contest "produced some \$7,000 in free radio publicity for Miami Beach." Comments an NAB member: "This prejudices the opportunity of selling resort advertising. Potential advertising from municipalities, chambers of commerce and individuals with resorts and vacation spots can constitute a sizeable amount of business, but if we give it away we have little chance of ever selling it."

**Ringling Brothers Circus**, through its advance man, is reported to be offering passes in exchange for time.

### Correction in Dates

In the article on "Effective Retail Selling" by Bruff Olin published here in the June 6 issue, it was said that "a better-than-average half-page newspaper advertisement is read by less than 10 per cent of a newspaper's circulation" according to EDITOR & PUBLISHER of February 8, 1940. The date should be the issue of February 8, 1930.

## Legislation

### New Recording, Libel Laws

Florida legislation effective June 12 abolished any asserted common law rights to collect royalties on the recorded performances embodied in phonograph records and electrical transcriptions once the records and transcriptions are sold in commerce for use in Florida. This act, in effect, writes the holding of the court in *RCA v. Whiteman* into the statute law of Florida.

The act is as follows:

An Act to prevent claims for additional compensation, fees or payment after sale of phonograph records, transcriptions or any form of recorded music and entertainment, or collection of licenses for the use of same after sale, by any performing artist, manufacturer or organization representing such performing artist or manufacturer, and to protect the purchaser thereof in its or their use for any purpose whatsoever.

Be it enacted by the Legislature of the State of Florida:

Section 1. When any phonograph record or electrical transcription, upon which musical performances are embodied, is sold in commerce for use within this State, all asserted common law rights to further restrict or to collect royalties on the commercial use made of any such recorded performances by any person is hereby abrogated and expressly repealed. When such article or chattel has been sold in commerce, any asserted intangible rights shall be deemed to have passed to the purchaser upon the purchase of the chattel itself, and the right to further restrict the use made of phonograph records or electrical transcriptions, whose sole value is in their use, is hereby forbidden and abrogated.

Section 2. Nothing in this Act shall be deemed to deny the rights granted any person by the United States Copyright laws. The sole intentment of this enactment is to abolish any common law rights attaching to phonograph records and electrical transcriptions, whose sole value is in their use, and to forbid further restrictions or the collection of subsequent fees and royalties on phonograph records and electrical transcriptions by performers who were paid for the initial performance at the recording thereof.

Section 3. If any section in this Act or any part of any section shall be declared invalid or unconstitutional such declaration of invalidity shall not affect the validity of the remaining portions hereof.

Section 4. All acts or parts of acts in conflict herewith are hereby expressly repealed.

Section 5. This Act shall take effect upon its approval by the Governor.

Approved June 12, 1941.

Also on June 12, an amendment to the Florida libel law became effective. By this amendment a radio station has the right, but

is not compelled, to require the submission of written script 24 hours before the time of broadcast. If submission of the script is so required, the station is freed from liability for any libelous or slanderous utterances broadcast which were not contained in the script.

The amendment is as follows:

An Act to amend Section 1 of Chapter 19616 Laws of Florida, Acts of 1939 entitled "An Act in Relation to the Civil Liability of Owners, Lessees, Licensees and Operators of Radio Broadcasting Stations and the Agents and Employees of Any Such Owner, Lessee, Licensee or Operator, for Radio Defamation or Libelous Statements."

Be it enacted by the Legislature of the State of Florida:

Section 1. That section 1 of chapter 19616 laws of Florida, 1939, be and it is hereby amended to read as follows:

"Section 1. The owner, lessee, licensee or operator of a radio broadcasting station shall have the right, but shall not be compelled, to require the submission of a written copy of any statement intended to be broadcast over such station twenty-four hours before the time of the intended broadcast thereof; and when such owner, lessee, licensee or operator has so required the submission of such copy, such owner, lessee, licensee or operator shall not be liable in damages for any libelous or slanderous utterance made by or for the person or party submitting a copy of such proposed broadcast which is not contained in such copy; but this Act shall not be construed to relieve the person or party, or the agents or servants of such person or party, making any such libelous or slanderous utterance from liability therefor."

Section 2. If any section in this Act or any part of any section shall be declared invalid or unconstitutional such declaration of invalidity shall not affect the validity of the remaining portions hereof.

Section 3. All acts or parts of acts in conflict herewith are hereby expressly repealed.

Section 4. This Act shall take effect upon its approval by the Governor.

Approved June 12, 1941.

## National Defense

### Radio Men in Service

#### KNX—LOS ANGELES

George G. Carter, Company L, 53rd Infantry, Fort Ord, Cal.  
Robert T. Hall, Company A, 76th Infantry, Camp Roberts, San Miguel, Cal.

Alden C. Packard, U. S. N. R., USS Albermarle, % Postmaster, New York, N. Y.

George R. Haysel, Comm. 9, 3rd Student Training Bn. Officers, Infantry School, Fort Benning, Ga. After August at Fort Ord, Cal.

Glenn Y. Middleton, Company D, 79th Infantry, Camp Roberts, Cal.

Jack Clinton, Aviation Cadet, Class I-C, Room 106, Bldg. 24-6, Naval Air Station, Corpus Christi, Texas.

Erle Frady, Headquarters Company, 17th Infantry, Fort Ord, Cal.

#### KFDM—BEAUMONT

Al Donaldson, U. S. N. R., Charleston, S. C.  
Leon Taylor, Fort Sam Houston, San Antonio, Texas. Intelligence Service, Headquarters Troop, Third Army.

#### WCAO—BALTIMORE

Captain Francis R. Dice, 175th Infantry—"C" Barracks, Room 20, Fort Meade, Maryland.

Private Raymond R. Moffett, Company "B"—7th Engineering Training Battalion, Engineer Replacement Center, Fort Belvoir, Virginia.

### War Department Transcriptions

It is understood that the FCC has approved War Department transcription programs containing incidental personal messages.

## Gilbert Newsome

Edward E. Bishop, WGH, Norfolk, Va., asks for information as to the whereabouts of Gilbert Newsome, an announcer.

## Father Burk

Father W. A. Burk, S. J., has had another serious heart attack which has made it impossible for him to return from St. Louis to Station WWL, New Orleans, as planned. Although the date of Father Burk's return to radio is now indefinite, the NAB and all its members join in hoping that it will be soon.

## FEDERAL COMMUNICATIONS COMMISSION

### FCC Refuses Stay

The FCC on June 12 refused to stay its decision of April 1, pending appeal by NBC, of an order permitting Station WHDH, Boston, to share a "clear channel" with Station KOA, Denver. Said Chairman Fly in his "specially concurring" opinion:

For the reasons stated above and particularly since there is no real injury to Station KOA, and since Station WHDH moves forward with knowledge of any legal risks involved, I concur in the foregoing decision denying the stay. The Commission heretofore has arrived at a final decision upon the merits of this case, in which I did not participate, and I do not want by expressing any opinion on a procedural matter to be understood as expressing an opinion on the merits of the decision. At the same time I entertain no doubt as to its legality.

Great waste results from the fact that clear channel stations whose *raison d'être* is to serve over great distances and in vast rural areas of the country, have to a great extent been concentrated along the coasts and the borders of the country. The power is impacted into the lucrative markets of large metropolitan areas which are already fully served, if, in fact, not over served, while a great portion of the signal strength of the clear channel station is wasted upon the sea. Thus, while listeners in New York, Chicago, and Los Angeles may tune in on a dozen stations, there are vast rural regions in upper New England, in some areas of the South, and in the great trans-Mississippi area where the listening public has difficulty in receiving programs of even one station. The need for a studious, careful appraisal of this vital problem is apparent. If the clear channel wave lengths are to be further exploited, the plans for that exploitation ought to be made in the light of these dominant factors and as a result of a full study.

### "Little Brooklyn Cases"

Though radio stations have "a recognized duty to present well rounded programs on subjects which may be fairly said to constitute public controversies of the day within the framework of our democratic system of government," the FCC "will not tolerate hostile propagandizing in the interest of any foreign government which has repeatedly and flagrantly expressed its enmity to this country and to the continued existence of its basic system of government."

The Commission so declared in adopting its decision and order in the so-called "Little Brooklyn cases," which involved 11 Brooklyn, N. Y., radio stations or applicants. The Commission has concluded on the basis of the record, and in view of the oral argument, to depart from its Proposed Findings of Fact and Conclusions (B-131), as announced February 5 of this year, and to leave the parties as it found them at the date of the oral argument.

Consequently, today's decision and order grants renewal of the license of WCNW, Arthur Faske, which the Proposed Findings and Conclusions would have denied.

The decision and order permits WWRL, Long Island Broadcasting Corporation, Woodside, Long Island, N. Y., to operate

as now, but denies WWRL's request to assume the operating hours of WCNW, which had been proposed.

In modifying its proposed findings to permit the two stations to operate on the same time-sharing basis as now, the Commission comments:

"In so doing the Commission is not to be construed as departing from its position that time-sharing stations "do not represent a healthy situation and are not to be encouraged. The Commission does feel, however, that there is nothing in the record to warrant the economic death penalty on either station at the instance of the other. The situation as it now exists will be permitted to continue but the Commission will be continually interested in the public service records which these two applicants may compile."

Commissioner Case voted for adoption of the proposed findings and conclusions as adopted February 5.

### New York "FM" Congestion

Because applications for FM broadcast stations in New York City exceed the number of available frequencies for operation in that locality, the FCC is considering establishment of a North Jersey service area, meanwhile making certain reallocations to enable as many applicants as possible to engage in this new type of broadcast service.

There are six Class A, 22 Class B, and seven Class C frequencies set aside for FM broadcast. However, it is not feasible to use all of the FM channels in the same area, as operation of stations on adjacent channels would result in objectionable interference. Consequently, FM construction permits for the Manhattan area were held up pending solution of this local problem.

On the basis of engineering study, and as a result of conferences with New York applicants, the Commission is now enabled to issue permits pursuant to grants previously announced, except in the cases of the Frequency Broadcasting Corporation, Brooklyn, which is expected to shift from 45900 to 49900 kilocycles, and Pennsylvania Broadcasting Company, Philadelphia, which is expected to go from 44700 to 44900 kilocycles.

The Commission is notifying two applicants—Bremer Broadcasting Corporation and New Jersey Broadcasting Corporation—that establishment of a North Jersey FM service area is under consideration, and that they may request Class A frequencies for such service.

In view of these adjustments, the Commission is now able to announce the grant of three additional New York FM applications as follows:

Muzak Corporation, to use 44700 kilocycles (Class B channel), to serve 8500 square miles.

Interstate Broadcasting Company, Inc., to use 45900 kilocycles (Class B channel), to serve like area.

City of New York Municipal Broadcasting System, to use 43900 kilocycles (Class C channel), to serve 3900 square miles.

### FCC Notice

Report No. 9—Actions on Rules and Regulations

The Commission en banc today modified the Rules Governing STL (Studio Transmitter Link) broadcast stations effective immediately as follows:

At each place in which the designation "STL" appears in Section 4.31-4.36 inclusive, of the Commission's Rules and Regulations, the designation "STL" is hereby stricken and the designation "ST" substituted therefor.

Footnote No. 1 appended to Section 4.31 of the Rules is hereby amended to read as follows:

<sup>1</sup> The abbreviation "ST" is derived from "studio-transmitter."

### Order Amendment

The FCC adopted an amendment to the order in the matter of the applications of Hobart Stephenson, Milton Edge, and Edgar

J. Korsmeyer, d/b as Stephenson, Edge and Korsmeyer, and Helen L. Walton & Walter Bellatti, all applicants for a new station in Jacksonville, Ill. (B-130).

The sixth paragraph of the Order of May 22, 1941, referring to grant of Stephenson, Edge and Korsmeyer application, was amended by inserting therein the following:

"Prior to the issuance of a construction permit, the applicant shall obtain approval of the Commission of the exact transmitter location and antenna system to be used. Application for such approval shall be filed within two months after the effective date of this order. If for any reason such application cannot be submitted within the time allowed, an informal request for extension of time must be submitted stating the necessity therefor."

### 897 Stations

During the month of May, 1941, the FCC issued operating licenses to thirteen stations and granted seven permits for the construction of new stations. One station was deleted. A comparative table by months follows:

	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1	June 1
Operating.....	783	791	799	806	810	816	825	831	835	836	837	836	849
Construction.....	53	56	58	57	54	52	51	51	46	54	54	55	48
	836	847	857	863	864	868	876	882	881	890	891	891	897

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

#### Monday, June 30

##### Broadcast

NEW—KNOE, Incorporated, Monroe, La.—C. P., 1420 kc., 250 watts, unlimited.

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license. 920 kc., 500 watts night, 1 KW day, SH-KUSD.

##### Television-Broadcast

W2XD—General Electric Company, Schenectady, N. Y.—For license to cover C. P., 162000-168000 kc., 40 watts, emission A-5, Sec. 4.4(a).

W2XI—General Electric Company, New Scotland, N. Y.—For renewal of license. 162000-168000 kc., 10 watts, emission A-5, Sec. 4.4(a).

W2XB—General Electric Company, New Scotland, N. Y.—For renewal of license, 60000-86000 kc., aural 3 KW, visual 10 KW, Sec. 4.4.

#### Wednesday, July 16

##### Broadcast

##### Consolidated Hearing

NEW—Mid-America Broadcasting Corporation, Louisville, Ky.—C. P., 1040 kc. (1080 kc. NARBA), 1 KW night, 5 KW day, unlimited time, DA-day and night.

WGRC—Northside Broadcasting Corporation, New Albany, Ind.—C. P., 1040 kc. (1080 kc. NARBA), 5 KW, unlimited time, DA-night and day. Present assignment: 1400 kc., 250 watts, unlimited time.

#### Monday, July 21

##### Broadcast

KGO & Auxil.—National Broadcasting Company, Inc., San Francisco, Calif.—Renewal of license. Main: 810 kc., 7½ KW,

unlimited time. Auxiliary: 810 kc., 2½ KW, unlimited time.  
KOA—National Broadcasting Company, Inc., Denver, Colo.—  
Renewal of license. 850 kc., 50 KW, unlimited time.  
WMAL—National Broadcasting Company, Inc., Washington, D. C.  
—Renewal of license. 630 kc., 5 KW, unlimited time.

#### Consolidated Hearing

KONB—MSB Broadcast Company, Omaha, Neb.—C. P., 1500 kc.,  
250 watts, unlimited time.  
KONB—MSB Broadcast Company, Omaha, Neb.—Modification of  
C. P., 1500 kc., 250 watts, unlimited time, under C. P.

#### Thursday, July 24

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Re-  
newal of license. 990 kc., 1 KW, daytime.

#### Friday, July 25

KORN—Nebraska Broadcasting Corporation, Fremont, Neb.—  
Renewal of license. 1400 kc., 250 watts, unlimited time.  
KORN—Clark Standiford (Transferor), and C. J. Malmsten, A. C.  
Sidner, S. S. Sidner and Arthur Baldwin (Transferees), Fre-  
mont, Neb.—Transfer of control. 1400 kc., 250 watts, un-  
limited time.

#### Monday, July 28

KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal  
of license. 930 kc., 1 KW night, 5 KW day, unlimited.  
NEW—Hawaiian Broadcasting System, Ltd., Honolulu, T. H.—  
C. P., 1310 kc. (1340 kc. NARBA), 250 watts, unlimited.

#### Wednesday, July 30

WABY—Adirondack Broadcasting Co., Inc., Albany, N. Y.—Modi-  
fication of license. 1210 kc., 250 watts, unlimited. Present  
assignment: 1400 kc., 250 watts, unlimited.

#### Monday, August 25

##### Broadcast

KDRO—Albert S. and Robert A. Drohlich, d/b as Drohlich Bros.,  
Sedalia, Mo.—C. P., 800 kc., 1 KW day, daytime. Present  
assignment: 1490 kc., 250 watts, unlimited.

#### Consolidated Hearing

KFJM—University of North Dakota, Grand Forks, N. Dak.—  
Renewal of license. 1440 kc., 500 watts night, 1 KW day,  
unlimited.  
KFJM—University of North Dakota, Grand Forks, N. Dak.—  
Modification of license. 1440 kc., 500 watts night, 1 KW  
day, S.H.-3 to 5 p. m. daily. Present assignment: 1440 kc.,  
500 watts night, 1 KW day, unlimited.  
NEW—Dalton LeMasurier, Grand Forks, N. Dak.—C. P., 1440  
kc., 500 watts night, 1 KW day, specified hours.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Standard Broadcasting Co., Los Angeles, Calif.—Granted construc-  
tion permit for new high frequency (FM) broadcast station  
in Los Angeles to operate on frequency 45300 kc. with a  
service area of 7,000 square miles (B5-PH-32).  
Muzak Corporation, New York City.—Granted construction per-  
mit for new high frequency broadcast station (FM) to use  
44700 kc. (Class B channel), to serve 8,500 square miles  
(B1-PH-48).  
Interstate Broadcasting Co., New York City.—Granted construc-  
tion permit for new high frequency (FM) broadcast station  
to use 45900 kc. (Class B channel) to serve 8,500 square  
miles (B1-PH-109).  
City of New York Municipal Broadcasting System, New York  
City.—Granted construction permit for new high frequency

(FM) broadcast station, to use 43500 kc. (Class C channel)  
to serve 3,900 square miles (B1-PH-83).

WCBD—WCBD, Inc., Chicago, Ill.—Granted modification of con-  
struction permit (B4-P-2974) for decrease in power of sta-  
tion WCBD from 10 KW (under construction permit) to  
5 KW and increase hours of operation from limited to day-  
time and until sunset at Fort Worth, Texas; extend com-  
mencement date to 1 day after grant and completion date to  
10 days thereafter. Also adopted order granting dismissal  
of petition of Ohio State University (WOSU) for rehearing  
in the above entitled matter and dismissed said petition  
(B4-P-2974).

KWLM—Lakeland Broadcasting Co., Willmar, Minn.—Granted  
construction permit to make changes in transmitting equip-  
ment and increase power from 100 to 250 watts on 1340 kc.  
(B4-P-3155).

W2XB—General Electric Co., New Scotland, N. Y.—Granted modi-  
fication of license of experimental television broadcast sta-  
tion, to change frequency assignment to 63000-72000 kc.  
(Channel No. 3).

### DESIGNATED FOR HEARING

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Application  
for modification of license to change frequency from 1230  
to 1400 kc., increase power from 100 watts night, 250 watts  
day to 250 watts, and change time of operation from speci-  
fied hours to unlimited time (B2-ML-1055).

James F. Hopkins, Inc., Ann Arbor, Mich.—Application for con-  
struction permit for new station at Ann Arbor, to be oper-  
ated on 1600 kc., with power of 1 KW, unlimited time  
(B2-P-3073).

### APPLICATIONS PLACED IN PENDING FILES

J. I. Sims, Orangeburg, S. C.—Placed in pending files pursuant  
to Order No. 79, application for new station to operate on  
1450 kc., 250 watts, unlimited time (B3-P-3169).

Fort Smith Newspaper Publishing Co., Fort Smith, Ark.—Placed  
in pending files pursuant to Order No. 79, application for  
new station to operate on 550 kc. with power of 1 KW,  
using directional antenna, unlimited time (B3-P-3117).

### MISCELLANEOUS

WNAD—University of Oklahoma, Norman, Okla.—Granted modi-  
fication of construction permit (for new antenna system,  
change in hours of operation, frequency and move of trans-  
mitter) for approval of antenna and transmitter site; 640  
kc., 1 KW, daytime (B3-MP-1296).

W9XBK—Balaban & Katz Corp., Chicago, Ill.—Granted extension  
of special temporary authority to operate two transmitter  
units to be installed and operated from the State-Lake Bldg.,  
Chicago; Link Transmitter Type No. 50-UTX with 100  
watts power for visual and Link Transmitter Type No.  
25-UBX, 25 watts power for aural; temporary steel tower  
to be used on roof of said building, in order to conduct tests  
for the period June 18, 1941, to not later than July 17, 1941,  
in accordance with construction permit.

K45LA—Don Lee Broadcasting System, Los Angeles, Calif.—  
Granted extension of special temporary authority to operate  
frequency modulation station commercially on 44500 kc.,  
1000 watts, special emission for frequency modulation, with  
transmitter located on top of Mt. Lee, Los Angeles, Calif.,  
and described as Western Electric type 503-A-1, maximum  
rated power 1000 watts and using a 4-bay turnstile an-  
tenna, for a period July 8, 1941, to not later than Sep-  
tember 5, 1941, pending completion of construction pursuant  
to construction permit.

KFNF—KFNF, Inc., Shenandoah, Iowa—Hearing on application  
for renewal of license now scheduled for June 16, 1941, was  
continued two weeks.

KGEZ—Donald C. Treloar, Kalispell, Mont.—Ordered issuance  
of modification of construction permit for approval of  
directional antenna system for night use on 1460 kc.; station  
operates on 100 watts (construction permit for 1 KW)  
(B5-MP-1173).

Cascade Broadcasting Co., Inc., Everett, Wash.—Ordered issuance  
of construction permit for new station to operate on 1460  
kc., 500 watts, unlimited time, employing non-directional  
antenna system (B5-P-2008).

- WNBI—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate international station WNBI on **17780 kc.** in order to permit simultaneous operations of Stations WNBI and WNCA on frequencies **17780 kc.** and **9670 kc.** for the period June 15, 1941, and ending not later than July 14, 1941.
- WNBI—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to utilize the presently authorized WRCA **9670 kc.** power amplifier NRA50A Serial No. 1 for WNBI operation on **11890 kc.** for a period June 14 to not later than July 13, 1941.
- WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate mobile relay station WADA licensed to Charleston Broadcasting Co., on June 13, 20 and 27, 1941, only.
- KOA—National Broadcasting Co., Denver, Colo.—Denied petition for stay during appeal to the Court of Appeals for the District of Columbia, from the Commission's order of April 7, 1941, granting application of WHDH, Matheson Radio Co., Inc., Boston, Mass., for unlimited hours of operation on frequency **850 kc.** with power of 5 KW (B-121), and amending its rules accordingly. The Commission reaffirmed its order of April 7, 1941. (Chairman Fly and Commissioners Walker and Thompson voted for denial of petition; Commissioners Case and Wakefield against; Commissioners Craven and Payne absent.) The Chairman submitted a specially concurring opinion.
- WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Granted motion for leave to amend application to specify frequency **1060 kc.** and 50 KW power. Application directed be removed from Hearing Docket.
- KDRO—Drohlich Brothers, Sedalia, Mo.—Granted motion to continue hearing to August 25, in re application for construction permit to change frequency from **1490** to **800 kc.**; power from 250 watts to 1 KW, and time of operation from unlimited to daytime only.
- The Evening News Press, Inc., Port Angeles, Wash.—Granted petition to amend application to specify **1450 kc.** and 250 watts, unlimited time, instead of **1500 kc.**, 100 watts night, 250 watts LS.
- KFNF—KFNF, Inc., Shenandoah, Ia.—Dismissed motion for postponement of hearing date on application for renewal of license.
- KORN—C. J. Malmsten, S. S. Sidner, A. C. Sidner, H. A. Gundersen, E. J. Lee (Transferees) and John F. Palmquist and Paul Boyer, co-partners, d/b as Fremont Broadcasting Co. (Transferees), Fremont, Neb.—Granted request to withdraw without prejudice application for authority to transfer control of station KORN.
- KONB—C. J. Malmsten, John K. Morrison and Arthur Baldwin (Transferees) and Ross C. Glasmann, Wm. W. Glasmann, Blaine V. Glasmann (Transferees), Omaha, Neb.—Application for transfer of control of station KONB dismissed; request for withdrawal without prejudice denied.
- W2XD—General Electric Co., Schenectady, N. Y.; W2XI—New Scotland, N. Y.; W2XB—New Scotland, N. Y.—Granted motion for continuance of hearing to June 30 on application for license to cover construction permit for station W2XD, and for renewal of licenses for television stations W2XI and W2XB.
- WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted special temporary authority to operate from 9 to 10 p. m. DST on June 14, 1941, in order to broadcast the Convention Dinner held in Boston on Flag Day only.
- KBUR—Burlington Broadcasting Co., Burlington, Ia.—Granted modification of construction permit (B4-P-1799, authorizing a new station), for approval of transmitter and studio sites at National Bank Bldg., Jefferson & Main Sts., Burlington, approval of antenna, and installation of new type transmitter; **1490 kc.**, 250 watts, unlimited time (B4-MP-1301).
- WIS—The Liberty Life Ins. Co., Columbia, S. C.—Granted modification of construction permit (B3-P-2870) to make changes in directional antenna system and increase power to 5 KW day and night, for extension of commencement and completion dates to July 15, 1941, and Jan. 15, 1942, respectively (B3-MP-1304).
- WALA—Pape Broadcasting Co.—Granted modification of construction permit (B3-MP-932, which authorized increase in power, installation of new equipment and directional antenna for night use, and move of transmitter), for extension of completion date to Sept. 29/41 (B3-MP-1312).
- WBYN—Unified Broadcasting Corp. of Brooklyn, Brooklyn, N. Y.—Granted modification of license to change licensee's name from Unified Broadcasting Corp. of Brooklyn to WBYN—Brooklyn, Inc. (B1-ML-1073).
- WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—Granted authority to determine operating power by direct measurement of antenna power on **1380 kc.** under NARBA (B5-Z-789).
- WMUR—The Radio Voice of New Hampshire, Inc.—Manchester, N. H.—Granted modification of construction permit (B1-P-2897, for new station) authorizing extension of completion date to July 1, 1941 (B1-MP-1320).
- KFBB—Buttery Broadcast, Inc., Great Falls, Mont.—Granted modification of construction permit (B5-P-2920, which authorized increase in power and installation of directional antenna for night use), for extension of completion date to July 13/41 (B5-MP-1319).
- WNAB—Harold Thomas, Bridgeport, Conn.—Granted modification of construction permit (B1-P-2410, authorizing new station) for extension of completion date to September 30, 1941; **1450 kc.**, 250 watts, unlimited time (B1-MP-1310).
- WENE—WJIM, Inc., Portable-Mobile, Area of Lansing, Mich.—Granted modification of construction permit (B2-MRE-368, which authorized changes in equipment and increase in power to 50 watts in relay station), for extension of commencement and completion dates to 30 and 180 days respectively, after grant (B2-MPRE-51).
- KGHF—Curtis P. Ritchie, Pueblo, Colo.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-910).
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-849).
- WJR—WJR, The Goodwill Station, Detroit, Mich.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-973).
- WMIN—WMIN Broadcasting Co., St. Paul, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-924).
- WSVS—Board of Education, City of Buffalo, Buffalo, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-1012).
- KJBS—Julius Brunton & Sons Co., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1035).
- WBBZ—Adelaide Lillian Carrell, Executrix of Estate of Charles Lewis Carrell, Deceased, Ponca City, Okla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-1008).
- KYSM—Southern Minn. Supply Co., Mankato, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-1031).
- KMOX—Columbia Broadcasting System, Inc., St. Louis, Mo.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-926).
- KEUB—Eastern Utah Broadcasting Co., Price, Utah—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1009).
- KSAN—Golden Gate Broadcasting Corp., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-991).
- KGNF—Great Plains Broadcasting Co. (a Corp.), North Platte, Neb.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-997).
- WOMT—Francis K. Kadow, Manitowoc, Wis.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-951).
- KUOA—KUOA, Inc., Siloam Springs, Ark.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-984).
- KWG—McClatchy Broadcasting Co., Stockton, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-927).
- KGfJ—Ben S. McGlashan, Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1030).
- WJBC—Radio Station WJBC, Bloomington, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-946).
- WMBI—The Moody Bible Institute of Chicago, Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-1003).

- KPO—National Broadcasting Co., Inc., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-979).
- WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-980).
- WTAM—National Broadcasting Co., Inc., Cleveland, Ohio.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-981).
- WJZ—National Broadcasting Co., Inc., New York City.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-978).
- WSM—The National Life and Accident Ins. Co., Nashville, Tenn.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-1001).
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-1002).
- KOME—Oil Capital Sales Corp., Tulsa, Okla.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-905).
- KPOF—Pillar of Fire (a Corp.), Denver, Colo.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-952).
- WAWZ—Pillar of Fire, Zarephath, N. J.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-1032).
- KPMC—Pioneer Mercantile Co., Bakersfield, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-983).
- WEEU—Berks Broadcasting Co., Reading, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-917).
- WTJS—The Sun Publishing Co., Inc., Jackson, Tenn.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-913).
- KMED—Mrs. M. J. Virgin, Medford, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-943).
- WGL—Westinghouse Radio Stations, Inc., Fort Wayne, Ind.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-985).
- WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-967).
- WRAW—Reading Broadcasting Co., Reading, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-916).
- KFIZ—The Reporter Printing Co., Fond du Lac, Wis.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-941).
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-968).
- WILM—Delaware Broadcasting Co., Wilmington, Del.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-937).
- WKBZ—Ashbacker Radio Corp., Muskegon, Mich.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-963).
- KVOL—Evangeline Broadcasting Co., Inc., Lafayette, La.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-912).
- WFOR—Forrest Broadcasting Co., Inc., Hattiesburg, Miss.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-964).
- WEBQ—Harrisburg Broadcasting Co., Harrisburg, Ill.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-965).
- KGFF—KGFF Broadcasting Co., Inc., Shawnee, Okla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-920).
- KMMJ—KMMJ, Inc., Grand Island, Neb.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-919).
- WKBV—Knox Radio Corp., Richmond, Ind.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-896).
- KFAC—Los Angeles Broadcasting Co., Los Angeles, Cal.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-899).
- WWL—Loyola University, New Orleans, La.—Granted authority to determine operating power by direct measurement of antenna power on 870 kc. under NARBA (B3-Z-738).
- KMAC—W. W. McAllister and Howard W. Davis, d/b as Walmac Co., San Antonio, Tex.—Granted authority to determine operating power by direct measurement of antenna power on 1400 kc. under NARBA (B3-Z-774).
- KGO—National Broadcasting Co., Inc., San Francisco, Cal.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-982).
- WJAC—The Norfolk Daily News, Norfolk, Neb.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-966).
- W8XWI—Guy S. Cornish, Portable-Mobile, area of Cincinnati, Ohio.—Granted license to cover construction permit (B2-PARE-1) for new Class II experimental public address relay station on an experimental basis only; frequency 310000 kc., 1 watt; to be used to provide a means of relaying to a public address system, aural signals from locations where wire facilities are not available (B2-LARE-1).
- WTMC—Ocala Broadcasting Co., Inc., Ocala, Fla.; WDLF—Panama City Broadcasting Co., Panama City, Fla.—Amended Commission order of April 8, 1941, designating the place of hearing in re revocation of licenses of WTMC and WDLF for Pensacola, Fla., and thereafter at Panama City and Ocala, Fla. to specify that the said hearing shall be held on June 16, 1941, at Jacksonville, Fla., and thereafter at Ocala, Panama City, and Pensacola, Fla., as directed (Docket Nos. 6000 and 6001).
- KWLC—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 10:45 to 11:30 p. m. CST on June 18 and 25, and July 2, 1941, in order to broadcast the Luther College summer session convocations only.
- WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from sign-off time (June 7:45 p. m.) until 10 p. m. on June 14, 1941, only, in order to broadcast special Flag Day Celebration.
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to remain silent for the period August 1, 1941, until not later than September 14, 1941, in order to observe College summer vacation only.
- WCNW—Arthur Faske, Brooklyn, N. Y.—Denied request for special temporary authority to operate from 12 midnight to 1 a. m. for the period June 15 to not later than July 14, 1941, in order to conduct a non-commercial experimental program consisting of Associated Press News, music and Americanization talks.
- WBPA—National Life and Accident Insurance Co., Nashville, Tenn.—Granted special temporary authority to use an experimental 20 watt FM transmitter on the I group of frequencies as a relay broadcast station in order to broadcast the second Army Maneuvers from the vicinity of Manchester and Tullahoma, Tenn., for the period June 14, 1941, to not later than June 30, 1941.
- WABA—Agricultural Broadcasting Co., Chicago, Ill. (WLS).—Granted special temporary authority to operate a special laboratory transmitter as a relay broadcast station on 37980 kc. with a power of ½ watt in order to record on the ground and to rebroadcast over WLS the human voice and the rate of the heart beat, and other scientific data during a free fall in the air prior to the opening of a parachute, for the period June 12 to not later than July 11, 1941.
- WMAL—National Broadcasting Co., Washington, D. C.—Adopted order canceling license dated March 24, 1941, issued to NBC, authorizing use of an auxiliary transmitter in connection with operation of WMAL; canceled hearing, and dismissed application for renewal of auxiliary transmitter license (B1-R-142, Docket 6071).
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Adopted order granting petition of WKZO to vacate the order of April 8, 1941, designating for hearing application for construction permit; vacated Commission action of April 8, and canceled hearing, and granted application of WKZO in part, for construction permit to install new transmitter and increase daytime power from 1 to 5 KW (B2-P-2898, Docket No. 6055).
- W2XD—General Electric Co., Schenectady, N. Y.; W2XI—New Scotland, N. Y.; W2XB—New Scotland, N. Y.—Adopted order granting petition to reconsider and grant without hearing the applications for renewal of licenses of stations W2XI and W2XB and for license to cover construction permit for station W2XD; canceled hearing heretofore scheduled, and

granted said applications (B1-LVB-24; B1-RVB-26, and B1-RVB-25).

W2XBS—National Broadcasting Co.—Adopted order granting application for construction permit for commercial television broadcast station pursuant to Commission's Order of April 30, 1941, together with license to cover said construction permit (B1-PCT-1 and B1-LCT-1).

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

KFUO—Evangelical Lutheran Synod of Missouri, Ohio and Other States, Clayton, Mo.—Modification of construction permit (B4-P-2882) for installation of new transmitter and vertical radiator, increased power to 5 KW day and night, requesting extension of completion date from 7-13-41 to 8-13-41.

KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Construction permit to change frequency from 550 to 940 kc., increase power from 1 KW night, 5 KW day to 50 KW day and night, install new transmitter and new directional antenna for night use, and change transmitter location, requesting WTAD be transferred from 930 to 550 kc., unlimited time.

### 570 Kilocycles

WOSU—Ohio State University, Columbus, Ohio.—Modification of construction permit (B2-P-3138) for change in frequency, increase in power, change in hours of operation, and installation of new transmitter, requesting authority to install new transmitter and extension of commencement and completion dates to 30 days after grant and 90 days thereafter, respectively.

### 910 Kilocycles

WFDF—Flint Broadcasting Co., Flint, Mich.—License to use old Collins 300B-100-watt main transmitter as an auxiliary transmitter with power of 100 watts.

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Authority to determine operating power by direct method (Auxiliary transmitter).

WQAN—The Scranton Times (Co-partnership), E. J. Lynett, Wm. R. Lynett, Elizabeth R. Lynett and Edward J. Lynett, Jr., Scranton, Pa.—Authority to determine operating power by direct method.

### 960 Kilocycles

WSBT—The South Bend Tribune, South Bend, Ind.—Authority to determine operating power by direct method.

WSBT—The South Bend Tribune, South Bend, Ind.—License to cover construction permit (B4-P-900) as modified, to install directional antenna, change frequency and hours, and move transmitter.

### 970 Kilocycles

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Authority to determine operating power by direct method.

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—License to cover construction permit (B1-P-2704) as modified, to install new transmitter, directional antenna for night use, change hours of operation from daytime (to 6 p. m.) to unlimited time, increase power from 500 watts to 1 KW day and night and change transmitter site.

### 980 Kilocycles

WHAL—Harold F. Gross and Edmund C. Shields, Saginaw, Mich.—Modification of construction permit (B2-P-936) as modified, for a new station, requesting additional time for commencement and completion of construction from 1-14-41 and 7-14-41 to 10-14-41 and 180 days thereafter, respectively.

### 990 Kilocycles

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Construction permit to install new transmitter, direction antenna, day and night use, increase power from 1 to 10 KW, time from day to unlimited, move transmitter and move studio.

### 1120 Kilocycles

WCBD—WCBD, Incorporated, Chicago, Ill.—Modification of construction permit (B4-P-2974) to change frequency, increase power and change hours of operation; requesting decrease

in power from 10 to 5 KW, change hours of operation from daytime to limited to sunset at Fort Worth, Texas, change transmitting equipment and extension of commencement and completion dates from 6-30-41 and 12-30-41 to 1 day after grant and 10 days thereafter, respectively.

### 1210 Kilocycles

Contra Costa Broadcasting Co., Richmond, Calif.—Construction permit for a new broadcast station to be operated on 1210 kc., 500 watts, limited time, and for changes in antenna. Amended: To change proposed transmitter location.

### 1240 Kilocycles

KBIZ—J. D. Falvey, Ottumwa, Iowa.—Modification of license for increase in power from 100 watts to 250 watts.

KFBC—Frontier Broadcasting Co., Cheyenne, Wyo.—Authority to determine operating power by direct method.

KOVO—Clifton A. Tolboe, tr. as Citizens Voice & Air Show, Provo, Utah.—Authority to determine operating power by direct method.

WGCM—WGCM, Incorporated, Gulfport, Miss.—Authority to determine operating power by direct method.

WJIM—WJIM, Incorporated, Lansing, Mich.—Authority to determine operating power by direct method.

WSAY—Brown Radio Service & Laboratory (Gordon P. Brown, Owner), Rochester, N. Y.—Authority to determine operating power by direct method.

### 1260 Kilocycles

KGGM—New Mexico Broadcasting Co., Albuquerque, N. Mex.—Authority to determine operating power by direct method.

### 1290 Kilocycles

KRGV—KRGV, Incorporated, Weslaco, Texas.—Authority to determine operating power by direct method.

### 1320 Kilocycles

KLCN—Fred O. Grimwood, Blytheville, Ark.—Authority to determine operating power by direct method.

### 1340 Kilocycles

Birney Imes and Robin Weaver, d/b as Imes-Weaver Broadcasting Co., Columbia, Tenn.—Construction permit for a new broadcast station to be operated on 1340 kc., 250 watts, unlimited time.

KFPL—C. C. Baxter, Dublin, Texas.—Authority to determine operating power by direct method.

KVSF—New Mexico Broadcasting Co., Santa Fe, N. Mex.—Authority to determine operating power by direct method.

WGAA—Northwest Georgia Broadcasting Co., Cedartown, Ga.—Modification of construction permit (B3-P-3029) for a new broadcast station, requesting changes in transmitting equipment.

WSGN—The Birmingham News Co., Birmingham, Ala.—Authority to determine operating power by direct method.

WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Authority to determine operating power by direct method.

### 1350 Kilocycles

WORK—York Broadcasting Co., York, Pa.—Construction permit to install new directional antenna system for night use only.

### 1390 Kilocycles

WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Authority to determine operating power by direct method.

### 1400 Kilocycles

WCBM—Baltimore Broadcasting Corp., Baltimore, Md.—Authority to determine operating power by direct method.

WMGA—Frank R. Pidcock, Sr., Moultrie, Ga.—Authority to determine operating power by direct method.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Authority to determine operating power by direct method.



### 1450 Kilocycles

- Dyke Cullum, Washington, D. C.—Construction permit for a new station to be operated on **1450 kc.**, 250 watts with 100-watt amplifier, unlimited time, facilities of WWDC. Amended: To change requested location of amplifier.
- Utica Broadcasting Co., Inc., Utica, N. Y.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 250 watts, unlimited time.
- KGIW—E. L. Allen, Alamosa, Colo.—Construction permit to increase power from 100 watts to 250 watts and install new transmitter.
- WACO—Frontier Broadcasting Co., Inc., Waco, Texas.—Authority to determine operating power by direct method.
- WGOV—E. D. Rivers, Valdosta, Ga.—Authority to determine operating power by direct method.
- WHFC—WHFC Inc., Cicero, Ill.—Authority to determine operating power by direct method.
- WPAD—Paducah Broadcasting Co., Inc., Paducah, Ky.—Authority to determine operating power by direct method.

### 1470 Kilocycles

- KELA—Central Broadcasting Corp., Centralia-Chehalis, Wash.—Authority to determine operating power by direct method.
- WSAN—Lehigh Valley Broadcasting Co., Allentown, Pa.—Modification of construction permit (B2-P-2637) for new transmitter, directional antenna for day and night use, increase in power, and unlimited time, requesting change in frequency to **1470 kc.** under NARBA and changes in directional antenna system and type of transmitter.

### 1480 Kilocycles

- KGCX—E. E. Kresbach, Wolf Point, Mont.—Modification of license to move studio to transmitter location.

### 1490 Kilocycles

- R. M. Wallace & G. E. Schnibben, d/b as Norfolk County Broadcasting Co., Norfolk, Va.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time, contingent on WBOC going to **1230 kc.**
- KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Calif.—Authority to transfer control of corporation from Thomas S. Lee and R. D. Merrill, Executors of Estate of Don Lee, deceased, to Don Lee Broadcasting System.
- KSAM—Sam Houston Broadcasting Ass'n., H. G. Webster, Pres., Huntsville, Texas.—Authority to determine operating power by direct method.
- WMIS—Natchez Broadcasting Co., Natchez, Miss.—License to cover construction permit (B3-P-2999) for a new broadcast station.
- WMIS—Natchez Broadcasting Co., Natchez, Miss.—Authority to determine operating power by direct method.

### 1590 Kilocycles

- KITE—First National Television, Inc., Kansas City, Mo.—Authority to determine operating power by direct method.
- WALB—The Herald Publishing Co., Albany, Ga.—License to cover construction permit (B3-P-2774) as modified, for a new broadcast station.

## FM APPLICATIONS

- W6XEA—Earle C. Anthony, Inc., Los Angeles, Calif.—Modification of construction permit (B5-PVB-26) for a new television station, requesting extension of commencement and completion dates from 1-15-41 and 7-15-41 to 7-15-41 and 1-15-42, respectively.
- W45BR—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—License to cover construction permit (B3-PH-4) for a new high frequency broadcast station, and change studio site.
- W47C—WJJD, Inc., Chicago, Ill.—Modification of construction permit (B4-PH-17) for a new high frequency broadcast station, requesting change in type of transmitter, antenna changes, and change population from 4,051,000 to 4,750,000.

## MISCELLANEOUS APPLICATIONS

- KEHT—The KANS Broadcasting Co., Portable-Mobile.—License to cover construction permit (B4-PRE-388) for a new relay broadcast station.

- WAUR—University of Illinois, Farm Area, South of Champaign, Ill.—Reinstatement of construction permit (B4-PRY-226) for a new relay broadcast station to be operated on **1646, 2090, 2190, and 2830 kc.**, 20 watts, A3 emission.
- Bay County Publishers, Inc., Panama City, Fla.—License for a new broadcast station to be operated on **1230 kc.**, 100 watts night, 250 watts day, unlimited time, facilities of WDLF. Amended: Re Section 15(a).
- Birney Imes & Robin Weaver, d/b as Imes-Weaver Broadcasting Co., Cleveland, Tenn.—Construction permit for a new broadcast station to be operated on **1450 kc.**, 250 watts, unlimited time. Amended: To specify transmitter site as site to be determined, Cleveland, Tenn.
- The Metropolis Co., Ocala, Fla.—License for a new broadcast station to be operated on **1490 kc.**, 100 watts, unlimited time, facilities of WTMC. Amended: Re Section 15(a).
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Construction permit to increase power from 500 watts night, 1 KW day, to 5 KW, move transmitter, change hours from specified to unlimited, and request **690 kc.** under NARBA. Amended: To increase power from 500 watts night, 1 KW day, to 1 KW, change transmitter, and make changes in directional antenna for night use.
- Bernard N. Walker, Concord, N. C.—Construction permit for a new broadcast station to be operated on **1400 kc.**, 250 watts, unlimited time.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition against the following firm. The respondent will be given an opportunity to show cause why a cease and desist order should not be issued against them.

**Harper Manufacturing Co.**—Alleging misrepresentation in the sale of men's clothing, a complaint has been issued against J. Fred Malone and Joe P. Malone, Rome, Ga., who are in business under the names of Harper Manufacturing Co., Malone Clothing Manufacturing Co., Gray-Dickson Clothing Co., and Piedmont Clothing Co.

The complaint alleges that the respondents' sales representatives, in promoting the sale of men's clothing, represent that The duPont Company is back of or associated with the respondents in their business; that the material used in their suits is manufactured by The duPont Company, and that The duPont Company furnishes free the goods to be used in the making of the garments sold, the customer paying only for the labor involved, when in fact The duPont Company is in no manner associated with the respondents and does not manufacture the material used in the respondents' garments, and the customer pays not only for the labor involved in making a suit but for the material used and for a profit to the respondents.

According to the complaint, the respondents' agents also represent that garments will be made-to-order or measure and be of a certain material, color, design, weave or pattern, as per sample shown; that the customer will have opportunity to inspect and try on the garments before accepting them, and that the respondents manufacture all of such garments and ship them to the customer direct from their own factory.

The complaint alleges that the garments delivered by the respondents to such customers are not made-to-measure or made-to-order but are of the ready-made variety or stock type of clothing, altered by the respondents when deemed necessary partially to conform to the measurements shown on order blanks; that in many instances the garments as delivered are made of materials inferior to and different from the samples selected by purchasers; that the respondents in many instances have failed and refused to return the purchase price received from the customer or deliver a garment made from the material he selected; that customers do not have an opportunity to inspect or try on garments before accepting them and paying the C. O. D. balance due, and that the respondents neither manufacture all the garments they sell nor ship them direct from their factory. (4516)

**Horton Fifth Avenue Jewelers**—Frackman Diamond Corporation, and Morton Frackman, Joseph Frackman, and Gilbert E. Horton, doing business under the name Horton Fifth Avenue Jewelers, all of 545 Fifth Avenue, New York, sellers and distributors of jewelry locally and who also conduct a retail mail order business in jewelry, are charged in a complaint with misrepresentation.

In catalogs distributed through several States, the respondents are alleged in the complaint to have represented that diamond and precious stone jewelry was available "at authentic manufacturers' wholesale prices." Among other representations were:

#### "SOLITAIRE ENGAGEMENT RING.

yellow gold; 1 large round white center diamond,  
and 1 round white diamond on each side.

Customary retail price: \$50

Our net cost to you: \$23"

The complaint alleges that these representations are false and misleading in that the prices designated by the respondents as the "customary retail prices" are inflated and fictitious. In truth, the complaint alleges, the prices quoted are those at which the respondents customarily sell their jewelry at retail to the purchasing public and are substantially the same as, or higher than, the customary retail prices of the same or similar articles of jewelry of comparable quality and value offered by other retailers.

The complaint also alleges that in the respondents' catalogs descriptions of many of the rings offered for sale include representations and statements as to the carat weight of the diamonds in the rings in such a manner as to mislead the purchasing public and cause it to believe that the carat weight so set forth is the weight of the largest diamond in the ring, when actually the carat weight given is the combined weight of all the diamonds in the ring. (4518)

**Kol-Tone Manufacturing Co.**—A complaint has been issued charging Gus. H. Cohn, trading as Kol-Tone Manufacturing Co., 7516 Delmar Blvd., St. Louis, with misrepresentation in the sale of chemicals mixed to form the product "Kol-Tone," formerly called "Koltreat," designed for use when mixed with water as a treatment for bituminous coal and bituminous coal products, and in the sale of such product and a bituminous coal product treated with "Kol-Tone."

The complaint alleges that in newspaper and periodical advertisements circulated in various States the respondent has represented and implied that "Kol-Tone" or "Koltreat," when used in treating or processing bituminous coal or bituminous coal products, accomplishes a material reduction in soot and smoke, a saving in fuel, and increased efficiency with less combustibles remaining in the ash, and that it gives the purchaser more for his money than would be received through the use of such coal or coal products not so treated or processed.

The complaint further alleges that the respondent's product is a chemical mixture consisting largely of common salt, with a small percentage of metallic salts, and has no material or appreciable beneficial effect when used in treating or processing bituminous coal and bituminous coal products. According to the complaint, neither the respondent's product "Kol-Tone," nor its bituminous coal product treated with "Kol-Tone," will accomplish the results claimed. (4515)

#### STIPULATIONS

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

**Consolidated Cigar Corporation**, 730 Fifth Ave., New York, stipulated to cease certain representations in the sale of its "Harvester Cigars." The respondent agrees to cease advertising that these cigars depend entirely for their flavor upon Havana tobacco, or by the unqualified use of the phrase "Heart of Havana," or in any other manner, that the filler of its cigar is composed predominantly of tobacco grown in and imported from Cuba, or otherwise describing the source of the tobacco content of these cigars unless in all such descriptive matter the country of origin of each of the tobaccos used is set forth with equal emphasis in the order of their predominance by weight. According to the stipulation, the filler of Harvester Cigars is not composed predominantly of

tobacco grown in Cuba but consists in comparatively small part of genuine Havana tobacco blended with much greater amounts of tobaccos originating from other sources. (02804)

**W. H. Kirkland Co.**—A stipulation was accepted from an Anniston, Ala., co-partnership to cease certain representations in connection with the sale of cast iron soil pipe, pipe fittings and other allied products. The respondents are W. H. Kirkland, Almeda H. Kirkland and Elsie K. Weatherly, who, from 1934 to 1940, engaged in the sale of such products under the firm name of W. H. Kirkland Co.

The respondents agree to cease employing in their advertisements the words "Manufacturers" or "Manufactured" to identify the business conducted by them, and to desist from use of these words or other words of similar import which imply that they manufacture the products they sell or own, operate or control the factory in which they are made. (3130)

**National Woolen Co.**—Chester Krone, trading as National Woolen Co., 15 East 17th St., New York, entered into a stipulation to cease representing as the customary or regular prices or values of men's suits prices or values which are in fact fictitious and in excess of the customary prices. According to the stipulation, the respondent's agents represent that the regular price of certain suits is \$35, but that they are being sold at a special price of \$23.95, when in fact the customary price is not \$35 but \$23.95. (3129)

**Nutty Brown Mills**—C. A. Sears, trading as Nutty Brown Mills, Houston, Tex., entered into a stipulation that the respondent will cease advertising "Nutty Brown Bread" as being beneficial in reducing or maintaining body weight, unless used as an integral part of a diet intended for that purpose. The respondent also agrees to cease representing that this bread contributes less fat-producing substances than ordinary breads, gives one the assurance of Vitamin B adequacy, or is low in assimilable carbohydrates. The respondent further agrees to cease representing that the protein of Nutty Brown Bread products is complete in its biologic value and supports normal growth; that the average thin slice contains only 20 calories, and that the respondent's bread is essentially a protein food. (02805)

**Walter-Lewis Woolen Corporation**, 450 Seventh Ave., New York, entered into a stipulation to cease certain representations in the sale of textile fabrics.

The stipulation points out that the Wool Products Labeling Act of 1939 defines the term "wool" as meaning the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama and vicuna) which has never been reclaimed from any woven or felted wool product.

In the sale of textile fabrics composed predominantly of fibers other than camel's hair, the respondent agrees to desist from the use in its brands, labels, or other trade indicia, of the words "Camels" or "Camels Hair" or a depiction of a camel, or of other words of similar meaning so as to imply that camel's hair constitutes a substantial proportion of the fiber content of such fabric.

The stipulation provides, however, that the words "Camels Hair" or other words properly descriptive of the so-called specialty fiber content of the fabric may be used to describe the so-called specialty fiber content when immediately accompanied in equally conspicuous type by accurate designations of each constituent fiber or material in the order of its predominance by weight and specifying the proportion or percentage of such so-called specialty fiber as, for example, "Wool and Camels Hair, Camels Hair 1%." (3127)

#### CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Von Schrader Manufacturing Co.**—H. D. Rench and Francis U. Von Schrader, trading as Von Schrader Manufacturing Company, 1600 Junction Ave., Racine, Wis., engaged in the sale and distribution of electrically operated portable carpet washing ma-

chines, have been ordered to cease and desist from misrepresentations concerning the machines.

The Commission finds that the respondents, in magazines and other publications, represented to prospective purchasers and operators that the "Von Schrader Carpet Washer" removes "the deeply imbedded grime and the microbes of disease which are carried into the home by every shoe that crosses the threshold," and "When you are getting started, naturally your profits depend on how diligently you go after business, but \$200 to \$400 a month is an easy average."

The Commission finds further that the soap solution used in the machines sold by the respondents, which perform their cleaning function by means of rapidly oscillating rubber brushes, is not a germicide and will not "destroy every vestige of germ" or remove "the microbes of disease," as represented. The cleansing action of the machine is limited to the removal from rugs and carpets of such dirt and other foreign material as may be loosened by the scrubbing action of the machine and incorporated in the lather which is then removed.

The Commission finds that \$200 to \$400 a month profit is not an "easy average" for operators of the respondents' machines, nor in fact an average of any kind of such operators' earnings. Because of the seasonal nature of the rug cleaning business, the findings continue, representations as to large gross amounts that may have

been earned by individual operators in their best day, week, or month are misleading in that they represent exceptional rather than normal conditions.

The respondents are ordered to cease and desist from representing or implying:

- (1) That the Von Schrader rug and carpet washer, or any substantially similar machine, will in any way or to any degree restore the original color or colors of rugs or carpets;
- (2) That the Von Schrader rug and carpet washer, or any substantially similar machine, will destroy germs or other microorganisms in, or otherwise sterilize or substantially sterilize, rugs and carpets;
- (3) That the profits of operators of the Von Schrader rug and carpet washer, or any substantially similar machine, average \$200 or \$400 per month, or any other sum in excess of the actual average net profits of such operators over a sufficient period of time to give effect to the seasonal nature of such business, or using statements of specific sums earned by any particular operator or operators in any stated periods of time in a manner which imports or implies that any unusual or exceptional earnings represent the usual and ordinary course of business. (3924)



## White Hearing

The Senate Interstate Commerce Committee's hearing on the White Resolution recessed Friday, June 20, probably to reconvene after July 4. Here are some excerpts from the last two days of the hearing:

**D. M. Patrick.** When Chairman Fly appeared before your committee he placed certain interpretations upon these rules with which I am unable to agree and with which Commander Craven stated he was unable to agree. On June 13, 1941, the Commission made public a telegram sent to a licensee by the chairman on May 24, 1941, which shows a different interpretation of the rules than that which I am able to place upon them having regard for the language employed by five members of the Commission on May 2, 1941.

Now, it is also true that since the sending of that telegram Chairman Fly sent a letter over here, which the chairman of this committee read into the record, and in which he said he had the approval of his colleagues for the interpretation placed upon it. But I submit that you cannot make what he said in that letter out of the language employed by five members of the Commission on May 2, 1941.

On June 14th the Commission itself amended its order in certain respects. If the Commission has power to promulgate these regulations it also has power to further amend them in other material respects either before or after the institution of any judicial action. In other words, we are shooting at a moving target, if you please, and the target can be further moved.

Under such circumstances there is no way in which I or any other lawyer can now correctly evaluate either the procedural problems involved in or the possible outcome of judicial action, and I say that in all sincerity. But I do know that if it be the decision of this committee that all legislative action be abandoned and that the industry be left with recourse only to the courts, the remedy is more apparent than real. Aside from the procedural problems involved questions of the wisdom, propriety and long-term effect of these rules upon the industry cannot be adequately dealt with in any judicial proceeding.

But there are other reasons why judicial relief cannot afford an adequate remedy. I disagree with the distinguished counsel for Mutual who stated in effect that no major amendments of the Act are needed. I believe, and submit that it has already become apparent as a result of this hearing, that major changes are needed. The question is, when? The questions presented and emphasized here constitute only one phase of the problem which confronts the industry and the Commission.

Questions of procedure before the Commission and judicial review of Commission orders urgently need attention and solution by the Congress. The question of a stay order is only one part of it. The question of who can operate and under what circumstances is another part. And there is the question of a procedure before the Commission itself, and who can intervene, and whether

he may intervene as a matter of right or merely as a matter of grace.

**Senator Andrews.** You are, then, opposed to the regulations?

**Mr. Morency.** We are opposed to the regulations as in their present form; yes.

The next day, May 14, 1941, in accordance with views expressed by the convention, the board of directors of IRNA adopted the following resolution (reading):

"The Officers are directed to prepare and submit a plan for approval by the Board for IRNA to support such efforts as will be organized by any and all agencies in the industry to endorse the White Senate resolution and endeavor to obtain its passage."

For the purpose of report to the Interstate Commerce Committee of the Senate, letters were sent to all Affiliates on all national networks asking if they approve or disapprove the foregoing convention resolution regarding the new regulations. Replies were received from a total of 232 stations, of which 62 are affiliated with Columbia, 53 with National Red, 66 with National Blue, and 51 with Mutual. On the convention resolution on the Affiliates who replied are recorded as follows:

Columbia, 61 approved and 1 disapproved.  
National Red Network, 52 approved and 1 disapproved.  
National Blue Network, 66 approved and none disapproved.  
Mutual System, 37 approved and 11 disapproved; making a total of 216 approvals and 13 disapprovals.

Of the Mutual affiliates replying, 17 also have affiliations with other networks: 3 with Columbia, 10 with National Blue, 1 with National Red, and 3 with both Red and Blue.

In the same letter IRNA asked the opinion of Affiliates regarding the resolution adopted by the directors to support the White Senate resolution. On this subject the replies were as follows:

Columbia, 60 approved; 1 disapproved.  
National Red, 49 approved; 2 disapproved.  
National Blue, 65 approved; none disapproved.  
Mutual, 36 approved; 12 disapproved.  
Making a total of 210 for approval and 15 for disapproval.

In the same letter IRNA asked three other questions on which the replies are as follows: They are (reading):

"3. The IRNA directors interpret the attitude of affiliates to be that while there are a number of points in which there is dissatisfaction among affiliates with network operating practices, nevertheless affiliates believe it is in the best interest of the industry and the public for such questions to be settled by business negotiations between affiliates and networks and not by government regulation. Do you approve or disapprove this view?"

On this question the replies were as follows:

Columbia, 60 approved; 1 disapproved.  
National Red, 51 approved; 1 disapproved.  
National Blue, 60 approved; 4 disapproved.  
Mutual, 34 approved; 12 disapproved.  
Making a total of 205 for approval and 18 for disapproval.

(Continued on page 560)



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone National 2080

Neville Miller, *President*

C. E. Arney, Jr., *Assistant to President*

Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Frank E. Pellegrin, *Director of Broadcast Advertising*; Paul F. Peter, *Director of Research*; Russell P. Place, *Counsel*; Lynne C. Smeby, *Director of Engineering*

## WHITE HEARING

(Continued from page 559)

The next question asked was this (reading):

"4. A number of affiliates including many Mutual affiliates, feel that it is necessary to accomplish needed changes by government regulation, and therefore they are prepared to accept the regulations in their present form, even though they may not agree with them entirely. Do you approve or disapprove this view?"

On this question the replies were as follows:

Columbia, none approved; 58 disapproved.  
National Red, 1 approved; 51 disapproved.  
National Blue, none approved; 64 disapproved.  
Mutual, 10 approved; 37 disapproved.  
Making a total of 210 who disapproved and 11 who approved.

The last question was this (reading):

"5. Finally, we are informed there are some affiliates who believe the changes they want can only be accomplished by government regulation but they think the new network regulations go entirely too far and believe some middle ground should be found by negotiation. Do you approve or disapprove this view?"

On this question the replies were as follows:

Columbia, 13 for approval; 46 disapproved.  
National Red, 15 approved; 37 disapproved.  
National Blue, 16 approved; 47 disapproved.  
Mutual, 17 approved; 30 disapproved.  
Making a total of 61 for approval and 160 for disapproval.

**Senator Brooks.** Do you hold any office in IRNA?

**Mr. Gillin.** No, sir; I do not.

**Senator Brooks.** Do they pretty effectively represent the independent stations?

**Mr. Gillin.** I think that they effectively present our views to the networks; but whether they have accomplished the results desired by the members of the Independent Radio Network Affiliates is another question.

**Senator Brooks.** What is their major function as it relates to your station?

**Mr. Gillin.** The major function as it relates to WOW or any other station is to try to work out the problems that the affiliates have with the networks. For instance, the affiliates believe that we should have the opportunity to place after each special program or each specified program a commercial announcement and station break. As you know, the Federal Communications Commission's rules specify that you must identify your station each half hour. Because of that particular rule it is the assumption on the part of the advertiser that we should not put a station break on the quarter hour. The Chesterfield program, on the basic Red, runs 14 minutes, and then they have an announcement of a different

product made by the same company; in other words, to have two products advertised on the same program. Those are things that we are trying through this organization to work out with the network.

**Senator Brooks.** Do you have any specific example of problems that have been successfully worked out through that organization, where complaints have been made and results have been obtained by virtue of that organization's existence?

**Mr. Gillin.** Well, I believe that one thing that a number of us were concerned about was the fact that the advertiser was calling upon stations to place commercial announcements, live announcements, so to speak, on a network program at the end of every program with no cut-in charge. A number of us complained to the National Broadcasting Company and they took the matter up and protected us. I say they protected us, because of the fact that the client was large enough to demand that cooperation from the station. That extra kind of announcement is now being paid for.

**Senator Tunnell.** What I was trying to find out was if the network or the station cannot make a contract for longer than a year it was going to result in their having a gentlemen's agreement for a five-year contract.

**Mr. Cook.** As I understand the situation, if there is any implication that you have a gentlemen's agreement, under these regulations you may be subject to the loss of your station. If a fellow came in and said, "Here, I want that time," could you refuse him? If you do, isn't somebody going to come around a month or two later and say, "You refused him. That time was not sold. You must have something in the back of your head about somebody else." It is going to be very dangerous.

**Senator Tunnell.** The question is whether there is a gentlemen's agreement.

**Mr. Cook.** Yes. The question is whether somebody may have described it as a gentlemen's agreement, whether or not it is.

**Senator Tunnell.** It would not be criminal or subject to punishment if it were not there.

**Mr. Cook.** How are you going to prove it is not there? That would be my trouble. I do not know whether I would be able to prove it was not there.

As to this matter of exclusivity, our contract gives WFBL first call on all Columbia programs, and we have always been able to take care of the business Columbia has sent to us. In the instance of the American Oil Company's program, featuring Mr. Edwin C. Hill, and scheduled for 6 p. m., where we have had and now have the Socony Vacuum program, it appeared for a time that Columbia would have to place this program on another station. If that had to be done, it was all right with us. But we, of course, did not like to have a well-known Columbia artist building up a listening audience for a possible competitor of ours, so we found a place on our program equally desirable, and by transcribing we were able to give that program to the public.

**Clarence Wheeler.** I am fearful that the agencies who handle the larger programs of the national advertisers will scan the new possibilities offered to them under the new rules and it could easily come about that the Ford Hour we have carried since its inception because we were on Columbia, might migrate to the 50-kilowatt clear channel competitor as the agency might find it in their interest to do so because that would give them a larger audience.

It could easily work out that the agency and the sponsor could pay the higher rate and make such a change, in which case I would have to seek programs from other networks to fill in that hour or originate local programs.

If this took place throughout the country the clear channel stations would be so crowded with national programs that they

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# SOLVED!



## THE MYSTERY OF THE VANISHING RADIO AUDIENCES

When radio listeners plug up their ears and head for the nearest swinging doors, my dear Watson, there's a reason. And as likely as not that reason is an acute case of boredom brought on by the well meaning, but badly planned programs of organized groups to whom broadcasters have given their facilities.

## "HOW TO USE RADIO"

*(Second Edition)*

Tells the public groups that ask for time how to use that time effectively from an audience-building standpoint

We sent you a copy earlier this week. We have a plan to assist you and your fellow broadcasters in placing large quantities of this valuable book in the hands of your listeners. Now is the time to act. Write us. We will cooperate with you in every way.



**NATIONAL ASSOCIATION OF BROADCASTERS**

1626 K STREET, N. W.

WASHINGTON, D. C.

## WHITE HEARING

(Continued from page 560)

would have no time to devote to the job they were set up for, to cover the rural areas of the nation with a view of keeping them informed on market information, agricultural reports, and all sorts of information necessary to the rural areas.

We have found in practice that long-term contracts with Columbia work to our advantage. If we did not feel reasonably secure that we were going to continue as their affiliate we would not have expended these large amounts for local improvements; in fact, we would not have had it to spend except for our affiliation with Columbia. We have found them very cooperative in meeting problems which at times came up when we were asked to clear time for a national network program.

---

**Mr. Weiland.** I have been the owner of Radio Broadcasting Station WFTC, at Kinston, North Carolina, for six or seven years; at least I have owned that station for the past five years.

When I established that station in Kinston it was one of the first to be established in a small community.

I am also a partner in the ownership of a station at Martinsville, Virginia; and have had an interest in a station at Goldsboro, North Carolina. I am also president of a station to be established in Newbern, North Carolina. These are all small markets. All of my experience in broadcasting practically has been in small markets.

I felt that the value of network affiliation is very great to a small station. I operated the station in Kinston for two or three years without any network affiliation. After the first two years of operation the novelty of the station wore off and people started to get tired of home talent, hill billies and the type of programs we could produce with our means.

So I looked around for a network. Eventually I was fortunate enough to get an affiliation with the Mutual Broadcasting System. That was about a year and a half ago.

I felt that network affiliation is very important, especially to a small station. First of all, because of the sustaining programs we are able to bring to our communities, such as in eastern North Carolina, the type of programs that people in large cities are able to get; the type of programs that are of great interest so far as sustaining value is concerned.

For instance, we have had President Roosevelt as well as almost every other national figure any listener would like to hear, whereas prior to our network affiliation our people could not hear such national programs. That was because of the fact that there was only a secondary coverage in our market.

We are rather isolated, and if we do not give listeners the type of program they want there is not very much we can do, for we cannot give them very much of a choice otherwise.

Conditions are a lot better now. We feel that network commercial programs are very important because their quality is generally high; in fact, I might say that we have carried commercial network programs sometimes even though we were not paid for carrying them, and we did it because we felt it was in the public interest to do so.

We had our Mutual network service up until June 1st of this year—

**Senator Tunnell** (interposing). Do you mean that you carried network programs before you had your contract with the Mutual Broadcasting System?

**Mr. Weiland.** No.

**Senator Tunnell.** You said you carried network programs at times when you were not paid for them because it was for the public good. What did you mean by that statement?

**Mr. Weiland.** That was even during the time when we had a network contract. I do not think the advertiser thought our market was important enough to him to purchase time, but there

were various programs sent out over the network and that were not sold there, and we did get permission to carry them because we thought they were of great enough interest to our listeners.

In the first place, the most of the national advertisers are not sufficiently interested in our market because we are secondary; that is, those who buy network time.

I will say that while we were getting Mutual's service there was another station, in Wilson, North Carolina, and that station and my station were sharing the line cost to Raleigh, where Mutual had a line. But on June 1st the station at Wilson which was sharing that line charge with us, cancelled its arrangement based upon the fact that the present rules would seem to necessitate it; and we were sitting right down at the end of the line, without any network service available to us.

I tried to make an arrangement with the telephone company on a temporary basis, but was not able to do it; and we could not afford to pay the whole of the line charge from Raleigh to Kingston. I believe that charge was in the vicinity of \$500 a month.

That left our listeners without any network service. I then got in touch with the N. B. C. blue network, which has a line running down our way. I believe they have a line that passes directly through our town. I do not know how the line actually runs from the mileage standpoint but at least it runs through our community. And so it was that N. B. C. blue network was willing to accept our station as an affiliate.

However, that contract is in violation of these new F. C. C. Rules. I applied to the Federal Communications Commission for permission to sign the contract. They advised me that the present rules are in operation. So we are right in the middle of a lot of trouble, and that comes right on top of losing our power because in a wind storm it blew down. And right the next week we lost our network affiliation, and now we do not seem able to get one.

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**Senator Bone.** I would rather own one telephone line and hire a few men to keep it up than run a radio station. You fellows ought to get out of the radio business and go into the telephone business.

**Mr. Hasbrook.** Perhaps many of us have thought of that in recent months.

**Senator Bone.** I just pass it on to you as a happy thought for today. I am astonished that you gentlemen have overlooked that.

**Mr. Hasbrook.** If you will permit me to say so, Senator, they got there ahead of us. (Laughter.)

I should like to say something, however, about the network program advantage as it has affected us. We are, for instance, the primary voice of the University of Vermont. It is their one way of reaching these back-hill farmers and telling them something about modern agricultural processes, and so forth.

Without the educational, religious, and governmental programs that come to you through a network connection such as Columbia's School of the Air, which now operates in practically every one-room schoolhouse in northern Vermont, because they are able to hear it for months, you would not have your public interest; they would not listen to your station; consequently, they would not absorb the local information that the authorities wish to bring to them.

So, it has very widely improved our ability to serve our community by having this network connection. Of course, you gentlemen understand the tremendous necessity, if not advantage, in those times, for people back home to know something about what you are thinking about here in Washington. The only way in which I could broadcast a statement by Senator Austin, for instance, was to get him to come to the Columbia station in Washington, put it on the wax, as they say, and mail it to me first class, special delivery, and then I could come along as the 48th state 24 hours after the other 47 had heard him make his speech on this network, without going under. It was a definite handicap, bringing government information, and even controversial information, to the people. The network has enabled us to offset that.



**Senator Tunnell.** I noticed you did not say anything about the political broadcasts in Vermont.

**Senator Bone.** They have only one party up there, Senator.

**Mr. Hasbrook.** If I might leave radio for a moment, it might surprise you, Senator, to know that we perhaps were extremely active in the newspaper end of our business in electing a Democratic mayor in our city. So, we have more of a political interest in Vermont than I think the public sometimes realizes.

**Senator Tunnell.** I am glad to hear that.

**Mr. Hasbrook.** There is another aspect of this network contractual arrangement that is very important from my standpoint. That is the straight aspect. People have spoken of the necessity for option time in order to protect the local businessman in his desire to sell his own products. Well, actually practically every network advertising program is a local program. When they are promoting the sale of coffee, for instance, there are in our area some five or six hundred grocers who are very vitally interested in the sale that that program it is hoped, at least, will produce, and it trickles back into the public pocket in taxes, payroll, and the other normal things.

I do not look upon network advertising as something that has come to us from outside designed to take some of our money out of our pockets and out of our city and hand it to someone else. It is a very definite part of the merchandising system as it is now operated; and that goes for the wholesaler as well as the retailer. The local advertiser, who might perhaps come into opposition with the national program, usually wants daytime hours; at least he does in our area. I have never at any time checked up with our local men—of course it may occur but it has not occurred with us yet, because they seem to want two different things, and are perfectly delighted to have New York money come up there and help them in their business.

### New Mutual Contract

The Mutual Broadcasting System has informally submitted to the FCC a form of a contract between that network and its affiliates. The contract form, which has been approved by the stockholders of Mutual, the FCC says, is non-exclusive, contains no provision for option time, makes it possible for the stations to determine their network affiliation at yearly intervals, and insures station responsibility in the selection and rejection of programs.

The Commission has not formally passed upon the validity of the contract form, and will give continuing study, the FCC says, to the development of network-station relations under such contracts. The Commission believes that the new Mutual network form of affiliation contract, as it understands the operations intended thereunder, will be in compliance with the letter and spirit of the regulations.

Commissioners Case and Craven dissented.

### MPPA Notice

A notice dated June 17, 1941, was sent to broadcasting stations by Harry Fox of the Music Publishers' Protective Association, an organization made up almost entirely of ASCAP publishers. The notice is reprinted herewith.

HARRY FOX  
*Agent & Trustee*  
International Building  
45 Rockefeller Plaza  
New York

June 17th, 1941—No. 4194.

### Notice to Radio Stations

To correct any confusion or misconception on your part which may have arisen from a bulletin recently issued by Standard Radio,

of 6404 Hollywood Boulevard, Hollywood, California, and in order that you may avoid the possible commission of copyright infringements, I am herewith giving you notice, on behalf of the principals and copyright owners listed on the enclosed schedule, for whom I act as agent and trustee, that the broadcast reproduction of copyrighted musical compositions through such infringing instrumentalities as unlicensed electrical transcriptions constitutes an infringement for which all contributing parties, including the radio station, are liable.

This notice concerns itself only with presently unlicensed electrical transcriptions manufactured for the purposes of broadcasting and *not* with ordinary phonograph records.

Lest you infer from the aforementioned Standard Radio Bulletin that you may, with impunity, broadcast presently unlicensed electrical transcriptions of copyrighted musical compositions by merely holding the ordinary performing rights license, such as issued by the American Society of Composers, Authors and Publishers, you are herewith forewarned, upon advice of counsel, that such is not the case and that no such instrumentality which, in itself, is an infringing device, can be utilized for the purposes of broadcasting. The electrical transcriptions of Standard Radio presently constitute such unlicensed instrumentalities or devices as a result of the failure of Standard Radio to renew the licenses which it has held from my principals for many years past.

In the event that any radio station broadcasts such electrical transcriptions in disregard of this notice given for preventive reasons, a suit for injunction and damages under the Copyright Law will be instituted.

Very truly yours,

hf/jdf  
enc

HARRY FOX,  
*Agent and Trustee.*

The attention of broadcasting stations is called to the significance of the claim contained in the notice. Briefly, it is that a station *with an ASCAP license* cannot play ASCAP music in recorded form unless the recording has been specially licensed by the ASCAP publisher. The notice is limited to electrical transcriptions. However, the claim would apply equally well to phonograph records, and it may be noted that the communication says that the notice "concerns itself" only with electrical transcriptions but does not say that the claim may not be made with respect to phonograph records.

The immediate cause of the notice appears to be the practice of Standard Radio of relying upon the provisions of Section 1(e) of the Copyright Law which provides that once the owner of a musical work has permitted the use of the work upon a mechanical instrument "any other person may make similar use of the copyrighted work upon payment to the copyright proprietor of a royalty of two cents on each such part manufactured, to be paid by the manufacturer thereof . . ."

We are informed that Standard Radio is paying the two cents. The ASCAP publishers, as represented by MPPA, however, have contended that they are entitled to sums in excess of two cents, and in the past they have threatened to restrict performances of works electrically transcribed in the event that the payment was not made. This practice is now expressly forbidden by the ASCAP Consent Decree.

The consequences of the claim, if supported, however, would be much more far reaching than the individual situation involved. In its widest sense the claim is that a broadcasting station is liable for the \$250 minimum damages for playing an ASCAP tune, even though it has an ASCAP license, unless the manufacturer of the transcription has a special license calling for additional payment above that provided in the Copyright Law. The notice applies to "unlicensed instrumentalities." Even on the claim as now made, if a phonograph manufacturer made records and then went bankrupt before payment of royalties was made (as recently happened in one instance), broadcasting stations are alleged to be liable for \$250 for each infringing performance of tunes published by MPPA publishers. The claim also leaves the door open for a contention that more than the two cent charge can be made by MPPA publishers for ordinary phonograph records.

Broadcasters who intend to play ASCAP music from recorded

sources should, therefore, keep this claim in mind in order to protect themselves from suit.

It will, of course, be recollected that BMI is licensing all recordings, including transcriptions, at the standard two cents required by the Copyright Law, or less.

### New BMI Contract

BMI sent to all its subscribers a new contract form in line with the consent decree signed last winter. Any subscriber who has not yet received the new contract form should advise BMI immediately. Any other broadcaster who is interested may obtain the form from BMI.

### CBS Counter-Proposal

CBS last week submitted a counter-proposal to ASCAP. A spokesman for CBS said:

"Columbia has consistently taken the position that it desires to have ASCAP music available for all its programs at a fair price and under conditions which are economically feasible.

"In preparing this counter-proposal, Columbia has consulted with three of its affiliates, spokesmen for which said they believed these terms are fair and would be accepted by them if licenses on these terms were made available by ASCAP.

Terms of CBS's proposal to ASCAP follow:

Since the Columbia Broadcasting System operates both a network and individual stations, this proposal is for a complete deal covering both network and station operations.

It is also our belief that the deal should be made as comprehensive as possible to eliminate all possible causes of future friction. Therefore, in broad outline, our counter-proposal is as follows:

#### Blanket Network License

For the Columbia Broadcasting System Network operations as now constituted, we propose to pay 2% of the entire network net receipts (defined as gross sales from the sale of time less time discounts and advertising agency commissions actually allowed) after deducting the cost of permanent lines of the Columbia network as now constituted, or as constituted in the future (including the cost of operation of any delivery methods other than lines—such as, frequency modulation transmitters and booster stations, or such other developments as may occur) and with deduction for expenses calculated as follows:

- 15% on the first \$15,000,000 of net receipts as defined above
- 25% on the next \$5,000,000
- 35% on the next \$5,000,000
- 45% on all over \$25,000,000.

If during the term of the contract, Columbia Broadcasting System no longer operates eight stations but operates any lesser number down to and including a minimum of three, an additional amount of \$500,000 per annum shall be added to the network expense deduction stated above for each station less than eight. If the number of stations owned and operated by Columbia shall be reduced below three, then Columbia and ASCAP shall re-negotiate the terms of this contract and in the event of their failure to arrive at an agreement, the matter shall be submitted to arbitration, the results of which shall be binding upon both parties.

#### Local Station Blanket License

For local station blanket license for its owned and operated stations, Columbia proposes fees as follows:

2% on the net receipts (defined as gross from the sale of time less discounts and advertising agency commissions actually allowed) from local and national spot sales over its stations as averaged for the years 1936 to 1939, inclusive.

1½% on the excess of such net receipts over this average.

In figuring sales during the term of the license, any programs cleared and paid for at the source shall be excluded, in the same manner as network programs are excluded.

A sustaining fee of \$12 for any station which has net receipts (as defined above) of less than \$50,000, from the sale of local and national spot business, in any year, or a sustaining fee of 8 times the highest half hourly card rate for stations which have such net receipts of between \$50,000 and \$150,000 per year, or a sustaining fee of 12 times the highest half hourly

card rate for stations which have such net receipts in excess of \$150,000 per year.

### Alternative Local Station Per Program License

For commercial programs using substantial ASCAP music—6.66% of net receipts (as defined above).

For commercial programs making only incidental use of ASCAP music (such as single theme or signature, bridge or background music, arrangements of public domain music and incidental music in connection with public events or sports broadcasts)—1.2% of such net receipts.

For sustaining use—1% of net revenue which would have been received if sustaining program had been sold at card rates for maximum number of weeks and times per week with allowance of maximum discounts and advertising agency commissions—but not exceeding 1½ times sustaining fee paid by the station in 1940.

In computing net receipts, whether for commercial programs or as assumed for sustaining programs, any program cleared and paid for at the source shall be excluded, in the same manner as network programs are excluded.

Foregoing percentage rates (both blanket and per program) apply so long as stations have net receipts as defined above from local broadcasting of over \$100,000 per year. If net receipts for any station fall below this figure, the payments to be made to ASCAP for commercial use under blanket licenses and for the various uses under per program licenses will be reduced as follows:

<i>Station Net Receipts</i>	<i>Reduction</i>
\$80,000 to \$100,000 . . . . .	7½%
\$60,000 to \$ 80,000 . . . . .	16%
\$40,000 to \$ 60,000 . . . . .	29%
\$25,000 to \$ 40,000 . . . . .	39%
\$15,000 to \$ 25,000 . . . . .	46%
Under \$15,000 . . . . .	50%

### Conditions

This proposal is subject to the following conditions:

1. All contracts to be for term expiring Dec. 31, 1949, subject to a five-year extension at option of licensees, at rates and terms to be fixed by arbitration.
2. As under the Consent Decree and this proposal there is complete clearance at the source on network programs, it is obvious that this entire burden cannot be borne by CBS without assistance from stations. Accordingly, it is a condition that substantially all of the CBS affiliated stations shall agree to reimburse CBS that portion of the 2% payment on network net receipts made to ASCAP by CBS which is equal to 2% of network payments to stations. The balance of this 2% payment to ASCAP will be borne by CBS.
3. ASCAP shall agree in its contract with CBS that no payment would be made in respect of network revenue represented by the sale of broadcasting time over stations in states with laws which prohibit operations as contemplated or payment by stations of license fees or reimbursements to the network. (This condition, subject to agreement on language to be incorporated in the contract has already been agreed to by ASCAP negotiators.)
4. Licenses shall be available to television, frequency modulation, short-wave and experimental stations owned by a regular station licensee—such licenses to be at a nominal fee until such time as revenues from such stations are equal to operating expenses and thereafter the license fee to be upon the same basis as for regular broadcast stations.
5. All claims of any nature of ASCAP and its members against licensees to be released.
6. Acceptance of a mutually satisfactory form of contract in each case. In that connection we have not seen a draft of network blanket license since the draft promulgated in the spring of 1940 and subsequently withdrawn, but attached hereto is a memorandum of partial comments on the June 6, 1941 draft of single station blanket license, which will indicate generally some of the questions to be decided.
7. No deal will be considered made until all points are resolved and acceptable contracts actually signed or tendered.

Also attached to CBS's counter-proposals is a "Memorandum of Partial Comments" anent the single station blanket license. These contain changes desired, and objections to certain paragraphs or clauses.

## BMI

### ASCAP Writers to Publish Through BMI

Several prominent ASCAP writers have entered into contracts with Broadcast Music, Inc., for the publication of their songs. Performing rights on these songs will be licensed directly to the broadcasters without payment of any fee. Music by leading ASCAP writers will, as a consequence, form part of the broadcasters' repertory. BMI will control the publication and mechanical rights in this music.

### Comment on Marks Suit

Widely divergent opinions as to whether the performing rights in compositions are basically owned by writers, by publishers, or by both jointly, were expressed following the commencement of a suit by BMI and Edward B. Marks against ASCAP for a declaratory judgment. ASCAP has never taken a definite stand on this matter and the question has been a frequent bone of contention between ASCAP writers and ASCAP publishers. It is not yet known what stand ASCAP will ultimately take in the suit. All of this confusion indicates that it is necessary to clarify ownership of performing rights so that the rights of all concerned may be determined.

### BMI FEATURE TUNES

June 30 - July 7

1. I WENT OUT OF MY WAY
2. WASN'T IT YOU
3. ALL ALONE AND LONELY
4. MY SISTER AND I
5. WISE OLD OWL
6. WALKIN' BY THE RIVER
7. BECAUSE OF YOU
8. G'BYE NOW
9. WHAT D'YA HEAR FROM YOUR HEART
10. HERE'S MY HEART
11. WITH A TWIST OF THE WRIST
12. THE RELUCTANT DRAGON

### A BMI Success Story

Hy Zaret is celebrating his first anniversary with BMI, and in looking back over the year finds that the sale of sheet music of songs in which he has been a co-writer have averaged about 10,000 a week. The first big success was *There I Go* of which Hy wrote the lyrics and Irving Weiser the music. This tune, now enjoying popularity in England, ran for twenty-one consecutive weeks on the Hit Parade establishing a new high record for performance on that program. Following *There I Go*, Hy joined Joan Whitney and Alex Kramer in writing *So You're the One*, *It All Comes Back to Me Now* and *My Sister And I*. At one time he was identified with three and one-half songs on the Hit Parade, the half being the theme song at the end of the program, *So Long For A While*.

Asked to comment, Hy contributes the following:

"The task of a popular song writer is to express the feelings of all the people, not just one section of them, such as jitterbugs, long hairs, music critics or debs. A song can be good and be

popular. Every song writer with a reasonable amount of ability expresses his personality in his songs. The sooner a writer finds out what his contribution is, the more consistently he expresses it, and the more assured is his position in the song world, provided, of course, that his craftsmanship is good enough and his personality strong enough. I believe that inspirational song writers who never have to sweat to write good songs are a species that doesn't exist."

*My Sister And I* jumps from fourth place to first place this week among national best selling retail records. *The Hut Sut Song* follows closely, and *Daddy* and *Maria Elena* occupy the third and fourth positions. Among the regional best sellers, the *Hut Sut Song* leads in the west and mid-west; *Maria Elena* in the east and *Daddy* in the south. In the sheet music best sellers, *Hut Sut* grabs the top spot nationally, in the east, in the mid-west, on the west coast, and is second only to *Intermezzo* in the south. *G'bye Now*, the favorite from *Hellzapoppin'*, is going strong for the fifth week and now holds third place among the leading music machine records. It is interesting to know that Jimmy Davis' *You're My Sunshine*, hillbilly tune, which does not show at all in the east, holds eighth place in the sheet music best sellers in the south, fifth place in the mid-west and eleventh place nationally.

### Hut Sut Song

Strangest fluke to hit the music business in a long time is *The Hut Sut Song* which, from all indications, threatens to become the smash hit of the year, what with 10 recordings having been made of the number and practically every program listing it.

It all started with a line of gibberish dreamed up by a young attorney named Leo V. Killion. Incidentally, Killion insists on having the initial "V" in his name, although he refuses to divulge what it stands for. With the exception of this particular ditty, Killion never wrote a song in his life, preferring to save his line of chatter for the courtrooms. However, one fateful day he sat himself down and rattled off an unintelligible but catchy bunch of phrases and took the stuff over to his chum of high school days, Ted McMichael who, by that time, had become one of the famed Merry Macs. Ted thought there was something intriguing about the lyric, although he couldn't understand a word of it. But then, neither could Killion, so they were even on that score. Ted called up his friend Jack Owens, lyric and song writer, and asked him to come over. Jack did, and he hasn't been the same since. The song, at that time, wasn't anywhere near its present form, but it had the nucleus of the tuneful germ that has infected the nation. The three boys put their heads together and knocked out *The Hut Sut Song*.

Before the song became a hit, Killion and Owens were doing nicely in a modest, unknown sort of way, but McMichael was hitting on all cylinders in the radio world. Now, all three of them are basking in the light of Dame Fortune. Leo has become the "piece de resistance" of the town of Sacramento, where he lives. He's a lawyer of the Sacramento State Legislature, and they're so proud of him they accept his word as law . . . which helps his political position no end. Not that he needs help. He's a good lawyer. Jack Owens had a song accepted by BMI, *You Didn't Steal That Kiss*, before the *Hut Sut* number made its debut, but since then he's had five accepted by publishing firms in rapid order. Jack is a handsome lad with about six feet of personality. He has a way of presenting a song that makes you tap your feet in rhythm when you listen to him sing. He's been in and out of show business for years, but show business hasn't cared much either way. Now, he's becoming so famous that there's a good chance of his getting a two weeks' engagement at the Paramount Theatre in New York, at a mighty healthy sum on condition, of course, that he plays and sings *The Hut Sut Song*.

How the boys got the song published is one of those things. Jack took it to two publishers who turned it down for the very legitimate reason that it was a —quote— silly song—unquote. Then Jack took it to Alan Ross, music contact man in Los Angeles; Alan took it to Walter Schumann, music contact man

in Lon Angeles. Walter Schumann got bitten by the *Hut Sut* bug and considered going into the music publishing business on the strength of this one song. He did, and has never regretted it. The boys took the song over to Freddie Martin, who became Hut Sut conscious and introduced the song on his broadcasts from the Coconut Grove. Freddie hasn't regretted it. Neither has Ted McMichael. Neither has BMI, through whom the brand new Schumann Music Publishing Company releases the number. About the only people who regret are those who start singing it and can't, for the life of them, get the catchy tune and garbled words out of their minds.

As for the phrases being Swedish, about the only resemblance they have to Swedish is this—the "Rillerah" is a stream that runs through some Swedish colony in a town in the Middle West . . . the boys think it's Minnesota. From there on, the gibberish is on its own . . . and doing mighty well!

### "With Me, It's You"

Miss Jane Crenshaw, dancing teacher of North Bergen, New Jersey, has won first prize for her title and lyric idea submitted in the contest held by Song Parade Magazine. The title, *With Me, It's You*, is based on the idea that "everything comes in pairs". The song will be heard for the first time on the sustaining programs of the Columbia Broadcasting System this week (June 29-July 5). The music and lyric based on the idea submitted by Miss Crenshaw were written by Henry Manners and Jimmy Shirl who wrote *Braggin'* and other BMI hits.

Miss Crenshaw's letter to Song Parade Magazine follows:

"Dear Sir:

I wish to submit the following title for your contest:

'With Me, It's You'.

This title occurred to me while I was thinking of my boy friend. Everything comes in pairs—bacon and eggs; house and lot; preacher and marriage; etc.—and as I tried to put into words my thoughts about him, I thought, 'With Me, It's You!' It seems to me that this is the idea everyone has in connection with the one they like a lot.

I like your magazine so much.

Well, here's hoping!

Sincerely,

JANE CRENSHAW (signed)"

### New BMI Publishers

Broadcasting and television rights in the music of twelve new publishing companies are now available to all BMI subscribers. The new publishers are: American Melodies; Block Publishing Co.; Eugene Casivant; Fine Songs; Freeman Music Company; Graham Music Company; Greater New York Music Corporation; Reid and Singer Music Publishing Company; Sheppard Music Corporation; Stark Music Printing Company; Urban Publications and Worldwide Music Publishers.

Martin Block, conductor of WNEW's "Make Believe Ballroom" program, is the head of Block Publishing Co., which opened offices in New York early this week. Mr. Block's newest song, *I Guess I'll Have to Dream the Rest* is in the Block catalogue.

### Music Programs Popular

Listening to musical radio programs has increased since January 1.

The "vested interests" of the musical world said it couldn't be done. They said that after January 1st, 1941, the public would stop listening to musical programs on the radio. They said their music was indispensable.

What actually happened? Let's look at the record.

Average C. A. B. Rating	Popular Music	Concert Music
Jan. 1940 to April 20, 1940.....	10.0	9.6
Jan. 1941 to April 20, 1941.....	10.2	10.2
Percent of Increase 1941 over 1940.....	2.0%	6.2%

Listening to musical programs went up. This increase ran against the general listening trend. More network programs of popular music are being sponsored. The Hooper analysis shows an increase of 9% in the number of hours devoted to sponsored popular music on networks.

The music supplied for broadcasting by BMI and the 191 music publishers associated with us has met the public taste. It has brought more listeners to musical radio programs. Here at BMI we are proud of this record. With our associated publishers we dedicate ourselves to supplying America with an ever-increasing flow of music everyone likes to play and hear.

## Sales

### Handling Mail Accounts

How stations should handle mail containing money from listeners in response to an advertiser's offer is a problem submitted to NAB by WCAU, Philadelphia. Early this spring a package of such mail was lost in being forwarded by the station to the advertiser, the Standard Vitamin Co., makers of Candicod, who are now bringing suit against WCAU for \$11,000, which includes about \$20 for the lost dimes and the balance for what is termed "loss of prestige" and similar grievances.

In discussing the general problem during the St. Louis convention, the Sales Managers Division recommended that on mail accounts stations first get explicit instructions from the advertiser on how the mail is to be handled; that they follow such instructions carefully, and that the station and advertiser agree that upon delivery of the mail to a common carrier, to be forwarded to the advertiser, the station's responsibility ceases.

As a result of this experience WCAU has prepared a form which it requires mail advertisers to sign, containing spaces for information on the account, date, time, offer, duration of offer, when mail is to be forwarded, where to be sent, and to whom, as well as space for additional instructions or remarks. The form carries the statement "It is agreed that the above services are rendered gratuitously by WCAU Broadcasting Company and that it shall in nowise be responsible for any losses however they may occur."

It is doubtful if such a form would constitute a legal waiver of responsibility, since it is not a part of the contract, and the "gratuitous" rendering of such service might also be questioned since it might be argued that in accepting the contract and remuneration therefore, it was understood that services in regard to the handling of mail would have to be rendered.

As an alternative, it has been suggested that some waiver be incorporated into the contract, by means of a rubber stamp or by writing in a phrase such as

"Advertiser agrees that mail addressed in care of the station in response to any offer of advertiser shall be handled in accordance with advertiser's instructions, and at advertiser's sole risk."

Stations are advised to consult their attorneys in handling such problems, and any that have arrived at a solution are invited to send details to the NAB Department of Broadcast Advertising for the benefit of other stations.

### Delay in Filling Orders

WCAU also presents the problem of what to do in the case of advertisers who offer merchandise or premiums, and who fail to handle orders promptly. The station writes:

"For instance, an agency requests the station to make a premium offer which is to be available to the listener for only a limited time. Therefore, we are requested to urge our listeners to act at once. After numerous letters are received and promptly forwarded to either the advertiser or his designated agent, weeks go by (sometimes more than four), numerous complaints are received, and considerable ill-will results for the station.

"I believe that a uniform method of handling these situations could be adopted on the part of stations. Do you feel that it would be asking too much for the advertiser to furnish some assurance to the station that all mail responses will receive prompt and proper attention? Do you think this could be incorporated in our present mail form?"

Any station which has a solution or suggestion regarding this problem is asked to write to NAB.

### Free Time for Circus Denied

Ever since "Editor & Publisher" printed a statement this spring that the circus would spend \$300,000 in paid newspaper advertising this season, radio stations have stiffened in their attitude towards giving free time for circus promotion. The following letter from S. A. Cisler, general manager of WGRC, Louisville, Ky., is worthy of the attention of every station and sales manager. He writes to NAB:

"The famous theory of P. T. Barnum that 'one sucker is born every minute' evidently continues with the Ringling Brothers, Barnum & Bailey circus which is now passing through Louisville.

"WGRC was approached by one of these circus 'radio contacts' and implored to run as an 'educational' broadcast one or more transcriptions the circus man had under his arm.

"We asked if the circus fed Mr. and Mrs. Gargantua, the zebras, the trapeze artists, and Mr. John Ringling North himself on 'education.' Further, if the circus was so educational why not have a free show for everybody while in Louisville?

"He mumbled something about a circus being news and a very special event, then offered to trade tickets to the equal of time costs. . . .

"No doubt this big show will try to chisel other stations on the swing around the country. I sincerely hope more and more stations stand their ground and insist on paid advertising.

"Lest we confuse all circuses with the so-called 'greatest show on earth' let me say that Cole Brothers Circus began its spring tour in Louisville with liberal purchases of radio time at regular card rates without any of the chiseling or stooping to label obvious plugs 'educational.' If one of the small shows like Cole Brothers can pay why not the 'biggest show on earth'?

"Let me urge every station to cooperate with Cole Brothers in their honest effort to *pay their way* and to give this enterprise 100% value in announcement or program positions on your station.

"Our power company has always wanted to pay cash for its power. Our announcers have never been paid off in 'education.' But we will never discourage the Barnum & Bailey boys until they go through a season with a procession of 'no . . . no . . . no . . . no.'"

Although paying for newspaper space, posters and other forms of advertising, the circus has adopted a radio policy of "time for talent," offering to furnish circus talent free for interviews or other programs if the time is donated. In reply to a letter from F. Beverley Kelley of the circus, Mr. Cisler wrote:

"I can't blame you for taking free time if stations want to give it. That is good business for you and poor business for those stations who give away the only merchandise they have to sell. . . .

"Your circus is a business enterprise, operated not as a public service but to make money. If you use radio to attract customers you should pay for the time, even though you are providing your own talent as a means of making that time productive and interesting.

"I fear for the fate of radio if the sponsors of Jack Benny, Bing Crosby, Major Bowes, Kate Smith, etc., had the same idea as your circus. They pay for talent and time and the combination is paying a profit. What's so different from selling Jell-O by the package and a peek at Gargantua for 50 cents? . . .

"I do not question the listener interest of your transcriptions. But how on earth do you expect a station to sell a platter when the circus man arrives in the late morning and tries to get time that afternoon? Evidently there was no expectation that a station would or could sell your platter locally in order to obtain regular revenue from promotion that would be practically 100% for the circus. . . .

"So far as the circus not having anything to offer newspapers comparable to the platter or live talent programs you want to

give free to radio stations—brother, let me have some of that cash money you pay to the newspapers and you can have all your wonderful platters and interviews.

"I am sending a copy of your letter to NAB with a request that it be published in our weekly bulletin, along with my letters on the subject. For your information, the NAB has now changed and seems a bit more active in rooting out chiseling practices and urging stations to stand firm in resisting free time deals from enterprises that do have cash advertising budgets.

"Let me ask one question which I hope you will answer: Would the circus buy radio time if they could not get it free?

"And in parting, I still am glad Cole Brothers Circus *pays* its way even though the 'greatest show on earth' tries to get the same radio time free or for some passes.

"We will buy our tickets to your circus and your circus must buy its way to our audience."

Permission to print Mr. Kelly's letter was not received, so it cannot be quoted here.

### Per-Inquiry

The Sign, Union City, N. J., a religious publication, is seeking per-inquiry deals on a subscription campaign, offering 5-minute transcriptions entitled "The Sign and the Times" to be broadcast without charge, the station to retain a percentage of subscriptions received. Publishers of the magazine have been invited to use radio on the basis of established rates.

### International Advertisers Report

Some radio stations did not receive payment for broadcasting services rendered to International Advertisers, Niagara Falls, N. Y., on behalf of Father Hennepin's Ointment (Grand Island Distributing Co.)

A report on this agency from the National Better Business Bureau, Inc., states:

"This firm was operated by Roderick G. Manson, whose present whereabouts are unknown to us.

"Apparently the whole thing was a fictitious setup, not entirely rational. The incident occurred in January, and Manson apparently sent announcements to radio stations all over the country without any intention of paying for them. He lived in a rooming house from which he was ejected for non-payment of rent."

Incidents like these should serve to impress upon all stations the absolute necessity of checking beforehand on agencies or accounts of doubtful credit, or of requiring cash with contract.

## National Defense

WJSV telephoned that beginning with Wednesday night (June 25) "Keep 'em Flyin'" would be incorporated in the regular sign off. In the new sequence "Keep 'em Flyin'" immediately precedes the playing of the national anthem.

What is believed to be an unfortunate trend in programming is apparently being reversed. One time a number of stations set aside a definite period each day to carry various types of national defense announcements. This was undoubtedly done as a result of the unprecedented number of requests for time but the procedure did not work out successfully for many types of national defense announcements. Audience availability was sometimes at a low ebb so far as particular announcements were concerned.

For example, it was felt that 3:00 p. m. was no time to broadcast recruiting announcements for highly specialized young men who can qualify for Army or Navy flyers.

All in all the program managers are doing an exceptionally fine job. Results are more effective than in the past because they are

using extreme care to spot announcements at the most appropriate available periods.

Seven hundred twenty-nine (729) stations have reported cooperation in the campaign to recruit 120,000 Flying Cadet applicants for the Army.

Station WIOD, Miami, has established a "Defense Activities Department." Frank Jaffe is director.

### Patriotic Announcement

Dr. Frank Kingdon has made the suggestion that radio stations across the country insert a single sentence at a certain time each day, emphasizing the unity of their communities and the United States. For example:

1. This is Station XYZ in Los Angeles where a million and a half people of all races and religions are united in devotion to freedom and democracy.

2. This is Station XYZ in Los Angeles broadcasting in a land pledged to liberty and justice to all.

We pass this on to members for consideration in the light of such activities as they may be engaged in to further the understanding of the principles for which this country stands.

### Bonus Plans

A member has asked the Labor Relations Department for "good workable bonus plans" for employees. The Labor Relations Director would appreciate an outline of any now in effect in the industry.

## FEDERAL COMMUNICATIONS COMMISSION

### Newspaper Hearing Postponed

The FCC announced that it had postponed until July 23 the hearing which was scheduled to begin June 25 in connection with its inquiry pursuant to Order No. 79, to determine what policy or rules, if any, should be promulgated in connection with newspaper operation of high frequency (FM) broadcast stations, and future applications for standard broadcast stations by newspapers.

This action was prompted by a petition filed by Harold Hough, chairman of the Newspaper-Radio Committee, which asked for postponement until September 15 in order to give the newspaper-radio interests more time in which to prepare their presentation.

### Questionnaire on War Broadcasts

In compliance with a request by the Senate Interstate Commerce Committee, the FCC will issue a questionnaire to all networks and standard broadcast stations to ascertain whether they have "presented well-rounded rather than one-sided discussions regarding the role of this country with respect to the war abroad." In particular, the Commission was requested to obtain from the stations and networks compilations showing the names of speakers who have been heard on this issue, and the dates and time of such broadcasts.

The networks and individual stations are to be asked to furnish this information for the five-month period from January 1 to June 1 last, and to return the questionnaires to the Commission by July 21 next.

### Service Broadcasts Expedited

At the request of the Secretary of War and in view of the growing public demand for broadcasts from military establish-

ments, the FCC has suspended Sections 3.408(d) and 4.21 of its rules and regulations insofar as they relate to rebroadcast and relay of non-commercial programs from camps and other points by local arrangement where Government facilities are employed. The suspension of these rules will permit the expediting of such programs.

### Educational FM Station

The San Diego (California) Unified School District has been granted a construction permit by the FCC for a non-commercial educational broadcast station to serve 55 educational units in that area. It is authorized to operate on 42300 kilocycles, with 1 kilowatt of power, employing frequency modulation (FM).

The San Diego school system intends to utilize this service to advance its educational program by rebroadcasting to specific classes or schools recorded talks, plays, musical programs and events of an educational or historic nature, provide the various schools with talks, plays, musical programs, and other special activities as presented by classes in the school system, and, incidentally, to train students in the field of radio communication.

The cost of the system is estimated at slightly more than \$6,000. It is proposed to locate the transmitter at 348 West Market Street, San Diego.

### New York City Station

The FCC on June 17 granted the application of the City of New York, Municipal Broadcasting System, for a frequency assignment, 43500 kilocycles.

### Rules and Regulations

The Commission en banc June 24 took the following action on Rules and Regulations:

Adopted amendments to Appendix B, Part 2, General Rules and Regulations, and Section 10.41 of the Rules Governing Emergency Radio Services, Part 10, in part allocating the frequency 1618 kc. to the police service.

Adopted amendments to Appendix B, Part 2, General Rules and Regulations, and Section 10.47 of the Rules Governing Emergency Radio Services, Part 10, in part, allocating the frequency 37660 kc. on a secondary basis for forestry use.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled to be heard before the Commission during the week beginning Monday, June 30. They are subject to change.

Monday, June 30

Broadcast

NEW—KNOE, Incorporated, Monroe, La.—C. P., 1420 kc., 250 watts, unlimited time.

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, 920 kc., 500 watts night, 1 KW day, SH-KUSD.

Consolidated Hearing

Further Hearing to be Held in Washington, D. C.

WPAY—Chester A. Thompson (Transferor), and The Brush-Moore Newspapers, Inc., Portsmouth, Ohio (Transferee).—Transfer of control, 1400 kc., 100 watts, unlimited time.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Renewal of license, 1400 kc., 100 watts, unlimited time.

### FUTURE HEARINGS

During the past week the Commission has announced the following future hearings in broadcast cases. They are subject to change.

Wednesday, July 23

Investigation to determine what policy or rules, if any, should be promulgated in connection with operation of new high frequency (FM) broadcast stations and for future acquisition of standard broadcast stations by newspapers, pursuant to Order No. 79.

Thursday, July 24

WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Renewal of license, 990 kc., 1 KW, daytime.

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—C. P., 1500 kc., 250 watts, unlimited time. Present assignment: 1340 kc., 100 watts, S-WHAT.

Friday, July 25

KORN—Nebraska Broadcasting Corporation, Fremont, Nebr.—Renewal of license, 1400 kc., 250 watts, unlimited time.

KORN—Clark Standiford (Transferor), and C. J. Malmsten, A. C. Sidner, S. S. Sidner and Arthur Baldwin (Transferees), Fremont, Nebr.—Transfer of control, 1400 kc., 250 watts, unlimited time.

Consolidated Hearing

WCAM—City of Camden, Camden, N. J.—Renewal of license, 1310 kc., 500 watts, S-WTNJ and WCAP.

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Renewal of license, 1310 kc., 500 watts, S-WTNJ and WCAM.

WTNJ—WOAX, Incorporated, Trenton, N. J.—Renewal of license, 1310 kc., 500 watts, S-WCAM and WCAP.

WTNJ—WOAX, Incorporated, Trenton, N. J.—C. P., 1230 kc., 1 KW, unlimited time, DA-day and night. Present assignment: 1310 kc., 500 watts, S-WCAM and WCAP.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—C. P., 1260 kc., 1 KW night, 5 KW day, DA-night, unlimited time. Present assignment: 1400 kc., 250 watts, unlimited time.

Monday, July 28

KMA—May Broadcasting Company, Shenandoah, Iowa.—Renewal of license, 930 kc., 1 KW night, 5 KW day, unlimited time.

NEW—Hawaiian Broadcasting System, Ltd., Honolulu, T. H.—C. P., 1340 kc., 250 watts, unlimited time.

WRDO—WRDO, Incorporated, Augusta, Maine.—Renewal of license, 1400 kc., 100 watts, unlimited time.

Thursday, August 5

KFNF—KFNF, Incorporated, Shenandoah, Iowa.—Renewal of license, 920 kc., 500 watts night, 1 KW day, S-KUSD.

NEW—Triple-Cities Broadcasting Co., Inc., Binghamton, N. Y.—C. P., 1420 kc., 250 watts, unlimited time.

Friday, August 29

NEW—KNOE, Incorporated, Monroe, La.—C. P., 1420 kc., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Lester Q. Krasin & Otto A. Krutzner, d/b as Krasin and Krutzner, Tucumcari, N. M.—Granted construction permit for a new station to operate on 1400 kc., 250 watts, unlimited time (B5-P-2934).

KICA—Western Broadcasters, Inc., Clovis, N. M.—Granted construction permit to change frequency of station KICA from 1400 kc. to 1240 kc., increase power from 100 to 250 watts, unlimited time, and install new equipment (B5-P-3095).

WWRL—Long Island Broadcasting Corp., New York, N. Y.—Granted construction permit to increase power from 250

watts night and day to 5 KW night and day; move transmitter to North Henry Street and Marginal Road or Green Street, Brooklyn, install new transmitter and vertical antenna; 1600 kc., S. H. (WCNW). (B1-P-3116.)

WIZE—Radio Voice of Springfield, Inc., Springfield, Ohio.—Granted modification of license to increase power from 100 to 250 watts; 1340 kc., unlimited time (B2-ML-1046).

WFIL—Strawbridge & Clothier, Transferor, Lit Brothers, Transferee; WFIL Broadcasting Co., Philadelphia, Pa.—Granted consent to voluntary transfer of 50% interest of WFIL Broadcasting Co., licensee of station WFIL, from Strawbridge & Clothier to Lit Brothers, for a consideration of \$126,000; station operates on 560 kc., 1 KW, unlimited time (B2-TC-254).

KROW—Educational Broadcasting Corp., Oakland, Calif.—Granted construction permit authorizing increase in power from 1 to 5 KW, installation of new transmitting equipment and directional antenna for night use, and move of transmitter to approximately 4.3 miles south-southeast of center of San Francisco. This grant is made subject to any future action Commission may take regarding the problem of multiple ownership (B5-P-2803).

### DESIGNATED FOR HEARING

WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Application for construction permit to increase hours of operation from day to unlimited time; move transmitter site to Union Stock Yards, install new transmitter and install directional antenna for nighttime use; 950 kc., 1 KW (B4-P-3077).

KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Application for construction permit to install a new transmitter and directional antenna for use during nighttime; change frequency from 1240 kc. to 580 kc., and increase power from 250 watts to 1 KW, unlimited time (B3-P-3062).

### MISCELLANEOUS

WOOD—King-Trendle Broadcasting Corp. (assignor), WOOD Broadcasting Corp. (assignee), Grand Rapids, Mich.—Granted motion for continuance of hearing on application for voluntary assignment of license of Station WOOD, now scheduled for June 20, 1941, until June 27, 1941 (under authority of Paragraph 6 of Administrative Order No. 2).

KFDY—S. Dak. State College, Brookings, S. Dak.—Granted special temporary authority to remain silent for a period beginning June 15 and ending Sept. 15, 1941 (B4-S-645).

Upstate Broadcasting Corp., Saranac Lake, N. Y.—Granted special temporary authority to operate a Composite 1-watt MOPA transmitter on 35820 kc., installed in a private plane, in order to relay broadcast of Saranac Lake Airport Dedication exercises only, to radio station WNBZ on June 14 and 15.

W8XAD—WHEC, Inc., Rochester, N. Y.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 42600 kc., 1 KW, special emission for FM, with transmitter located at 979 Mt. Read Boulevard, Rochester, for the period June 30 to August 29, 1941.

W43B—The Yankee Network, Boston, Mass.—Granted extension of special temporary authority to operate frequency modulation station commercially on 44300 kc., 50 KW, special emission for FM, using the high frequency experimental station W1XOJ at summit of Asnebumskit Hill, Paxton, Mass., for period June 28 to August 26, without prejudice to issues to be determined in hearing on application B1-PH-51.

WHYN—The Hampden-Hampshire Corp., Holyoke, Mass.—Granted special temporary authority to rebroadcast transmissions of a U. S. Army bomber on June 17, in conjunction with the local U. S. O. drive.

W8XVH—WBNS, Inc., Columbus, Ohio.—Granted extension of special temporary authority to operate a high frequency experimental broadcast station on 43000 kc., 250 watts, special emission for FM, with transmitter located at 50 W. Broad St., Columbus, for the period June 30 to August 29, 1941.

W65H—WDRG, Inc., Hartford, Conn.—Granted extension of special temporary authority to rebroadcast high frequency broadcast stations W2XMW and W1XOJ, emissions for a period June 30 to August 28, 1941.

- W1XK—Westinghouse Radio Stations, Inc., Hull, Mass.—Granted extension of special temporary authority for the period June 20 to August 29, 1941, to operate a high frequency experimental broadcast station on **42600 kc.**, 1000 watts, special emission for FM, with transmitter located at Newport Road, Hull, Mass.
- W1XSN—Westinghouse Radio Stations, Inc., E. Springfield, Mass.—Granted extension of special temporary authority for the period June 30 to August 29, to operate a high frequency experimental broadcast station on **42600 kc.**, 1 KW, special emission for frequency modulation, with transmitter located at 625 Page Blvd., E. Springfield, Mass.
- W65H—WDRC, Inc., Hartford, Conn.—Granted extension of special temporary authority to operate FM station commercially on **46500 kc.**, 1000 watts, special emission for FM, with transmitter located at Meriden, Conn., for the period June 30 to August 28, pending completion of construction pursuant to construction permit (B1-PH-35).
- WTMJ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted license to cover construction permit (B4-P-2696) to install directional antenna for night use and increase power from 1 KW night, 5 KW LS, to 5 KW, unlimited time on **620 kc.** (B4-L-1422). Also granted authority to determine operating power by direct measurement (B4-Z-970).
- WHBF—Rock Island Broadcasting Co., Rock Island, Ill.—Granted license to cover construction permit (B4-P-2568) for change in type of transmitter and change in directional antenna (B4-L-1427). Also granted authority to determine operating power by direct measurement of antenna input (B4-Z-993).
- WNAB—Harold Thomas, Bridgeport, Conn.—Granted modification of construction permit (B1-P-2410 which authorized a new station) for change in type of transmitter, approval of studio site at 991 Broad St., and extension of completion date to 90 days after grant; **1450 kc.**, 250 watts, unlimited time (B1-MP-1298).
- WBAA—Purdue University, West Lafayette, Ind.—Granted modification of construction permit (B4-P-2604, which authorized installation of new transmitter and directional antenna for night use; increase in power, change in hours of operation and move of transmitter) for extension of completion date to Sept. 22/41 (B4-MP-1315).
- WJMA—Arrington & Arrington, Covington, Va.—Granted license to cover construction permit for new station (B2-P-3066); **1340 kc.**, 250 watts, unlimited time (B2-L-1433). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-1025).
- KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Granted license to cover construction permit (B4-P-2329) to install new transmitter, approve transmitter site, directional antenna for night use only, and increase in power to 1 KW, change frequency and directional antenna on **1300 kc.**, NARBA (B4-L-1411). Also granted authority to determine operating power by direct measurement (B4-Z-908).
- WBTA—Batavia Broadcasting Corp., Batavia, N. Y.—Granted license to cover construction permit (B1-P-2909) for a new station to operate on **1490 kc.**, 250 watts, unlimited time (B1-L-1340). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-1026).
- KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Granted modification of construction permit (B5-P-2848, for installation of DA for night use; increase in power to 5 KW), for extension of time in which to complete construction from June 22 to August 1, 1941 (B5-MP-1316).
- WTJS—The Sun Publishing Co., Inc., Jackson, Tenn.—Granted modification of construction permit (B5-P-2525, for change in frequency, increase in power, installation of new transmitter and directional antenna) for authority to change type of transmitter and extend completion date to 180 days after grant (B3-MP-1322).
- WGAN—Portland Broadcasting Co., Portland, Maine.—Granted license to use formerly licensed Western Electric 352-K-1 main transmitter as an auxiliary using 500 watts power (B1-L-1420).
- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted modification of construction permit (B1-P-2319 for changes in antenna system) for extension of commencement date to July 1 and completion date to Jan. 1, 1942 (B1-MP-1324).
- WLOG—Clarence H. Frey & Robert O. Greever, Logan, W. Va.—Granted license to cover construction permit for changes in equipment and increase in power; **1230 kc.**, 250 watts, unlimited time (B2-L-1425).
- WWSR—Vermont Radio Corp., Inc., St. Albans, Vt.—Granted license to cover construction permit for new station; **1420 kc.**, 1 KW, daytime (B1-L-1406). Granted authority to determine operating power by direct measurement of antenna input (B1-Z-591).
- W39B—The Yankee Network, Inc., Boston, Mass.—Granted modification of construction permit for new high frequency broadcast station, for extension of commencement and completion dates from December 31, 1940 and June 30, 1941, to 60 days after grant and 6 months thereafter, respectively (B1-MPH-26).
- K45LA—Don Lee Broadcasting System, Los Angeles, Calif.—Granted modification of construction permit for new high frequency broadcast station, for extension of commencement and completion dates from December 31, 1940, and June 30, 1941, to 60 days after grant and 180 days thereafter, respectively (B5-MPH-30).
- W9XAK—Kansas State College of Agriculture and Applied Science, Manhattan, Kans.—Granted modification of construction permit for new television station for extension of completion date from July 15, 1941, to October 15, 1941 (B4-MPVB-42).
- WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted modification of construction permit as modified, for change in equipment, frequencies and increase in power, for extension of completion date from June 19 to August 6, 1941 (B1-MPIB-29).
- WHAI—John W. Haigis, Greenfield, Mass.—Granted authority to install new automatic frequency control equipment (B1-P-226).
- WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Granted authority to determine operating power by direct measurement of antenna input (for auxiliary transmitter) (B4-Z-1097).
- WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Granted authority to determine operating power by direct measurement of antenna input (for auxiliary transmitter) (B2-Z-1034).
- WSM—The National Life & Accident Insurance Co., Nashville, Tenn.—Granted authority to determine operating power by direct measurement of antenna input (for auxiliary transmitter) (B3-Z-1007).
- WCAU—WCAU Broadcasting Co., Philadelphia, Pa.—Granted authority to determine operating power by direct measurement of antenna input (for auxiliary transmitter), (B2-Z-938).
- KAST—Astoria Broadcasting Co., Astoria, Ore.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-954).
- WRAL—Capitol Broadcasting Co., Inc., Raleigh, N. C.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-956).
- KRE—Central Calif. Broadcasters, Inc., Berkeley, Calif.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1074).
- WBLK—Charleston Broadcasting Co., Clarksburg, W. Va.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-1022).
- WIBU—Wm. C. Forrest, Poynette, Wisc.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-999).
- KTOH—Garden Island Publishing Co., Ltd., Lihue, T. H.—Granted authority to determine operating power by direct measurement of antenna input (B-Z-1046).
- WJEJ—Hagerstown Broadcasting Co., Hagerstown, Md.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-1945).
- WGH—Hampton Roads Broadcasting Corp., Newport News, Va.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-1019).
- KFJI—KFJI Broadcasters, Inc., Klamath Falls, Ore.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1014).
- KTRB—KTRB Broadcasting Co., Inc., Modesto, Calif.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1029).



- WWRL—Long Island Broadcasting Corp., Woodside, Long Island, N. Y.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-1013).
- WHBC—The Ohio Broadcasting Co., Canton, Ohio.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-976).
- WPAR—Ohio Valley Broadcasting Corp., Parkersburg, W. Va.—Granted authority to determine operating power by direct measurement of antenna power (B2-Z-1021).
- KUTA—Utah Broadcasting Co., Salt Lake City, Utah.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1005).
- WHBL—Press Publishing Co., Sheboygan, Wisc.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-945).
- KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1018).
- WOLS—C. Lee Stone, Florence, S. C.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-678).
- WOWO—Westinghouse Radio Stations, Inc., Fort Wayne, Ind.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-989).
- WBZA—Westinghouse Radio Stations, Inc., Boston, Mass.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-988).
- KWNO—Winona Radio Service, Winona, Minn.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-953).
- WEED—William Avera Wynne, Rocky Mount, N. C.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-972).
- WOR—Bamberger Broadcasting Service, Inc., New York City.—Granted authority to determine operating power by direct measurement of antenna power (B1-Z-986).
- KGDM—E. F. Pepper, Stockton, Calif.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-1056).
- KFVD—Standard Broadcasting Co., Los Angeles, Calif.—Granted authority to determine operating power by direct measurement of antenna power (B5-Z-995).
- WAKR—The Summit Radio Corp., Akron, Ohio.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-975).
- KTUC—Tucson Broadcasting Co., Tucson, Ariz.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-1057).
- WHKC—United Broadcasting Co., Columbus, Ohio.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-1016).
- KDKA—Westinghouse Radio Stations, Inc., Pittsburgh, Pa.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-977).
- WEAN—The Yankee Network, Inc., Providence, R. I.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-944).
- WELL—Federated Publications, Inc., Battle Creek, Mich.—Granted authority to determine operating power by direct measurement of antenna input (B2-Z-909).
- KGDE—Charles L. Jaren, Fergus Falls, Minn.—Granted authority to determine operating power by direct measurement of antenna input (B4-Z-1004).
- KGIW—E. L. Allen, Alamosa, Colo.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-962).
- WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Granted petition to continue hearing now scheduled for June 24 to July 24, in re application to change frequency, power and time of operation.
- WRDO—WRDO, Inc., Augusta, Maine.—Granted motion for postponement of hearing from June 27 to July 28, in re application for renewal of license.
- WDAS—WDAS Broadcasting Co., Philadelphia, Pa.—Granted motion for continuance of hearing now scheduled for June 25 to July 25, in re applications of WCAM, WCAP and WTNJ for renewal of licenses, and applications of WTNJ and WDAX for construction permits to change operating assignments.
- WTNJ—WOAX, Inc., Trenton, N. J.—Granted motion to continue hearing referred to above.
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Dismissed motion for continuance of hearing on application for construction permit to increase power.
- American Legion, Dept. of Hawaii, Honolulu, T. H.—Granted petition to intervene in hearing on application of Hawaiian Broadcasting System, Ltd., for a new station in Honolulu; denied petition insofar as it requests removal of hearing to Honolulu and insofar as it requests designation of hearing at a later date than July 28.
- KFNF—KFNF, Inc., Shenandoah, Ia.—Granted motion for postponement of hearing now scheduled for June 30 to August 5 in re application for renewal of license.
- W2XYU—Columbia Broadcasting System, Inc., New York City.—Granted special temporary authority to use a 25 watt test transmitter on 330.4, 333.4 and 336.4 mc. in order to conduct antenna and propagation tests from either the Salmon or CBS Building in New York City in connection with proposed operation of STL broadcast stations W2XYN, W2XYO and W2XYP for the period June 20, and ending not later than August 18, 1941.
- WRCA—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted extension of special temporary authority to operate on 9670 kc. with effective power of 100 KW, using separate power amplifiers feeding separate directional antenna for the period June 20 to not later than July 19, 1941.
- W2XBS—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted special temporary authority to operate a specially constructed 1 KW peak power, special emission laboratory model FM visual transmitter in conjunction with the main picture transmitter power amplifier of W2XBS on Channel No. 1 in order to make comparisons of FM and A5 emissions and to obtain engineering data for the period June 19 to not later than July 18, 1941.
- WSUI—State University of Iowa, Iowa City, Iowa.—Denied special temporary authority to operate a minimum of twelve hours daily for a period not to exceed 30 days (B4-S-524).
- WFTM—Fort Myers Broadcasting Co., Fort Myers, Fla.—Granted special temporary authority to remain silent for a period of 30 days on account of fire (B3-S-1054).
- KFXM—J. C. Lee & E. W. Lee, Lee Bros. Broadcasting Co., San Bernardino, Calif.—Granted special temporary authority to operate simultaneously with Station KPPC from 7 p. m. PST to the close of the heavyweight championship matches on June 18 and 25, 1941, only (B5-S-37).
- WJJD—WJJD, Inc., Chicago, Ill.—Granted special temporary authority to rebroadcast a two-way discussion, Naval Airship to ground, between instructor and students, in the interest of Naval Recruiting by U. S. Naval Reserve Aviation Base at Glenview, Ill. for a period of 30 days beginning June 20, 1941, and ending not later than July 19, 1941.
- KROS—Clinton Broadcasting Corp., Clinton, Ia.—Granted modification of construction permit (B4-P-1907, which authorized a new station), for approval of antenna and of transmitter and studio sites at 242-248 5th Ave., So. Clinton, and installation of new type of transmitter; 1340 kc., 250 watts, unlimited time (B4-MP-1326).
- WTRH—Sioux City Broadcasting Co., Sioux City, Iowa.—Granted special temporary authority to operate a relay broadcast station on the frequencies listed in Group A, Sec. 4.23 (1622, 2058, 2150, 2790 kc.), 10 watts power, in order to relay broadcast programs in connection with Iowa Open Golf Tournament to Radio Station KTRI on June 21 and 22.
- W71NY—Bamberger Broadcasting Service, Inc., New York City.—Granted special temporary authority to operate frequency modulation (FM) station, commercially on 47100 kc., 1 KW power, special emission for FM, at 444 Madison Ave., New York, 1 KW transmitter, for period of 30 days.

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

- KOAC—Oregon State Agricultural College, Corvallis, Ore.—Modification of construction permit (B5-P-2422) to install new transmitter, directional antenna for day and night use, increase in power, and move transmitter, requesting extension of completion date from 7-14-41 to 10-14-41.

### 580 Kilocycles

- WIAC—Enrique Abarca Sanfeliz, San Juan, Puerto Rico.—Modification of construction permit (B-P-2136) for a new broad-

cast station, requesting approval of antenna system, change in type of transmitting equipment, increase in power from 1 KW night, 5 KW day, to 5 KW day and night, and approval of transmitter and studio sites.

#### 620 Kilocycles

WTMJ—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—Authority to determine operating power by direct method.

WTMJ—The Journal Company (The Milwaukee Journal), Milwaukee, Wisc.—Modification of license to increase power of auxiliary transmitter from 1 KW night, 5 KW day, to 5 KW day and night.

#### 790 Kilocycles

KGHL—Northwestern Auto Supply Co., Inc., Billings, Mont.—Modification of construction permit (B5-P-2701) as modified, for installation of directional antenna for night use and increase in power, requesting extension of completion date from 7-16-41 to 9-16-41.

#### 930 Kilocycles

Paducah Newspapers, Inc., Paducah, Ky.—Construction permit for a new broadcast station to be operated on 930 ke., 1 KW, unlimited time, using directional antenna for day and night.

#### 960 Kilocycles

WDBJ—Times-World Corporation, Roanoke, Va.—License to cover construction permit (B2-P-2522) as modified, for installation of directional antenna for night use, increased power, and approval of transmitter site.

WDBJ—Times-World Corporation, Roanoke, Va.—Authority to determine operating power by direct method.

#### 1240 Kilocycles

KGBS—Harbenito Broadcasting Co., Harlingen, Texas.—Modification of construction permit (B3-P-2747) as modified, for a new broadcast station, requesting authority to move studio.

KXOX—Sweetwater Radio, Inc., Sweetwater, Texas.—Authority to determine operating power by direct method.

WCOV—Capital Broadcasting Co., Inc., Montgomery, Ala.—License to cover construction permit (B3-P-2802) to make changes in equipment and increase power.

WCOV—Capital Broadcasting Co., Inc., Montgomery, Ala.—Authority to determine operating power by direct method.

#### 1340 Kilocycles

KAND—Navarro Broadcasting Ass'n, J. C. West, President, Corsicana, Texas.—Authority to determine operating power by direct method.

WEIM—Ruben E. Aronheim, Fitchburg, Mass.—Modification of construction permit (B1-P-3061) for a new station, requesting approval of antenna and transmitter site.

WLNH—The Northern Broadcasting Co., Laconia, N. H.—Authority to determine operating power by direct method.

KSRO—Ernest L. Finley, Santa Rosa, Calif.—Modification of construction permit (B5-P-2916) for change in frequency, increase in power, installation of new transmitter, and directional antenna for day and night use, requesting installation of new type transmitter, changes in directional antenna on 1350 ke. under NARBA, and extension of commencement and completion dates from 2-4-41 and 8-4-41 to 1 day after grant and 30 days thereafter respectively.

#### 1400 Kilocycles

KTEM—Bell Broadcasting Co., Temple, Texas.—Authority to determine operating power by direct method.

WBTM—Piedmont Broadcasting Corp., Danville, Va.—Construction permit to install new antenna, increase power from 100 watts night, 250 watts day, to 250 watts day and night, and move transmitter.

#### 1450 Kilocycles

KGIW—E. L. Allen, Alamosa, Colo.—Construction permit to increase power from 100 watts to 250 watts and install new transmitter.

KNET—Bonner Frizzell, Palestine, Texas.—Authority to determine operating power by direct method.

KSAN—Golden Gate Broadcasting Corp., San Francisco, Calif.—Construction permit to change frequency from 1450 ke. to 1460 ke., increase power from 250 watts to 1 KW, install new transmitter, and make changes in antenna. Amended: To change type of transmitter.

WGNC—F. C. Todd, Gastonia, N. C.—Authority to install automatic frequency control equipment.

#### 1490 Kilocycles

KBKR—Louis P. Thornton, Baker, Ore.—Voluntary assignment of license from Louis P. Thornton to Baker Broadcasting Company.

WERC—Presque Isle Broadcasting Co., Erie, Pa.—License to cover construction permit (B2-P-2251) as modified, for a new station.

WERC—Presque Isle Broadcasting Co., Erie, Pa.—Authority to determine operating power by direct method.

#### 1530 Kilocycles

WCKY—L. B. Wilson, Inc., Cincinnati, Ohio.—Construction permit to make changes in directional antenna system, and to change from directional antenna day and night to directional antenna after sunset at Sacramento, California.

### MISCELLANEOUS APPLICATIONS

KOMA—KOMA, Inc., Oklahoma City, Okla.—Construction permit to install new transmitter and directional antenna for day and night, increase power from 5 to 50 KW, change frequency from 1520 ke. to 690 ke., and move transmitter. Amended: To request power of 25 KW night and 50 KW day, make changes in directional antenna, and use facilities of KGGF.

WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Modification of license to change frequency from 1240 ke. to 1230 ke., time from shares with WGBB and simultaneous operation with WBRB, to unlimited.

WGOV—E. D. Rivers, Valdosta, Ga.—Construction permit to install new transmitter, increase power from 250 watts to 500 watts night and 1 KW day, and change frequency from 1450 ke. to 1460 ke.

WREN—The WREN Broadcasting Co., Inc., Topeka, Kans.—Construction permit to install directional antenna for day and night use, move transmitter from Tonganoxie, Kansas, to Kansas City, Kansas, move studio from Lawrence, Kansas, to Kansas City, Missouri, and change power from 1 KW night and 5 KW day to 5 KW. Amended: To change frequency from 1250 ke. to 1060 ke., increase power from 5 to 50 KW, change hours of operation from S-KFKU to unlimited time, make changes in directional antenna for night use only, change transmitter location from Kansas City, Kansas, to Jarbola, Kansas, and studio location from Kansas City, Missouri, to Topeka, Kansas, and install new transmitter.

H. C. Cockburn, tr. as San Jacinto Broadcasting Co., Houston, Texas.—Construction permit for a new broadcast station to be operated on 1470 ke., 1 KW, unlimited time, facilities vacated by KXYZ.

Birney Imes & Robin Weaver, d/b as Imes-Weaver Broadcasting Co., Murphreesboro, Tenn.—Construction permit for a new broadcast station to be operated on 1240 ke., 250 watts, unlimited time, facilities of WSIX.

Evening News Press, Inc., Port Angeles, Wash.—Construction permit for a new broadcast station to be operated on 1500 ke., 100 watts night, 250 watts day, unlimited time. Amended: To request 1450 ke., 250 watts day and night, and specify transmitter location.

Bernard N. Walker, Concord, N. C.—Construction permit for a new broadcast station to be operated on 1400 ke., 250 watts, unlimited time.

National Broadcasting Co., Inc., New York, N. Y.—Construction permit for a new television broadcast station to be operated on Channel #1, 50000-56000 ke.; emission, A5 and special for frequency modulation; ESR: 1800, unlimited time.

National Broadcasting Co., Inc., New York, N. Y.—License to cover construction permit (B1-PCT-1) for a new television broadcast station.

WOKO, Inc., Albany, N. Y.—Construction permit for a new studio transmitter broadcast station to be operated on **337000 kc.**, 50 watts, special emission for frequency modulation, to be used in conjunction with applicant's proposed high frequency broadcast station.

Northeastern Pennsylvania Broadcasters, Inc., Wilkes-Barre, Pa.—Construction permit for a new broadcast station to be operated on **1240 kc.**, 250 watts, unlimited time, facilities of WBAX.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

Federal Trade Commission has alleged unfair competition against the following firm. The respondent will be given an opportunity to show cause why a cease and desist order should not be issued against them.

**S. Angell & Co.**—Alleging misrepresentation and the use of lottery methods in the sale of furs and fur garments, a complaint has been issued against Steven Angell and Asimo Liampos, trading as S. Angell & Co., 236 West 27th St., New York, manufacturers.

The complaint alleges that the respondents engage in the practice of failing to disclose the true nature and origin of their fur products and of affirmatively misrepresenting their nature and origin by means of tags, labels, advertisements, circulars, price lists and other printed matter.

According to the complaint, the respondents represent products made from rabbit or other peltries as being made from mink, seal, beaver, muskrat, skunk, sable, squirrel and broadtail lamb peltries by dressing and dyeing them to resemble these peltries and by use of such terms as "Minkolet," "Minkolene," "Nubian Seal," "Hudseal," "Beaverette," "Mendoza Beaver," "Silvertone Muskrat," "Skunkolene," "Sabellette," "Squirrellette," and "Broadtail"; and represent by use of the word "Norwegian" that certain of their products are made from peltries imported from Norway, when such is not a fact.

The complaint further alleges that the respondents, in selling their products, furnish various devices and plans of merchandising which involve the operation of lottery schemes when such products are sold and distributed to ultimate consumers. (4520)

**Miles Brokerage Co., Inc.**—Alleging violation of the brokerage provision of the Robinson-Patman Act, a complaint has been issued against Miles Brokerage Co., Inc., Clearfield, Pa., which also maintains an office in Buffalo; Miles & Co., Inc., DuBois, Pa.; Miles-Bradford Co., Bradford, Pa., and Miles-Kane Co., Kane, Pa.

The complaint points out that the capital stock of Miles Brokerage Co., Inc., is held by twenty-two stockholders and that stockholders owning ninety-seven and one-half per cent of its outstanding capital stock are identified with the three buyer respondent grocery companies as stockholders, directors, officers, attorneys, auditors, salesmen, buyer or managers, and that this group likewise owns and controls a majority interest in the capital stock of each of the three respondent buyer corporations.

According to the complaint, the Miles Brokerage Co., Inc., stockholders share in the corporation's earnings and profits; William H. Miles, president of the three buyer respondent corporations, is a stockholder in the brokerage company and takes an active interest in its affairs; and his brother, Wade H. Miles, though not a stockholder, is vice-president and managing officer of the brokerage company.

The complaint alleges that in the buying and selling transactions resulting in the delivery of merchandise from one or more sellers to the three respondent buying companies, the respondent brokerage company receives and accepts from the sellers substantial brokerage fees and commissions which are equal to a certain percentage, from a fraction of 1 per cent to 5 per cent, of the sales price of the purchases.

The complaint further alleges that as a result of the operation of the Miles Brokerage Co., Inc., brokerage business the stockholders, directors, officers and other officials or representatives of the three respondent buyer corporations receive from sellers indirectly, in the form of cash dividends paid upon their stockholdings in Miles Brokerage Co., Inc., a substantial portion of the brokerage obtained on purchases made by the three respondent buyer corporations.

The three respondent buyer corporations, according to the complaint, receive indirectly from sellers a substantial portion of the brokerage obtained on their purchases by Miles Brokerage Co., Inc., in the form of the use of equipment and facilities of the Buffalo office of Miles Brokerage Co., Inc., such equipment and facilities being maintained from proceeds of brokerage fees and commissions received by Miles Brokerage Co., Inc.

The complaint alleges that the receipt and acceptance of such brokerage fees and commissions by Miles Brokerage Co., Inc., upon the three respondent companies' purchases, while acting in fact for such purchasers, and the receipt and acceptance of brokerage in the form of buying office services and facilities by the three buyer companies, upon their own purchases, violates the brokerage provision of the Robinson-Patman Act. (4519)

### STIPULATIONS

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

**Beau Brummel Ties, Inc.**, also trading as Weisbaum Bros., Brower Co., Cincinnati, entered into a stipulation to cease certain representations in the sale of neckties and mufflers.

Under the stipulation, the respondent agrees to cease employing the words "Silk," "Pure Dye," or other words connoting silk to describe a product not composed of silk. If, according to the stipulation, the product is composed partly of silk and partly of other fibers and the word "Silk" or other silk-connoting word is used properly to describe the silk content, such words shall be accompanied by other words in equally conspicuous type to accurately designate each constituent fiber or material in the order of its predominance by weight.

The respondent also stipulates that it will cease offering for sale or selling any silk product containing any metallic weighting without full and nondeceptive disclosure on labels, tags and all advertising matter of the presence of this weighting and its percentage or proportion, and that it will cease advertising, branding, labeling, invoicing, selling or offering products composed wholly or partly of rayon without clearly disclosing the rayon content by use of the word "Rayon" and without failing to disclose in equally conspicuous type any other constituent fibers in the order of their predominance by weight.

The respondent further agrees to cease and desist concealing within neckties composed in whole or in part of rayon, labels or tags descriptive of their fiber content, or failing to attach such labels or tags to the ties in a manner clearly revealing the descriptive matter appearing thereon; and to cease representing, directly or inferentially, that neckties made or constructed wholly or partially with or by machines are "Made by Hand" or and hand-made. (3143)

**Hamann Institute of Music**—Engaged in selling correspondence courses of 52 lessons for the study of piano, Hawaiian (steel) guitar, and Spanish guitar, Harry Hamann, trading as Hamann Institute of Music, 3019 North 24th Place, Milwaukee, has entered into a stipulation that he will cease certain representations in the sale of his products.

"Play songs almost instantly," the respondent Hamann advertised, according to the stipulation. "Let me prove that you too can become an expert, up-to-date player for less than two cents a day."

Under his stipulation, the respondent agrees to cease advertising that his courses will enable a purchaser to learn to play current entertaining music practically overnight, or become a skilled or expert up-to-date player, and that any price is the regular price for any of his courses, unless such price is in fact the customary price.

The respondent further stipulates that he will cease representing, by use of the word "Institute" in the trade name or of syllables

or letters which simulate that word, that his business is an institute; by use of the word "Registrar," that he employs a registrar in his business; and by use of the word "President," that his business is a corporation or association or anything but a privately owned, personally conducted business. (02813)

**Jones Laboratories**—J. M. Jones, trading as Jones Laboratories, 724 West Trade St., Charlotte, N. C., distributor of a drug preparation designated "Jones' Dog Hulls," entered into a stipulation in which the respondent agrees to cease representing, directly or by implication, by use of the word "Laboratories" as part of his trade name, that he owns, operates or maintains a laboratory for manufacturing his product, or for testing and experimenting with the preparation. The respondent further agrees to cease advertising, directly or by implication, that "Jones' Dog Hulls" will stop running fits. (02816)

**King's Goat Milk Laboratories**—Cornelius J. King, trading as King's Goat Milk Laboratories, 1848 Hone Ave., New York, and engaged in the manufacture of various products composed either entirely or in part of goat's milk, entered into stipulation to cease certain representations in the sale of his products.

The respondent agrees to cease representing or using representations the effect of which tends to convey the belief, among other things: that goat's milk contains far more or, in fact, any more of Vitamins A, B, C, D and G than does cow's milk; that goat's milk is more suitable in infant and child feeding than cow's milk, or is the best substitute for human milk in such feeding; and that the fat globules in goat's milk are in more perfect emulsion than in any other milks, or that they are usually digested in twenty minutes.

The respondent further agrees to discontinue representing or using representations the effect of which tends to convey the impression that goat's milk is an ideal food for most cases of colitis, arthritis, anemia, nervousness, loss of weight, rundown condition, and other ailments, and that its use in the treatment of stomach or intestinal ulcers will obviate the necessity of surgical operations in ulcer cases generally. (3128)

**Larkin Co., Inc.**, Buffalo, N. Y., entered into a stipulation to discontinue certain representations in the sale of Chinese filet dinner or cover cloths designated as "Tuscany Lace." The respondent agrees to cease advertising that any dinner or cover cloths or other articles sold by it are Tuscany lace, other than such articles made from laces that are genuine Tuscany lace. The stipulation points out that true Tuscany lace is a hand-made filet lace of grape design produced in the Tuscany district of Italy from linen thread. According to the stipulation, the respondent's dinner or cover cloths advertised as "Hand-Made Tuscany Lace" are filet laces made of cotton thread in China to imitate the true Tuscany lace. (02815)

**Melrose Granite Company** and Rock of Ages Corporation, both engaged in the sale and distribution of granite monuments or memorials, have entered into stipulations in which they agree to cease and desist from certain representations concerning the lasting qualities of their products.

**Melrose Granite Company**, St. Cloud, Minn., in connection with the sale or offering for sale of its monuments or memorials in interstate commerce, agrees to cease and desist from representing, by use of the word "eternal" or any other word or words of similar import or meaning, or in any other manner, that its monuments or memorials are everlasting or will endure forever.

**Rock of Ages Corporation**, Burlington, Vt., in connection with the sale and distribution of its products in commerce, agrees to cease and desist from the use of the words or phrases "everlasting," "endures forever," "impervious to the rigors of time and the elements," "throughout the ages," "eternal beauty," or any other words or phrases of similar import or meaning in its advertising, certificates of guarantee or otherwise, so as to import or imply or the effect of which is to cause or may cause the belief or impression that its monuments or memorials are everlasting or will endure forever. (3142 and 3145)

**The Philip Ritter Co., Inc.**, 511 Fifth Ave., New York, an advertising agency, entered into a stipulation to cease disseminating certain advertisements on behalf of Grace Donohue, Inc., New York, for its preparation "Grace Donohue Cleanser." The respondent agency agrees to cease advertising that this product is a remedy or cure for, or works wonders with, blackheads or whiteheads; and that it is a healing agent and an efficient method of preserving a clear, smooth or attractive complexion. (02814)

**Tintz Co.**—Nineteen dealers selling coal tar hair dye products have entered into stipulations to cease disseminating advertising matter which does not contain proper cautionary statements regarding use of their products.

The respondents and the hair dye products they sell are: Tintz Co., Chicago, "Tintz Creme Shampoo Hair Coloring" (02806); G. P. Brandt, trading as Zephyr Laboratories, Chicago, "Brandt's Olive Oil Shampoo Tint" (02807); American Beauty Products Co., Chicago, "Brandt's Olive Oil Shampoo Tint" (02808); H. L. Baum, trading as Beauty Products, Denver, Colo., "Noreen Super Color Rinse" (02809); Clairol, Inc., Stamford, Conn., "Special Clairol" and "Instant Clairol" (02810); Bes-Tone, Ltd., New York, "Bes-Tone" and "Bes-Tone Oil Shampoo Tint" (02811); Nu-Gloss Mfg. Co., Inc., New York, "Nu-Gloss Tint" (02812); Rap-I-Dol Distributing Corporation, New York, "Rap-I-Dol Hair Coloring" (Supplemental Stipulation 01812); and Paragon Distributing Corporation, also trading as Paragon Laboratories, Inc., Eterne Manufacturing Corporation, and Paragon Institute, New York, "Eternal Tint Oil Shampoo" and "Paragon Hair Coloring" (Supplemental Stipulation 02112).

A. Rhodes Co., Inc., Lowell, Mass., "Rhodes' Quick Color for Gray Hair" and "Rhodes' Shampoo Tint for Gray Hair" (3131); George Kremer, trading as Roux Distributing Co., New York, "Roux Shampoo Tint" (3132); Norman W. Siebras, trading as Lady Lennox Co., Memphis, Tenn., "Lady Lennox Hair Coloring", (3133); Clifford S. Donnell, trading as Queen Ann Manufacturing Co., Newark, N. J., "Queen Ann Liquid Hair Coloring" (3134); Humm Laboratories, Inc., Duart Manufacturing Co., Inc., Ltd., Humbert Miraglia, and William H. H. Davis, Oakland, Calif., distributors of "Humm" coal tar hair dyes of some thirty different shades (3135); Godefroy Manufacturing Co., St. Louis, "Larieuse" (3136); Sales Affiliates, Inc., New York, "Loxol", "Inecto" or "Inecto with Lustrum" (3137); Fan Tan Co., Inc., trading as Black Strand Co., Chicago, "Black Strand Hair Coloring" (3138); Keystone, The Old Reliable Co., trading as Memphis Mail Order House and The Hi-Hat Co., Memphis, Tenn., "Hi-Hat" and "Four Star" (3139); and Jose G. Gonzalez and Mrs. Henry (Felicitas G.) Myers, Laredo, Tex., "Malintzin" (3140).

The respondents agree to cease disseminating advertisements which fail conspicuously to reveal therein the following: "Caution: This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness."

The stipulations provide that such advertisements need contain only the statement: "Caution: Use only as directed on label", if and when such labels bears the first described caution displayed conspicuously thereon, and the accompanying labeling bears adequate directions for such preliminary testing before each application.

A. Rhodes Co., Inc., Lowell, Mass., further stipulates that it will cease disseminating advertisements of its product "Rhodes' Reju-Vena", a solution containing metallic salts, which fails to conspicuously reveal therein a cautionary statement to the effect that this product is not to be used under certain conditions or circumstances, provided, however, that such advertising need contain only the statement: "Caution: Use only as directed on label", if and when such label bears the above described cautionary statement conspicuously displayed thereon. (02806-02812, inc., supplemental 01812, 02112, 3131-3140, incl.)

**Weyenberg Shoe Manufacturing Company**, Milwaukee, Wis., a corporation engaged in the manufacture, sale and distribution of shoes, one line of which is sold under the name of "Massagic," has entered into a stipulation in which it agrees to cease and desist from use of words or phrases, statements or representations, so as to import or imply or tend to convey the belief to purchasers that "Massagic" shoes massage the feet; that the shoes produce "massaging resilience"; that the shoe "exercises and massages the

foot"; the use of words or phrases, statements or representations tending to convey the belief to purchasers that the wearing of "Massagic" shoes will cause callouses to vanish; and the use of representations tending to convey the belief to purchasers that the shoes will keep the feet young. (3141)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Actino Laboratories, Inc.**, and Carl Loeb, its president, located at 429 West Superior St., Chicago, have been ordered to cease and desist from misleading representations in the sale of orthoptic instruments or machines intended for use in the treatment and correction of certain visual defects.

The Commission finds that the respondents, in connection with the sale of certain orthoptic instruments which they manufacture, accept from purchasers other, used, instruments as a "trade-in" allowance on the purchase of the respondents' instruments; that they resell the used or second-hand instruments thus obtained; and that, through the use of advertisements and their failure to disclose that such instruments are used or second-hand, they represent that certain of them are new and unused, when such is not a fact.

The respondents are ordered to cease and desist from representing, directly or by implication, that used or second-hand products are new or unused, and from advertising, offering for sale or selling used or second-hand products without disclosing that such products are in fact used or second-hand. (3813)

**George A. Bounds and Co.**—George C. Bounds and William H. Phillips, partners trading as George A. Bounds and Co., Salisbury, Md., who own and operate a factory at Hebron, Md., for packing, processing and canning tomatoes and sweet potatoes, have been ordered to cease and desist from violation of the brokerage section of the Robinson-Patman Act.

In connection with the sale and distribution of canned tomatoes and sweet potatoes, the Commission order directs the respondents to cease and desist from granting or allowing in any manner or form, directly or indirectly, anything of value as a commission, brokerage or other compensation or any allowance or discount in lieu thereof to any purchaser in such transactions.

The order further prohibits the respondents from granting or making any allowances or discounts in lieu of brokerage to any purchaser by selling commodities at a price reflecting a reduction from the prices at which sales of such commodities are currently being effected by the respondents to other customers, such reduction being an amount representing, in whole or in part, brokerage currently being paid by the respondents to brokers for brokerage services rendered to the respondents in effecting sales of such commodities to such purchasers thereof. (4303)

**Burry Biscuit Corporation** and Tasty Bud Biscuit Co., Inc., Elizabeth, N. J., have been ordered to cease and desist from misrepresentation in the sale of bakery products.

The Commission finds that the respondents caused certain of their cracker products called "Bisc-O-Bits" to be packaged in cardboard containers bearing on the surface, in conspicuous type, the statement "Average 90 Crackers." The Commission finds this representation to be false and misleading for the reason that the packages did not contain ninety crackers and did not average ninety crackers each but, on the contrary, the packages contained substantially less than ninety crackers. The findings also state that the containers are of a size and capacity in excess of that reasonably required to package ten ounces, the quantity of crackers actually placed therein by the respondents. This practice of using over-size containers, the findings continue, is known in the trade and generally as "slack filling" and has the effect of misleading or deceiving the purchasing public with respect to the quantity of product contained in such packages.

The respondents are ordered to cease and desist from representing that the number or quantity of any products contained in any package or container in which they are offered for sale is greater than the number or quantity of such products actually contained or placed therein, and from offering for sale or selling

any products in a container or package which is substantially larger in size or capacity than that required for packaging the quantity of product contained therein. (4374)

**Clayton Candy Co.**—Prohibiting the use of lottery methods in connection with the sale of merchandise to ultimate consumers, cease and desist orders have been issued against C. T. Clayton, trading as Clayton Candy Co., Phenix City, Ala., candy manufacturer; The Briarwood Corporation, Cleveland manufacturer of smoking pipes; J. C. Helms, trading as H & L Candy Co., Marshville, N. C.; Helen Harrison Candies, Inc., Chicago, and Gordon Foods, Inc., Atlanta, distributor of nut assortments and other food products. (4395, 4401, 4455, 4467 and 4438)

**The Firestone Tire & Rubber Co.**, The Goodyear Tire & Rubber Co., and its sales subsidiary, The Goodyear Tire & Rubber Co., Inc., and The B. F. Goodrich Co., all of Akron, Ohio, and Sears, Roebuck & Co., Chicago, and Western Auto Supply Co., Kansas City, Mo., have been ordered to cease and desist from price misrepresentations in connection with the sale of automobile tires and tubes.

Commission findings are that the tire company respondents issued retail price lists for various grades of tires for the use of their retail stores; furnished lists of suggested retail prices to their dealers, and, during nation-wide sales periods, advertised and recommended that their dealers advertise in a large number of newspapers that certain tires were offered at savings and discounts from the regular or list prices. Sears, Roebuck & Co. and Western Auto Supply Co., according to findings, also issued price lists but permitted their stores to sell at less than the suggested prices.

The Commission finds that during the periods in which the advertisements in question were published the respondents advertised and offered certain alleged savings and discounts on tires and tubes. The purported savings and discounts, according to findings, were not in fact as represented for the reason that they were not based or computed upon the regular current retail selling prices but upon amounts which were higher than the current retail selling prices.

Findings are further that in certain instances the represented savings and discounts were exaggerated for the reason that the purchaser was not credited with the usual part-payment trade-in allowance for used tires turned in at the time new tires were purchased.

Certain of the respondents, according to findings, represented that savings were afforded, based upon the advertised selling price as compared with competitors' list prices. In such cases the represented savings were found to be exaggerated for the reason that such list prices were not the regular current retail selling prices of the competitors' tires.

Commission findings are further that substantial numbers of purchasers understand that advertised savings or discounts are reductions from the regular retail selling prices ordinarily charged for merchandise immediately prior to advertised sales; that they understand that "list prices," as used in tire advertising, mean regular retail selling prices of the tires advertised, and that any represented savings or discounts from such list prices are reductions from the regular retail selling prices in effect immediately prior to the advertised sales.

The Commission orders direct all of the respondents to cease and desist from employing the term "List Price" or any term of similar meaning to designate prices which are not in fact the bona fide regular established selling prices of the tires or tubes advertised and offered for sale, as established by the usual and customary sales in the normal course of business.

The respondents also are ordered to cease representing, directly or indirectly:

That any specified amount is the customary or regular price of a tire or tube advertised when such amount is not in fact the bona fide actual selling price as established by usual and customary sales.

That any specified amounts or percentages are savings or discounts when they are not actual savings or discounts computed on the bona fide, usual and customary selling prices in effect immediately prior to such representations.

That specific savings or discounts are afforded a purchaser upon the purchase of tires or tubes when such savings or discounts do not take into account the trade-in allowances customarily made to purchasers in the ordinary course of business.

The respondents, except Western Auto Supply Co., are also ordered to cease representing, directly or indirectly:

That any specified savings or discounts are offered a purchaser upon the purchase of certain tires or tubes when such savings or discounts are computed upon the regular selling or list prices of higher priced tires or tubes.

That a specified tire or tube is offered for sale when such merchandise is not so offered but instead another tire or tube of different kind or brand is offered.

The orders against Sears, Roebuck & Co., and Western Auto Supply Co., also prohibit those respondents from representing, directly or indirectly, that any savings or discounts are afforded a purchaser upon the purchase of their tires or tubes when such savings or discounts are computed upon prices of competitors' tires and tubes, unless the prices of the respondents' tires or tubes and also those of their competitors are the regular current retail selling prices, and that certain amounts are the prices of the respondents' competitors' tires or tubes, unless such amounts are the prices at which such competitors sell their tires or tubes in the ordinary course of business.

Sears, Roebuck & Co. also is ordered to cease representing, directly or indirectly, that a specified tire or tube is of a certain grade, kind or line when it is of a different grade, kind or line, and that its tubes can be bought for a designated amount, or at a designated savings or discount, in combination with a tire or tires when the designated amounts, savings or discounts in such combination offer are not computed upon the regular retail selling prices of each item in the combination.

In the Firestone case, the Commission ordered that the complaint be dismissed as to Firestone Tire & Rubber Co., sales subsidiary of The Firestone Tire & Rubber Co., the sales subsidiary having been dissolved, and that certain charges in the complaint be dismissed without prejudice to the Commission's right to proceed thereon in the future in any appropriate manner (3983, 3984, 3985, 4033 and 4054).

**John J. Fulton Co.**, San Francisco, distributor of "Uvursin," advertised as a treatment for diabetes mellitus, has been ordered to cease and desist from misrepresentations concerning the preparation.

The Commission finds that through the dissemination of advertisements in the United States mails and by various other means in commerce the respondent has represented that its medicinal preparation "Uvursin" has substantial therapeutic value in the treatment of diabetes mellitus and that when used with a diet recommended by the respondent, it substantially increases the efficacy of the diet as a treatment for diabetes mellitus. The Commission finds that the preparation is not efficacious for treating this disease as it does not deal with the causes and its use may be definitely harmful to a patient suffering from diabetes mellitus in that it would give a false sense of security and delay the inauguration of effective treatment.

Further findings are that there is no accepted treatment for diabetes other than diet and insulin adjusted properly to meet the needs of each patient.

The respondent is ordered to cease and desist from disseminating or causing to be disseminated any advertisements by means of the United States mails or by any means in commerce, which advertisements represent that the preparation "Uvursin" constitutes a competent or effective treatment for diabetes or has any therapeutic value in the treatment of diabetes (3819).

**Gland Estemeter Corporation** and William Estep, its president, 30 North La Salle St., Chicago, formerly of Kansas City, Mo., have been ordered to cease and desist from misleading representations in the sale of their "Gland Estemeter" device intended for use in diagnosing diseases.

Commission findings are that the respondents advertised their device as being capable of detecting or disclosing improper or abnormal functioning of the glands, when in fact it is incapable of such detection and possesses no value in diagnosing diseases or conditions of the body.

The Commission order directs the respondents to cease disseminating advertisements which represent, directly or through inference, that all ailments or diseases are caused by improper or abnormal gland functioning; that the respondents' device detects or discloses such improper functioning, reveals vitamin deficiencies, discloses whether the body condition is acid or alkaline, discloses the condition of the blood with respect to energy or activity, analyzes or discloses impairments of the mental processes, and

that this device possesses any value in the diagnosis of any ailment or body conditions (4328).

**E. B. Muller & Co.**—The two principal processors of granulated chicory, a product used with coffee for flavoring and other purposes, have been ordered to cease and desist from price discriminations in violation of the Robinson-Patman Act, and from selling below cost, disparagement of competitors' products and other practices in violation of the Federal Trade Commission Act.

The respondent chicory companies are E. B. Muller & Co., Port Huron, Mich., and Heinr. Franck Sons, Inc., Flushing, N. Y., both controlled and directed, according to Commission findings, by David McMorrin, and principally owned by David McMorrin and his wife, Charlotte H. McMorrin.

Commission findings are that the businesses of the two respondent companies are largely complementary, one to the other, and that they refrain from competing with each other. Their principal competitor has been R. E. Schanzer, Inc., operating in New Orleans, the principal consuming market for chicory, and maintaining a chicory drying plant in Linwood, Mich., in the limited area in which domestic chicory is grown.

According to findings, the respondents have followed a general pattern of price discrimination under which they have made low prices in several southern States where they have been in active competition with R. E. Schanzer, Inc., and have recouped in part for these lower prices by charging higher prices in other areas where their competitor does not attempt to and cannot, because of transportation costs, sell its products.

The respondents, according to findings, also have discriminated in price as among other purchasers within the same southern States and among other purchasers elsewhere, and in many instances have maintained discriminatory prices as between customers located in the same city.

Detailed cost studies of the respondents' business operations show, according to findings, that they sold chicory below cost in territory where R. E. Schanzer, Inc., operated, with the deliberate purpose of injuring and, if possible, destroying this competitor, and that they sold at higher prices in other territories.

The respondent E. B. Muller & Co., according to findings, frequently disparaged the Schanzer chicory products by representing to purchasers that they contained molasses, sugar beet or other foreign substances, and the respondent has threatened Schanzer customers with seizure by governmental authorities of chicory purchased from R. E. Schanzer, Inc., as being adulterated.

E. B. Muller & Co., according to findings, artificially colored granulated chicory by adding iron oxide which produced an exceptionally desirable and uniform color and represented that the color and uniformity of color of its chicory were achieved by a superior method of roasting and a painstaking selective process.

The Commission order directs the respondents to cease disparaging the products of competitors and representing that artificially colored chicory is not so colored, and to cease selling or offering to sell granulated chicory at a price less than the cost thereof to respondents with the purpose or intent, and where the effect may be, to injure, suppress, or stifle competition or tend to create a monopoly in the production or sale of such products (the term "cost" meaning the total cost to the respondents of any such transactions of sale, including the costs of acquisition, processing, preparation for marketing, sale, and delivery of such products).

The respondents are further ordered to cease discriminating directly or indirectly in the price of such products of like grade and quality, as among purchasers from either or both of them, where the differences in price are not justified by differences in the cost of manufacture, sale, or delivery resulting from differing methods or quantities in which such products are sold or delivered:

- (A) By selling any material quantity of such products to purchasers in one or more general trade areas at prices different from those to purchasers in any other general trade area.
- (B) By selling such products to some purchasers in any general trade area at prices materially different from those to other purchasers in the same general trade area (3224).

**Neo-Vim Co.**, 400 North High St., Columbus, Ohio, and six of its officers or former officers have been ordered to discontinue misleading representations in the sale of their medicinal preparation designated "Neo-Vim" or "Neo-Vem" and their cosmetic preparation "Hi-Ho Tooth Paste."

The respondent officers or former officers are A. L. Riaff, L. M. Jensen, W. C. Pollard, Edwin L. Miller, L. R. Dillow, and Carl G. Rossel, all of Columbus.

The respondents are ordered to cease and desist from disseminating advertisements which represent, directly or through inference, that "Neo-Vim" or "Neo-Vem" is a tonic; that its use will supply increased energy or vitality; that it will increase the appetite or flow of gastric juices; that it will increase the quantity of the blood or improve the quality of the blood; that the preparation constitutes a competent or effective treatment for indigestion; or that it has any therapeutic value other than that possessed by an ordinary laxative.

The Commission order further directs the respondents to cease representing that "Hi-Ho Tooth Paste" will remove stain, film or discoloration from the teeth other than those of a surface character; that the preparation will serve to keep gums healthy or add firmness to the gums; that use of the preparation will prevent impure breath or offensive odors; or that it is a competent or effective agency for brightening the teeth in excess of the results obtained from the use of any ordinary dentrifice (3969).

**Omega Manufacturing Co., Inc.**—Two distributors of devices advertised for use in the electrolytic removal of hair have been ordered to cease and desist from misrepresentations in the sale of their products.

Respondents in the cases are Omega Manufacturing Co., Inc., trading as Omega Electrolysis Institute, and Milton L. Brownshield, an officer of the corporation, New York, selling the "Omega Home Use Portable Machine," or "Omega Method," and D. J. Mahler Co., Inc., East Providence, R. I., selling the "Mahler Electrolysis Apparatus," or "Mahler Method."

The orders direct the respondents to cease disseminating advertisements which represent, directly or through inference, that their products are safe devices for the electrolytic removal of superfluous hair from the body by individual self-application in the home.

Omega Manufacturing Co., Inc., and the respondent Brownshield are further ordered to cease representing that their device is painless, pleasant, quick or simple and easy to use and will have no ill effects upon the body, and D. J. Mahler Co., Inc., to discontinue representing that its device can be operated with ordinary care and skill.

Under their respective orders, the respondents are further directed to cease disseminating advertisements which fail to reveal that the use of their devices or apparatus by persons not trained in the technique of removing superfluous hair from the body by electrolysis may result in permanent disfigurement or cause infections or other irreparable injury to health, and that the devices should not be used to remove hair from cancerous or syphilitic lesions, pigmented moles or other areas showing local pathological conditions.

In each case the respondents had been restrained by United States District Courts, on petition of the Commission, from disseminating certain advertisements of their devices pending final disposition of the Commission's cases against them (4146 and 4228).

**J. R. Pharmacal Company**—J. R. Olney, Sr., and J. R. Olney, Jr., trading as J. R. Pharmacal Company, Chester, Pa., have been ordered to cease and desist from misleading representations in the sale of a medicinal preparation designated "J. R."

Commission findings are that the respondents advertised their preparation as constituting a cure or remedy for all cases of athlete's foot, when such is not a fact.

The Commission order directs the respondents to cease disseminating advertisements which represent, directly or through inference, that their preparation is in all cases a cure or remedy for athlete's foot; affords instant or immediate relief from athlete's foot, itching toes, ringworm, or raw, inflamed feet, in excess of temporarily relieving the itching symptoms associated with such conditions, and that the preparation is endorsed by leading health institutions or is the only known treatment of its kind.

The order also prohibits the dissemination of advertisements which use the statement, "Athlete's foot fungi killed in less than three minutes in laboratory test," or which otherwise represent that the preparation will, in all cases, kill or destroy athlete's foot fungi. (4127)

**Pittsburgh Plate Glass Co.**—A group of glass distributors and glazing contractors operating in the New Orleans area have been

ordered to cease and desist from entering into and carrying out agreements and undertakings to establish or maintain the prices for their products and apportion among themselves the glazing contracting business in New Orleans, and other practices.

Respondents are: Pittsburgh Plate Glass Co., distributor and glazing contractor with headquarters at Memphis, Tenn.; and W. D. Snyder, manager of its New Orleans branch; Karl Hansen Co., Inc., distributor and glazing contractor, and Karl Hansen, its president; David Bernhardt Paint and Glass Co., Inc., distributor and glazing contractor, and Fred Dittmann, its secretary-treasurer, and Edmund W. Ulrich, manager of its glazing contracting division; Joseph B. Crasto, formerly trading as Joseph B. Crasto Glass Co., glazing contractor, and his successor, Joseph B. Crasto Glass Co., glazing contractor, and Lloyd Crasto, its acting manager, and H. Flaumhaft, glazing contractor, all of New Orleans.

The Commission order directs the distributor respondents Pittsburgh Plate Glass Co., Karl Hansen Co., Inc., David Bernhardt Paint and Glass Co., Inc., and the individual respondents W. D. Snyder, Karl Hansen, and Fred Dittmann, in connection with the sale of plate, window, safety, rough rolled, wire, art and structural glass, to cease and desist from entering into or carrying out any agreement or undertaking among themselves or with any competing corporation or person for the purpose or with the effect of restraining competition in the sale or distribution of such glass in commerce.

These respondents are further directed to cease, pursuant to such agreements, understandings or undertakings, (1) establishing or maintaining the prices at which such glass is sold to dealers, the retail trade or consumers in the New Orleans trade area; (2) holding meetings for establishing or maintaining the prices for such glass; (3) exchanging information with reference to the respondents' respective businesses and activities where the purpose is to establish or maintain prices; (4) adhering to duplicate or uniform price lists for the sale of such types of glass in the New Orleans area; and (5) changing simultaneously the prices at which they sell the glass.

The glazing contractor respondents Pittsburgh Plate Glass Co., Karl Hansen Co., Inc., David Bernhardt Paint & Glass Co., Inc., Joseph B. Crasto, Joseph B. Crasto Glass Co., and H. Flaumhaft, and the individual respondents W. D. Snyder, Karl Hansen, Edward W. Ulrich, and Lloyd Crasto, in connection with the sale of their various glass products or with the making of glazing contracts in the New Orleans area, are ordered to cease entering into agreements or undertakings among themselves or with other competing corporations or persons, for the purpose of curtailing competition. They are further ordered to cease, pursuant to such agreements or undertakings, (1) apportioning among themselves the glazing contracting business in New Orleans; (a) establishing the amount of the bids to be submitted respectively by them for supplying and installing glass in buildings in the New Orleans trade area; (3) holding meetings for establishment of the amount of the respective bids which the respondent glazing contractors submit on particular jobs; (4) holding meetings for allocating among the respondent glazing contractors glazing contracts for jobs within the area; and (5) exchanging information with reference to their respective businesses and activities where the purpose, intent, or effect is to establish or attempt to establish the amount of the bids to be submitted respectively by the respondent glazing contractors for jobs in the New Orleans trade area. (4304)

**Sanders Manufacturing Co.**—Three southern concerns have been ordered to cease and desist from lottery methods in the sale of their products. The respondents are Sanders Manufacturing Co., Nashville and Shelbyville, Tenn., distributor of advertising novelties and punch boards; Ethel's Candy & Sales Co., Inc., Atlanta candy manufacturer; and B. T. Clifton, trading as Associated Sales Agency, Birmingham distributor of clocks, fountain pens and novelty articles. (3526, 4056 and 4201)

**Thomsen-King & Co., Inc.**, Chicago, the Winship Corporation, Des Moines, and 37 individuals who are or were either officers of the respondent corporations or associated in the businesses conducted by the respondents, have been ordered to cease and desist from violations of the Federal Trade Commission Act in conducting a series of prize contests to promote the sale of cosmetics.

Commission findings are that the respondents have disseminated false and misleading advertisements containing puzzle or picture contests and the offer of prizes for their solution; that the contests are easy of solution and have been used as a "bait" to obtain the names of people to be encouraged to enter competitive

selling contests, and that the puzzle contests have been in fact buying contests requiring quantity purchases of the respondents' cosmetic products by the so-called contestants. According to findings, the respondents have sold as much as \$1,643,000 in cosmetics to contestants in one of the contests.

Commission findings are that the respondents, individually and in cooperation, in the furtherance of a common plan, have organized and operated approximately 16 corporations operating under trade names for the dissemination of advertisements concerning numerous prize contests. The findings further recite that when one of these companies would be cited to appear before the Federal Trade Commission the respondents in some cases would enter into a stipulation with the Commission to cease the practices being conducted, and would make little effort to comply with the stipulation but instead would either discontinue or dissolve the particular operating company, organize a new company, and proceed with practices substantially similar to or identical with those which they had stipulated to discontinue.

The Commission order directs the respondents, individually or by concerted action in connection with a contest in which the purchase or sale of cosmetics or other articles is essential to participation in any awards given to cease disseminating advertisements which represent, directly or by implication, that the respondents are conducting a contest confined to solution of a picture puzzle which involves only competition in skill without expenditure of money or work in order to win a prize; to cease representing that they are giving away a substantial sum of money or merchandise as prizes to a certain limited number of persons as an introductory or advertising offer through a contest, when the conduct of such so-called contest in fact constitutes their usual course of business, and to cease representing that offers made to individual contestants are exclusive to the persons addressed or that such persons have been granted an exclusive advantage in a contest, and that the giving of a certain order for goods and the payment of a specified amount therefor will assure the contestant addressed of obtaining a money prize or other award.

In connection with the sale of cosmetics, the order also prohibits the use of advertising matter in a contest which sets out a portion of the terms and conditions without stating that they are only a portion of the requirements; the use of lottery methods, and the representation, directly or by implication, that the respondents' cosmetic preparations will restore a youthful condition to the skin, remove wrinkles or strengthen muscles.

The Commission order is directed against Thomsen-King & Co., Inc., The Winship Corporation, James M. Woodman, Jesse L. Stewart, Merrold Johnson, G. Fred Stayton, Joseph Furth, Albert L. Bisson, Leta M. Frazier (formerly Leta M. Clanton), Glenn Tate, George Thomsen, Amber M. McCluskey, James L. Decker, Sibley F. Everitt, Walter G. Phillips, Paul H. Williams, Don M. Parmelee, George Schaffer, Evelyn Henderson, Richard E. Williams, Prentice W. Shaw, John E. Woodman, Steve W. Phillips, Warren Lee Eastman, Ernie A. Storesund, A. Leonard Anderson, Gerald G. Grant, W. W. Young, Paul Manning, Fred W. Fitch, Mrs. Fred W. Fitch, Lucius W. Fitch, Mrs. Lucius W. Fitch, Gail W. Fitch, Mrs. Gail W. Fitch, Lester R. Sandahl, Mrs. Lester R. Sandahl, Richard H. Young and Mrs. Richard H. Young.

The Commission order directs that the complaint in its proceeding be dismissed as to F. W. Fitch Co., Des Moines, and as to

J. G. Hamer, B. Brown, H. Rosenstein, Claude T. Burnett, Ross J. Miller, Joseph Kane and Walter Rubens. (3998)

**United Sales Co.**—Max Cohen, 4042 South Broadway Place, Los Angeles, has been ordered to cease and desist from misrepresentations in the sale of photographic enlargements and frames. The respondent Cohen is in business under the names United Sales Co., United Art Display and Sales Co., Art Display Co., United Art Display Co., and United Display Co.

Commission findings are that the respondent, through two types of salesmen, one known as "grabbers" and "initial solicitors" and the other as "proof passers" or frame salesmen, engages in elaborate and deceptive sales methods which are directed to the primary purpose of selling photographic enlargements and frames.

The Commission order directs the respondent and his agents to cease representing that colored or tinted pictures are paintings, and that the respondent is engaged in the business of procuring pictures for use in advertising various products or that any picture so procured by him will be sold to any advertiser.

The respondent is further ordered to desist from representing that pictures submitted to the respondent or photographic enlargements made therefrom will be entered in any picture contest, unless such contest is then, in fact, being conducted and such pictures or enlargements are eligible for entry; that any photograph or colored enlargement has been entered in any competition or that an award has been made; that the respondent is conducting any special or advertising campaign in a particular locality unless such is a fact, and that the respondent's business is operated under sanction of the United States Supreme Court or any other court or tribunal.

The order further prohibits the representation that prices and values which are fictitious and in excess of the regular prices are in fact the customary prices or values for pictures or frames, and the representation that the respondent will pay half the cost of the frame of any picture when in fact the frame is sold to the purchaser at a price in excess of the customary price. (4161)

**Fred P. Weissman, Inc.**, 270 West 38th St., New York, has been ordered to cease and desist from misrepresentation of the fiber content of certain products sold by it. The respondent sells and distributes women's coats and other garments.

The Commission finds that the respondent has caused to be attached to its products certain labels purporting to designate and describe the constituent fibers or materials of which such products are made. One of such labels carries the legend "100% CAMEL'S HAIR." The Commission finds that this representation is false and misleading in that the garments so labeled contained only 30 per cent camel's hair, the remaining fibers being wool and mohair in about equal proportions.

The respondent is ordered to cease and desist from using the term "100% CAMEL'S HAIR" or any other term of similar import or meaning to designate, describe or refer to any fabric or product which is not composed entirely of camel's hair, and from representing in any manner that the respondent's products contain camel's hair in greater quantity than is actually the case (3532).