

Convention Program

9 A.M.—SUNDAY, JULY 9

Registration: *Registration desk open Sunday, July 9, at 9 A.M. Also to receive entries and to arrange for transportation to the BROADCASTING Magazine Golf Tournament, Northfield Country Club*

10:30 A.M.—NAB Golf Tournament, Northfield Country Club

Other Sunday Activities

2:00 P.M.—Meeting of the **Research Committee**, *Arthur Church, KMBC*, presiding

7:00 P.M.—Dinner meeting of NAB BOARD OF DIRECTORS

MONDAY, JULY 10

8:30 A.M.—Breakfast: **Newspaper-owned Stations**, *Campbell Arnoux, WTAR*, presiding

9:00 A.M.—Registration

10:00 A.M.—Group Meetings:

Local-channel Group—*John Elmer, WCBM*, presiding

National Association of Regional Broadcast Stations—*John Shepard, III, Yankee Network*, presiding

10:30 A.M.—**Clear Channel Group**—*Edwin W. Craig, WSM*, presiding

11:30 A.M.—Meetings of **NAB Districts** (subject to call of District Director)

12:30 P.M.—**Luncheon of the NAB Bureau of Radio Advertising in conjunction with the Sales Managers' Committee**, at which time the foundation will be laid for the establishment of a new and productive service for NAB member stations

Luncheon tickets may be purchased at the door

2:00 P.M.—Group Meetings:

National Committee of Independent Broadcasters
Independent Radio Network Affiliates

4:00 P.M.—(a) **Demonstration of Television by NBC**

(b) Discussion of radio engineering problems, *John V. L. Hogan, Chairman, NAB Engineering Committee*, presiding

7:00 P.M.—Supper Meeting of **Copyright Committee**

Bulletin Board in Lobby Will Announce Location of Meetings

TUESDAY, JULY 11

9:00 A.M.—Registration

9:30 A.M.—Convention Called to Order

Introduction of the President by

Edwin W. Craig, WSM

Annual Report of the President

Announcement of Convention Committee Appointments

Address: Stephen Early, Secretary to the President of the United States

"RADIO IN ITS RELATIONSHIP TO GOVERNMENT"

Report of the Nominating Committee for Election of Six Directors at Large

Report of the Secretary-Treasurer, Edwin M. Spence

Adjournment

12:30 P.M.—**Luncheon Meeting**

Address: Carl E. Milliken, Secretary, Motion Picture Producers and Distributors of America, Inc.

"Industrial Self Regulation in America"

Make Your Reservations Now to Attend the Seventeenth Annual NAB Convention

Ambassador Hotel—July 10, 11, 12 & 13—Atlantic City, N. J.



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

2:30 P.M.*—Report of the NAB Committee on Code and Standards of Practice

Presentation of Proposed New Code:
Ed. Kirby, Director of Public Relations

Discussion

Adjournment

* Meeting open to NAB members only.

WEDNESDAY, JULY 12

9:30 A.M.—Call to Order

Report of the NAB Bureau of Radio Advertising—Paul Peter, Director of Research

Joseph L. Miller, Director of Labor Relations

“The Labor Situation Today”

Address: Elmer F. Andrews, Administrator, Wage and Hour Division, U. S. Department of Labor

“Wage and Hour Regulation and Broadcasting”

Announcement: By the Election Committee of time and place for balloting to elect six Directors-at-Large

Address: Dr. John W. Studebaker, U. S. Commissioner of Education

“What the Federal Radio Education Committee Means to the American System of Broadcasting”

Address: Orrin E. Dunlap, Jr., Radio Editor, New York Times

“Television Facsimile—Their Future Effect upon Standard Broadcasting as seen from an Outside Viewpoint”

Discussions

Announcements

Adjournment

Luncheon (No scheduled luncheon)

2:00 P.M.*—Report of the NAB Copyright Committee—

Neville Miller, Chairman

Discussion

Adjournment

* Meeting open to NAB members only.

7:00 P.M.—ANNUAL NAB BANQUET

Entertainment: *Through the courtesy of National Broadcasting Company, Columbia Broadcasting System, and Mutual Broadcasting System, in cooperation with NAB*

Presentation of BROADCASTING Magazine trophy to winner of NAB Golf Tournament

10:30 P.M.—Network Address:

THE MIRRORS OF AMERICA

The Motion Picture—Will Hays, president, Motion Picture Producers and Distributors of America, Inc., speaking from Hollywood

The Radio—Neville Miller, president, National Association of Broadcasters, speaking from Atlantic City

THURSDAY, JULY 13

9:30 A.M.—Reports of Committees

Discussion of Reports

Amendments to By-Laws

Address: Joseph Marty, executive secretary, Radio Servicemen of America

“The Missing Link in Broadcasting”

Discussion: Radio Industry Promotion Campaign

Unfinished Business

Report of Resolutions Committee

Election of Directors at Large

Adjournment

2:00 P.M.—First meeting of new Board of Directors

FCC “CENSORSHIP” HEARING

The FCC announced this week that it would confine its July 14 hearing on the new rules for international broadcasting to the “censorship” issue raised by the NAB and the American Civil Liberties Union.

Petitions from the NAB and six short-wave broadcasters requesting enlargement of the issues were denied. Appearances for the July 14 hearing filed by both the NAB and the short-wave broadcasters were accepted, however, and the enlargement petitions were denied “without prejudice to the filing of a petition requesting hearing upon or a reconsideration of any of the Commission’s rules or regulations applicable to international broadcast stations.”

Swagar Sherley will represent the NAB at the hearing on the “censorship” rule.

FCC REPORTS NETWORK INCOME

The FCC issued a press statement this week saying that the 1938 total time sales for the three major networks and 23 M. & O. stations amounted to \$68,123,525. Of that amount \$54,938,879 came from net time sales to advertisers after trade discounts; \$5,347,388 from sale of station time to networks; and \$7,837,258 from sale of station time to users.

Net revenue from broadcast services was reported as \$9,307,735 and other income \$174,751.

Deductions from income were reported as \$985,090, leaving net income before income taxes \$8,497,396. Federal income taxes were estimated at \$1,473,796, and state income taxes at \$19,900, leaving net income for the period after tax deductions, \$7,003,700.

WALKER SWORN IN

Commissioner Paul A. Walker was sworn in on July 1 for his second term as member of the FCC. The new term extends for a period of seven years from July 1. He was confirmed by the Senate with no opposition on June 30.

PRESIDENT SIGNS FCC APPROPRIATION

On June 30, President Roosevelt signed the Deficiency Bill which, among other things, contained the appropriation for the Federal Communications Commission for the fiscal year which began on July 1. The total appropriation amounted to \$1,838,175. The Commission had asked Congress for \$2,000,000.

DONALD O'CONNOR

Station WOLS requests any member knowing the whereabouts of Donald O'Connor, a former employee, to advise WOLS.

FCC DEFERS ACTION ON CERTAIN APPLICATIONS

The FCC this week sent the following notice to licensees of broadcast stations:

The Federal Communications Commission announced today that final action would be deferred on all pending applications requesting nighttime operation on regional frequencies which would involve serious interference problems if other pending applications requesting the use of 5 KW power on such frequencies are granted. The pending applications requesting the use of 5 kw power at night will, under the Commission's new rules which become effective August 1, no longer be inconsistent with the rules limiting maximum power for nighttime operation on such frequencies. The Commission's new rules and regulations governing standard broadcast stations, which were adopted by the Commission on June 23, provide for maximum permissible nighttime power of 5 kw on regional channels. The present rules limit such power to 1 kw. Applications affected by this action of the Commission fall into three classes: Those which have been set for hearing but not yet heard, those upon which a hearing has been held but no decision rendered by the Commission, and those upon which a decision has been rendered and are now pending on a petition for rehearing. As to those applications which have not yet been heard, an additional issue will be inserted in the notice of hearing concerning the interference problem with pending 5-kw applications, and, thereafter, the applications will be heard in regular course. As to the applications on which a hearing has been held and applications pending on petition for rehearing, a further hearing will be ordered on issues related to the interference problem created by pending 5-kw applications.

Applications pending before the Commission which are affected by the Commission's action include the following:

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CASES HEARD BUT NOT YET ACTED ON

<i>Applicant</i>	<i>Call Letters</i>	<i>Docket No.</i>
Salt River Valley Broadcasting Co., Phoenix, Arizona	KOY	5054
United Theatres, Inc., San Juan, P. R.	NEW	4610
Enrique Abarca San Feliz, San Juan, P. R.	NEW	5298
Times Dispatch Radio Corp., Richmond, Virginia	WRTD	4852
Radio Service Corp., Pocatello, Idaho ..	KSEI	5182 (I-745)
Pittsburgh Radio Supply House, Greensburg, Pa.	WHJB	5176 (I-763)
Sentinel Broadcasting Corp., Salina, New York	NEW	5094 (I-763)
Tampa Times Co., Tampa, Florida	WDAE	4936 (I-692)
Monocacy Broadcast Co., Frederick, Maryland	WFMD	5423
Southern Minnesota Broadcasting Co., Rochester, Minn.	KROC	4642 (I-757)
City of Dallas, Dallas, Texas	WRR	5369
Havens & Martin, Inc., Richmond, Va.	WMBG	4846 (I-661)
Tri-State Broadcasting Co., Inc., El Paso, Texas	KTSM	4813 (I-618)
Tri-City Broadcasting Co., Davenport, Iowa	WOC	5487
King-Trendle Broadcasting Corp., Pontiac, Michigan	NEW	5016 (I-729)

CASES ON WHICH DECISIONS HAVE BEEN RENDERED AND PETITIONS FOR REHEARING FILED

<i>Applicant</i>	<i>Call Letters</i>	<i>Docket No.</i>
Citizens Broadcasting Corp., Schenectady, New York	NEW	4508 (I-594)
Thomas J. Watson, Endicott, New York ..	NEW	4550 (I-594)
Hampden Hampshire, Inc., Holyoke, Mass.	NEW	4564 (I-594)
Illinois Broadcasting Corp., Quincy, Illinois	WTAD	4599 (I-696)

CASES DESIGNATED FOR HEARING BUT NOT YET HEARD

<i>Applicant</i>	<i>Call Letters</i>	<i>Docket No.</i>
Jack Powers, et al., d/b as Utah Broadcasting Co., Salt Lake City, Utah ...	KUTA	5568
Wm. P. Huffman, Wisconsin Rapids, Wisconsin	NEW	4864 (I-659)
Spokane Broadcasting Corp., Spokane, Washington	KFIO	5537
Evansville on the Air, Evansville, Indiana	WGBF	5512
John F. Arrington, Valdosta, Ga.	NEW	5366

NEW LEGISLATION CONGRESS

H. R. 7035 (Mr. Hobbs, D.-Ala.) ANTITRUST LAWS—To amend Section 8 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and to

provide additional civil remedies against violations. Referred to the Committee on the Judiciary.

S. 2719 (Sen. O'Mahoney, D.-Wyo.) Same as H. R. 7035, above.

STATE LEGISLATION

NEW JERSEY:

A. 651 (Farley) EMPLOYMENT AGENCIES—To make numerous amendments to the act regulating employment and booking agencies. Referred to Committee on Institutions.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

There was no regular meeting of the Commission this week. The next meeting will be held on July 12.

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, July 10. They are subject to change.

Tuesday, July 11

WCOV—John S. Allen and G. W. Covington, Jr., Montgomery, Ala.—Modification of license, **1210 kc.**, 100 watts, unlimited time. Present assignment: **1210 kc.**, 100 watts, daytime.

KNEL—G. L. Burns, Brady, Tex.—Modification of license, **1500 kc.**, 100 watts, 250 watts LS, unlimited time. Present assignment: **1500 kc.**, 250 watts, daytime.

Wednesday, July 12

KQV—KQV Broadcasting Co., Pittsburgh, Pa.—Modification of license, **1380 kc.**, 1 KW, unlimited time (DA night). Present assignment: **1380 kc.**, 500 watts, 1 KW, unlimited time (DA night).

Thursday, July 13

Oral Argument on Petition for Rehearing Before a Quorum of the Commission

Examiner's Report No. I-613:

WTIC—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; **1060 kc.**, 50 KW, shares with WBAL (SA for **1040 kc.**, simultaneous operation with KRLD, unlimited).

W1XEH—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; **63500 kc.**, 150 watts, unlimited time, according to Rule 983.

W1XLU—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; **105,000, 200,000, 290,000, 450,000 kc.**, 5 watts, to operate according to Rules 983, 1002, 1004.

W1XO—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; **31100, 34600, 37600, 40600 kc.**, 50 watts, to operate according to Rules 983, 1002 and 1004.

W1XT—Travelers Broadcasting Service Corp., Hartford, Conn.—Voluntary assignment of license to Travelers Broadcasting Co.; **31100, 34600, 40600, 37600 kc.**, 100 watts, to operate according to Rules 983, 1002, 1004.

Friday, July 14

KRLH—Clarence Scharbauer, Midland, Tex.—C. P., **1420 kc.**, 100 watts, 250 watts LS, unlimited time. Present assignment: **1420 kc.**, 100 watts, daytime.

KFIO—Spokane Broadcasting Corp., Spokane, Wash.—C. P., **950 kc.**, 1 KW, unlimited time. Present assignment: **1120 kc.**, 100 watts, daytime.

NEW—C. T. Sherer Co., Inc., Worcester, Mass.—C. P., **1200 kc.**, 100 watts, 250 watts LS, unlimited time.

NEW—North Shore Broadcasting Co., Salem, Mass.—C. P., **1200 kc.**, 100 watts, unlimited time.

International Broadcast

In re: Section 42.03 (a) pertaining to International Broadcast Service.

FUTURE HEARINGS

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

August 10

Hearing to Be Held Before Commissioner George Henry Payne in the Federal Court Room, Bellingham, Washington

NEW—Bellingham Broadcasting Co., Inc., Bellingham, Wash.—C. P., **1200 kc.**, 100 watts, 250 watts LS, unlimited time (requests facilities of KVOS).

KVOS—KVOS, Inc., Bellingham, Wash.—Renewal of license, **1200 kc.**, 100 watts, unlimited time.

September 11

Hearing Before the Committee to Be Held in Room 1411

In the Matter of Amendment of Rules 177 and 177.1 on Petition of Mayor LaGuardia of the City of New York.

Broadcast

WHA—University of Wisconsin, Madison, Wis.—C. P., **670 kc.**, 50 KW, unlimited time (requests facilities of WMAQ). Present assignment: **940 kc.**, 5 KW, daytime.

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Renewal of license, **670 kc.**, 50 KW, unlimited time.

NEW—Lakeland Broadcasting Co., Willmar, Minn.—C. P., **680 kc.**, 250 watts LS, limited time.

September 13

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Special experimental authorization; **1420 kc.**, 250 watts night, 1:05 to 2:15 a. m., CST.

NEW—Clyde E. Wilson and Howard A. Shuman, d/b as Hot Springs Broadcasting Co., Hot Springs, Ark.—C. P., **1310 kc.**, 100 watts, 250 watts LS, unlimited time.

September 25

NEW—Union Broadcasting Co., Scranton, Pa.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.

W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Renewal of license, **26500 kc.**, 500 watts, Emission A-3, unlimited, according to Rule 983 (a).

NEW—Samuel M. Emison, Vincennes, Ind.—C. P., **1420 kc.**, 100 watts, unlimited time.

MISCELLANEOUS

WPTF—WPTF Radio Co., Raleigh, N. C.—Granted motion to accept respondent's appearance in re application of Lakeland Broadcasting Co. for a new station at Willmar, Minn.

KUTA—Utah Broadcasting Co., Salt Lake City, Utah.—Denied motion for clarification and amendment of issues (exception noted by counsel for petitioner) in re application for C. P. to change frequency and power.

KDYL—Intermountain Broadcasting Corp., Salt Lake City, Utah.—Granted motion to amend hearing notice by adding issue relating to economic interest, in re application of KUTA, referred to above (exception noted by counsel for KUTA).

NEW—Vincennes Newspapers, Inc., Vincennes, Ind.—Motion for advancement of hearing date from July 10 to 6 in re application of Samuel M. Emison for a new station in Vincennes was passed Nisi. Motion by applicant (Emison) to continue this case granted; new date to be fixed by office of Secretary.

WORC—Alfred Frank Kleindienst, Worcester, Mass.—Granted petition to intervene in the hearing on the application of C. T. Sherer Co., Inc., for a new station in Worcester, Mass.

KFVD—Standard Broadcasting Co., Inc., Los Angeles, Calif.—Granted motion for leave to amend application so as to request frequency **990 kc.**, 1 KW day, 500 watts night, unlimited time.

- NEW—Lakeland Broadcasting Co., Willmar, Minn.—Granted petition for leave to amend application so as to request daytime only, in re C. P. for new station to operate on 680 kc., 250 watts LS.
- NEW—Catawba Valley Broadcasting Co., Inc., Hickory, N. C.—Granted petition to have depositions received in re application for C. P. to operate on 1370 kc., 100 watts, 250 watts LS, unlimited.
- KFDY—South Dakota State College, Brookings, S. Dak.—Granted special temporary authority to remain silent July 4, in order to observe holiday.
- WMC—Memphis Commercial Appeal Co., Memphis, Tenn.—Granted extension of special temporary authority to operate with 5 KW at night, using DA, for the period July 14 to August 12, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on 780 kc., reduces power so that additional interference is not involved, or until defective DA is corrected by installation of new tuning condensers.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special temporary authority to operate simultaneously, non-synchronously, with station KFAB commencing 4:45 a. m., CST, for the period July 10, and ending no later than August 8, in order to conform to Daylight Saving Time.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—To operate as above except simultaneously, non-synchronously, with WBBM.
- KVOS—KVOS, Inc., Bellingham, Wash.; and NEW—Bellingham Broadcasting Co., Bellingham, Wash.—Commissioner Payne was assigned to preside at the hearing scheduled for August 10, 1939, in Bellingham, Wash., in re application of Bellingham Broadcasting Co. for C. P., and renewal of license of KVOS.
- KOAC—Oregon State Agricultural College, Corvallis, Ore.—Granted special temporary authority to operate from 9 a. m. to 1 p. m. and from 6 to 10 p. m., PST, during the months of July and August (instead of unlimited time as licensed), in order to observe regular vacation period.
- KBKC—Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to use Type D-100 transmitter, the final amplifier of which consists of one RCA 813 tube which is modulated by two RCA 809 tubes with power of 175 watts, on board the yacht *Geoanna*, on the frequencies of 4797.5, 6425, 8655 kc., for the period July 1 to July 25, 1939, for relay broadcast of a series of special programs incident to the Honolulu Yacht Regatta to be broadcast by Radio Station KNX.
- KAAC—Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to operate Amateur Station W6LS, licensed to Leo Shepherd, as a relay broadcast station on 4797.5, 6425 and 8655 kc., for the period July 1 to July 25, 1939, for the purpose of establishing the necessary cue circuit for a series of special programs incident to the Honolulu Yacht Regatta to be broadcast by Radio Station KNX.
- WORC—Alfred Frank Kleindienst, Worcester, Mass.—Granted special temporary authority to operate WORC new directional antenna as authorized in B1-P-2270 during daylight hours for the period July 1 to July 10, 1939, in order to facilitate equipment tests for proof of performance measurements.
- WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted special temporary authority to operate until 11 p. m., EST, on June 29, 1939, in order to broadcast civic celebration in City of Williamson.
- WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—Granted special temporary authority to operate from 8:30 p. m. to 12 midnight, EDST, on July 25, 1939, in order to broadcast a special program under the auspices of the local National Guard, Company H, 172nd Infantry.
- WGRC—North Side Broadcasting Corp., New Albany, Ind.—Granted special temporary authority to operate from 7 to 8 p. m., CST, on July 2 and 9, in order to carry special revival programs of the Volunteers of America.
- KOIN—KOIN, Inc., Portland, Ore.—Granted special temporary authority to rebroadcast over KOIN and the Columbia network program material between 8 a. m. and noon, PST, on July 1, 1939, from short wave stations licensed to the Coast Guard (Coast Guard Cutter Onondaga operating on 2698 kc., and Relief Lightship 3410 kc.), in connection with ceremony of turning Lightship Service over to the Coast Guard.
- KFRO—Voice of Longview, Longview, Tex.—Granted extension of special temporary authority to operate from local sunset (July, 7:30 p. m., CST) to 11:05 p. m., CST, using 100 watts only, on Sundays, July 2, 9, 16, 23 and 30, 1939, in order to broadcast church services.
- KHGB—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Denied special temporary authority to operate from local sunset (July, 7:45 p. m., CST) to 10:30 p. m., on July 2, 9, 16, 23, and 30, 1939, in order to broadcast church services; to operate from local sunset to 10 p. m., CST, on July 3, 10, 17, 24, and 31, 1939, in order to broadcast "Okmulgee Little Theater of the Air."
- WILM—Delaware Broadcasting Co., Wilmington, Del.—Denied special temporary authority to operate simultaneously with station WAZL from 8:30 p. m., EDST, to the conclusion of baseball games on July 19, 1939, and from 8 p. m., EDST, to the conclusion of baseball games on August 8 and 15, 1939, in order to broadcast the baseball games of the National and American Leagues.
- WPTF—WPTF Radio Company, Raleigh, N. C.—Denied extension of special temporary authority to operate from 11 p. m. to 12 p. m., EST, for the period beginning July 9, 1939, and ending in no event later than 3 a. m., EST, August 1, 1939, in order to broadcast programs as described in letter of May 27, 1939.
- WPG—City of Atlantic City, Atlantic City, N. J.—Denied special temporary authority to operate Sunday July 2, 1939, from 3:15 p. m. to 4:30 p. m., EST, for continuation report of baseball started shortly before commencement period.
- W2XWC—Kalorama Laboratories, Inc., Irvington, N. J.—Granted C. P. to move television broadcast station from Irvington, N. J., to Carlstadt, N. J. (approximately 12 miles), and to continue operation for an additional 30 days from July 6, 1939, with power of 500 watts, 2000-2100 kc., 12 midnight to 6 a. m., on a non-interference basis.
- WESG—Cornell University, Elmira, N. Y.—Granted C. P. to change tubes in transmitting equipment, conditionally, upon a temporary basis only.
- W1XOK—The Yankee Network, Inc., Boston, Mass.—Granted license to cover C. P. for a new fixed special relay broadcast station on an experimental basis, to operate with power of 50 watts, frequencies 133030, 134850, 136810 and 138630 kc., unlimited time in accordance with Sections 40.04 and 41.04, to be used to relay high fidelity programs using frequency modulation from a site in Boston, Mass.; granted conditionally.
- WJBW—Charles C. Carlson, New Orleans, La.—Granted license to cover C. P. and modification thereof authorizing installation of new equipment, moving of studio and transmitter, and extension of commencement and completion dates; granted conditionally.
- WHBC—The Ohio Broadcasting Co., Canton, Ohio.—Granted modification of C. P. extending completion date from July 17, 1939, to September 17, 1939.
- WSKB—McComb Broadcasting Corp., McComb, Miss.—Granted modification of C. P. for approval of antenna and studio site at Berthadale Road at Highway 24, McComb, Miss., and studio at Main St., McColgan Hotel, McComb, Miss., provided the marking of the tower is specifically inserted in the permit.
- WTMA—Y. W. Scarborough & J. W. Orvin, d/b as Atlantic Coast Broadcasting Co., Charleston, S. C.—Granted license to cover C. P. and modification thereof authorizing erection of new station in Charleston, S. C., to operate on 1210 kc., 100 watts night, 250 watts day, unlimited time.
- WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Granted C. P. to make changes in equipment; frequency 1370 kc., power of 100 watts, unlimited time.
- W2XWG—Kalorama Laboratories, Inc., Irvington, N. J.—Granted extension of special temporary authority to operate a composite television transmitter, to be located in Carlstadt, N. J., for radio television transmission in the 2000-2100 kc. band, for operation between the hours of 12 midnight and 6:00 a. m., on a non-interference basis, with a power of 500 watts, emission A5 only, for test and experimental purposes only, for the period July 7 to August 5, 1939.
- WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate Eastern daylight saving

time instead of Eastern Standard Time as licensed during period when daylight saving time is in effect but in no event later than 3:00 a. m., EST, October 1, 1939.

KFVS—Oscar C. Hirsch, tr. as Hirsch Battery & Radio Co., Cape Girardeau, Mo.—Granted special temporary authority to operate simultaneously with Station WEBQ from 7:30 p. m. to 9:00 p. m., CST, July 4, 1939, in order to broadcast an address by U. S. Senator Bennett Champ Clark and other activities of the American Legion Picnic.

KQV—KQV Broadcasting Company, Pittsburgh, Pa.—Adopted an order setting for hearing at 10:00 a. m., on July 12, 1939, in the offices of the Commission in Washington, D. C., the application for modification of license.

WINC—WSMK, Inc., Dayton, Ohio.—Granted special temporary authority to operate daytime using new transmitter and directional antenna authorized in C. P. as modified to facilitate field measurements to substantiate phase monitor for a period not to exceed ten days.

WPRP—Julio M. Conesa, Ponce, Puerto Rico.—Denied special temporary authority to rebroadcast sustaining programs to be received from international broadcast stations W3XE, W3XAL, and W8XK over Station WPRP, on a non-commercial experimental basis only, for a period not to exceed thirty days.

WPG—City of Atlantic City, Atlantic City, N. J.—Denied special temporary authority to operate Sundays from 3:15 p. m. to 4:30 p. m., EST, for purpose of maintaining continuity in certain baseball broadcasts and on Fridays from 2:00 p. m. to 3:00 p. m., EST, for purpose of broadcasting worthwhile programs of interest to the public generally such as an educational feature description of certain baseball games and musical program for a period of thirty days.

APPLICATIONS FILED AT FCC

550 Kilocycles

WDEV—Lloyd E. Squier & Wm. G. Ricker, d/b as Radio Station WDEV, Waterbury, Vt.—Modification of license to increase power from 500 watts to 1 KW.

640 Kilocycles

WGAN—Portland Broadcasting System, Inc., Portland, Maine.—Construction permit to install new transmitter, make changes in directional antenna system, for night use, change frequency from 640 to 1390 kc., increase power from 500 watts to 1 KW night, 5 KW day, change hours of operation from limited to unlimited.

920 Kilocycles

KVOD—Colorado Radio Corp., Denver, Colo.—Modification of C. P. (B5-P-1540) to change frequency, power and time, install new antenna and move transmitter, further requesting installation of new transmitter and move transmitter from north of Denver, Colo., to 56th Ave. & Pecos St., Denver, Colo., and extend commencement and completion date 30 and 180 days respectively.

1210 Kilocycles

WPIV—Petersburg Newspaper Corp., Petersburg, Va.—Modification of C. P. (B2-P-1475) for a new station requesting approval of antenna, and approval of studio and transmitter sites at Wythe St., Petersburg, Va. Amended: Antenna changes and give transmitter site as Colonial Heights, Va., and studio site at corner Sycamore and Tabb Sts., Petersburg, Va.

WRAL—Capitol Broadcasting Co., Inc., Raleigh, N. C.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1250 Kilocycles

WKST—Keystone Broadcasting Co., New Castle, Pa.—Construction permit to install new transmitter, increase power from 250 watts to 1 KW.

1310 Kilocycles

KCRJ—Central Arizona Broadcasting Co., Jerome, Ariz.—Construction permit to move transmitter 50 feet from Lower Hogback, Jerome, Ariz., to Main Road, Jerome, Ariz., and

studio from 711 Main St., Jerome, Ariz., to Main Road (across from High School), Jerome, Ariz.

WEBR—WEBR, Inc., Buffalo, N. Y.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1380 Kilocycles

WING—WSMK, Inc., Dayton, Ohio.—Modification of C. P., B2-P-1575, as modified, for new transmitter, increase in power, change in hours of operation, install directional antenna for night use, and move transmitter, further requesting extension of completion date from 7-1-39 to 8-1-39.

1400 Kilocycles

KLO—Interstate Broadcasting Corp., Ogden, Utah.—License to cover C. P. (B5-P-489) as modified for equipment changes, installation of directional antenna for day and night use, increase power, and move of transmitter to new site.

1500 Kilocycles

WTMC—John T. Alsop, Jr., Ocala, Fla.—License to cover C. P. (B3-P-2148) for a new station.

MISCELLANEOUS

XXXX—Columbia Broadcasting System, Inc., New York, N. Y.—Extension of authority to transmit programs to CFRB and CKAC and other stations under the control of the Canadian Broadcasting Corporation.

XXXX—National Broadcasting Co., Inc., New York, N. Y.—Extension of authority to transmit programs originating in NBC's studio at 30 Rockefeller Plaza, New York City, or any points in U. S. where network programs may originate, to station CMX, Havana, Cuba.

W7XCY—Oregonian Publishing Co., Portland, Ore.—License to cover C. P. (B5-PRE-257) for equipment changes, increase in power, and new frequencies, in accordance with new rules.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

C. R. Anthony Company, Oklahoma City, Okla., operator of 57 retail department stores in Oklahoma, Kansas, Texas and New Mexico, is charged with violation of the Robinson-Patman Act through illegal acceptance of brokerage fees in a complaint.

Other respondents are Burrell-Berger, Inc., Miss Plaza, Inc., Samuel R. Parnes, Inc., and Gorgeous Frocks, Inc., all of New York, described in the complaint as the "sellers."

It is alleged that C. R. Anthony Company, under the name of The Anco Company, maintains an office at 1450 Broadway, New York, and that its employees attached to that office, working on a salary basis, purchase for and in the name of C. R. Anthony Company the requirements of its retail department stores, consisting of women's apparel and other merchandise, from various New York sellers including the four named in the Commission's complaint.

The complaint alleges that the seller respondents and other sellers pay and deliver to C. R. Anthony Company, under the name of The Anco Company, so-called brokerage fees and commissions which amount to an agreed percentage on quoted sales prices, and that C. R. Anthony Company, the sole party with an interest in and the actual purchaser in the transactions, without performing any

services for or on behalf of the sellers, accepts the payments in violation of the brokerage section of the Robinson-Patman Act. (3834)

Burrell-Berger, Inc.—See C. R. Anthony Company.

Economy Men's Hat Company, Inc.—Misleading representations in the sale of hats made from old materials is alleged in complaints issued against two New York companies. The respondents are Economy Men's Hat Company, Inc., and Rosalind Nissenbaum, Lena Nissenbaum and Samuel Gilman, individually and as officials of the company, 5 Elizabeth St. and Morben Hat Works, Inc., and Morris S. Altman, individually and as an officer, 162 Green St.

Purchasing old, worn and used felt hats, the respondents in both cases are alleged to renovate them and in some instances to provide new trimmings, sweatbands and size labels so that they appear as new hats made from felts which have never been worn, and to sell them to dealers without any marks to inform the public that they are in fact made from old and previously used felt hat bodies and renovated to look like new. (3837-3838)

Gorgeous Frocks, Inc.—See C. R. Anthony Company.

Industrial Plants Corporation, 90 West Broadway, New York, is charged in a complaint with misrepresentation in the sale and distribution of pliers and wrenches. The respondent is alleged to represent that its pliers and wrenches are nickel plated, when this is not a fact. The complaint alleges that such misleading representations result in unfairly diverting trade to the respondent from its competitors. (3835)

Morben Hat Works, Inc.—See Economy Men's Hat Company, Inc.

Samuel R. Parnes, Inc.—See C. R. Anthony Company.

Miss Plaza, Inc.—See C. R. Anthony Company.

Prudential Sales Corp.—False advertising and use of lottery plans in selling merchandise to ultimate consumers is alleged in a complaint issued against Prudential Sales Corporation, 230 East Ohio St., Chicago.

Advertising matter on the face of lottery push cards distributed by the respondent, including use of the word "Packard" and a picture of an electric dry shaver, is alleged to deceive buyers into believing that the pictured shaver is a "Packard Lectro Shaver," when in fact the respondent's electric dry shavers are not Packard Lectro Shavers.

Use of the word "Elkskein" in advertising sports jackets allegedly deceives buyers into believing that the respondent's garments are made of the skin of an elk when in fact this is not so and their value is but a fraction of that of jackets made from genuine elkskin.

Blankets allegedly are advertised in a manner misleading the public into believing that they are composed entirely of wool.

The respondent is alleged to represent that gifts, prizes or premiums are given free to agents when in fact the so-called gifts are not free but are regular compensation for selling the respondent's merchandise and their cost is included in the cost of other articles sold for the respondent by agents. (3839)

Wahl Company—Misleading representations in the sale of fountain pens is alleged in a complaint issued against The Wahl Company, 1800 Roscoe St., Chicago.

The respondent is alleged to represent directly or by implication that ink cannot leak from its Eversharp fountain pen equipped with a so-called "Safety Ink Shut-Off" device, when the pen is uncapped and the pen point exposed; that ink cannot leak from the pen into the cap when it is screwed tightly over the pen point, and that this pen possesses more than twice as much ink capacity as competing fountain pens.

The complaint alleges that in fact ink can leak from respondent's fountain pens under the conditions mentioned; that the so-called safety device does not prevent ink which is in the feed mechanism immediately prior to attachment of the cap, from leaking into the cap after it is screwed tightly over the pen point, and that such ink does leak into the cap when the pen is shaken or jostled. The complaint also alleges that the ink capacity of Eversharp pens is substantially less than the amount claimed. (3836)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Bobs Candy & Pecan Company—Lottery methods in the sale of merchandise to ultimate purchasers is prohibited under orders issued against an Albany, Ga., and a Chicago dealer.

Bobs Candy & Pecan Company, Albany, Ga., the Commission finds, sold to dealers certain assortments of candy and nut confections so packed and assembled as to involve a lottery scheme when so sold and distributed to consumers.

Morris L. Rauer, individually, and formerly trading as Earl Chrome Manufacturing Company, now in business under the name Earl Chrome Company, 2757 Lincoln Ave., Chicago, is found to have supplied Wisconsin, Indiana and Iowa merchants with punch-boards as a means of selling the respondent's radios, clocks, cocktail shakers, coffee sets and novelty merchandise. It is further found that the respondent, by use of the trade name Earl Chrome Manufacturing Company, represented himself to be the manufacturer of the products he sold, when in fact he did not own or control a factory. (3580-3426)

Earl Chrome Manufacturing Company—See Bobs Candy & Pecan Company.

King Candy Company, Fort Worth, Tex., has been ordered to cease and desist from lottery methods in the sale and distribution of candy to ultimate consumers.

The respondent was found to have been selling to dealers certain assortments of candy for distribution to consumers by use of push-cards and punch-boards.

The order directs that the respondent cease and desist from supplying or selling lottery devices to others, to enable such persons to sell or distribute merchandise, and from selling or disposing of merchandise by the use of such devices. (3437)

STIPULATIONS

The Commission has entered into the following stipulations:

C-E-Z-R Company—Anna Greenberg and Belle Greenberg, co-partners trading as C-E-Z-R Company, Omaha, Nebr., have entered into a stipulation to discontinue misrepresentations in the sale of an eye wash preparation. The respondents agree to desist from representing directly or by implication that "C-E-Z-R Eye Drops" are a competent treatment in the relief of tired or fatigued eyes, or are unique in the manner in which they act to cleanse the eyes. They admit that eye fatigue results primarily from over-use of the extrinsic and intrinsic muscles of the eyes and cannot be competently relieved by medication, but only by periods of rest. (02391)

Deimel Linen-Mesh System Company, 376 Post St., San Francisco, has entered into a stipulation to discontinue misrepresentations in the sale of underwear.

The respondent agrees to desist from the use of the trade name or trade mark "Dr. Deimel Linen-Mesh Underwear" to designate garments not entirely made of linen, or from the use of the words

"linen" or "linen-mesh" in any way to designate such garments unless the other fibers present are at the same time identified and with equal conspicuousness.

The respondent further agrees to cease representing directly or by implication that Dr. Deimel Linen-Mesh Underwear is the one or only underwear that gives "temperature control," that quickly absorbs perspiration and allows it to evaporate or that has been recommended by leading physicians for 40 years.

Other representations to be discontinued are that the respondent's product will eliminate the possibility of colds or of catarrh or of bronchitis when substituted for woolen undergarments, or works constantly to prevent skin rashes and eczema, and that a change to this type of underwear greatly lessens the danger of pneumonia. (02390)

Siticide Company—In a stipulation accepted and supplemental to one entered into June 23, 1936, the Siticide Company, Commerce, Ga., agrees to discontinue misleading representations in the sale of its product "Siticide", a treatment for scabies.

The respondent will cease representing directly or by implication that a single application of Siticide will cure the itch caused by scabies parasites; that Siticide penetrates the skin, or that the itching sensation accompanying scabies disappears immediately upon, or without the lapse of an appreciable length of time following, the application of Siticide to the skin. (01427)

FTC CLOSES CASE

The Federal Trade Commission has closed without prejudice its case against International Association of Ice Cream Manufacturers, Washington, D. C., its officers and member companies, who were charged with activities tending to restrain trade in the sale of ice cream in interstate commerce and to discourage the operation and use of counter ice cream freezers.

Respondent association members named in the complaint as being representative of the 500 ice cream manufacturer and distributor members were National Dairy Products Corporation, New York, The Borden Company, New York, Golden State Company, Ltd., San Francisco, Midwest Dairy Products Corporation, DuQuoin, Ill., French-Bauer, Inc., Cincinnati, and Southwest Utility Dairy Products Company, Oklahoma City, Okla. Respondent association officers at the time the complaint was issued were: G. G. Kindervater, president; W. R. Cammack, vice president; Madison H. Lewis, treasurer, and Robert C. Hibben, executive secretary.

The closing order points out that subsequent to issuance of the complaint the entire files of the proceeding were, at the request of the Attorney General, transmitted to the Department of Justice and that criminal indictments were brought by that Department against the respondents in Chicago, the cases being known as the Government against The Borden Company, and others, and against National Dairy Products Corporation and others.

The Commission closed its case without prejudice to its right to reopen it should future facts so warrant.

Convention Takes Copyright, Code Action

Strong affirmative action on the two outstanding problems before the broadcasting industry today—copyright and program standards—marked the three day convention of the National Association of Broadcasters which adjourned Thursday at noon.

The convention unanimously adopted a resolution directing the Copyright Committee to fix an early deadline for the conclusion of the principle terms of a new deal with ASCAP and to call a special convention not later than September 15, if the Committee decides no good purpose would be served by postponement of the deadline.

By an overwhelming majority the convention adopted a Code of Program Standards and then unanimously supplemented it with a definition of "Accepted Standards of Good Taste" to assist in the Code's interpretation. The new Board was directed to fix the effective date and set up compliance machinery. The Board announced it would announce its plan at its September meeting.

Following are the texts of the copyright resolution, the Code and the Program Standards resolution:

Copyright

Whereas the existing contracts between broadcasters and ASCAP expire December 31, 1940, and whereas ASCAP is now the principal source through which music is made available to American broadcasters, and whereas broadcasters are willing to pay a fair and reasonable price for ASCAP music and thereby encourage composers, authors and publishers to continue to produce the best possible music, and whereas further the broadcasters believe that any fair and reasonable price must be predicated upon paying for the music used, therefore,

Resolved that

1. The present copyright committee is continued as a special copyright committee with the powers and duties herein stated.

2. The copyright committee is authorized and directed through a negotiation committee to conclude with ASCAP a form of contract to be recommended to the entire industry for a term of years, on a basis acceptable to the industry.

3. The copyright committee is authorized to fix a deadline for conclusion of the principal terms of such a deal.

4. The copyright committee, if in its judgment no good purpose is served by postponement of its dead-line, is authorized to prepare such measures as are necessary and expedient to enable the industry to provide sufficient music for its requirements without ASCAP on the expiration of the existing ASCAP contracts December 31, 1940.

5. The copyright committee is authorized in such event to call a special convention of the industry not later than September 15 to vote the funds necessary for success of such measures.



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

The Code

Recognizing the importance of radio broadcasting in the national life and believing that broadcasters have sufficient experience with the social side of the industry to formulate basic standards for the guidance of all, the National Association of Broadcasters hereby formulates and publishes the following revised Code:

CHILDREN'S PROGRAMS

Programs designed specifically for children reach impressionable minds and influence social attitudes, aptitudes and approaches and, therefore, they require the closest supervision of broadcasters in the selection and control of material, characterization and plot.

This does not mean that the vigor and vitality common to a child's imagination and love of adventure should be removed. It does mean that programs should be based upon sound social concepts and presented with a superior degree of craftsmanship; that these programs should reflect respect for parents, adult authority, law and order, clean living, high morals, fair play and honorable behavior. Such programs must not contain sequences involving horror or torture or use of the supernatural or superstitious or any other material which might reasonably be regarded as likely to over-stimulate the child listener, or be prejudicial to sound character development. No advertising appeal which would encourage activities of a dangerous social nature will be permitted.

To establish acceptable and improving standards for children's programs, the National Association of Broadcasters will continuously engage in studies and consultations with parent and child study groups. The results of these studies will be made available for application to all children's programs.

CONTROVERSIAL PUBLIC ISSUES

As part of their public service, networks and stations shall provide time for the presentation of public questions including those of controversial nature. Such time shall be allotted with due regard to all the other elements of

balanced program schedules and to the degree of public interest in the questions to be presented. Broadcasters shall use their best efforts to allot such time with fairness to all elements in a given controversy.

Time for the presentation of controversial issues shall not be sold, except for political broadcasts. There are three fundamental reasons for this refusal to sell time for public discussion and, in its stead, providing time for it without charge. First, it is a public duty of broadcasters to bring such discussion to the radio audience regardless of the willingness of others to pay for it. Second, should time be sold for the discussion of controversial issues, it would have to be sold, in fairness, to all with the ability and desire to buy at any given time. Consequently, all possibility of regulating the amount of discussion on the air in proportion to other elements of properly balanced programming or of allotting the available periods with due regard to listener interest in the topic to be discussed would be surrendered. Third, and by far the most important, should time be sold for the discussion of controversial public issues and for the propagation of the views of individuals or groups, a powerful public forum would inevitably gravitate almost wholly into the hands of those with the greater means to buy it.

The political broadcasts excepted above are any broadcasts in connection with a political campaign in behalf of or against the candidacy of a legally qualified candidate for nomination or election to public office, or in behalf of or against a public proposal which is subject to ballot. This exception is made because at certain times the contending parties want to use and are entitled to use more time than broadcasters could possibly afford to give away.

Nothing in the prohibition against selling time for the presentation of controversial public issues shall be interpreted as barring sponsorship of the public forum type of program when such a program is regularly presented as a series of fair-sided discussions of public issues and when control of the fairness of the program rests wholly with the broadcasting station or network.

EDUCATIONAL BROADCASTING

While all radio programs possess some educative values, broadcasters nevertheless desire to be of assistance in helping toward more specific educational efforts, and will continue to use their time and facilities to that end and in cooperation with appropriate groups, will continue their search for improving applications of radio as an educational adjunct.

NEWS

News shall be presented with fairness and accuracy and the broadcasting station or network shall satisfy itself that the arrangements made for obtaining news insure this result. Since the number of broadcasting channels is limited, news broadcasts shall not be editorial. This

means that news shall not be selected for the purpose of furthering or hindering either side of any controversial public issue nor shall it be colored by the opinions or desires of the station or network management, the editor or others engaged in its preparation or the person actually delivering it over the air, or, in the case of sponsored news broadcasts, the advertiser.

The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening and to understand the meaning of events so that they may form their own conclusions and, therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analyzing and elucidating news so long as such analysis and elucidation are free of bias.

News commentations as well as all other newscasters shall be governed by these provisions.

RELIGIOUS BROADCASTS

Radio, which reaches men of all creeds and races simultaneously, may not be used to convey attacks upon another's race or religion. Rather it should be the purpose of the religious broadcast to promote the spiritual harmony and understanding of mankind and to administer broadly to the varied religious needs of the community.

Commercial Programs and

Length of Commercial Copy

Acceptance of programs and announcements shall be limited to products and services offered by individuals and firms engaged in legitimate commerce; whose products, services, radio advertising, testimonials and other statements comply with pertinent legal requirements, fair trade practices and accepted standards of good taste.

Brief handling of commercial copy is recommended procedure at all times.

Member stations shall hold the length of commercial copy, including that devoted to contests and offers, to the following number of minutes and seconds:

Daytime

Fifteen-minute programs—3:15
Thirty-minute programs —4:30
Sixty-minute programs —9:00

Nighttime

Fifteen-minute programs—2:30
Thirty-minute programs —3:00
Sixty-minute programs —6:00

Exceptions:

The above limitations do not apply to participation programs, announcement programs, "musical clocks,"

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shoppers' guides and local programs falling within these general classifications.

Because of the varying economic and social conditions throughout the United States, members of the NAB shall have the right to present to the NAB for special ruling local situations which in the opinion of the member may justify exceptions to the above prescribed limitations.

PROGRAM STANDARDS

To clarify the phrase "Accepted Standards of Good Taste" and the canons of good practice set forth in the NAB Code, therefore be it Resolved:

That member stations shall not accept for advertising:

1. Any spirituous or "hard" liquor.
2. Any remedy or other product the sale of which or the method of sale of which constitutes a violation of law.
3. Any fortune-telling, mind-reading, or character-reading, by handwriting, numerology, palm-reading, or astrology, or advertising related thereto.
4. Schools that offer questionable or untrue promises of employment as inducements for enrollment.
5. Matrimonial agencies.
6. Offers of "homework" except by firms of unquestioned responsibility.
7. Any "dopester," tip-sheet or race track publications.
8. All forms of speculative finance. Before member stations may accept any financial advertising, it shall be fully ascertained that such advertising and such advertised services comply with all pertinent federal, state and local laws.
9. Cures and products claiming to cure.
10. Advertising statements or claims member stations know to be false, deceptive or grossly exaggerated.
11. Continuity which describes, repellently, any functions or symptomatic results of disturbances, or relief granted such disturbances through use of any product.
12. Unfair attacks upon competitors, competing products, or upon other industries, professions or institutions.
13. Misleading statements of price or value, or misleading comparisons of price or value.

The New Board

- District 1*—Paul W. Morency
Radio Station WTIC
Travelers Broadcasting Service Corporation
Hartford, Connecticut
- District 2*—Harry C. Wilder, President
Radio Station WSYR
Central New York Broadcasting Corporation
Syracuse, New York
- District 3*—Clifford M. Chaffey
Radio Station WEEU
Berks Broadcasting Company
Reading, Pennsylvania
- District 4*—John A. Kennedy, President
Radio Station WBLK
The Exponent Company
Clarksburg, West Virginia
- District 5*—W. Walter Tison, Director
Radio Station WFLA
Florida West Coast Broadcasting Company, Inc.
P. O. Box No. 1410
Tampa, Florida
- District 6*—Edwin W. Craig, Vice President
Radio Station WSM
National Life & Accident Insurance Company
Nashville, Tennessee
- District 7*—J. H. Ryan
Radio Station WSPD
Fort Industry Corporation
Toledo, Ohio
- District 8*—John E. Fetzer, President
Radio Station WKZO
WKZO, Incorporated
Kalamazoo, Michigan
- District 9*—Walter J. Damm, Managing Director
Radio Station WTMJ
Milwaukee Journal Company
Milwaukee, Wisconsin
- District 10*—John J. Gillin, Jr., Manager
Radio Station WOW
Woodmen of the World Life Insurance Society
Omaha, Nebraska
- District 11*—Earl H. Gammons, General Manager
Radio Station WCCO
Columbia Broadcasting System, Inc.
Minneapolis, Minnesota
- District 12*—Herbert Hollister, General Manager
Radio Station KANS
KANS Broadcasting Company
Wichita, Kansas
- District 13*—O. L. Taylor, General Manager
Radio Station KGNC

- Plains Radio Broadcasting Company
Amarillo, Texas
- District 14*—Eugene P. O'Fallon, President
Radio Station KFEL
Eugene P. O'Fallon, Incorporated
Denver, Colorado
- District 15*—Howard Lane
Radio Station KFBK
McClatchy Broadcasting Company
Sacramento, Calif.
- District 16*—Donald W. Thornburgh, Vice President
Radio Station KNX
Columbia Broadcasting System, Inc.
Los Angeles, California
- District 17*—C. W. Myers, President
Radio Station KOIN
KOIN, Incorporated
Portland, Oregon

One Year Term

DIRECTORS-AT-LARGE

Large Stations

- Harold Hough, General Manager
Radio Station WBAP
Carter Publications, Incorporated
Fort Worth, Texas
- Frank M. Russell, Vice President
Radio Station WRC
National Broadcasting Company, Inc.
Trans-Lux Building
Washington, D. C.

Medium Stations

- George Norton
Radio Station WAVE
WAVE, Inc.
Louisville, Ky.
- Don S. Elias
Radio Station WWNC
Asheville Citizen-Times Co.
Asheville, N. C.

Small Stations

- John Elmer, President
Radio Station WCBM
Baltimore Broadcasting Corporation
Baltimore, Maryland
- Harry R. Spence
Radio Station KXRO
KXRO, Incorporated
Aberdeen, Wash.

Executive Committee

The new NAB Board of Directors elected the following Executive Committee at its first meeting on Thursday:

Edwin W. Craig, WSM
John Elmer, WCBM
Herbert Hollister, KANS
John A. Kennedy, WCHS
Paul W. Morency, WTIC
Harry C. Wilder, WSYR

Resolutions Adopted

One

Resolved, that the National Association of Broadcasters, in Seventeenth Annual Convention assembled, hereby thanks Mr. Stephen Early, secretary to the President of the United States, for his attendance, his constructive message and the good will and understanding of the problems in broadcasting as evidenced by the opinions and suggestions contained in his address.

Two

Resolved, that the Seventeenth Annual Convention of the National Association of Broadcasters hereby extends its hearty thanks to Carl E. Milliken, secretary of the Motion Picture Producers and Distributors of America, Inc., for his interest in our problems and his kindness in being willing to share with us the experiences of his organization in meeting similar problems in the past.

Three

Resolved, that the Seventeenth Annual Convention of the National Association of Broadcasters hereby thanks Mr. Elmer F. Andrews, administrator of the Wage and Hour Division of the United States Department of Labor, for his valuable suggestions and interpretation of the Fair Labor Standards Act. And that the Association hereby pledges its wholehearted support of Mr. Andrews and his organization in carrying out the intent of the law.

Four

Resolved, that the National Association of Broadcasters, in Seventeenth Annual Convention assembled, hereby extends its appreciation to Dr. John W. Studebaker, United States Commissioner of Education, and to Dr. Leonard Power, Research Coordinator of the Federal Radio Education Committee, for their help and suggestions in enabling the broadcasting industry to more completely live up to its obligations in promoting the proper use of radio facilities by the educational operators of the country.

Five

Resolved, by the Seventeenth Annual Convention of the National Association of Broadcasters, that our thanks are extended to Mr. Orrin E. Dunlap, Jr., Radio Editor of the *New York Times*, for his message on television and facsimile.

Six

Resolved, by the Seventeenth Annual Convention of the National Association of Broadcasters, that our thanks are extended to Joseph Marty, executive secretary of the Radio Servicemen of America, for his interesting discussion of the subject, "The Missing Link in Broadcasting."

Seven

Resolved, that the National Association of Broadcasters hereby extends its appreciation to Edwin M. Spence and his co-workers for their usual efficient convention arrangements.

Eight

Resolved, that the National Association of Broadcasters, in Seventeenth Annual Convention assembled, hereby heartily thanks the Columbia Broadcasting System, the Mutual Broadcasting System, and the National Broadcasting Company for their contributions in helping the National Association of Broadcasters in connection with the fine entertainment at the banquet. And particularly commends them for their thoughtfulness in providing entertainment other than that with which we are so familiar in our regular business.

Nine

Resolved, that the National Association of Broadcasters hereby extends its hearty thanks to William S. Hamilton, manager, Harold E. Baggs, assistant manager, and the staff of the Ambassador Hotel, and the Atlantic City Convention and Publicity Bureau, for their fine service in contributing to the success of the Seventeenth Annual Convention of the Association.

Ten

(From the Independent Radio Broadcasters)

WHEREAS, the Radio Manufacturers Association, comprising the larger manufacturers of radio receiving sets, has established and promoted the manufacture and sale of the push button type of receiving set, and

WHEREAS, the continued sale and distribution of the push button set (comprising for the most part only four buttons) will, in five years at the present rate of replacement, seriously reduce the possible listening audience of the independent stations, thereby causing inestimable damage to the independent broadcasters through the loss of advertising revenue, and

WHEREAS, the independent broadcasters feel that a continuance of this policy on the part of RMA constitutes an unfair trade practice and a monopolistic condition in the broadcast industry,

Be It, Therefore, Resolved, that the independent broadcasters urgently request that the NAB immediately attempt to arrive at a satisfactory solution to this problem with the RMA, and that failing to arrive at some satisfactory solution that the NAB bring the matter to the attention of the proper governmental agencies to the end that relief from this untenable situation be provided for the independent broadcasters.

Eleven

Be It Resolved, by the National Association of Broadcasters, in Seventeenth Annual Convention assembled, that our hearty thanks and appreciation are hereby extended to President Neville Miller and his very efficient staff for their loyalty, cooperation and wholehearted support during the year just concluded.

WHEREAS, on May 23, 1939, the Federal Communications Commission promulgated new rules and regulations for the operation of international broadcast stations. These regulations included new and unprecedented restrictions and requirements as to program content and were issued without prior public hearing. On June 3, 1939, Neville Miller, President of the National Association of Broadcasters, addressed a letter to the Honorable Frank R. McNinch, Chairman of the Federal Communications Commission, discussing certain objections of principle to these regulations and suggesting that the Commission reconsider its action of May 23, 1939 and give licensees of international stations and others an opportunity at public hearing to discuss the questions involved; and

WHEREAS, as pointed out by President Miller in his letter of June 3, 1939, "If the Commission has authority to promulgate this character of regulation in the international field, it must have equal authority with respect to domestic broadcasting, as the same provisions of the law govern both classifications." It was further pointed out by President Miller that the proposed regulations will establish the precedent for "a violent transgression of the basic principles of American democracy" and that "surely no such dangerous prerogative is contemplated by the Communications Act of 1934 and is in direct conflict with Section 326 of the Act which expressly prohibits any type or character of censorship or any condition or regulation 'which shall interfere with the right of free speech by means of radio communication'"; AND

WHEREAS, subsequently, on June 15, 1939, the Federal Communications Commission, acting under a petition for the withdrawal or amendment of Rule 42.03 (a) filed on behalf of the American Civil Liberties Union, ordered a hearing to be held before a quorum of the Commission on the 12th day of July, 1939, the date for which hearing was later postponed to July 14, 1939; and

WHEREAS, President Miller, acting under authority vested in him by the Board of Directors of the National Association of Broadcasters, employed Swagar Sherley as special counsel to represent the National Association of Broadcasters at this hearing. Mr. Sherley has entered an appearance on behalf of the National Association of Broadcasters and has been instructed to participate in these proceedings; and

WHEREAS, because of the fundamental questions raised by these regulations, which appear not only to restrict the type of service that might be rendered by the licensees of international broadcast stations; and because of the more fundamental question that if such regulations are permitted to go unchallenged, there might be grave misunderstanding by the public and Congress as to the powers of the Federal Communications Commission with respect to program content, including advertising continuities; and because of the further fact that there is implied in these regulations a trend that must be resisted if broadcasting is to remain free and uncensored; and because of the further fact that there has been some suggestion or intimation as to the manner in which President Miller took the steps he did to call to the attention of the Commission the fears and misgivings of the broadcasting industry in connection with these regulations;

Now, Therefore, *Be It Resolved*, that the National Association of Broadcasters, assembled at their 17th annual convention, hereby affirms and believes that the statements contained in President Miller's letter of June 3, 1939, constitute a fair and accurate expression of the fundamental issues involved and commends President Miller for his prompt and vigilant action in calling to the attention of the Commission and the public the fact that the regulations governing international broadcasting stations, as drafted, contained elements of a genuine threat to the right of free speech by radio communication, not only in the operations of international broadcast stations, but in the domestic field as well.

Be It Further Resolved, that the National Association of Broadcasters takes cognizance of the fact that, in convening a formal hearing on these regulations, the Federal Communications Commission, on June 15, 1939, in a press release accompanying the order, stated:

"The Commission is of the opinion that an open public hearing to discuss the merit of the new regulation is desirable, particularly in view of the fact that the application of the rules has been misunderstood in some quarters.";

and that it is the sense of this convention that, in view of the Commissioner's statement, the Commission will, following the hearing scheduled upon this regulation, through appropriate revision or modification make it clear that such regulation could not in any way be construed or interpreted by either the licensees of international broadcast stations or by the public to abridge in any manner the fundamental right of free speech by means of radio communication.

Thirteen

WHEREAS, the National Association of Broadcasters, as the organization composed of the majority of the licensees of standard broadcast stations, has from time to time urged upon the Federal Communications Commission that the normal license period of standard broadcast stations be extended beyond the six months period: and

WHEREAS, it has been the sense of broadcasters that the previous short term license policy made for uncertainty and insecurity; and

WHEREAS, as early as 1934, the Honorable Thad H. Brown, member of the Communications Commission, proposed an amendment to the section of the regulations limiting the license period to six months, and proposed to extend it to a period of one year; and

WHEREAS, the industry has long believed that it was unnecessary to limit the license to a period of six months, particularly when Congress had authorized a maximum period of three years; and

WHEREAS, on June 22, 1939, the Communications Commission announced that it had increased the normal license period for standard broadcast stations from six months to one year by amending the appropriate section of the rules and regulations governing standard broadcast stations, which amendments affect all of the 735 standard broadcast stations now operating in the United States and territorial possessions.

Therefore, *Be It Resolved*, that the National Association of Broadcasters, in Seventeenth Annual Convention assembled, hereby

expresses to the Communications Commission its commendation of the action extending the license period to one year; and further, it is the belief of broadcasters that this will contribute to the stability of the industry and thus enhance the opportunity for increasingly better public service.

Be It Further Resolved, that the National Association of Broadcasters continue its efforts to obtain the maximum length of licenses as authorized by the Congress; and

Be It Further Resolved, that copies of this resolution be sent by the Secretary of the Association, to the Chairman of the Federal Communications Commission, and to each of its members, as an expression of appreciation of the confidence which the extension of the license period evidences.

Fourteen

Resolved, that the National Association of Broadcasters, in Seventeenth Annual Convention assembled, hereby heartily thanks Grover Whalen, president, and John S. Young, Director of Radio and Television, of the New York World's Fair, for the invitation extended to the broadcasters to attend the Fair as their guests.

Fifteen

Resolved, that the official acts of the duly qualified officers of the National Association of Broadcasters, performed since the last annual convention, be and the same are hereby approved.

Sixteen

Resolved, that the National Association of Broadcasters, in Seventeenth Annual Convention assembled, hereby extends its most hearty thanks to Will Hays, president of the Motion Picture Producers and Distributors of America, Inc., and to James G. Stahlman, past president of the American Newspaper Publishers Association, for their most valuable contributions to the principles of free speech and the preservation of that most important factor contributing to our democratic form of government as expressed in the international broadcast entitled, "The Mirrors of America," at 10.30 p.m., July 12, 1939.

Early's Speech

I come here today not in the role of White House "spokesman" for that mythical creature of evasion was interred on the fourth day of March, 1933, and, insofar as I can predict, he will never be resurrected; certainly *not* by the incumbent President. Any views which I express to you, therefore, reflect solely my personal beliefs, based upon experience as a newspaperman and upon observations made during the past six years of official life.

When I accepted your invitation to appear before this convention, I emphasized to your President, Mr. Miller, that none could presume to speak for the President of the United States. I wish now to reiterate that as a preface to my remarks to you.

Usually when a government official appears before the trade association of an industry his remarks include:

1. A solemn plea for cooperation to attain some general and usually undefined objectives; or
2. A stern admonition to reform certain of its practices under the penalty of a paternal spanking; or
3. A soothing reassurance that the government has no immediate intention of taking over their business, leaving its operators to the mercies of a dictator with designs against the capitalistic system, or
4. A pious affirmation of faith in the profit system.

I prefer to avoid such banalities although, like a famous Vermonter, I, too, could assure you that I am "agin sin."

Broadcasting, it seems to me, mostly craves reassurance. That I *can* bring you. I have no knowledge of any Marxist plot for government to "take over" and operate radio stations. Nor am I informed concerning any subversive movement to put the government in the retail hardware business. If such reassurance will serve to alleviate the jitters, I am glad to pass it along.

When the time comes that this government dictates what its people shall hear; what they shall read or see, then freedom ends and democracy is no more.

Perhaps most of you are familiar with the recent utterance of the President concerning freedom of radio. Speaking in a transcribed interview conducted by Lowell Mellett, Executive Director of the National Emergency Council, the President said, in part:

"But now in our own time, there has come into being another great institution for the general diffusion of knowledge—the radio. Still in its infancy, it already rivals in importance the schools and the press. The government, as the people's agent, has had and has now a still different relation to radio from that toward the school and the press. It has encouraged and aided its development on the one hand, and, on the other, it has set up such controls of its operation as are necessary to prevent complete confusion on the air. In all other respects the radio is as free as the press."

What, then, is this freedom? The President in the statement just quoted spoke of the government's having a "different relation to radio from that toward the school and the press." To my mind, this relationship implies more than mere technical regulation necessitated by the physical phenomena of radio and goes somewhat beyond the statutory prohibition against broadcasting obscene, indecent language or information concerning lotteries, etc. Fortunately or unfortunately, the radio spectrum limits the number of broadcast stations and government must determine who is to operate them. This necessarily involves a duty upon the part of the government and a peculiar responsibility upon the part of broadcasters who are licensed to operate a franchise in the public interest.

Were the physical characteristics such that an unlimited number of broadcast stations could be established, the relationship of the regulatory authority of government to the broadcast operator might be simply that of parceling out wave-lengths and enforcing recognized statutory prohibitions against false and misleading advertising that apply to all media alike. However, if predicted engineering advances materialize and the number of broadcast stations can be expanded to approach infinity, I doubt if the present operators will be particularly jubilant over the prospect of such additional competition. You might yearn then for the good old days of regulation and questionnaires. The present F. C. C. might become a synonym for peace and exclusive frequencies.

Therefore, it should be assumed that broadcasters are not hostile to a periodic scrutiny of their record to determine whether they have fulfilled their obligation to the people in performing a public service.

As I understand it, grants are made essentially to the highest bidder for public service. The licensee then assumes an obligation to render the type of service he specified in obtaining his grant. If someone thinks he can perform a better broadcasting service in your locality than you, under the law, he has a right to file application for your license, and, if he can prove his case to the satisfaction of the Commission, he can supplant you.

Consequently, I take it, your best insurance to defeat such potential antagonists is consistently to render the very best public service you can. A cumulative record of good service is an excellent insurance policy.

Extremists of the "hands-off" school may advocate that when a licensee is granted a station, the licensing authority should kiss him goodbye, wish him luck and renew his license every six months or a year as a matter of course. This would grant a perpetual franchise to each licensee and the government, as the agent of the people, would have no opportunity to determine whether a proper public service was being rendered.

I would not advocate that the licensing authority lay down in advance definite, detailed and rigid standards of public service, implemented by specific rules and prohibitions. It would be difficult, if not impossible to draft such standards free from the odium of censorship. But the elements that compose public service are not vague or mysterious. Each of you broadcasters know whether your station is doing the right kind of job and, for my part, I would be willing to leave to a jury of broadcasters any specific instance involving the right of a station to have its license renewed.

You would know the answer. Only recently, I am advised, the Communications Commission has extended the license period from six months to a year for standard broadcast stations. The requirement that a broadcast licensee make annual justification for the use of a franchise granted him by his government is in no sense incompatible with freedom, as we understand it, and it is not necessary to lay down tight regulations to prevent flagrant disregard of the fundamental deficiencies of broadcasting. The Commission, it seems to me, has ample authority to proceed against any licensee who persists in a course of conduct which reasonable men agree is contrary to any rational standard of public interest.

The question then arises whether, in the process of making this determination, any violence is done to the freedom of radio. Of the 700 odd radio stations, the vast majority of whom have had their licenses regularly renewed since 1927, I am told that less than a half dozen have had their licenses revoked for cause. Since the Communications Commission was created in 1934, the records show that only a single station has failed to obtain its renewal of license—and that for some violation of technical engineering regulations.

Yet it is said that you gentlemen live in a constant state of fear that your licenses MAY be taken from you and that, therefore, you must spend too great a part of your time and give up too great a part of your time on the air in trying to please the big, bad government. The big, bad government, standing over you with hand outstretched ready to snatch away your precious license. Of course, I know and I am certain you agree that this just isn't so.

Thus it would seem that there has been no perversion of the duty of the regulatory authority to examine periodically the station's record. What, then, is the basis for the clamor that radio's freedom may be invaded? Certainly the brief history of radio regulation affords no conclusive evidence of any threat to the fundamental American right of freedom of speech.

Nevertheless, certain myths have grown up which deserve examination. The first myth *that should be cracked* is censorship. The Communications Act of 1934—I am certain you have recently read this section—says "nothing in this Act should be understood to give the Commission the power of censorship . . . and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech." There is nothing ambiguous or equivocal about that language. Legalists may quibble over its commas and semicolons but I stick to the interpretation that it means what it says. And should this Commission or any of its successors promulgate any regulation that violates that section, broadcasters have the remedy of judicial review and, if you *can't* get in the courthouse, you can *ignore* the regulation until the Commission takes you there.

The recent outcry over the regulation relating to international broadcasting demonstrates that the people of our country would never tolerate censorship. In this instance, the Commission, as you might expect, disclaimed any attempt at censorship and I understand it now has convened a hearing to determine whether the rule should be revised. It is my personal hope that the final regulations governing this class of broadcast stations will leave no doubt that freedom of speech *is* American culture and that *no* agency of government intends to supervise or control the programs broadcast.

In my opinion, censorship of radio, the press and other media of public information, should it ever develop, would be preceded by a real upheaval in the basic structure of our government and economic system. Professional alarmists may spin learned and fanciful parallels of events here and abroad, but these United States of ours *defy comparison*.

And I reiterate: I am the last person in the world to advocate censorship of what is said by broadcasters in the United States or by newspapers in the United States. I say this not only because I am a firm believer in the constitutional provision for freedom of expression, but also because I am an equally strong believer in the common sense of the American people within our own borders. No "Columnist," "interpreter" or "broadcaster" who misinterprets, misquotes or invents news out of a clear blue sky survives long. The good sense of the American people catches on to the fact that he is a perverter rather than a purveyor of news.

In the same way the American people soon lose confidence in the type of individual who seeks to stir up prejudice—prejudice against race, against religion or against color.

Thus I can conceive of no permanent danger within our country, even though great temporary harm is often done to our national welfare by such people. The average American citizen realizes that in most cases their principal motive is to seek notoriety either for the sake of notoriety itself or because they are paid large sums of money by people who have special axes to grind.

There is a real danger—a permanent danger, however—in news stories which might originate in the United States and be directed by foreign agencies to the citizens of other nations. The people of other nations are not as familiar with our own background as we are and the most fantastic stories about what is going on within the United States are readily believed by foreigners when they hear these stories over the short wave or read them as so-called news stories in their newspapers. They get wholly erroneous ideas not only about facts in the United States, but also about public opinion in the United States. The result is that these foreigners, because of false impressions, become less friendly to us and make it more difficult for us to maintain or to make friendships with them. This affects, of necessity, what we call our American relationship to international affairs as a whole.

I do not have to cite instances or to give illustrations. I do not have to name names. You are just as aware as I am that within the past few years there have been newspaper columnists and radio commentators whose words have been hailed with glee in certain portions of the earth as proof that the United States is friendly to certain principles of international conduct, which, as a matter of fact, the overwhelming majority of Americans dislike and abhor.

To say that false news of this kind emanating from the United States does harm not only to us but to civilization as a whole is putting it mildly. But that does not mean that the time has come for Government censorship over such false news.

It is obvious that those who operate international broadcast stations have a very definite public duty to keep their programs free from false news. Definitely this is their duty—and definitely the Government is watching and will continue to watch with great interest to see whether those in control of these stations continue to observe this public obligation. International broadcasting is but a single aspect of this problem. It is my information that international broadcasting by American stations, largely because of the accuracy of their reports, are relied upon by constantly increasing numbers of foreign listeners. While it is a sad commentary on our civilization that harried citizens elsewhere under the penalty of incarceration or worse must obtain accurate news from without their borders, you international licensees are performing a genuine service for them. Free men everywhere, I hope, will continue to crave truth even if they must bootleg it.

Although I am not familiar with them in detail, I know that the networks and many independent stations have developed enlightened policies dealing with religion, political discussions and commercial continuities. One specific policy which impresses me with radio's own recognition of its stewardship is that which prohibits the sale of time for propaganda purposes. To permit the individual or group with the greatest financial resources to utilize radio to peddle their own particular brand of social or economic philosophy would be a grave mistake for radio. Among other things, it would deny equality to groups with lesser resources.

In dealing with radio, the White House in 1933 adopted and has maintained a policy of equal treatment of networks and stations. When the President speaks, the microphones of any responsible broadcasting organization may seek and obtain their place on his desk. Certain restraints have, as a matter of necessity, been imposed in the relationships of radio to the White House. For example, we have insisted that radio announcers in dramatized news broadcasts or otherwise refrain from imitation of the President's voice, unless specifically authorized with a direct quotation and appropriate explanation that it was not the President speaking. It had been our experience that such imitations resulted in deception and after such a broadcast the White House mail was heavily loaded with inquiries of bewilderment.

The myth of censorship and the fallacy that broadcasters goose-step to official pressure seem to a sideline observer to be the twin bogey-man of radio. In my opinion freedom from official censorship, freedom from domination by any administration or political party rests with the radio itself. So long as its operations reflect the "doctrine of fair play" as expressed by the provision of the statute governing political broadcasts, so long as programs are interesting, informative and clean—in brief so long as radio serves democracy, it will remain free.

I belong to what may be the old-fashioned school in that I believe a reporter should stick to the facts with appropriate elucidation to make the news understandable and let his reader or listener reach his own conclusions. And I like that portion of your proposed code which says:

"If a broadcaster devotes a reasonable amount of time to fair and two-sided discussion of controversial public issues, using representative speakers to give differing points of view, he is providing debate and the expression of opinion on controversial issues in a far more effective way than it can possibly be provided by one or even a handful of commentators, regularly expressing personal points of view on every conceivable subject."

Let me speak in conclusion of my own amazement of the growth and development of this industry. It is an old story to you but fascinating to those not engaged in broadcasting to contemplate the fact that in 15 years more than 81 per cent of our families have acquired radio sets. That broadcasting must have done a good job is further evidenced by the fact that these sets are in use almost five hours a day. Through the medium of network systems more than 90 per cent of our population can listen to the voice of their President or his critics, hear the greatest in music and the drama; and the world is brought to our door. Contrasted with what has been done in other countries, we are convinced that the pattern adopted in America not only is the most consistent with our democratic traditions but affords the greatest opportunity for the development of a superior service.

No one can predict when radio will become of age because the miracles of science apparently have no boundaries. Of this much I am certain—radio in the hands of private enterprise has done amazingly well. With the government assuring free competition in the service to our people, with that sense of public responsibility

your codification efforts imply, with that awareness to needs of scientific research you have manifested, there is every reason for you to receive the continued and enthusiastic support of the public—that ultimate tribunal of success.

Congratulations!

Adoption of the new code was received favorably by both press and public. The clause outlawing controversial questions from paid time, for elimination of any attack upon race or religion, met with the widest public support. The women's organizations of the country were enthusiastic about the children's platform and sent in to the convention wires of commendation. Several of these are published below.

NEVILLE MILLER
HOTEL AMBASSADOR
ATLANTIC CITY, NEW JERSEY

Heartiest congratulations to you and the National Association of Broadcasters upon new code for children's programs. Stop. I have every confidence that only great good will result for our children, their parents and the future of our democracy.

DOROTHY GORDON
Sunapee, New Hampshire

* * * *

NEVILLE MILLER
HOTEL AMBASSADOR
ATLANTIC CITY, NEW JERSEY

All of us interested in the best development of radio in the world today are delighted with the proposed code of the National Association of Broadcasters. We congratulate you on your masterly formulation and wish you all success in your efforts.

SIDONIE MITSNER GRUENBERG, *Director,*
Child Study Association and Chairman,
Parent Education, Committee of National
Advisory Council on Radio in Education.

* * * *

NEVILLE MILLER
HOTEL AMBASSADOR
ATLANTIC CITY, NEW JERSEY

Congratulations on code adoption. We represent hundreds of thousands of parents and children who will benefit and be grateful.

DOROTHY L. MCFADDEN,
Junior Programs, Inc.,
New York City.

* * * *

NEVILLE MILLER
HOTEL AMBASSADOR
ATLANTIC CITY, NEW JERSEY

Warmest congratulations on code for children's programs. Altogether admirable.

MARY GOULD DAVIS,
New York City.

* * * *

NEVILLE MILLER,
HOTEL AMBASSADOR,
ATLANTIC CITY, NEW JERSEY

Congratulations to you and your board upon the splendid success of your conference and the establishment of the code system. As National Radio Chairman of the National Society New England Women, Radio Committee member of the National Federation of Press Women and member of the Women's National Radio Committee, I express my deep appreciation of your cooperation.

DOROTHY M. LEWIS,
Laconia, New Hampshire.

NEVILLE MILLER,
HOTEL AMBASSADOR,
ATLANTIC CITY, NEW JERSEY

Delighted to read of convention's approval of code for broadcasting ethics. This is a forward step in radio and reflects much credit on the National Association of Broadcasters.

Mrs. WILLIAM CORWITH, *National Radio Chairman,*
American Legion Auxiliary.

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NEVILLE MILLER,
HOTEL AMBASSADOR,
ATLANTIC CITY, NEW JERSEY

Congratulations on passage of revised code a tremendous stride was taken to keep radio within the framework of our free enterprise system and yet serve the public interests. On behalf of the general Federation of Women Clubs who have worked consistently for better children radio programs. I want to thank you in particular. Democracy and decency go forward again. Congratulations.

LUCY R. MILLIGAN, *Chairman of Radio.*

STUDEBAKER PRAISES BROADCASTING FOR NEW PROGRAM STANDARDS

In an address, "What the Federal Radio Education Committee Means to the American System of Broadcasting," Dr. John W. Studebaker, U. S. Commissioner of Education, congratulated the broadcasters on the adoption of a code and praised the improving relationships between radio and education generally. He stated that we had much in common; that the purpose of education in a democracy was to preserve the "right to learn"; and that radio as perhaps the most formidable channel for the distribution of information and knowledge was making substantial contributions to the American way of life and was insuring the American public of the "right to learn."

Dr. Studebaker pointed out the purposes of the Federal Radio Education Committee and explained the contributions it would make to both education and radio in uncovering valuable information for the benefit of both groups.

Dr. Leonard Power, research coordinator of the FREC, detailed the research project being carried on at Princeton University and Ohio State, which is being financed by a joint fund contributed by two educational foundations and the broadcast industry through the NAB.

MOVIE CODE ADMINISTRATOR ADDRESSES CONVENTION

Carl E. Milliken, secretary of the Motion Picture Producers and Distributors of America, Inc., described the operation of the movie code at a convention luncheon on Tuesday. He urged the broadcasters to profit by the experience of the movies by setting their program standards just a little higher than the public demanded. In this way, he said, the industry could not only reflect but develop the tastes of its listeners. He also suggested that the industry attempt to educate the listeners to accept better programs, thus doing its share to raise the nation's cultural standards. Administration of any code called for

a strong personality, he said, adding that he was certain that the NAB had such in Neville Miller.

MILLER, HAYS AND STAHLMAN MAKE JOINT BROADCAST

For the first time in history, leaders of radio, movies, and press jointly gave the American people an accounting of the services of these three great "Mirrors of America," in a broadcast Wednesday night. Neville Miller spoke from Atlantic City; Will Hays spoke from Hollywood; James G. Stahlman, retired president of the American Newspaper Publishers Association, spoke from London.

All three stressed the public obligations of their medium. All three asserted that only freedom could insure the fulfillment of these obligations to the best interest of the people.

Television

The NAB invited Orrin E. Dunlap, Jr., veteran radio editor of the *New York Times*, to tell the convention what had happened in the field of television and how he thought it would develop in the immediate future.

Because of illness, Mr. Dunlap was unable to attend the convention but sent the following statement which was read to the delegates.

Television is making progress in New York, but slowly. It is like the baby who has taken a few steps and rather chestily looks westward as if it might be no trick to walk right across the map to San Francisco. But the parents know that when the youngster goes to California he'll probably fly, not hike. So with television today. It is toddling around New York. It can't walk to the Pacific. It must fly. But it cannot fly until there is a wire or a national radio relay system on which to travel.

Those in telecasting today are asking when the others are coming in to help them carry the load. The pioneer already feels the burden. He's afraid that he will not be appreciated until years from now, when monuments or plaques may be erected. Pioneering is often a thankless task. Trail blazers meet the obstacles and opposition. So it is with the telecaster. His road through the air is no easier than that of the covered wagon, the iron horse or the clipper planes. Nevertheless, pioneering made their achievements possible. A dozen years separated Lindbergh's flight to Paris and the transatlantic Dixie Clipper's passenger carrying schedule that puts America and Europe a day and a night apart. Progress in television may seem slow, but each day finds the images dancing nearer to the homes.

From the broadcaster's standpoint there is a vital question to be answered before he can hope to get revenue from telecasting. Who will pay for the programs? It may be from three to five years before that answer is available. Because of tradition in broadcasting, the quick answer is sponsors. But can they afford it? And will the public tolerate advertising on television? The eye in its likes and dislikes differs from the ear. The eye can "tune out" even the most subtle visual advertising on the screen by a turn of the head or a drop of the eyelid. The ear has no such guards.

The toughest row to hoe in television is to get the first 100,000 sets in homes. Then many of the present riddles will be answered; public reaction will be known.

Television has been called a \$13,000,000 "If." The question is how to sever the "If" and let the 13 million grow.

First, programs must be of such calibre that the Joneses will be surprised to learn that they are missing pictures the Smiths are seeing. Before this can happen the price of television sets

must be within range of the average pocketbook. Telecast stations must be on the air in cities other than New York.

The optimist in television must be fully aware of the intricate problems ahead. For one who has seen so much magic performed by radio since 1912, it is easy after seeing scenes from a Broadway play, a baseball game, and a prize fight by television to realize that it has a tremendous future—that some day it will be a great industry.

It is true that television has not made the splash in New York that some expected. They overlooked certain factors, now more apparent since programming has been in effect on a regular schedule for two months. The optimistic figure of 100,000 television sets being sold by Christmas is being whittled drastically. 10,000 would be a big surprise. Nevertheless, progress is being made.

From all indications it will be the autumn of 1941 at the earliest before television really gets up steam in the New York area. Telecasters have two years of agony ahead. In that period the showmen will learn more about their art, which incidentally, is not merely Hollywood plus broadcasting. Television is an art in itself.

Furthermore, and this is vital, before the public takes to television, prices must be reduced or present radios converted to receive telecasts without much expense. The public is greatly interested in television, but can't afford it.

Listeners who have become accustomed to plucking their entertainment from the air with an instrument costing less than \$100, and in the majority of cases much less, are not likely to take to television at a cost of \$500. They can listen in or go to the movies cheaper than that. Therefore, prices must be lowered, and they will be as mass production has a chance to operate. But in any case it is going to cost more to see and to hear than merely to listen by radio.

Broadcasting, of course, flamed as a national craze and became a pastime because it was simple and inexpensive. Radios could be built at home. It was a new fun. But that's a story you all know. The question now is what effect is television to have on broadcasting? There are so many angles to the subject that I shall try to stick to the text "What is to be the fate of the broadcasters and their millions invested?"

That question has been put also in regard to the stage and screen. Broadcasting will be more directly affected by television than will Hollywood or the theatre. Television is just another motion picture, but it is a broadcast picture. It's in the air on wavelengths and that's where you are. It appeals directly to your audience and therefore to hold them, eventually you must add sight to sound. Your future as broadcasters is in ultra-short waves. Just as amusement centers shift, also shopping, residential, publishing and transportation terminals, so too will broadcasting's center of entertainment shift to keep pace with progress. It will go below ten meters. In years to come the present broadcast band may be abandoned like an old theatre after the shows moved uptown to a modernistic, bright-light street glorified by a shift in the population.

The radio population, however, has nothing to fear. Broadcasters will make it as convenient as possible to take them along. Ultra-short wave converters will avert obsolescence of the existing radios. They will continue in use until gradually they are replaced by popularly priced combination tele-radios attuned to ultra-short waves.

But how can all this happen when television isn't national? It will be either through an ingenious wire network or through automatic ultra-short wave bouncer stations located fifteen or twenty miles apart. If the wires cannot do it radio will take the network problem into its own hand. It can be done.

Gradually broadcasting will move into the ultra-short wave spectrum. To be sure, for many years the regular broadcasters will begin to feed the same programs into the ultra-short wave channels to accommodate the modern audience and to fill in while there are no television shows on the air. In addition special sound programs will be offered, new acts and talent developed on the tiny waves. You as broadcasters are by no means to be supplanted; you are to be kept busier than ever running a two or three ring circus. You may have to go into the film making business to create short attractions of your own for telecasting. But remember, on the air there is a second handedness to films. Already it has been learned in New York and London that televiewers prefer live shows and surprising as it may seem a drama that runs for more than an hour is a big hit, if properly staged. But, of course, the headline television act of acts is the topicality or actuality as they call them in London; events as they happen as they call them in New York.

Television is an intimate medium; it's a parlor show and the actors who come into the family circle to perform successfully are those who have a friendly approach. Television is no glamour medium. The keynote is the same as in broadcasting—be natural.

People have heard much about television in the past ten years. Few of them have seen it. In New York, daily, more are viewing the images and I have yet to talk with an initiate who does not express amazement at what television can do. They never suspected telepictures could be so clear. They would like to have a tele-set in their homes but it is the price and the fear that tele-sets will change radically within a year or two that keeps them away. When the signs appear that those two factors, high prices and quick obsolescence, are to be removed, that will be the cue to broadcasters that their audience is beginning the mass march into the ultra-short wave field. That may be five years from now. Nevertheless, this is the time to stake the ultra-short wave claims and prepare for the exodus from 550-1600 kilocycles into the promised land. There is little static or fading there. Tonal quality is excellent, because of the wide wave path available. If you want to see yourself in the mirror of the future listen to Armstrong's staticless, ultra-short wave system. Until then you haven't heard radio perfection.

With television will come greater use for facsimile as a supplemental service. Television is a fleeting picture. Facsimile leaves a permanent record. To date it is more or less of a ticker service. It is not amusement. Therefore it has not caught with the public. Furthermore, it is rather slow and expensive. It lacks the spontaneity of broadcasting. But as new apparatus and tubes are evolved to perfect the use of ultra-short waves, facsimile will come into its own. It needs a satisfactory paper that will print by an electrical touch, not by ink. Many uses for this facsimile machine of the future can be seen, one of which is likely to be an attachment to the television set to print the program, synopsis of the shows, biographical facts about speakers and summaries of events seen and to be seen on the air.

It is not too much to expect that television sets will be equipped with a bell or whistle actuated by a master signal from the transmitter. It will call the family to the tele-room for a special event or to warn when the curtain is going up. Radio becomes more automatic. But even then it gives you more to think about. Yours is an unending business, unlimited, and there is not the slightest chance in the world of the progressive broadcaster being supplanted. But the day is not so far away when he cannot be classed as a leader if he operates only a sound theatre when just around the corner on another wavelength his competitors are offering illustrated sound. Today it may seem that television is creeping at the pace of a glacier. But by 1950 broadcasters will be deep into ultra-short waves and television. The ice age will not last forever.

Now, there is one more factor to be watched. War threats hang over Europe. Storm signals flutter around the world. The bugle call would stop television's march toward the home, but after a conflict television would emerge greatly advanced. Broadcasting was a so-called by-product of the World War. Whether history is to repeat in television is something to be considered.

ANDREWS SAYS BROADCASTING GIVES "VERY LITTLE TROUBLE"

Elmer F. Andrews, Wage and Hour Administrator, told the NAB convention that "the radio industry is giving us very little trouble."

Since the Wage and Hour Act went into effect last October 24, the Administrator has received 18,000 complaints of violation, he said, and only 12 of these were against radio—and that included radio manufacturing as well as broadcasting.

Mr. Andrews pointed out that the broadcasting business should profit from the Wage and Hour Act despite slight inconveniences in its application to broadcasting employees. By increasing the wage of low pay workers throughout the country, the Act should increase the de-

mand for consumer goods and consequently the volume of advertising, he said.

"Undoubtedly you wish to know just how definitely the Fair Labor Standards Act affects you. Well, you are under the law. I think there is no room for argument there. You are covered by the definition written into the Act itself that 'commerce means trade, commerce, transportation, transmission, or communication among the several states or from any State to any place outside thereof.' You are certainly engaged in 'communication,' and transmission, too, I take it, so that brings you in.

"However, so far as the application of the 25-cents-an-hour minimum wage to the industry is concerned, the discussion is somewhat academic. Radio is a high wage industry. I am informed that the average wage in radio is somewhat more than \$45 a week, and that certainly takes you out of the sweatshop class.

"Persons employed in a bona fide executive, administrative or professional capacity are exempt from the Wage and Hour Provisions. The Act requires the Administrator to define these terms. We have struggled with the problem and with the help and advice of both employers and employees have defined them in our regulations.

"I should like to add, however, that any person wishing a revision of any of the terms of the regulations may petition the Administrator who will either arrange for hearings or make some other provision for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes. In the absence of any petition for change in the regulations applicable to professionals, I assume that the radio industry has not found them too burdensome and has been able to adjust its operations to the requirements. At least I certainly hope that is the case."

After his talk, Mr. Andrews answered numerous questions about the application of the Act to broadcasting employees. All of his answers were in line with opinions and interpretations which have been sent to all members by the NAB Labor Relations Department.

REGISTRATION 655

Total registration at the Seventeenth Annual Convention was 655.

FEDERAL COMMUNICATIONS COMMISSION

DECISIONS OF COMMISSION

The Federal Communications Commission has granted the application of KGDE, **Fergus Falls, Minnesota**, for renewal license and also license renewal of Experimental Relay Stations KIIV and W10XBH, Fergus Falls.

Station KGDE operates on **1200 kilocycles**, 100 watts night, 250 watts LS, unlimited time.

Application of KROY, **Sacramento, California**, to increase its operation from daytime to unlimited time has been granted by the Commission. The station operates on **1210 kilocycles**, 100 watts power.

The Commission granted the application of KSAN, **San Francisco**, for a license renewal operating on **1420 kilocycles**, 100 watts, unlimited time, and assignment of station's license to The Golden Gate Broadcasting Corporation and dismissed the application for assignment of construction permit to change transmitter site of Station KSAN and install new antenna.

Application of WKAQ, **San Juan, Porto Rico**, for renewal of license was granted by the Commission. The station operates on **1240 kilocycles**, 1000 watts, unlimited time.

The Commission has granted the application of Richland, Inc. for a construction permit for a new station at **Mansfield, Ohio**, to operate on **1370 kilocycles**, 250 watts, daytime only.

The application of the Coastal Broadcasting Company for a construction permit for a new station at **Brunswick, Georgia**, to operate on **1500 kilocycles**, 250 watts LS, 100 watts night, unlimited time has been granted by the Commission.

The Commission has granted the application of the Northwest Broadcasting Company for a construction permit to erect a new station at **Fort Dodge, Iowa**, to operate on **1370 kilocycles**, 250 watts LS, 100 watts night, with specified hours of operation.

The application for consent to transfer control of Broadcasting Station WHBB, **Selma, Alabama**, from the Selma Broadcasting Company, Inc. to Bascom Hopson has been granted by the Commission. The station operates on **1500 kilocycles**, 100 watts, unlimited time. Commissioner Thompson did not participate in this decision.

The Commission has granted the application of KRBA, **Lufkin, Texas**, to make changes in its transmitting equipment and increase its daytime power from 100 watts to 250 watts.

The application of the Pennsylvania Newspaper Company for consent to transfer the control of WWSW, **Pittsburgh**, from Walker & Downing Radio Corporation to the P. G. Publishing Company has been granted by the Commission. The station operates on **1500 kilocycles**, 100 watts, 250 watts LS, unlimited time.

The Commission granted the application of WJAC, **Johnstown, Pa.**, to change its assignment from sharing time with WFBG on **1310 kilocycles**, 100 watts night, 250 watts day, to unlimited time.

The Commission granted the application of WHMA, **Anniston, Alabama**, to operate unlimited time on frequency **1420 kilocycles**, instead of daytime only, using 100 watts power.

The application of WFBR, **Baltimore, Md.**, for a special experimental authorization for a satellite station to operate on **1270 kilocycles** with power output of from 10 to 100 watts, unlimited time, to be located at **Fred-erick, Md.**, and to operate synchronously with Station WFBR was denied by the Commission.

The Commission granted the application of the Greenville Broadcasting Company for the erection of a new station at **Greenville, North Carolina**, to use **1500 kilocycles**, 250 watts, daytime.

The Commission granted the application of J. Samuel Brody for the erection of a new station at **Sumter, South Carolina**, to operate on **1310 kilocycles**, 100 watts night, 250 watts LS, unlimited time, and in the same decision the Commission denied the application of WIS, **Columbia, South Carolina**, for special experimental authority to operate a satellite station at Sumter, South Carolina synchronously with WIS.

PROPOSED FINDINGS OF FACT

The Federal Communications Commission announced its Proposed Findings of Fact proposing to grant the application of the Southern Oregon Broadcasting Company for the erection of a new station at **Grants Pass, Oregon**, to use **1310 kilocycles**, 100 watts, unlimited time.

The application of KAND, at **Corsicana, Texas**, to increase its power to 100 watts night on **1310 kilocycles** is proposed to be granted by the Commission in a Proposed Findings of Fact. The new station now operates 100 watts daytime only.

In a Proposed Findings of Fact the Commission proposes to deny the application of KRRV, **Sherman, Texas**, to move its transmitter locally, to install new

equipment, including a directional antenna, and to operate the station on **880 kilocycles**, unlimited time, with 1000 watts. The station now operates on **1310 kilocycles**, 250 watts, daytime only.

The application of KPLT, **Paris, Texas**, to change its assignment from 250 watts daytime on **1500 kilocycles** to unlimited time on the same frequency, with 100 watts night, 250 watts day, is proposed to be granted by the Commission in a Proposed Findings of Fact.

The Commission proposes to grant in a Proposed Findings of Fact the application of WHDF, **Calumet, Michigan**, to operate full time on **1370 kilocycles** instead of specified hours and renewal of its license. The station now operates 100 watts night, 250 watts LS. In the same Findings the Commission denies without prejudice the application of the Copper Country Broadcasting Company to erect a new station at **Hancock, Michigan**, to use **1370 kilocycles**, 250 watts day, 100 watts night, with specified hours of operation. The Commission states that this Company can file its application for a construction permit on another frequency.

The Commission proposes to grant in a Proposed Findings of Fact the application of the Suffolk Broadcasting Corporation to erect a new station at **Suffolk, Virginia**, to use **1420 kilocycles**, 100 watts night, 250 watts day, unlimited time.

The application of the Spartanburg Advertising Company to erect a new station at **Spartanburg, South Carolina**, to use **1370 kilocycles**, 100 watts night, 250 watts LS, unlimited time, is proposed to be granted by the Commission in a Proposed Findings of Fact.

The Commission proposes to deny the application of the Brown County Broadcasting Company for the erection of a new station at **Brownwood, Texas**, to operate on **990 kilocycles**, 1000 watts, daytime only.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

No broadcast hearings are scheduled to be held at the Commission during the week beginning Monday, July 17.

FUTURE HEARINGS

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

September 13

- WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Special Experimental Authorization. **1420 kc.**, 250 watts night, 1:05 to 2:15 a. m., CST.
- WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—C. P., **1270 kc.**, 1 KW. Unlimited time (DA night). Present assignment: **1420 kc.**, 100 watts, 250 watts, LS, unlimited time.
- NEW—Clyde E. Wilson & Howard A. Shuman, d/b as Hot Springs Broadcasting Co., Hot Springs, Ark.—C. P., **1310 kc.**, 100 watts, 250 watts, LS, unlimited time.

September 26

- KNEL—G. L. Burns, Brady, Tex.—Modification of license, **1500 kc.**, 100 watts, 250 watts LS, unlimited time. Present assignment: **1500 kc.**, 250 watts, daytime.
- WSPR—Quincy A. Brackett, Lewis B. Breed, Edmund A. Laport, co-partners, d/b as Connecticut Valley Broadcasting Co., Springfield, Mass.—Mod. License, **1240 kc.**, 250 watts, 500 watts LS, unlimited time. Present assignment: **1140 kc.**, 500 watts, limited time—KVOO, WAPI.

September 27

- NEW—Dr. Willard Carver, Thomas B. Williams, Byrne Ross, Lawton, Okla.—C. P., **1420 kc.**, 100 watts, 100 watts LS, unlimited time.

October 9

- NEW—The Mayflower Broadcasting Corp., Boston, Mass.—C. P., **1410 kc.**, 500 watts, 1 KW, LS, unlimited time. (Re-quires facilities of WAAB.)
- WAAB—The Yankee Network, Inc., Boston, Mass.—Renewal License (Main & Auxiliary), **1410 kc.**, 1 KW, 1 KW LS (Main) *500 watts, 1 KW LS (Auxiliary), unlimited time.
- * Auxiliary purposes only.

October 23

- WCBS—WCBS, Inc., Springfield, Ill.—C. P., **1290 kc.**, 500 watts, 1 KW LS, unlimited time. (DA-night). Present assignment: **1420 kc.**, 100 watts, 250 watts LS, unlimited time.
- NEW—Yetta G. Samford, C. S. Shealy, Thomas D. Samford, Jr., J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

- NEW—Tom M. Bryan, Ft. Lauderdale, Fla.—Granted C. P. for a new broadcast station, to operate on **1370 kc.**, 100 watts night, 250 watts day, unlimited time.
- NEW—W. B. Dennis, Plainview, Texas.—Granted C. P. for a new broadcast station to operate on **1200 kc.**, 100 watts, daytime only.
- NEW—W. G. H. Finch, New York City.—Granted license for new high frequency broadcast station to use the equipment now licensed for Development Broadcast Station W2XBF, to operate on frequency **42180 kc.**, experiment conditionally; 1 KW.
- WIBC—Glenn Van Auken, Indianapolis, Ind.—Granted consent to transfer control of Indiana Broadcasting Corp. (WIBC), to H. G. Wall. (Station operates on **1050 kc.**, 1 KW, daytime only.)
- WGN—WGN, Inc., Chicago, Ill.—Granted extension of special authority for transmission of facsimile signals over the regular broadcast transmitter of WGN during the experimental period between 1 and 6 a. m., CST, from August 1, 1939, to February 1, 1940.
- WHO—Central Broadcasting Co., Des Moines, Ia.—Same except transmitter of WHO, and from 12 midnight to 5 a. m., CST.

- WSM—The National Life and Accident Insurance Co., Nashville, Tenn.—Same except transmitter of WSM.
- WLW—The Crosley Corp., Cincinnati, Ohio.—Same except transmitter WLW.
- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Same except transmitter of WOR, and from 1 to 6 a. m., EST.
- WPTF—WPTF Radio Company, Raleigh, N. C.—Granted extension of special experimental authority to operate with 5 KW from sunset at KPO to 11 p. m., EST, using DA after sunset, for the period August 1, 1939 to February 1, 1940.
- KWOC—Don M. Didenton and A. L. McCarthy, Poplar Bluff, Mo.—Granted voluntary assignment of license from Don M. Didenton and A. L. McCarthy to A. L. McCarthy, O. A. Tedrick and J. H. Wolpers, d/b as Radio Station KWOC.
- NEW—Head of the Lakes Broadcasting Co., Superior, Wis.—Granted C. P. for new high frequency broadcast station; frequency **26300 kc.** on an experimental basis only, conditionally; 1 KW.
- KANS—Charles C. Theis, Wichita, Kans.—Granted authority to transfer control of corporation (The Kansas Broadcasting Co., licensee of station KANS), from Charles C. Theis to stockholders (To Herb Hollister).
- NEW—Don Lee Broadcasting System, Los Angeles, Cal.—Granted C. P. for new portable-mobile television relay station on an experimental basis, to operate on frequencies **156000-162000 kc.**; 100 watts.
- WSPR—Connecticut Valley Broadcasting Company, Springfield, Mass.—Granted assignment of license to WSPR, Inc., **1140 kc.**, 500 watts night and day, limited time.
- WGRM—Ben Farmer, Wilson, N. C.—Granted transfer of control of WGTM, Inc., licensee of station WGTM, to H. W. Wilson, Charlotte L. Burns and George C. McDonald.
- WFBM—Indianapolis Power & Light Co., Indianapolis, Ind.—Granted voluntary assignment of license to WFBM, Inc.
- WNEI—Indianapolis Power & Light Co., Portable-Mobile (Area of Marion County, Ind.)—Same for relay station.
- WIPM—Indianapolis Power & Light Co., Portable-Mobile (area of Marion County, Ind.)—Same for relay station.
- WILP—Indianapolis Power & Light Co., (area of Indianapolis, Ind.)—Same for relay station.
- W9XXM-W9XXZ—Indianapolis Power & Light Co. (area of Indianapolis, Ind.)—Same for relay station.
- WNEI—Indianapolis Power & Light Co. (Portable-Mobile, area of Marion County, Ind.)—Granted voluntary assignment of C. P. for relay broadcast station to WFBM, Inc.
- NEW—WSPB, Inc., Sarasota, Fla.—Granted C. P. for new station in Sarasota, Fla., to operate on **1420 kc.**, 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- WAPI—Alabama Polytechnic Institute, University of Alabama, Etc., Birmingham, Ala.—Granted renewal of license for the period August 1, 1939, to February 1, 1940.
- WWL—Loyola University, New Orleans, La.—Granted extension of special experimental authority to operate unlimited time, using DA day and night, for the period August 1, 1939, to February 1, 1940.
- KWKH—International Broadcasting Corp., Shreveport, La.—Granted extension of special experimental authorization to operate on **1100 kc.**, with 10 KW power, unlimited time, employing DA for nighttime operation, for the period August 1, 1939, to February 1, 1940.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special experimental authority to operate synchronously with KFAB from local sunset at Lincoln, Nebr., to midnight, for the period August 1, 1939, to February 1, 1940.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Granted extension of special experimental authority to operate synchronously with WBBM from local sunset at Lincoln, Nebr., to midnight, for the period August 1, 1939, to February 1, 1940.
- NEW—Frank R. Pidcock, Sr., Moultrie, Ga.—Granted C. P. for new station to operate on **1370 kc.**, 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites to be determined with Commission's approval.
- KIRO—Queen City Broadcasting Co., Seattle, Wash.—Granted extension of special experimental authority to operate on frequency **710 kc.**, with 1 KW, unlimited time, for the period August 1, 1939, to February 1, 1940.

DESIGNATED FOR HEARING

The following applications have been designated for hearing by the Commission. Dates for hearing have not yet been set.

- NEW**—Hazlewood, Inc., Orlando, Fla.—Application for C. P. to erect a new station to operate on 1390 kc., 1 KW day and night, unlimited time.
- WNYC**—City of New York, Municipal Broadcasting System, New York City.—Application for modification of license to increase time of operation from daytime-WCCO to S.H. 6 a. m. to 11 p. m., EST. (To be heard before the Commission.) Application designated for hearing as the request violates Rules 116 and 117, and would cause interference to existing stations.
- NEW**—Harold Thomas, Bridgeport, Conn.—Application for C. P. for new station to operate on 1310 kc., with 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- WNBX**—Twin State Broadcasting Corp., Springfield, Vt.—Application for C. P. to move station approximately 27 miles to Keene, N. H., install DA system for day and nighttime operation, and operate with 1 KW night and day employing DA system for both day and night. Exact studio site to be determined with Commission's approval. (Application designated for hearing to determine if interference might result.)
- KWK**—Thomas Patrick, Inc., St. Louis, Mo.—Application for C. P. to make changes in equipment, install DA system for nighttime operation, and change frequency from 1350 kc. to 630 kc. (Application designated for hearing to determine the question of interference, and pending applications involve increase in service.)
- NEW**—George Penn Foster, Maxwell Kelch and Clavert Charles Applegate, d/b as Nevada Broadcasting Co., Las Vegas, Nev.—Application for C. P. for new station to operate on 1370 kc., 100 watts night, 250 watts day, unlimited time.
- NEW**—Las Vegas Broadcasting Co., Inc., Las Vegas, Nev.—Application for new station to operate on 1420 kc., 100 watts night, 250 watts day, unlimited time.
- NEW**—Radio Voice of Springfield, Inc., Springfield, Ohio.—Application for C. P. for new station to operate on 1310 kc., 100 watts, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval.
- WRUF**—University of Florida, Gainesville, Fla.—Application for C. P. to move transmitter and studio sites locally; make changes in equipment; install DA system; and increase power and time of operation from 5 KW, limited, to 5 KW night, 10 KW day, unlimited, DA system after sunset at Denver. (Application to be heard before the Commission, and designated for hearing because request violates Rule 116.)
- KMAC**—W. W. McAllister and Howard W. Davis, d/b as Walmac Co., San Antonio, Tex.—Application already in docket amended so as to request C. P. to move transmitter site from 319 Ave. A., San Antonio, to site to be determined in San Antonio, subject to Commission's approval; changes in equipment and installation of antenna system; change in frequency from 1370 kc. to 930 kc., and power from 100 watts night, 250 watts day, S-KONO, to 1 KW day and night, unlimited time. (Application designated for hearing to determine question of interference, and pending applications involve increase in service.)
- WINS**—Hearst Radio, Inc., New York City.—Application for voluntary assignment of license from Hearst Radio, Inc., to Metropolitan Broadcasting Corp. (station operates on 1180 kc., 1 KW, limited time). Application designated for hearing to determine relationship between proposed owner and the owner of other stations in the New York area.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period ending February 1, 1940:

- KDKA and Alternate, Pittsburgh, Pa.; KFBI, Abilene, Kans.; KFEQ, St. Joseph, Mo.; KGDM, Stockton, Cal.; KGO and auxiliary, San Francisco; KJBS, San Francisco; KJR and auxiliary, Seattle; KMMJ, Grand Island, Neb.; KNX, Los Angeles; KRLD, Dallas, Texas; KSL, Salt Lake City; KSOO, Sioux Falls, S. Dak.; KTKC, Visalia, Cal.; KVOO, Tulsa, Okla.; KWKH, Shreveport, La.; KXA, Seattle; KYQ, Philadelphia, Pa.; WABC-WBOQ, New York City; WBAL, Baltimore, Md.; WBAP, Fort Worth, Texas;

- WBZ, Boston, Mass.; WBZA, Boston; WCAL, Northfield, Minn.; WCBF, Chicago; WCCO, Minneapolis; WDCY, Minneapolis; WDZ, Tuscola, Ill.; WEF and auxiliary, New York City; WEAU, Eau Claire, Wis.; WEEU, Reading, Pa.; WENR, Chicago; WEW, St. Louis, Mo.; WFAA, Dallas, Tex.; WGAN, Portland, Maine; WGN, Chicago, Ill.; WHAM and auxiliary, Rochester, N. Y.; WHB, Kansas City, Mo.; WHDH and auxiliary, Boston; WHEB, Portsmouth, N. H.; WHO, Des Moines, Ia.; WIBG, Glenside, Pa.; WINS, New York City; WJJD, Chicago; WJR and auxiliary, Detroit, Mich.; WJZ and auxiliary, New York City; WLAW, Lawrence, Mass.; WLB, Minneapolis; WLS, Chicago; WLW, Cincinnati, Ohio; WMAZ and auxiliary, Macon, Ga.; WMBI, Chicago; WNYC and auxiliary, New York City; WOAI and auxiliary, San Antonio, Texas; WOI, Ames, Iowa; WOR and auxiliary, Newark, N. J.; WOWO, Fort Wayne, Ind.; WPTF and auxiliary, Raleigh, N. C.; WSB and auxiliary, Atlanta, Ga.; WSM and auxiliary, Nashville, Tenn.; WTAM, Cleveland, Ohio; WTBO, Cumberland, Md.; WTIC, Hartford, Conn.; WWL, New Orleans, La.; WWVA and auxiliary, Wheeling, W. Va.
- W2XQQ**—Knickerbocker Broadcasting Co., Inc., Flushing, N. Y.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1940.

MISCELLANEOUS

- WWRI**—Long Island Broadcasting Corp., Woodside, N. Y.—Adopted an order extending the effective date of Provision (3) of the Commission's Order of December 5, 1938, 90 days from July 4, 1939.
- WTAG**—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Granted petition to intervene on the issues as stated by the Commission in notice of designation in the hearing on the application of C. T. Sherer Co., Inc., for a new station in Worcester, Mass., to operate on 1200 kc., 100 watts night, 250 watts LS, unlimited time.
- WRBL**—Columbus Broadcasting Co., Inc., Columbus, Ga.—Granted petition to intervene on the issues as stated by the Commission in notice of designation in the hearing on the application of Yetta G. Samford, C. S. Shealy, Thomas D. Samford, Jr., J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala., for a new station to operate on 1370 kc., 100 watts night, 250 watts LS, unlimited.
- WCOV**—John S. Allen and G. W. Covington, Jr., Montgomery, Ala.—Granted applicant's petition for leave to amend application by a change in name to Capital Broadcasting Co., Inc., in re application for modification of license to change hours of operation from daytime to unlimited, using 1210 kc., 100 watts.
- KNEL**—G. L. Burns, Brady, Tex.—Granted applicant's motion to postpone hearing scheduled for July 11 on application for modification of license to change hours of operation from daytime to unlimited, using 1500 kc., 100 watts night, 250 watts LS, new date to be fixed by Secretary's office.
- KQV**—KQV Broadcasting Co., Pittsburgh, Pa.—Granted applicant's petition for continuance of hearing from July 12 to July 15.
- KRLH**—Clarence Scharbauer, Midland, Texas—Granted applicant's motion for leave to amend application to eliminate request for increased daytime power; hearing scheduled for July 14 cancelled, new date to be fixed by Secretary's office.
- WEAF**—National Broadcasting Co., Inc., New York, N. Y.—Granted authority to move transmitter site from Bellmore, N. Y., to Port Washington, N. Y., and install vertical radiator in accordance with specifications for marking of the vertical radiator.
- WBBM**—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special temporary authority to operate auxiliary transmitter of Radio Station WENR at Downers Grove, for the period July 14 to August 12, 1939, until new antenna can be put up at WBBM's location.
- W8XUJ, W8XNU**—The Crosley Corporation, Cincinnati, Ohio—Granted extension of special temporary authority to use facsimile broadcast (experimental) Station W8XUJ and high frequency station W8XNU at Carew Tower for period July 9 to Aug. 7, 1939, in order to complete radiation tests to determine whether or not shielding is needed in television rooms and also to make survey of Station W8XNU to determine coverage of this frequency from Carew Tower location.
- WCKY**—L. B. Wilson, Inc., Covington, Ky.—Granted special temporary authority to operate with directional antenna, 50 KW power, from 6 a. m. to one hour before sunset, for period not to exceed ten days, in order to make proof of performance

- measurements in accordance with C. P. granted November 28, 1938.
- WAID**—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted special temporary authority to use equipment described in application with 20 watts power on **2830 kc.** from 10 a. m. to 7 p. m., EST, for a period July 12 to July 15, 1939, in order to broadcast Junior Amateur Golf Tournament.
- WHMA**—Harry M. Ayers, Anniston, Ala.—Granted special temporary authority to operate from local sunset (July, 7 p. m., CST) to the conclusion of "All Star" baseball game to be played on July 8, using 50 watts only.
- WCFL**—Chicago Federation of Labor, Chicago, Ill.—Granted special temporary authority to rebroadcast the transmissions from Naval Reserve Plane J2F3 #1572, from 10 p. m. to 11 p. m., CDST, on July 9, operating on frequency **6690 kc.**
- WPRA**—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 9 to 11 a. m. and from 2 to 6 p. m., AST, on July 9, 16, 23, 30, in order to broadcast baseball games; to operate from 9 to 11 a. m. and from 2 to 6 p. m., July 25, and from 10 p. m. to 1 a. m., July 26, in order to broadcast activities pertaining to arrival of American forces to Puerto Rico in 1898.
- WJJD**—WJJD Incorporated, Chicago, Ill.—Granted extension of special temporary authority to operate from 5 a. m. to 6 a. m., CST for the period 3 a. m., EST August 1, to Sept. 23, 1939, in order to conform with the adoption of daylight saving time in Chicago; granted on a temporary basis only and is subject to revocation by Commission without prior notice or hearing.
- KWJJ**—KWJJ Broadcast Co., Inc., Portland, Oregon—Granted extension of special temporary authority to operate on **1040 kc.**, limited time, and resume operation from 9 p. m. to 3 a. m., PST, for period 3 a. m., EST, August 1, to 3 a. m., EST, February 1, 1940.
- WGTM**—WGTM, Incorporated, Wilson, North Carolina—Granted special temporary authority to operate from local sunset (July 7:30 p. m. EST) to 12 midnight on July 18, 19, and 20, 1939, in order to broadcast the Third annual North Carolina Tobacco Exposition and Festival.
- WIXOK**—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to operate relay broadcast experimental station **W1XOK** on **133,030, 134,850, 136,810, 138,630 kc.**, power 250 watts, in accordance with Sec. 40.04, in order to carry out the program of experimentation outlined in the application for C. P. granted January 24, 1939, for the period July 12, 1939, to August 10, 1939.
- WPRA**—Puerto Rico Advertising Co., Inc., Mayaguez, Puerto Rico—Granted special temporary authority to operate from 9:00 a. m. to 11:00 a. m. and from 2:00 p. m. to 6:00 p. m. and from 10:00 p. m. to 1:00 a. m. AST, for the period July 15, 1939, to July 23, 1939, in order to broadcast inaugural ceremonies of new studios.
- National Broadcasting Co., Inc., New York, N. Y.**—Granted extension of special temporary authority to operate experimental relay broadcast stations **W2XF, W2XK, W3XEK, W3XPO, W3XPP, W6XDE, W6XDG, W8XUE, W8XB, W9XAP, W9XDV, W9XDW, W9XXD, W9XXC, W10XAH, W10XAI, W10XAK, W10XAM, W10XAN, W10XAP, W10XAX, W10XCG, W10XCH, W10XDX, W10XDY, W10XDZ, W10XEA, W10XEB, W10XED, W10XFQ, W10XFR, W10XGC, W10XN, W10XV, and W10XY**, on the frequencies **31.22 and 37.02 mc.** in lieu of present assignments **31.1 and 37.6 mc.**, for the period July 19 to 3 a. m., EST, August 1, 1939, pending adjustment of relay broadcast frequency assignments above **30 mc.** as contemplated by General Order No. 19.
- W2XDG**—National Broadcasting Co., Inc., New York, N. Y.—Granted extension of special temporary authority to operate high frequency broadcast station **W2XDG** on the frequency **38.65 mc.**, pending effective date of new frequency allocation, for the period July 18 to 3 a. m., EST, August 1, 1939.
- W1XOJ**—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to test high frequency broadcast equipment of Station **W1XOJ** authorized by modification of C. P. on frequency **43000 kc.**, power not to exceed 2000 watts, for period July 19 to August 17, in order to make necessary adjustments on equipment installed and for tuning and adjustments of antenna elements now assembled for erection atop 400-foot mast.
- WORC**—Alfred Frank Kleindienst, Worcester, Mass.—Granted extension of special temporary authority to operate WORC new directional antenna as authorized in B1-P-2270 during daylight hours for period July 11 to July 17, 1939, in order to facilitate equipment tests for proof of performance measurements.
- W9XAI**—The Journal Company (The Milwaukee Journal), Portable-Mobile area of Milwaukee, Wis.—Granted application for C. P. for changes in equipment of high frequency relay broadcast station **W9XAI** and decrease in power from 50 watts to 25 watts, and to use certain frequencies listed under Group D of Section 41.03; frequencies **30820, 33740, 35820 and 37980 kc.**; granted conditionally.
- W10XGC**—National Broadcasting Co., Inc., Portable Mobile (Area of New York, N. Y.)—Granted application for C. P. for changes in equipment, decrease in power from 30 watts to 25 watts, and addition of A1 and A2 emission; frequencies **31220, 35620, 37020 and 39260 kc.**; granted conditionally.
- W9XC**—Central Broadcasting Co., Davenport, Iowa—Granted modification of C. P. for extension of completion date for construction from June 18, 1939, to September 18, 1939.
- WFMJ**—William F. Maag, Jr., Youngstown, Ohio—Granted modification of C. P. for extension of completion date from July 28, 1939, to Sept. 27, 1939.
- WING**—WSMK, Incorporated, Dayton, Ohio—Granted modification of C. P. to extend completion date for construction from July 1 to August 1, 1939.
- WBTH**—Williamson Broadcasting Corp., Williamson, W. Va.—Granted application for license to cover C. P.; frequency **1370 kc.**, power 100 watts, daytime only.
- KSL**—Radio Service Corp. of Utah, Salt Lake City, Utah—Granted application for C. P. to install a new transmitter at its present transmitter location; frequency **1130 kc.**, power 50 KW, unlimited time.
- WCOU**—Twin City Broadcasting Co., Inc., Lewiston, Maine.—Granted petition to reconsider and grant without a hearing the application for C. P. to increase daytime power of the station from 100 watts to 250 watts. This application was designated for hearing on January 20, 1939.
- KOCA**—Oil Capital Broadcasting Association, Kilgore, Tex.—Denied petition for rehearing in re application of **KFRO**, Voice of Longview, Longview, Tex., for C. P. to authorize change in frequency from **1370 kc. to 1340 kc.**, power and hours of operation from 250 watts, daytime only, to 1 KW, unlimited time, employing DA at night; change transmitter site and install new transmitter, which was granted by the Commission on May 31, 1939.
- NEW**—North Shore Broadcasting Company, Salem, Mass.—Granted petition to reconsider and grant application for a new station without a hearing, to operate on **1200 kc.**, with 100 watts, unlimited time.
- WKBO**—The Telegraph Press, Inc., Harrisburg, Pa.—Reconsidered and granted without hearing the application for consent to transfer control of Keystone Broadcasting Corp., licensee of broadcast station **WKBO**, from the Telegraph Press, Inc., to J. H. Steinman and John F. Steinman.
- WWNC**—Asheville Citizen-Times Co., Asheville, N. C.—Denied petition for rehearing in re application of **WOSU**, Columbus, Ohio, for modification of license to increase power at night from 750 watts to 1 KW, on frequency **570 kc.**, with specified hours.
- WSYR**—Central New York Broadcasting Corp., Syracuse, N. Y.—Denied petition for reconsideration of **WOSU** application referred to above.
- World Wide Broadcasting Corp., Boston, Mass.**—Denied petition requesting continuance of hearing now scheduled for July 14, in re Section 42.03(a), the rules in re international stations.
- KOVC**—KOVC, Inc., Valley City, N. Dak.—Denied petition of **KOVC** to dismiss without prejudice the application for C. P. heretofore set for hearing, and denied application for change in frequency and increase in power.
- KFH**—Radio Station **KFH** Co., Wichita, Kans.—Denied petitions of **KFH** and **KANS** for rehearing in re application of **KFBI** to move station from Abilene to Wichita, Kans., which was granted by the Commission on May 23, 1939.
- NEW**—Nebraska Broadcasting Co., Hastings, Nebr.—Granted C. P. for new station to operate on **1200 kc.**, 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites to be determined with Commission's approval.
- W9XDV**—National Broadcasting Co., Inc., Portable-Mobile (area of Denver, Colo.)—Granted application for C. P. to make

APPLICATIONS FILED AT FCC

570 Kilocycles

changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W10XAI—National Broadcasting Co., Inc., Portable-Mobile (area of New York).—Granted application for C. P. to make changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W9XAK—National Broadcasting Co., Inc., Portable-Mobile (area of Chicago, Ill.).—Granted application for C. P. to make changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W10XAX—National Broadcasting Co., Inc., Portable-Mobile (area of Cleveland, Ohio).—Granted application for C. P. to make changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W10XCG—National Broadcasting Co., Inc., Portable-Mobile (area of Cleveland, Ohio).—Granted application for C. P. to make changes in equipment and increase power from 25 watts to 50 watts; granted conditionally.

W10XDX—National Broadcasting Co., Inc., Portable-Mobile (area of New York, N. Y.).—Granted application for C. P. to make changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W10XDY—National Broadcasting Co., Inc., Portable-Mobile (area of Washington, D. C.).—Granted application for C. P. to make changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W10XDZ—National Broadcasting Co., Inc., Portable-Mobile (area of Washington, D. C.).—Granted application for C. P. to make changes in equipment and increase power from 1 watt to 2 watts; granted conditionally.

W10XEA—National Broadcasting Co., Inc., Portable-Mobile (West Coast Area).—Same as above, except add to P.A.: 120000, 240000, 300000 and 330000, and except WPO, West Coast Area.

W10XEB—National Broadcasting Co., Inc., Portable-Mobile (West Coast Area).—Same as above, except add to P.A.: 120000, 240000, 300000 and 330000, and except WPO, West Coast Area.

KBTA—Red River Broadcasting Co., Inc., Portable-Mobile (area of Duluth, Minn.).—Granted license to cover C. P. for new relay broadcast station, frequencies 1606, 2022, 2102 and 2758 kc., power 10 watts.

W9XTZ—Eugene P. O'Fallon, Portable-Mobile (area of Denver, Colo.).—Granted application for license to cover C. P. for new high frequency relay broadcast station to use frequencies listed under Group F of Section 41.03, power 0.8 watt, unlimited, under Sections 40.04 and 41.04, and to communicate as a relay broadcast station under Sections 41.01, 41.02(c), 41.03(b), and 41.05(b) to relay programs to applicant's broadcast station KFEL, Denver, Colo., where wire facilities are not available; granted conditionally.

NEW—South Nebraska Broadcasting Co., Hastings, Nebr.—Denied as in cases of default the application of South Nebraska Broadcasting Co. for a new station to operate on 920 kc., with 1 KW night, 5 KW day, unlimited time, because applicant failed to appear or present any evidence in support of its application.

NEW—Presque Isle Broadcasting Co., Erie, Pa.—Designated for further hearing to determine the citizenship of each of the officers, directors and stockholders of the applicant corporation.

KUMA—Albert H. Schermann, Flagstaff, Ariz.—Continued hearing now scheduled for July 24 to September 25, on the Order of Revocation of License of station KUMA.

KFJB—Marshall Electric Co., Marshalltown, Iowa.—Authorized Secretary's office to issue a corrected license to station KFJB changing the name from Marshall Electric Co., Inc., to Marshall Electric Company, inasmuch as the articles of incorporation filed with the Commission on April 18, 1932 show the company was incorporated in the name of Marshall Electric Co., although applications have been inadvertently filed in name of Marshall Electric Co., Inc.

The Commission announced it had granted a petition to reconsider its decision of April 10, in which the application of Radio Enterprises, Inc., Victoria, Texas, for a new station to operate on frequency 1310 kc., with power of 100 watts night, 250 watts day, unlimited time, was denied.

The Commission set aside and cancelled the order of April 10, and GRANTED the application of Radio Enterprises, Inc., for a new station at Victoria, Texas, to use the above-described facilities.

WMCA—Knickerbocker Broadcasting Co., Inc., New York, N. Y.—Authority to install automatic frequency control apparatus on auxiliary transmitter.

580 Kilocycles

WTAG—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Construction permit to install new transmitter, make changes in directional antenna system, for use both day and night, increase power from 1 KW to 1 KW night, 5 KW day.

620 Kilocycles

WFLA—Florida West Coast Broadcasting Co., Inc., Tampa, Fla.—Modified license to increase power from 1 KW night, 5 KW day to 5 KW day and night.

680 Kilocycles

NEW—Lakeland Broadcasting Co., Willmar, Minn.—Construction permit for new station on 680 kc., 250 watts, limited time. Amended: to request daytime hours of operation.

700 Kilocycles

WLW—The Crosley Corp., Cincinnati, Ohio.—License to cover C. P. (B-2-P-2397) for equipment changes.

850 Kilocycles

KWKH—International Broadcasting Corp., Shreveport, La.—Extension of modification of special authority to operate on 50 KW power, unlimited time on 1100 kc., period ending 2-1-40 (using directional antenna at night).

1040 Kilocycles

KRLD—KRLD Radio Corp., Dallas, Texas.—License to cover C. P. (B3-P-2080) as modified, for new transmitter, directional antenna for day and night use, and increase power.

KTHS—Hot Springs Chamber of Commerce, Hot Springs, Ark.—Extension of special experimental authority to operate on 1060 kc., simultaneously with WBAL from 6 a. m. to local sunset, daily, suspend until 8 p. m. and unlimited from then until midnight, period ending 2-1-40. Amended: hours of operation.

KRLD—KRLD Radio Corp., Dallas, Texas.—Extension of special experimental authority to operate simultaneously with WTIC, unlimited time for period ending 2-1-40.

KRLD—KRLD Radio Corp., Dallas, Texas.—Authority to determine operating power by direct measurement of antenna power.

1080 Kilocycles

WMBI—The Moody Bible Institute Radio Station, Chicago, Ill.—Voluntary assignment of license from The Moody Bible Institute Radio Station to The Moody Bible Institute of Chicago.

1210 Kilocycles

WSBC—WSBC, Inc., Chicago, Ill.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.

WSOC—WSOC, Inc., Charlotte, N. C.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

WJLS—Joe L. Smith, Jr., Beckley, W. Va.—Modification of license to increase power from 100 watts night; 250 watts day, to 250 watts day and night.

WCOV—Capital Broadcasting Co., Inc., Montgomery, Ala.—Modified license to change hours from daytime to unlimited time, using 100 watts power. Amended: to change name from John S. Allen & G. W. Covington, Jr.

WHAI—John W. Haigis, Greenfield, Mass.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

1260 Kilocycles

WFVA—Fredericksburg Broadcasting Corp., Fredericksburg, Va.—Modification of C. P. (B2-P-2105) for a new station re-

questing equipment changes, approval of antenna, and approval of transmitter site at Leonard Road and 2nd St., near Fredericksburg, Va., and studio site at 528 Wolfe St., Fredericksburg, Va. Amended: omit request for equipment changes.

1270 Kilocycles

WJDX—Lamar Life Insurance Co., Jackson, Miss.—Modified license to increase power from 1 KW night, 5 KW day to 5 KW day and night.

1310 Kilocycles

WCLS—WCLS, Inc., Joliet, Ill.—Construction permit to make changes in transmitting equipment, changes in antenna, move studio and transmitter. Amended: re move of transmitter, same address.

WEMP—Milwaukee Broadcasting Co., Milwaukee, Wis.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Modification of license to increase power from 100 watts; 250 watts day to 250 watts day and night.

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Construction permit to install new transmitter and directional antenna for night use; increase power from 100 watts, 250 watts day, to 500 watts, 1 KW day; change frequency from 1310 kc. to 620 kc.; and change transmitter site from 201 Randolph St., Knoxville, Tenn., to Holston Hills Road, near Knoxville, Tenn.

WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

WLBC—Donald A. Burton, Muncie, Ind.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1370 Kilocycles

WISE—Asheville Daily News, Harold H. Thoms, Owner, Asheville, N. C.—Modification of C. P. (B3-P-1066) for a new station, requesting equipment changes, approval of antenna and approval of studio and transmitter site at 179 S. French Broad, Asheville, N. C. Amended: Give transmitter and studio site as Broadway and College, Asheville, N. C., and make changes in antenna.

WBLK—The Exponent Co., Clarksburg, W. Va.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

1420 Kilocycles

WACO—Frontier Broadcasting Co., Inc., Waco, Texas—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

WCBS—WCBS, Inc., Springfield, Ill.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

KVAK—Carl Latenser, Atchison, Kan.—Modified construction permit (B4-P-1846) as modified for new station requesting extension of completion date from 7-28-39 to 9-28-39.

1430 Kilocycles

WOKO—WOKO, Inc., Albany, N. Y.—Special Experimental authority to operate a facsimile station from 2 to 5 a. m., for regular license period ending 11-1-39.

1500 Kilocycles

KNOW—Frontier Broadcasting Co., Inc., Austin, Texas—Construction permit to install new transmitter, make changes in antenna, increase power from 100 watts to 100 watts; 250 watts day, and move transmitter from 114 West Seventh St., Austin, Texas, to site to be determined, Austin, Texas.

KRRN—News-Review Co., Roseburg, Ore.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

MISCELLANEOUS

NEW—The Journal Company (The Milwaukee Journal), Milwaukee, Wis.—Construction permit for new high frequency broadcast station on 42600 kc., 5 KW power, Special emis-

sion, to be located at 606 West Wisconsin Ave., Milwaukee, Wis.

WAIG—WGN, Incorporated, area of Chicago, Ill.—License to cover C. P. (B4-PRE-258) for new relay broadcast station.

WAIF—WGN, Incorporated, area of Chicago, Ill.—License to cover C. P. (B4-PRE-259) for new relay broadcast station.

W9XJM—WCBS, Incorporated, Portable-Mobile—Construction permit for changes in equipment, increase power from 2 to 10 watts, specify frequencies 31220, 35620, 37020, 39260 kc., in accordance with new rules.

WAIH—WGN, Incorporated, area of Chicago, Ill.—License to cover C. P. (B4-PRY-179) for new relay broadcast station.

W9XAZ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Modification of C. P. for move from 509 W. Wisconsin Ave., to 606 West Wisconsin Ave., and specify frequency 42260 kc., antenna changes, and extend commencement and completion dates from 5-13-39 and 11-13-39 to 30 days after grant and 90 days thereafter.

NEW—The Travelers Broadcasting Service Corporation, Avon, Conn.—Construction permit for a new Television Broadcast station on frequencies 84000-90000 kc., 1 KW power, A-3 and A-5 emission, to be located at Avon, Conn.

NEW—WOKO, Incorporated, Albany, N. Y.—Construction permit for a new facsimile station on 25050 kc., 500 watts power, A-3 and A-4 emission, to be located near Central Ave. and Tremont St., Albany, N. Y.

W2XQR—John V. L. Hogan, New York, N. Y.—Modification of construction permit specifying transmitter site at Alpine, New Jersey.

NEW—Worcester Telegram Publishing Co., Inc., Holden, Mass.—Construction permit for a new high frequency broadcast station on 43400 kc., 1 KW power, to be located at Shrewsbury St., Holden, Mass.

W8XRZ—WJR, The Goodwill Station, Portable-Mobile, Detroit, and Vicinity—Construction permit to change frequency operating assignment of Station W8XRZ from 31100, 34600, 37600, 40600 kc., to 1646, 2090, 2190, 2830 kc., and make equipment changes.

NEW—Edwin H. Armstrong, Portable-Mobile—Construction permit for new special relay broadcast station to be used with high frequency broadcast station W2XMN on frequencies 133030, 134850, 136810, 138630 kc., 50 watts, Emission Special for frequency modulation.

W9XEG—Martin R. O'Brien, Portable-Mobile—License to cover construction permit (B4-PRE-227) for new relay broadcast station. Amended to specify frequencies 30820, 33740, 35820, 37980 kc., in accordance with new rules.

WAHF—WTAR Radio Corp., Portable-Mobile—License to cover construction permit (B2-PRY-137) for new relay station.

W5XGO—Beaumont Broadcasting Assn., Portable-Mobile—Voluntary assignment of license to KRIC, Inc.

KDAC—George Harm, Portable-Mobile—License to cover construction permit (B5-PRY-167) for new relay broadcast station.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

American Oil Company—A complaint has been issued against American Oil Company, Baltimore, and General Finance, Inc., Washington, D. C., alleging price discrimination in the sale of gasoline, in violation of the Robinson-Patman Act.

General Finance, Inc., is engaged, among other things, in the selling and financing of taxicabs, and also leases and operates two gasoline stations in Washington.

CEASE AND DESIST ORDERS

Five taxicab companies of Washington and Baltimore, whose policies and activities were controlled by General Finance, Inc., or by its officers, Herbert Glassman and Edward C. Ostrow, are alleged in the complaint to have entered into a contract with American Oil Company providing for the purchase of "Amoco" and "American Gas," at a price of $5\frac{7}{8}$ cents per gallon below the current posted retail service station price, and $1\frac{5}{8}$ cents to $2\frac{3}{8}$ cents lower than the posted tank wagon prices charged by American Oil Company for Amoco and American Gas sold by it to other retail gasoline station operators in the District of Columbia. During the years 1937, 1938 and 1939 American Oil Company is alleged to have sold to General Finance, Inc., more than 100,000 gallons of gasoline monthly, at the prices fixed in the contract, which gasoline was resold at retail by General Finance, Inc., at its gasoline stations in Washington to taxicab operators and the public.

The complaint alleges that although the contract provides that the products purchased under it are "for buyer's own consumption only and not for resale, in whole or in part, to buyer's employees or any other person," the gasoline purchased by General Finance has been resold by it at retail to taxicab operators and to the public generally. The fact of such resale, the complaint alleges, has at all times been well known to the American Oil Company.

By selling its gasoline at the prices stated, which are substantially lower than prices charged by it to other retail dealers in the District of Columbia, American Oil Company is charged with discriminating in price, and receipt of such discrimination in price was knowingly induced and received by General Finance, Inc. (3843)

General Finance, Inc.—See American Oil Company.

Simmons Company—A complaint has been issued charging the Simmons Company, New York, manufacturer of metal beds, mattresses and allied products, with unlawful price discriminations in violation of the Robinson-Patman Act.

Discounts allegedly were granted certain purchasers under a sliding scale plan based on purchases during the calendar year, and operating as follows: No discount on purchases of less than \$50,000; 3 per cent discount on purchases of \$50,000; $3\frac{1}{2}$ per cent on purchases of \$75,000; 4 per cent on purchases of \$100,000; $4\frac{1}{2}$ per cent on purchases of \$150,000, and 5 per cent on purchases of \$200,000 and more.

The complaint charges that the respondent's discount plan discriminated against individual purchasers of less than \$50,000 worth of merchandise in a year and in favor of those competing individual customers purchasing more than that amount and that there were few of the latter class. However, it is alleged, the Simmons Company sold its product to large central organizations or syndicate members and granted the discounts on the basis of aggregate purchases of the entire organizations even though some of their individual retail stores or units often made aggregate yearly purchases which were no larger and in many cases smaller than the yearly purchases of many unaffiliated individual customers. In many instances, it is alleged, the individual customers were in direct competition with unit stores of the central organizations, or with member stores of the syndicates. (3840)

Usona Shirt Company—False representations in the sale of textile fabrics is alleged in a complaint issued against Usona Shirt Company, 230 Fifth Ave., New York.

The respondent is alleged to label certain of its products as being "shrunk," "pre-shrunk," or "full shrunk," when in fact they were not made of shrink-proof, non-shrinkable cloth, but from cloth which had not been fully shrunk to the extent that no residual shrinkage remained. (3842)

Williams & Wilkins Company—Price discrimination in the sale of books in violation of the Robinson-Patman Act is charged in a complaint against The William and Wilkins Company, Mt. Royal and Guilford Avenues, Baltimore, publishers and distributors of medical and other scientific books.

The complaint charges the respondent company with discriminating in price between different purchasers buying the same books for resale to retail dealers by granting price discounts ranging from 20 per cent to 35 per cent. It is alleged that the effect of such discriminatory discounts enables some purchasers to buy the same books at lower prices than competing purchasers. (3844)

The Commission has issued the following cease and desist orders:

Shaw and Davis, Inc., Abner Shaw, and Janet Shaw, 20 West 47th St., New York, have been ordered to discontinue misleading practices in the sale of jewelry, leather goods and related items to the consuming public.

By misrepresenting themselves as "wholesalers" and by publishing "list prices" in their catalogs, the respondents were found to have misled the public into buying their merchandise under the belief that they were securing the goods at retail dealer prices. The so-called "list prices" were found not to be "list prices" but figures that will, when reduced by a specified discount, show the prices of respondents' articles as offered for sale to consumers.

The respondents were ordered, in reference to sales to the purchasing public other than the retail trade, to cease representing themselves as "Wholesalers" or "Wholesale Jewelers," and to cease using the terms "list prices" or "discount" or representing that the price at which they offer their products for sale, constitutes a discount to the purchaser, or is a wholesale price, when such price is the one at which they normally sell their products in the usual course of business. (3635)

Silver Manufacturing Company—James I. Silver, trading as Silver Manufacturing Company, Silver Sales Company, and World-Wide Radio Company, 2868 Elston Ave., Chicago, has been ordered to discontinue misleading representations and lottery methods in selling radios, fountain pens and other novelty merchandise.

Radios were found to have been represented in a fashion tending to deceive buyers into believing they were R.C.A. sets, when in truth only tubes or other parts had been made by a manufacturer operating under a limited R.C.A. license.

It was also found that the respondent advertised to the effect that his agents could obtain radio sets from the respondent at factory prices and save up to 50 per cent, when in fact the respondent was not the manufacturer of the sets offered but only the middle-man and did not sell radios at factory prices or at the saving advertised.

The Commission's order directed the respondent to cease representing directly or by inference that radios not made by the Radio Corporation of America are "R.C.A." radios; that the respondent is a manufacturer, until that is a fact and that his purchasers obtain a 50 per cent or other saving, and to cease implying that merchandise supplied to agents is free when they are required to pay therefor or perform certain services to obtain it. (3211)

Silver Sales Company—See Silver Manufacturing Company.

World Wide Radio Company—See Silver Manufacturing Company.

Wyeth Chemical Company, 15 Exchange Place, Jersey City, N. J., was ordered to discontinue false and misleading representations in the sale and distribution of "Freezone," a preparation for the removal of corns and callouses.

The order directed the respondent to cease and desist from representing that "Freezone," or similar products, will cure corns or callouses or prevent their formation or recurrence, and that it will promptly stop, or prevent the recurrence of, pain caused by corns. The order also prohibited representations that corns have roots, that the roots are removable by "Freezone," or that an entire corn can be removed by the use of the fingers after one application. (3754)

STIPULATIONS

The Commission has entered into the following stipulations:

Bond Pharmacals, 2404 McKinney Ave., Dallas, Tex., has entered into a stipulation to discontinue certain representations in

connection with the sale of its product, "30-40 Wafers," a concentrated food tablet represented as an aid for reducing weight.

The respondent agrees to desist from representing, directly or by implication, that "30-40 Wafers" will be effective in reducing weight, unless it is clearly explained that the product is of value only to the extent that it tends to reduce the appetite for other foods, and that it should be used in conjunction with low calorie diets and exercise. (02398)

Intermountain Broadcasting Corp.—Five Western and one Southern broadcasting stations have entered into stipulations to discontinue certain advertising practices in connection with the sale of their facilities.

The respondents are Intermountain Broadcasting Corporation, operating station KDYL, Salt Lake City, Utah; Lamar Life Insurance Company, station WJDX, Jackson, Miss.; Mosby's, Incorporated, station KGVO, Missoula, Mont.; Woodmen of the World Life Insurance Society, station WOW, Omaha, Nebr.; KFRU, Incorporated, station KFRU, Columbia, Mo., and Minnesota Broadcasting Corp., station WTCN, Minneapolis.

The respondents agreed to cease representing, directly or by implication, that their respective stations have a certain power unless that power is actually used by them during the entire broadcasting period, or unless it is clearly explained in direct connection with each representation that such power is authorized and used only during certain specified hours.

According to the stipulation, all but one of the respondents advertised, without qualification, their stations as having 5,000 watts power, which, it was agreed, might mislead some prospective purchasers of radio facilities into believing that such power was continuous when in fact the power authorized for use and used in each instance was 5,000 watts during the day only and was limited to 1,000 watts at night. In the case of KFRU, Incorporated, the power advertised without qualification was 1,000 watts when in fact 1,000 watts was used by day and 500 watts at night. (02392 through 02397, inclusive.)

Ivis Company, Inc.—In a stipulation, The Ivis Company, Inc., 150 Pearl St., New York, agrees to cease certain misrepresentations in the sale of a facial pack designated "Milk-Mode".

The respondent stipulates that it will cease representing directly or by implication that Milk-Mode or the Milk Mode treatment will reduce enlarged pores, remove blackheads, whiteheads, or

discolorations; that it is comparable to a facial massage treatment in a beauty salon; that it will lift out dirt and poisons from the pores and combat re-infection or that the treatment is a health bath for the skin, and that actresses have said it will give renewed vitality.

The respondent will also cease the representations that Milk-Mode is of value in the treatment of oily, coarse, drab, dry or sallow skin; that it will eliminate or reduce wrinkles, lines, puffiness or sagging, and that it will stimulate, revitalize or tone the skin or stimulate circulation. (020400)

KFRU, Inc.—See Lamar Life Insurance Company.

Lamar Life Insurance Company—See Intermountain Broadcasting Corp.

Minnesota Broadcasting Corp.—See Lamar Life Insurance Company.

Mosby's Inc.—See Lamar Life Insurance Company.

Tenex, Incorporated, Davenport, Iowa, entered into a stipulation to cease the dissemination of misleading advertisements in the sale of Tenex, a treatment for athlete's foot and other skin diseases.

The respondent agreed to cease representing directly or by implication that Tenex is a cure for athlete's foot, ringworm or any other disease or that it is a competent treatment or effective remedy for fungus nail, eczema, barber's itch, corns and callouses, cuts, dermatitis, irritation, skin diseases generally, and ringworm, unless the representations are limited to the types of ringworm for which Tenex may be effectively indicated.

The respondent will also cease representing that eczema is a fungus infection or disease; that Tenex is harmless to healthy tissue, and that Tenex will prevent reinfection of athlete's foot conditions. (02401)

Woodmen of the World Life Insurance Society—See Lamar Life Insurance Co.





“Short Wave” Hearing

JULY 14

Commissioner Thad H. Brown, acting chairman, opened the hearing by announcing the suspension of the program rule affecting international broadcasting. Mr. Brown denied that the Commission had any intention of exercising any “censorship” of international programs. He made the following statement:

This hearing was set on a petition of the American Civil Liberties Union for revision, amendment or modification of Section 42.03(a) of the Commission’s rules and regulations governing international broadcast stations. This rule reads as follows:

“A licensee of an international broadcast station shall render only an international broadcast service which will reflect the culture of this country and which will promote international good-will, understanding and cooperation. Any program solely intended for, and directed to an audience in the continental United States does not meet the requirements for this service.”

The Commission intended by this rule to require international broadcast stations, which are licensed for the purpose of rendering a program service intended for general public reception in foreign countries, to render a program service designed for reception by the people of such countries as distinguished from a program service intended only for reception in this country. It was further intended to define the primary purpose and objectives of international broadcast stations for reasons provided in international agreements to which the United States is a party.

The applicable provisions of the Communications Act of 1934, as amended, require that licenses be issued to serve the public interest, convenience or necessity. To comply with this statutory mandate, the Commission is required before it may issue a license or assign any frequency for any particular service to define the purpose and objectives for such service in such a way that the public interest, convenience or necessity will be served by the station licensed to operate on frequencies assigned to this service. This is true whether the service be international broadcast service, telephone or telegraph service, domestic broadcast service, police service, aviation service or any of the other various classes of radio service authorized by the Commission.

Prior to the adoption of the present rules governing international broadcast stations, stations licensed to operate on the frequencies assigned to that service were authorized only on an experimental basis. During the experimental period the Commission imposed, and the licenses accepted, conditions limited the nature and defining the character of the service which could be rendered on the assigned frequencies.

The operation of these stations has demonstrated that the use of the frequencies involved for long-distance communication is practicable and can no longer be considered in an experimental stage of development. Before assigning frequencies for use on a regular basis for international broadcasting, it was necessary for the Commission to consider what, if any, benefits would result to the people of this country from such use. For, unless the public interest, convenience or necessity would be served by assigning

these frequencies to a use which would not directly serve the listeners of this country, and since the frequencies are to be used for providing program service to the listeners of other countries, it was necessary to determine how and to what extent a program service to foreign countries from American broadcast stations would be of benefit to this country. The Commission reached the conclusion that there would be a public benefit to the people of this country if American stations could be licensed to provide a program service to foreign countries if the effect of the operation of such stations would be to engender international good-will, understanding and cooperation through program service generally reflecting the culture of our people. The Commission was of the opinion that such a service would result in benefits to the people of the United States through the stimulation of international good-will, understanding and cooperation and would promote our foreign commerce.

Among other things, it was necessary to keep in mind at all times that from a technical standpoint the licensing of international stations presents a different problem than that of regular domestic broadcast stations. As an example, the problem of providing an interference-free channel between the transmitter and the receiver is not one subject generally to the control of this government alone; for any of these frequencies or all of them could be rendered useless for our purposes if other countries permitted stations to operate, or create interference, on the same frequencies.

It was also necessary to consider in connection with this rule the international policy which our government had a major part in formulating with respect to the use of these frequencies. This policy is reflected in Article VII, Section 22 of the General Radio Regulations annexed to the Telecommunication Convention of Madrid, the Cairo revision of which carries forward and makes more restrictive the similar provisions in the Madrid regulations (Article VII, Section 19). The Cairo provision reads:

“§ 22. (1) It is recognized that the frequencies between 5,000 and 30,000 kc. (60 and 10 m) are capable of propagation over great distances.

(2) The administrations shall make every possible effort to reserve the frequencies of this band for long-distance communications, in view of the fact that their use for short- or medium-distance communications is likely to interfere with long-distance communications.”

In summary, Section 42.03(a) was intended to do two things: (1) to require international broadcast stations to direct their service to foreign countries rather than the United States; (2) to define the public interest to be served through the licensing and operation of such stations. It has not been the practice of the Communications Commission in the past, nor is it the intention of the Commission now, with respect to the rule, ever to require the submission of any program continuity or script for editing, modification or revision, or for any other purpose prior to its use by a station.

It cannot be emphasized too strongly that the Commission has no desire, purpose or intention of setting itself up as a board of censorship, and that it does not and will not exercise any such jurisdiction.

The Commission deems it appropriate in the interests of orderly procedure to place this statement formally upon the record in this hearing which has been duly set upon a proper petition, and hopes that the statement will contribute materially toward a constructive result.

The fundamental issue in this hearing may be stated as follows:

1. Is the public interest, convenience or necessity within the meaning of the Communications Act of 1934, as amended, served

(Continued on page 3606)



The NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

"SHORT WAVE" HEARING

(Continued from page 3605)

through the licensing and operation of international broadcast stations?

2. How is the public interest, convenience or necessity served through the licensing and operation of international broadcast stations?

3. Is the Commission on the basis of the public interest, convenience or necessity to be served through the licensing of such stations justified in limiting the stations to an international broadcast service as distinguished from a domestic broadcast service?

It is of the greatest importance that these issues be considered and discussed without possibility of confusion arising from any ambiguity in or misinterpretation of language or phraseology. The Commission, therefore, pending an opportunity to hear and consider the evidence, views and arguments to be presented on the issues in this hearing has ordered that the operation of section 42.03(a) be suspended.

After the American Civil Liberties Union had introduced a statement of its radio policy as its only direct testimony, Swagar Sherley, special NAB counsel, introduced a motion to amend the suspended rule to read: "A licensee of an international broadcast station shall render an international broadcast service." ("Stop there," Mr. Sherley said.) All interested parties except the International Catholic Truth Society and the National Committee on Education by Radio agreed to the motion, he explained. After considerable discussion, the motion was taken under advisement.

Horace L. Lohnes appeared for the Westinghouse Electric and Manufacturing Company, and told the Commission that "Westinghouse does not believe in censorship any more than the Commission apparently does," and that he joined in Mr. Sherley's motion. The same held for the Isle of Dreams Broadcasting Company, he added. During cross-examination, Commissioner Thompson asked Mr. Lohnes a question he asked each succeeding witness: "Has there been any indication whatsoever in the operation of the station that any effort at all has been made to censor any program on that station?" Mr. Lohnes replied that there had not been.

Rev. Edward Lodge Curran, appearing for the International Catholic Truth Society, the next witness, said that as an American Citizen he was "at a loss to understand how any of my fellow American citizens can object to either the contents or the wording of this section." During his testimony, he assailed both the NAB and the

American Civil Liberties Union for their position in the matter.

Neville Miller, NAB president, was on the stand the rest of the first day, and was subject to a great deal of questioning by both the Commission and Commission counsel.

The NAB convention, the new code, how Mr. Miller found out about the "censorship" rule, the NAB news review, the drafting of Mr. Miller's letter requesting a hearing on the rule, whether the board of directors was consulted, why the letter was sent to Chairman McNinch instead of the acting chairman, how many stations the NAB represented, just whom Mr. Miller represented in the proceedings—these and other topics were discussed before the Commission and its counsel finished their questioning.

JULY 15

E. K. Cohan, CBS engineering director, the next witness, described the technical aspects of international broadcasting. It was brought out that a broadcast could not be confined to one country alone, and that a program which was designed to promote "good will" in one country might be received in another where it might provoke ill will. Frederick A. Willis, CBS assistant to the president, in charge of short wave operations, described in detail CBS short wave programs and policy.

H. Thomas Austern, for the American Civil Liberties Union, next gave his argument in behalf of that organization. In concluding, he said, in part:

"Now, what does this mean when a licensee of the Commission examines whether a program promotes international goodwill, understanding and cooperation? Well, it clearly considers the effect of what is said on those who listen. It proposes, as it can be so interpreted, we think, to curb expression where the listener might possibly be irritated or annoyed; it necessarily confers upon the Commission the opportunity to decide when this occurs. Now, frankly, we do not know how anyone could interpret that standard. Would a public discussion of tariff policy, let's say, with respect to imported beef, be permitted even though both sides were debated? Would a news report about our Governmental action in buying such materials be proper? Would a broadcast of the Mikado or Porgy and Bess be ruled out as possibly offensive to the sensibilities of some other nationals, and would not a licensee, seeking renewal or defending a revocation proceeding, necessarily have to deal with the effect of his program content in specific terms? We think that this clearly permits censorship. Frankly, we fear that it is contemplated, that type of examination. * * *

"Now, we submit that all of subparagraph (a) should be rescinded because it permits the exercise of the power of censorship; because it impedes and interferes with the specific content of programs; because it contemplates the measurement of such specific content in terms of its truth, its effect elsewhere, whether it will provoke hostility, and so forth. * * *

"Now, we submit that there is no necessity whatever for that paragraph. Candidly, we think there is no necessity for any such particularization as to public convenience and necessity, and we respectfully submit that it be deleted."

After Mr. Willis underwent long cross-examination, C. B. Jolliffe, engineer in charge of the RCA frequency, and Frank E. Mason, in charge of the NBC International Division, discussed NBC short wave broadcasting. Like

the other witnesses, Mr. Mason was closely cross-examined on the "censorship" issue.

JULY 17

Mr. Sherley summed up the NAB'S case with a brilliant analysis and discussion of the fundamental issue. Following are especially important excerpts:

Perhaps it may not be amiss at this point to call attention to what I consider to be the loose thinking that has grown up in connection with radio and government's relationship to it.

We all indulge in talk about the ether and it being the property of the State; that licensees are the recipients of government favor and as such exist, so to speak, as tenants by sufferance. I in no way deny the right of regulation which, in the interest of the public, the government possesses; but it has been easy, because of this right of regulation, for persons to conclude that there is in government an ownership of the ether in some mystical way (always unexplained) whereby the use of this great art by the citizens of the Republic is to be considered as a favor bestowed by a generous government, and that the recipients should therefore show a corresponding sense of gratitude and accept with whatever limitations are placed on it the right to use the art.

To my mind nothing could be more misleading. Ownership of the ether, in any strict sense of the term, is an impossibility. It is a property of nature, capable of use, but not of ownership. What the government possesses is a right to regulate the use of the ether, and this right of regulation with a free people is limited by the need to regulate in order that proper use in the interest of society may be made.

Man's inventive genius found a method for transmitting electrical impulses with the speed of light and their translation into auditory sensation, and as a result of the genius of Marconi and those who followed him, there has been built up a new form of instruction and entertainment for mankind, the possibilities of which we cannot even visualize. Those who have given their ability, their wealth and their energy in the development and improvement of this art are not in any true sense of the term suppliants of a government's favor. They are benefactors of their time, willingly submissive to that regulation of their government and that only which is necessary in the clear interest of all.

Now let me not be misunderstood. I would not represent but misrepresent those for whom I speak, if I in any way gave the impression that the industry is rebellious over the regulation and licensing that the *radio law* provides. Those of us who had experience in the chaotic days when the then regulatory power of the government was stricken down would be the last to ask that freedom which is not real freedom but anarchy, that existed in the ether.

But I have said what I have said because I believe it was the intention of Congress—as I believe that it is and should be the viewpoint of this Commission—that regulation should be the child of the art's need and not the exertion of power by government for power's sake, or of any mistaken notion that those who are licensed to pursue the art are beneficiaries of grants in the sense in which a government with a proprietary interest might convey rights or interests to specially chosen individuals and therefore place whatever conditions upon the grant it saw fit.

It is interesting to note that the Commission's carefully prepared statement suspending the rule occupies five pages of typewriting in order to explain the intent lying behind six lines of regulation. May I be pardoned if I say that witnesses may be considered to have had some justification for expressing their uncertainty as to the significance and scope of the regulation? It will be noticed that the Commission's statement at no place deals with the meaning and construction of the language actually used in the regulation.

The Commission at no point has undertaken to define the word "culture", of which we have heard so much during the hearing, nor as to what will promote international good will, understanding and cooperation, and the statement of the Commission is interestingly silent as to the second sentence of the regulation, though it does affirmatively declare that the intention of the Commission was to make a distinction between the program service intended for general public reception in foreign countries as distinguished from a program service intended for reception in this country.

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Notwithstanding the disclaimer as to intent made by the Commission, I submit that there can be no two opinions as to the language of the rule being such as in law to create and permit censorship of international broadcast programs.

And it must never be overlooked that the phraseology of the rule is an affirmative command and not simply a prohibition. It would be bad if it was a prohibition other than those which the Act itself contains. It is doubly bad when it substitutes the judgment of the Commission as to what must be said in order to be considered in the public interest. That is the very essence of censorship—the substitution by governmental fiat of a judgment as to what is desirable for the freedom of judgment of those within the purview of the regulation.

Rule 42.03(a) is an affirmative requirement that all licensees of international broadcast stations *shall* render a program service which both reflects the culture of the United States and promotes international good will, understanding and cooperation, and I respectfully submit that no question of intent on the part of the Commission in adopting the rule has any place in the construction of the language actually used.

Had the rule provided simply that a licensee of an international broadcast station should render an international broadcast service and stopped there, it might be argued with some plausibility that the regulation was simply a classification such as we are all familiar with in connection with ship-to-shore, police, point-to-point and other regulations pertaining to classification.

But when it goes forward with an affirmative requirement—vague, uncertain and indefinite though it is—I submit that it is an effort at direct censorship of program content within the international field and as such is beyond the power of this Commission to enact.

As always, confusion arises from the use of the same word in different senses. We have talked about censorship, using the phrase as carrying with it as a necessary incident the fiat of the government whereby the person subject to the censorship is under the compulsion of obedience.

The word has been used as applying to the self-imposed censorship which the members of an association such as the National Association of Broadcasters voluntarily elect to impose upon themselves in their desire to live up to the full obligation of their duties as licensees of broadcast stations, and it has been used to indicate that editorial selection which is exercised by a broadcaster in determining what shall go into a particular program. It is very vital that we bear in mind the fundamental differences that underlie the word accordingly as it applies to one or the other of these situations.

Repeated suggestions were made that inasmuch as the broadcasters had seen fit to establish standards that should control them in broadcasting, there should be no objection to the like purpose sought to be accomplished by a regulation of the Commission. Such a view, I submit, is fundamentally unsound. The vice of governmental censorship lies in its compelling power; like a sword of Damocles it is held over the heads of those subject to it, with pains and penalties if they fail to comply. It is the difference between servitude and voluntary restraint.

One may and does impose upon himself restraints that are in the nature of voluntary censorship, but to conclude that there is no essential difference between such voluntary restraint and that which may be imposed upon one by government is again to lose sight of the whole philosophy that underlies our government.

Voluntary restraint by an association is the American way of making sure the performance of a duty that is always coincident

to a right. The failure properly to live up to the duty may be, under given conditions, a warrant for taking away the right or privilege; but unless we are to transform completely our concept of government, the right cannot in the first instance be given subject to conditions that of themselves curtail the freedom that is contemplated by the Bill of Rights.

Again I say to you that our theory of government contemplates citizens full grown, capable in themselves, who do not need the guiding hand of governmental guardianship no matter how benevolently applied.

The power of Congress over radio arises out of the constitutional grant in reference to interstate and foreign commerce. This power, broadly speaking, is a plenary power; but like all other express grants to Congress, it is to be exercised subject to the limitations imposed by the First Amendment to the Constitution.

I have, I hope, already made clear that Congress has the right—nay, the duty—in the public interest to place restrictions upon speech in order that the right may not degenerate into license of speech.

Congress has the unquestioned power, and it is the very basis of its control, to determine in the public interest who shall be given the right to use of the ether waves. And it has not only the right to determine who shall be licensed to use the ether but also to classify the uses to which particular frequencies shall be dedicated. This power of classification is broad and fundamental as a classification of service to be rendered, but it is not a power that can be used as a medium for disregarding the prohibition on abridging freedom of speech.

Much has been said in connection with the Montevideo Conference of 1933 and the very laudatory resolution adopted there regarding desirable objectives as to international broadcasts. Similar resolutions were adopted at Buenos Aires in 1936 and at Lima in 1938. But there has been an entire failure to call attention to the fact that in connection with the very statements which have been quoted there was a statement on behalf of the American delegates to the Lima conference which reads as follows:

"The United States delegation agrees to this resolution with the understanding that the following words in paragraph one: 'to recommend that the governments of America, *in so far as their respective internal legislation permits*', are intended also to apply to and limit the language of paragraph two."

But I submit with all the earnestness possible that the necessity for any consideration of programs, broadcast by a single station, if necessity exists, cannot in any way be construed into a right of the Commission to declare affirmatively what shall or shall not be broadcast by all stations, save as the Radio Act expressly provides.

The Communications Act contains five specific provisions having to do with programs:

- (a) Obscene, indecent or profane language;
- (b) Denial of equal opportunity to political candidates;
- (c) Lottery information;
- (d) Announcement of sponsored matter; and
- (e) Unauthorized rebroadcasting.

In summary and in conclusion, may I say that it is my position that the Bill of Rights is an express limitation upon every power conferred upon our Federal Government by the Constitution of the United States.

That Congress, recognizing the limitation in the First Amendment upon freedom of speech, has most emphatically and explicitly declared that this Commission should exercise no form of censorship.

That all of the powers conferred upon the Commission regarding classification and other matters are by the express terms of Section 326 of the Radio Act made subject to that clause.

That Rule 42.03(a) is censorship and censorship none the less because of the benevolent intent of the Commission in adopting it.

We lose sight entirely of the fundamental issue here involved if we accept a disclaimer as to an intent to disagreeably or restrictively enforce a regulation as warranting its enactment.

We were told during the hearing that the industry should have no concern over the regulation adopted or some substitute for it, because its enforcement would be by reasonable men and without an intent to interpret it oppressively. This is the old, old plea

for power sought to be justified by a disclaimer of intent to abuse the power. But I submit as a matter of law that a regulation adopted speaks in its own language and once adopted it *becomes the duty and not the option* of those charged with enforcement to see to its enforcement.

(Note: Mr. Sherley's full statement is being printed, and will be sent to all NAB members.)

ISSUE BEFORE CONGRESS

Representative Cochran (D-Mo) on July 13 introduced a bill to set aside the FCC short wave rule setting program standards for international broadcasts and to forbid the FCC from setting up such standards.

CORRECTION

In last week's NAB Reports (Vol. 7, No. 28, page 3588), Walter J. Damm was incorrectly listed as director of District 9. This should be changed to:

District 9—Gene T. Dyer, Manager
Radio Station WCBD
WCBD, Inc.
Chicago, Ill.

Members should correct the list in case it is used for reference.

Legal

RCA VS. WHITEMAN

Findings of fact and conclusions of law were made by United States District Judge Vincent L. Leibell in the Southern District of New York and filed on Saturday, July 15th, in the case of RCA Manufacturing Company, Inc., against Paul Whiteman, W. B. O. Broadcasting Corporation and Elin, Inc., tried in that Court last December. No opinion has yet been rendered although it is understood that Judge Leibell will shortly file a memorandum in support of his findings and conclusions, and this week will sign a decree.

The Court found that from November 1932 to August 15, 1937, the RCA Manufacturing Company, Inc., and its predecessor, RCA Victor Co., has marketed phonograph records bearing the legend "Not Licensed for Radio Broadcast," and since August 15, 1937, all records have been issued with labels and envelopes stating, "Licensed ** Only For Non-Commercial Use On Phonographs In Homes. Mfr. & Original Purchaser Have Agreed This Record Shall Not Be Resold Or Used For Any Other Purpose."

The Court held that the broadcasting by the defendant radio station and sponsor of phonograph records

bearing these restrictions constituted unfair competition with the record manufacturer (and also with the recording artist, provided the artist had not assigned all of his rights to the recording company); that Whiteman had contracted away all of his rights to the Recording Company except under one contract in which the rights were restricted as to broadcasting so that neither the Company nor Whiteman could alone license the broadcasting of the records without the consent of the other.

The Court found that Whiteman and certain other artists had (in their renditions of musical selections transcribed upon phonograph records) acquired common-law-property rights in such renditions and that these rights were not dedicated, published or abandoned by the sale of the records, provided the labels restricted the use thereof.

The Court further found that the defendant W. B. O. Broadcasting Corporation had caused the New York distributor of RCA records to breach the distributor's contract with RCA Manufacturing Company, Inc., by inducing the distributor to sell the records for radio use.

The injunctions that are expected to issue are as follows:

1. Whiteman will be enjoined from asserting the right to control the commercial use of RCA phonograph records made under his 1924 and 1931 contracts with the manufacturer, and from undertaking to license the same, and from asserting the sole right to control the use for radio broadcast of RCA phonograph records produced under the 1934 contracts, and from undertaking solely to license the same.

2. WBO Broadcasting Corporation and Elin, Inc., will be enjoined from broadcasting any RCA records provided such records have on them the restrictive-use labels; and the WBO Broadcasting Corporation will be enjoined from inducing RCA Manufacturing Company's New York distributor to breach its contract by selling records for radio use.

This decision may have various results. The National Association of Performing Artists has received a decided set-back in its attempt to license radio stations to broadcast phonograph records. It is reported that fewer than a dozen contracts exist by which the artists have retained any rights of any character in their renditions.

On the other hand, it is understood that some phonograph record manufacturers are likely to attempt to license their records for radio use on a regular fee basis with the royalties divided with the artists and music publishers.

The following findings of fact in this case may in some cases make the decision inapplicable to other stations:

"10. Defendants WBO Broadcasting Corporation and Elin, Inc., duly appeared in this action and filed their answers herein, but at the trial of this action appeared by counsel and stated that they elected not to defend the suit.

"77. Defendant WBO Broadcasting Corporation has prefaced the playing of phonograph records with announcements designed to create the impression among the audience that the performance is being rendered by the artist in person."

Accordingly, it is possible that in a suit in which testimony would be introduced by a defendant radio station and in which the witnesses of the recording company and

of the recording artists would be subjected to vigorous cross-examination, the decision might be far different.

The decision is furthermore determinative only of the common law of the State of New York and need not be followed by Courts of other States or even by the State Courts of New York. Furthermore, if appealed by any of the parties, it may not even be sustained as the legal conclusions arrived at are not only far from being well settled but also are contrary to many decided cases in analogous situations.

Although the recording company urged a property right in it by virtue of the skill and ability of its employes, the Court refused to so find and instead found:

"52. No act of the recording company contributes to the artistic quality of the interpretation."

It is suggested that the members keep NAB headquarters advised of any steps taken by manufacturers or artists respecting the broadcasting of records.

FCC STANDARD BROADCAST RULES

Inquiries have been received respecting the interpretation of Rule 3.90(a)(2) of the Rules Governing Standard Broadcast Stations, which become generally effective August 1. The Rule is as follows:

"3.90. *Logs.* The licensee of each broadcast station shall maintain program and operating logs and shall require entries to be made as follows:

"(a) In the program log.

"(2) An entry briefly describing each program broadcast, such as 'music,' 'drama,' 'Speech,' etc., together with the name or title thereof, and the sponsor's name, with the time of the beginning and ending. If a mechanical record is used, the entry shall show the exact nature thereof such as 'record,' 'transcription,' etc., together with the name or title of each, and the time it is announced as a mechanical record. If a speech is made by a political candidate, the name and political affiliations of such speaker shall be entered."

The second sentence of the Rule with respect to transcription and phonograph record programs is the portion which apparently needs clarifying. An official ruling has been requested from the FCC which we hope will be available for publication in the NAB REPORTS next week.

BILL TO CURB GOVERNMENT AGENCIES

The bill introduced by Senator Logan (D-Ky). and advocated by the American Bar Association which would curb the powers of quasi-judicial federal agencies, such as the Federal Communications Commission, the Federal Trade Commission and others, was approved by the Senate on July 18. The proposed law is opposed by the government agencies as well as the Department of Justice, and an effort is being made by Administration leaders to have the bill reconsidered. The proposed law would impose a mandatory obligation upon federal courts to set aside decisions, rulings and orders of administrative agencies on any of the following grounds: (1) if the findings of fact were "clearly erroneous"; (2) if the find-

ings of fact were not supported by "substantial evidence"; (3) if the decision was not supported by the findings of fact; (4) if the decision was issued without "due notice" and a "reasonable opportunity" for the aggrieved parties to have "a full and fair hearing"; (5) if the decision was "beyond the jurisdiction" of the agency; (6) if the decision infringes the Constitution or statutes of the United States, and (7) if the decision is "otherwise contrary to law."

NEW LEGISLATION

CONGRESS

H. R. 7188 (Mr. Cochran, D., Mo.) COMMUNICATIONS ACT—To abrogate FCC Rule 42.03(a), adopted by FCC May 23, 1939, requiring international broadcast stations to limit programs to those which reflect the culture of the United States and promote international good will, understanding and cooperation, and to prohibit FCC adopting any similar rule. Referred to Interstate and Foreign Commerce Committee.

H. R. 7192 (Mr. Fay, D., N. Y.) PATENTS—To provide for the compulsory granting of licenses under patents which are brought by competitors within a single control in order to dominate an industry. Referred to Patents Committee.

FREE OFFERS

Recent attempts to obtain free time for commercial purposes called to the NAB's attention:

The American Can Company—"A series of non-commercial, educational recordings" for "use in conjunction with their food programs."

Hal Roach Studios, Inc.—"An entirely new transcribed program of Hollywood happenings . . . talks with the stars and featured players appearing in productions currently before the cameras at our studio."

The American Golf Institute ("Founded and conducted by A. G. Spaulding and Bros.")—Question and answer quiz on golf including two plugs for Spaulding, manufacturers and retailers of golf equipment.

Ringling Brothers-Barnum and Bailey Combined Shows, Inc.—"One or more transcriptions prepared by the Educational Department of Ringling Brothers and Barnum & Bailey Circus." (Note: Circus offers passes as a reward for the use of these).

"Your Life" Magazine (Amy Vanderbilt)—Excerpts from an article in August issue, about blondes vs. brunettes.

FCC MONITORING STATION

Senate Bill 2611 authorizing the purchase of a site and erection of a building in Massachusetts for use as a FCC radio-monitoring station with an appropriation of \$30,000 was approved this week by the Senate. A similar bill is pending in the House.

The bill provided "that the Federal Communications Commission be, and it is hereby, authorized to purchase for the United States a suitable site in the State of Massachusetts, provided a suitable site now owned by the Gov-

ernment is not available for the purpose, and cause to be erected thereon, according to plans and specifications to be approved by it, a suitable building or buildings, for use as a radio-monitoring station, or to modify or reconstruct existing buildings of facilities on such site for such purpose, and to provide the necessary associated antenna systems, roadways, power, water, and sanitary facilities, including necessary outfits, apparatus, and equipment at a total cost of said site, buildings, and equipment of not to exceed \$30,000."

BROADCAST MEASUREMENTS

During the month of June experts of the Federal Communications Commission measured 701 broadcast stations leaving 69 not measured.

Of this number 629 showed a maximum deviation within 0-10 cycles; 64 a deviation within 11-25 cycles; 5 a deviation within 26-50 cycles and 3 stations having a maximum deviation of over 50 cycles.

778 STATIONS

During the month of June, the Federal Communications Commission granted permits for the construction of five new stations. A comparative table by months follows:

	Jan. 1	Feb. 1	Mar. 1	April 1	May 1	June 1	July 1
Operating stations . . .	722	727	729	732	734	735	735
Construction permits . . .	42	39	37	37	38	38	43
Total . . .	764	766	766	769	772	773	778

New FCC Rules

PART 3—RULES GOVERNING STANDARD BROADCAST STATIONS*†

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DEFINITIONS

* Sec. 4, 44 Stat. 1163; 47 U.S.C. 84 (f), rules promulgated thereunder continued in effect by Sec. 604, 48 Stat. 1103; 47 U.S.C. 604—Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (b), 48 Stat. 1082; 47 U.S.C. 303 (b)—Sec. 303 (c), 48 Stat. 1082; 47 U.S.C. 303 (c)—Sec. 303 (e), 48 Stat. 1082; 47 U.S.C. 303 (e)—Sec. 325 (a), 48 Stat. 1091; 47 U.S.C. 325 (a)—Sec. 325 (c), 48 Stat. 1091; 47 U.S.C. 325 (c).

† Adopted by the FCC on June 23, 1939, to become effective as follows: Sec. 3.32 (b) to become effective Jan. 1, 1940. Sec. 3.34 to become effective Aug. 1, 1939, provided that on and after that date each renewal of license will be issued for such period of months, not exceeding twelve, as will cause such license to expire in accordance with the expiration date fixed therefor in Sec. 3.34. All the remaining provisions of this Part to become effective Aug. 1, 1939.

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Sec.

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DEFINITIONS¹

§ 3.1 *Standard broadcast station.* The term "standard broadcast station" means a station licensed for the transmission of radio-telephone emissions primarily intended to be received by the general public and operated on a channel in the band 550 to 1600 kilocycles inclusive.*†

§ 3.2 *Standard broadcast band.* The term "standard broadcast band" means the band of frequencies extending from 500 to 1600 kilocycles, inclusive, both 550 kilocycles and 1600 kilocycles being the carrier frequencies of broadcast channels.*†

§ 3.3 *Standard broadcast channel.* The term "standard broadcast channel" means the band of frequencies occupied by the carrier and two side bands of a broadcast signal with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. Carrier frequencies assigned to standard broadcast stations shall begin at 550 kilocycles and be in successive steps of 10 kilocycles.*†

§ 3.4 *Dominant station.* The term "dominant station" means a Class I station, as hereinafter defined, operating on a clear channel.*†

§ 3.5 *Secondary station.* The term "secondary station" means any station except a Class I station operating on a clear channel.*†

§ 3.6 *Daytime.* The term "daytime" means that period of time between 6 a. m. local standard time and local sunset.*†

§ 3.7 *Nighttime.* The term "nighttime" means that period of time between local sunset and 12 midnight local standard time.*†

§ 3.8 *Sunset.* The term "sunset" means, for each particular location and during any particular month, the average time of sunset as specified in the license of a broadcast station. (For tabulation of average sunset time for each month at various points in the United States see "Average Sunset Time".)*†

§ 3.9 *Broadcast day.* The term "broadcast day" means that period of time between 6 a. m. and 12 midnight, local standard time.*†

§ 3.10 *Experimental period.* The term "experimental period" means that period of time between 12 midnight and 6 a. m. This period may be used for experimental purposes in testing and maintaining apparatus by the licensee of any standard broadcast station, on its assigned frequency and with its authorized power, provided no interference is caused to other stations maintaining a regular operating schedule within such period. No station licensed for "daytime" or "specified hours" of operation may broadcast any regular or scheduled program during this period.*†

§ 3.11 *Service areas.* (a) The term "primary service area" of a broadcast station means the area in which the ground wave is not subject to objectionable interference or objectionable fading.

(b) The term "secondary service area" of a broadcast station means the area served by the sky wave and not subject to objectionable interference. The signal is subject to intermittent variations in intensity.

(c) The term "intermittent service area" of a broadcast station means the area receiving service from the ground wave but beyond the primary service area and subject to some interference and fading.*†

§ 3.12 *Main studio.* The term "main studio" means, as to any station, the studio from which the majority of its local programs originate, and/or from which a majority of its station announcements are made of programs originating at remote points.*†

§ 3.13 *Portable transmitter.* The term "portable transmitter" means a transmitter so constructed that it may be moved about conveniently from place to place, and is in fact so moved about from time to time, but not ordinarily used while in motion. In the standard broadcast band, such a transmitter is used in making field intensity measurements for locating a transmitter site for a stand-

¹ Other definitions which may pertain to Standard Broadcast Stations are included in Sections 2.1 to 2.35 and the Communications Act of 1934, as amended. These sections appear as Sections 21.01 to 21.35 at 4 F.R. 2104 DI.

ard broadcast station. A portable broadcast station will not be licensed in the standard broadcast band for regular transmission of programs intended to be received by the public.*†

§ 3.14 *Auxiliary transmitter.* The term "auxiliary transmitter" means a transmitter maintained only for transmitting the regular programs of a station in case of failure of the main transmitter.*†

§ 3.15 *Combined audio harmonics.* The term "combined audio harmonics" means the arithmetical sum of the amplitudes of all the separate harmonic components. Root sum square harmonic readings may be accepted under conditions prescribed by the Commission.*†

§ 3.16 *Effective field.* The term "effective field" or "effective field intensity" is the Root-mean-square (RMS) value of the inverse distance fields at a distance of one mile from the antenna in all directions in the horizontal plane.*†

ALLOCATION OF FACILITIES

§ 3.21 *Three classes of standard broadcast channels—(a) Clear Channel.* A "clear channel" is one on which the dominant station or stations render service over wide areas and which are cleared of objectionable interference, within their primary service areas and over all or a substantial portion of their secondary service areas.

(b) *Regional channel.* A "regional channel" is one on which several stations may operate with powers not in excess of 5 kilowatts. The primary service area of a station operating on any such channel may be limited, as a consequence of interference, to a given field intensity contour.

(c) *Local Channel.* A "local channel" is one on which several stations may operate with powers not in excess of 250 watts. The primary service area of a station operating on any such channel may be limited, as a consequence of interference, to a given field intensity contour.*†

§ 3.22 *Classes and power of standard broadcast stations—(a) Class I station.* A "Class I Station" is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference, except from stations on the adjacent channel, and from stations on the same channel in accordance with the channel designation in Sec. 3.25 or in accordance with the "Engineering Standards of Allocation". The operating power shall be not less than 10 kw nor more than 50 kw (also see Sec. 3.25 (a) for further power limitation).

(b) *Class II station.* A "Class II Station" is a secondary station which operates on a clear channel (see Sec. 3.25) and is designed to render service over a primary service area which is limited by and subject to such interference as may be received from Class I stations. A station of this class shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference with Class I stations and with other Class II stations, in accordance with the "Engineering Standards of Allocation."

(c) *Class III station.* A "Class III Station" is a station which operates on a regional channel and is designed to render service primarily to a metropolitan district and the rural area contiguous thereto. Class III stations are subdivided into two classes:

(1) *Class III-A station.* A "Class III-A Station" is a Class III station which operates with power not less than 1 kilowatt nor more than 5 kilowatts and the service area of which is subject to interference in accordance with the "Engineering Standards of Allocation."

(2) *Class III-B station.* A "Class III-B Station" is a Class III station which operates with a power not less than 0.5 kilowatt nor more than 1 kilowatt night and 5 kilowatts daytime and the service area of which is subject to interference in accordance with the "Engineering Standards of Allocation."

(d) *Class IV station.* A "Class IV Station" is a station operating on a local channel and designed to render service primarily to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kilowatt nor more than 0.25 kilowatt and its service area is subject to interference in accordance with the "Engineering Standards of Allocation."*†

§ 3.23 *Time of operation of the several classes of stations.*² The

² Formal application required for change in time of operation of existing broadcast station. See "Standards of Good Engineering Practice" for form number (to be published at a later date).

several classes of standard broadcast stations may be licensed to operate in accordance with the following:

(a) "Unlimited time" permits operation without a maximum limit as to time.

(b) "Limited time" is applicable to Class II (secondary stations) operating on a clear channel only. It permits operation of the secondary station during daytime, and until local sunset if located west of the dominant station on the channel or if located east thereof, until sunset at the dominant station, and in addition during night hours, if any, not used by the dominant station or stations on the channel.

(c) "Daytime" permits operation during the hours between 6 a. m. and average monthly local sunset. (For exact time of sunset at any location, see "Average Sunset Time.")

(d) "Sharing Time" permits operation during hours which are so restricted by the station license as to require a division of time with one or more other stations using the same channel.

(e) "Specified Hours" means that the exact operating hours are specified in the license.

(The minimum hours that any station shall operate are specified in Sec. 3.71)*†

§ 3.24 *Broadcast facilities; showing required.* An authorization for a new standard broadcast station or increase in facilities of an existing station³ will be issued only after a satisfactory showing has been made in regard to the following, among others:

(a) That the proposed assignment will tend to effect a fair, efficient and equitable distribution of radio service among the several states and communities.

(b) That objectionable interference will not be caused to existing stations or that if interference will be caused the need for the proposed service outweighs the need for the service which will be lost by reason of such interference. That the proposed station will not suffer interference to such an extent that its service would be reduced to an unsatisfactory degree. (For determining objectionable interference, see "Engineering Standards of Allocation" and "Field Intensity Measurements in Allocation".)

(c) That the applicant is financially qualified to construct and operate the proposed station.⁴

(d) That the applicant is legally qualified. That the applicant (or the person or persons in control of an applicant corporation or other organization) is of good character and possesses other qualifications sufficient to provide a satisfactory public service.

(e) That the technical equipment proposed, the location of the transmitter, and other technical phases of operation comply with the regulations governing the same, and the requirements of good engineering practice. (See technical regulations herein and "Locations of Transmitters of Standard Broadcast Stations.")

(f) That the facilities sought are subject to assignment as requested under existing international agreements and the Rules and Regulations of the Commission.

(g) That the public interest convenience, and necessity will be served through the operation under the proposed assignment.*†

FREQUENCY ALLOCATIONS BY CLASSES OF STATIONS

§ 3.25 *Clear channels; class I and II.* The frequencies in the following tabulation are designated as clear channels and assigned for use by the classes of stations as given:

(a) To each of the channels below there will be assigned one Class I station and there may be assigned one or more Class II stations operating limited time or daytime only: 640, 650, 660, 670, 700, 720, 740, 750, 760, 770, 800, 810, 820, 830, 850, 860, 870, 980, 990, 1000, 1070, 1090, 1130, 1150, 1170 and 1190 kilocycles. The power of the Class I stations on these channels shall not be less than 50 kw.

(b) To each of the channels below there may be assigned Class I and Class II stations: 680, 710, 790, 970, 1020, 1040, 1050, 1060, 1080, 1100, 1110, 1140, 1160, 1180, 1460, 1470, 1480, and 1490 kilocycles.*†

§ 3.26 *Regional channels; class III-A and III-B.* The following frequencies are designated as regional channels and are assigned for use by Class III-A and Class III-B stations:⁵ 550, 560, 570, 580, 590, 600, 610, 620, 630, 780, 880, 890, 900, 920, 930, 940, 950, 1010, 1120, 1220, 1230, 1240, 1250, 1260, 1270, 1280, 1290, 1300, 1320, 1330, 1340, 1350, 1360, 1380, 1390, 1400, 1410, 1430, 1440, 1450, 1530, and 1550, kilocycles.*†

³ Formal application required. See "Standards of Good Engineering Practice" for form number.

⁴ See "Money Required to Construct and Complete Electrical Tests of Stations of Different Classes and Powers."

⁵ See Sec. 3.29 in regard to assigning Class IV stations to regional channels.

§ 3.27 *Local channels; class IV.* The following frequencies are designated as local channels and are assigned for use by Class IV stations: 1200, 1210, 1310, 1370, 1420, and 1500 kilocycles.*†

§ 3.28 *Assignment of stations to channels.* The individual assignments of stations to channels shall be made in accordance with the standards of good engineering practice prescribed and published from time to time by the Commission for the respective classes of stations involved. (For determining objectionable interference See "Engineering Standards of Allocation" and "Field Intensity Measurements in Allocation", Section C.)*†

§ 3.29 *Assignment of Class IV stations to regional channels.* On condition that interference will not be caused to any Class III station, and that the channel is used adequately and properly for Class III stations and subject to such interference as may be received from Class III stations, Class IV stations may be assigned to regional channels.*†

§ 3.30 *Station location.* (a) Each standard broadcast station shall be considered located in the state and city where the main studio is located.

(b) The transmitter of each standard broadcast station shall be so located that primary service is delivered to the city in which the main studio is located, in accordance with the "Standards of Good Engineering Practice," prescribed by the Commission.*†

§ 3.31 *Authority to move main studio.* The licensee of a standard broadcast station shall not move its main studio outside the borders of the city, State, district, Territory, or possession in which it is located without first making written application⁷ to the Commission for authority to so move, and securing written permission for such removal. A licensee need not obtain permission to move the main studio from one location to another within a city or town, but shall promptly notify the Commission of any such change in location.*†

§ 3.32 *Special experimental authorizations.* (a) Special Experimental Authorizations⁸ may be issued to the licensee of a standard broadcast station in addition to the regular license upon proper application therefor⁷ and satisfactory showing in regard to the following, among others:

(1) That the applicant has a program of research and experimentation which indicates reasonable promise of contribution to the development and practical application of broadcasting, and will be in addition to and advancement of the work that can be accomplished under its regular license.

(2) That the experimental operation and experimentation will be under the direct supervision of a qualified engineer with an adequate staff of engineers qualified to carry on the program of research and experimentation.

(3) That the public interest, convenience and necessity will be served by granting the authorization requested.

(b) In case of Special Experimental Authorization permits additional hours of operation, no licensee shall transmit any commercial or sponsored program or make any commercial announcement during such time of operation. In case of other additional facilities, no additional charge shall be made by reason of transmission with such facilities.

(c) A Special Experimental Authorization will not be extended after the actual experimentation is concluded.

(d) The program of research and experimentation as outlined in the application for a special experimental authorization shall be adhered to in the main unless the licensee is authorized to do otherwise by the Commission.

(e) The Commission may require from time to time a broadcast station holding such experimental authorization to conduct experiments that are deemed desirable and reasonable.

(f) A supplemental report shall be filed with and made a part of each application for an extension of a special experimental authorization and shall include statements of the following:

(1) Comprehensive summary of all research and experimentation conducted.

(2) Conclusions and outline of proposed program for further research and development.

(3) Comprehensive summary and conclusions as to the social and economic effects of its use.

§ 3.33 *Directional antenna; showing required.* (a) No application for authority to install a directional antenna⁹ will be accepted unless a definite site and full details of the design of the

⁹ Special authorizations which do not involve experimental operation may be granted pursuant to § 15.15 (3 F.R. 2836 DI).

⁷ Formal application required. See "Standards of Good Engineering Practice" for form number.

⁸ Formal application required. See "Standards of Good Engineering Practice" for form number.

directional antenna are given with the application. (See "Data Required with Applications Involving Directional Antenna Systems.")

(b) No application for an authorization to operate a directional antenna during the broadcast day will be accepted unless proof of performance of the directional antenna taken during equipment test period is submitted with the application. (See "Field Intensity Measurements in Allocation," Section B.)*†

§ 3.34 *Normal license period.* All standard broadcast station licenses will be issued so as to expire at the hour of 3 a. m., Eastern Standard Time and will be issued for a normal license period of one year, expiring as follows:

(a) For stations operating on the frequencies 640, 650, 660, 670, 680, 700, 710, 720, 740, 750, 760, 770, 790, 800, 810, 820, 830, 850, 860, 870, 970, 980, 990, 100, 1020, 1040, 1050, 1060, 1070, 1080, 1090, 1100, 1110, 1130, 1140, 1150, 1160, 1170, 1180, 1190, 1460, 1470, 1480, 1490 kilocycles February 1.

(b) For stations operating on the frequencies 550, 560, 570, 580, 590, 600, 610, 620, 630, 780, 880, 890, 900, and 920 kilocycles April 1.

(c) For stations operating on the frequencies 930, 940, 950, 1010, 1120, 1220, 1230, 1240, 1250, 1260, 1270, 1280, and 1290 kilocycles June 1.

(d) For stations operating on the frequencies 1300, 1320, 1330, 1340, 1350, 1360, 1380, 1390, 1400, 1410, 1430, 1440, 1450, 1530, and 1550 kilocycles August 1.

(e) For stations operating on the frequencies 1200, 1210, and 1310 kilocycles October 1.

(f) For stations operating on the frequencies 1370, 1420, and 1500 kilocycles December 1.*†

EQUIPMENT

§ 3.41 *Maximum rated carrier power: tolerances.* The maximum rated carrier power of a standard broadcast transmitter shall not be less than the authorized power nor shall it be greater than the value specified in the following table:

Class of station	Maximum power authorized to station	Maximum rated carrier power permitted to be installed ¹ Watts
Class IV	100 or 250 watts	250
Class III	500 or 1,000 watts	1,000
	5,000 watts	5,000
Class II	250, 500 or 1,000 watts	1,000
	5,000 or 10,000 watts	10,000
	25,000 or 50,000 watts	50,000
Class I	10,000 watts	10,000
	25,000 or 50,000 watts	50,000

¹ The maximum rated carrier power must be distinguished from the operating power. (See Secs. 2.18 and 2.19, which appear as Secs. 21.18 and 21.19 at 4 F.R. 2105 DI.)

*†

§ 3.42 *Maximum rated carrier power; how determined.* The maximum rated carrier power of a standard broadcast transmitter shall be determined as the sum of the applicable power ratings of the vacuum tubes employed in the last radio stage.

(a) The power rating of vacuum tubes shall apply to transmitters employing the different classes of operation or systems of modulation as specified in "Power Rating of Vacuum Tubes," prescribed by the Commission.

(b) If the maximum rated carrier power of any broadcast transmitter, as determined by paragraph (a) of this section, does not give an exact rating as recognized by the Commission's plan of allocation, the nearest rating thereto shall apply to such transmitter.

(c) Authority will not be granted to employ, in the last radio stage of standard broadcast transmitter, vacuum tubes from a manufacturer or of a type number not listed until the manufacturer's rating for the class of operation or system of modulation is submitted to and approved by the Commission. These data must be supplied by the manufacturer in accordance with "Requirements for the Approval of the Power Rating of Vacuum Tubes," prescribed by the Commission.*†

§ 3.43 *Changes in equipment; authority for.* No licensee shall change, in the last radio stage, the number of vacuum tubes to

vacuum tubes of different power rating or class of operation, nor shall it change system of modulation without the authority of the Commission.^{9*}

§ 3.44 *Other changes in equipment.* Other changes except as provided for in these Rules or "Standards of Good Engineering Practice," prescribed by the Commission, which do not affect the maximum power rating or operating power of the transmitter or the operation or precision of the frequency control equipment may be made at any time without authority of the Commission but in the next succeeding application for renewal of license such changes which affect the information already on file shall be shown in full.*†

§ 3.45 *Radiating system.* (a) All applicants for new, additional, or different broadcast facilities and all licensees requesting authority to move the transmitter of an existing station shall specify a radiating system the efficiency of which complies with the requirements of good engineering practice for the class and power of the station. (Also see "Use of Common Antenna by Standard Broadcast Stations or Another Radio Station.")

(b) The Commission will publish from time to time specifications deemed necessary to meet the requirements of good engineering practice. (See "Minimum Antenna Heights or Field Intensity Requirements" and "Field Intensity Measurements in Allocation," Section A.)

(c) No broadcast station licensee shall change the physical height of the transmitting antenna, or supporting structures, or make any changes in the radiating system which will measurably alter the radiation patterns except upon written application to and authority from the Commission.¹⁰

(d) The antenna and/or supporting structure shall be painted and illuminated in accordance with the specifications supplied by the Commission pursuant to Section 303(q) of the Communications Act of 1934, as amended. (See "Standard Lamps and Paints.")

(e) The simultaneous use of a common antenna or antenna structure by two standard broadcast stations or by a standard broadcast station and a station of any other class or service will not be authorized unless both stations are licensed to the same licensee. (See "Use of Common Antenna by Standard Broadcast Stations or Another Radio Station.")*†

§ 3.46 (a) *Transmitter.* The transmitter proper and associated transmitting equipment of each broadcast station shall be designed, constructed, and operated in accordance with the standards of good engineering practice in all phases not otherwise specifically included in these regulations.

(b) The transmitter shall be wired and shielded in accordance with good engineering practice and shall be provided with safety features in accordance with the specifications of Article 810 of the current National Electrical Code as approved By the American Standards Association.

(c) The station equipment shall be so operated, tuned, and adjusted that emissions are not radiated outside the authorized band¹¹ which cause or which, in accordance with the Standards of Good Engineering Practice, are considered as being capable of causing interference to the communications of other stations. The spurious emissions, including radio frequency harmonics and audio frequency harmonics, shall be maintained at as low level as required by good engineering practice. The audio distortion, audio frequency range, carrier hum, noise level, and other essential phases of the operation which control the external effects shall at all times conform to the requirements of good engineering practice.

(d) Whenever, in this rule, the term "good engineering practice" is used, the specifications deemed necessary to meet the requirements thereof will be published from time to time. (See "Construction, General Operation and Safety of Life Requirements.")*†

TECHNICAL OPERATION

§ 3.51 *Operating power; how determined.* The operating power of each standard broadcast station shall be determined by:

(a) Direct measurement of the antenna power in accordance with Sec. 3.54¹²

⁹ Formal application required. See "Standards of Good Engineering Practice" for form number.

¹⁰ Informal application may be made, except in controversial cases or directional antenna; then formal application shall be made.

¹¹ See "Construction, General Operation and Safety of Life Requirements."

¹² Program tests on equipment including a new or different antenna system will not be authorized unless application for authority to determine power by the direct method has been granted or is submitted simultaneously with the application for license to cover the construction permit and the application for license will not be granted until such time as the application for direct measurement is approved.

- (1) Each new standard broadcast station.
- (2) Each existing standard broadcast station after July 1, 1940.

(b) Indirect measurement by means of the plate input power to the last radio stage on a temporary basis in accordance with Secs. 3.52 and 3.53.

(1) In the case of existing standard broadcast stations and pending compliance with paragraph (a) (2) of this section.

(2) In case of an emergency where the licensed antenna has been damaged or destroyed by storm or other cause beyond the control of the licensee or pending completion of authorized changes¹³ in the antenna system.

(c) Upon making any change¹³ in the antenna system, or in the antenna current measuring instruments, or any other change which may change the characteristics of the antenna, the licensee shall immediately make a new determination of the antenna resistance (see Sec. 3.54) and shall submit application for authority to determine power by the direct method on the basis of the new measurement.*†

§ 3.52 *Operating power; indirect measurement.* The operating power determined by indirect measurement from the plate input power of the last radio stage is the product of the plate voltage (E_p), the total plate current of the last radio stage (I_p) and the proper factor (F) given in the following tables:

that is

$$\text{Operating power} = E_p \times I_p \times F$$

A. *Factor To Be Used for Stations Employing Plate Modulation in the Last Radio Stage*

Maximum rated carrier power of transmitter: ¹	<i>Factor (F) to be used in determining the operating power from the plate input power</i>
100-1,000 watts.....	0.70
5,000 watts and over.....	.80

¹ The maximum rated carrier power must be distinguished from the operating power (See Secs. 2.18 and 2.19 which appear as Secs. 21.18 and 21.19 at 4 F.R. 2105 DI.)

B. *Factor To Be Used for Stations of All Powers Using Low-Level Modulation*

Class of power amplifier in the last radio stage:	<i>Factor (F) to be used in determining the operating power from the plate input power</i>
Class B	0.35
Class BC ¹65

¹ All linear amplifier operation where efficiency approaches that of Class C operation.

C. *Factor To Be Used for Stations of All Powers Employing Grid Modulation in the Last Radio Stage*

Type of tube in the last radio stage:	<i>Factor (F) to be used in determining the operating power from the plate input power</i>
Table C ¹	0.25
Table D ¹35

¹ See "Power Rating of Vacuum Tubes."

*† § 3.53 *Application of efficiency factors.* In computing operating power by indirect measurement, the above factors shall apply in all cases, and no distinction will be recognized due to the operating power being less than the maximum rated carrier power. (See "Plate Efficiency of Last Radio Stage.")*†

§ 3.54 *Operating power; direct measurement.* The antenna input power determined by direct measurement is the square of the antenna current times the antenna resistance at the point

¹³ Changes shall not be made except upon making proper request and obtaining approval thereof in accordance with Secs. 3.45 and 3.58.

where the current is measured and at the operating frequency. Direct measurement of the antenna input power will be accepted as the operating power of the station, provided the data on the antenna resistance measurements are submitted under oath giving detailed description of the method used and the data taken. The antenna current shall be measured by an ammeter of accepted accuracy.¹⁴ These data must be submitted to and approved by the Commission before any licensee will be authorized to operate by this method of power determination.¹⁵ The antenna ammeter shall not be changed to one of different type, maximum reading or accuracy without the authority of the Commission. If any change is made in the antenna system or any change made which may affect the antenna system, the method of determining operating power shall be changed immediately to the indirect method. (See "Further Requirements for Direct Measurements of Power.")*†

§ 3.55 *Modulation.* (a) A licensee of a broadcast station will not be authorized to operate a transmitter unless it is capable of delivering satisfactorily the authorized power with a modulation of at least 85 per cent. When the transmitter is operated with 85 percent modulation, not over 10 percent combined audio frequency harmonics shall be generated by the transmitter.

(b) All broadcast stations shall have in operation a modulation monitor approved by the Commission.

(c) The operating percentage of modulation of all stations shall be maintained as high as possible consistent with good quality of transmission and good broadcast practice and in no case less than 85 percent on peaks of frequent recurrence during any selection which normally is transmitted at the highest level of the program under consideration.

(d) The Commission will, from time to time, publish the specifications, requirements for approval, and a list of approved modulation monitors. (See "Approved Modulation Monitors" and also "Requirements for Approval of Modulation Monitors.")*†

§ 3.56 *Modulation: data required.* A licensee of a broadcast station claiming a greater percentage of modulation than the fundamental design indicates can be procured, shall submit full data showing the antenna input power by direct measurement and complete information, either oscillograms or other acceptable data, to show that a modulation of 85 percent or more, with not over 10 percent combined audio harmonics, can be obtained with the transmitter operated at the maximum authorized power.*†

§ 3.57 *Operating power; maintenance of.* The licensee of a broadcast station shall maintain the operating power of the station within the prescribed limits of the licensed power at all times except that in an emergency when, due to causes beyond the control of the licensee, it becomes impossible to operate with the full licensed power, the station may be operated at reduced power for a period of not to exceed 10 days, provided that the Commission and the Inspector in Charge¹⁶ shall be notified in writing immediately after the emergency develops. (See "Operating Power Tolerance.")*†

§ 3.58 *Indicating instruments.* Each broadcast station shall be equipped with suitable indicating instruments of accepted accuracy to measure the antenna current, direct plate circuit voltage, and the direct plate circuit current of the last radio stage. These indicating instruments shall not be changed or replaced, without authority of the Commission, except by instruments of the same type, maximum scale reading, and accuracy. (See "Indicating Instruments Pursuant to Sec. 3.58.")*†

§ 3.59 *Frequency tolerance.* The operating frequency of each broadcast station shall be maintained within 50 cycles of the assigned frequency until January 1, 1940, and thereafter the frequency of each new station or each station where a new transmitter is installed shall be maintained within 20 cycles of the assigned frequency, and after January 1, 1942, the frequency of all stations shall be maintained within 20 cycles of the assigned frequency.*†

§ 3.60 *Frequency monitor.* The licensee of each standard broadcast station shall have in operation at the transmitter a frequency monitor independent of the frequency control of the transmitter. The frequency monitor shall be approved by the Commission. It shall have a stability and accuracy of at least 5 parts per million. (See "Approved Frequency Monitors" and also "Requirements for Approval of Frequency Monitors.")*†

§ 3.61 *New equipment; restrictions.* The Commission will authorize the installation of new transmitting equipment in a broadcast station or changes in the frequency control of an exist-

ing transmitter only if such equipment is so designed that there is reasonable assurance that the transmitter is capable of maintaining automatically the assigned frequency within the limits specified in Sec. 3.59*†

§ 3.62 *Automatic frequency control equipment; authorization required.* New automatic frequency control equipment and changes in existing automatic frequency control equipment that may affect the precision of frequency control or the operation of the transmitter shall be installed only upon authorization¹⁷ from the Commission. (See "Approved Equipment")*†

§ 3.63 *Auxiliary transmitter.* Upon showing that a need exists for the use of an auxiliary transmitter¹⁸ in addition to the regular transmitter of a broadcast station, a license therefor may be issued provided that:

(a) An auxiliary transmitter may be installed either at the same location as the main transmitter or at another location.

(b) A licensed operator shall be in control whenever an auxiliary transmitter is placed in operation.

(c) The auxiliary transmitter shall be maintained so that it may be put into immediate operation at any time for the following purposes:

(1) The transmission of the regular programs upon the failure of the main transmitter.

(2) The transmission of regular programs during maintenance or modification¹⁹ work on the main transmitter, necessitating discontinuance of its operation for a period not to exceed five days.

(3) Upon request by a duly authorized representative of the Commission.

(d) The auxiliary transmitter shall be tested at least once each week to determine that it is in proper operating condition and that it is adjusted to the proper frequency, except that in case of operation in accordance with paragraph (c) of this section during any week, the test in that week may be omitted provided the operation under paragraph (c) is satisfactory. A record shall be kept of the time and result of each test operating under paragraph (c). Tests shall be conducted only between midnight and 9 a. m., local standard time.

(e) The auxiliary transmitter shall be equipped with satisfactory control equipment which will enable the maintenance of the frequency emitted by the station within the limits prescribed by these regulations.

(f) An auxiliary transmitter which is licensed at a geographical location different from that of the main transmitter shall be equipped with a frequency control which will automatically hold the frequency within the limits prescribed by these regulations without any manual adjustment during operation or when it is being put into operation.

(g) The operating power of an auxiliary transmitter may be less than the authorized power but in no event shall it be greater than such power.*†

§ 3.64 *Duplicate main transmitters.* The licensee of a Standard Broadcast Station may be licensed for duplicate main transmitters provided that a technical need²⁰ for such duplicate transmitters is shown and that the following conditions are met:

(a) Both transmitters are located at the same place.

(b) The transmitters have the same power rating.

(c) The external effects from both transmitters is substantially the same as to frequency stability, reliability of operation, radio harmonics and other spurious emissions, audio frequency range and audio harmonic generation in the transmitter.*†

OPERATION

§ 3.71 *Minimum operating schedule.* Except Sundays, the licensee of each standard broadcast station shall maintain a minimum regular operating schedule of two-thirds of the total hours that it is authorized to operate during each broadcast day (both day and night), except that in an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue

¹⁴ Formal application required. See "Standards of Good Engineering Practice" for form number.

¹⁵ All regulations as to safety requirements and spurious emissions applying to broadcast transmitting equipment shall apply also to an auxiliary transmitter. (See "Use of Frequency and Modulation Monitors at Auxiliary Transmitter.")

¹⁶ This includes the equipment changes which may be made without authority as set forth elsewhere in the Rules and Regulations and the Standards of Good Engineering Practice or as authorized by the Commission by letter or by construction permit. Where such operation is required for periods in excess of five days, request therefor shall be made in accordance with Sec. 15.15 (3 F.R. 2836 DI).

¹⁷ Such as licensees maintaining 24 hour schedule and needing alternate operation for maintenance, or development work is being carried on requiring such alternate operation.

¹⁴ See "Indicating instruments Pursuant to Sec. 3.58."

¹⁵ Formal application required. See "Standards of Good Engineering Practice" for form number.

¹⁶ See "Field Offices of the Commission."

operating, the station may cease operation for a period of not to exceed 10 days, provided that the Commission and the Inspector in Charge²¹ shall be notified in writing immediately after the emergency develops.*†

§ 3.72 *Operation during experimental period.* The license of each standard broadcast station shall operate or refrain from operating its station during the experimental period as directed by the Commission in order to facilitate frequency measurement or for the determination of interference. (Stations involved in the after-midnight frequency monitoring programs are notified of their operating and silent schedule.)*†

§ 3.73 *Specified hours.* If the license of a station specifies the hours of operation, the schedule so specified shall be adhered to except as provided in Secs. 3.71 and 3.72.*†

§ 3.74 *Sharing time.* If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file the same in triplicate original with each application to the Commission for renewal of license. If and when such written agreements are properly filed in conformity with this rule the file mark of the Commission will be affixed thereto, 1 copy will be retained by the Commission, 1 copy forwarded to the inspector in charge, and 1 copy returned to the licensee to be posted with the station license and considered as a part thereof. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license.*†

§ 3.75 *Sharing time; equivalence of day and night hours.* For the purpose of determining the proportionate division of time of the broadcast day for sharing time stations one night hour shall be considered the equivalent of two day hours.*†

§ 3.76 *Sharing time; experimental period.* If the license of a station authorized to share time does not specify the hours of operation, the station may be operated for the transmission of regular programs during the experimental period provided an agreement thereto is reached with the other stations with which the broadcast day is shared and further provided such operation is not in conflict with Sec. 3.72. Time sharing agreements for operation during the experimental period need not be submitted to the Commission.*†

§ 3.77 *Sharing time; departure from regular schedule.* Departure from the regular operating schedule set forth in a time-sharing agreement will be permitted only in cases where an agreement to that effect is reduced to writing is signed by the licensees of the stations affected thereby and filed in triplicate by each licensee with the Commission prior to the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of written agreement, provided appropriate notice is sent to the Commission and the Inspector in Charge.²²*†

§ 3.78 *Sharing time station; notification to Commission.* If the licensees of stations authorized to share time are unable to agree on a division of time, the Commission shall be so notified by statement to that effect filed with the applications for renewal of licenses. Upon receipt of such statement the Commission will designate the applications for a hearing and, pending such hearing, the operating schedule previously adhered to shall remain in full force and effect.*†

§ 3.79 *License to specify sunset hours.* If the licensee of a broadcast station is required to cease operation of the station at the time of sunset at some point within the United States, the license will specify the hour of the day during each month of the license period when operation of such station shall cease. (See "Average Sunset time.")*†

§ 3.80 *Secondary station: filing of operating schedule.* The licensee of a secondary station authorized to operate limited time and which may resume operation at the time the dominant station or stations on the same channel ceases operation shall, with each application for renewal of license, file in triplicate a copy of its regular operating schedule, bearing a signed notation by the licensee of the dominant station of its objection or lack of objection thereto. Upon approval of such operating schedule, the Commission will affix its file mark and return 1 copy to the licensee authorized to operate limited time, which shall be posted with the station license

and considered as a part thereof. Departure from said operating schedule will be permitted only in accordance with the procedure set forth in Sec. 3.77.*†

§ 3.81 *Secondary station; failure to reach agreement.* If the licensee of a secondary station authorized to operate limited time and a dominant station on a channel are unable to agree upon a definite time for resumption of operation by the station authorized limited time, the Commission shall be so notified by the licensee of the station authorized limited time. After receipt of such statement the Commission will designate for hearing the applications of both stations for renewal of license, and pending the hearing the schedule previously adhered to shall remain in full force and effect.*†

§ 3.82 *Departure from schedule; material violation.* In all cases where a station licensee is required to prepare and file an operating schedule, any deviation or departure from such schedule, except as herein authorized, shall be considered as a violation of a material term of the license.*†

§ 3.83 *Local standard time.* All references herein to standard time or local standard time refer to local standard time as determined and fixed by the Interstate Commerce Commission.*†

§ 3.84 *Daylight saving time.* If local time is changed from standard time to daylight saving time at the location of all stations sharing time on the same channel, the hours of operation of all such stations on that channel shall be understood to refer to daylight-saving time, and not standard time, as long as daylight-saving time is observed at such locations. This provision shall govern when the time is changed by provision of law or general observance of daylight-saving time by the various communities, and when the time of operation of such stations is specified in the license or is mutually agreed upon by the licensees: *Provided, However,* That when the license specifies average time of sunset, local standard time shall be observed and in no event shall a station licensed for daytime only operate on regular schedule prior to 6 a. m. local standard time or shall a station licensed for greater daytime power than nighttime power operate with the daytime power prior to 6 a. m. local standard time.*†

§ 3.85 *Changes in time; agreement between licensees.* Where the local time is not changed from standard time to daylight-saving time at the location of all stations sharing time on the same channel, the hours of operation of such stations shall be understood to have reference to standard time, and not daylight-saving time, unless said licensees mutually agree upon a new schedule which shall be effective only while daylight-saving time is observed at the location of some of these stations.*†

§ 3.86 *Local standard time; license provisions.* The time of operation of any broadcast station which does not share time with other stations on the same channel shall be understood to have reference to local standard time unless modification of such license with respect to hours of operation is authorized by the Commission.*†

§ 3.87 *Station license; posting of.* The station license and any other instrument of authorization or individual order concerning construction of the equipment or the manner of operation of the station shall be posted in a conspicuous place in the room in which the transmitter is located in such manner that all terms thereof are visible and the license of the station operator shall be posted in the same manner. (See Secs. 2.51 and 2.52.²³)*†

§ 3.88 *Licensed operator required.* The licensee of each station shall have a licensed operator or operators of the grade specified by the Commission on duty during all periods of actual operation of the transmitter at the place where the transmitting equipment is located. (See Sec. 2.53.²³)*†

§ 3.89 *Licensed operator; other duties.* The licensed operator on duty and in charge of a standard broadcast transmitter may, at the discretion of the licensee, be employed for other duties or for the operation of another radio station or stations in accordance with the class of operator's license which he holds and by the rules and regulations governing such other stations: *Provided, However,* That such duties shall in no wise interfere with the proper operation of the standard broadcast transmitter.*†

§ 3.90 *Logs.* The licensee of each broadcast station shall maintain program and operating logs and shall require entries to be made as follows:

(a) In the program log,

(1) An entry of the time each station identification announcement (call letters and location) is made.

(2) An entry briefly describing each program broadcast, such

²¹ See "Field Offices of the Commission."

²² See "Field Offices of the Commission."

²³ Appear as Secs. 22.11, 22.12 and 22.13 at 4 F.R. 2106 DI.

as "music," "drama," "speech," etc., together with the name or title thereof, and the sponsor's name, with the time of the beginning and ending. If a mechanical record is used, the entry shall show the exact nature thereof such as "record," "transcription," etc., together with the name or title of each, and the time it is announced as a mechanical record. If a speech is made by a political candidate, the name and political affiliations of such speaker shall be entered.

(3) An entry showing that each sponsored program broadcast has been announced as sponsored, paid for, or furnished by the sponsor.

(b) In the operating log.

(1) An entry of the time the station begins to supply power to the antenna, and the time it stops.

(2) An entry of the time the program begins and ends.

(3) An entry of each interruption to the carrier wave, its cause and duration.

(4) An entry of the following each 30 minutes:

(i) Operating constants of last radio stage (total plate current and plate voltage).

(ii) Antenna current.

(iii) Frequency monitor reading.

(iv) Temperature of crystal control chamber if thermometer is used.

(5) Log of experimental operation during experimental period (If regular operation is maintained during this period, the above logs shall be kept).

(i) A log must be kept of all operation during the experimental period. If the entries required above are not applicable thereto, then the entries shall be made so as to fully describe the operation.*†

§ 3.91 *Logs; retention of.* Logs of standard broadcast stations shall be retained by the licensee for a period of two years except when required to be retained for a longer period in accordance with the provisions of Sec. 2.54.*†

§ 3.92 *Station identification.* (a) A licensee of a standard broadcast station shall make station identification announcement (call letters and location) at the beginning and ending of each time of operation and during operation on the hour and half hour as provided below:

(b) Such identification announcement during operation need not be made when to make such announcement would interrupt a single consecutive speech, play, religious service, symphony concert or operatic production of longer duration than thirty minutes. In such cases the identification announcement shall be made at the first interruption of the entertainment continuity and at the conclusion of such program.

(c) In case of variety show programs, baseball game broadcasts, or similar programs, of longer duration than thirty minutes, the identification announcement shall be made within five minutes of the hour and half hour.

(d) In case of all other programs (except provided in paragraphs (b) and (c) of this section) the identification announcement shall be made within two minutes of the hour and half hour.

(e) In making the identification announcement, the call letters shall be given only on the channel of the station identified thereby.*†

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

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

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

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

(d) In case a mechanical record is used for background music, sound effects, station identification, program identification (theme music of short duration), or identification of the sponsorship of

the program proper, no announcement of the mechanical record is required.

(e) The exact form of the identifying announcement is not prescribed but the language shall be clear and in terms commonly used and understood by the listening public. The use of the applicable identifying words such as "a record," "a recording," "a recorded program," "a transcription," "an electrical transcription," will be considered sufficient to meet the requirements hereof. The identifying words shall accurately describe the type of mechanical record used, i. e., where a transcription is used it shall be announced as a "transcription" or an "electrical transcription" and where a phonograph record is used it shall be announced as a "record" or a "recording."*†

§ 3.94 *Rebroadcast.* (a) The term "rebroadcast" means reception by radio of the program²⁴ of a radio station, and the simultaneous or subsequent retransmission of such program by a broadcast station.²⁵

(b) The licensee of a standard broadcast station may, without further authority of the Commission, rebroadcast the program of a United States standard broadcast station, provided the Commission is notified of the call letters of each station rebroadcast and the licensee certifies that express authority has been received from the licensee of the station originating the program.²⁶

(c) No licensee of a standard broadcast station shall rebroadcast the program of any other class of United States radio station without written authority having first been obtained from the Commission upon application accompanied by written consent or certification of consent of the licensee of the station originating the program.^{27 28}

(d) In case of a program rebroadcast by several standard broadcast stations such as a chain rebroadcast, the person legally responsible for distributing the program or the network facilities may obtain the necessary authorization for the entire rebroadcast both from the Commission and from the person or licensee of station originating the program.

Attention is directed to Section 325 (b) of the Communications Act of 1934, which reads as follows:

"No person shall be permitted to locate, use or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor."²⁹*†

BROADCASTS BY CANDIDATES FOR PUBLIC OFFICE

§ 3.101 *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities, provided that such licensee shall have no power of censorship over the material broadcast by any such candidate.*†

§ 3.102 *Definitions.* The following definitions shall apply for the purposes of Sec. 3.101:

(a) "A legally qualified candidate" means any person who has met all the requirements prescribed by local, state or federal authority, as a candidate for the office which he seeks, whether it be municipal, county, state, or national, to be determined according to the applicable local laws.

(b) "Other candidates for that office" means all other legally qualified candidates for the same public office.*†

§ 3.103 *Rates and practices.* The rates, if any, charged all such candidates for the same office, shall be uniform and shall

²⁴ As used in Sec. 3.94 "program" includes any complete program or part thereof, or any signals if other than A. emission.

²⁵ In case a program is transmitted from its point of origin to a broadcast station entirely by telephone facilities in which a section of such transmission is by radio, the broadcasting of this program is not considered a rebroadcast.

²⁶ The notice and certification of consent shall be given within three (3) days of any single rebroadcast, but in case of the regular practice of rebroadcasting certain programs of a standard broadcast station several times during a license period, notice and certification of consent shall be given for the ensuing license period with the application for renewal of license, or at the beginning of such rebroadcast practice if begun during a license period.

²⁷ The broadcasting of a program relayed by a relay broadcast station (Sec. 4.21) is not considered a rebroadcast.

²⁸ Informal application may be employed.

²⁹ Formal application required. See "Standards of Good Engineering Practice" for form number.

not be rebated by any means, directly or indirectly; no licensee shall make any discrimination in charges, practices, regulations, facilities or services for or in connection with service rendered pursuant to these rules, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.*†

§ 3.104 *Records; inspection.* Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted.*†

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-2229; Filed, June 27, 1939; 3:05 p. m.]

CHAPTER III—RULES GOVERNING STANDARD BROADCAST STATIONS

The Commission, on June 23, 1939, repealed the following rules to become effective August 1, 1939:

Rule No.:	C. F. R. Section No.
69	30.02.
70	31.01.
71	30.01.
72-83, inclusive	30.11-30.22, inclusive.
84-91, inclusive	30.03-30.10, inclusive.
103	30.34.
113	31.10.
115-120, inclusive	31.02-31.06, inclusive.
120.1	Not codified.
121-124, inclusive	31.07-31.09, inclusive.
125-132, inclusive	32.01-32.08, inclusive.
134	33.01.
	33.02.
	33.03.
135	33.04.
136	33.05.
137	33.06.
139-150, inclusive	33.08-33.19, inclusive.
151-163, inclusive	34.01-34.13, inclusive.
166-168, inclusive	34.16-34.18, inclusive.
171	34.21.
172	34.30.
175-177, inclusive	34.33-34.35, inclusive.
177.1	34.36.
177.2	34.37.
178	34.38.
181	34.41.
36 (a) 1.	Not codified.
36 (a) 2.	Not codified.
36 (a) 3.	Not codified.
36 (a) 4.	Not codified.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-2230; Filed, June 27, 1939; 3:05 p. m.]

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The next regular meeting of the Commission will be July 26.

The following hearing is scheduled by the Commission in a broadcast case during the week beginning Monday, July 24. It is subject to change.

July 21, 1939

Monday, July 24

NEW—C. T. Sherer Co., Inc., Worcester, Mass.—C. P., 1200 kc., 100 watts, 250 watts LS, unlimited time.

FUTURE HEARINGS

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

September 25

NEW—Union Broadcasting Co., Scranton, Pa.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.

W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Renewal of license, 26500 kc., 500 watts, Emission A-3, unlimited, according to Rule 983(a).

NEW—Samuel M. Emison, Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

Hearing Before Commissioner Case
Broadcast

KUMA—Albert H. Schermann, Yuma, Ariz.—Application for hearing upon Order of Revocation of License of Station KUMA. Present assignment: 1420 kc., 100 watts, specified hours.

FEDERAL COMMUNICATIONS COMMISSION ACTION

MISCELLANEOUS

W2XUP—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted extension of special temporary authority to operate facsimile broadcast (experimental) station W2XUP on the frequency 25700 kc. only, for the period July 17 to 3 a. m., EST, August 1, 1939, pending effective date of new frequency allocation.

W8XWJ—The Evening News Association, Detroit, Mich.—Granted extension of special temporary authority to operate high frequency broadcast (experimental) station W8XWJ on frequency 42060 kc., in addition to the normal licensed frequencies, for the period July 16 to 3 a. m., EST, August 1, 1939, pending definite arrangements to be made in the ultra high frequency bands.

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Granted motion to take depositions in re application of KGLO for C. P. to change frequency, power and time of operation (requesting facilities of KWLC and KGCA), and the application of KWLC, Decorah, Iowa, for renewal of license.

NEW—John R. Pepper, Greenville, Miss.—Granted petition for permission to withdraw appearance in re application of Hot Springs Broadcasting Co. for a new station in Hot Springs, Ark.

NEW—Cascade Broadcasting Co., Inc., Everett, Wash.—Granted motion to extend time for filing Proposed Findings of Fact and Conclusions in re application for new station to September 20, 1939.

KRKO—Lee E. Mudgett, Everett, Wash.; and NEW—The Everett Broadcasting Co., Inc., Everett, Wash.—Granted motion for addition of time to file Proposed Findings of Fact and Conclusions to September 20, 1939, in re applications of KRKO for C. P. to change facilities, voluntary assignment of license to Everett Broadcasting Co., and renewal of license of KRKO, and the application of Cascade Broadcasting Co., Inc., for a new station.

NEW—Harry Jackson, Harrisburg, Pa.—Granted motion to extend time for filing Proposed Findings of Fact and Conclusions in re application for C. P. for general experimental station, from July 13 to July 28, 1939.

WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Granted extension of time to August 7, 1939, within which to file Proposed Findings of Fact and Conclusions in re

- application to move transmitter and studio to Kansas City, Kans., and Kansas City, Mo., respectively, install DA, and operate on 1220 kc., 1 KW, 5 KW LS, shares KFKU.
- KICA—Western Broadcasters, Inc., Clovis, N. Mex.—Granted special temporary authority to operate simultaneously with station KGFL from 6:45 p. m. to 7:30 p. m., MST, July 16, 1939, in order to celebrate seventh anniversary of Radio Station KICA.
- W3XO—C. M. Jansky, Jr., and Stuart L. Bailey, d/b as Jansky and Bailey, Washington, D. C.—Granted extension of special temporary authority to operate high frequency broadcast station W3XO on a frequency of 43.2 mc., with the regular power of 1000 watts, pending effective date of new high frequency allocation, for the period July 29 to 3 a. m., EST, August 1, 1939.
- WTAR—WTAR Radio Corporation, Norfolk, Va.—Granted extension of special temporary authority to operate with 5 KW power, using directional antenna, for the period July 14 to August 12, 1939, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on frequency 780 kc., reduces power so that additional interference is not involved, or until defective directional system is corrected by installing new tuning condensers.
- WNEL—Juan Piza, San Juan, P. R.—Denied special temporary authority to rebroadcast sustaining programs to be received from international broadcast stations W3XL and W3XAL over station WNEL, on a non-commercial experimental basis only, for a period not to exceed thirty days.
- WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Granted extension of special temporary authority to operate simultaneously with WTAW from 8 to 9 p. m., CST, the following Mondays: July 17, 24 and 31, in order to broadcast special programs from Louisiana State University and special addresses by the president and members of the faculty of that University.
- WMPC—The First Methodist Protestant Church of Lapeer, Mich.—Granted extension of special temporary authority to operate from 9 to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for the period August 1 to 30, 1939, in order to broadcast educational programs.
- W2XBT—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to operate television broadcast (experimental) station on frequency band 156-162 mc., for a period not to exceed 30 days pending adjustment of license to conform with provisions of Rule 43.13.
- KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted extension of special temporary authority to operate unlimited time on 1180 kc., using 10 KW, employing directional antenna system after sunset at Portland, Ore. (July, 8 p. m., PST), for the period July 22 to August 1, 1939.
- KEX—Oregonian Publishing Co., Portland, Ore.—To operate unlimited time on 1180 kc., using 5 KW, for the period July 22 to August 1.
- WGST—Georgia School of Technology, Atlanta, Ga.—Granted extension of special temporary authority to reduce power 15 minutes earlier than specified on license when necessary to prevent interruption of continuous programs, during month of July.
- WSGN—The Birmingham News Co., Birmingham, Ala.—Granted special temporary authority to make transmitter site tests, using 100-watt portable transmitter, between the hours of 12 midnight and 6 a. m., CST, for a period not to exceed 30 days.
- KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from local sunset (August, 7 p. m., CST) to 11 p. m., CST, using 100 watts, on August 6, 13, 20 and 27, in order to broadcast church services. Also granted special temporary authority to operate from local sunset (August, 7 p. m., CST) to 11:05 p. m., CST, using 100 watts, August 1, War Anniversary program; August 7, 14, 21, 28, Legion programs; August 8, 15, 22, 29, Theatre of the Air; August 2, 9, 16, 23, 30, Welcome Neighbor program; August 3, 17, 24, 31, E. Texas Chamber of Commerce program; August 10, Herbert Hoover program; August 4, 11, 18, 25, Community Jamboree; August 5, 12, 19, 26, Fair program.
- WCKY—L. B. Wilson, Inc., Covington, Ky.—Granted extension of special temporary authority to operate with directional antenna, 50 KW power, from 6 a. m. to one hour before sunset, for the period July 17 to July 26, 1939, in order to make proof of performance measurements in accordance with construction permit granted November 28, 1938.
- W1XO—The Travelers Broadcasting Service Corp., Portable-Mobile (area of Hartford, Conn.)—Granted C. P. for changes in equipment of relay broadcast station and decrease in power from 50 to 25 watts.
- NEW—WIBX, Inc., Portable-Mobile (area of Utica, N. Y.)—Granted C. P. for new relay broadcast station to operate on 1622, 2058, 2150 and 2790 kc., 50 watts.
- NEW—The Travelers Broadcasting Service Corp., Portable-Mobile (area of Hartford, Conn.)—Granted C. P. for new high frequency relay broadcast station to operate on frequencies 31220, 35620, 37020, 39260 kc., power 0.2 watts.
- KLO—Interstate Broadcasting Corp., Ogden, Utah.—Granted license to cover C. P. authorizing local move of station, installation of new equipment, and increase in power from 500 watts to 1 KW night, 5 KW day, employing DA system for both day and nighttime operation.
- WTMC—John T. Alsop, Jr., Ocala, Fla.—Granted license to cover C. P. for new station to operate on 1500 kc., 100 watts, unlimited time.
- KDRO—Drohlich Bros., Sedalia, Mo.—Granted modification of C. P. approving transmitter and studio sites, changes in authorized equipment, and installation of vertical radiator.
- WLNH—The Northern Broadcasting Co., Laconia, N. H.—Granted license to cover C. P. for new station to operate on 1310 kc., 100 watts, unlimited time.
- WFVA—Fredericksburg Broadcasting Corp., Fredericksburg, Va.—Granted modification of C. P. approving transmitter and studio sites and installation of vertical radiator.
- WMCA—Knickerbocker Broadcasting Co., Inc., New York City.—Granted authority to install automatic frequency control apparatus, auxiliary transmitter.
- KVOD—Colorado Radio Corp., Denver, Colo.—Granted modification of C. P. approving transmitter site in Denver at 56th Ave. and Pecos St., installation of new equipment, and extension of commencement date to 30 days after grant and completion date to 180 days thereafter.
- W8XWJ—The Evening News Assn., Detroit, Mich.—Granted special temporary authority to rebroadcast program material over high frequency broadcast station W8XWJ to be received from relay broadcast stations W8XIG and W8XHV, in connection with National Rowing Regatta, from 12 noon to 6 p. m., EST, on July 20, 21 and 22.
- WILM—Delaware Broadcasting Co., Wilmington, Del.—Denied special temporary authority to operate simultaneously with station WAZL from 8:30 p. m., EDST, to conclusion of Philadelphia National League baseball game on July 19.
- W9XZV—Zenith Radio Corp., Chicago, Ill.—Granted special temporary authority to operate a 50-watt portable television transmitter on frequency 45 $\frac{1}{4}$ mc., for the period August 1 to 30, in order to make site survey for new location of experimental television station W9XZV.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to reduce power from 1 KW to 250 watts for a period not to exceed 10 days, while rebuilding transmitter in accordance with C. P.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Granted special temporary authority to operate simultaneously with KICA from 8 to 9 p. m., MST, on July 27, in order to broadcast State Safety Program.
- KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted extension of special temporary authority to operate unlimited time on 1180 kc., using 10 KW power, employing DA system after sunset at Portland, Ore. (August, 7:15 p. m., PST), for the period August 1 to August 30.
- KEX—Oregonian Publishing Co., Portland, Ore.—To operate unlimited time on 1180 kc., using 5 KW, for the period August 1 to August 30.
- KBTM—Regional Broadcasting Co., Jonesboro, Ark.—Granted special temporary authority to operate from 8 to 9 p. m., CST, for the period September 20 to October 1, in order to broadcast revival services of Fisher Street Church of Christ in Jonesboro, subject to compliance with Rule 15.15.
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to remain silent from 7:15 to 9:15 p. m., CST, on August 1, 3, 8, 10, 15, 17, 22, 24, 29, 31, and from 8:15 p. m. to 9:15 p. m., CST, on August 2, 9, 16, 23, 30, in order to observe summer vacation.

KGGF—Hugh J. Powell, Coffeyville, Kans.—To operate on above-mentioned dates in order to permit WNAD to remain silent during summer vacation.

APPLICATIONS FILED AT FCC

570 Kilocycles

WMAM—M & M Broadcasting Co., Marinette, Wis.—Modified construction permit (B4-P-2130) for new station, requesting approval of antenna and approval of studio and transmitter sites.

580 Kilocycles

KMJ—McClatchy Broadcasting Co., Sacramento, Calif.—Extension of special experimental authority for transmission of facsimile signals from midnight to 6 a. m. for period ending 3-1-40.

710 Kilocycles

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Construction permit to make changes in directional antenna. Amended: antenna changes.

890 Kilocycles

KARK—Arkansas Radio & Equipment Co., Little Rock, Ark.—License to cover construction permit (B3-P-2318) as modified for increase in power, install directional antenna for night use and make changes in equipment.

1200 Kilocycles

WABI—Community Broadcasting Service, Bangor, Maine.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

1210 Kilocycles

KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Authority to transfer control of corporation from Harry B. Greaves, T. B. Lanford, R. M. Dean, John Caruthers, to Mrs. Lucille Buford, Mrs. S. P. Ross, Sam W. Ross, and Paschal Buford, 100 shares common stock.

NEW—Yuma Broadcasting Co., Yuma, Ariz.—Construction permit for a new broadcast station to be operated on 1210 kc., 100 watts night, 250 watts day, unlimited time. Amended: antenna to be determined, transmitter site to be determined.

WSNJ—Eastern States Broadcasting Corp., Bridgeton, N. J.—License to cover construction permit (B1-P-2275) for new equipment, increase in power and hours of operation.

1250 Kilocycles

WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—Construction permit to install new transmitter, directional antenna for night use; changes in frequency from 1250 kc. to 710 kc.; increase power from 1 KW night, 5 KW day, to 10 KW day and night; and move transmitter.

1260 Kilocycles

KPAC—Port Arthur College, Port Arthur, Tex.—Modified construction permit (B3-P-206) for change in frequency, hours of operation, equipment changes, installation of directional antenna for night use, and move of transmitter, further requesting changes in antenna and installation of new transmitter, extend commencement and completion dates 20 and 120 days, respectively.

1280 Kilocycles

WORC—Alfred Frank Kleindienst, Worcester, Mass.—License to cover construction permit (B1-P-2270) for installation of directional antenna for day and night use.

1370 Kilocycles

WABY—Adirondack Broadcasting Co., Inc., Albany, N. Y.—Special experimental authority to operate a synchronous station using 100 watts power for regular license period, install 100-watt transmitter, studio and transmitter site to be determined.

1420 Kilocycles

KRLH—Clarence Scharbauer, Midland, Tex.—Construction permit to make changes in equipment; change power and hours of operation from 100 watts daytime to 100 watts night, 250 watts day, unlimited time. Amended to change from construction permit to modified license, omit request for equipment changes and request 100 watts power day and night.

1430 Kilocycles

WHP—WHP, Inc., Harrisburg, Pa.—License to cover construction permit (B2-P-2090) as modified for new equipment, directional antenna for night use, and increase in power.

1500 Kilocycles

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

MISCELLANEOUS

W1XAR—World Wide Broadcasting Corp., Boston, Mass.—Modified license to add frequency 6080 kc. to present authorized frequencies.

W1XAR—World Wide Broadcasting Corp., Boston, Mass.—Modified license to add frequency 25600 kc. to present authorized frequencies.

NEW—Central New York Broadcasting Corp., Portable-Mobile.—Construction permit for new relay broadcast station on 31220, 35620, 37020, 39260 kc., power of 12 watts, A3 Emission.

NEW—Central New York Broadcasting Corp., Portable-Mobile.—Construction permit for new relay broadcast station on 1606, 2022, 2102, 2758 kc., power of 12 watts, A3 Emission.

WDAC—University of Wisconsin, Portable-Mobile.—License to cover construction permit (B4-PRY-150) as modified for new relay station.

WDAC—University of Wisconsin, Portable-Mobile.—Modified construction permit (B4-PRY-150) requesting equipment changes.

W9XER—Midland Broadcasting Co., Inc., Kansas City, Mo.—License to cover construction permit (B4-PHB-65) for changes in equipment, move of transmitter, and increase in power (application specified 42460 kc. as assigned under new rules).

W9XBF—WDAY, Inc., Portable-Mobile.—License to cover construction permit (B4-PRE-255) for new relay station.

NEW—Don Lee Broadcasting System, Portable-Mobile.—Construction permit for new developmental broadcast station for portable-mobile operation in Western United States on 1614, 2398, 3492.5, 4797.5, 6425, 9135, 12862.5, 17310, 23100, 31540, 35460, 39460 kc., 125 watts power, unlimited time A1, A3 Emission (to be used as an experimental long distance relay transmitter to feed programs to stations of the Don Lee Mutual Broadcast Systems).

W3XIS—WLBG, Inc., Mobile.—Modified license to change corporate name from WLBG, Inc., to Richmond Radio Corp.

WAHM—WLBG, Inc., Portable-Mobile.—Modified construction permit (B2-PRY-160) to change corporate name to Richmond Radio Corp.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

Central States Supply Company—Use of lottery methods in the sale of fishing tackle, silverware, rifles, radios, cups, blankets,

and other articles is alleged in a complaint issued against Rose Greenberg, trading under the name of Central States Supply Company, 537 South Dearborn St., Chicago. The respondent is alleged to have furnished others with push cards for use in the sale of her merchandise to ultimate consumers. (3845)

House of Royalsun—False representations in the sale and distribution of various grades and types of textile fabrics and knitting yarns are alleged in a complaint issued against Samuel R. Israel and Al Goldstein, trading as House of Royalsun, 25 Essex St., New York.

The complaint alleges that the respondents have falsely represented the constituent fiber or material of their products by means of labels and in advertisements, and by failing to disclose the rayon content of certain of their products; that they have falsely represented that purchasers of their products received certain discounts or savings, and that they have falsely represented that they employed one of the foremost authorities in the East on mail-order instructions and fashion designs, whose services were available to the respondents' customers.

The respondents are also alleged to have falsely represented that they maintain a separate unit in their organization for blocking and cleaning garments; that this unit is operated by experts; that the respondents' plant is equipped to specialize in such work, and that this branch of the business is on a non-profit basis, being operated solely as a service for their customers. (3849)

Inland Sales Corporation—Use of lottery methods in the sale of sports jackets, pens, pencils and other articles is alleged in a complaint issued against A. Laskey, J. Samuels and J. P. Sheehan, trading as Inland Sales Corporation, 1719 W. Division St., Chicago.

The respondents are alleged to have distributed to the purchasing public push cards for use in the sale of their merchandise to ultimate consumers. (3846)

Landon & Warner Company—See Purity Products Company.

Penn Products—See Dr. Ron-al Medicine Company.

Dr. Penn's Products Company—See Dr. Ron-al Medicine Company.

Purity Products Company—False advertising in the sale and distribution of "Wheatol", claimed to contain Vitamin E, is alleged in a complaint issued against Willard C. and Maude B. McAhren, trading under the name of Purity Products Company, 801 Bluff Road, Sioux City, Iowa, and Landon & Warner Company, 360 North Michigan Ave., Chicago, advertising agents for Willard C. and Maude B. McAhren.

The complaint alleges that the respondents have made, directly or by implication, the following misleading representations: that impairment of youthful vigor, vitality and general well-being in men up to and considerably over 50 years of age is due to an inadequate supply of Vitamin E and can be averted or delayed by the use of Wheatol, and that, in women, inability to bear children successfully after conception is due to a deficiency of Vitamin E and will be remedied by the use of Wheatol. (3847)

Dr. Ron-al Medicine Company—A complaint has been issued against Irving Sofronski, trading as Dr. Ron-al Medicine Company, Dr. Penn's Products Company, and Penn Products, 7342 Ogontz Ave., Philadelphia, alleging dissemination of false advertisements concerning "Dr. Ron-al's Relief Compound", represented as a remedy for delayed menstruation.

This is the second Commission complaint in a series of seven cases in which preliminary injunctions were recently granted by the Federal courts on petition of the Federal Trade Commission prohibiting dissemination of advertisements which represent certain preparations of this character as being safe, competent and scientific treatments for delayed menstruation and as having no ill effects, and which fail to reveal that the use of such preparations under conditions as prescribed in the advertisements, or under customary and usual conditions, may result in serious injury to the health of

users. The injunctions remain in effect until final disposition of the Commission's complaints under the Federal Trade Commission Act.

The Commission's complaint in the Sofronski case alleges that the respondent's product does not, as advertised, accomplish results without pain or delay; that its use under certain conditions may result in gastro-intestinal disturbances leading to excessive uterine hemorrhage, and when used to interfere with the normal course of pregnancy, may cause septicemia. The complaint further alleges that use of the respondent's preparation is a menace to the health and life of pregnant women. (3848)

CEASE AND DESIST ORDERS

The commission has issued the following cease and desist orders:

American Memorial Company, 2135 Piedmont Road, Atlanta, Ga., was ordered to discontinue misleading representations in the sale of granite or marble monuments, tombstones or footstones.

The Commission finds that monuments which the respondent represents as being "everlasting" are not everlasting; that stones represented as weighing 400 pounds weighed substantially less than that amount; that the respondent was not the manufacturer of its granite tombstones as advertised, and that representations that purchases made through the respondent eliminate profits of the middleman were misleading.

The order prohibits representations that the respondent's monuments, tombstones, or footstones are everlasting; that its monuments or tombstones weigh 400 pounds or any specified weight until that is a fact; that the respondent manufactures its granite monuments or tombstones, and that it has posted a bond guaranteeing the quality of its products. (3369)

Hart, Schaffner & Marx, 36 South Franklin St., Chicago, and its subsidiary, Wallach's, Inc., Fifth Ave. and 33rd St., New York, were ordered to discontinue misleading representations in the sale of men's clothing.

The order prohibits use by the respondents of the unqualified word "Silk" or "Silkool", or similar words, to designate fabrics which are not composed wholly of unweighted silk, except that in the case of a fabric or product composed in part of unweighted silk and in part of other materials, such descriptive words may be used as descriptive of the silk content if conspicuously accompanied by other words accurately designating each constituent fiber or material in the order of its predominance by weight, beginning with the largest single constituent.

The order also forbids the advertisement or sale of men's clothing composed wholly or partly of rayon without clear disclosure of the rayon composition, and where such clothing is composed in part of rayon and in part of other fibers, such fibers, including the rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent. (3560)

Interstate Premium Novelty Company—See Schall Candy Company.

Monica M. Rock, individually and as executrix of the estate of Dr. Arthur A. Rock, Milwaukee, has been ordered to discontinue misleading representations in the sale of medicinal preparations for treating goiter.

The Commission finds that tablets and an ointment sold by the respondent are not a scientific, efficacious, safe and proper treatment for any type of goiter, nor do they have any therapeutic value; that, contrary to the respondent's representations, medication is not a proper and efficacious treatment for all types of goiter, surgery being the only effective remedy in some types; that the respondent cannot accurately diagnose cases of goiter from answers submitted by patients on the question blanks furnished by the respondent, and that the respondent, has not successfully treated and cannot successfully treat goiter my mail. (2509)

Schall Candy Company—Orders have been issued to a Clinton, Iowa, candy distributor and a Brooklyn, N. Y., dealer in novelty

articles prohibiting the use of lottery devices in the sale of their merchandise to ultimate consumers.

The Schall Candy Co., Clinton, Iowa, was found to sell to wholesale dealers, jobbers and retail dealers, certain assortments of candy so packed and assembled as to involve the use of lottery schemes when so sold and distributed to consumers.

The Commission ordered the Schall Candy Co. to cease and desist from supplying others with candy assortments or other merchandise, together with push or pull cards, punch boards or other lottery devices which may be used in selling or distributing such candy or merchandise; supplying lottery devices, either with assortments of candy or other merchandise, or separately, which devices may be used in selling or distributing such candy, or other merchandise, and selling or otherwise disposing of merchandise by the use of such devices.

Max Bergman, trading as Interstate Premium Novelty Company, 700 Glenmore Ave., Brooklyn, N. Y., was found to sell articles such as dresser sets, watches, bedspreads, quilts, cameras, dolls, kitchenware, silverware, razors, razor blades, fountain pen and pencil sets, jewelry, cigarette lighters, cosmetics, pocketknives, mirrors, men's and women's clothing, and other merchandise, through agents, who were supplied with pull card devices for use in promoting sales to ultimate purchasers.

It was ordered that Max Bergman cease distributing lottery devices to his agents or others, to enable such persons to sell merchandise, and to cease disposing of merchandise by the use of lottery devices. (3776 and 3577)

Wallach's, Inc.—See Hart, Schaffner & Marx.

STIPULATIONS

The Commission has entered into the following stipulations:

Cary Manufacturing Company—W. Earl Cary, trading as Cary Manufacturing Company, 1116 West Washington Blvd., Los Angeles, entered into a stipulation to desist from use of the word "manufacturing" in conjunction with his trade name, or use of any word which would imply that the respondent makes the merchandise sold by him, or that he actually owns and operates or controls the plant or factory in which his merchandise is made, when in truth he is engaged only in the sale and distribution of a kitchen utensil designated "The Cary Vapor Cooker." (2486)

Commercial Silk Company—Two textile companies entered into stipulations to discontinue misleading representations.

The Commercial Silk Company, having its principal place of business in Paterson, N. J., and a manufacturing plant at Altoona,

Pa., agreed, in its stipulation, to cease using the word "Silk" as part of its corporate or trade name and the term "manufacturers of silks," when actually it manufactures and sells only rayon fabrics.

Martin Weiner, trading as Martin Weiner Company, New York, stipulates that he will cease representing himself to be a manufacturer of silk or rayon or any other products when in fact he is engaged only in the sale and distribution of fabrics. (2484-2485)

Correspondence Register—Mary Lee Saltz, conducting a business in her own name and as Mary Lee's Club and as Correspondence Register, Rolla, Mo., entered into a stipulation to discontinue false and misleading representations in the sale of lists of persons wishing to correspond for social and matrimonial purposes, and memberships in a correspondence club.

In her stipulation, the respondent admitted that the price charged for membership in her club is not a "special offer," as represented in advertisements, but the regular price. She also admitted that no inquiry is made to determine the moral, business, social or financial standing of her clients; nor are records kept to indicate the outcome of the correspondence or resulting marriages for which the respondent advertises definite claims.

Under the stipulation, the respondent agreed to cease representing that any offer is "special" unless that is a fact; that club members are suited in correspondence or married within any specified time, or at all, unless supported by sufficient investigation as to actual fact; or that parties seeking correspondents are worth any specified amounts, or have any social, business or financial standing, other than that disclosed by a competent investigation. (02402)

Foster Canning Company, Inc., Glendale, Long Island, N. Y., entered into a stipulation to discontinue misrepresentations in the sale of a dog food designated "Dr. Olding."

The respondent agreed to cease use in advertising matter of the word "meat," alone or in connection with the words "food product" or with other words so as to imply that its product is composed wholly of meat, when such is not a fact.

The stipulation provides that if the preparation is composed substantially of meat and partly of other ingredients, and the word "meat" is used to describe the meat content, it shall be accompanied by other words in conspicuous type clearly indicating that ingredients other than meat are present.

The respondents also agreed to cease representing directly or by implication that its product contains more real fresh beef or meat than products of its competitors, when such is not a fact. (02487)

Mary Lee's Club—See Correspondence Register.

Martin Weiner Company—See Commercial Silk Company.



McNinch Resigns: J. L. Fly Named Successor

While no official letter of resignation and acceptance has been given out by the White House, it is understood that Chairman Frank R. McNinch has resigned and that his resignation becomes effective September 1.

James L. Fly, general counsel for the Tennessee Valley Authority, was today nominated by President Roosevelt for the unexpired term. Senate confirmation is expected before adjournment.

The new commissioner, age 41, is a native of Texas, a graduate of the Naval Academy and of Harvard Law School. He was one-time secretary to Senator Pat Harrison of Mississippi. During the Hoover administration he served as special assistant to the Attorney-General and handled several important anti-trust suits, including the Sugar Institute case in 1932. He was appointed general solicitor of the TVA in 1934 and three years later was named general counsel.

Following his anticipated confirmation by the Senate, the general opinion prevails in Washington that he will be named chairman of the Commission on September 1, when it is expected Mr. McNinch will officially relinquish his post.

On Tuesday of this week Mr. McNinch conferred with the President and later notified reporters that he told the President of his desire to retire because of ill health. Mr. McNinch

(Continued on page 3624)

COPYRIGHT DEVELOPMENTS

Music copyright continued to claim the principal interest of the broadcast industry, following the annual membership meeting of the NAB, which was concluded at Atlantic City, N. J., on July 13.

Pertinent developments were:

1. The Department of Justice has revived interest in the anti-trust suit against ASCAP instituted in the Federal District Court for the Southern District of New York, the trial of which was recessed during the fall of 1935.

2. The NAB Copyright Negotiating Committee headed by President Neville Miller and the ASCAP Committee, headed by Mr. Gene Buck, are scheduled to meet to discuss the basis for a new contract at New York on August 3.

3. Senator Wheeler, chairman of the Senate Interstate Commerce Committee, has introduced a bill in the Senate

which would amend the Copyright Act of 1909 by limiting the application of the damage section to the originating station in the case of network broadcasts.

4. As Congress nears the time for adjournment interest in the resolution of adherence to the International Copyright Union was intensified.

5. All prospect for Congressional action of any kind on the so-called "compromise bill" to amend and consolidate the copyright laws during the present session vanished.

At the invitation of Senator Wheeler of Montana, a five-hour conference was held in Washington on July 12, with a view to discussing some of the problems growing out of the Montana copyright situation. In addition to Senator Wheeler, Mr. Gene Buck, president, and Mr. Frolich, general counsel of ASCAP, Mr. Ed Craney, rep-

(Continued on page 3624)

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

McNINCH RESIGNS: J. L. FLY NAMED SUCCESSOR

(Continued from page 3623)

was sworn in as chairman of the FCC on October 1, 1937, filling out the unexpired term of the late Commissioner Anning Prall, who was reappointed to the Commission for a seven-year term from July 1, 1935. The appointment of Mr. Fly will be for the remainder of this unexpired seven-year term, ending July 1, 1942.

"Who's Who" reveals that Mr. Fly was graduated from the Dallas, Texas, High School and in 1920 graduated from the U. S. Naval Academy. He retired from navy service in 1923, became a law clerk and entered Harvard Law School, graduating in 1926. He was engaged in private law practice until 1929 when he became special assistant to the U. S. Attorney General, handling anti-trust suits and regulatory measures under commerce power.

In 1934 he became counsel for the Tennessee Valley Associated Cooperatives, Inc., and from here he went into his association with the TVA. He is married and the father of two children.

COPYRIGHT DEVELOPMENTS

(Continued from page 3623)

representing Station KGIR, and Mr. Phil Loucks, representing Station KFBB, were present. As a result of the so-called Montana anti-ASCAP law and the litigation instituted in that State, ASCAP has cancelled the licenses of all Montana stations, although the networks are continuing to serve their Montana affiliates with programs. Mr. Buck explained that the Society and the NAB were holding conferences looking toward renewal of the present licenses which expire December 31, 1940, and made it clear that whatever may be the final result of these negotiations the Society in the future would issue but one form of contract for all types of stations. He said that the Society had not decided upon the form of contract that would be acceptable or the basis for compensation, but that a factual survey of the entire broadcast matter as it affected ASCAP was now under way. The results of this survey, he said, would be made available to the ASCAP and NAB Committees. No agreement was reached with respect to the Montana copyright tangle during the conference.

The question of clearing music at the point of origination was raised during the conference and later this same question was discussed at an informal conference attended by Senator Wheeler, President Miller of the NAB, Mr. Frank M. Russell, vice-president of NBC, Mr. Harry C. Butcher, vice-president of CBS, Mr. Craney and Mr. Loucks. Senator Wheeler expressed it as his feeling that legal liability for an unauthorized performance of a copyrighted musical composition ought to rest with the station originating the program in which such work was included and this aspect of the general problem was discussed in detail during the conference.

Following this conference Senator Wheeler introduced in the Senate a bill (S. 2846) which would amend Section 25, the present Copyright Law by adding after paragraph (e) the following language:

"In the case of an infringement by radio broadcasting, the liability for the use of a copyrighted work in broadcasting from and through the facilities of two or more connected stations shall rest solely with the station, person, firm, or corporation from and through whose facilities the performance, transmission, or dissemination of such copyrighted work is originated; except that the liability for the use of a copyrighted work in broadcasting by means of electrical transcriptions or other forms of recording manufactured, sold, leased, or licensed exclusively for broadcasting purposes shall rest solely with the manufacturer of such electrical transcriptions or other forms of recording."

The bill was referred to the Senate Patents Committee of which Senator Homer Bone of Washington is chairman. It is understood that Chairman Bone is favorable to the legislation but because the Congress is preparing for adjournment during the coming week, no action can be expected during the present session.

Because of the acuteness of the Montana situation, Senator Wheeler has taken an active interest in the broadcasters' copyright problem and has promised his assistance in effectuating a settlement.

After several years of inactivity the Department of Justice has revived interest in the anti-trust suit against ASCAP, and Mr. Thurman Arnold, head of the Department's Anti-trust division, has named Mr. Robert M. Cooper Special Assistant to the Attorney General to study the matter.

The NAB Copyright Negotiating Committee, headed by President Miller, and including in its membership Mr. Edward Klauber, executive vice-president of the Columbia Broadcasting System; Mr. Lenox R. Lohr, president of the National Broadcasting Company; Mr. Sam Rosenbaum, chairman of the IRNA group, and Mr. John Elmer of Station WCBM, Baltimore, will meet with the ASCAP Committee headed by Mr. Buck and including Mr. John G. Paine, general manager of ASCAP; Mr. Frolich, general counsel of ASCAP, and several members to be named

will meet at New York on August 3 to continue their discussions in line with the resolution adopted by the broadcasters at their Atlantic City meeting.

All prospect for copyright legislation, and for that matter all radio legislation, vanished as Congress prepared for adjournment possibly next week. However, the resolution reported favorably by the Senate Foreign Relations Committee recommending adherence by this country to the International Copyright Convention remains on the Senate's executive calendar and might be brought before the Senate before adjournment. Much opposition has developed to this resolution although proponents of adherence are expected to press for adoption.

Another measure which might receive consideration during the dying days of the Congress is the O'Mahoney bill which would amend penalty sections of the anti-trust laws. This bill (S. 2719) which carries into effect the interim recommendations of the monopoly committee headed by Senator O'Mahoney, might have a bearing upon the ultimate result of the Government's anti-trust suit against ASCAP. A strong eleventh hour fight to secure passage of this measure is anticipated.

News About the Code

Copies of the Code have been sent to every member of the Congress and to key people prominent in national life. They have been asked to examine its provisions carefully and to give Headquarters the benefit of any comment or criticism they care to make.

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The Code has also been sent to every major advertising agency and major advertiser, stating that it is the desire of the broadcasting industry to secure their cooperation in raising the public acceptance of radio to a new high level.

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The exact date when the Code will become effective will be announced by the Board of Directors at its September meeting. Though nothing is official at this time, it is anticipated that the Board will select an early fall date. John Shepard, III, this week announced that the Yankee Network had already put the Code into effect on its stations.

— O —

Letters of commendation from civic, religious and educational groups throughout the country continue to come into Headquarters. An analysis of the editorial comment of the press is still under way. It is safe to announce at this time, however, that the overwhelming majority of press opinion is favorable to the step taken by the broadcasters in formulating a new Code and especial praise is

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given to the religious and controversial public issues planks.

— O —

Stations have been supplied with fifty copies of the Code; more upon request. When requested, Headquarters will send out a copy with a covering letter to local and regional advertisers not reached in the general mailing to agencies and national advertisers.

Members are requested to send out copies to all civic, educational, religious and club groups in their listening area. Copies of any pertinent comments or criticisms will be appreciated by Headquarters.

Special material, speeches, and question and answer dialogues on the Code are being prepared for the use of members.

FCC Interprets Broadcast Rule 3.90 (a) (2)

In view of inquiries respecting the meaning of Rule 3.90 (a) (2) of the Rules Governing Standard Broadcast Stations, which become generally effective August 1, an official interpretation by the FCC was requested July 21 (NAB REPORTS, July 21, p. 3609). The following letters were exchanged between the NAB and the FCC:

July 21, 1939

Mr. T. J. Slowie, Secretary
Federal Communications Commission
Washington, D. C.

DEAR MR. SLOWIE:

Please permit me to refer to rule numbered 3.90 (a) (2) of the Rules Governing Standard Broadcast Stations which were promulgated by the Commission June 23 and which become generally effective August 1, 1939. Some confusion has arisen with stations as to the information the Commission intends shall be shown on the station logs, particularly with respect to programs which are reproduced from transcriptions and phonograph records, and it will be greatly appreciated if the Commission will clarify the intent of the rule. Subsection (2) reads:

"(2) An entry briefly describing each program broadcast, such as 'music,' 'drama,' 'speech,' etc., together with the name or title thereof, and the sponsor's name, with the time of the beginning and ending. If a mechanical record is used, the

entry shall show the exact nature thereof such as 'record,' 'transcription,' etc., together with the name or title of each, and the time it is announced as a mechanical record. If a speech is made by a political candidate, the name and political affiliations of such speaker shall be entered."

The first sentence seems quite clear as applying to live talent broadcasts. To illustrate, the following would appear to be log entries which would meet the requirements of the rule: "9:00-10:00 P. M., Hit Parade, Sponsor Lucky Strike Cigarettes, Music," or "5:15-5:30 P. M., The Johnson Family, Sponsor Ramsdell Products, Drama," or "9:00-10:00 P. M., Good News of 1939, Sponsor Maxwell House Coffee, Music, Drama, Speech," or "5:00-5:15 P. M., John Smith, Democrat, Candidate for Sheriff, Speech."

The second sentence, applying to programs consisting of mechanical reproductions, is not so clear, but it would seem to intend the same type of information as is required of live talent broadcasts in addition to showing that the rendition is from a "transcription" or a "record." The words "together with the name or title of each" are subject to different interpretations depending upon the nature of the program. Where the entire program is prepared for a particular sponsor and transcribed, such as has been done in the case of the Studebaker and Chevrolet automobile companies, these words would seem to refer to the name by which that program is commonly known, such as "Studebaker Champions" or "Chevrolet Musical Moments." The proper log entry, therefore, would seem to be "5:00-5:15 P. M., Transcription, Studebaker Champions, Sponsor Studebaker Corp., Music," or, if drama also is included in the transcription, the designation would include this fact. Of course, the time at which it is announced the program is "transcribed" also must be included.

On the other hand, mechanically reproduced programs, such as the so-called "Musical Clock," which are made up either of musical selections from transcription libraries or from phonograph records, or a combination of both, interspersed with commercial announcements, present a situation in which the words "together with the name or title of each" may be construed as having an entirely different meaning, i.e., as requiring the inclusion in the log of the name of each musical selection used. However, it is assumed such an interpretation was not intended by the Commission, since there appears to be no greater reason for requiring the names of musical selections when performed from a recording than in the case of live talent broadcasts.

Am I correct, therefore, in believing that, as applied to such types of programs, the words "together with the name or title of each" likewise refer to the name of the program, such as "Musical Clock," and not to the name of each musical selection? Such an interpretation would keep the rule uniform in its application to all programs and would minimize the bulk of the log, particularly with small stations primarily dependent on recordings. With this interpretation, the following entry would seem to suffice: "8:00-9:00 A. M., Musical Clock, music-transcription, Commercial XYZ Co.; music-record, Commercial Richard Roe Co.," and so on throughout the period of the hour. Of course, the times when the program is announced as "recorded" should be designated.

In view of the fact that the rules go into effect August 1, it will be greatly appreciated if you will let me know whether the foregoing interpretations as illustrated meet the desires of the Commission, so that our members may be informed before the effective date of the rule.

With kindest personal regards, I am

Sincerely,

(Signed) ANDREW W. BENNETT, Counsel.

July 27, 1939.

Mr. Andrew W. Bennett, Counsel
National Association of Broadcasters
Normandy Building
Washington, D. C.

Dear Sir:

This will reply to your letter of July 21, 1937, in which you request an interpretation of Section 3.90(a)(2) of the Rules Governing Standard Broadcast Stations, which were promulgated by the Commission June 23, and which rule becomes effective August 1, 1939.

Your inquiry relates to the requirement of the rule that if a musical record is used, the log entry shall show the exact nature thereof, together with the name or title of the record or transcription, and you ask, first, where the entire program is prepared

for a particular sponsor and transcribed, whether it will be sufficient to make a single entry covering the entire consecutive program, such as "5 to 5:15 P. M., Transcription, XYZ Musical Interlude, XYZ Corp., music." If accompanied with an indication of the time at which the announcement is made that the program is "transcribed," such an entry will be sufficient for the purposes of the rule.

Your remaining question has to do with the type of program in which individual records are played, interspersed with commercial announcements, and you ask whether an entry containing the name of the program and an indication of the commercial announcements made will be sufficient, without listing separately the titles of each one of the musical numbers played. You are informed that the Commission would not regard such an entry as in compliance with the rule, although it will permit such form of abbreviated entry from which the name of the particular record could be ascertained as broadcast stations may find it convenient to use. For example, it would be permissible to use a system of numbers corresponding to the names of the records, as long as it is possible to ascertain on inquiry the names of the records to which the key numbers refer. Also it would be permissible as an alternative to simply incorporate in the log by reference, with copy attached, any list of continuities prepared by the station in advance, containing the names of the records, to which could be added the appropriate time notation.

Very truly yours,

(Signed) JOHN B. REYNOLDS, Acting Secretary.

It will be noted in connection with programs consisting of phonograph records and selections from transcription libraries, that the Commission states the requirement that the log contain "the name or title of each" will be met if the station's recorded library (record or transcription) file number is shown on the log so that the full title of the selection performed may be obtained by reference to the library file. In cases where the program has been prepared in advance and the names of the selections to be performed are contained in the list of continuities, the requirement may be met by referring to the list and attaching a copy thereof to the log. Appropriate time notations must be shown. In all other respects, the interpretations as submitted by the NAB were approved.

FREE OFFERS

The American Bantam Car Company of Butler, Pennsylvania, is offering radio stations a \$100 credit toward the purchase of a 1939 de luxe Bantam car or truck in exchange for \$100 worth of time on the stations. The credit is transferable.

Further "inducement" is made "if you can also get us a dealer in your territory, he will be given \$5 in advertising for every car he takes. Your station will, of course, receive preference."

Headquarters is writing the company that such a proposition constitutes a violation of NAB member stations' business practice, and is informing them that stations will be glad to send in their rate cards and discuss program ideas which can accomplish their purpose.

NEWS SURVEY IN FORTUNE

The August 1939 issue of Fortune Magazine carries an article titled, "The Press and the People—A Survey."

July 28, 1939

The article undertakes a discussion of the historic background of the Press of the United States and reports the results of a survey of public opinion concerning news, conducted by Elmo Roper, who conducts the regular Fortune Survey.

The prominence of radio in the dissemination of news is discussed in the survey findings.

COMMISSIONER BROWN TO SPEAK

Commissioner Thad H. Brown will address the Summer School of Arts and Sciences and of Education, of Harvard University, Cambridge, Massachusetts, on August 4, 1939. Colonel Brown's speech will be delivered at the Harvard Faculty Club as a part of the concluding session of the Summer School.

NEW LEGISLATION

CONGRESS

S. 2846 (Sen. Wheeler, D. Mont.) COPYRIGHT—Provides that in network and transcription broadcasts, originating station or transcription manufacturer is solely liable for infringement. Referred to Committee on Patents.

STATE LEGISLATION

ALABAMA:

S. 264 (DeVane) RADIOS—To prohibit use for commercial purposes of radios equipped for receiving private official police calls, information or reports sent out by short wave from within this state. Referred to Education Committee.

MASSACHUSETTS:

H. Order (Mackay) RADIO—SLANDER—Requesting the Judicial Council to investigate the subject-matter of Current House document 2402, relative to slander by radio. Referred to Rules Committee.

Significant Remarks of Stahlman, Hays, Miller

On July 12, while the NAB Convention banquet was in session, the appointed leaders of the press, the motion pictures and the radio spoke from the same rostrum in a significant three-way address to the American people, for the first time in radio history.

Mr. Will Hays, president of the Motion Picture Producers and Distributors of America, Inc., spoke from Hollywood; Mr. James G. Stahlman, who has just retired as president of the American Newspaper Publishers Association, spoke from London; and Mr. Miller, who introduced them both, spoke of course from Atlantic City.

Mr. Miller stated: "The cornerstone of each industry—the press, the motion picture and the radio—is based on the constitutional guarantee of freedom of speech and freedom of the press."

Full permission is granted by Mr. Hays and Mr. Stahlman, and of course by Mr. Miller, for any use members care to make of the remarks below.

Following are the texts of the three speakers:

MR. MILLER:

(From Atlantic City)

I am delighted to bring greetings from the National Association of Broadcasters assembled in their seventeenth annual convention. We have considered many problems but the one thing we have done in which you will have the greatest personal interest is the adoption of a new code of program standards. This code will enable us to deliver to you an improved quality of broadcast service. At the same time it is a pledge of fair treatment to all. It is, in short, radio's doctrine of fair play.

Like the press and the motion picture screen, American radio is a mirror reflecting our American way of life. We are free to bring you what you want to read and to see and to hear. In America we are not forced to bring you what somebody else thinks you ought to read or to see or to hear.

We think you will be interested to know how we go about discharging these great responsibilities. We are happy, therefore, to bring you tonight the best qualified man in America to tell us of the democratic and social principles back of the motion picture screen, truly a gigantic mirror bringing so much enjoyment and so much individual enrichment to the American people: Mr. Will Hays, president of the Motion Picture Producers and Distributors of America. I take great pleasure now in presenting Mr. Hays, who will speak to you from Hollywood.

MR. HAYS:

(From Hollywood)

In his remarks, which follow in part, Mr. Hays praised the press and the radio as defenders of freedom and liberty:

The screen owes much indeed to the country of its birth and development. It is distinctively the product of the American spirit—vision, initiative, enterprise and progress. It was born in poverty, in doubt, in the courage of men. No fairy godmother of finance attended its birth. Unlike most of the arts it was not reared in patrician surroundings. It has no vested rights. It must conform to public demands, public taste, and the public's sense of decency and goodness in entertainment. It is a true child of democracy.

Today, in full vigor it recognizes its privileges and opportunities and realizes and acknowledges its responsibilities. Opportunity measures responsibility. Our association, the Motion Picture Producers and Distributors of America, came into being as an outward expression of the industry's public responsibility.

Liberty Essential

The one most necessary factor in the formula for the solution of all our problems is liberty. Destroy freedom and you destroy the possibility for men to help themselves. As long as we have our freedom we will have in our hands the opportunity, and we have the ability to solve every problem that may face us as a nation.

The only thing we have to fear as a people is the deprivation or curtailment of that liberty: freedom of thought, word, and action.

This is the liberty which self-regulation has brought to the screen and this is the right which we propose to protect. This purpose, however, is predicated first on the acknowledgement that with every right there is a corresponding duty. We do well to remember when we insist on the privilege that we are entitled to it only if we recognize and discharge the duties and responsibilities which the rights and opportunities entail.

It is indeed vastly important, if we are surely to preserve the liberties of the republic that the freedom of these instrumentalities be maintained. The immeasurable importance of this eventuality determines exactly the necessity of care on the part of those who happen to be the administrators of the use of the rights, upon their constant realization that liberty is not license. The custodians of this freedom of the screen, the press, and the radio are responsible to these media and to the great public they serve so to use the media that their freedom will be maintained.

The motion picture art-industry for its own welfare and for the maximum service it can thereby render, well intends to make its performances square with its privileges.

Nothing could be more significant of the liberty we possess in America than this occasion. These three great media of public thought and opinion, all of them the free agents of a free people, are meeting tonight in a common cause.

The very fact of their common purposes as here expressed demonstrates the principle of their existence: that liberty is not immunity, but that it is responsibility and accountability, that liberty not alone commands respect; it also demands self-respect.

For the press, liberty has ever been an obligation of honor, and truth, and courage. A free press has been always the fearless cham-

pion of liberty, the alert sentinel of the people's independence. It has maintained its place by its intelligence, by its determined courage, by its patriotism—and likewise by its self-control and its ever-present sense of responsibility.

The press, the radio, and the motion pictures have aptly been described as the "three mirrors" of the people. It is true that each reflects the ideals, the inspiration, the aspiration, the hopes, and the art and culture of the people.

Too, each reflects a composite, definite distillation of the character and the intelligence of our civilization.

To the radio—the miracle of yesterday, the delightful companion, the discriminating informant and the charming entertainer of today—we pay our sincere respects. This mighty force in America has been employed magnificently for good under the leadership which has developed it during the amazingly short time of its existence. The radio has shown its determination and its distinguished ability to progressively make itself an agency of good will, of entertainment, and of general public welfare.

MR. MILLER:

Thank you, Mr. Hays.

I certainly believe that the world-wide acceptance of the American motion picture is not only a tribute to the creative genius which produces them, but is also a tribute to our American democracy. Here talent and genius are encouraged and are not frustrated or perverted to serve the self-interest of those who would wipe out democratic principles and use every means of communication to suppress human liberties for their own selfish ends.

Making History

I am told that we are making radio history tonight. This is the first time that the radio and the motion picture and now the press have addressed you from the same radio rostrum. It is peculiarly fitting that this newest medium of communication is the medium through which this significant program is taking place. We have heard from Mr. Hays from Hollywood and now we are about to hop across the Atlantic Ocean to London, where we will hear from Mr. James G. Stahlman, publisher of *The Nashville Banner*, who has just retired as president of the American Newspaper Publishers Association. It is significant, I believe, because it marks the first time that the appointed leaders in these three fields step before you on common ground.

Mutual Foundation

The cornerstone of each industry—the press, the motion picture and the radio—is based on the constitutional guarantee of freedom of speech and freedom of press. We have but to look abroad to see what happens in the destruction of human liberties when these guarantees are taken away.

Just a few days ago, Mr. Stahlman flew to Europe on the new Clipper plane with a group of distinguished newspapermen. He has had an opportunity to learn first-hand of the condition of human liberties in the troubled countries abroad. It is a great privilege, therefore, for me to introduce to you now, Mr. James G. Stahlman, who will speak to you from London.

MR. STAHLMAN:

(From London)

Mr. Miller, Mr. Hays, members of the National Association of Broadcasters: Since "Clipping" the North Atlantic last Sunday it has been my very unusual privilege to have seen and heard many things, the full significance of which you on the other side of the water, by reason of your removal from the scene and your customary American sense of security, would regard, as I now do, with some degree of concern.

I have seen the base of the Nelson Monument plastered with posters reading, "Enroll Now." "Be Prepared." "Join Today." I have seen anti-aircraft searchlights dotting open spaces ready for duty. I have seen bomb-proof shelters being built in London's lovely parks. I have heard the roar of military planes over Britain and France in preparedness maneuvers. I have talked with men in high station, with taxi drivers, merchants, bell boys. I have sensed through it all the dogged determination of both the British and the French to preserve at whatever cost, man's most precious heritage—freedom—which only men of a democracy can appreciate and enjoy.

Freedom from what? Freedom from mental and spiritual slavery,

freedom from physical imprisonment, freedom from oppression of any and every kind.

And what is all this about? It is because ideologies at variance with the concept of free constitutional government are being impressed upon helpless peoples and the rights of free men the world over are being ignored and curtailed.

With this side of the world gone haywire, you of the radio, you of the screen, and we of the press, have no higher obligation to the American people than to courageously expose and firmly oppose every effort from within or from without to encroach upon man's right to think, to speak, to worship as he pleases.

Those rights embraced in the First Amendment to the Federal Constitution were put there by men who knew the price of liberty. If they are to be preserved, the radio, the press, the screen, and every agency of mass communication must be unhampered in their ability to present the truth—the truth that makes and keeps men free. Men at times have tried to hide it; others have denied it to their fellows, and wherever such has even been temporarily successful, liberty has perished and democracy has vanished. That is at the bottom of this clash between ideologies on this side of the water.

Access to Truth

I am not worried about dictators in America so long as the people have access to the truth. Remember this, gentlemen of the radio, there is not one single law on the statute books, nor can one be enacted so long as the Constitution is the fundamental law of the land, that restricts factual expression over the radio; there must be none. Yours is the obligation to see that that can't happen there.

The press has fought for and won its freedom; it will continue to defend it. Radio must do the same. Jeopardy to one is jeopardy to the other. There must be no abridgements of the rights of the American people through encroachments upon either of our respective media of mass expression. Ours is the obligation to them, not to ourselves. So long as we respect that obligation from those from whom, after all, we derive all our rights and privileges, we need not fear restriction or censorship.

Fail to observe it, and we shall deserve to lose the thing most essential for the preservation of our democracy. That is no slight task to be regarded lightly; it is as sacred a privilege, as ever could be conferred upon you and me. It isn't simply American in its connotation; it is international.

Democracy has her back to the wall on this side of the Atlantic. The preservation of it on our own side will make certain its future over here. That is the job for radio, the press, the screen. Democracy can exist only where men have unrestricted access to the truth. I call you of the radio to that solemn task with the assurance that in the American press you have a friend and ally who knows the cost of liberty and who is willing to sacrifice to the utmost in order that it shall not perish from the earth.

Good night, gentlemen,

MR. MILLER:

Thank you, Mr. Stahlman. Your first-hand account was indeed stimulating and of great interest, particularly at a time such as this when the National Association of Broadcasters has had occasion to make a serious examination of our democratic principles from which we have been able, we believe, to build a new code which will forever insure a democratic system of American radio in service not to one man or to one group, but in service to all of the people of America.

Service to Nation

American broadcasting has completed another year of brilliant accomplishment and of striking public service. No other broadcasting service in the world even approached its record. We know this is because of those social and economic differences which distinguish the American system from that of all others. Through the American system we have been able to lavish millions of dollars on entertainment and talent for the enjoyment of the American people. We have contributed substantially to their educational, religious and cultural enrichment. And at not one cent of program cost to the listener.

More than this, we have been free to keep our countrymen informed as to what was going on in this country and in other countries. The contributions made by American broadcasters during this war-torn year, especially during the Munich crisis and during the current situation, demonstrate the blessings of our radio democracy and give promise that through such a system of radio as the American system, the peoples of the

world may some day be encircled by the bonds of brotherhood and not forever enslaved in the shackles of hate.

There is more to the record of radio in the past year. Again American radio lent its great voice in the saving of human life and in the alleviation of human suffering. Especially was this true during the New England disaster when our New England stations dropped schedules and threw commercial considerations overboard to save lives, to rescue women and children from the ravages of a cruel disaster. Let it be said that our American stations were "not called upon to serve"; they were already there, ready to serve, before any one needed to "call" them.

This is in the American radio tradition.

This is the way it will always be.

This is our promise.

Thank you and good night.

BROOKLYN CASES ASSIGNED FOR REARGUMENT

The Federal Communications Commission has designated for reargument the so-called Brooklyn cases. In this connection on Thursday the Commission issued the following order:

"Upon its own motion in consideration of the above applications it is ordered this 27th day of July, 1939, that said applications be, and the same hereby are set for reargument before the Commission on October 19, 1939, at 10 a. m."

The Brooklyn cases include the Voice of Brooklyn, WLTH; United States Broadcasting Corporation, WARD; Brooklyn Broadcasting Corporation, WBBC. The case involves the modification of license in so far only as the applicant requests the facilities of WARD and WLTH.

FEDERAL COMMUNICATIONS COMMISSION

PROPOSED FINDINGS OF FACT

The Federal Communications Commission in a Proposed Findings of Fact proposed to deny the application of the Yuba-Sutter Broadcasters for authority to construct a new station at **Marysville, California**, to use **1320 kilocycles**, 250 watts, unlimited time, using a directional antenna after local sunset.

In another Proposed Findings of Fact, the Commission proposes to grant the application of KRSC, **Seattle, Washington**, to make changes in its transmitting equipment, to move the transmitter site and increase the power of the station from 250 watts to 1000 watts, operating on **1120 kilocycles**, unlimited time.

The Commission also proposes to grant in a Proposed Findings of Fact the application of Vincennes Newspapers, Inc., to construct a new station at **Vincennes,**

Indiana, to operate on **1420 kilocycles**, 100 watts, unlimited time.

The Commission proposes to deny in another Proposed Findings of Fact the application of the Thumb Broadcasting Company to erect a new station at **Brown City, Michigan**, to operate on **880 kilocycles**, 1000 watts, with hours of operation limited to daytime only.

The Commission also proposes in a Proposed Findings of Fact to grant the application of the Niagara Falls Gazette Publishing Company for the erection of a new station at **Niagara Falls, N. Y.**, to operate on **1260 kilocycles**, 1000 watts, daytime only.

DECISIONS OF COMMISSION

The Federal Communications Commission in a decision granted the application of M. L. Medley for the erection of a new station at **Cookeville, Tennessee**, to operate on **1370 kilocycles**, 100 watts night, 250 watts LS, unlimited time.

The application of Broadcasting Station KMJ, **Fresno, California**, to permit it to install new equipment, move transmitter locally, and to increase its daytime power from 1,000 to 5,000 watts on **580 kilocycles**, was granted by the Commission.

The Commission also granted the application of WOLS of **Florence, South Carolina**, to change its hours of operation from daytime to unlimited time, with 100 watts day and night on **1200 kilocycles**, and renewed the license of the station; but denied the application of Pee Dee Broadcasting Company for a construction permit to use **1200 kilocycles**, 100 watts night, 250 watts day, unlimited time.

The application of the Mutual Broadcasting System, Inc., **Chicago**, for authority to transmit programs to broadcast stations in Canada was granted by the Commission.

The Commission granted the application of KTEM, **Temple, Texas**, to change its assignment from operating daytime only on **1370 kilocycles** with 250 watts, to unlimited hours of operation on the same frequency using 100 watts night and 250 watts day.

The application of WFBG, **Altoona, Pennsylvania**, to change its license from sharing time with WJAC, **Johnstown, Pennsylvania**, to unlimited time, operat-

ing on **1310 kilocycles**, with 100 watts, was granted by the Commission contingent upon the installation of an antenna in compliance with Rule 131.

The Commission, in a decision, denied the application of **WGTM, Wilson, North Carolina**, to make changes in composite transmitting equipment and the antenna system, and operation with 500 watts power on **1240 kilocycles**, daytime in lieu of operation with 100 watts on **1310 kilocycles**, daytime only.

The Commission granted the application of John R. Pepper to construct a new station at **Greenville, Mississippi**, to operate on **1310 kilocycles**, 100 watts night, 250 watts LS, unlimited time.

The application of the Liberty Broadcasting Company for assignment of the license of Station **WAGA, Atlanta, Georgia**, to the Liberty Broadcasting Corporation has been granted by the Commission. The station operates on **1450 kilocycles**, 500 watts night, 1000 watts LS, unlimited time.

In a decision the Commission granted the application of the Pontiac Broadcasting Company for a construction permit for a new station at **Pontiac, Michigan**, to operate on **1100 kilocycles**, 1000 watts, daytime only. In the same decision, the Commission designated for a further hearing the application of King-Trendle Broadcasting Corporation for a construction permit for a new station also at Pontiac to operate on **1440 kilocycles**, 250 watts, unlimited time.

In this same decision, the Commission dismissed with prejudice the application of George B. Storer for a construction permit for a station at the same city to use **600 kilocycles**, 250 watts, unlimited time.

The Commission granted the application of Corn Belt Publishers, Inc., transferor, for consent to transfer control of **Drovers Journal Publishing Company**, licensee of Radio Station **WAAF, Chicago**, to Ralph W. Dawson, et al, transferees. The station operates on **920 kilocycles**, 1000 watts, daytime.

The Commission, in a decision, granted the application for consent to transfer the control of the **Commodore Broadcasting Company, Inc.**, licensee of **WJBL, Decatur, Illinois**, to **Decatur Newspapers, Inc.** The station operates on **1200 kilocycles**, 100 watts, sharing time with **WJBC**.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

No broadcast hearings are scheduled to be held at the Commission during the week beginning, Monday, July 31.

FUTURE HEARINGS

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

September 25

- NEW**—Union Broadcasting Co., Scranton, Pa.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.
NEW—Lackawanna Broadcasting Co., Inc., Scranton, Pa.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.
W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Renewal of license, **26500 kc.**, 500 watts, Emission A-3, unlimited, according to Rule 983(a).
NEW—Samuel M. Emison, Vincennes, Ind.—C. P., **1420 kc.**, 100 watts, unlimited time.

Hearing Before Commissioner Case

Broadcast

- KUMA**—Albert H. Schermann, Yuma, Ariz.—Application for hearing upon Order of Revocation of License of Station **KUMA**. Present assignment: **1420 kc.**, 100 watts, specified hours.

November 6

- WTNJ**—**WOAX, Inc.**, Trenton, N. J.—Modification of license, **1280 kc.**, 500 watts, 1 KW LS, shares time with **WCAM** and **WCAP**. Present assignment: **1280 kc.**, 500 watts, shares time with **WCAM** and **WCAP**.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

- KHUB**—John P. Scripps, Watsonville, Calif.—Granted modification of license to increase power and time of operation from 250 watts, daytime only, to 100 watts night, 250 watts day, unlimited time.
Columbia Broadcasting System, Inc., New York City.—Granted extension of authority to transmit programs to **CFRB** and **CKAC** and other stations under control of Canadian Broadcasting Corp.
WOPI—Radiophone Broadcasting Station **WOPI, Inc.**, Bristol, Tenn.—Granted C. P. to move transmitter site locally, install new equipment and vertical radiator, and increase power from 100 watts to 250 watts.
WKST—Keystone Broadcasting Co., New Castle, Pa.—Granted C. P. to install new equipment and increase day power from 250 watts to 1 KW.
WTAW—Agricultural and Mechanical College of Texas, College Station, Tex.—Granted modification of license to omit use of time from 8 to 9 p. m. on Mondays.
WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Granted modification of license to increase time of operation from unlimited except 8 to 9 p. m. Mondays, to full unlimited time.
WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted extension of special experimental authority to operate simultaneously with station **KRLD** on **1040 kc.**, with 50 KW, for the period August 1, 1939, to February 1, 1940.

- KRLD—KRLD Radio Corp., Dallas, Tex.—Granted extension of special experimental authority to operate simultaneously with station WTIC on **1040 kc.**, with 50 KW, for the period August 1, 1939, to February 1, 1940.
- KVOO—Southwestern Sales Corp., Tulsa, Okla.—Granted extension of special experimental authority to operate on frequency **1140 kc.**, with 25 KW, unlimited time, using DA for nighttime operation, for the period ending February 1, 1940.
- KRLD—KRLD Radio Corp., Dallas, Tex.—Granted modification of special experimental authority to increase power from 10 KW to 50 KW, simultaneous operation with WTIC, employing DA for day and night operation. Also granted authority to determine operating power by direct measurement of antenna input in compliance with Rule 137.
- KRLD—KRLD Radio Corp., Dallas, Tex.—Granted license to cover C. P. authorizing local move of transmitter site, installation of new equipment and DA for day and nighttime operation, increase in power from 10 to 50 KW, and extension of completion date.
- WAZL—Hazleton Broadcasting Service, Inc., Hazleton, Pa.—Granted modification of license to change time of operation from simultaneous day, shares WILM night, to unlimited.
- WILM—Delaware Broadcasting Co., Wilmington, Del.—Granted modification of license to increase time of operation from simultaneous day, shares night with WAZL, to unlimited.
- WBTH—George W. Taylor, Williamson, W. Va.—Granted consent to the transfer of control of Williamson Broadcasting Corp., licensee of WBTH, to W. P. Booker. Station operates on **1370 kc.**, 100 watts, daytime.
- WALR—Donald B. Woodyard, Zanesville, Ohio.—Granted consent to transfer control of WALR Broadcasting Corp., licensee of WALR, to West Virginia Broadcasting Corp. Station operates on **1210 kc.**, 100 watts, unlimited time.
- KOME—Harry Schwartz, Tulsa, Okla.—Granted voluntary assignment of license of station KOME from Harry Schwartz to Capitol Sales Corp. Station operates on **1310 kc.**, 250 watts, daytime.
- WESG—Cornell University, Elmira, N. Y.—Granted extension of special experimental authority to operate on **850 kc.**, with 1 KW, from daylight to sunset at New Orleans, for the period ending February 1, 1940.
- WBIL—Ared Bulova, New York City.—Granted renewal of license for the period ending February 1, 1940.
- KRLH—Clarence Scharbauer, Midland, Tex.—Granted modification of license to increase time of operation from daytime only to unlimited.
- KIEV—Cannon System, Ltd., Glendale, Calif.—Granted renewal of license on a temporary basis only for a period of 90 days (Commissioner Craven voting "No"). The Commission will inquire into differences between promised program service and the service rendered.
- W4XCA—Memphis Commercial Appeal Co., Memphis, Tenn.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1940.
- NEW—The National Life and Accident Ins. Co., Inc., Nashville, Tenn.—Granted license for new facsimile broadcast station on an experimental basis only, frequency **25250 kc.**, 1 KW.
- WDEV—Radio Station WDEV, Waterbury, Vt.—Granted modification of license to increase day power from 500 watts to 1 KW.
- National Broadcasting Co., Inc., New York City.—Granted extension of authority to transmit programs to CMX, Havana, Cuba, via RCA Communications, Inc., originating in NBC's New York studios, or any points in the U. S. where networks programs may originate, to CMX, Havana, Cuba.
- NEW—A. H. Belo Corp., Dallas, Tex.—Granted license for new facsimile broadcast station on an experimental basis, to use frequency **25250 kc.**, 1 KW.
- KEUB—Sam G. Weiss, Price, Utah.—Granted authority to transfer control of Eastern Utah Broadcasting Co. (licensee of KEUB) to Jack Richards and A. W. McKinnon, 5542 shares of the issued and outstanding common stock of licensee corporation, for a consideration of \$6,500.
- KTAT—Raymond E. Buck, Fort Worth, Tex.—Granted authority to transfer all of the outstanding common stock of the Tarrant Broadcasting Company, licensee of station KTAT, to Ruth G. Roosevelt (contingent upon the surrender of license for station KFJZ, Fort Worth, Tex.), for a consideration of \$101,570.76 cash.
- KROW—H. P. Drey, S. L. Brevitt, R. E. Morgan, Chas. Martin, C. V. Knemeyer, acting on their behalf and as representatives of owners of 95 per cent of stock of Educational Broadcasting Corp., Oakland, Calif.—Granted authority to transfer control of corporation from Drey, Brevitt, etc., to W. I. Dumm, Philip G. Lasky, Fred J. Hart and Wallace F. Elliott. Station operates on **930 kc.**, 1 KW, unlimited time.
- WAPI—Alabama Polytechnic Institute, University of Alabama, Alabama College, Birmingham, Ala.—Granted extension of special authorization to operate unlimited time on **1140 kc.**, with 5 KW, with DA system after sunset at Tulsa, Okla., for the period ending February 1, 1940.
- KWKH—International Broadcasting Corp., Shreveport, La.—Granted extension of special experimental authority to operate on **1100 kc.**, 50 KW power, unlimited time, employing DA system for nighttime operation, for the period ending February 1, 1940.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Granted extension of special authorization to operate simultaneously with station KTHS on **1060 kc.**, with 10 KW power, from 6 a. m. to local sunset at Hot Springs, Ark., and from local sunset at Hot Springs, to 9 p. m., EST; and to operate synchronously with station WJZ on **760 kc.**, with 2½ KW, employing DA from 9 p. m., EST, for the period ending February 1, 1940.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Granted extension of special experimental authority to operate on frequency **1060 kc.**, with 10 KW power, simultaneously with WBAL, Baltimore, from 6 a. m. to local sunset daily, suspend until 8 p. m., and unlimited from 8 p. m. to midnight, for the period ending February 1, 1940.

DESIGNATED FOR REHEARING

The following application has been designated for hearing by the Commission. Date for the hearing has not yet been set.

WSBT—The South Bend Tribune, South Bend, Ind.—Application for C. P., already in hearing docket, amended so as to request authority to move transmitter site locally; install new equipment and directional antenna system for day and nighttime operation; change frequency from **1360 kc.** to **930 kc.**, and time of operation from S-WGES to unlimited time.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KEX, Portland, Ore.; KFAB, Lincoln, Nebr.; KFI and auxiliary, Los Angeles; KFVD, Los Angeles; KGU, Honolulu, T. H.; KIRO, Seattle; KMOX, St. Louis; KMPC, Beverly Hills, Calif.; KOA, Denver, Colo.; KOAM, Pittsburgh, Kans.; KOB, Albuquerque, N. Mex.; KOWH, Omaha, Nebr.; KPO, San Francisco; KYOS, Merced, Calif.; WBBM and auxiliary, Chicago; WBT, Charlotte, N. C.; WCAU and auxiliary, Philadelphia; WCFL and auxiliary, Chicago; WGY and auxiliary, Schenectady, N. Y.; WHAS, Louisville; WOV, New York City; WPG, Atlantic City, N. J.; WCAZ, Carthage, Ill.; WRVA, Richmond, Va.; WRUF, Gainesville, Fla.; WSAZ, Huntington, W. Va.

The following stations were granted renewal of licenses for the period ending January 1, 1940:

KAWM, Gallup, N. Mex.; KGIW, Alamosa, Colo.; KNET, Palestine, Tex.; KRMC, Jamestown, N. Dak.; KSAL, Salina, Kans.; KYSM, Mankato, Minn.; WGIL, Galesburg, Ill.; WKAT, Miami Beach, Fla.; WMFJ, Daytona Beach, Fla.; WMFO, Decatur, Ala.; WNOE, New Orleans, La.

WESG—Cornell University, Elmira, N. Y.—Granted renewal of license on a temporary basis only, subject to such action as the Commission may take on pending application for renewal.

WJAG—The Norfolk Daily News, Norfolk, Nehr.—Granted renewal of license on a temporary basis only, subject to such action as the Commission may take on pending application for renewal.

KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Granted renewal of license on a temporary basis only for the period ending February 1, 1940, subject to the right of the Commission to make effective any changes or modifications herein which may be necessary in order to comply with any decision of the Commission which may be entered after hearing in any proceeding of which licensee was duly notified or in which licensee participated.

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Granted renewal of license on a temporary basis only for the period ending February 1, 1940, upon the express condition that it is subject to whatever action may be taken upon pending applications for renewal of license, and upon the application of WHA for the facilities of WMAQ.

KVGB—Helen Twonsley, Great Bend, Kans.—Present license extended on a temporary basis only, for the period August 1 to September 1, 1939, pending determination upon the application for renewal of license.

KGBU—Alaska Radio & Service Co., Inc., Ketchikan, Alaska.—Present license extended on a temporary basis only, for the period August 1 to September 1, 1939, pending determination upon the application for renewal of license.

KTHS—Hot Springs Chamber of Commerce, Hot Springs, Ark.—Present license extended on a temporary basis only, for the period August 1 to September 1, 1939, pending determination upon the application for renewal of license.

KTRB—Thos. R. McTammany and William H. Bates, Jr., Modesto, Calif.—Present license extended on a temporary basis only, for the period August 1 to September 1, 1939, pending determination upon the application for renewal of license.

WIBC—Indiana Broadcasting Corp., Indianapolis, Ind.—Present license extended upon a temporary basis only, pending determination upon renewal application, for the period August 1 to September 1, 1939.

WKAR—Mich. State College, E. Lansing, Mich.—Present license extended upon a temporary basis only, pending determination upon renewal application, for the period August 1 to September 1, 1939.

WSPR—WSPR, Inc., Springfield, Mass.—Present license extended upon a temporary basis only, pending determination upon renewal application, for the period August 1 to September 1, 1939.

W8XWJ—The Eve. News Assn., Detroit, Mich.—Present license for high frequency broadcast station was further extended upon a temporary basis only, pending determination upon application for renewal, but in no event longer than September 1, 1939.

W4XBW—WDOD Broadcasting Corp., Chattanooga, Tenn.—Present license for high frequency broadcast station was further extended upon a temporary basis only, pending determination upon application for renewal, but in no event longer than September 1, 1939.

WAXG—Fla. Capitol Broadcasters, Inc., Portable-Mobile (Area of Tallahassee, Fla.)—Present license for relay broadcast station was further extended upon a temporary basis only, pending determination upon application for renewal, but in no event longer than September 1, 1939.

MISCELLANEOUS

NEW—John F. Arrington, Jr., Valdosta, Ga.—Denied motion to withdraw without prejudice application for new station to use 1230 kc., 250 watts day and night, unlimited time; and dismissed application with prejudice.

KUTA—Utah Broadcasting Co., Salt Lake City, Utah.—Granted motion for continuance of hearing now scheduled for September 6; new date to be fixed by the Office of the Secretary; motion denied in so far as consolidation with other applications is requested.

WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted motion to dismiss without prejudice, application for modification of license to change frequency power and time of operation.

NEW—C. T. Sherer Co., Inc., Worcester, Mass.—Granted motion to take depositions on September 7, 1939, at Worcester, Mass.; hearing before examiner to be held open.

KECA—Earle C. Anthony, Los Angeles, Cal.—Referred to Commission en banc motion to withdraw or dismiss application for C. P. to move KECA to San Diego, Cal., and assign license to Worcester Broadcasting Corp.

WPRP—Julio M. Conesa, Ponce, P. R.—Granted petition to intervene in the hearing on the application of Portorican American Broadcasting Co., Inc., for a new station in Ponce.

WMT—Iowa Broadcasting Co., Cedar Rapids, Iowa.—Action continued for one week on petition to (a) intervene in the hearing on the application of the Gazette Co. for C. P., and (b) that the issues to be determined upon hearing be enlarged.

WELI—City Broadcasting Corp., New Haven, Conn.—Granted special temporary authority to operate station on 930 kc., with 500 watts, daytime only, at Benham Road & Paradise

Ave., Hamden, Conn., for the period July 23, and until such time as the proof of performance of the directional system is submitted and approved by the engineering department, but ending in no event later than August 21, in accordance with application to operate with either directional or non-directional antenna during same period in order to make comparisons and expedite field intensity survey.

WBRY—American Republican, Inc., Waterbury, Conn.—Granted special temporary authority to operate a portable test transmitter of 100-watts power on 1510 kc., during hours from one hour after local sunrise to one hour before local sunset, for the period July 25 to August 23, in order to conduct field intensity measurements to be made to assist in locating new transmitter site for WBRY.

WSUI—State Univ. of Iowa, Iowa City, Iowa.—Granted special temporary authority to reduce hours of operation from unlimited time to minimum of 8 hours daily, for the period August 1 to September 1, in order to observe summer vacation.

RCA—Mfg. Co., Inc., New York City.—Granted special temporary authority to operate general experimental station W3XDS, using frequency 950 kc., with power of 1 KW, to conduct a comprehensive field survey to study the effects of fading on amplitude modulated facsimile emission during hours 2 to 7 a. m., DST, on Sundays; midnight to 5 a. m., DST, on Mondays; and 1 to 5 a. m., DST, from Tuesday through Saturday, for a period not to exceed 30 days.

WQDM—Regan & Bostwick, St. Albans, Vt.—Denied special temporary authority to operate from 8 to 8:30 p. m., EST, for the period August 1 to August 30, in order to broadcast local baseball games and scores.

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Denied special temporary authority to operate unlimited time, 1 KW power, nighttime, for the period July 25 to August 23, in order to broadcast civic, charitable and other programs of extreme local interest from CBS.

CKLW—Esses Broadcasters, Inc., Detroit, Mich.—Granted special temporary authority to pick up Unitarian Fellowship for Social Justice programs from 9 to 9:30 p. m., EST, on July 24 and 31.

Out West Broadcasting Co., Colorado Springs, Colo.—Granted special temporary authority to use relay broadcast station KAAO, licensed to KLZ Broadcasting Co., for special golf broadcast originating at the Broadmoor Golf Club, during daytime on July 22 and 23, to be broadcast over KVOR.

WPG—City of Atlantic City, Atlantic City, N. J.—Denied special temporary authority to operate Fridays from 2 p. m. to 3 p. m., EST, on July 21, 28, August 4, 11, and 18, 1939, and from 3:15 p. m. to 4:30 p. m. on Sundays, July 23, 30, August 6, 13, 20, 1939, in order to broadcast programs as described in letter dated July 19, 1939.

WDWS—Champaign News-Gazette, Inc., Champaign, Ill.—Granted special temporary authority to rebroadcast two-way communication between ground station at Chanute Field, Rantoul, Ill., and Army airplane, in connection with War Department expansion program, for period of 30 days, communication to be carried on 7385 kc.

WQDM—Regan & Bostwick, St. Albans, Vt.—Reconsidered action of July 21 in denying request to operate from 8 to 8:30 p. m. from August 1 to 30, inclusive, to broadcast baseball games, and granted same for EDST as requested.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted extension of special temporary authority to operate unlimited time for the period July 21 to August 29, 1939 (provided WSVS remains silent), in order to broadcast programs as described in letter dated July 18, 1939.

WJHS—John H. Snyder, Baltimore, Md.—Granted extension of special temporary authority to operate licensed aircraft radio transmitter aboard plane NX-21054, call letters KHCTV, as a relay broadcast station on the frequency 2790 kc., to relay broadcast program in connection with endurance flight, for the period July 23 to August 15, 1939, to be rebroadcast over station WBAL.

W8XIQ-W8XIR—WGAR Broadcasting Co., Cleveland, Ohio.—Granted extension of special temporary authority to operate relay broadcast (experimental) stations W8XIQ and W8XIR on the frequency 31220 kc., pending definite arrangements to be made to eliminate interference with Cleveland's police radio service, for the period July 28 to 3 a. m., EST, August 1, 1939.

- WHKC—Associated Radiocasting Corp., Columbus, Ohio.—Dismissed from the hearing docket the application of WHKC for renewal of license, and granted same on a regular basis.
- KFDM—Beaumont Broadcasting Corp., Beaumont, Tex.—Denied petition to reconsider action of June 30 in granting the application of Ozarks Broadcasting Co. (KWTO), Springfield, Mo., for modification of license to increase operating time from 5 to 6 a. m., CST, on the frequency 560 kc., using 1 KW, and designate same for hearing.
- WRTD—Times Dispatch Radio Corp., Richmond, Va.—Denied petition to rescind the announcement of the Commission that the WRTD application would be made the subject of a further hearing "on issues related to the interference problem created by pending 5-KW applications," and to consider the application upon the present record.
- W9XBF—WDAY, Inc., area of Fargo, N. Dak., Portable-Mobile.—Granted license to cover C. P. for relay broadcast station upon an experimental basis only, conditionally; frequencies 30820, 33740, 35820, 37980 kc., 25 watts.
- KDAC—George Harm, area of Fresno, Calif., Portable-Mobile.—Granted license to cover C. P. for relay broadcast station, frequencies 1622, 2058, 2150 and 2790 kc., 25 watts.
- WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Denied petition that station be authorized to use one of the following forms for station identification announcements: "This is WEBC—Duluth and Superior," or "This is WEBC with studios in Duluth and Superior."
- WLTH—Voice of Brooklyn, Inc., New York City.—Adopted an order citing the licensee (WLTH) to appear and show cause why its license should not be revoked by the Commission, because of complaint of interference with Coast Guard aircraft communications on the frequency 4200 kc., by the third harmonic of broadcast station WLTH, which frequency is used by the U. S. Coast Guard station at Floyd Bennet Field, and the various U. S. Coast Guard planes. It appears that such interference has been noted at various times over a period of more than one year; that licensee has been advised concerning said interference on numerous occasions with a promise on the part of licensee to make necessary changes in equipment to eliminate said interference, but the necessary steps to eliminate such interference have not been taken.
- NEW—Clyde E. Wilson and Howard A. Shuman, d/b as Hot Springs Broadcasting Co., Hot Springs, Ark.—Granted petition to reconsider and grant without a hearing application for C. P. for new station to operate on frequency 1310 kc., 100 watts night, 250 watts LS, unlimited time. Denied petition of KTHS to intervene.
- WCAU—WCAU Broadcasting Co., Philadelphia, Pa.—Granted petition to reconsider and grant without a hearing the application for renewal of license for high frequency broadcast station W3XIR.
- WESG—Cornell University, Elmira, N. Y.—Granted petition to reconsider and grant without a hearing the application for modification of license that the authority to operate on frequency 850 kc., with 1 KW, from 6 a. m. to LS, New Orleans, be authorized on a regular basis instead of special experimental basis.
- WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Denied petition to reconsider and grant without a hearing the application for modification of license requesting authority to increase hours of operation from limited to unlimited time on the frequency 1180 kc., with power of 1 KW night, 5 KW day.
- W8XUM—WBNS, Inc., Columbus, Ohio.—Granted license to cover C. P. for facsimile broadcast station upon an experimental basis only, conditionally; frequency 25200 kc., 100 watt..
- WALR—WALR Broadcasting Co., Zanesville, Ohio.—Granted C. P. for approval of transmitter site at Newark Road, Zanesville, Ohio, and installation of vertical radiator, providing tower is marked according to specification.
- WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—Granted modification of C. P. to make changes in composite equipment and approval of transmitter and studio sites, provided tower is marked according to specifications.
- KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period July 23 to August 21, pending KWLC's compliance with Rule 131.
- WKAQ—Radio Corp. of Puerto Rico, San Juan, P. R.—Granted special temporary authority to rebroadcast program to be received from international station W3XAU at 2:30 p. m. July 25, in connection with Puerto Rico's Occupation day at World's Fair.
- KGKL, Inc., San Angelo, Tex.—Granted special temporary authority to operate a mobile relay broadcast transmitter on frequency 2102 kc., from 1 to 5 p. m. CST, on August 4, 5, and 6, in order to relay broadcast programs from Annual Roundup and Rodeo of the Double Hart Ranch.
- WAUP—The Yankee Network, Inc., Boston, Mass.—Granted special temporary authority to operate high frequency broadcast experiment station W1XER as a relay broadcast station in order to pick up and relay program in which Lawson Little will be interviewed from Mt. Washington and to be broadcast over the Yankee Network; station to operate on 31600, 35600, 38600 and 41000 kc., 500 watts.
- KVAK—Carl Latenser, Atchison, Kans.—Granted modification of C. P. to extend completion date from 7-28-39 to 9-28-39.
- WSNJ—Eastern States Broadcasting Corp., Bridgeton, N. J.—Granted license to cover C. P. authorizing changes in equipment and increase in power and time of operation from 100 watts daytime to 100 watts night, 250 watts day, unlimited time.
- WJBL—Commodore Broadcasting, Inc., Decatur, Ill.; WBOW—Banks of Wabash, Inc., Terre Haute, Ind.; WJBC—Arthur Malcolm McGregor and Dorothy Charlotte McGregor, Bloomington, Ill.—The Commission modified its order of June 21, 1939, in the matter of the applications of WJBL, WBOW and WJBC, so that paragraph number three thereof shall read as follows: "That the application of Arthur Malcolm McGregor and Dorothy Charlotte McGregor, Docket 5329, be granted subject to the express condition that Station WJBL be licensed to operate upon the frequency of 1310 kc., upon completion of construction as authorized in Docket 5207, and the effective date of the modified license authorized hereunder to Station WJBC, if and when issued, shall be the same date upon which Station WJBL is licensed to operate on 1310 kc."
- NEW—Worcester Broadcasting Corp., San Diego, Cal.—Granted permission to file its application for a new station to operate on the frequency 1430 kc., 1 KW night, 5 KW day, and incorporate the record in Dockets 5381 and 5378, in re application of Earle C. Anthony, Inc., to assign license of KECA to Worcester Broadcasting Corp.
- American Communications Assn., New York City.—Dismissed petition for leave to intervene and for rehearing on behalf of the American Comm. Assn., in re application of Hearst Radio, Inc., for voluntary assignment of license of KEHE to Earle C. Anthony, Inc.
- KECA—Earle C. Anthony, Inc., Los Angeles, Cal.—Dismissed with prejudice the application of Earle C. Anthony, Inc., to assign license of KECA to Worcester Broadcasting Corp., and for C. P. for a station in San Diego.
- American Communications Assn., New York City.—Dismissed petition to intervene and appear at oral argument in the matter of the application of Earle C. Anthony, Inc., for voluntary assignment of license of KECA, and for C. P. for a station in San Diego.
- W2XWC—Kolorama Laboratories, Inc., Irvington, N. J.—Granted extension of special temporary authority to operate a composite television transmitter to be located in Carlstadt, N. J., for radio television transmission in the 2000-21000 kc. band, for operation between the hours of 12 midnight and 6 a. m., on a non-interference basis, with power of 500 watts, for test and experimental purposes only, for the period August 6 to September 4, 1939.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Granted special temporary authority to operate simultaneously with KICA from 7 to 10 p. m., MST, on July 31, August 1 and 2, in order to broadcast benefit amateur boxing tournament.
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—Ordered that a hearing on the application of WHDH for modification of license to operate station on 830 kc., with 5 KW, unlimited time, on a regular basis, be held on October 10, 1939.
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—Denied petition to reconsider action of July 27, 1938, in designating for hearing its application for special experimental authority to operate on the frequency 830 kc., with 5 KW, unlimited time, and grant same without a hearing.
- WHDH—Matheson Radio Co., Inc., Boston, Mass.—Denied application for special experimental authority to operate on frequency 830 kc., with 5 KW, unlimited time, because the

program proposed would not constitute a substantial contribution to the development of the radio art.

KWEW—W. E. Whitmore, Hobbs, N. Mex.—Granted special temporary authority to operate simultaneously with KBST from 7:45 to 9:15 p. m., MST, on July 27 in order to broadcast statewide talks relative to safety.

WKAQ—Radio Corp. of Porto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from international broadcast stations W2XE and W3XAU over station WKAQ, on a non-commercial experimental basis only, for the period July 20 to August 18, 1939.

W3XAL-W3XL—National Broadcasting Co., New York City.—Granted extension of special temporary authority to transmit programs consisting of Spanish news to be rebroadcast by Cuban Stations CMX and COCX for the period July 2 to Sept. 27, 1939.

APPLICATIONS FILED AT FCC

560 Kilocycles

KFDM—Beaumont Broadcasting Corp., Beaumont, Tex.—Modification of license to increase power from 500 watts, 1 kw. LS, to 1 kw. power day and night.

620 Kilocycles

KWFT—Wichita Broadcasting Co., Wichita Falls, Tex.—License to cover C. P. (B3-P-1471) as modified for a new station.

680 Kilocycles

WPTF—WPTF Radio Co., Raleigh, N. C.—Modification of license to change hours of operation from limited to unlimited time, using directional antenna from sunset at San Francisco, Calif.

780 Kilocycles

WPIC—Sharon-Herald Broadcasting Co., Sharon, Pa.—Construction permit to install new transmitter and increase power from 250 watts to 1 kw.

890 Kilocycles

KFNF—KFNF, Incorporated, Shenandoah, Iowa—Modification of construction permit (B4-P-1449) as modified, to increase power, move transmitter, install directional antenna for night use, changes in equipment, further requesting extension of commencement and completion dates from 4-15-39 and 8-1-39 to 8-1-39 and 2-1-40 respectively.

920 Kilocycles

WSPA—Virgil V. Evans, d/b as The Voice of South, Carolina, Spartanburg, S. C.—Construction permit to install directional antenna for night use, change frequency from 920 kc. to 610 kc., hours of operation from daytime to unlimited time, using 1 KW power night and day.

1200 Kilocycles

WJNO—WJNO Inc., West Palm Beach, Fla.—Construction permit to install new transmitter.

KMLB—Liner's Broadcasting Station, Inc., Monroe, La.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WJBC—Arthur Malcolm McGregor & Dorothy Charlotte McGregor, a partnership, Bloomington, Illinois—Modification of license to increase power from 100 watts, 250 watts, day to 250 watts day and night.

1210 Kilocycles

WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WINN—Kentucky Broadcasting Corp., Louisville, Ky.—Modification of construction permit B2-P-1809, for a new station, requesting approval of antenna, changes in transmitting equipment, and approval of studio and transmitter site at 3rd and Jefferson Sts., Louisville, Ky.

WMFG—Head of The Lakes Broadcasting Co., Hibbing, Minn.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

KXOX—Sweetwater Radio, Inc., Sweetwater, Texas.—Modification of C. P. (B3-P-2106) for a new station, requesting approval of antenna, changes in transmitting equipment, and approval of studio and transmitter site at # 70, 0.4 mile east of city, Sweetwater, Texas.

NEW—Fort Myers Broadcasting Company, Fort Myers, Fla.—Construction permit for a new station on 1210 kc., 100 watts, 250 watts day, unlimited time.

WSIX—WSIX, Incorporated, Nashville, Tenn.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1240 Kilocycles

WKAQ—Radio Corporation of Porto Rico, San Juan, P. R.—Construction permit to install new transmitter and antenna, increase power from 1 to 5 KW, change frequency from 1240 kc. to 620 kc. Amended: Transmitter site to be determined, San Juan, P. R.

1250 Kilocycles

KIT—Carl E. Haymond, Yakima, Washington.—Modification of license to increase power from 500 watts; 1 kilowatt-day to 1 kilowatt day and night.

1310 Kilocycles

NEW—C. E. Palmer, Hot Springs, Ark.—Construction permit for a new station to be operated on 1310 kc., 100 watts power night and 250 watts power daytime, unlimited hours of operation. Amended to give transmitter site as site to be determined, Hot Springs, Ark.

KRMD—Radio Station KRMD, Inc., Shreveport, La.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

KCKN—KCKN Broadcasting Co., Kansas City, Kansas.—Construction permit to install new transmitter.

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1370 Kilocycles

WEOA—Evansville On the Air, Inc., Evansville, Ind.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WHLB—Head of The Lakes Broadcasting Co., Virginia, Minn.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

KLUF—The KLUF Broadcasting Co., Inc., Galveston, Texas.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WMFO—James R. Doss, Jr., Decatur, Ala.—Voluntary assignment of license from James R. Doss, Jr., to Tennessee Valley Broadcasting Co., Inc.

NEW—Dallas Broadcasting Corp., Dallas, Texas.—Construction permit for a new station on 1370 kc., 100 watts, 250 watts day, unlimited time.

WSAU—Northern Broadcasting Co., Inc., Wausau, Wis.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1420 Kilocycles

WGNC—F. C. Todd, Gastonia, N. C.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WCHV—Community Broadcasting Corporation, Charlottesville, Va.—Transfer of control of corporation from Mrs. Hugh M. (Nancy) Curtler, to Mrs. Marcia Arrington, 2231 shares common stock.

WAPO—W. A. Patterson, Chattanooga, Tenn.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

NEW—Poughkeepsie Broadcasting Corporation, Poughkeepsie, N. Y.—Construction permit for a new station on 1420 kc., 250 watts, unlimited time.

1500 Kilocycles

WSTP—Piedmont Broadcasting Corp., Salisbury, N. C.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

- KSAL—R. J. Laubengayer, Salina, Kans.—Voluntary assignment of construction permit B4-P-2068, from R. J. Laubengayer, to KSAL, Inc.
- WRGA—Rome Broadcasting Corp., Rome, Ga.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.
- KPQ—Westcoast Broadcasting Co., Wenatchee, Wash.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.
- WDNC—The Durham Radio Corp., Durham, N. C.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

MISCELLANEOUS

- NEW—Westinghouse Electric and Manufacturing Co., Boston, Mass.—Construction permit for a new high frequency broadcast station on 42600 kilocycles, 1 kilowatt power, special emission, located at Hotel Tremont, 275 Tremont St., Boston, Mass.
- WFYB—Columbia Broadcasting System, Inc., Portable, Mobile, Area of Cincinnati, Ohio.—License to cover C. P. (B2-PRY-181) for a new relay broadcast station.
- WHPA—WHP, Incorporated, Portable-Mobile, Area of Harrisburg, Penna.—License to cover C. P. (B2-PRY-158) for a new relay broadcast station.
- XXXXX—RCA Communications, Inc., New York, N. Y.—Authority to transmit programs via RCA Communications, Inc., originating at 64 Broad, New York, New York, to CMX, Havana, Cuba.
- NEW—Metropolitan Television, Inc., New York, N. Y.—Construction permit for new television station on 102000-108000 kilocycles, 1 kilowatt power A3, A5 and special emission, to be located at Hotel Pierre, 795 Fifth Ave., New York, N. Y.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

America's Medicine and Nu-Mode Company—A complaint has been issued against Harry S. Benham, trading as America's Medicine and Nu-Mode Company, 620 Orleans St., Chicago, alleging false and misleading representations in the sale of medicinal preparations represented as treatments for delayed menstruation, such preparations being designated as "America's Medicine XX Compound", "Nu-Mode XX Compound" or "Kotess Periodic Relief Compound", "America's Medicine XXX Compound", and "Nu-Mode XXX Compound", or "Kotess Periodic Relief Compound".

The complaint alleges that the respondent's products do not, as advertised, accomplish results without pain or inconvenience and are not a competent, safe and effective remedy for delayed menstruation. The complaint further alleges that the respondent's advertisements are false in that they fail to reveal that use of the preparations under the conditions prescribed in the advertisements or under customary or usual conditions may result in serious and irreparable injury to the health of users. (3851)

American Plierench Corporation—A complaint has been issued against American Plierench Corporation, 4611 Ravenswood Ave., Chicago, alleging false representations in the sale and distribution of a combination plier and wrench kit, designated "The Eifel-Gear PlieRench Kit".

The complaint alleges that representations and implications by the respondent as to the earnings of its representatives are false

and misleading, for actually its full time representatives do not make from \$35 to \$85 per week, nor from \$1,500 to \$4,000 per year as advertised, nor do part-time salesmen make proportionate sums. The complaint further alleges that the respondent does not furnish representatives with a "7-edge end-&-angle screwdriver" "free", or without cost or condition, as advertised, but requires the purchase of one or more articles, which fact is not disclosed to the prospective representatives until after inquiry has been made. (3853)

G. Bernardi—Misleading advertising in the sale and distribution of a medicinal preparation designated "Benaris" is alleged in a complaint issued against G. Bernardi, 1017 Euclid Ave., Cleveland.

The complaint alleges the respondent's advertising to be false in that the preparation "Benaris" is allegedly not, as advertised, a cure or remedy for colds, chronic colds, catarrh, bronchitis, laryngitis, dryness of the throat, irritation or inflammation of the throat, inflamed or enlarged tonsils, hoarseness, rose or hay fever, or congestion of the nasal passages.

It is further alleged that the respondent's preparation will not, as advertised, neutralize the tissues or eliminate colds; will not in all cases relieve headaches or sinus ailments; will not insure a healthful or efficient day, or bring new life or sensation to its user; nor will its use cause greater diaphragmatic breathing or result in finer head tones, or increase the resonance, volume or quality of the voice. According to the complaint, Benaris is not beneficial in the relief of headaches which are not due to congestion of the mucous membranes of the air passages. (3857)

Fairfield Engineering Company, 324 Barnhardt St., Marion, Ohio, in a complaint is alleged to have made false and misleading representations in the sale of "Fairfield Coal Distributors" and "Fairfield NON-SEGREGATING Coal Distributors."

The complaint alleges that the respondent's coal distributors, represented as being non-segregating, are not such within the meaning of that term. The term "non-segregating" when applied to coal distributors is alleged to be understood by the trade to mean a distributor which causes a uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of boilers, in the same proportionate mixture as when the coals leave the bunkers, thus bringing about economy and efficiency in the operation of large steam boilers. (3850)

Nu-Way Manufacturing—A complaint has been issued against L. B. Patterson, trading as Nu-Way Manufacturing, Des Moines, Iowa, alleging false and misleading representations in the sale and distribution of an electric water heater, designated Speed King Water Heater.

The complaint alleges that direct or implied claims of the respondent as to the efficacy of his heater and as to the earnings made by his representatives are false and misleading.

Allegations cited in the complaint as being false are that the Speed King Heater provides the fastest way known of heating water; that it boils water almost instantly or in 60 seconds; saves up to 50 per cent of gas and fuel bills, and does the work of heaters costing 40 to 50 times as much, and that agents selling the heater can make profits of 141 per cent to 218 per cent. (3852)

Positive Products Company—A complaint has been issued against Earl Aronberg, trading as Positive Products Company and Rex Products Company, 6603 Cottage Grove Ave., Chicago, alleging false and misleading representations in the sale of medicinal preparations represented as treatments for delayed menstruation, such preparations being designated as "Triple-X Compound" and "Reliable Perio Compound," also known as "Perio Pills" and "Perio Relief Compound."

It is alleged that the respondent's products do not, as advertised, accomplish results without pain or inconvenience and are not a competent, safe or effective remedy for delayed menstruation. The respondent's advertisements are further alleged to be false in that they fail to reveal that use of the preparations, under the conditions prescribed in the advertisements, or under customary or usual conditions, may result in serious and irreparable injury to the health of users. (3856)

Rex Products Company—See Positive Products Company.

U-Need Candy Company, Inc.—Use of lottery methods in the sale and distribution of candy is alleged in a complaint issued against U-Need Candy Co., Inc., Louis J. Weger, Mrs. Louis J. Weger, and Charles R. Hosey, 1231 West Washington Ave., South Bend, Ind.

The respondents are alleged to have sold to wholesale dealers, jobbers and retail dealers certain assortments of candy so packed and assembled as to involve the use of lottery schemes when sold and distributed to consumers. (3855)

Zelle Company—Under a complaint Leland F. Benham, trading as The Zelle Company, 620 Orleans St., Chicago, is charged with disseminating false advertisements for the purpose of inducing the purchase of "Zellets No. 1" and "Zellets No. 2" represented as treatments for delayed menstruation.

The complaint alleges that the respondent's products do not, as advertised, accomplish results without pain or inconvenience and are not a competent, safe, and effective remedy for delayed menstruation. The complaint further alleges that the respondent's advertisements are false in that they fail to reveal that use of the preparations under the conditions prescribed in the advertisements or under customary or usual conditions may result in serious and irreparable injury to the health of users. (3854)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Chenille Corporation of America, Chicago, was ordered to discontinue misleading representations in the sale and distribution of rugs.

Findings of the Commission are that in 1935 Chenille Corporation of America discontinued its prior practice of employing home-workers to make its rugs from yarns supplied by the respondent, and substituted therefor an electric machine, thus producing machine-made rugs at a cost of about 45 cents per square foot in contradistinction to a "hand-hooked" or "hand-made" rug costing from 75 cents to \$1.25 a square foot. The respondent sold its rugs to department stores, and in some instances, represented directly or impliedly that they were "hand-hooked" or "hand-made."

Under the order, the respondent is to cease using the terms "hand-made" or "hand-hooked" or similar terms to describe rugs which have not been made entirely by hand labor and hand craft. (3201)

Gold Medal Farms, Inc.—Under an order, Gold Medal Farms, Inc., New York milk distributor, and two of its employed officials, are directed to cease and desist from certain unfair competitive practices in connection with the purchase of milk from producers in the New York milk shed.

The order directs that they discontinue deceiving, coercing or intimidating New York or Vermont producers from whom they purchase or receive or may hereafter purchase or receive milk, in the efforts of such producers to form producer-controlled co-operatives; that they cease threatening reprisals or interfering in any way with the organization of cooperative associations of milk producers; that they discontinue disparaging and misrepresenting producers' cooperative bargaining agencies, and cease controlling or dominating the Washington and Rensselaer Counties Producers' Cooperative Association, Inc., or any other producers' cooperative associations. (3380)

STIPULATIONS

The Commission has entered into the following stipulations:

Exelento Medicine Company—In a stipulation entered into Exelento Medicine Company, Atlanta, Ga., agreed to cease representing directly or by implication, that its commodity, "Exelento Quinine Pomade," will cause hair to grow, or have any influence on the growth or falling out of hair, or that it will stop itchy or scaly condition of the scalp, or that its action is sure. (02407)

Gilfillan Bros., Inc., 1815 Venice Boulevard, Los Angeles, entered into a stipulation to discontinue misleading representations in the sale of domestic mechanical refrigerators, designated Gilfillan electric refrigerators.

The respondent will cease representing directly or by implication that the compressors in its mechanical refrigerators have any fewer moving parts than the actual number; that a piston type pump is the most efficient type in all cases; that the capacity of the compressor, evaporator, and condenser individually or collectively is greater by any amount than that of mechanical refrigerators of like size and quality, unless such comparison is based upon scientifically recognized standards and ratings, and that Gilfillan electric refrigerators are lower in price than other mechanical refrigerators of like size and quality by any amount greater than is actually a fact. (02403)

Hexol, Incorporated, 966 Mission St., San Francisco, entered into a stipulation to cease the dissemination of false advertisements in the sale of an antiseptic and disinfectant designated Hexol.

Under the stipulation, the respondent agreed to cease representing that Hexol, in a dilution of 1½ tablespoonfuls to each quart of water, is an effective antiseptic for wounds; that Hexol has all the advantages of phenol or is easier to handle than phenol; that Hexol constitutes an adequate treatment for ulcers, fistulas and exuberant tissue; that Hexol will act as a sterilization agent; that it is a germicide capable of killing pus-forming organisms in concentrations and periods of time less than competent scientific tests show are necessary to produce the results claimed; that the action of Hexol on spores is stronger than phenol; that it is non-toxic and may be employed effectively for all personal and household uses, and that there is no substitute for Hexol. (02404)

Hitchner Biscuit Company, West Pittston, Pa., entered into a stipulation to discontinue the use of lottery schemes in the sale of bakery products.

The respondent stipulated that it will cease supplying others with lottery devices for use in disposal of any merchandise; disposing of any merchandise by the use of lottery devices, or using any method of sale which involves a lottery scheme by which an article is given as a prize or premium in consideration of the purchase of any other article. (2491)

Instant Kleen Laboratories—C. G. Hodapp, trading as Instant Kleen Laboratories, 114 North St. Clair St., Dayton, Ohio, entered into a stipulation to discontinue misleading representations in the sale of an auto polish designated "Instant Kleen."

The respondent agreed to cease representing directly or by implication that salespersons or dealers selling his product may earn any amount which is in excess of amounts normally earned by persons selling his product; that the demand for the product is so great that agents will need additional men to take care of the business; that any percentage of attempts at making sales is successful unless based on reliable statistics, and that there is no competition in the sale of his product, or that sales are guaranteed. (02405)

Charles Monnat—In a stipulation entered into, Charles Monnat, New York, agreed that in connection with his sale and distribution of watch spring products, he will discontinue the use of the word "manufacturer" or any other word of similar meaning which would represent that the products sold by him are made in a plant or factory which he owns or operates or directly and absolutely controls, when such is not the fact. (2490)

G. M. Poix, Inc., 99 Madison Ave., New York, entered into a stipulation to discontinue the dissemination of false representation in the sale of a brassiere designated "AP-Uplift."

Under the stipulation, the respondent agreed to cease representing, directly or by implication, that the "AP-Uplift" is the only device that gives the upward converging control to the breasts, desired by doctors, before and after the birth of a baby; that "AP-Uplift" relieves pain, removes the causes of many bust troubles, applies to all sizes of figures, corrects the defects caused by the bandage type brassiere, and is at variance with nearly every other brassiere. (02406)

Madame Ramsey's—Lorraine Ramsey, trading as Madame Ramsey's, Norfolk, Va., entered into a stipulation to cease representing directly or by implication that her hair preparations, when applied locally to the scalp, will cause hair to grow or will promote its growth or will effectively prevent or cure baldness or cause the growing of hair on bald heads. Among products sold by the respondent are: Mme. Ramsey's Triple Strength Hair Grower and Mme. Ramsey's Double Strength Hair Grower. (2489)

Sozonian Vault Company, Bucyrus, Ohio, has entered into a stipulation to discontinue misleading representations in the sale and distribution of metal grave vaults.

The respondent agreed to cease and desist from causing the exhibition or sanctioning the exhibition by its salesmen or representatives of photographs or any pictorial or other representation of the products of its competitors, the effect of which may tend to falsely represent such competitive products. The respondent further agreed to cease representations to the effect that its products will assure permanent protection to the caskets or bodies encased therein, or that such products will remain permanently rust- or waterproof, when such representations are not warranted in view of various soil, climatic and other burial conditions. (2488)

Vadseo Sales Corporation—In a stipulation entered into, Vadseo Sales Corporation and its subsidiary, V. Vivaudou, Inc.,

New York, agreed to discontinue false advertising in the sale of talcum powders designated Djer-Kiss Talc and Mavis Talcum Powder.

The respondents stipulated that they will cease representing directly or by implication that Djer-Kiss Talc in any way influences or affects body temperature; that Mavis Talcum Powder is materially different from, or more effective than, similar substances; that the formula of Mavis Talcum Powder is the outcome of scientific research and experiment or that the product has a protective quality not found in any other powder, or that Mavis Talcum Powder to any extent promotes sleep, relaxes or soothes the nerves, or reduces the amount one perspires.

The respondents further stipulated that they will cease advertising that Mavis Talcum Powder has healing properties or contains ingredients which make it beneficial in the treatment of skin disorders, unless such representations are limited to the product's effect in drying the skin or in reducing irritation and friction; that the pores breathe or that Mavis Talcum Powder permits the pores to breathe; that Djer-Kiss Talc and Mavis Talcum Powder completely counteract or mask objectionable body odors, and that Djer-Kiss Talc and Mavis Talcum Powder, with respect to their odor or substance, when applied to the body, remain effective for any purpose during the entire day of their use or for any substantial length of time. (02408)

V. Vivaudou, Inc.—See Vadseo Sales Corporation.

ASCAP Negotiations Collapse; Special Convention Called For Sept. 15 In Chicago

After trying in vain since last March to find out how much broadcasters would be expected to pay for their music on the expiration of their present contract with the American Society of Composers, Authors and Publishers, Neville Miller, President of the National Association of Broadcasters, announced Thursday that the broadcasters would embark immediately upon efforts to develop such other sources of music as would render them independent of the copyright pool which now controls an overwhelming portion of the music available for use on the air.

Mr. Miller's announcement came immediately after the Negotiating Committee of his organization had met with John Paine, General Manager of the Society, and had been told that the Society still was not ready to make any proposal to the broadcasters, and further, that although the Society's Board of Directors had on July 13 authorized its president, Gene Buck, to appoint a committee of Board members with authority to negotiate with the broadcasters, Mr. Buck had departed on a vacation without even appointing such a committee and that the date of his return to New York had not been set.

Mr. Miller began negotiations with the copyright pool on behalf of the broadcasters last March, and these negotiations have been energetically pressed by the Negotiating Committee for many weeks but the Committee was forced to admit that in view of the Society's attitude it had been able to make absolutely no progress. It immediately got in touch with the Copyright Committee of the broadcasters' organization of which it is a sub-committee. The Copyright Committee thereupon called a convention of the entire broadcasting industry at the Edgewater Beach Hotel in Chicago on September 15 to raise a substantial war chest and to ratify plans which will be formulated meantime and which are expected to create an adequate supply of music from independent sources.

The Copyright Committee will meet in New York on August 9 to set plans and to engage a specialized staff for that purpose. The chief objectives of the broadcasters are:

1. To defend themselves against the Society's requirements that they pay tribute percentage-wise on all programs regardless of whether or not they use any ASCAP music or indeed any music at all.
2. To reduce the broadcasters' annual toll to the Society which is now running around \$4,000,000 a year and is rapidly mounting.
3. To bring about a more equitable distribution of the charges among the broadcasters themselves.
4. To foster, encourage and promote the writing of new music and new lyrics by giving

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

ASCAP NEGOTIATIONS COLLAPSE; SPECIAL CONVENTION CALLED FOR SEPT. 15 IN CHICAGO

(Continued from page 3639)

opportunity to be heard to new composers and authors.

5. To arm themselves with such supply of, or access to, music as will enable them to conduct future negotiations with the Society on terms of some equality.

Mr. Miller said that, while the broadcasters were not yet prepared to disclose their plans fully, their principal effort would be toward the engaging of composers and authors with a view to building up a reservoir of new music and the arranging and popularizing on the air of music now in the public domain which is not controlled by the copyright pool. He added that efforts would be made to enter into making arrangements with such publishers, composers and authors as have not yet renewed their contract with the Society and said that very probably there would be cooperative effort towards entering the music publishing field on a non-profit basis. He stated the desire of the broadcasters to give opportunity to new and non-established composers and any writers who felt that the Society had denied them opportunity to be heard.

Mr. Miller explained that the action taken today was in line with the instruction received by the Copyright Committee at the broadcasters' recent convention in Atlantic City and said from the temper of the broadcasters he anticipated no difficulty in obtaining ample funds for the vigorous and effective program. Mr. Miller emphasized that the broadcasters had paid the Society approximately \$20,000,000 for the right to use their music during the past six years alone and said that they expected to continue to pay very substantial sums for the use of music, but he declared that he believed that the broadcasters, who are the Society's biggest contributors, could no longer remain so largely dependent upon a single source of music.

The broadcasters' present contract with the Society expires December 31, 1940.

The members of the Negotiating Committee are Neville Miller, President, National Association of Broadcasters; Lenox Lohr, President, National Broadcasting Company, Inc.; Edward Klauber, Executive Vice President, Co-

lumbia Broadcasting System; John Elmer, President, WCBM, Baltimore, Maryland; Samuel R. Rosenbaum, President, WFIL, Philadelphia, Pennsylvania; Walter J. Damm, Managing Director, WTMJ, Milwaukee, Wisconsin; and John Shepard, 3rd, President, The Yankee Network, Boston, Massachusetts.

The Copyright Committee of the NAB represents all groups of broadcasters, and in addition to the members of the Negotiation Committee mentioned above, include the following: Edwin W. Craig, Executive Vice President, National Life and Accident Insurance Company (WSM); Gregory Gentling, General Manager, KROC, Rochester, Minnesota; Clair McCollough, General Manager, WGAL, Lancaster, Pennsylvania; Theodore C. Streibert, Vice President, Mutual Broadcasting System, New York, N. Y.; Harold Wheelahan, General Manager, WSMB, New Orleans, Louisiana; and I. R. Lounsberry, Manager, WGR-WKBW, Buffalo, New York.

Fly Visits President

James L. Fly, confirmed by the Senate on August 1 as successor to Frank R. McNinch as a member of the Federal Communications Commission, paid a visit on Thursday afternoon to President Roosevelt, accompanied by Mr. McNinch.

It was reported that they discussed some of the pending problems of the Commission and that Mr. McNinch told the President that it would probably be six months before the Commission will be ready to make public the results of its monopoly investigation in the broadcast industry.

Mr. McNinch, under date of July twenty-fifth, gave the President the following letter of resignation:

"DEAR MR. PRESIDENT:

"On October 1, 1937, you requested me to resign as Chairman of the Federal Power Commission and assume the duties of the Chairmanship of the Federal Communications Commission and effect such reorganization of its work as I might deem necessary to enable it to function more speedily and uniformly and more nearly to your satisfaction.

"We both expected this task would be accomplished long before this time. Once having undertaken this work, however, I found it so fraught with problems and difficulties and the Commission so disunited that not until now have I felt justified in respectfully requesting you to release me from further service at the Commission. I do not believe I could contribute a great deal more by continuing as Chairman unless I desired to continue in the work indefinitely, which I have no desire to do.

"It was our understanding that you would release me when I had done what I could to improve conditions within and the functioning of the Commission. The procedure for handling the work of the Commission has been radically reorganized and certain personnel changes effected, all of which have contributed toward a marked improvement in the efficiency of the Commission but, in my judgment, it is not possible to reach the maximum of efficiency in the public interest with the present personnel and within the inadequate framework of the Communications Act. It was this conviction that moved me to recommend to you last

winter a reorganization of the Commission and a revision of the Act, both of which recommendations I now renew.

"I found a great accumulation of pending cases and other work which has been brought up to date but which necessitated working unbearably long hours. This resulted recently, as you know, in a temporary impairment of my health, but I am happy to inform you now that I am rapidly improving.

"I am now convinced that, in justice to my family and to myself, I should not continue to carry the onerous burdens of an administrative position and have decided to reenter the practice of law, which I hope may be more lucrative but which will certainly be less burdensome and exacting physically than my present duties, and I hereby tender my resignation to be accepted at your pleasure, preferably not later than September 1, 1939.

"It was this same feeling which prompted me to advise you that I did not feel like undertaking another term as Chairman of the Federal Power Commission.

"At the close of my period of service I shall submit to you a summary report of the major improvements in the Federal Communications Commission since I took office.

"With renewed assurances of my unqualified loyalty to you personally and to the constructive and vital reforms in the interest of the people under your leadership, I am

"Faithfully yours,

"s/ FRANK R. McNINCH."

Under this date the President advised Mr. McNinch that his resignation had been reluctantly accepted. His letter read as follows:

"MY DEAR FRANK:

"Because of the considerations which you urge in your letter of July twenty-fifth I have no alternative but to accept your resignation, effective at the close of business on August 31, 1939. I take this action with reluctance and sincere regret because of the high type of service you have rendered in the public interest.

"But your health is of paramount importance and you are perhaps wise in taking your recent illness as a warning that you must return to private pursuits, less exacting, physically and less onerous in their demands on both your time and your strength.

"I realize that I imposed a heavy burden upon you when I asked you to resign as Chairman of the Federal Power Commission and assume the duties of the Chairmanship of the Federal Communications Commission. I know that the task of reorganization, with which you were confronted, was a heavy one, and I appreciate your present conviction that you could not see the work through to completion without continuing with the Commission indefinitely.

"For all that you have done—much of it imposing a tremendous strain on your physical strength—I desire to express gratitude and appreciation. And although your retirement from the public service is deeply regretted I do hope that in the less exacting demands of private life you will find speedy restoration to health and strength. With every good wish.

"Very sincerely yours,

"FRANKLIN D. ROOSEVELT."

INTERNATIONAL COPYRIGHT TREATY

Senator Thomas (D-Utah) on August 1 announced on the floor of the Senate that the International Copyright Treaty would not be taken up at this session of Congress. This Treaty, known as Executive E, 73rd Congress, has been on the executive calendar of the Senate for some months, and its adoption prior to the passage of adequate copyright amendments has been opposed by most groups affected by the copyright laws. Adherence by the United States to the International Copyright Convention is sponsored by the State Department. A strenuous effort probably will be made at the next session of Congress to obtain Senate approval.

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MEMBERSHIP CERTIFICATES

A membership certificate was mailed to all active members of the Association this week. It is hoped that this certificate will be displayed prominently some place in the station. If, after a reasonable length of time, your copy is not received, please advise Headquarters Office as each member was mailed a certificate.

NEW LEGISLATION

CONGRESS

H. R. 7456 (Mr. Kennedy, D-NY) COPYRIGHT—Provides that in network and transcription broadcasts originating station or transcription manufacturer is solely liable for infringement. Referred to Committee on Patents.

FCC CLOSES 290 CASES

The Federal Communications Commission has announced that since November 15, 1938, it had disposed of 290 of a total of 325 broadcast hearing docket cases. Of the 35 not disposed of by the Commission, 12 cannot be acted upon by reason of contingencies beyond the control of the Commission, such as possible conflict with Havana Radio Broadcast Treaty and pending litigation. Of the remaining 23 docket cases decisions are in the course of preparation for early action by the Commission.

In addition to the foregoing 325 cases there are 19 cases recently heard which are not available to the Commission for action because of lack of completion of the cases by litigant parties to the proceedings.

RELAY RULES AMENDED

FCC has amended relay rules, section 41.05(c) to read as follows:

Sec. 41.05—Power Limitations

(c) A relay broadcast station assigned frequencies in Groups H and I will be licensed to operate with a power output not in excess of that necessary to transmit the program and orders satisfactorily to the receivers and shall not be operated with a power greater than that licensed. In event interference may be caused to stations on adjacent channels, licensees shall endeavor to make arrangements to reduce power to a point where interference will not be objectionable. If a satisfactory arrangement cannot be agreed upon, the Commission will determine and specify the maximum power or conditions of operation of each such station.

FCC ANNOUNCES ADMINISTRATIVE CHANGES IN ORDER NO. 2

A new administrative order, No. 2, has been issued by the Federal Communications Commission which changes and announces in detail the duties of various officials of the Commission as follows:

Under the authority of the Communications Act of 1934, as amended, particularly Sections 5(e) and 409 thereof,

IT IS ORDERED:

(1)(a)¹ That the Secretary of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act, upon:

- (a) all applications for operator licenses, and
- (b) all applications for amateur and ship stations, and
- (c) all applications for renewal of aircraft station licenses, and for new aircraft station licenses in cases where the applicant is the holder of a station license;

(b) That the Secretary of the Federal Communications Commission is hereby authorized to enter the appropriate final order of the Commission in all cases involving applications for radio station authorizations in which proposed findings and conclusions of the Commission have been issued pursuant to the provisions of Section 1.231 of the Commission's Rules of Practice and Procedure and in which no exceptions have been filed within the time prescribed in said section.

(2) That the Chief Engineer of the Federal Communications Commission is hereby authorized to determine upon all applications and requests and to make appropriate order in letter form for the signature of the Secretary in the following matters:

- (a) temporary operation without specified items of equipment, or with temporary, substitute or auxiliary equipment:
 - (1) operation without an approved frequency monitor;
 - (2) operation without an approved modulation monitor;
 - (3) operation without thermometer in automatic temperature control chamber;
 - (4) operation without antenna ammeter, plate voltmeter or plate ammeter;
 - (5) operation with substitute ammeter, plate voltmeter or plate ammeter;
 - (6) operation with temporary antenna system;
 - (7) operation with auxiliary transmitter as main transmitter;
- (b) operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application;
- (c) where formal application is not required, application for new or modified equipment or antenna system;
- (d) change of specifications for painting and lighting antenna towers where formal application is not required;
- (e) operation to determine power by direct method during program test period;
- (f) relocation of transmitter in same building;
- (g) operation with reduced power or time under Sections 3.57 and 3.71;
- (h) approval of types of equipment as to compliance with outstanding rules and standards;
- (i) all authorizations for equipment and program tests, or extensions thereof, where it appears that compliance has been had with the terms of the construction permit;
- (j) denial of requests for equipment and program tests where specifications of construction permit have not been met;
- (k) withdrawal of authorizations for equipment and program tests where subsequent to the issuance of the original authorizations it appears that the terms of the construction permit have not been met;
- (l) extensions of time within which to comply with technical requirements specified in authorizations, orders and rules or releases of the Commission;
- (m) representations of compliance with technical requirements specified in authorizations, orders, rules or releases (except formal applications);

(n) operation with licensed, new or modified equipment at a temporary location with a temporary antenna system in case of an emergency when, due to causes beyond the control of the licensee, it become impossible to continue operating at the licensed location;

(2A) That the Chief Accountant of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act upon and to make appropriate order in letter form for the signature of the Secretary in the following matters:

- (a) administration and application of regulations promulgated by the Commission pursuant to Section 220 of the Act, relating to accounts, records, and memoranda to be kept by carriers subject to the jurisdiction of the Commission;
- (b) applications for extensions of time in which to file annual, monthly, and special reports required by the Commission pursuant to Section 219 of the Act;
- (c) administration and application of orders or rules of practice and procedure promulgated by the Commission relating to financial and statistical data of standard broadcast stations and broadcast networks or chains;

(3)¹ That a Commissioner, to be selected and appointed by subsequent supplement or supplements to this Order by the Commission, is hereby authorized to hear and determine, order, certify and report or otherwise act upon all applications for the Aviation, Emergency, and Miscellaneous services, and for special authorizations other than those falling under paragraph (1), (2), (4), (5) or (6) (b) of this Order; and for emergency exemptions from the provisions of Section 352 (b) of the Act:

(4)¹ That a Commissioner, to be selected and appointed by subsequent supplement or supplements to this Order by the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all applications in the broadcast service as follows: for licenses following construction which comply with the construction permit; applications for construction permit and modification of construction permit involving only a change in equipment; applications for extensions of time within which to commence and complete construction; applications to install frequency control equipment; applications relating to auxiliary equipment; applications for authority to determine operating power of broadcast stations by direct measurement of antenna power; applications for special temporary authorization, in a manner not inconsistent with the established policy of the Commission; applications for modification of licenses involving only change of the name of the licensee, where the ownership or control is not affected; applications for construction permit or modification of license involving relocation locally of a studio, control point or transmitter sites; and applications for relay broadcast stations;

(5)¹ That a Commissioner, to be selected and appointed by subsequent supplement or supplements to this Order by the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all radio matters of every character (except broadcast, and cases falling under paragraph (1) of this Order) within the territory of Alaska;

(6) That a Commissioner, to be selected and appointed by subsequent supplement or supplements to this Order by the Commission, is hereby authorized to determine, order, certify, report or otherwise act upon all uncontested proceedings involved in:

(a) the issuance of certificates of convenience and necessity and the authorization of temporary or emergency wire service, as provided in Section 214 of the Act;

(b)¹ applications for instruments of authorization for the Fixed Public or Fixed Public Press radio services, except applications involving (1) new points of communication (2) changes in transmitter location other than local in character, (3) assignment of additional frequencies, or (4) involving change of policy by the Commission the revocation of station license, or the establishment of a new type of service.

(7) That a Commissioner, to be selected and appointed by subsequent supplement or supplements to this Order by the Commission, is hereby authorized to determine and act upon all matters arising in connection with the administration of tariff regulations promulgated by the Commission pursuant to Section 203 of the Act and in connection with the administration of this section in so far as it relates to the modification of requirements

¹ Applications for Class II experimental stations, directed toward the development of an established radio service only, shall be included among the classes of applications covered by the delegation of authority contained in the paragraphs designated ¹, for the classes of service covered in such paragraphs.

¹ Applications for Class II experimental stations, directed toward the development of an established radio service only, shall be included among the classes of applications covered by the delegation of authority contained in the paragraphs designated ¹, for the classes of service covered in such paragraphs.

thereof or made pursuant thereto, as authorized in particular instances by subsection (b) thereof, and to the rejection of tariffs as authorized by subsection (d) thereof.

(8) That a Commissioner, to be selected and appointed by subsequent supplement or supplements to this Order by the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of a final order made by the Commission; provided however that except in cases of emergency such matters shall be heard upon the motions docket in accordance with the provisions of Sections 1.251 to 1.256, inclusive, of the Commission's Rules of Practice and Procedure;

IT IS FURTHER ORDERED:

That this Order shall become effective August 1, 1939, and that effective simultaneously Commission Order No. 28 of November 29, 1937, as amended, be and the same is hereby, repealed.

FEDERAL COMMUNICATIONS COMMISSION,

JOHN B. REYNOLDS,
Acting Secretary.

Adopted: July 12, 1939.
Amended: July 26, 1939.

TELEVISION BANDS

The FCC has simplified the identification of various television bands. In this connection the Commission has made the following statement:

The Commission on July 12, 1939, amended Section 43.13(a) (to be renumbered Sec. 4.74(a)), of the Commission's Rules governing television service, to read as follows:

Sec. 43.13(a).

(a) The following groups of channels, as indicated by a channel designation, are allocated for assignment to television broadcast stations licensed experimentally:

Group A

Channel No.	1—44,000—50,000 kc.
"	" 2—50,000—56,000 kc.
"	" 3—66,000—72,000 kc.
"	" 4—78,000—84,000 kc.
"	" 5—84,000—90,000 kc.
"	" 6—96,000—102,000 kc.
"	" 7—102,000—108,000 kc.

Group B

Channel No.	8—156,000—162,000 kc.
"	" 9—162,000—168,000 kc.
"	" 10—180,000—186,000 kc.
"	" 11—186,000—192,000 kc.
"	" 12—204,000—210,000 kc.
"	" 13—210,000—216,000 kc.
"	" 14—234,000—240,000 kc.
"	" 15—240,000—246,000 kc.
"	" 16—258,000—264,000 kc.
"	" 17—264,000—270,000 kc.
"	" 18—282,000—288,000 kc.
"	" 19—288,000—294,000 kc.

Group C

Any 6,000 kc. band above 300,000 kc., excluding the band 400,000—401,000 kc.

FEDERAL COMMUNICATIONS COMMISSION

DECISIONS OF COMMISSION

The Federal Communications Commission has granted the application of Orville W. Lyerla for a construction

permit for the erection of a new station at **Herrin, Illinois**, to operate on **1310 kilocycles**, 100 watts night, 250 watts LS, unlimited time.

The application of Station KFVS at **Cape Girardeau, Missouri**, to operate unlimited time on **1210 kilocycles**, 100 watts night, 250 watts LS, instead of sharing time with Station WEBQ was denied without prejudice by the Commission.

In the same decision, the Commission also denied without prejudice the application of WEBQ requesting change in frequency from **1210 kilocycles** to **1310 kilocycles**, with power of 100 watts night, 250 watts LS, sharing time with KFVS.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The next regular meeting of the Commission will be on August 8.

The following hearing is scheduled by the Commission in a broadcast case during the week beginning Monday, August 7. It is subject to change.

Monday, August 7

WLTH—Voice of Brooklyn, Inc., New York, N. Y.—In the Matter of: Order to show cause why the license to operate Radio-broadcast Station WLTH should not be revoked.

FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for future broadcast hearings and oral arguments. They are subject to change.

September 14

Oral Argument Before the Commission

WPG—Greater New York Broadcasting Corp., Atlantic City, N. J. (proposed studio location, New York, N. Y.) (proposed transfer location, Kearney, N. J.)—C. P., **1100 kc.**, 5 KW, unlimited time (requests facilities of WOV and WBIL). Present assignment: **1100 kc.**, 5 KW, specified hours (WBIL).

WPG—City of Atlantic City, (Assignor), Greater New York Broadcasting Corp. (Assignee), Atlantic City, N. J.—Voluntary assignment of license, **1100 kc.**, 5 KW, specified hours (WBIL).

WMFF—Plattsburg Broadcasting Corp., Plattsburg, N. Y.—C. P., **1240 kc.**, 1 KW, unlimited time (DA night). Present assignment: **1310 kc.**, 100 watts, 250 watts LS, unlimited time.

NEW—The Moody Bible Institute, Radio Station, Chicago, Ill.—C. P., **41,300 kc.**, 100 watts Emission A-3, unlimited time.

October 10

WHDH—Matheson Radio Co., Inc., Boston, Mass.—C. P., **830 kc.**, 5 KW, 5KW LS unlimited time (DA night). Present assignment: **830 kc.**, 1 GW daytime.

October 19

Reargument Before the Commission

WLTH—Voice of Brooklyn, Inc., New York, N. Y.—Renewal of license., **1400 kc.**, 500 watts, shares WARD, WBBC and WVFW.

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Renewal of license, 1400 kc., 500 watts, shares WBBC, WLTH and WVFW.
WBBC—Brooklyn Broadcasting Corp., Brooklyn, N. Y.—Modification of license, 1400 kc., 500 watts, shares WARD, WLTH and WVFW.

FEDERAL COMMUNICATIONS COMMISSION ACTION

MISCELLANEOUS

- KNEL—G. L. Burns, Brady, Tex.—Granted Order to Take Depositions in re application for modification of license.
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Overruled motion to dismiss respondent's appearance (WFBR, Baltimore), in re application of WLAP for C. P. to change frequency, etc.
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Overruled motion to dismiss respondent's appearance (WHIO, Miami Valley Broadcasting Corp.), in re WLAP's application for C. P. to change frequency, etc.
- WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Overruled motion to dismiss respondent's appearance (WASH and WOOD—King-Trendle Broadcasting Corp.), in re WLAP's application for C. P. to change frequency, etc.
- WMT—Iowa Broadcasting Co., Cedar Rapids, Iowa.—Motion overruled, exception noted by counsel for WMT, for petition to intervene and that the issues to be determined upon hearing be enlarged, in re application of The Gazette Co., Cedar Rapids, Iowa, for a new station.
- WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Attorney for WXYZ allowed to withdraw petition to dismiss without prejudice or for leave to amend application for C. P. to increase power from 1 KW to 5 KW.
- WDAF—The Kansas City Star Co., Kansas City, Mo.—Granted motion to accept amendment so that the application will be considered as a modification of license to increase night power to 5 KW.
- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted special temporary authority to broadcast test signals radiated from general experiment station W2XGB from 10:15 to 10:30 p. m., EST, July 27, in connection with a special program attempting to communicate with Mars.
- WBRY—American Republican, Inc., Waterbury, Conn.—Granted special temporary authority to operate with the present two unit directional antenna in accordance with experimental authority granted under license for period August 1 to August 30, 1939, in order to determine necessary steps to change from a special to a standard broadcast station.
- NEW—Bellingham Broadcasting Co., Bellingham, Wash.; KVOS, Inc., Bellingham, Wash.—Postponed hearing scheduled in Bellingham for August 10, until August 16, to be heard by Commissioner Payne.
- WCMI—J. T. Norris and B. F. Forgey, Ashland, Ky.—Granted application for transfer of control of Ashland Broadcasting Company (Radio Station WCMI), to Gilmore N. Nunn and J. Lindsay Nunn.
- KARK—Arkansas Radio & Equipment Co., Little Rock, Ark.—Granted license to cover C. P. authorizing increase in nighttime power from 500 watts to 1 KW, employing DA at night, and changes in equipment.
- KWFT—Wichita Broadcasting Co., Wichita Falls, Tex.—Granted license to cover C. P. authorizing new station to operate on 620 kc., 250 watts night, 1 KW day, unlimited time.
- WAIF—WGN, Inc., Chicago, Ill., Portable-Mobile.—Granted license to cover C. P. for high frequency relay broadcast station; frequencies 31620, 35260, 37340 and 39620 kc.; 25 watts.
- WAIG—WGN, Inc., Chicago, Ill., Portable-Mobile.—Granted license to cover C. P. for high frequency relay broadcast station; frequencies 31620, 35260, 37340 and 39620 kc.; 1 watt.
- WAIH—WGN, Inc., Chicago, Ill., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station; frequencies 1622, 2058, 2150 and 2790 kc.; 50 watts
- W9XEG—Martin R. O'Brien, Aurora, Ill., Portable-Mobile.—Granted license to cover C. P. for new high frequency broadcast station; frequencies 30820, 33740, 35820 and 37980 kc.; 6 watts
- W7XCY—Oregonian Publishing Co., Portland, Ore., Portable-Mobile.—Granted license to cover C. P. for relay broadcast station; frequencies 31220, 35620, 37020 and 39260 kc.; 4.5 watts.
- WPIV—Petersburg Newspaper Corp., Petersburg, Va.—Granted modification of C. P. approving transmitter and studio sites at Colonial Heights, Va., and corner Sycamore and Tabb Sts., Petersburg, respectively, and installation of vertical radiator.
- W9XAZ—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Granted modification of C. P. to extend commencement date to 30 days after grant, and completion date to 90 days thereafter; to permit change of transmitter site locally; and to specify frequency of 42260 kc. as provided by new rules in lieu of frequencies now specified in terms of C. P.; frequency 42260 kc. on an experimental basis conditionally.
- W3XIS—WLBG, Inc., Richmond, Va., Portable-Mobile.—Granted modification of license to change corporate name from WLBG, Inc., to Richmond Radio Corp.
- WAHM—WLBG, Inc., Richmond, Va., Portable-Mobile.—Granted modification of C. P. to change corporate name from WLBG, Inc., to Richmond Radio Corp.
- WJNO—WJNO, Inc., West Palm Beach, Fla.—Granted C. P. to install new equipment in broadcast station.
- NEW—Central New York Broadcasting Corp., Syracuse, N. Y., Portable-Mobile.—Granted C. P. for new high frequency relay broadcast station; frequencies 31220, 35620, 37020 and 39260 kc.; 12 watts.
- NEW—WJR, The Goodwill Station, Area of Detroit, Mich., Portable-Mobile.—Granted C. P. for new relay broadcast station to use frequencies 1646, 2090, 2190, 2830 kc.; 150 watts.
- WPTF—WPTF Radio Co., Raleigh, N. C.—Granted extension of special temporary authority to operate from 11 p. m. to 12 midnight, EST, for the period August 1 to August 30, in order to broadcast programs as described in letter of May 27.
- KVEC—The Valley Electric Co., San Luis Obispo, Calif.—Granted special temporary authority to rebroadcast a special sky interview between the California Guard North American 0-47 airplane operating on National Guard frequencies and the ground at 1:30 p. m., PST, July 28.
- WPG—City of Atlantic City (Assignor), and Greater New York Broadcasting Corp. (Assignee).—Oral argument scheduled for September 14, 1939.
- WMFF—Plattsburg Broadcasting Corp., New York City.—Oral argument scheduled for September 14, 1939.
- NEW—The Moody Bible Institute Radio Station, Chicago, Ill.—Oral argument scheduled for September 14, 1939.
- W9XJM—WCBS, Inc., Springfield, Ill., Portable-Mobile.—Granted C. P. to make changes in equipment and increase power in relay broadcast station to 10 watts.
- KFXJ—Western Slope Broadcasting Co., Grand Junction, Colo.—Granted C. P. to install new equipment and vertical radiator, upon condition that towers are marked according to specifications.
- WORC—Alfred Frank Kleindienst, Worcester, Mass.—Granted license to cover C. P. authorizing installation of DA system for day and nighttime operation.
- WAHM—Richmond Radio Corp., Portable-Mobile, Richmond, Va.—Granted license to cover C. P. for new relay broadcast station, frequencies 1606, 2022, 2102 and 2748 kc., 50 watts.
- WAHF—WTAR Radio Corp., Norfolk, Va., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station, frequencies 1606, 2022, 2102 and 2758 kc., 50 watts.
- NEW—Central Broadcasting Corp., Worcester, Mass.—Dismissed with prejudice the application of Central Broadcasting Corp. for C. P. to operate on 1500 kc., 100 watts night, 250 watts LS, at request of applicant.
- NEW—Hannibal Broadcasting Co., St. Louis, Mo.—Denied as in case of default application for C. P. for new station to operate on 1310 kc., 100 watts, unlimited time, which was set for further hearing in conjunction with Courier Post Publishing Company's application, as applicant failed to file written appearance.
- W6XAO—Don Lee Broadcasting System, Los Angeles, Calif.—Granted C. P. to change present location of television station

APPLICATIONS FILED AT FCC

580 Kilocycles

WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Modification of C. P. (B2-P-2334) to make changes in transmitting equipment, increase power, further requesting authority to change type of transmitting equipment.

610 Kilocycles

WIOD-WMBF—Isle of Dreams, Broadcasting Corp., Miami, Fla.—Construction permit to make changes in equipment.

640 Kilocycles

WOI—Iowa State College of Agriculture and Mechanic Arts, Ames, Iowa.—Construction permit to make changes in transmitting equipment and move transmitter locally from College Campus, to Campus Iowa State College (700 feet), Ames, Iowa, and move studio from Engineering Annex, College Campus, to Service Bldg., Iowa State College, Ames, Iowa.

650 Kilocycles

KIRO—Queen City Broadcasting Co., Seattle, Wash.—Construction permit to install new transmitter, make antenna changes, change frequency from 650 to 710 kc., increase power from 250 watts to 5 kilowatt; 10 kilowatts day, time from limited to unlimited, and move transmitter from 2nd and Union Sts., Seattle, Wash., to site to be determined, near Seattle, Wash.

850 Kilocycles

KWKH—International Broadcasting Corp., Shreveport, La.—Modification of MSA (B3-MSA-46) to install new transmitter, increase power from 10 to 50 kilowatts, move transmitter, further requesting changes in equipment.

1200 Kilocycles

WIL—Missouri Broadcasting Corporation, St. Louis, Mo.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.
KVEC—Christina M. Jacobson, tr/as The Valley Electric Co., San Luis Obispo, Calif.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1210 Kilocycles

WTMA—Y. W. Scarborough and J. W. Orvin, d/b as Atlantic Coast Broadcasting Co., Charleston, S. C.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1270 Kilocycles

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—License to cover C. P. B1-P-2421 to move old RCA 1001-D transmitter to site of new transmitter, to be used as auxiliary transmitter; increase power to 1 KW; use directional antenna day and night, for emergency use only.

1290 Kilocycles

KDYL—Intermountain Broadcasting Corporation, Salt Lake City, Utah.—Modification of license to increase power from 1 KW, 5 KW LS, to 5 KW day and night.

1310 Kilocycles

NEW—L. J. Duncan, Lelia A. Duncan, Josephine A. Keith, Effie H. Allen, Aubrey Gay, d/b as Valley Broadcasting Co., West Point, Ga.—Construction permit for a new station on 1310 kc., 100 watts night, 250 watts day, unlimited time. Amended to request 250 watts power day and night.
WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.
KBND—The Bend Bulletin, Bend, Ore.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.
KCRJ—Central Arizona Broadcasting Co., Jerome, Ariz.—Construction permit to move transmitter 50 feet from Lower Hogback, Jerome, Ariz., to Main Road, Jerome, Ariz., and

from Los Angeles to 1 Lee Drive, Hollywood, and specify specific frequency band of 44000-50000 kc., as provided under new rules in lieu of frequencies specified in present authority. frequencies 44000 to 50000 kc., on an experimental basis only conditionally, 150 watts aural, 1 KW visual.
NEW—Central New York Broadcasting Corp., Syracuse, N. Y., Portable-Mobile.—Granted C. P. for new relay broadcast station, frequencies 1606, 2022, 2102 and 2758 kc., 12 watts.
WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted license to cover C. P. for auxiliary transmitter.
WDAC—University of Wisconsin, Madison, Wis.—Granted license to cover C. P. for new relay broadcast station, frequencies 1622, 2058, 2150 and 2790 kc., 10 watts.
WDAC—University of Wisconsin, Madison, Wis., Portable-Mobile.—Granted modification of C. P. to make changes in equipment of relay station.
WLW—The Crosley Corp., Cincinnati, Ohio.—Granted license to cover C. P. authorizing changes in equipment.
W9XER—Midland Broadcasting Co., Inc., Kansas City, Mo.—Granted license to cover C. P. for high frequency broadcast station to use frequency 42460 kc., conditionally, 500 watts.
KFNF—KFNF, Inc., Shenandoah, Iowa.—Granted extension of commencement date to 8-1-39 and completion date to 2-1-40, covering move of station, increase in power, and installation of new equipment.
WMAN—M & M Broadcasting Co., Marinette, Wis.—Granted modification of C. P. authorizing new station, approving antenna and studio transmitter site.
W9XZY—The Pulitzer Publishing Co., St. Louis, Mo.—Granted special temporary authority to operate upon present assigned frequencies 31600, 35600, 38600 and 41000 kc., instead of upon new frequencies, effective under new rules for period of 10 days, pending receipt and installation of new crystal and modifications of equipment in the receivers.
W9XPD—The Pulitzer Publishing Co., St. Louis, Mo.—Granted special temporary authority to operate station W9XPD (high frequency broadcast) upon the present assigned frequencies 31600, 35600, 38600 and 41000 kc., instead of 25900 kc. to be assigned August 1 under new rules, for period of 10 days in order to maintain a continuity of service and experimentation pending installation of new crystal.
WGRC—North Side Broadcasting Corp., New Albany, Ind.—Granted special temporary authority to operate from 6:45 p. m., CST to midnight or later on August 5, in order to broadcast primary election results, using 100 watts only.
WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted special temporary authority to operate from local sunset (August, 7:30 p. m., EST), to 11 p. m., EST on August 1, in order to broadcast civic celebration in City of Williamson.
W2XR—Radio Pictures, Inc., Long Island City, N. Y.—Granted special temporary authority to operate on the frequency 2012 kc. for period August 1 to August 30, in order to avoid interruption of important experiments with improved independent synchronization system.
WEHA—City of New York, Municipal Broadcasting System, Portable-Mobile.—Granted special temporary authority to operate on formerly assigned frequencies 300,000, 450,000, 600,000 and 750,000 kc., in lieu of frequencies assigned under new rules, for the period August 1 to August 30, pending transmitter modification.
WNYC—City of New York, Municipal Broadcasting System, Portable-Mobile, New York City.—Granted special temporary authority to operate from 8:15 to 9 p. m., EST, on August 6, in order to broadcast continuation of New York Philharmonic Symphony concert and from 8:15 to 9 p. m., EST, on August 7, in order to broadcast continuation of Goldman Band concert.
WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authority to operate from 6:30 to 8 p. m., CST, on August 10 and 11 and from 12:30 to 3:30 p. m., and 6:30 to 8 p. m., CST, on August 12, in order to broadcast district softball tournament.
WAID—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted special temporary authority to use equipment described in application with 20 watts on frequencies 2190 and 2830 kc., various hours between 12 noon and 6 p. m., EDST, on August 11, 12 and 13, in order to broadcast description of Eastern Amateur Golf Tournament, Syracuse Yacht Club, Oneida Lake, N. Y.

studio from 711 Main St., Jerome, Ariz., to Main Road (across from High School), Jerome, Ariz. Amended: Antenna.

WAML—New Laurel Radio Station, Inc., Laurel, Miss.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

KSRO—Press Democrat Publishing Co., Santa Rosa, Calif.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1320 Kilocycles

KGHF—Curtis P. Ritchie, Pueblo, Colo.—Construction permit to install new vertical antenna, move transmitter from 111 Broadway, Pueblo, Colo., to corner Lake and Maryland Ave., Pueblo, Colo.

1370 Kilocycles

WCNC—Aubrey G. McCabe and Trim W. Aydlett, d/b as Albemarle Broadcasting Co., Elizabeth City, N. C.—Modification of C. P. (B3-P-2269) for a new station, requesting approval of antenna, installation of new transmitter, approval of studio site at 104 E. Colonial Ave., Elizabeth City, N. C., and transmitter site at Parsonage St., Extended, 3 miles northwest of city limits, Elizabeth City, N. C.

WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Modification of C. P. (B2-P-2287) to install new antenna for auxiliary transmitter and move, further requesting extension of completion date to 11-1-39.

1420 Kilocycles

WCHV—Community Broadcasting Corp., Charlottesville, Va.—Modification of license to increase power from 100; 250 watts LS to 250 watts day and night.

WMBC—Michigan Broadcasting Co., Detroit, Mich.—Modification of license to increase power from 100; 250 watts LS to 250 watts day and night.

KCMC—KCMC, Inc., Texarkana, Tex.—Modification of license to increase power from 100; 250 watts day to 250 watts day and night.

WEED—William Avera Wynne, Rocky Mount, N. C.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WJMS—WJMS, Inc., Ironwood, Mich.—Construction permit to make changes in equipment and increase power from 100 watts to 100 watts night, 250 watts day. Amended to request 250 watts power day and night.

WSLI—Standard Life Insurance Company of the South, Jackson, Miss.—Modification of license to increase power from 100 watts, 250 watts day, to 250 watts day and night.

1500 Kilocycles

KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Calif.—Construction permit to install new transmitter and antenna; change frequency from 1500 ke. to 1430 ke.; increase power from 100 watts night, 250 watts day, to 1 KW day and night; move transmitter from 15-17 East Haley St. to site to be determined, Santa Barbara, Calif.

WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—Construction permit to install new transmitter and antenna and move transmitter from 134 Miami St., Pittsburgh, Pa., to 341 Rising Main St., Pittsburgh, Pa. Amended: Make changes in antenna and change type of transmitting equipment.

WKBB—Ashbacker Radio Corp., Muskegon, Mich.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

MISCELLANEOUS

NEW—National Broadcasting Company, Inc., New York, N. Y.—Construction permit for a new high frequency broadcast station on 42600 ke., 1 KW power, A-3 and special emission, to be located at 350 Fifth Avenue, New York, N. Y.

NEW—Bell Telephone Laboratories, Inc., Whippany, N. J.—Construction permit for a new developmental broadcast station at Whippany, N. J., on 43200 ke., 5 KW power, special emission.

WFYA—Central New York Broadcasting Corp., Portable-Mobile, area of Syracuse, N. Y.—License to cover C. P. (B1-PRY-182) for new low frequency relay station.

W1XEH—Travelers Broadcasting Service Corp., Avon, Conn.—Modification of license to change class of station from developmental broadcast to high frequency broadcast and change frequency from 63500 to 42460 ke., A-3 emission.

NEW—The Cincinnati Times-Star Company, Cincinnati, Ohio.—Construction permit for a new facsimile station at Vernon Manor, Hotel, Oak St., and Burnet Avenue, Cincinnati, Ohio, on 25175 ke., 100 watts power, A-4.

WJRA—WJR, The Goodwill Station, Portable-Mobile, area of Detroit, Michigan.—License to cover C. P. (B2-PRY-170) for a new low frequency relay broadcast station.

WEGY—Chicago Federation of Labor, Portable-Mobile, Chicago, Ill.—Construction permit for change in equipment and reduce power from 30 watts to 15 watts.

NEW—WDZ Broadcasting Co., Portable-Mobile, area, Tuscola, Ill.—Construction permit for a new relay broadcast station (Portable-Mobile), on 1622, 2058, 2150 and 2790 ke., 10 watts power, A3.

NEW—Peoria Broadcasting Co., Portable-Mobile, area of Peoria, Ill.—Construction permit for a new relay broadcast station on 1622, 2058, 2150, and 2790 ke., 25 watts, A3.

NEW—Symons Broadcasting Co., Spokane, Wash.—Construction permit for new facsimile station located at Symons Bldg., S. 7th Howard St., Spokane, Wash., on 25150 ke., 100 watts power, A4.

NEW—Midland Broadcasting Co., Kansas City, Mo.—C. P. for new television station located at 106 West 14th St., Kansas City, Mo., operated on 50000-56000 ke., 1 KW power, for visual, and 500 watts for aural, A3 and A5, emission.

XXXXXX—National Broadcasting Company, Inc., New York, N. Y.—Extension of authority to transmit recorded programs to all broadcast stations in Canada licensed to operate by the Canadian Government which may be heard consistently in the United States, for period beginning 9-15-39.

XXXXXX—First Baptist Church, Pontiac, Mich.—Extension of authority to transmit programs from First Baptist Church at Pontiac, Mich, to Radio Station CKLW, Windsor, Ontario, Canada, for period beginning 8-13-39.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

Heller & Newman, Inc.—A complaint against Heller & Newman, Inc., 250 West 39th St., New York, alleges false representations in the sale and distribution of ladies' coats.

The complaint charges that the respondent labelled garments with the legend "Harris Tweed," when such garments were not made of genuine "Harris Tweed" but were manufactured in the United States from wool imported from England. According to the complaint, "Harris Tweed" is a cloth made from pure virgin wool produced in Scotland, spun, dyed and finished in the Outer Hebrides Islands and hand woven by the Islanders at their homes in the Outer Hebrides. (3859)

National Coin Corporation and John Romano, 8 South Oleander Ave., Daytona Beach, Fla., were charged, in a complaint with false and misleading advertising in the sale of a coin catalog.

It is alleged that in order to induce the purchase of their coin catalog, the respondents advertised prices to be paid by them for old and rare coins, specifying that purchases would be made only from those persons having the respondents' coin catalog. Representations as to the values of old coins generally, and the price that the respondents will pay for them are alleged to be false and misleading. For example, the respondents allegedly advertise that they will pay \$450 or more for all dimes bearing dates prior to the

year 1895. Members of the purchasing public, it is charged, then purchase the respondents' catalog only to find that the respondents do not pay such sums for all dates prior to 1895, but for only one dime dated prior to 1895, which is an "1894 Mint" dime.

An alleged condition which the respondents place on their purchase of rare coins and with respect to which prospective purchasers of the coin catalog are not advised is the requirement for prospective sellers of coins to post with the respondents a \$1 appraisal fee, which fee is returned by the respondents only in the event of the purchase of a coin or coins by the respondents in the amount of \$5 or more. (3862)

Shanks Laboratories—In a complaint, W. H. Shanks, W. J. Goggin, Clara Shanks, and Jessie G. Goggin, all trading as Shanks Laboratories, Columbus, Ohio, are alleged to have made false representations in the sale of a medicinal preparation designated "Shanks Mange Lotion."

The complaint alleges the respondents' advertising to be false in that their preparation is not, as advertised, a remedy, cure, or competent treatment for eczema, abscesses, all types of mange, all varieties of cuts or sores, or for all other diseases or disorders of the skin on dogs, and that use of "Shanks Mange Lotion" will not, in all cases, cause hair to grow on dogs. According to the complaint, the respondents' preparation is not a therapeutically guaranteed treatment for itching scalps or scratching dogs. (3860)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Mme. Adele—Adele Millar, trading as Mme. Adele and Chez Adele, San Francisco, has been ordered to discontinue false representations in the sale and distribution of a cosmetic preparation designated "Wonder Peel Paste," or any other similar preparation.

Under the order, the respondent is prohibited from representing that her preparation will withdraw toxins from the skin, accelerate chemical changes in the living skin cells, or supply materials to the skin to repair waste tissues; that its use will prevent or remove freckles, liver spots or wrinkles; that it will prevent or remove or have any beneficial effect in aiding in the removal of, any blemishes or other conditions of the skin which are due to or persist because of a systemic or metabolic disorder or condition; that it will prevent pimples, blackheads, puffs, scars, pits, acne or crepey neck, and that it has any beneficial effect in aiding in the removal of pimples, blackheads, puffs, scars, pits, acne or crepey neck, unless such representation is limited to those conditions which are of a surface character only. (3346)

Philadelphia Rubber Waste Company, Philadelphia, and Albert Schwartz, Isadore M. Engel, and Simon Sperberg, co-partners, trading as Philco Rubber Company, Philco Rubber Sales Company, Philco Auto Supply, Philco Auto & Rubber Supply, and Philco Spark Plug Company, Washington, D. C., and Richmond, Va., were ordered to discontinue the unauthorized use of a well-known trade name in the sale and distribution of their merchandise.

The Commission finds that by labelling automobile inner tubes, spark plugs, and repair parts for tires and tubes with the designation "Philco" and by using the term "Philco" in their trade names, the respondents had represented to the purchasing public that their products were manufactured by the Philadelphia Storage Battery Company, a firm which for many years has manufactured radios and other electrical devices and had used the trade name "Philco" long before its adoption by the respondents.

Under the order, the respondents are prohibited from representing, directly or by inference, through the use of the trade name "Philco" or any colorable simulation thereof, or in any other manner, that merchandise manufactured by manufacturers other than the Philadelphia Storage Battery Company or its licensees, successors or assignees, are "Philco" products or are made by or under license from the Philadelphia Storage Battery Company. (3010)

Philco Auto Supply—See Philadelphia Rubber Waste Company.

Philco Auto & Rubber Supply—See Philadelphia Rubber Waste Company.

Philco Rubber Company—See Philadelphia Rubber Waste Company.

Philco Spark Plug Company—See Philadelphia Rubber Waste Company.

STIPULATIONS

The Commission has entered into the following stipulations:

Consumers Glue Company, St. Louis, Mo., engaged in the manufacture, sale and distribution of casein glue, entered into a stipulation to discontinue representations that its casein glue is "waterproof," when such is not the fact. (2497)

Hagen Import Company and its officers, H. E. Becker, Mrs. Anna Becker and Arthur K. Lueders, St. Paul, Minn., entered into a stipulation to discontinue false representations in the sale and distribution of medicinal products. (2495)

Howard Drug and Medicine Company, trading as Planter Medicine Company, Baltimore, entered into a stipulation to discontinue false representations in the sale and distribution of pills or tablets designated "Planter's Benedicta Tablets" and formerly known as "Planter's Monthly Regulating Pills."

Under the stipulation, the respondent agreed to cease representing directly or by implication that its preparation will correct all, or any, irregularities of the menses or monthly flow, or will make women's pains unnecessary, or that the use of its preparation will have any beneficial effect in such conditions other than as a purgative in cases of intestinal stasis. (2493)

Hudgins Fish Company, West Palm Beach, Fla., entered into a stipulation to discontinue misleading representations in the sale and distribution of food fish products.

The stipulation shows that the respondent advertised sea crayfish obtained off the coast of Florida as "Choice Southern Lobsters," "Fresh Picked Lobster Meat" and as "Lob. Meat," which product was then offered by retailers to the public as "Fresh Fancy Lobster Meat." The stipulation further indicates that the term "Lobster" has long been associated by the consuming public with the genus Homarus, the true American lobster found only along the coast from North Carolina to Labrador. (2494)

Lambert Pharmacal Company, St. Louis, manufacturer of "Listerine Antiseptic", has entered into a stipulation to cease and desist from representing by direct statement or by inference that all dandruff is due to an infection with *Pityrosporon ovale* or any other organism; that dandruff necessarily is a germ disease; that the dandruff germ has been isolated or identified; that the presence of *Pityrosporon ovale* necessarily means dandruff or that with its destruction dandruff disappears; that dandruff is necessarily infectious, contagious or "catching" or is in all instances passed from one person to another, or that any of the foregoing assertions have been proven by findings of scientists or otherwise, or is a "scientific fact" or a "fact definitely established by scientists".

It is also stipulated that the respondent desist from representing that the product either cures or permanently relieves dandruff; that the product "kills the dandruff germ", "attacks the cause of dandruff" or "gets at the cause" or "at the root of the trouble" or penetrates infected hair follicles or "annihilates" the dandruff germ; that the product frees the scalp and hair follicles of the parasite that saps their vitality or "spreads a germ-killing film over the scalp"; that the product has "marked curative properties due to certain ingredients in a unique combination shared by no other antiseptic"; that ordinary remedies "aren't even antiseptic", are "smelly", affect only surface symptoms, or merely remove surface symptoms temporarily, or that competitive products are obviously inferior to "Listerine Antiseptic" as a remedy for dandruff—when such are not the facts. (2502)

Planter Medicine Company—See Howard Drug & Medicine Company.

T. Riessner—George Lerch, trading as T. Riessner, New York, entered into a stipulation to discontinue the misbranding of bronze powder.

In the stipulation, the respondent agreed to cease labeling containers of bronze powder with the word "aluminum" either alone or in connection with the word "pure" or with the words "chemically pure" or any other words which would imply that the product is composed of aluminum or of pure aluminum or of chemically pure aluminum. (2492)

Seaboard Novelty Company—In a stipulation entered into, Ben Mermelstein, trading as Seaboard Novelty Company, 1909 Quentin Road, Brooklyn, N. Y., agreed to discontinue lottery methods in the sale and distribution of merchandise novelties to ultimate consumers.

Under the stipulation, the respondent is to cease supplying others

with lottery devices which may enable such persons to dispose of or sell any merchandise, and to cease selling or disposing of any merchandise by the use of lottery devices. (2500)

William E. Wright & Sons Company, a New Jersey corporation, of West Warren, Mass., entered into a stipulation to discontinue false and misleading representations in the sale and distribution of seam bindings, including bias tapes, rickrack (braid), frillings and novelty trimmings.

Under the stipulation, the respondent agreed to cease using the word "Taffeta" to describe a product not composed of silk, or implying in any other way that the product referred to is composed of silk, when such is not the fact. If the word "Taffeta" is used properly to describe the type of construction of a rayon or celanese rayon fabric, the respondent shall cause the word "Taffeta" to be immediately accompanied by the word "rayon" or the words "celanese rayon" printed in equally conspicuous type so as to indicate clearly that the product is in fact rayon or celanese rayon. The respondent also agreed to cease representing a rayon or celanese rayon product as being something other than such rayon. (2496)

FCC Assignments For August

Duties of Commissioners, Secretary, and Chief Engineer of the FCC as allocated by Order No. 28, dated November 29, 1937, which provides "That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon:

**ASSIGNMENT FOR
MONTH OF
August**

"All applications for aeronautical, aircraft, geophysical, motion picture, airport, aeronautical point to point, municipal and state police, marine relay, marine fire, and emergency and special emergency radio facilities.

**Commissioner
Paul A. Walker**

"All applications for licenses following construction which comply with the construction permit; applications for extensions of time within which to commence and complete construction; applications for construction permit and modification of construction permit involving only a change in equipment; applications to install frequency control; applications relating to auxiliary equipment; applications for authority to determine operating power of broadcast stations by direct measurement of antenna power; applications for special temporary authorization; applications for modification of licenses involving only change of the name of the licensee, where the ownership or control is not affected; applications for construction permit or modification of license involving relocation locally of a studio, control point or transmitter site; and applications for relay broadcast stations.

**Commissioner
Norman S. Case**

"All radio matters of every character (except broadcast, operator licenses and amateur and ship stations) within the territory of Alaska.

**Commissioner
T. A. M. Craven**

"All uncontested proceedings involved in the issuance of certificates of convenience and necessity; and the authorization of temporary or emergency wire service, as provided in Section 214 of the Act.

**Commissioner
George Henry Payne**

"All matters arising in connection with the administration of tariff circulars of the Commission adopted pursuant to Section 203 of the Act, including the waiver of notice for the filing of tariffs.

**Commissioner
Frederick I. Thompson**

"All matters arising under the Rules of Practice and Procedure of the Commission relating to withdrawals, dismissals, or defaults of applications or other proceedings, subject to the statutory right of appeal to the Commission; and to hear and determine all interlocutory motions, pleadings and related matters of procedure before the Commission.

**Commissioner
Thad H. Brown**

"That the Secretary of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act, with the advice of the General Counsel and the Chief Engineer, upon:

- (a) all applications for operator licenses, and
- (b) all applications for amateur and ship stations.

**Secretary
T. J. Slowie**

"That the Chief Engineer of the Federal Communications Commission is hereby authorized to determine upon all applications and requests, and to make appropriate order in letter form for the signature of the Secretary in the following matters:

- (a) operation without an approved frequency monitor;
- (b) operation without an approved modulation monitor;
- (c) operation without thermometer in automatic temperature control chamber;
- (d) operation without antenna ammeter, plate voltmeter or plate ammeter;
- (e) operation with substitute ammeter, plate voltmeter or plate ammeter;
- (f) operation with temporary antenna system;
- (g) operation with auxiliary transmitter as main transmitter;
- (h) operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application;
- (i) where formal application is not required, application for new or modified equipment or antenna system;
- (j) where formal application is not required, change of specifications for painting and lighting of antenna towers;
- (k) operation to determine power by direct method during program test periods;
- (l) relocation of transmitter in the same building;
- (m) operation with reduced power or time under Rules 142 and 151;
- (n) approval of types of equipment;
- (o) where it appears that terms of construction permit have been complied with, authorization for equipment and program tests or extensions thereof;
- (p) denial of requests for equipment and program tests where specifications of construction permit have not been met;
- (q) withdrawal of authorizations for equipment and program tests where subsequent to the issuance of the original authorization it appears that the terms of the construction permit have not been met;
- (r) extensions of time within which to comply with technical requirements specified in authorizations, orders and rules or releases of the Commission;
- (s) changes in equipment necessary to comply with technical requirements specified in authorizations, orders, rules or releases (except formal applications);
- (t) representations of compliance with technical requirements specified in authorizations, orders, rules or releases (except formal applications);
- (u) operation with licensed, new or modified equipment at a temporary location with a temporary antenna system in case of an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating at the licensed location."

**Chief Engineer
Ewell K. Jett**



New Sources of Music Sought, Independent of ASCAP

Sydney M. Kaye yesterday was engaged as special counsel to complete the drafting of final plans to develop new sources of music for the radio industry independent of ASCAP.

This announcement was made by Neville Miller, NAB president, following a two-day meeting of the NAB Copyright Committee in New York.

Mr. Kaye is regarded as one of the outstanding copyright lawyers in the nation. He is thoroughly conversant with broadcasting and its operating problems. He possesses a wide knowledge of the music publishing business and has extensive acquaintances throughout the music publishing world.

Mr. Kaye's appointment was the latest in a series of developments which followed the collapse of negotiations with ASCAP last week when John Paine, General Manager of the Society, told the NAB Committee that ASCAP had no proposal to make, and that Mr. Buck, its president, had departed on vacation without appointing a committee to negotiate with NAB.

Following this development, Mr. Miller and his committee called a special convention of the industry to be held in Chicago, September 15. The committee acted upon the direct mandate of the July NAB Convention, which empowered it to call an emergency meeting if it felt that the welfare of the industry was threatened by tolerating further delay in ASCAP negotiations.

Phonograph Record Fee Conferences

A special committee consisting of Neville Miller; John Elmer, WCBM, Baltimore, Maryland; and Clair McCollough, WGAL, Lancaster, Pennsylvania, met with representatives of the Victor Record Manufacturing Company, August 10, to discuss a plan proposed by the Victor Record Company for licensing radio stations to play their records. It is reported that the Victor Record Company has prepared contracts to be submitted

to stations. However, they have agreed to meet again on August 22, in New York City, with a NAB committee. Neville Miller appointed the following committee to carry on negotiations with record manufacturers: Neville Miller, Chairman; John Elmer; Clair McCollough; John Shepard, 3rd, Yankee Network, Boston, Massachusetts; and Alexander Dannenbaum, Jr., WDAS, Philadelphia, Pennsylvania.

The committee of three mentioned above contacted the Decca Record Company and the Columbia Recording Company also on August 10 in regard to their plans for licensing radio stations to use their records. Both of these companies agreed

(Continued on page 3652)



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W. WASHINGTON Phone NAational 2080

Neville Miller, President Edwin M. Spence, Secretary-Treasurer

Andrew Bennett, Counsel; Edward M. Kirby, Director of Public Relations; Joseph L. Miller, Director of Labor Relations; Paul F. Peter, Director of Research

PHONOGRAPH RECORD FEE CONFERENCES

(Continued from page 3651)

to meet with the newly appointed committee at a later date.

Mr. Miller stated that final terms of the proposed RCA plan of the licensing arrangements had not yet been devised and probably would be consummated at the August 22 conference.

RCA TO DEMAND PAYMENT FOR USE OF RECORDS

The RCA Manufacturing Company, Inc., has sent the following letter to broadcasting stations, stating that it will demand payment for use of Victor and Bluebird records after October 1, 1939:

RCA MANUFACTURING COMPANY, INC. Camden, N. J.

August 5, 1939.

Radio Station _____

GENTLEMEN:

Under date of January 4, 1938, we wrote to all broadcasting stations in connection with the use of our Victor and Bluebird phonograph records for radio broadcast purposes. Copy of the letter is enclosed herewith for your ready reference. In our letter we requested that stations which were using our records over the air arrange for prompt discontinuance of that practice. Following the sending of the letter a great many of the stations replied that they had a number of our records on hand and in some instances had made commitments to customers involving the use of such records. These stations asked for additional time within which to make the necessary changes.

Because we wished to be entirely fair and reasonable with the stations and because of the pendency of certain litigation which we believed would judicially determine our rights in the matter, we then issued to stations requesting it, written assurance that until further notice from us to the contrary we would not make their use of our records the basis of any claim against them.

The litigation referred to has now been determined and the court has held that the use of our phonograph records for radio broadcast purposes infringes our rights, constitutes unfair competition and may be enjoined by us (RCA Manufacturing Company, Inc. vs. W. B. O. Broadcasting Corporation, Elin, Inc., and Paul Whiteman, decided in the United States District Court for the Southern District of New York on July 24, 1939).

The use of our records for radio broadcast purposes has resulted in materially increasing our production costs. Musicians have made the practice one of the reasons for substantially increasing their charge to us for their services. Indiscriminate use of records over the air shortens the period during which the records are salable and deprives us of many potential customers. Certain of our recording artists have complained that they do not like it and in some instances have actually refused to make any additional records unless we could and would undertake to keep them off the

August 11, 1939

air, thus depriving us of the opportunity to contract for the services of these artists.

In view of this situation we have concluded that we cannot continue to permit stations to use our phonograph records unless they are prepared to pay us reasonable compensation therefor and to abide by such reasonable regulations as may be necessary. We are therefore preparing a plan which will make available to the stations a majority of our Victor and Bluebird phonograph records. Details of this plan will be sent to you within the next few days so that you may study it and determine whether you wish to adopt it.

Pending announcement of the plan and so that you may have a further opportunity to determine what course you will wish to pursue in the matter, we now advise you that, effective October 1, 1939, all of the letters of assurance from time to time issued by us to radio broadcasting stations in connection with their use of our records for broadcasting purposes are withdrawn. This notice does not of course apply to our record programs "Music You Want," "Weekly Victor Record Review" and "RCA Victor Musical Clock," which programs are broadcast pursuant to the terms of special licenses heretofore issued to us.

With renewed assurances of our desire to cooperate with you at all times, we are,

Very truly yours, RCA MANUFACTURING COMPANY, INC. By W. W. EARLY, Manager, Recording and Record Sales.

BROWN DISCUSSES CENSORSHIP

Commissioner Thad H. Brown of the FCC made the following remarks about government censorship of broadcasting at the closing session of the conference on the use of radio for the public welfare at Harvard University on August 4:

I deem it a high honor and a distinct privilege to address this concluding session of the Conference on the Use of Radio for the Public Welfare at the Harvard Summer School. I speak to you tonight as one who has had over twelve years of experience in radio broadcasting, first as President and General Manager of a broadcasting station in the city of Cleveland, Ohio; then in 1929 as General Counsel and later as a member and Vice Chairman of the Federal Radio Commission; and for the past five years as a member of the Federal Communications Commission. I am giving you my own philosophy on the regulation of broadcasting in the public interest, and am not in any way speaking for the Commission of which I am a member.

In reviewing the scope of this Conference I was impressed with the seriousness and the comprehensiveness with which you have set about to examine the American broadcasting system. It would be difficult to over-estimate the role which radio broadcasting plays in educational and social affairs and the contribution it makes to American culture.

The problems which you have been considering are each and every one influenced by the trend which the regulation of broadcasting takes. It will be my purpose tonight to discuss with you some of the underlying principles of regulation of communications and to sketch briefly the accomplishments of Federal regulation in this important field.

It would be a mistake to assume at the outset that the regulatory problems of communication are really new, or that they require an abrupt break with the past. Our accomplishments of the present rest upon the tremendous progress of the past, and, here as elsewhere, it has been our experience that each advance instead of tending to reduce the possibilities seems to increase them. I venture the statement that there is no more pressing problem in the whole fabric of our civilization than the extent to which we shall control the avenues of communication between human minds. Wise and judicious control of this socializing instrument is imperative. Indeed, it is the measure of difference between our own free democratic system and the varying types of totalitarian governments observed abroad.

Constitutional guarantees of freedom of speech are to be guarded as carefully as our precious freedom of the press. Our present system of Federal regulation of communication rests upon the preservation of that ideal. It is a striking contrast to the regulations imposed upon the press during its early history. The press,

you will recall, was born to a license system which persevered under the Tudors and the Stuarts in England. Statutes of Parliament and the Ordinances of the Star Chamber regulated the manner of printing, the number of presses throughout the kingdom, and prohibited all printing against the force and meaning of any of the laws of the realm.

Broadcasting, and other types of radio communication in the United States, were born to a system of licensing conceived in a far different spirit. All Federal regulation has been designed to protect our sacred constitutional guarantees so that there is full freedom of speech in America. I wish to take this occasion tonight to reaffirm emphatically this principle and to outline the definite prohibitions against any type of censorship contained in the basic regulatory acts. But, first, let me review briefly the history of radio regulation in the United States.

Federal regulation of communications in the United States may be said to have had its beginning with the passage by Congress in 1866 of the Post Roads Act. The first Federal statute relating to radio communication, however, was the Wireless Ship Act of June 24, 1910, relating to the safety of life and property at sea. This Act was amended in 1912 to expand regulation of communication and in order to enable the United States to carry out its treaty obligations under the Berlin Convention. Even before the outbreak of the World War directed increased attention to radio communication the Act of 1912 was attacked, foreshadowing the ultimate breakdown of the law.

The Secretary of Commerce, who administered the law at that time, suspected German ownership of an American station and submitted to the Attorney General the question whether, under the 1912 Act, he had authority to refuse the license on this ground. The Attorney General replied that he did not, the Act reposing in him no discretionary power in the matter of issuing licenses if the applicant came within the class to which licenses were authorized to be issued.

Up to 1921 the only use for radio had been for point-to-point communication services. Few applications for broadcasting licenses were made in these early years, but as the technique improved, broadcasting grew apace and by 1923 there were several hundred stations trying to operate simultaneously on two frequencies. Utter chaos resulted.

It was in February 1927 that the Congress enacted the Federal Radio Act, predicated upon the theory that radio communication is interstate commerce, and that Congress has the power, under Article I, Section 8, Clause 3 of the Constitution, to regulate commerce with foreign nations and among the several states. Thus did the Federal Radio Commission come into being.

This Commission continued its performance of the duties placed upon it by the Congress until the establishment of the Federal Communications Commission under the Communications Act of 1934. Congress clearly set forth the purposes of the Act when it declared that the Commission was created to regulate "interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication."

The communications industry in the United States, which is the subject of this regulation, is a vast one, with over six billion dollars invested in the various companies controlling telephone, telegraph and radio broadcasting. Recent statistics show that there are over 40,800,000 radio sets in the United States today, with 28,000,000 homes equipped with radios as of January 1, 1939. Over 88 million miles of telephone wires span our country, with over two million miles of telegraph wires serving that medium of communication.

Time does not permit us to touch upon the complex regulatory problems facing the Commission in the telephone and telegraph fields nor to consider the various phases of radio regulation other than broadcasting. However, I would not leave you under the impression that broadcasting is the only use of radio today. Indeed, broadcasting is but one of 27 services of radio.

We are familiar with some of the more common uses of radio in connection with telegraph and telephone to foreign countries, as well as with the amateur and maritime services. In the field of aviation radio has become indispensable, and as a method of increased public safety police radios are now in operation in nearly

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every city. Again, radio is used in the transmission of news to newspapers by what is known as a multiple address radio telegraph service. There are, of course, many lesser known uses of radio in the experimental services, including television and facsimile. The Commission has outstanding over 55,000 station licenses for its various services.

The controlling principles governing radio in the United States are expressed clearly in the opening section of Title III of the Communications Act of 1934, which language was taken from the Radio Act of 1927. It reads as follows: "It is the purpose of this Act, among other things, to maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license."

A further expression of the legislative standards laid down by the Congress is found in the Act, which says that, "The Commission, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this Act, shall grant to any applicant therefor a station license provided for by this Act."

It is a little understood, but nonetheless interesting, fact that neither the Federal Radio Commission nor the Federal Communications Commission have ever exercised their *legislative* power outlining program service and standards for the operation of radio broadcasting. Both Commissions have exercised their *judicial* power in individual cases with reference to programs which have already been broadcast.

The Commission is charged with being indefinite and vague with regard to those things which constitute sufficient grounds for a finding that a station is not serving public interest, convenience and necessity. It is not always possible to be definite and specific. I am reminded of the situation which former President Woodrow Wilson faced when he made his statement that the United States would declare war on Germany only when Germany committed some overt act violating the neutrality of the United States. When asked what he meant by "an overt act," he said, frankly, that he could not define it but that he would recognize it when he saw it.

However, the Commission has been more definite with regard to what it considers to be in the public interest. Already in the Great Lakes Broadcasting Company case, decided in 1928, the Commission said, "Insofar as a program consists of discussion of public questions, public interest requires ample play for the free and fair competition of opposing views * * *. * * * the tastes, needs and desires of all substantial groups among the listening public should be met, in some fair proportion, by a well-rounded program, in which entertainment, consisting of music of both classical and lighter grades, religion, education and instruction, important public events, discussion of public questions, weather, market reports, and news, and matters of interest to all members of the family find a place."

The test of "public interest, convenience or necessity" contained in the Act provides ample authority for examination of broadcast programs by the Commission in passing upon license applications.

Both the Radio Act of 1927 and the Communications Act of 1934 contain definite prohibitions against censorship. Congress has clearly stated that, "Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication."

Congress has only qualified this with the further prohibition that, "No person within the jurisdiction of the United States shall utter any obscene, indecent, or profane language by means of radio com-

munication." This section is clearly within the spirit and letter of the first amendment to the United States Constitution which provides that, "Congress shall make no law * * * abridging the freedom of speech * * *."

Judge Cooley has admirably expressed the full purport of this section of the Bill of Rights in his "Treatise on Constitutional Limitations" where he says: "The constitutional liberty of speech and of the press, as we understand it, implies a right to freely utter and publish whatever the citizen may please, and to be protected against any responsibility for so doing, except so far as such publications, from their blasphemy, obscenity, or scandalous character, may be a public offense, or as by their falsehood and malice they may injuriously affect the standing, reputation or pecuniary interests of individuals."

It is appropriate here to examine the decided cases in which the question of censorship has been alleged. The Commission denied an application for renewal of license of Station KFKB at Milford, Kansas, operated by Dr. J. R. Brinkley, on the ground that a review of its past operation convinced the Commission that the future operation of this station would not serve public interest, convenience and necessity. The station appealed from this denial, asserting that the Commission's decision constituted a violation of the Radio Act in that it was censorship.

The Court of Appeals for the District of Columbia sustained the Commission saying, "In considering an application for a renewal of the license an important consideration is the past conduct of the applicant for 'by their fruits ye shall know them'. Matt. VII:20. Especially is this true in a case like the present, where the evidence clearly justifies the conclusion that the future conduct of the station will not differ from the past. * * *

"Appellant contends that the attitude of the Commission amounts to a censorship of the station * * *. The contention is without merit. There has been no attempt on the part of the Commission to subject any part of appellant's broadcasting matter to scrutiny prior to its release. In considering the question whether the public interest, convenience or necessity will be served by a renewal of appellant's license, the Commission has merely exercised its undoubted right to take note of appellant's past conduct, which is not censorship. * * *"

In enforcing the provisions regarding obscene, indecent or profane language by means of radio communication, the first conviction was had in the District Court of the United States for the District of Oregon. The defendant, Robert Duncan, known as the "Oregon Wild Cat," was accused of willfully and feloniously uttering obscene, indecent and profane language over Station KVEP, Portland, Oregon. On appeal to the United States Circuit Court for the Ninth Circuit the conviction was affirmed and the defendant was given a \$500 fine and imprisonment for six months. The Supreme Court of the United States refused certiorari. The Commission, in a consideration of the application of the station for a renewal of its license, after a hearing, denied it, holding that the public interest was not served by such broadcasts.

I should like to refer now to the case of Trinity Methodist Church, South which raised the issue of free speech, implicit in all cases where licenses are refused because of character of programs. An application for a renewal of its license was made by the Church, licensee of a broadcast station in Los Angeles, California, devoted chiefly to programs furnished by religious, philanthropic, educational and musical organizations. For three hours each week, Reverend Shuler, militant pastor of the Church, used the facilities of the station to broadcast alleged unbridled attacks upon other religious groups, judges, and other public officials and various independent organizations. He was twice found in contempt of court for his radio comments upon pending litigation.

The Commission in considering the application of this station for a renewal of its license, being unable to determine that the public interest, convenience and necessity would be served by the continued operation of it, set the application for hearing as required by law. After a full and complete hearing, held in the City of Los Angeles, the application was denied.

The applicant then appealed to the Court of Appeals for the District of Columbia, claiming that the action of the Commission constituted censorship and that Reverend Shuler had been deprived of his constitutional rights of freedom of speech. The court, in considering the case, stated that, "the evidence abundantly sustains the conclusion of the Commission that the continuance of the broadcasting programs of the appellant is not in the public interest."

In a prior case, in a proceeding for contempt against Reverend Shuler, he appealed to the Supreme Court of the State of California and that court stated, "that the broadcast utterances of Doctor Shuler disclosed throughout the determination on his part to impose on the trial courts his own will and views with respect to certain

causes then pending or on trial and amounted to contempt of court. Appellant, not satisfied with attacking the judges of the courts in cases then pending before them, attacked the bar association for its activities in recommending judges, charging it with ulterior and sinister purposes. With no more justification, he charged particular judges with sundry immoral acts. He made defamatory statements against the board of health. * * * He alluded slightly to the Jews as a race, and made frequent and bitter attacks on the Roman Catholic religion and its relations to government. However inspired Doctor Shuler may have been by what he regarded as patriotic zeal, however sincere in denouncing conditions he did not approve, it is manifest, we think, that it is not narrowing the ordinary conception of 'public interest' in declaring his broadcasts—without facts to sustain or to justify them—not within that term, and since that is the test the Commission is required to apply, we think it was its duty in considering the application for renewal to take notice of appellant's conduct in his previous use of the permit, and, in the circumstances, the refusal, we think, was neither arbitrary nor capricious."

In its decision in this case the Court of Appeals for the District of Columbia stated, "If it be considered that one in possession of a permit to broadcast in interstate commerce may, without let or hindrance from any source, use these facilities, reaching out, as they do, from one corner of the country to the other, to obstruct the administration of justice, offend the religious susceptibilities of thousands, inspire political distrust and civic discord, or offend youth and innocence by the free use of words suggestive of sexual immorality, and be answerable for slander only at the instance of the one offended, then this great science, instead of a boon, will become a scourge, and the Nation a theater for the display of individual passions and the collision of personal interests. This is neither censorship nor previous restraint, nor is it a whittling away of the rights guaranteed by the first amendment, or an impairment of their free exercise. Appellant may continue to indulge his strictures upon the characters of men in public office. He may just as freely as ever criticize religious practices of which he does not approve. He may even indulge private malice or personal slander—subject, of course, to be required to answer for the abuse thereof—but he may not, as we think, demand, of right, the continued use of an instrumentality of commerce for such purposes, or any other, except in subordination to all reasonable rules and regulations Congress, acting through the Commission, may prescribe." An attempt was made to have the Supreme Court of the United States review this case on certiorari, which was denied.

It has been almost the constant complaint of the broadcaster that talk of censorship results from the short broadcast license period. The Communications Act of 1934 gives the Commission authority to grant broadcast licenses for a period not to exceed three years. As early as December 21, 1934, I proposed the extension of the broadcast license period from the six-month license, which was standard at that time, to twelve months. However, on June twenty-third of this year the Commission adopted rules and regulations governing standard broadcast stations with the license period extended to one year. This provision should be an effective indication of the Commission's desire to demonstrate its lack of even slight intention to exercise any degree of censorship.

In my estimation there need be no inevitable conflict between the censorship provision of the law and the Commission's established policy of interpreting public interest, convenience and necessity broadly enough to include consideration of program service. Unless Commission regulation goes beyond mere supervision of technical operations there can be no effective regulation in the public interest.

The question of censorship of radio broadcasting continues to be one of the most discussed topics today, but censorship of broadcasting or any such control which would seek to bring it about, is abhorrent to the finest of American social instincts.

Our press is free, and its strongest form of censorship, it is freely admitted, is native in the press itself and promoted by a rigid enforcement of its fairly drawn code of ethics. Telephone and telegraph have not been throttled by censorship.

The very nature of broadcasting requires that these channels of thought shall be open to all matters of public interest, regardless of race, creed, color or political party. Emerson has expressed the importance of this concept when he says, "The revelation of thought takes man out of servitude into freedom."

Broadcasting in the public interest must, of necessity, enlarge freedom of thought, of opinion, and of democratic action. It must not and can not become the tool of autocracy and dictatorship. Freedom of speech and freedom of the press, which are inseparable, constitute our greatest bulwark against subversive influences.

During my years of service as a member of two Commissions regulating broadcasting under two administrations—one, Republican, and the other, Democratic—I can say without hesitation or reservation that at no time during this entire period has there been even the slightest attempt made to exercise any degree of censorship.

Your speaker, as Acting Chairman of the Commission, on June nineteenth of this year, before a Congressional committee, in answer to a question as to whether the Commission, either domestically or internationally, considers that it has the right and should exercise the power of censorship over programs, stated: "Speaking for the Commission, I am sure that every member of the Commission does not consider that it has any right of censorship either domestically or internationally. The statute definitely prohibits censorship."

Broadcasting stations and their managers sometimes state, when they do not want to take a certain program, that it is barred by the Federal Communications Commission, when, as a matter of fact, they merely want an excuse for not using that particular material. The Commission has issued no instructions or regulations and can not and does not require stations to accept any and all programs offered to them. Under the Act, broadcast stations are not deemed to be common carriers. Inasmuch as stations have the responsibility for selecting the program material to be used, they are within their rights in refusing programs if they choose, but they are not justified in asserting that the rejection is based upon any direction of the Commission.

Your speaker, again as Acting Chairman of the Commission, at the opening of a hearing on July fourteenth on a petition of The American Civil Liberties Union for revision, amendment or modification of the Commission's rules and regulations governing international broadcast stations, stated that, "the applicable provisions of the Communications Act of 1934, as amended, require that licenses be issued to serve the public interest, convenience or necessity. To comply with this statutory mandate, the Commission is required before it may issue a license or assign any frequency for any particular service to define the purpose and objective for such service in such a way that the public interest, convenience or necessity will be served by the station licensed to operate on frequencies assigned to this service. This is true whether the service be international broadcast service, telephone or telegraph service, domestic broadcast service, police service, aviation service or any of the other various classes of radio service authorized by the Commission. * * *

"It can not be emphasized too strongly that the Commission has no desire, purpose or intention of setting itself up as a board of censorship, and that it does not and will not exercise any such jurisdiction."

Thus in the national and international broadcast fields, it is clear that the Commission has not and can not exercise any censorship. The voice that speaks in America must be the voice of free men and not the voice of despots. The Commission and the broadcaster serve public interest when they cooperate to maintain our free institutions and to develop radio as an instrument of real public service. The Constitution guarantees to all of us the right of freedom of speech, and Congress, in enacting the Communications Act of 1934, provided specifically that there should be no censorship in broadcasting. It is the solemn duty of the Commission to safeguard that sacred right.

STRINGER ADDED TO NAB STAFF

With a view of enlarging the industry-wide promotion of broadcasting, Neville Miller, President, announces the addition of Arthur Stringer, promotion specialist, to the Headquarters Staff. Mr. Stringer will be assigned to the Public Relations Department and will report to its director, Ed Kirby.

Mr. Stringer, a resident of Chicago, has had a long and extensive career in radio promotion. He began work as a member of the Advertising Department of the Chicago Tribune. He was at one time Associate Director of Gorgas Memorial Institute. In 1926 he became Publicity Director for the first New York and Chicago Radio Shows and during their existence was a leading factor in their successful exploitation. For a short period, he was en-

gaged for special promotional work by WLW-WSAI. In recent years he has engaged in private consulting promotional work. He brings Headquarters an extensive acquaintance and experience in the radio field. He is a graduate of the University of Michigan.

Plans for the "curtain-raiser promotion on the new fall programs will proceed at once. Cooperation of stations, networks and all radio advertisers will be sought.

FCC APPROVES ATTORNEYS

Applications for the following attorneys to practice before the Commission, approved by the Bar Committee on August 3, were approved by the Commission today:

David Diamond, Buffalo, N. Y.; Frank M. Fish, Evansville, Ind.; Fred C. Maloney, Buffalo, N. Y.; Harold F. McGuire, Washington, D. C.; Leo A. McNamee, Las Vegas, Nevada; Rush H. Limbaugh, Cape Girardeau, Mo.; Harvey S. Reynolds, Providence, R. I.; William T. Welch, Portland, Ore.

FEDERAL LEGISLATION

The status of all bills and resolutions affecting broadcasting which were introduced in Congress during the session just ended is given below. All these bills and resolutions in their present status will still be before Congress when it reconvenes next January.

HOUSE BILLS

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

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

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

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

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

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

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

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

H. R. 2721 (Mr. Celler, N. Y.) GOVERNMENT RADIO STATION—To construct and maintain Government radio broadcasting

station in vicinity of Washington by Secretary of the Navy, with programs under direction of the United States Commissioner of Education. Referred to Naval Affairs Committee. No action.

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

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

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

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

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

H. R. 4684 (Mr. McLeod, Mich.) COMMUNICATIONS ACT—To amend Section 307, subdivisions (d) and (e), by requiring that broadcasting licenses be issued for a period not less than three years nor more than five years and to provide against denial of renewal application because of political views expounded over station. Referred to Interstate and Foreign Commerce Committee. No action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HOUSE RESOLUTIONS

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

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

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

HOUSE JOINT RESOLUTIONS

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

SENATE BILLS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SENATE RESOLUTION

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

THE AMERICAN FAMILY ROBINSON

In the June 16th issue of NAB REPORTS reference was made to information concerning the American Family Robinson programs of the National Association of Manufacturers. Since then the following statement concerning the programs has been received from the N.A.M.:

"It cannot be over-emphasized that the American Family Robinson program or any other program offered by the National Association of Manufacturers is not 'anti-' anything or anybody. The programs are, as are naturally other activities of the Association, 'pro-business', based on our conviction and recognition by the pub-

lic generally that the United States is an industrial nation which has reached its world superiority as the result of the development of and by industry. This being the case and with industrial recovery a prime essential to the continuance of our way of life, we feel it to be our duty to emphasize to the American people constantly the fundamentals of the industrial system which is so typically American and which has built the high standards of living enjoyed by Americans. In this same connection, it is the avowed purpose of the American Family Robinson program to present openly, and as effectively and attractively as radio will permit, the fundamental principle that freedom of speech and of the press, freedom of religion and freedom of enterprise are inseparable and must continue to be if the system of democratic government under which this country has flourished is to be preserved. That principle we hold not to be controversial in this of all countries.

"There are, of course, some who would challenge that traditional American principle. We believe the existence of such doubts in this country at such a critical time in the world's history and in the face of the tragic fate which has befallen human liberties under other systems justifies the National Association of Manufacturers in taking the issue to the people through whatever facilities, including the radio, are available."

FEDERAL COMMUNICATIONS COMMISSION

DECISIONS OF THE COMMISSION

The Federal Communications Commission adopted its Final Order (No. B-25), granting the application of W. O. Pape, tr/as Pape Broadcasting Company, (WALA), **Mobile, Alabama**, for a construction permit to change transmitter site locally, install vertical radiator and increase its nighttime power from 500 watts to 1 KW.

Proposed Findings in this matter were made and entered June 21, 1939, and no exceptions have been filed nor request for oral argument.

The Commission announced its Final Order (No. B-21), granting the application of Mariannina C. Iraci, Administratrix (transferor), and Arde Bulova (transferee), for consent to transfer control of William Penn Broadcasting Company, licensee of station WPEN, **Philadelphia, Pa.** Station operates on **920 kc.** with 1 KW power, unlimited time, using directional antenna at night.

The Order in this case will become effective August 9, 1939.

The Commission en banc adopted an order directing John H. Stenger, Jr., licensee of WBAX, **Wilkes-Barre, Pa.**, to show cause why license of station should not be revoked, because of circumstances in re management and control of station.

PROPOSED FINDINGS OF FACT

The Federal Communications Commission August 8, announced its Proposed Findings of Facts and Conclusions (No. B-62), proposing to deny the application of

Florida Broadcasting Company (WMBR), **Jacksonville, Florida**, for authority to change frequency from **1370 to 1120 kc.**, increase power from 100 watts night and 250 watts day to 500 watts night and 1 KW day, on an unlimited time basis, and move the transmitter locally, using a directional antenna at night.

The Commission's Proposed Conclusions based upon its proposed findings, are as follows:

1. That the operation of Station WMBR on the requested assignment would be so limited during the nighttime operation that, while its service would be extended to increased areas, the increase in population served would be comparatively small; and a consistent interference-free service could not be rendered to the beach areas, which appears to be one of the objectives of the application.

Under the allocation plan of the Commission, regional stations are designed to serve a metropolitan district and large rural areas adjacent; a regional assignment should provide a service distinct from that provided by local stations. In this instance the applicant will not render the service to be expected of a regional assignment.

2. The granting of the application will not serve public interest, convenience or necessity.

All parties will have opportunity to file exceptions within 20 days and thereafter to request oral argument on the proposed report and exceptions.

The Commission August 8, announced its Proposed Findings of Facts and Conclusions (No. B-73), proposing to grant the application of WJMS, Inc., **Ashland, Kentucky**, for authority to construct a new station to operate on **1370 kc.**, with power of 100 watts, unlimited time.

The Commission's proposed conclusions based upon its proposed findings, are as follows:

1. No objectionable interference will result to Station WSAU and WHLS by the operation of the proposed station.

2. Upon consideration of all the facts of record as to the application of WJMS, Inc., for a construction permit, the Commission concludes that public interest, convenience and necessity will be served by a grant of said application, subject to the following conditions:

(a) That the applicant herein shall, within a period of 30 days from the effective date of the Commission's final order, furnish the Commission with satisfactory proof of its authority to issue the capital stock proposed to be issued and to do business in the State of Wisconsin; and

(b) That if a construction permit be subsequently issued to the applicant, upon compliance with the above conditions, said permittee shall, within three months after the effective date of this order, file an application for modification of construction permit, specifying the exact transmitter location and complete radiating system. 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.

All parties will have opportunity to file exceptions within 20 days and thereafter to request oral argument on the proposed report and exceptions.

The Commission August 8, announced its Proposed Findings of Fact and Conclusions (No. B-68), proposing to deny the applications of Northside Broadcasting Corporation (WGRC), **New Albany, Ind.**, for a change of operating assignment to change frequency from **1370 kc.** to **880 kc.**, with power of 250 watts unlimited time, using directional antenna at night, instead of 250 watts daytime only, as now operating; and the application of The Gate-

way Broadcasting Company, Louisville, Ky., for a new station to operate on **880 kc.** with 500 watts, unlimited time.

The Commission's proposed conclusions, based upon its proposed findings, are as follows:

1. Station WGRC and the station proposed by The Gateway Broadcasting Company, operating as proposed, would be limited at night to the approximate 5 or 5.2 millivolt per meter contour, and would not render primary service day and night to the entire metropolitan district of Louisville. Under the allocation practice of the Commission it appears, and the Commission finds, that a grant of these applications, or either of them, would not be in accordance with the proper allocation of regional frequencies and good engineering practice, and would not be in the public interest.

All parties will have opportunity to file exceptions within 20 days and thereafter to request oral argument on the proposed report and exceptions.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

Wednesday, August 16

Broadcast

Hearing to Be Held Before Commissioner George H. Payne in the Federal Court Room, Bellingham, Washington

NEW—Bellingham Broadcasting Co., Inc., Bellingham, Wash.—C. P., **1200 kc.**, 100 watts, 250 watts LS, unlimited time (requests facilities of KVOS).

KVOS—KVOS, Inc., Bellingham, Wash.—Renewal of license, **1200 kc.**, 100 watts, unlimited time.

FUTURE HEARINGS

Monday, September 25

During the week the Commission has announced the following tentative dates for future broadcast hearings and oral arguments. They are subject to change.

NEW—Union Broadcasting Co., Scranton, Pa.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.

NEW—Lackawanna Broadcasting Co., Inc., Scranton, Pa.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.

NEW—Samuel M. Emison, Vincennes, Ind.—C. P., **1420 kc.**, 100 watts, unlimited time.

NEW—E. B. Sturdivant, d/b as Silver Crest Theatres, Yuma, Ariz.—C. P., **1420 kc.**, 100 watts, specified hours.

Hearing Before Commissioner Case

KUMA—Albert H. Schermann, Yuma, Ariz.—Application for hearing upon Order of Revocation of License of Station KUMA. Present assignment: **1420 kc.**, 100 watts, specified hours.

Tuesday, October 24

NEW—C. L. Weathersbee, W. H. Nichols, C. L. Pickler, E. M. Thompson, d/b as Albemarle Broadcasting Station, Albemarle, N. C.—C. P., **1370 kc.**, 100 watts, daytime.

Wednesday, October 25

WABI—Community Broadcasting Service, Inc., Bangor, Maine.—C. P., **560 kc.**, 1 KW, unlimited time (DA night). Present assignment: **1200 kc.**, 100 watts, 250 watts LS, unlimited time.

Monday, October 30

WCSC—South Carolina Broadcasting Co., Inc., Charleston, S. C.—C. P., **1360 kc.**, 1 KW, unlimited time. Present assignment: **1360 kc.**, 500 watts, 1 KW LS, unlimited time.

Monday, November 13

NEW—Richard T. Sampson, Riverside, Calif.—C. P., **1390 kc.**, 250 watts, daytime.

FEDERAL COMMUNICATIONS COMMISSION ACTION

MISCELLANEOUS

- NEW**—Hot Springs Broadcasting Co., Hot Springs, Ark.—Adopted an amended order in this case, as the original order failed to include the necessary conditions upon which the grant was made.
- KTEM**—Bell Broadcasting Co., Temple, Tex.—Effective date of Commission's order in re application of KTEM for full time operation was extended to August 8, 1939. (Action taken 8-2-39.)
- KCMO**—KCMO Broadcasting Co., Kansas City, Mo.—Granted special temporary authority to operate with DA during daytime for a period of 2 days on the frequency 1450 kc., with power of 1 KW, in order to measure station's 2½ millivolt contour.
- KGW**—Oregonian Publishing Co., Portland, Ore.—Granted special temporary authority to do TC broadcast on August 6 from Tillamock Rock Light, Oregon, received at Tonguepoint, Ore., involving use of U. S. Lighthouse Service radio link from lighthouse to Tonguepoint, on 3410 kc., 50 watts, call letters KCBO, transmitter USLHS Type 319.
- WQBC**—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted special temporary authority to operate unlimited time on August 7 and 8, in order to broadcast political talks and election returns.
- KWEW**—W. E. Whitmore, Hobbs, N. Mex.—Granted special temporary authority to operate simultaneously with KBST from (local sunset, August 6:45 p. m., MST) to 10 p. m., MST, on August 8, in order to broadcast activities relative to observance of station KWEW's anniversary.
- WMC**—Memphis Commercial Appeal Co., Memphis, Tenn.—Granted extension of special temporary authority to operate with 5 KW night, using DA, for the period August 13 to September 11, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on frequency 780 kc. or reduces power so additional interference is not involved, or until defective directional system is corrected.
- WABD**—Central New York Broadcasting Corp., Portable-Mobile.—Granted special temporary authority to operate a high frequency relay station on the frequencies 31220, 35620, 37020, 39260 kc., with power of 12 watts, A3 Emission, for the period August 8 to August 13, in order to broadcast description of Eastern Amateur Golf Championship matches.
- WABE**—Central New York Broadcasting Corp., Portable-Mobile.—Granted special temporary authority to operate low frequency relay station on frequencies 1606, 2022, 2102, 2758 kc., with power of 12 watts, A3 emission, for the period August 8 to 13, in order to broadcast a description of the Eastern Amateur Golf Championship matches.
- W2XDA**—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to test high frequency broadcast equipment of Station W2XDA on frequencies 39420, 39460, 39500 and 39540 kc., 50 watts, for a period not to exceed 30 days, for the purpose of conducting amplitude and frequency modulated experimental transmissions on these frequencies.
- W2XOY**—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to test high frequency broadcast equipment of Station W2XOY on frequencies 39420, 39460, 39500 and 39540 kc., 150 watts, for a period not to exceed 30 days, for the purpose of conducting amplitude and frequency modulated experimental transmissions on these frequencies.
- WMI**—Lorain County Radio Corp., Lorain, Ohio.—Granted special temporary authority to communicate with steamer Ralph H. Watson on frequency 4282.5 kc., on "unlimited" basis, for period of 10 days. (Action taken August 4.)
- WNUE**—Lorain County Radio Corp., Steamer Ralph H. Watson.—Granted special temporary authority to communicate with station WMI, Lorain, Ohio, on frequency 4422.5 kc., on "unlimited" basis, for a period of 10 days. (Action taken August 4.)
- NEW**—Thomas J. Watson, Endicott, N. Y.—Granted petition to intervene in the matter of the application of WSPR, Springfield, Mass., for modification of license which is designated for hearing on September 26.
- KGHF**—Curtis P. Ritchie, Pueblo, Colo.—Dismissed without prejudice the application of applicant for C. P. to move transmitter, increase power, and install new vertical radiator.
- WXYZ**—King-Trendle Broadcasting Corp., Detroit, Mich.—Dismissed without prejudice application of WXYZ for C. P. to operate with 5 KW day and night.
- WARN**—Aeronautical Radio, Inc., Montgomery, Ala.—Granted exemption from continuous hours of operation of airport station, and in lieu thereof shall maintain a listening watch and be prepared to render service during continuous hours, except on Sunday, between the hours of 7 a. m. to 2 p. m., CST, and at such other times as may be specifically requested by aircraft desiring to use facilities of that airport. The Commission's order of July 5, 1939, exempting station from continuous hours of service, was revoked.
- KNFE**—City of Duluth, Minn.—Police Department.—Granted modification of C. P. authorizing commencement date as 7-21-39 and completion date as 12-10-39, in re 5 mobile units.

The Commission en banc today took the following action:

- NEW**—Hiawathaland Broadcasting Co., Sault Ste. Marie, Mich.—Granted C. P. for new station to operate on frequency 1200 kc., 100 watts night, 250 watts day, unlimited time. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- NEW**—The Travelers Broadcasting Service Corp., Hartford, Conn.—Granted C. P. for new high frequency broadcast station to operate on frequency 43200 kc., experimentally, conditionally, with 1 KW power, unlimited time.
- WMBI**—Moody Bible Institute Radio Station, Chicago, Ill.—Granted voluntary assignment of license of station WMBI from The Moody Bible Institute Radio Station to The Moody Bible Institute of Chicago.
- NEW**—WOKO, Inc., Albany, N. Y.—Granted C. P. for new facsimile broadcast station to operate on frequency 25050 kc., conditionally, 500 watts.
- KNOW**—Frontier Broadcasting Co., Inc., Austin, Tex.—Granted C. P. to move transmitter site locally, the exact site to be determined with Commission's approval; install new equipment, and increase day power from 100 watts to 250 watts.
- WOKO**—WOKO, Inc., Albany, N. Y.—Granted special experimental authority to operate broadcast transmitter to transmit facsimile signals experimentally from 2 to 5 a. m., EST, using 500 watts power on frequency 1430 kc., for the period ending November 1, 1939.
- WTAG**—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Granted C. P. to install new equipment, make changes in directional antenna system, and increase day power from 1 KW to 5 KW.
- W1XAR**—World Wide Broadcasting Corp., Boston, Mass.—Granted modification of license to use frequency 25600 kc. in addition to the now authorized frequencies of 11730 and 15130 kc.
- W2XH**—General Electric Co., Schenectady, N. Y.—Granted modification of license for change in frequencies from 43000-56000 kc. to 288000-294000 kc.
- WSAV**—Arthur Lucas, Savannah, Ga.—Granted voluntary assignment of C. P. to WSAV, Inc. The C. P. is for a new station to operate on 1310 kc., 100 watts, unlimited time.
- WHAI**—John W. Haigis, Greenfield, Mass.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WJLS**—Joe L. Smith, Jr., Beckley, W. Va.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WLVA**—Lynchburg Broadcasting Corp., Lynchburg, Va.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WBLK**—The Exponent Co., Clarksburg, W. Va.—Granted modification of license to increase night power from 100 watts to 250 watts.
- KTOK**—Oklahoma Broadcasting Co., Inc., Oklahoma City, Okla.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WACO**—Frontier Broadcasting Co., Inc., Waco, Texas.—Granted modification of license to increase night power from 100 watts to 250 watts.

- WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WSJS—Piedmont Publishing Co., Winston-Salem, N. C.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WLBC—Donald A. Burton, Muncie, Ind.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WEMP—Milwaukee Broadcasting Co., Milwaukee, Wis.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WCLO—Gazette Printing Co., Janesville, Wis.—Granted modification of license to increase night power from 100 watts to 250 watts.
- WSBC—WSBC, Inc., Chicago, Ill.—Granted modification of license to increase night power from 100 watts to 250 watts.
- W5XGO—Beaumont Broadcasting Assn., Beaumont, Tex., Portable-Mobile.—Granted voluntary assignment of relay broadcast station license from Beaumont Broadcasting Assn. to KRIC, Inc.
- WEBR—WEBR, Inc., Buffalo, N. Y.—Granted modification of license to increase night power from 100 to 250 watts.
- KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Granted extension of special experimental authority to operate as a facsimile broadcast station from 12 midnight to 6 a. m., PST, for the period September 1, 1939, to March 1, 1940.
- NEW—Yuma Broadcasting Co., Yuma, Ariz.—Granted C. P. for new station to operate on frequency 1210 kc., 100 watts night, 250 watts local sunset, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval.
- KHBG—Harry B. Greaves, T. B. Lanford, R. M. Dean and John Caruthers, Okmulgee, Okla.—Granted authority to transfer control of the Okmulgee Broadcasting Corp., licensee of station KHBG, to Mrs. Lucille Buford, Paschel Buford, Mrs. S. P. Ross and Sam W. Ross. (Station operates on 1210 kc., 100 watts, daytime.)
- WXYZ—King-Trendle Broadcasting Corp., Detroit, Mich.—Granted C. P. to move transmitter site locally, install new equipment and vertical radiator, and increase day power from 1 KW to 5 KW.
- WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Present license extended on a temporary basis to October 1, 1939, pending inspection of the station to determine if station is operated in accordance with the Rules of the Commission, particularly 130, 132, 144 and 176.
- KYCA—Southwest Broadcasting Co., Prescott, Ariz.—On June 22, 1938, the Commission granted an application of Southwest Broadcasting Co. to establish a new station to operate on frequency 1500 kc., with 100 watts night, 250 watts day, unlimited time. Thereafter W. P. Stuart filed an appeal in the U. S. Court of Appeals. On June 12, 1939, the Court handed down its decision dismissing the appeal. Accordingly, the Commission directed the Secretary to reissue a C. P. to Southwest Broadcasting Co., the date of commencement of construction to be advanced 60 days from date and completion date to 180 days thereafter.
- WOMI—Owensboro Broadcasting Co., Owensboro, Ky.—Denied petition for rehearing or reconsideration of the Commission's decision of June 21, 1939, in denying application of WOMI for modification of license to change operating assignment from 1500 kc., with 100 watts night, 250 watts day, unlimited time, to 1200 kc., with same power and hours of operation.
- NEW—Summit Radio Corp., Akron, Ohio.—Granted supplemental petition for reconsideration of action of May 11, 1938, in denying application of Summit Radio Corp., revoked its order of May 11, 1938, and adopted in lieu thereof an order granting the application to construct and operate a standard broadcast station to operate on 1530 kc., 1 KW, unlimited time, effective August 15, 1939.
- NEW—Publix Banford Theatres, Inc., Asheville, N. C.—Remanded for further hearing the application for C. P. to use 1430 kc., 1 KW, unlimited time, using DA at night, upon the following issues: To determine the availability and suitability of antenna site which applicant proposes to use; to determine whether the granting of the assignment requested would be in accordance with the Commission's plan of allocation and standards of good engineering practice.
- KEHE—Earle C. Anthony, Inc., Los Angeles, Calif.—Granted petition of Earle C. Anthony, Inc., to change call letters of KEHE to KECA.
- WPG—Greater New York Broadcasting Corp., New York City.—Denied motion to dismiss exceptions of Interstate Broadcasting Company, Inc. (WQXR), in re Docket No. 5350.
- NEW—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—Granted authority to take depositions in re application for new station.
- W6XKG-W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Granted petition for order to take depositions in re applications for renewal of licenses, scheduled for hearing on September 16.
- KGDE—Charles L. Jaren, Fergus Falls, Minn.—Granted C. P. to install new equipment.
- NEW—Edwin H. Armstrong (New York City and vicinity), Portable-Mobile.—Granted C. P. for new special high frequency relay broadcast station to use frequencies 133030, 134850, 136810 and 138630 kc., 50 watts.
- KCKN—The KCKN Broadcasting Co., Kansas City, Kans.—Granted C. P. to install new equipment.
- WFYB—Columbia Broadcasting System, Inc. (Cincinnati, Ohio), Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station, frequencies 1646, 2090, 2190 and 2830 kc., 50 watts.
- WHPA—WHP, Inc., Harrisburg, Pa., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station, frequencies 1606, 2022, 2102 and 2758 kc., 40 watts.
- WWSW—Walker & Downing Radio Corp., Pittsburgh, Pa.—Granted C. P. approving transmitter site, installation of vertical radiator, and changes in transmitting equipment.
- WIOD-WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—Granted C. P. to make changes in equipment.
- WCLS—WCLS, Inc., Joliet, Ill.—Granted C. P. to move transmitter and studio site locally, make changes in composite equipment and install vertical radiator.
- WDAS—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Granted modification of C. P. authorizing move of auxiliary transmitter from present main transmitter site to studio location, and install new antenna for auxiliary purposes only.
- KWKH—International Broadcasting Corp., Shreveport, La.—Granted modification of special authority to make changes in equipment.
- WISE—Asheville Daily News, Harold Thoms, Owner, Asheville, N. C.—Granted modification of C. P. approving transmitter and studio sites, changes in equipment, and installation of vertical radiator.
- KPAC—Port Arthur College, Port Arthur, Tex.—Granted modification of C. P. to install new equipment and make changes in directional antenna system for nighttime operation; extend commencement date to 20 days after grant, and completion date to 120 days thereafter.
- KTEM—Bell Broadcasting Co., Temple, Tex.—The effective date of the Commission's order of July 27 granting the application of KTEM was extended to August 8.
- KFOX—Nichols & Warinner, Inc., Long Beach, Calif.—Retired to the closed files an application for C. P. for authority to install new equipment and increase power, which was granted contingent upon selection of a satisfactory transmitter site, since an application for modification of C. P. was filed with the Commission. No satisfactory reply has been received to numerous letters relative to site so the modification of C. P. has been returned to applicant.
- WBAX—Stenger Broadcasting Corp. (Assignee), Wilkes-Barre, Pa.—Dismissed application of John H. Stenger, Jr., licensee of station WBAX, as assignor, and the Stenger Broadcasting Corp. for transfer of license to the Stenger Broadcasting Corp., because the application does not meet the requirements of the Rules of the Commission, in that it is not executed by both the assignor and the assignee. The assignor refuses to sign said application.

DESIGNATED FOR HEARING

- NEW—Springfield Radio Service, Inc., Springfield, Ohio.—Application for C. P. for new station to operate on 780 kc., 250 watts, daytime only. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.
- WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Application for C. P. to move transmitter site locally from 201 Randolph St. to Holston Hills Road, near Knoxville; install new equipment and DA system; change frequency from 1310 kc. to 620 kc., and increase power from 100 watts night, 250 watts day, to 500 watts night, 1 KW day, employing DA system for nighttime operation. Application desig-

nated for hearing to determine if interference might result to existing stations, and pending applications involve increase in service.

KABC—Alamo Broadcasting Co., Inc., San Antonio, Tex.—Application for C. P. to move transmitter site locally, exact site to be determined with Commission's approval; install new equipment and vertical radiator; and change frequency from 1420 kc. to 630 kc.; increase power from 100 watts night, 250 watts day, to 1 KW night, 5 KW day. Application designated for hearing to determine if interference might result, and pending applications involve increase in service.

WGAN—Portland Broadcasting System, Inc., Portland, Maine.—Application for C. P. to install new equipment and DA system; change frequency from 640 kc. to 1390 kc.; and increase power from 500 watts, limited time, employing DA system, to 1 KW night, 5 KW day, unlimited time, employing DA system for nighttime operation. Application designated for hearing to determine whether interests of any other station may be adversely affected by reason of interference, pending applications with which conflict may be had by reason of interference, and whether operation of station as proposed will be in accord with Commission's plan of allocation and standards of good engineering practice.

FEDERAL TRADE COMMISSION ACTION

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

The United Corporation, trading as Virginia Products Company, and George M. Crump, president of the United Corporation, New York, were ordered to discontinue misleading representations in connection with the use of the name "Virginia" in the sale and distribution of deviled ham and corned beef hash.

Findings of the Commission are that, excepting for the deviled ham packed for the respondents by one meat packing company, the meats in the deviled ham and corned beef hash sold by the respondents are not obtained from cattle or hogs grown in Virginia, nor cured nor processed by the well-known Virginia method nor in the State of Virginia. (3093)

Fred Adelman, also known as Frank Adelman, trading as **Vit-O-Net Company, Vit-O-Net Corporation,** and **Electric Blanket Company,** 1716 South Michigan Ave., Chicago, was ordered to discontinue misleading representations in the sale and distribution of "Vit-O-Net," described as an electrical blanket device for treating diseases.

Under the order, the respondent is to cease representing that "Vit-O-Net," or any similar device, sets up a radio-magnetic energy which is transmitted to the patient thus causing an increased activity and revitalizing of the organs and cells of the body and a charging of the blood stream with electromagnetic energy with beneficial results. The respondent is also ordered to cease representing that his device is an amazing discovery, and that it aids in the elimination of wastes and poisons; has a therapeutic value in treating all diseases known to man, or that it has any therapeutic value at all on the body other than that which would be produced by the heat generated by the device. (3533)

Sam Bell, trading as **Longwear Paint and Varnish Works,** North Kansas City, Mo., was ordered to discontinue misleading representations in the sale and distribution of paint products.

Under the order, the respondent is to cease representing as paint any product which does not contain the necessary ingredients in quantities sufficient to give it the quality, character or value of paint. The respondent is further directed to cease misrepresenting the composition, properties or value of his products.

The order also prohibits representations that the respondent's paint products are manufactured at any place other than the

actual place of manufacture, or that they are made by any person, firm or corporation other than the actual manufacturer. (3632)

United Educators, Inc.; General Research Foundation, Inc.; Publishers Finance Company, Inc.; Warren T. Davis, Joseph J. Rink and Elmer C. Wolford, Chicago, have been ordered to cease and desist from misrepresentations in the sale and distribution of a set of reference books known as the "**American Educator Encyclopedia**," certain research services and a loose-leaf extension service.

Warren T. Davis, Joseph J. Rink and Elmer C. Wolford are executive and principal owners of the three corporations carried on as different branches of one business concern.

Findings of the Commission are that 25 to several hundred canvassers were employed by the respondents, and that 17,937 sets were sold between April, 1931, and April, 1936, at prices ranging from \$49.50 to \$80. To promote sales, the Commission finds, representations were made to prospective purchasers that volumes of the encyclopedia were free, and the buyer was to pay for only loose-leaf extension service at a stated price, or that volumes of the encyclopedia were given at an especially low price as part of an advertising program because of the prominence of the prospective purchaser, or for other reasons; that notes signed in connection with the sale of the units were simply receipts or order blanks; that the research service was furnished by "General Research Foundation," of which the purchaser became a member, and that the purchase price represented the entire cost of the unit.

The Commission finds that the purchase price of the unit as shown in the respondents' contract order forms did not show its entire ultimate cost, and that to enforce collection of accounts due, the respondents represented to buyers that the debts had been purchased by Publishers Finance Company, Inc., before maturity and that the finance company was an innocent purchaser of such obligations. Buyers are alleged to have been threatened with action through local banks, and in case of teacher-purchasers, through school authorities.

It was also found that the finance company was not an innocent purchaser, but had full knowledge of the facts.

The respondents were ordered to cease and desist from advertising or representing that any books or set of books offered for sale by them will be given free of cost; that purchasers are only buying or paying for loose-leaf extension supplements intended to keep the set of books up to date for a period of years; that any books are offered for sale at an especially low price, unless the price is less than the one at which they are customarily offered for sale; that any instrument presented to prospective customers for signature in connection with the sale of the books is a mere receipt or order blank, when such instrument is an agreement to pay a specified sum; that any such instrument presented for signature is not a promissory note, when such instrument contains an agreement by the signer to pay specified sums on certain dates. The respondents will cease representing as a "foundation" any organization other than one in whole or in part supported by disinterested or eleemosynary funds, and advertising or representing that any specific sum is the full price of any set of books and supplemental services unless all the terms and conditions which must be met for the services to be obtained are clearly and conspicuously stated in immediate connection therewith. (3428)

Samuel L. Presner, Miami, Fla., former president of the now dissolved corporation, **Federal Organization, Inc.,** New York, was ordered to discontinue misleading representations in the sale and distribution of medicinal preparations and devices.

The order directs the respondent to cease representing through the word "Federal" that his products have been tested by the United States Government, or through the use of the words "Laboratories" or "Research Laboratories," as part of his trade name, or in any other manner, that he maintains a laboratory for making scientific tests on products sold by him.

Under the order, the respondent is to cease representing directly or by implication that certain devices will be of aid in male sexual disorders; that "Stamina Kel-Pep" will assist digestion or build up energy, blood or tissues; that certain preparations are tonics for the sexual organs, or are beneficial treatments for prostate and kidney disorders.

The order further directs the respondent, Presner, to discontinue advertisements which fail to reveal that "Stamina Kel-Pep," "Spanish Passion Extract," "Double Strength Spanish Passion Extract" and "African Jungle Tree" are not wholly safe for use by the lay public in self medication. The case was closed as to the dissolved corporation. (3782)

The Knox Company, 811 West 7th St., Los Angeles, was ordered to cease advertising that its preparation "Cystex" is an adequate treatment for kidney and bladder ailments unless such representations are restricted to the non-organic and non-systemic disorders. The order further prohibits representations that "Cystex" is an adequate treatment for conditions the symptoms of which are swollen joints, leg and rheumatic pains, backache, nervousness, dizziness, burning of the urinary passage, "getting up nights," circles under the eyes, and excess acidity or loss of energy. The respondent is also ordered to discontinue representing that its preparation "Mendaco," has any therapeutic value in the treatment of asthma in excess of furnishing, in some cases, temporary relief from the symptoms of asthma, or that it has any beneficial effect on the blood or promotes body metabolism. (3597)

Harry Epstein, trading as Restoria Company, 805 East Mason St., Milwaukee, was ordered to cease representing "Restoria" or any similar preparation as an effective treatment for bad blood, ulcers, swollen glands, eczema, neuritis, neurasthenia, rheumatism, or syphilis. The order further forbids the representation that the respondent's preparation is manufactured in a modern laboratory or under the supervision of skilled scientists, until such is a fact, or the dissemination of advertisements which fail to reveal the preparation as being not a wholly safe drug for use by the lay public in self medication. (3737)

William G. Nash, Sr., William G. Nash, Jr., and Florence Nash Cox, trading as Nash Brothers Drug Company, Jonesboro, Ark., were ordered to discontinue representations that "Nash Chill and Liver Tonic" or "Nash's C. & L. Tonic," is a cure or remedy for malaria or that it will restore the normal functioning of the bowels, add red corpuscles to the blood, aid digestion, increase the appetite, restore vigor or vitality, or that it will cure numerous ills among which are liver trouble, colds, chills and headache. The order further forbids advertisements which represent that the preparation is safe for use in unsupervised self-medication, or which fail to reveal that it is not a wholly safe drug to be used by the lay public in self-medication.

The respondents were also ordered to cease representing that their preparation has received the endorsement of medical opinion throughout the southern United States. (3775)

Waco Drug Company, Portland, Ore., was ordered to cease representing its preparation "Omodyne," or any similar product, as being an effective treatment for arthritis, neuritis, lumbago, sciatica, gout, neuralgia, or rheumatism, or as being of value in relieving the aches or pains which are due to such conditions. The order also forbids representations that the use of "Omodyne" will cause the elimination of poisons from the system, or that it is prepared in accordance with a scientific formula. (3468)

Weiss Bedding Company, Inc. and Dan Weiss, Jr., 365 Baxter Ave., Louisville, Ky., were ordered to discontinue misleading representations in the sale and distribution of mattresses.

The order directs the respondents to cease using the term "Cotton Felt," or similar terms, to describe any mattress which is not made of cotton fibers garnetted together into a mat or web; representing that such mattresses are new or sanitary unless all materials made a part of them are new or sanitary, and representing that their mattresses comply with all State laws, unless that is a fact. (3809)

STIPULATIONS

The Commission has entered into the following stipulations:

P. H. Davis Tailoring Company, Cincinnati, Ohio, entered into a stipulation to discontinue misleading representations in the sale and distribution of men's clothing.

Under the stipulation, the respondent is to cease representing as "wool," "woolen," "pure wool" or "worsted" the fabrics used in the manufacture of its clothing when such fabrics are not wholly composed of wool. It was also agreed that the respondent will cease representing the fabric used in its garments as containing

silks either alone or in combination with other materials as a decoration or otherwise, when such decoration or thread is not silk but some other thread. (02413)

Miles Laboratories, Inc., Elkhart, Ind., entered into a stipulation with the Federal Trade Commission to discontinue misleading representations in the sale and distribution of "Alka-Seltzer."

The respondent company agreed to cease the use of advertising matter implying that colds, neuralgia, distress after meals, and "common everyday ailments" result from excess acidity of the blood, an acid condition of the blood, or deficient alkaline reserve of the blood, and that the alkalinizing effect of "Alka-Seltzer," by correcting such acid condition or restoring the alkaline reserve, will be a proper treatment for the ailments mentioned.

The respondent further agreed to discontinue representations implying that headaches, upset stomach, and aches and pains result from, or are associated with, excess acidity of the blood, an acid condition of the blood, or a deficiency in the alkaline reserve of the blood, except when the ailments mentioned may be shown by competent scientific evidence to be directly associated with such conditions of the blood, and subject to this exception, to cease making representations implying that the taking of "Alka-Seltzer," by correcting the acid condition of the blood or restoring its alkaline reserve, will be a proper treatment for such ailments.

The respondent also stipulated that it would cease representing that other therapeutic effects of "Alka-Seltzer" exceed the recognized benefits to be derived from neutralization of hyper-acidity of the gastric contents or the analgesic and other effects of sodium acetylsalicylate together with the action of buffer salts. (2503)

Slatedale Knitting Mills, Inc., Slatedale, Pa., engaged in manufacturing and selling children's hosiery, stipulated that it would cease representing that its products are composed of fibers in any designated proportion, when such is not a fact, and cease using the word "wool," either alone or together with the word "rayon," or with any other words, as descriptive of hosiery not containing wool in substantial part. The stipulation provides that if the hosiery is composed of a mixture of fibers, as rayons and cotton with only a small proportion of wool, then the word "wool" shall be immediately accompanied by suitable disclosure of the amount of wool actually present and by the names of the other content fibers, arranged in the order of their predominance by weight and printed in type equally conspicuous; as, for example, "rayon, cotton and 5 per cent wool".

The respondent company also agreed to desist from branding or labeling products composed of rayon and other kinds of fiber or substances without full disclosure of the rayon and other content, made by accurately designating each constituent fiber in the order of its predominance by weight, beginning with the largest single constituent, and by giving the percentage of any fiber present in a proportion of 5 per cent or less by weight; as, for example, "Cotton and Rayon". (2498)

The A. Nash Company, also trading as Schaefer Tailoring Company, 1916 Elm St., Cincinnati, agreed that in connection with the sale and distribution of men's clothing it would cease representing the principal fabrics used in the manufacture of its clothing as "Wool," "All Wool," "Pure Wool," "Woolen," "Fleece," or "Worsted," when such fabrics are not wholly composed of wool, and would discontinue representing as "Wool," "All Wool," "Pure Wool," "Woolen," "Worsted," or "Fleece" the principal fabric used in the manufacture of its clothing which is composed partly of wool and partly of cotton, silk, rayon, linen, or any other fiber, unless the same is represented as "Wool and Cotton," "Wool and Rayon," "Wool and Linen," etc., in the order of the predominating fiber content.

The A. Nash Company also agreed to cease representing that salespersons may expect to earn \$35 a week during their first season selling its garments. (02409)

Frederick Stockhausen, trading as Kayak Boat Company, 152 East 129th St., New York, agreed to cease representing: That his plant or factory makes or builds kayaks exclusively, when such is not a fact, and, either by direct statement or by inference, that the kayaks made and sold by him are "non-sinkable" in all circumstances. Stockhausen also stipulates that he will discontinue advertising, unqualifiedly, that the kayaks sold by him can be

navigated through the "heaviest waters"; that they are so constructed that it is impossible for any wave to reach the deck and pour into the cockpit; that their construction is patented, and that the design of these boats "eliminates all danger". (2501)

Harry T. Bedman and Chester N. Olson, trading as Alexandria Boat Works, Alexandria, Minn., agreed to cease representing directly or by implication that boats built with red cedar plankings are inferior to those planked with redwood; or that boats built of redwood planking will outwear two or three red cedar planked boats, or will outwear any such boats; or that red cedar is a cheaper material than redwood, when such representations are not warranted by the facts and are not supported by the weight of scientific evidence. (2499)

L. Lewellyn, trading as Lewellyn Products Company, 489 W. Ferry St., Buffalo, agreed to cease representing directly or by implication that his product, "Lewellyn's Pure Wheat Germ," is rich in Vitamins A, B, E and G, and valuable mineral salts; aids digestion; nourishes nerve tissues; prevents premature old age symptoms, or builds up the health of the entire body. The respondent also stipulated that he will discontinue advertising that the ingestion of "Lewellyn's Pure Wheat Germ" fortifies food in essential vitamins and mineral salts and that the preparation contains ingredients or elements beneficial in treating loss of appetite, loss in weight, constipation, and nervous disorders, and is essential for well-being at all ages. (02410)

E. T. Browne Drug Company, Inc., 127 Water St., New York, stipulated that it will cease making direct or implied representations that users of "Palmer's Skin Success Ointment" can be confident of receiving beneficial results and that use of this preparation is beneficial in the treatment of blackheads, bumps or blotches on the skin, or sunburn or any other similar condition.

The respondent agrees to discontinue advertising that use of Palmer's Skin Success Soap will completely remove blackheads,

protect the skin, or prevent conditions resulting from exposure to climate or use of cosmetics. (02411)

Robert Quirk, trading as The Ohio Products Company, North Madison, Ohio, entered into a stipulation with the Federal Trade Commission to discontinue misleading representations in the sale and distribution of a rat poison designated "Quick-Death."

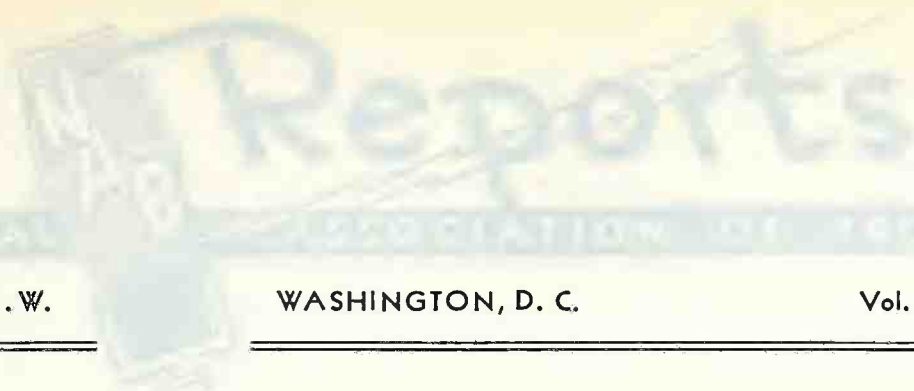
According to the stipulation, the respondent is to cease representing directly or by implication that "Quick-Death" is nationally known or that its active ingredient, red squill, is a new or original ingredient for rat poison. The respondent further agreed to discontinue representing that "Quick-Death" is non-poisonous or absolutely harmless under all circumstances to other animals and human beings; that it is 100 per cent effective in the destruction of rodents, and that all rodents who eat "Quick-Death" will go outside of the buildings to die.

It was also agreed by the respondent that he will cease representing that prospective representatives can make profits in a specified period of time in excess of that made by its active representatives in a like period under normal conditions. (02412)

COURT ACTION

The United States District Court for the Eastern District of Missouri on August 7, granted a temporary restraining order on petition of the Federal Trade Commission to prohibit **Charles L. Klapp**, trading as The Cardinal Company, and as The Cardinal Company of St. Louis, 406 Market St., St. Louis, from further dissemination of false advertisements of a medicinal product pending hearing on a petition for a preliminary injunction.

The FCC alleges that the defendant's advertisements are false in that they represent his preparation, Fema-Lade, as being a safe, competent, and scientific treatment for delayed menstruation and as having no ill effects on the body, and in that they fail to reveal that the use of this preparation under the conditions prescribed in the advertisements, or under such conditions as are customary and usual, may result in serious and irreparable injury to the health of users.



Highly Important Meetings Next Week

Copyright, the new code and record licensing top the agenda for highly important NAB committee meetings in New York next week.

The Executive Committee will meet Tuesday, August 22, at 10 a. m. in the Ritz Tower to review developments and discuss policy in all three matters.

On Wednesday, the Executive Committee will meet with the Copyright Negotiating Committee, augmented by Walter Damm, WTMJ, Milwaukee, and John Shepard, 3rd, the Yankee Network, to discuss the whole copyright situation and the forthcoming special NAB convention. The negotiating committee includes Major Lenox Lohr, NBC; Edward Klauber, CBS; Sam Rosenbaum, WFIL; Mr. Elmer and Mr. Miller.

In connection with the record licensing problem, Mr. Miller sent the following wire to officials of the Columbia Recording Corporation, Decca Records, Inc., and the RCA Manufacturing Company:

"The NAB Copyright Committee at recent meeting considered various angles resulting from decision in Whiteman case and passed resolution requesting companies to hold up action concerning contracts with stations until after entire subject and details of proposed contract could be fully considered at conferences between NAB Committee and recording companies. In conformity with the above resolution I make this request of your company and am making the same request of RCA and Decca. Believe it would be advantageous to all concerned if further action can be deferred until after proposed conference. Will telephone your office Friday morning to arrange for conference in New York next week."

The special committee on phonograph record licensing was appointed last week by Mr. Miller. It consists of the following: Neville Miller; John Elmer, WCBM, Baltimore; and Clair McCollough, WGAL, Lancaster, Pa.

RCA Victor Contract

Below is the text of the proposed license contract submitted to all stations by RCA Victor, to permit the station in return for a fee to broadcast Victor and Bluebird records under certain conditions. Decca also has notified stations that it will demand a license fee.

IN CONSIDERATION of the making of the payments at the times and in the amounts hereinafter set forth, RCA MANUFAC-

TURING CO., INC., of Camden, New Jersey, producer of Victor and Bluebird phonograph records, does hereby grant to operator of Radio Station, whose broadcasting studio is located at a personal, non-exclusive, indivisible and non-assignable license under Licensor's property rights hereinafter referred to, to broadcast the phonograph records hereinafter identified, subject to the terms and conditions of this license agreement, to each of which Licensee expressly agrees:

1. Licensee is licensed by Licensor to broadcast over Licensee's above-mentioned radio station, either as an original broadcast or as part of a network program, programs containing Victor and/or Bluebird phonograph records produced by Licensor or its predecessor companies and licensed hereunder, but (a) new releases shall not be broadcast by Licensee more than twice a day for the

(Continued on page 3666)



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WASHINGTON

Phone NAational 2080

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

RCA VICTOR CONTRACT

(Continued from page 3665)

first third (30) days following the release date thereof as fixed by Licensor in announcements to be sent by it to Licensee from time to time; (b) Licensor's records when broadcast by Licensee shall be clearly announced as Victor or Bluebird phonograph records at least once during each broadcast period in which they are used and in any event at least once during each fifteen minute period, and no statement shall be made in conjunction with any broadcast which might in any wise tend to mislead listeners into believing that the artists whose performances are recorded on the records broadcast are personally present and performing in Licensee's studio unless that be the fact; and (c) worn, scratched or damaged records shall not be used by Licensee for broadcasting purposes, and all reasonable efforts shall at all times be made by Licensee to conduct broadcasts of Licensor's records in a manner which will not be detrimental to the prestige and standing of the product and business of Licensor or Licensee.

2. All Victor and Bluebird records heretofore or hereafter during the continuance of this license produced by Licensor or its predecessor companies are licensed hereunder with the exception of those records specified in Schedule A attached hereto and made part of this license and with the exception of such additional records as may from time to time be specified by Licensor as additions to said Schedule A; provided, however, that if the total number of records included in said Schedule A by Licensor shall at any time exceed one-third of the total number of records then contained in Licensor's entire record catalog, Licensee may at its option elect to terminate this license at the end of any month by giving Licensor ten days' written notice of its intention so to do.

3. This license is granted under Licensor's property right in its records, as manufacturer thereof, and under any common law property right of the artists whose performances are recorded on the records licensed hereunder. This license is not intended to constitute, nor does it constitute, a license to publicly perform for profit, copyrighted material which may be embodied in any of the Licensor's records.

4. The annual license fee payable to Licensor by Licensee in United States currency shall be in accordance with the following schedule of rates:

Class	HIGHEST HALF-HOUR RATE AS PUBLISHED IN "STANDARD RATE AND DATA"*		Monthly Fee
A	\$200 and over		\$300.00
B	\$175 to \$199		\$275.00
C	\$150 to \$174		\$250.00
D	\$125 to \$149		\$225.00
E	\$100 to \$124		\$208.33
F	\$ 80 to \$ 99		\$187.50
G	\$ 60 to \$ 79		\$166.67
H	\$ 40 to \$ 59		\$145.83
I	\$ 20 to \$ 39		\$125.00
J	\$ 19 and under		\$100.00
K	Stations which do not sell time and whose broadcasts are confined solely to educational and religious programs		\$10.00

* Radio Advertising Rates and Data, published by Standard Rate and Data Service.

Licensee represents and warrants that its highest half-hour rate is \$..... and that it therefore belongs in Class, as set forth in the foregoing Schedule. Licensee's annual license fee is therefore fixed at \$....., payable in equal monthly instalments of \$..... each, in advance, on or before the tenth day of each month, beginning with the date of this license, which fee is subject to upward or downward revision at the end of each month in the event Licensee shall from time to time change its time rates so as to cause it to fall into a different classification, as set forth in said Schedule.

5. The term of this license is one year from the date hereof but it may be terminated by Licensor at any time upon ten days' written notice sent to Licensee at its broadcasting studio by telegraph or mail in the event of non-payment of license fees promptly when due, or failure of Licensee promptly to comply with and fulfill all of the terms and conditions of this license.

Dated,, 19.....

RCA MANUFACTURING CO., INC.

By

Accepted and agreed to:

By
Licensee

Station Call Letters

FCC BROADCAST RULE 3.90 (a)(2)

The FCC has agreed to reconsider Section 3.90 (a)(2) of the Rules Governing Standard Broadcast Stations in the light of facts presented to the Commission by the NAB. On July 21, an interpretation of the rule was requested, and on July 27, the Commission replied stating that official logs must identify each recorded musical composition broadcast (NAB REPORTS, July 28, pp. 3625-26). Probably several weeks will elapse before the question of modifying the rule can be considered, as a number of the Commissioners are on vacation. The additional letters exchanged between the NAB and the FCC follow:

August 3, 1939

Mr. John B. Reynolds, Acting Secretary
Federal Communications Commission
Washington, D. C.

Dear Mr. Reynolds:

Many thanks for your letter of July 27 interpreting the log requirements of Section 3.90 (a)(2) of the Rules Governing Standard Broadcast Stations which were promulgated by the Commission June 23.

It is noted that the Commission agrees with the interpretation suggested in my letter of July 21 in all respects except that portion relating to recorded programs, such as the so-called "Musical Clock," which are made up of individual selections contained in transcription libraries or phonograph records interspersed with commercial announcements. It is with reluctance that I again call to your attention the discrimination which the commission's interpretation imposes and the increased burden placed on small stations least able to absorb that burden.

These small stations, as you know, must of necessity use recorded music almost exclusively. Not only is live musical talent not available to them, but even if available, the increased expense would be prohibitive. Yet it is these stations upon which falls the greatest burden of keeping the voluminous logs. The Commission may have some objective to be achieved with which the industry is not familiar, though one cannot but wonder why it should

be necessary to identify in the log the particular musical composition performed from a recording and the identification be unnecessary when the same number is performed by live talent.

As you know, many of these recorded programs are made up from telephone requests received during the course of the program. In many stations, the announcer does all the work of operating the turntable, locating the musical compositions in the station's recorded library, announcing, and making the suitable notations in the station log. In many instances, the control operator must operate the turntable, keep the log, etc., and the increased burden may result in less efficient control. Since the average recorded musical selection runs only slightly over 2½ minutes, it will be seen that the announcer or control operator has little, if any, available time for additional duties.

The Commission's interpretation of the rule will require some twelve to fifteen separate log notations for each fifteen minute program, depending on the number of commercial announcements, and over half of these are necessitated by the requirement that each recorded musical composition be identified and the time of broadcast noted. When this is multiplied by the total number of such programs during the course of the broadcast day, the extent of the burden is more readily appreciated.

To illustrate the foregoing, permit me to call attention to the operating schedule of two small stations, one located in the East and one in the Middle West. These stations were picked at random, and are believed to be representative. In both instances, the operating schedule is for June 1, 1939. The eastern station was operated a total of thirteen hours from 6:30 a. m. to 7:30 p. m., with seven hours and twenty minutes of this total devoted to the rendition of recorded music contained in the station's transcription and phonograph record library. Some 350 log entries will be necessary with respect to these recorded programs exclusive of commercial announcement entries, and approximately 270 of these entries are caused by the requirement that the individual musical compositions performed be identified by name or symbol and by time of performance.

An even worse situation is disclosed in the case of the midwestern station. This station operated thirteen and one half hours from 7:30 a. m. to 9:00 p. m., with eleven hours and forty-five minutes devoted to musical programs created from selections contained in the station's transcription and phonograph record library. In this case, some 560 log entries will be necessary exclusive of commercial announcements, which includes approximately 330 entries caused by the Commission's requirement. It should be pointed out that the above-referred-to stations do not normally keep the detailed record from which the above information was obtained but did so on the day mentioned at the request of the Association in another matter.

In view of the great burden upon small stations disclosed by the foregoing, it is hoped the Commission will reconsider its interpretation and modify either the rule or its interpretation so as to permit stations to make similar log entries with regard to music created from transcription and phonograph record libraries as is permitted where the music is created by live talent.

With kindest personal regards, I am

Sincerely,

ANDREW W. BENNETT.

Counsel.

August 10, 1939

Mr. Andrew W. Bennett, Counsel
National Association of Broadcasters
Washington, D. C.

Dear Mr. Bennett:

This will reply to your letter of August 3, 1939, relating to Section 3.90 (a)(2) of the Rules Governing Standard Broadcast Stations which became effective August 1, 1939.

As Section 3.90 (a)(2) is now worded, it would be impossible by interpretation of the rule to authorize licensees of radio broadcast stations to make log entries pertaining to music created from transcriptions and phonograph recordings in the same manner as that authorized where music is created by live talent. In our letter to you of July 27, 1939, we suggested a manner of keeping logs in accordance with Section 3.90 (a)(2) so as to impose the least possible burden upon station licensees.

Your request that the Commission reconsider the rule and modify it so as to permit stations to make similar log entries with regard to recorded music as permitted where music is created by live talent will be presented to the Commission on the earliest possible

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date for consideration as to possible modification, in the light of the matters pointed out in your correspondence on the subject.

Very truly yours,

T. J. SLOWIE,
Secretary.

OPERATORS' LICENSES

The FCC has sent the following notice to all stations:

Your attention is invited to Section 164.06 of the revised Rules Governing Commercial Radio Operators, effective July 1, 1939, which reads as follows:

"Sec. 164.06. *Endorsement of service record.*—A station licensee or his duly authorized agent, or the master of a vessel acting as the agent of a licensee, shall endorse the service record appearing on said operator license, showing the call letters and types of emission of the station operated, the nature and period of employment, and quality of performance of duty."

It is the responsibility of a station licensee to insure correct certification on the operator's license as to the extent and quality of service performed by the operator. To assist in the execution of this responsibility, the following may be used as a guide in determining the type of employment which entitles an operator to endorsement attesting service, particularly with respect to operators employed for maintenance duties.

An operator is entitled to service endorsement of his license:

1. When he is actually employed with responsibility as watch operator and stands regular watch at a station maintaining a regular service (such as broadcast or ship). The Chief Operator or Chief Radio Engineer who is responsible on a twenty-four-hour basis for the proper operation of the transmitter should likewise be given credit for service.

2. In the case of stations having intermittent hours of service (such as experimental or special emergency) when he is the operator employed and responsible for the operation of the station, if and when needed. In this case the period should be the period of his responsibility even though the transmitter was operated only intermittently during that period.

3. When regularly employed, or under contract as an individual, as the operator responsible on a twenty-four-hour basis for the repair and maintenance of a station. In this case, credit should be given for service during the full period of employment whether or not it is necessary to conduct service or maintenance operation. (See next paragraph for discussion of conditions if a service company is employed.)

4. When continuously employed by a commercial radio transmitter service agency as the operator responsible for maintenance and service of miscellaneous transmitters licensed to various persons. In this case, credit should be allowed for the period when the operator was employed in this activity during the usual hours of labor.

Credit for service should not be given if:

1. A licensed operator, although available for relief, is not responsible in any manner for the station except during those periods when he is actually acting as a relief operator. Of course, credit for service should be given for any periods during which he acts as relief. As an example, the Desk Sergeant in a police department holding a radio operator's license but who, normally, has nothing to do with the operation of the radio division should not be given credit for service even though he were available as an operator in the case of an emergency. Should he act for two weeks as a relief operator in case of sickness or vacation, it would be proper to give him service for the two-week period. Similarly, the studio operator in a broadcast station is not entitled to credit except for those periods during

which he is actually on duty as watch operator at the transmitter.

2. A maintenance man is not regularly employed under contract to maintain a station even though it may be the practice of the station licensee to call upon him upon occasion for assistance. Service credit is only proper for those days during which actual service was performed.

3. A service man is not actually engaged in the business of servicing equipment. An operator is not entitled to credit for the repair and maintenance of miscellaneous transmitters other than for the time actually spent on those transmitters unless he is in fact in the business. In other words, an operator licensee cannot endorse his own license for service as a maintenance man by merely printing a letterhead establishing himself as a service man. He must be actually so engaged.

An operator holding separate radiotelegraph and radiotelephone class licenses or a radiotelegraph license with a radiotelephone endorsement, who has operated at a station licensed for and actually using A1, A2, and A3 emission is entitled to service endorsement for both licenses.

In computing service, fractions of a day in which the operator is on watch and *responsible for* a station's operations shall be considered as a day. It is not sufficient for an operator to post his license and mainly serve as an additional operator. He must have operation responsibility to obtain service.

Credit should be given for a week or any similar extended period which includes Sundays and holidays if the operator is regularly employed; that is, has a regular schedule during which he is responsible for the station's operation, which schedule includes a substantial percentage of the total period considered.

In the event that special cases arise which are not covered by the above, additional information may be obtained from this office.

T. J. SLOWIE,
Secretary.

Adopted: August 8, 1939.

794 STATIONS

The Federal Communications Commission dropped one station during the month of July, 1939, and issued operating licenses to four new stations. The Commission also granted seventeen permits for the construction of new stations during the month. A comparative table by months follows:

	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1	June 1	July 1	Aug. 1
Operating stations . .	722	727	729	732	734	735	735	738
Construction permits	42	39	37	37	38	38	43	56
Total	764	766	766	769	772	773	778	794

CORRECTION

In the NAB REPORTS of August 11, 1939, p. 3658, the location of Station WJMS should have been *Ashland, Wisconsin*.

FEDERAL COMMUNICATIONS COMMISSION

DECISIONS OF THE COMMISSION

The Commission on August 9 issued the following order:

Upon consideration of the Supplemental Petition for Reconsideration of Summit Radio Corporation, and the oppositions thereto of American Republican, Inc.

August 18, 1939

(WBRY) and Allen T. Simmons (WADC), respondents, filed respectively on July 5, 6, and 10, 1939:

IT IS ORDERED, This 8th day of August, 1939:

1. That the Supplemental Petition for Reconsideration of Summit Radio Corporation BE, AND IT IS HEREBY, GRANTED in so far as it requests the Commission to reconsider the above application and its decision and order thereon of May 11, 1938, with particular regard to the repeal of Rule 120.1 and the adoption of Rule 3.26, effective August 1, 1939, and the modification of its findings based upon the evidence now material.

2. That the Commission's order of July 13, 1938, granting the petition of Summit Radio Corporation filed July 11, 1938, for rehearing, BE, AND IT IS HEREBY, REVOKED.

3. That the Commission's findings of fact contained in the "Statement of Facts, Grounds for Decision, and Order" of May 11, 1938, BE, AND THEY ARE HEREBY, AFFIRMED, except that all of said findings and conclusions which relate in any manner to the applicant's proposed program of experimentation and research, and the finding contained in sentence 1, paragraph 3, page 5, of the "Statement of Facts," BE, AND THEY ARE HEREBY, DELETED.

4. That the "Grounds for Decision" of May 11, 1938, BE, AND THEY ARE, HEREBY REVOKED, and the following "Grounds for Decision" substituted therefor:

1. The applicant is qualified in all respects to construct and operate a standard broadcast station of the character proposed herein.

2. That the proposed service would be expected to render substantial benefits to the area to be served.

3. That the operation of a broadcast station as proposed herein will not be expected to cause any objectionable interference to any existing broadcast service.

4. Sufficient potential sources of advertising are shown to exist in the Akron, Ohio, area from which the applicant may reasonably be expected to derive adequate commercial support to insure the successful operation of the proposed station.

5. A grant of the application will serve public interest, convenience, and necessity.

5. That the Commission's order of May 11, 1938, BE, AND IT IS HEREBY, REVOKED, and the following order adopted in lieu thereof: "Upon consideration of the entire record, IT IS ORDERED, that the application of Summit Radio Corporation, Docket No. 4438 (in so far as it requests authority to construct and operate a standard broadcast station), BE, AND IT IS HEREBY, GRANTED."

FEDERAL COMMUNICATIONS COMMISSION DOCKET

Thursday, August 17, 1939

WLTH—Voice of Brooklyn, Inc., New York, N. Y.—In the matter of: Order to show cause why the license to operate radio-broadcast station WLTH should not be revoked.

FEDERAL COMMUNICATIONS COMMISSION ACTION

MISCELLANEOUS

- KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Granted special temporary authority to use relay broadcast transmitter KABF for location tests at KMJ on frequency **580 kc.**, with power of 50 watts, between the hours 3 and 6 a. m., PST, for the period August 11 to 18
- WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—Granted special temporary authority to operate from 10 p. m., August 18 to 1 a. m., AST, August 19, in order to broadcast graduation exercises of the Gomez Commercial School.
- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate from 9 p. m. to 12 midnight, EST, August 14, in order to broadcast Macon-Spartanburg Baseball game with special ceremonies in celebration of Baseball's Hundredth Anniversary.
- WTAR—WTAR Radio Corp., Norfolk, Va.—Granted extension of special temporary authority to operate with 5 kw. at night, using DA, for the period August 13 to September 11, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on **780 kc.**, reduces power so that additional interference is not involved, or until defective directional system is corrected by installing new tuning condensers. (Action taken 8/11.)
- WRUF—University of Florida, Gainesville, Fla.—Granted special temporary authority to rebroadcast the Navy time signals from Arlington for the period ending 3 a. m., EST, February 1, 1940. (Action taken 8/11.)
- KIIP—Jack M. Karterman, Luckyshot, Alaska.—Granted special temporary authority to operate a point to point telephone station KIIP at Luckyshot, Alaska, on frequency **3092.5 kc.**, with power of 30 watts, for a period of 3 months, subject to receipt and consideration of application for CP and license.
- First Baptist Church, Pontiac, Mich.—Granted authority to transmit religious programs to radio station KKLW, Windsor, Ontario, Canada, through the facilities of Michigan Bell Telephone Co., for the period August 13, 1939, to August 13, 1940.
- The Commission (by Walker, Commissioner) on August 7, took the following action:
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special temporary authority to operate simultaneously, non-synchronously, with KFAB, commencing 4:45 a. m., CST, for the period August 9 to September 7, in order to conform to Daylight Saving Time.
- KFAB—KFAB Broadcasting Co., Lincoln, Neb.—To operate as above except simultaneously non-synchronously with station WBBM.
- KWLC—Luther College, Decorah, Ia.—Granted extension of special temporary authority to reduce the broadcasting schedule to one hour daily, for the period August 13 to September 14, in order to observe summer vacation.
- W2XBT—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate Television Broadcast Station (experimental) on frequency band **156.162 megacycles**, for the period August 13 to September 11, pending adjustment of the license to conform with provisions of Rule 43.13.

- NEW—Bellingham Broadcasting Co., Bellingham, Wash.; KVOS—KVOS, Inc., Bellingham, Wash.—The Commission amended its order assigning Commissioner Payne to preside at the hearing on the application of KVOS for renewal of license, and the application of Bellingham Broadcasting Co. for C. P., scheduled for August 16, and assigned George B. Porter to act as Examiner in the case if Commissioner Payne cannot be present.
- KGVO—Mosby's Inc., Missoula, Mont.—Dismissed without prejudice, application for modification of license to change operating assignment, granting applicant's motion to dismiss.
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to operate from 7:15 to 9:15 p. m., CST, on September 5, 7, 12, 14, 19, 21, 26 and 28, and 8:15 to 9:15 p. m., CST, on September 6, 13, 20 and 27, in order that station WNAD may remain silent during summer vacation (provided WNAD remains silent).
- WNAD—Univ. of Okla., Norman, Okla.—To remain silent 7:15 to 9:15 p. m., CST, on September 5, 7, 12, 14, 19, 21, 26 and 28, and 8:15 to 9:15 p. m., CST, on September 6, 13, 20 and 27, in order to observe summer vacation; also to be excused from the regular frequency monitor test on September 9, 3:30 to 3:50 a. m., CST.
- WKAQ—Radio Corp. of Porto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from international broadcast stations W2XE and W3XAU over station WKAQ, on a non-commercial experimental basis only, for the period August 19 to September 18.
- WLOK—The Fort Industry Co., Lima, Ohio.—Granted special temporary authority to operate from local sunset (7:30 p. m., EST), until midnight on August 8, in order to broadcast returns on the local primaries and election, the time not devoted to such returns to be taken up by non-commercial programs.
- WNEL—Juan Piza, San Juan, P. R.—Granted special temporary authority to rebroadcast sustaining programs to be received from International broadcast stations W3XL and W3XAL over station WNEL, on a non-commercial experimental basis only, for a period not to exceed 30 days.
- WQBC—Delta Broadcasting Co., Inc., Vicksburg, Miss.—Granted special temporary authority to operate unlimited time (August 6:45 p. m., CST), August 29, in order to broadcast election returns of second primary in state and county elections.
- WGAR—The WGAR Broadcasting Co., Cleveland, Ohio.—Granted special temporary authority to operate between the hours of 9 a. m. and 5 p. m., EST, with power of 5 KW on the frequency **1450 kc.**, with DA for the period August 15 to August 24, in order to make a survey of WGAR's night primary service area.
- WEOD—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to operate Relay Broadcast Station WEOD with power of 250 watts, in accordance with Section 40.04, in order to carry out program of experimentation outlined in application for C. P. granted January 24, 1939, for the period August 11 to September 9, 1939.
- KFRU—KFRU, Inc., Columbia, Mo.—Granted motion to withdraw without prejudice, application for modification of license to change operating assignment of KFRU.
- KMMJ—M. M. Johnson Co., Clay Center, Neb.—Granted motion to dismiss without prejudice, application for C. P. to increase power.
- WEGY—Chicago Fed. of Labor, Portable-Mobile, Chicago, Ill.—Granted C. P. to make changes in equipment and decrease power in relay station from 30 to 15 watts.
- WOI—Iowa State College of Agr. and Mechanic Arts, Ames, Ia.—Granted C. P. to move transmitter locally on campus of college; change studio location from Engr. Annex to Service Bldg., and install new equipment.
- KCRJ—Central Ariz. Broadcasting Co., Jerome, Ariz.—Granted C. P. to move transmitter and studio locations locally, and make changes in antenna.
- KGHF—Curtis P. Ritchie, Pueblo, Colo.—Granted C. P. to move transmitter site locally and install vertical radiator.
- WCHS—Charleston Broadcasting Co., Charleston, W. Va.—Granted modification of C. P. to make changes in transmitting equipment.
- WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Granted modification of C. P. extending completion date from August 27, 1939 to February 27, 1940.

NEW—WDZ Broadcasting Co., Portable-Mobile (Area of Tuscola, Ill.).—Granted C. P. for new relay broadcast station; frequencies 1622, 2058, 2150 and 2790 kc., 10 watts.

NEW—Peoria Broadcasting Co., Peoria, Ill. (Portable-Mobile).—Granted C. P. for new portable-mobile relay broadcast station to operate on frequencies 1622, 2058, 2150 and 2790 kc., 25 watts.

WJRA—WJR, The Goodwill Station, Detroit, Mich., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station; frequencies 1646, 2090, 2190 and 2830 kc., 250 watts.

WFYA—Central New York Broadcasting Corp., Syracuse, N. Y., Portable-Mobile.—Granted license to cover C. P. for new relay broadcast station; frequencies 1606, 2022, 2102, and 2758 kc., 100 watts.

WEDC—Emil Denmark, Inc., Chicago, Ill.—Granted modification of C. P. to make changes in equipment.

WING—WSMK, Inc., Dayton, Ohio.—Granted license to cover C. P. authorizing move of transmitter site locally, installation of new equipment and DA for night time operation, and increase in power from 250 watts night and day, to 250 watts night, 500 watts day, unlimited time instead of simultaneously day and SH-N; DA for nighttime operation.

WCHD—City of Martinsburg, W. Va.—Granted C. P. for new municipal police station, frequency 2490 kc., 100 watts (rated 140 watts). Also granted license to cover same.

KRRV—Red River Valley Broadcasting Corp., Sherman, Tex.—Scheduled oral argument for September 21, 1939.

NEW—Spartanburg Advertising Co., Spartanburg, S. C.—Scheduled oral argument for September 21, 1939.

NEW—Brown County Broadcasting Co., Brownwood, Tex.—Scheduled oral argument for September 21, 1939.

KHQ—Louis Wasmer, Inc., Spokane, Wash.—Granted special temporary authority to rebroadcast Washington National Guard planes in radio maneuvers in connection with American Legion Convention and interest of national defense; Guard planes using government equipment on 3485 kc., 9 to 9:30 p. m., PST, August 22.

WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.—Granted special temporary authority to operate from 6:30 to 8:30 p. m., CST, August 14, in order to broadcast District Softball Tournament.

WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Granted extension of special temporary authority to operate evenings (LS August 7:15 p. m., September 6:30 p. m., CST) for the period August 16 to September 14, in order to broadcast civic, charitable, religious, educational, fraternal, and commercial programs of local interest from Mutual Broadcasting System.

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate from 9 p. m. to 12 midnight, EST, August 14, in order to broadcast Macon-Spartanburg baseball game with special ceremonies in celebration of baseball's 100th anniversary.

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Granted special temporary authority to use relay broadcast transmitter KABF for location tests at KMJ on frequency 580 kc., with power of 50 watts, between the hours 9 and 6 a. m., PST, for the period August 11 to August 18.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10 p. m. August 18 to 1 a. m., AST, August 19, in order to broadcast graduation exercises of Gomez Commercial School.

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Granted authority to take depositions on August 28 in re the rehearing on application, Docket 4986.

WPRA—Puerto Rico Advertising Co., Mayaguez, P. R.—Denied petition to intervene in hearing on application of WPRP to increase power.

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with WGBF with reduced power of 250 watts, from 8 to 10 p. m., CST, August 22, in order to permit WGBF to broadcast Ambers-Armstrong lightweight championship fight.

WGBF—Evansville on the Air, Evansville, Ind.—To operate simultaneously with KFRU as above in order to broadcast fight.

WMFO—James R. Doss, Jr., Decatur, Ala.—Granted special temporary authority to operate from local sunset (August 6:30 p. m., CST) to 7:30 p. m., CST, August 15, in order to carry and feed network as Salute to the Louisville and Nashville

Railroad Co. crack passenger train "The Panamerican" while in WMFO territory on occasion their sixth anniversary, using 50 watts power.

NEW—United Theatres, Inc., San Juan, P. R.—Granted motion to extend time until August 23 for filing opposition to petition of Enrique Abarca Sanfeliz to reopen hearing in re Dockets 5298 and 4610.

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Dismissed without prejudice application of WJBK for C. P. to change frequency, increase power, and install new equipment.

WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Granted extension of special temporary authority to operate evenings (LS August 7:15 p. m., September 6:30 p. m., CST), for the period August 16 to September 14, in order to broadcast civic, charitable, religious, educational, fraternal, and commercial programs of local interest from the Mutual Broadcasting System. (NOTE: This item was erroneously included in action taken by Commissioner Walker on August 12, in Report No. 575—Decisions of Commission (Mimeo. No. 35695), dated August 15.)

APPLICATIONS FILED AT FCC

NEW—Puerto Rico Advertising Company, Inc., San Juan, P. R.—Construction permit to erect new station to be operated on 1500 kc., 250 watts power, unlimited time.

WHEB—Granite State Broadcasting Corporation, Portsmouth, N. H.—Construction permit to install new transmitter and vertical antenna; increase power from 250 watts to 1 KW; move transmitter from Bean's Hill, Newington, N. H., to U. S. Highway No. 1, Portsmouth, N. H., and studio from 39 Congress St., Portsmouth, N. H., to U. S. Highway No. 1, Portsmouth, N. H. (740 kc.).

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Authority to install automatic frequency control apparatus (1280 kc.).

WJZ—National Broadcasting Company, Inc., New York, N. Y.—Modification of license to increase power of auxiliary transmitter from 25 to 30 KW (760 kc.).

NEW—Bamberger Broadcasting Service, Inc., New York, N. Y.—Construction permit for a new television broadcast station located at 1450 Broadway, New York, N. Y., on 84,000-90,000 kc., 1 KW power, A3, 5.

WSPD—The Fort Industry Co., Toledo, Ohio.—Construction permit to increase power from 1 KW, 5 KW LS, to 5 KW day and night; install directional antenna for use at night (1340 kc.).

WCKY—L. B. Wilson, Inc., Covington, Ky.—License to cover C. P. (B2-P-2082) to increase power, make changes in equipment, install directional antenna for use day and night (1490 kc.).

KOME—Oil Capitol Sales Corp., Tulsa, Okla.—Modification of license to change hours of operation from daytime to unlimited time, using 100 watts power at night. Amended to change name from Harry Schwartz to Oil Capitol Sales Corporation (1310 kc.).

KONO—Eugene J. Roth, tr/as Mission Broadcasting Co., San Antonio, Tex.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (1370 kc.).

NEW—Joe W. Engel, Chattanooga, Tenn.—Construction permit for new station to be operated on 1370 kc., 250 watts, unlimited time.

NEW—Knoxville Broadcasting Co., Knoxville, Tenn.—Construction permit for new station to be operated on 1210 kc., 250 watts, unlimited time.

NEW—Ralph M. Lambeth, Greensboro, N. C.—Construction permit for new station to be operated on 1370 kc., 250 watts, unlimited time.

WMFD—Richard Austin Dunlea, Wilmington, N. C.—Modification of C. P. (B3-P-2058) for new equipment, increase in power, change in hours of operation and move, requesting approval of antenna and approval of transmitter site at Castle Hayne Road, Wilmington, N. C. (1370 kc.).

WLBL—Board of Regents, University of Wisconsin, Stevens Point, Wis.—Voluntary assignment of license from Board of Regents, University of Wisconsin, to State of Wisconsin, Department of Agriculture (900 kc.).

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—License to cover C. P. (B4-P-2395) to move transmitter (1200 kc.).

WEAU—Central Broadcasting Co., Eau Claire, Wis.—License to cover C. P. (B4-P-2302) for increase in power and equipment changes. (1050 kc.).

KARM—George Harm, Fresno, Calif.—Construction permit to install new transmitter, change frequency from 1310 kc. to 1430 kc., and increase power from 100 watts to 1 KW (1310 kc.).

KOIN—KOIN, Inc., Portland, Ore.—Construction permit to install directional antenna for night use and increase power from 1 KW, 5 KW LS, to 5 KW day and night (940 kc.).

WPRP—Julio M. Conesa, Ponce, P. R.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night and change hours from specified to unlimited time. (1420 kc.)

WMAL—National Broadcasting Co., Inc., Washington, D. C.—Construction permit to install new transmitter, directional antenna for day and night use, increase power from 250 watts night, 500 watts day to 5 KW and move transmitter. (630 kc.)

W1XSL—WDRG, Inc., Hartford, Conn.—Modified construction permit (B1-PEX-24) to extend completion date from 9-9-39 to 11-9-39.

W1XOK—The Yankee Network, Inc., Boston, Mass.—Modified license to change power without new construction from 50 watts to 250 watts.

WJAC—WJAC, Inc., Johnstown, Pa.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1370 kc.)

WMPC—First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1200 kc.)

WRAK—WRAK, Inc., Williamsport, Pa.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night. (1370 kc.)

WBTM—Piedmont Broadcasting Co., Danville, Va.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1370 kc.)

WWSW—Walker and Downing Radio Corp., Pittsburgh, Pa.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1500 kc.)

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1310 kc.)

KALB—Alexandria Broadcasting Co., Inc., Alexandria, La.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1210 kc.)

WJBY—Gadsden Broadcasting Co., Inc., Gadsden, Ala.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1210 kc.)

WJHL—W. Hanes Lancaster & J. W. Birdwell, d/b as Johnson City Broadcasting Co., Johnson City, Tenn.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1200 kc.)

KRIC—KRIC, Inc., Beaumont, Texas.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1420 kc.)

WAPI—Ala. Polytechnic Inst. Univ. of Ala., Ala. College (Board of Control of Radio B/C Station WAPI, Birmingham, Ala.—Construction permit to install new transmitter, directional antenna for day and night, change frequency from 1140 to 1070 kc., power from 5 KW to 50 KW, hours from simultaneously D, S-KVOO night to unlimited, and move transmitter. Amended: To give transmitter site as 9 miles north of Birmingham. (1140 kc.)

KFVS—Oscar C. Hirsch, tr. as Hirsch Battery & Radio Co., Cape Girardeau, Mo.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1210 kc.)

WRJN—Racine Broadcasting Corp., Racine, Wisc.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1370 kc.)

KOBH—Black Hills Broadcast Co. of Rapid City, Rapid City, S. Dak.—Modified license to increase power from 100 watts night, 250 watts day to 250 watts day and night. (1370 kc.)

KBTB—Red River Broadcasting Co., Inc., Duluth, Minn.—License to cover construction permit (B4-PRY-177) for new relay broadcast station.

The following applications have been received and returned:

WICA—WICA, Inc., Ashtabula, Ohio.—Modified construction permit (B2-P-2316) for increase in power and new equipment,

requesting further changes in equipment (old form) (940 kc.).

KGKL—KGKL, Inc., San Angelo, Tex.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night (duplicate application) (1370 kc.).

NEW—Hobart Stephenson, Milton Edge and Edgar J. Korsmeyer, Jacksonville, Ill.—Construction permit for new broadcast station to be operated on 1370 kc., 250 watts, unlimited time (Section 1).

NEW—Mollin Investment Co., Riverside, Calif.—Construction permit for new broadcast station to be operated on 1390 kc., 250 watts, daytime (transmitter site).

WFTC—Jonas Weiland, Kinston, N. C.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

The following applications have been returned:

W2XJI—Bamberger Broadcasting Service, Inc., New York, N. Y.—Modification of license to change frequency from 26300 kc. to 25300 kc. to comply with new rules. (Request of applicant.)

W2XUP—Bamberger Broadcasting Service, Inc., New York, N. Y.—Modification of license to change frequencies from 31600, 35600, 38600 and 41000 kc. to 25250 kc. to comply with new rules. (Request of applicant.)

WCMW—Arthur Faske, Brooklyn, N. Y.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (Rule 1.368).

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (Rule 15.16).

WAPO—W. A. Patterson, Chattanooga, Tenn.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (Section 1.367).

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (Section 1.367).

WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (Section 1.367).

WCBS—WCBS, Inc., Springfield, Ill.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night (Section 15.16).

FEDERAL TRADE COMMISSION ACTION

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Leon E. Van Laethem, trading as **Van Products Company**, New Milford, N. J., was ordered to discontinue misleading representations in the sale of "No-No Germ Control".

The respondent's preparation was found to be a formaldehyde solution effective as an antiseptic rather than as a germicide.

Under the order, the respondent is to cease representing directly or by implication that "No-No Germ Control", or any similar preparation, is a germicide; will kill germs which cannot be reached by powder or liquid preparations; will prevent pregnancy or is a competent and effective contraceptive, or is non-irritating and odorless.

The respondent was further ordered to discontinue representing that his product will clear the nasal passages, reduce swollen membranes or clear away mucous; is an effective treatment for head colds or hay fever; will remove calluses or bunions, or relieve pains caused thereby.

It was also ordered that the respondent cease the dissemination of advertisements which fail to reveal that his preparation is not a wholly safe drug to be used by the lay public in self-medication. (3743)

Usona Shirt Company, 230 Fifth Ave., New York, was ordered to discontinue misleading representations in the sale and distribution of textile fabrics including men's shirts.

The order prohibits the respondent from using the words "Shrunk", "Pre-Shrunk", or "Full Shrunk", or similar words, to describe any fabric which is not shrink-proof or non-shrinkable, or which has not been fully shrunk or pre-shrunk to the extent that no residual shrinkage is left.

The respondent is further ordered to cease using the words "Custom Made", or similar words, to designate products which are not made especially for each individual customer, and to discontinue representing that its products possess a quality, grade, character or condition superior to, or different from, that which they actually possess. (3842)

Ostrex Company, Inc., New York, was ordered to discontinue misleading representations in the sale and distribution of a medicinal preparation designated as "**Ostrex**", or any similar product.

Under the order, the respondent is to cease representing that the use of "Ostrex" has any beneficial effect on the blood unless such representation is limited to those cases of persons having an abnormal blood count and hemoglobin percentage and having a type of anemia which may be beneficially affected by the administration of iron; that its use is beneficial in stimulating or invigorating any glands of the human body, unless such representation is limited to the effectiveness of the iodine and calcium contained in the preparation on the thyroid or parathyroid glands, and that "Ostrex" will carry new life and power to nerve cells or will invigorate or revitalize weak organs of the human body. (3354)

Julius M. Firk, trading as **Strauss Tailoring Company, Federal Tailoring Company, Bell Tailoring Company, and Arlin Tailoring Company**, 224 South Wells St., Chicago, was ordered by the Federal Trade Commission to discontinue misleading representations in the sale and distribution of men's clothing. (3788)

T. Noonan & Sons Company, 38 Portland St., Boston, was ordered to discontinue false representations in the sale and distribution of "**Noonan's Vitamin F Scalp Cream**", or any other similar product.

Under the order, the respondent is to cease advertising that dandruff or itching scalp, singly or in combination, are a usual cause of baldness in the male or impairment of the texture or color of the hair in the female, or that its preparation will permanently eradicate dandruff or itching scalp, invigorate the roots of the hair, prevent the natural oil of the scalp from being lost and the hair from falling out, avert baldness, promote the growth of new hair, restore unhealthy hair to health, or have more than a transitory effect upon the texture or appearance of the scalp or hair.

The order also prohibits the respondent from representing that any condition of the hair or scalp is due to a dietary deficiency, or that "Noonan's Vitamin F Scalp Cream" contains "Vitamin F." (3640)

William C. Steffy and G. V. Parkinson, trading as **Atlas Globe China Company, Advertising Department, Rogers Silverware Distributors, Bordeaux China Company and China Sales Syndicate**, 549 West Washington Boulevard, Chicago, were ordered to discontinue false representations in the sale and distribution of silverware, earthenware, chinaware, radios or sales promotional plans, and to also discontinue the use of lottery methods in the sale of merchandise.

Under the order, the respondents are to cease representing through the use of the term "Rogers Silverware", or similar terms, that they are connected with the manufacturers of Simon L. and George H. Rogers Silverware, or that premium certificates, cards, coupons or similar devices can be redeemed in Simon L. and George H. Rogers Silverware. The order further directs the respondents to discontinue claims that they are connected with any other manufacturer of silverware, chinaware, or earthenware or that their certificates, cards, or coupons are redeemable in any merchandise unless that is a fact and unless the terms of such offers are clearly stated.

The order further forbids the respondents' representing that they are conducting any special campaign on behalf of a manufacturer or that they are dealing in any locality exclusively to any purchaser, unless these are the facts. The respondents are also ordered to cease making representations as to refunds they will give purchasers of premium certificates, cards or coupons, or that they will supply to their customers without charge display sets of silverware, unless the terms of such offer are clearly stated.

The respondents are further prohibited from misrepresenting the retail price of radios; selling any merchandise by means of a lottery scheme, or supplying others with lottery devices so as to enable such persons to sell any merchandise.

It is also ordered that the proceeding in relation to Lorina Steffy, mentioned as a respondent in the Commission's complaint, be closed without prejudice. (3238)

Isadore H. Lukacher, trading as **Casa Blanca Cigar Company** and as **Belvedere Tobacco Company**, and **Bert Lukacher**, both of York, Pa., were ordered by the Federal Trade Commission to discontinue misleading representations in the sale and distribution of cigars.

The order directs the respondents to cease using the term "Havana" or "Vuelta Havana" or any other terms or picturizations indicative of Cuban origin, or descriptive of Cuba, to refer to cigars which are not made entirely from tobacco grown in Cuba; representing, through the use of the term "Made in Tampa", or any similar term, that cigars which have not been made in Tampa, Fla., are Tampa cigars or have been made in Tampa, Fla., and using the term "Cuban Workmanship", or any similar term, to refer to cigars which have not been made by Cubans or by the Cuban style of workmanship.

The respondents were also ordered to cease using the term "Havana Blend" or any similar term to designate cigars which do not contain a substantial amount of tobacco grown in Cuba. (3589)

The Commission has dismissed its complaint in which **Hitt Fireworks Company**, Seattle, Wash., had been charged with disseminating misleading representations in the sale of fireworks and firecrackers. (3382)

John Grey The Fur Designer, Inc., 350 Seventh Ave., New York, was ordered to discontinue false representations in the sale and distribution of patterns for fur coats and fur clothing.

The Commission finds that the respondent had falsely advertised that its patterns were made in Paris, France, and designed by French designers there. (3658)

James Heddon's Sons, Dowagiac, Mich., was ordered to discontinue misleading representations in the sale and distribution of its "**Improved Heddon Pal**" hollow steel fishing rod, or other fishing rods.

Under the order, the respondent is to cease representing that all hollow steel fishing rods, other than its own, have walls which are thicker at the butt than at the tip; representing in incorrect proportion the relative thickness of the walls at the tip and butt of respondent's or other hollow steel fishing rods, or making representations relative to tests of its own or other fishing rods, unless such tests were made by competent persons independent of the respondent, provided that if such tests are made by persons not independent of the respondent, the connection of such persons with the respondent must be clearly stated. (3792)

COMPLAINTS

The Commission has issued the following complaints:

Walter Kidde & Co., Inc., 140 Cedar St., New York, was charged with dissemination of misleading representations in the sale and distribution of fire-extinguishing equipment, including carbon dioxide fire-extinguishing apparatus having the trade name "**Lux**". (3866)

The Commission issued a complaint against **Edward L. Jenkins and Mildred Jenkins**, trading as **Antisepto Products Company, Antisepto Products, Educational Products Company, Sanitol Products Company, XL Products Company and XL Products**, 3335 Belle Plaine Ave., Chicago, charging false representations in the sale of medicinal preparations.

The complaint alleges that the respondents had falsely represented "**Guaranteed Antisepto Anti-Delay Compound Regular**" and "**Guaranteed Antisepto Anti-Delay Compound Super**

Strength" as being safe, competent and effective treatments for delayed menstruation.

It is further alleged that respondents' "**Guaranteed Prosaïd Gland Medicine Double XX**" and "**Guaranteed Prosaïd Gland Medicine Triple XXX**", are not competent, safe, or effective treatments for prostate gland weakness, as advertised. (3867)

The Commission has amended its complaint issued in June, 1932 in which Joseph A. Villone, trading as **Excelsior Hat Works**, 275 Fifteenth St., Jersey City, N. J., was charged with failing to designate renovated hats as such, thus indicating to the purchasing public that they were new hats. (2046)

Movie Cosmetics Corporation and W. K. Max Hassenstein, Hollywood, Calif., were charged with dissemination of misleading representations in the sale and distribution of hair waving preparations and devices.

Representations that the respondents' hair waving preparations and devices are the first or only of their kind are false, the complaint charges. It is further alleged that the respondents have not, as advertised, conducted a constant search for ideas and methods to aid women in their quest for charm, nor have they finally solved such problems. The respondents, the complaint continues, falsely advertise their preparations and devices as representing the completed result of seven years of experimentation and tireless efforts of hair experts and scientists, when this is not the fact. (3864)

The Commission has issued a complaint against Robert C. Oberlin, trading as **Research Products Co.**, 3170 Berkshire Road, Cleveland Heights, Ohio, alleging false and misleading representations in the sale of medicinal preparations.

The complaint alleges that "**Dupree Pills**", "**Dupree Double Strength Pills**" and "**Dr. Gordon's Special Formula Double Strength Pills**", which the respondent represents as treatments for delayed menstruation, do not, as advertised, constitute competent, safe and harmless treatments therefor. It is also charged that the respondent's advertisements are false in that they fail to reveal that use of the preparations under the conditions prescribed in the advertisements or under customary or usual conditions may result in serious and irreparable injury to the health of users.

The complaint further alleges that the respondent's preparation known as "**Van Dyke Dutch Brand Haarlem Oil Capsules**" is not, as claimed, a remedy for ailments of the prostate gland or the kidneys or bladder, nor is it a cure for rheumatism, sleeplessness, nervousness or pains in the back, nor will its use serve to flush poisons out of the kidney or bladder.

The respondent falsely advertises another preparation designated as "**Dr. Gordon's Vitam-Perles**" or "**Vitamin E Perles**", the complaint continues, since it has no potency as a tonic and nerve stimulant for either male or female, nor is it a cure or remedy for lack of ambition, loss of strength, loss of blood or anemia, or run-down condition. (3863)

Philip Morris & Co., Ltd., Inc., a Virginia corporation, 119 Fifth Ave., New York, was charged, in a complaint issued by the Federal Trade Commission, with the dissemination of misleading representations in the sale and distribution of cigarettes designated as "**Philip Morris**", "**English Oval**", "**Player's Navy Cut**" and "**Marlboro**".

The respondent's cigarette containers are alleged to contain printed matter bearing the following depictions:

"Established over 80 years"

"**FACTORIES**

London, Cairo, Hamilton, Canada, Richmond, Va."

"Agents and Depots all over the world"

"Established by

John Player & Sons,

England."

According to the complaint, these and other advertisements had falsely represented the respondent as being established for over eighty years and as having factories in Cairo, Egypt, and in Hamilton, Canada, when such were not the facts. It is further alleged that the respondent does not maintain warehouses all over the world, as advertised.

The complaint further charges the respondent with having falsely represented that it was an English corporation and that it held

a warrant entitling it to display the British Royal Arms, when such was not the truth. The respondent's representations are also allegedly false in that they represent "Philip Morris", "English Ovals" and "Player's Navy Cut" cigarettes as being manufactured in England, when this is not a fact.

"Players Navy Cut" cigarettes, the complaint continues, are not manufactured by John Player & Sons, as indicated on the containers, nor are they the same cigarettes as those generally and widely sold in England under that name. (3865)

Oppenheim, Collins & Company, Inc., 33 West 34th St., New York, is charged with misleadingly representing its furs and fur garments.

It is alleged in the complaint that the respondent designated certain of its furs and fur garments in conspicuous type, as "HUDSON SEAL", "MENDOZA BEAVER", "FRENCH SEAL", "CARACUL", "BLACK CARACUL" and "BROWN CARACUL". In connection with such designations, the complaint continues, certain of the advertisements contained in a less conspicuous form, either as an asterisked footnote or as a parenthesized phrase, the words "dyed muskrat" or "dyed rabbit" or "dyed kidskin". (3869)

STIPULATIONS

The Commission has entered into the following stipulations:

C. Howard Hunt Pen Company, Camden, N. J., entered into a stipulation to discontinue misleading representations in the sale and distribution of fountain pen points.

The stipulation states that the respondent designated certain of its pen points with the words "Durium," "Durium Tipped", "Durium Pointed", "Duridium", "Warranted Durium", "Warranted Durium Tipped", "Guaranteed Durium Tipped" and "Warranted Duridium", when in fact such pen points were made of chromium steel or stainless steel alloy, there being no substances known to science or industry at "Durium" or "Duridium". (2506)

Gore Products, Inc., New Orleans, La., agreed to discontinue the dissemination of misleading representations in the sale and distribution of a medicinal preparation designated **HF**, for the treatment of Athlete's Foot.

According to the stipulation, the respondent is to cease representing directly or by implication that **HF** is a remedy, a complete treatment or cure for Athlete's Foot; that other preparations or treatments are not beneficial in the treatment of Athlete's Foot, or will not contact or reach the parasites causing this disease; that **HF** will "rid" a person of this disease; that **HF** will cause any part of the body to become well or healed, or that it will eradicate the germs or parasites causing Athlete's Foot. (02417)

Joseph H. Goldstein and Moe Siegle, trading as **Goldstein & Levin**, New York, entered into a stipulation in which they agreed to cease representing directly or by implication that dresses or other articles of merchandise sold by them are made in, or imported from, London, England, or any other foreign country, when such is not the fact. (2505)

Louis Shapiro and Wm. J. Mishel, trading as **Tanners Shoe Company**, 493 C St., Boston, agreed to discontinue misleading representations in the sale and distribution of shoes and clothing.

Under the stipulation, the respondents are to cease representing that their firm is the oldest of its kind in the United States, or the largest of its kind in the world; that no shoe store in the world can place before a customer the range of styles, sizes and widths that the advertisers or any of their agents can offer; that the wearing of their shoes will keep normal feet healthy; that the shoes afford greater comfort than anyone has ever known, or that a person will make any definite number of sales within a definite period of time. (02416)

Vadeco Sales Corporation and its subsidiary, **Delettrez, Inc.**, 2109 Borden Ave., Long Island City, N. Y., agreed to discontinue

misleading representations in the sale and distribution of a cosmetic preparation designated "**Delettrez Cleansing Cream.**"

According to the stipulation, the respondents will cease representing that "Delettrez Cleansing Cream" penetrates to, or has a cleansing effect upon, skin below the surface layer, or that it penetrates to the depths of the pores; that it vitalizes the skin or brings new life or a younger complexion to the skin; that it differs materially from other creams used for the same and similar purposes or that it has any influence upon the action or condition of glands in the skin or upon the size of the pores. It was further agreed by the respondents that they will cease representing that pores in the skin have any appreciable depth or are capable of holding any material amount of foreign substance, or that pores breathe.

It was also stipulated that the respondents will cease using the word "Paris" in connection with their products, or in any other way representing such preparations as being of French origin when they are manufactured, compounded, or packaged in the United States. (02415)

Rhea's, Inc., 441 Market St., Pittsburgh, entered into a stipulation to discontinue misleading representations in the sale and distribution of "**Manna Miracle Health Bread.**"

By the stipulation, the respondent agreed to cease advertising that "Manna Miracle Health Bread" contains all the necessary minerals required in the dietary; is non-fattening, without qualification and irrespective of whether or not it is taken in excess of caloric requirements or used in connection with a diet exceeding caloric requirements; will correct any faulty diet; will be of value in cases of high blood pressure; will be of value in gall bladder "conditions"; will obviate the necessity for laxatives, or is a "magic" aid in promoting good health.

The respondent further agreed to cease representing that Vitamin G, or that "Manna Miracle Health Bread" by reason of its Vitamin G content, or otherwise, will prolong life or prevent skin diseases; that Vitamin B, or that "Manna Miracle Health Bread" by reason of its Vitamin B content, aids in building nerve tissue or in pro-

moting digestion; that "Manna Miracle Health Bread" contains the most costly ingredients ever used in bread baking, or that it is the original and only bread containing all essential vitamins. (02414)

Vanetta Velvet Corporation, 1441 Broadway, New York, engaged as licensee under patents owned by **Fur Resembling Fabrics Co., Inc.**, New York, entered into a stipulation with the Federal Trade Commission in which it agreed to discontinue the use of the word "Fur" either alone or in connection with the word "Tone" or with the picturization of a leopard or other fur-bearing animal, or in any other way, so as to convey the belief to purchasers that their fabric products so designated are made from the skin or pelt of a leopard or fur-bearing animal or from a fabric of fur, when such is not the fact. (2504)

COURT ORDER

Under the Wheeler-Lea amendment to the Federal Trade Commission Act, which provides injunctive relief in cases involving an advertised commodity the use of which may be injurious to health, the United States District Court for the Eastern District of Missouri, on August 14, enjoined Charles L. Klapp, trading as **The Cardinal Co.** and as **The Cardinal Company of St. Louis**, 406 Market St., St. Louis, from the false advertisement of a medicinal preparation described as a treatment for delayed menstruation, pending issuance, trial and disposition of a complaint under the Federal Trade Commission Act.

The decree granting the injunction was a consent decree. It prohibited dissemination of advertisements which represent the respondent's preparation, **Fema-Lade**, as being a safe, competent and scientific treatment for delayed menstruation and as having no ill effects, and which fail to reveal that use of the preparation, under the conditions prescribed in the advertisements or under customary and usual conditions, may have serious consequences.

Committee Reports on Record Licenses

After an all-day conference about licenses Thursday with representatives of three leading phonograph record companies, a special NAB committee issued the following statement:

"A committee of the industry met with representatives of the Columbia Recording Corporation, Decca Records and the RCA Manufacturing Company, and discussed at length all phases of the question. The RCA Manufacturing Company is the only company which as yet has formulated its policy and has sent out a proposed agreement. The committee requested that the arguments advanced by the committee be given thoughtful consideration and that the effective date for the contract be postponed. The RCA Manufacturing Company agreed to give consideration to this request and to advise NAB Headquarters of its decision at an early date. The Columbia Recording Corporation and Decca Records have not as yet formulated any policy and agreed to notify the NAB as soon as any policy is formulated. A full report will be made to the Directors and members at the convention in Chicago."

Broadcasters present were John Elmer, WCBM, Baltimore; John Shepard, 3rd, The Yankee Network; Alexander Dannenbaum, Jr., WDAS, Philadelphia; Walter Damm, WTMJ, Milwaukee; Clair McCollough, WGAL, Lancaster; William S. Pote, WMEX, Boston; Roger W. Clipp, WFIL, Philadelphia. The NAB was represented by Neville Miller and Edwin M. Spence.

The Executive Committee met all day Tuesday in New York, discussing code, copyright and other problems, in preparing a report for the Board of Directors which is to meet September 13 at 10 A. M., in the Palmer House, Chicago. The special copyright convention will be held in the same hotel at 10 A. M., Friday, September 15. IRNA is to meet at the Palmer House all day Thursday, September 14.

The Executive Committee met with the Copyright Negotiating Committee Wednesday, and after going over all phases of the problem as it now stands, directed Sydney Kaye, special counsel, to present to the Board on September 13 a plan for creation of a supply of music other than ASCAP numbers.

Executive Committee members at the meeting were: John Elmer, WCBM, Baltimore; Herbert Hollister, KANS, Wichita; John A. Kennedy, WCHS, Charleston, West Virginia;

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

COMMITTEE REPORTS ON RECORD LICENSES
(Continued from page 3675)

Paul W. Morency, WTIC, Hartford, Connecticut; Harry C. Wilder, WSYR, Syracuse, New York.

The Copyright Negotiating Committee consists of Major Lenox R. Lohr, NBC; Edward Klauber, CBS; Sam Rosenbaum, WFIL; John Elmer, WCBM, Baltimore, and Mr. Miller. Walter Damm and John Shepard, 3rd, took part in the negotiating committee discussion with the Executive Committee.

Court Gives FCC Sweeping Regulatory Powers

A decision of momentous importance to the broadcasting industry, giving the FCC sweeping powers over the broadcasting business, has been handed down by the Circuit Court of Appeals here in the WMEX case.

Throughout the decision, the court compared the broadcasting industry to the railroads, and said, at one point, that the Communications Act was intended "to anticipate and prevent desperate and chaotic (economic) conditions" such as the railroads now face.

"In both instances the privilege of free enterprise was curtailed," the court added.

At another point, the court said:

"The Commission is authorized to regulate and to discipline existing licensees and to determine, upon the basis of their performances, whether their licenses shall be renewed."

Because of the importance of the decision, it is printed in full:

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

No. 7250

THE YANKEE NETWORK, INC., APPELLANT

v.

FEDERAL COMMUNICATIONS COMMISSION; THE NORTHERN CORPORATION, licensee of Station WMEX, Boston, Massachusetts, INTERVENER

Appeal from the Federal Communications Commission

Decided August 14, 1939.

Paul D. P. Spearman, Alan B. David, and Frank Roberson, all of Washington, D. C., for appellant.

Hampson Gary, William H. Bauer, Fanney Neyman, William J. Dempsey, and Andrew G. Haley, all of the Federal Communications Commission, for appellee.

Arthur W. Scharfeld, Philip G. Loucks, Joseph F. Zias, and J. P. Tumulty, all of Washington, D. C., for intervener.

Before GRONER, Chief Justice, and STEPHENS and MILLER, Associate Justices.

MILLER, *Associate Justice*: Prior to May 29, 1936, eight radio broadcasting stations—including the stations now owned by appellant and intervener herein—were operating in and near Boston, Massachusetts. On that date Intervener, The Northern Corporation (WMEX) was operating on the frequency of 1500 kilocycles, with power of 100 watts night, 250 watts day, local sunset, unlimited time. It applied for a construction permit to operate on the 1470 kilocycle frequency, with 5 kilowatts power, unlimited time, using directional antenna both day and night. The Communications Commission granted the application, without a hearing subject to protest. Thereafter protests were filed by Bay State Broadcasting Corporation (WAAB), appellant's predecessor in interest, and by three other radio broadcasting station licensees. After appearances and hearing the Examiner recommended that all protests be dismissed and the application granted. The Commission acted accordingly, following oral arguments, and issued an order dated May 25, 1938, granting the application of WMEX, effective June 4, 1938. The Yankee Network, Inc., successor in interest of Bay State Broadcasting Corporation, and other licensees, filed petitions for rehearing, which were denied on September 6, 1938, and on September 24, 1938, The Yankee Network, Inc., appealed from the Commission's decision granting the application.

The Commission challenges the power of this court to hear the appeal. It contends in its brief that no appeal is contemplated by the Communications Act¹ from a decision of the Commission granting an application—on behalf of an existing licensee claiming to be economically affected. On oral argument it expanded its contention to include any possible grievance or affectation of interest, electrical, economic or otherwise, although in the present case, aggrievance resulting from affectation of economic interest is alone involved. In *Journal Co. v. Federal Radio Comm.*, 48 F. (2d) 461, 463, 60 App. D. C. 92, 94,² we recognized the right of an aggrieved person to appeal from a decision of the Commission granting an application. Moreover, we have recently decided the issue, adversely to the Commission's contention in *Sanders Bros. Radio Sta. v. Federal Communications Comm.*, (No. 7087, decided January 23, 1939) — F. (2d), —, — App. D. C. —. However, since the Commission has strenuously urged that we reconsider the problem, a thorough analysis of its arguments in the present case will conduce to a final determination of this important question.

The court's jurisdiction depends, in this case, upon the meaning of Section 402(b)(2): "An appeal may be taken . . . By any other person aggrieved or whose interests are adversely affected by any decision of the Commission granting or refusing any such application."³ [Italics supplied] It will not be seriously contended that this language should be given its broadest literal meaning. Congress could not have intended to permit an appeal by any person who might suffer pain or sorrow as a result of the Commission's action, because, for instance, he might dislike, generally, all radio broadcasting, or certain phases thereof in particular. The Commission suggests that the necessary implications of the interpretation given to the appeal section in the *Sanders* case—permitting appeal by one adversely economically affected—would produce a result almost as extreme and would extend its operation to include newspapers, magazines and other advertising media of all kinds. But there is nothing in the Act to suggest that the section should be extended so far. The Act pertains to radio broadcasting. The Commission's power in this respect is confined to the regulation of those whom it licenses or declines to license to broadcast and to those who provide facilities for broadcasting.⁴ Without deciding whether there may be others who come within the privilege of appeal granted by Section 402(b)(2), it seems obvious that the clause was intended to include existing licensees—assuming they are able to show, in the particular case, actual aggrievance or affectation of interest. Who could have been more in the con-

¹ Act of June 19, 1934, c. 652, 48 Stat. 1064, 47 U. S. C. A. § 151 *et seq.*

² In that case it was held that before the Radio Act of 1927 was amended in 1930, a person prejudiced by the Commission's action in granting an application of another person for increased power had no right to appeal; that the Act was amended to give existing licensees just that right. This portion of the Radio Act was reenacted in the form of Section 402(b) of the 1934 Act and we can presume that the language was used in the latter Act in the same sense as in the former. *Pott v. Arthur*, 104 U. S. 735, 736.

³ 48 Stat. 1093, 47 U. S. C. A. § 402(b)(2).

⁴ See *Telegraph Herald Co. v. Federal Radio Comm.*, 66 F. (2d) 220, 222, 62 App. D. C. 240, 242.

temptation of Congress as aggrieved persons than existing licensees, whose very existence and possibility of success, depend upon the wise exercise by the Commission of its discretionary powers.⁵

The Commission concedes in its brief that existing licensees may actually be aggrieved by its action in granting new applications.⁶ Moreover, the Commission concedes the possibility of arbitrary action upon its part, which should be subjected to judicial review.⁷ But it contends that however improperly it may have acted in a given case, this court has no jurisdiction to entertain an appeal brought by an existing licensee, under Section 402(b)(2) because, it says, an erroneous decision of the Commission invades no *legal rights* or *legal interests* of such a licensee, and under such circumstances, "this court may not, regardless of the merits of the case, assume jurisdiction." It urges that the test by which a person's appealable interest under Section 402(b)(2) may properly be determined is to inquire whether—if that section were not in effect—he would have a right to resort to the District Court for the protection of the legal right or interest which he claims to be aggrieved or adversely affected. Measured by this test, it is contended that appellant in the present case has no appealable interest, for, the Commission says, it has been held many times that, in the absence of statute, a person has no legal right to be free of competition and that injury suffered or threatened by competition is *damnum absque injuria*.⁸

However, the criterion proposed is not a proper one, for here we are dealing with rights not as they existed at common law but as they exist and are administered under an act of Congress. Cf. *Alabama Power Co. v. Ickes*, 302 U. S. 464, 484-485. Many of the acts which have established administrative agencies such as the Federal Communications Commission, have created rights and interests⁹ as to which administrative remedies must first be exhausted before judicial review may be sought of administrative action concerning them.¹⁰ Such rights are none the less valuable from a practical point of view.¹¹ The Commission concedes that if a statute confers a right upon a licensee to be protected against competition then he has a right to complain, under the authority of *Clarksburg-Columbus Short Route Bridge Co. v. Woodring*, 89 F. (2d) 788, 796, 67 App. D. C. 44, 52, *rev'd on other grounds*, 302 U. S. 658. The dissent in that case, upon which the Commission relies, maintained that the statute conferred no substantive "and therefore no adjective rights" upon the party affected because the statute imposed no duty upon the Secretary of War to consider competitive effects upon that party. It is difficult to reconcile the Commission's position respecting that case with its admission that the Commission—in determining whether public interest, convenience and necessity will be served by the granting of a new license—must consider the effect thereof upon existing licensees.

No language of the present Act, relating to grants of rights to licensees, suggests an intent to recognize or to vitalize any common law rights in radio broadcasting or in the use of frequencies therefor. Some of its language definitely repudiates the idea.¹² The

⁵ Cf. *Telegraph Herald Co. v. Federal Radio Comm.*, 66 F. (2d) 220, 62 App. D. C. 240.

⁶ It says: "Unquestionably, the Commission should, in determining whether the 'public interest, convenience, and necessity' will be served by the licensing of a new station in a community, give careful and painstaking consideration to the question of whether the effect of granting the new license will be to defeat the ability of the holder of any one or more outstanding licenses to carry on in the public interest. The Commission is entirely in accord with the view that, if the effect of granting a new license would be to defeat the ability of the holder of an outstanding license to carry on in the public interest, the application for the new station should be denied unless there are 'overweeening' reasons of a public nature for granting it. And the Commission also believes that it is obviously a stronger case where neither licensee will be financially able to render adequate service."

⁷ Upon this point it says: "It is also the Commission's position that whenever the Commission, in considering an application for a new station does not so apply the standard of public interest, convenience and necessity as required by the statute, this court, upon an appeal properly taken, may and should set aside the decision of the Commission."

⁸ *Tennessee Electric Power Co. v. Tennessee Valley Authority*, (No. 27, decided January 30, 1939) — U. S. —; *Alabama Power Co. v. Ickes*, 302 U. S. 464; *United States ex rel. New York Warehouse Wharf & Terminal Assn. Inc. v. Dern*, 68 F. (2d) 773, 63 App. D. C. 28, *cert. denied*, 292 U. S. 642; *Franklin Tp. v. Tugwell*, 85 F. (2d) 208, 66 App. D. C. 42.

⁹ See, e.g., *National Labor Relations Act*, 49 Stat. 449, 452, 29 U. S. C. A. §§ 151, 157; *Act to Regulate Commerce*, as amended by *Transportation Act of 1920*, 41 Stat. 456, 49 U. S. C. A. § 1 (18-20); *The Chicago Junction Case*, 264 U. S. 258, 267; *Western Pacific California R. v. Southern Pacific Co.*, 284 U. S. 47, 51.

¹⁰ It is a well established principle of judicial administration that prescribed administrative remedies must first be exhausted before a person is entitled to judicial relief for a supposed or threatened injury. *Myers v. Bethlehem Shipbuilding Corp.*, 303 U. S. 41, 50-51; *United States v. Illinois Central R. R.*, 291 U. S. 457, 463.

¹¹ *Frost v. Corporation Comm.*, 278 U. S. 515, 521.

¹² "Sec. 304. No station license shall be granted by the Commission until the applicant therefor shall have signed a waiver of any claim to the use of any particular frequency or of the ether as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise."

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purpose expressly declared in Section 301, and revealed in subsequent sections, is inconsistent with recognition of common law rights. But the Act does definitely recognize the *rights* of license holders in express terms no less than seven times.¹³ Moreover, in Section 606 of the Act licensees are referred to as *owners* of stations. And their ownership is recognized by the Commission in its brief where it says: "It should be noted that as of the date this appeal was taken, Stations WNAC and WAAB were owned and operated by the same licensee, namely, The Yankee Network, Inc." This admission must be read in the light of the fact that no person is permitted to use or operate a radio broadcasting station in the United States except pursuant to a license granted under the provisions of the Communications Act (§ 301). The Act provides that one shall be guilty of a crime if he does wilfully and knowingly operate such a station without a license (§ 501), or even if he shall wilfully and knowingly violate any rule, regulation, restriction or condition made or imposed by the Commission under authority of the Act (§ 502). It is apparent, therefore, that a radio broadcasting station is valueless without a license to operate it. It is equally apparent that the granting of a license by the Commission creates a highly valuable property right, which, while limited in character, nevertheless provides the basis upon which large investments of capital are made and large commercial enterprises are conducted.¹⁴ As it is the purpose of the Act to secure the use of the channels of radio communication by private licensees under a competitive system, those licensees must be protected in that use, not merely from unlicensed stations¹⁵ and unlicensed operators,¹⁶ but from improper activities of licensed stations¹⁷ and operators¹⁸ and from arbitrary action by the Commission, itself, in the exercise of its regulatory power.

In asserting its rights as a licensee, appellant is not limited, therefore—as the Commission's argument seems to imply—either to the appeal section, or to the Commission's procedural rules governing intervention.¹⁹ The legal rights or interests which are asserted in a petition for intervention are created under the Act by the grant of a license, and the same rights are asserted on appeal under either subdivision (1) or (2) of Section 402(b). The importance of intervention is that it advises the Commission of the rights or interests which are asserted, and provides opportunity for it to make a determination consistent with those rights and interests, and consistent with the public interest, convenience and necessity as well. We have held²⁰ that one who claims to be an interested party—if he has notice of the proposed action of the Commission—should intervene. We have held, also, that under some circum-

¹³ "Sec. 301. . . no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license."

¹⁴ "Sec. 309(b)(1). The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein."

¹⁵ "(2) Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this Act."

¹⁶ "Sec. 310(b). The station license required hereby, the frequencies authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or . . . disposed of . . . unless the Commission shall . . . decide that said transfer is in the public interest, and shall give its consent in writing."

¹⁷ "Sec. 313. . . Whenever in any suit, action, or proceeding . . . any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court . . . may adjudge . . . that the license of such licensee shall . . . be revoked and that all rights under such license shall thereupon cease . . ."

¹⁸ "Sec. 319. (b) . . . The rights under any such permit shall not be assigned or otherwise transferred to any person without the approval of the Commission. . . ." [Italics supplied.]

¹⁹ Cf. *Frost v. Corporation Comm.*, 278 U. S. 515; *Alabama Power Co. v. Ickes*, 302 U. S. 464, 484; *Campbell v. Arkansas-Missouri Power Co.*, 8 Cir., 55 F. (2d) 560, 562.

²⁰ Section 301.

²¹ Sections 303 (1), 318.

²² Section 312(a).

²³ Section 303(m).

²⁴ Rules No. 105.20, 102.6, 106.7, F. C. C. Rules, approved Dec. 18, 1935; see also rules No. 6.02, 3.06, 12.50, F. C. C. Rules, effective Jan. 1, 1939; and rules No. 1.102, 1.54, 1.204, F. C. C. Rules, effective Aug. 1, 1939.

²⁵ *Red River Broadcasting Co., Inc. v. Federal Communications Comm.*, 98 F. (2d) 282, 69 App. D. C. 1, *cert. denied*, 305 U. S. 625.

stances it may be proper and perhaps even essential for an interested person to petition for a rehearing.²¹ The use of these procedural devices is not for the purpose of creating rights or interests, however, but for protecting existing rights and interests. See *Red River Broadcasting Co., Inc. v. Federal Communications Comm.*, 98 F. (2d) 282, 286, 69 App. D. C. 1, 5, *cert. denied*, 305 U. S. 625.

In the same manner as the rights and equities of licensees are statutory in character so are their remedies.²² The Commission is empowered by the Act to grant or deny an application for a station license.²³ But the applicant is privileged to appeal from an adverse decision.²⁴ The Commission is authorized to regulate and to discipline existing licensees, to modify their licenses and to determine, upon the basis of their respective performances, whether their licenses shall be renewed. But if the Commission decides their applications for modification or renewal adversely, such licensees are entitled to appeal.²⁵ A radio operator whose license has been suspended is entitled to appeal from the Commission's decision.²⁶ Provision is made by Section 606 of the Act that an existing licensee whose radio station is closed or whose station and equipment are used or controlled by the Government during war, threat of war, public peril, disaster or emergency or to preserve the neutrality of the United States, shall be given compensation therefor. In fact express provision is made for suit by such licensee against the United States to recover compensation.²⁷ In none of these situations can it be contended that a legal right or legal interest known to the common law, must be violated before the privilege of appeal may be enjoyed. And in none of them would a licensee be privileged to assert its rights and equities except in the manner prescribed by the statute.²⁸ To contend that an administrative remedy provided under such circumstances must be interpreted in terms of rights which might have been protected in a court of law, would beg the question.

By the same token the Commission's contention fails when applied to the appellant in the present case. There is no difference between its rights and equities and those of the licensees mentioned in the preceding paragraph. In each case they are the statutory rights referred to throughout the Act, and which arise from the granting of the license. In each case they are the equities to which the Supreme Court referred in the *Nelson Brothers* case.²⁹ It was equally the intention of Congress to protect the rights and equities of licensees against arbitrary action of the Commission in one case as in the other.

In an effort to distinguish the *Nelson Brothers* case³⁰ and to show that our reference to it was unjustified in our recent decision in the *Sanders Brothers* case,³¹ the Commission urges that Nelson Brothers had a *statutory right* to appeal. It is for exactly that reason that all three cases are analogous. In the *Nelson Brothers* case, as in the present case, the owner of an existing station applied for the allocation of another frequency. The frequency applied for happened to be the one theretofore assigned to Nelson Brothers. The latter protested, but the Commission nevertheless granted the application and Nelson Brothers appealed from its decision. In that case—upon the applicant's suggestion³²—the Commission included in its order the deletion of the Nelson Brothers station. It should be noted, therefore, that in that case, as in the present case,

the appeal was from a decision granting—not denying—an application. It is true, as the Commission contends, that the injury suffered or to be suffered in the *Nelson Brothers* case resulted from a reallocation of frequencies and a deletion of an existing station. But it may be equally disastrous to the first licensee, for the Commission to license so many new competing stations as to destroy it. There would be no value in a *right* to use a designated frequency or in *equities* relating thereto—which would justify the great financial outlays involved in station construction and operation—if the licensee were not protected from destructive competition. Equities and rights do not exist in a vacuum but in relation to the total situation of which they are a part. The Commission has control of that situation, by virtue of its power to grant or deny licenses. But the power is not absolute. "In granting licenses the Commission is required to act 'as public convenience, interest or necessity requires.' This criterion is not to be interpreted as setting up a standard so indefinite as to confer an unlimited power. Compare *N. Y. Central Securities Co. v. United States*, 287 U. S. 12, 24. The requirement is to be interpreted by its context, by the nature of radio transmission and reception, by the scope, character and quality of services, and, where an equitable adjustment between States is in view, by the relative advantages in service which will be enjoyed by the public through the distribution of facilities. In making such an adjustment the equities of existing stations undoubtedly demand consideration. They are not to be the victims of official favoritism."³³

The only difference, therefore, between the situation of the present case and those contemplated in Section 402(b) (1) is the way in which the threatened destruction of appellant's rights and equities is alleged to have occurred. This is no sufficient difference to require us to hold that Congress intended to limit aggrieved persons or interested persons to those whose applications had been denied or to those possessed of legal rights known to the common law. If it had so intended it could easily have said so. As it did not, and as reason and justice require the opposite result, the conclusion follows logically that the appellant is definitely the person whom Congress had in mind in Section 402(b) (2). This becomes particularly obvious when we consider that to accept the argument of the Commission on this point would not only leave the licensee without opportunity for any relief whatever, even from action so arbitrary as to destroy it, but would deprive Section 402(b) (2) of meaning and eliminate it from the Act as effectively as if it were repealed. We cannot impute to Congress an intent to produce an absurd result.³⁴ "There is a presumption against a construction which would render a statute ineffective or inefficient or which would cause grave public injury or even inconvenience."³⁵ It would require a statute susceptible of no other possible interpretation to persuade us to adopt such a construction in the present case. In order to safeguard the great values of administrative procedure it is necessary to avoid extremes of administrative absolutism.

In our decision in the *Sanders Brothers* case,³⁶ we referred to dicta which appears in previous decisions of this court;³⁷ and to the opinion of Justice Groner in the *Jenny Wren* case.³⁸ The latter paraphrases language—originally used in the *Texas and Pacific* case³⁹—to describe the underlying purpose of the Communications Act as follows: "... the act recognizes the preservation of the earning capacity, and conservation of the financial resources, of the individual broadcasting station as a matter of national concern, for the reason that the property employed must be permitted to

²¹ *Ibid*; *Southland Industries, Inc. v. Federal Communications Comm.*, 99 F. (2d) 117, 69 App. D. C. 82.

²² *Black River Valley Broadcasts, Inc. v. McNinch*, 101 F. (2d) 235, 69 App. D. C. 311, *cert. denied*, U. S. . . . See *Telegraph Herald Co. v. Federal Radio Comm.*, 66 F. (2d) 220, 62 App. D. C. 240. *Cf. Old Colony Trust Co. v. Commissioner of Internal Revenue*, 279 U. S. 716, 722-723; *McGuire, Judicial Reviews of Administrative Decisions*, 26 *GEORGETOWN L. J.* 574; Note 48, *YALE L. J.* 1257.

²³ Sections 307(a), 309(a).

²⁴ Section 402 (b) (1).

²⁵ *Ibid*.

²⁶ Section 402(b)(3).

²⁷ Section 606(d). *Cf. Pulitzer Pub. Co. v. Federal Communications Comm.*, 94 F. (2d) 249, 68 App. D. C. 124, holding that a license is received subject to right of the Government to withdraw it in public interest *without* compensation.

²⁸ See *Black River Valley Broadcasts, Inc. v. McNinch*, 101 F. (2d) 235, 69 App. D. C. 311, *cert. denied*, U. S. . . .

²⁹ *Federal Radio Comm. v. Nelson Brothers Bond & Mortgage Co.*, 289 U. S. 266, 285. See opinion of Groner, J., in *Sykes v. Jenny Wren Co.*, 78 F. (2d) 729, 734, 64 App. D. C. 379, 384. See also, *Chicago Federation of Labor v. Federal Radio Comm.*, 41 F. (2d) 422, 423, 59 App. D. C. 333, 334: "It is not consistent with true public convenience, interest, or necessity, that meritorious stations . . . should be deprived of broadcasting privileges *when once granted to them*, which they have at great cost prepared themselves to exercise, unless clear and sound reasons of public policy demand such action. The cause of independent broadcasting in general would be seriously endangered and public interests correspondingly prejudiced, if the licenses of established stations should arbitrarily be withdrawn from them, and appropriated to the use of other stations. This statement does not imply any derogation of the controlling rule that all broadcasting privileges are held subject to the reasonable regulatory power of the United States . . ." [Italics supplied]; *Telegraph Herald Co. v. Federal Radio Comm.*, 66 F. (2d) 220, 222, 62 App. D. C. 240, 242.

³⁰ 289 U. S. 266.

³¹ (No. 7087, decided January 23, 1939) F. (2d) . . . App. D. C. . . .

³² *Nelson Bros. Bond & Mortgage Co. v. Federal Radio Comm.*, 62 F. (2d) 854, 855, 61 App. D. C. 315, 316.

³³ *Federal Radio Comm. v. Nelson Bros. Bond & Mortgage Co.*, 289 U. S. 266, 285. And, as Justice Groner said in *Sykes v. Jenny Wren Co.*, 78 F. (2d) 729, 734, 64 App. D. C. 379, 384: "Granting that those who operate broadcasting stations do so subject to the Commission's power of regulation, this power is not an unlimited power; and the Commission's licensees, who on the faith of the license have invested money and established a goodwill, thereafter undoubtedly have rights which, though they may be revoked in the public interest, nevertheless may not be arbitrarily or capriciously destroyed. . . . If it were otherwise, the millions of dollars invested in radio broadcasting stations would be wholly subject to the caprice or favor of the regulatory body. Such a grant of power would be so clearly unreasonable, so oppressive, and so partial as to make it unthinkable, without more, that the Congress ever intended to grant it. *Yick Wo v. Hopkins*, 118 U. S. 356 . . ."

³⁴ "A well-settled rule of statutory construction enjoins courts not to attribute to the Legislature a construction which leads to absurd results." *Red River Broadcasting Co., Inc. v. Federal Communications Comm.*, 98 F. (2d) 282, 287, 69 App. D. C. 1, 6, *cert. denied*, 305 U. S. 625. See *United States v. Katz*, 271 U. S. 354, 357; *Donnelly Garment Co. v. International Ladies' Garment Workers' Union*, 8 Cir., 99 F. (2d) 309, 317; *United States ex rel. Anderson v. Anderson*, 8 Cir., 76 F. (2d) 375, 378; *United States v. Oregon and California R. R.*, 164 U. S. 526, 539; *Lau Ow Bew v. United States*, 144 U. S. 47, 59.

³⁵ *United States v. Powers* (No. 687, decided May 15, 1939) U. S. . . . See *Bird v. United States*, 187 U. S. 118, 124; *Van Dyke v. Geary*, D. Ariz., 218 F. 111, 126; *Harris v. Bell*, 8 Cir., 250 F. 209, 217. . . .

³⁶ (No. 7087, decided January 23, 1939) F. (2d) . . . App. D. C. . . .

³⁷ *Great Western Broadcasting Assn., Inc. v. Federal Communications Comm.*, 94 F. (2d) 244, 68 App. D. C. 119; *Pulitzer Pub. Co. v. Federal Communications Comm.*, 94 F. (2d) 249, 68 App. D. C. 124.

³⁸ 78 F. (2d) 729, 64 App. D. C. 379.

³⁹ *Texas & Pacific Ry. v. Gulf, Colorado & Santa Fe Ry.*, 270 U. S. 266.

earn a reasonable return or the system will break down; thus indicating, as it seems to me, an identical or reciprocal interest between the owner and the public, in which it is the right of either to see that competition between stations is not carried to the point of destruction."

The Commission denies the applicability of the paraphrased language to radio broadcasting. It calls attention to the fact that in the Communications Act Congress specified a different method of regulation for common carriers engaged in interstate communication by radio than for radio broadcasters;⁴⁰ that broadcast licensees are expressly exempted, in the definition section of the Act, from the classification of common carriers;⁴¹ and that such a licensee "has unregulated discretion to determine the rates necessary to insure the profitable operation of his station in the area served." It refers to the decision of this court in *Pulitzer Pub. Co. v. Federal Communications Comm.*, 94 F. (2d) 249, 251, 68 App. D. C. 124, 126, in which we said that a radio broadcasting station is a public utility in a more restricted sense than a railroad or other common carrier and that the term, "public convenience, interest, or necessity," should be given a less broad meaning than is applied to it elsewhere in public utility legislation. It contends that in the regulation of radio broadcasting Congress intended that monopolies should be prevented rather than protected; that while under the Transportation Act, the power to regulate rates and the necessity of maintaining fair competition, resulted logically in requiring that a carrier should have a right to protest against regulatory action which produced economic injury, under the Communications Act "A station owner's rights are subject to the paramount authority of Congress to exercise reasonable regulation of broadcasting." And, the Commission concludes, the interpretation placed by the Supreme Court upon the Transportation Act cannot properly be applied by analogy to that portion of the Communications Act which deals with radio broadcasting as distinguished from radio communication for hire by a common carrier.

But in spite of these differences the two Acts contain vital similarities which make analogy proper, and the conclusion of the Commission is a *non sequitur*. Radio broadcasting, the subject of one, is affected with a public interest in fully equal measure as is railway transportation, the subject of the other. Congress recognized this fact by making the Communications Act speak in terms of the public interest from beginning to end. "There is no closed class or category of businesses affected with a public interest . . . the phrase . . . can, in the nature of things, mean no more than that an industry, for adequate reason, is subject to control for the public good."⁴² This court has said that the radio business is impressed with a public interest,⁴³ and, further, that Congress, in establishing the standard of public interest, convenience, and necessity, evidently had in mind that broadcasting should be of a public character rather than a mere adjunct of a particular business.⁴⁴ Rate fixing is only one of many regulatory procedures.⁴⁵ The fact that it is specified for carriers and not for broadcasters is by no means conclusive. In both Acts other forms of regulation are specified, which are closely similar; as for example, the power of the appropriate commission in each case to require adequate facilities.⁴⁶ The powers of regulation possessed by the Federal Communications Commission over broadcasters are comprehensive and inclusive;⁴⁷ and judicial review

⁴⁰ Communications Act, § 201 *et seq.*

⁴¹ Communications Act, § 3(h), 48 Stat. 1064, 1066.

⁴² *Nebbia v. New York*, 291 U. S. 502, 536; *Frost v. Corporation Comm.*, 278 U. S. 515, 520. See *Tyson and Brother v. Banton*, 273 U. S. 418.

⁴³ *Pulitzer Pub. Co. v. Federal Communications Comm.*, 94 F. (2d) 249, 251, 68 App. D. C. 124, 126.

⁴⁴ *KFKB Broadcasting Assn., Inc. v. Federal Radio Comm.*, 47 F. (2d) 670, 60 App. D. C. 79.

⁴⁵ Regulation has taken many forms: Federal regulation of labor conditions (*National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 1); limiting hours of labor in particular occupations (*Holden v. Hardy*, 169 U. S. 366); prohibiting child labor (*Sturges & Burn Mfg. Co. v. Beauchamp*, 231 U. S. 320); insuring compensation for industrial accidents (*New York Central R. R. v. White*, 243 U. S. 188); prohibiting night work for women (*Radice v. New York*, 264 U. S. 292), forbidding or regulating particular business (*Great Atlantic & Pacific Tea Co. v. Grosjean*, 301 U. S. 412, 426-427); establishing minimum wages for women (*West Coast Hotel Co. v. Parrish*, 300 U. S. 379); reducing hours of labor for women (*Muller v. Oregon*, 208 U. S. 412; *Miller v. Wilson*, 236 U. S. 373), requiring public weighing of grain (*Merchants Exchange v. Missouri ex rel. Barker*, 248 U. S. 365); regulating sales in bulk of stock in trade (*Lemieux v. Young*, 211 U. S. 489); providing for guarantee of bank deposits (*Noble State Bank v. Haskell*, 219 U. S. 104); prohibiting monopolies (*United Shoe Machinery Corp. v. United States*, 258 U. S. 451, 462-464; *United States v. Joint Traffic Assn.*, 171 U. S. 505, 559, 571-573); preventing unfair trade practices (*Federal Trade Comm. v. Klesner*, 274 U. S. 145, 151; *Federal Trade Comm. v. Raladam Co.*, 283 U. S. 643, 647); prescribing terms upon which business may contract (*Hardware Dealers Mut. Fire Ins. Co. v. Glidden Co.*, 284 U. S. 151).

⁴⁶ Transportation Act, 49 U. S. C. A. § 1 (21), 41 Stat. 474-478.

⁴⁷ The large scope of the Commission's regulatory powers includes the following: Power (§ 303) to classify stations; prescribe the nature of the service to be rendered by each class of stations and by each station within a class; assign frequencies to classes and to stations; determine the location of stations; regulate the apparatus to be used by each station; make regulations to prevent

of its actions is highly important just as it is in the case of the Interstate Commerce Commission.

In the regulation of radio broadcasting as distinguished from transportation or radio communication, Congress was dealing with a newer and less well established form of public service. As the Supreme Court said in the *Panama Refining* case:⁴⁸ "Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the national legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality, which will enable it to perform its function in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply." In some respects the powers delegated by Congress for the regulation of broadcasters are even more drastic than those possessed by the Interstate Commerce Commission over railroad carriers; notably the power of the Federal Communications Commission to issue licenses for short periods, and to require, each time, a full showing of financial and other qualifications, as a condition of renewal. Such a regulation applied to the railroads of the United States would probably soon disrupt them.

Congress had power to provide safeguards against destructive economic injury to existing licensees, and did so in both Acts, in order to secure a similar legislative purpose in each. In the case of the railroads Congress waited until the condition of many of them was desperate. The Commission argues that the Transportation Act and the recent Emergency Railroad Transportation Act⁴⁹ were intended "to administer oxygen to critical patients."⁵⁰ But in the case of radio broadcasters the intent of Congress was to anticipate and prevent desperate, chaotic conditions.⁵¹ The latter form of statesmanship is equally as commendable as the former, and may serve better the interests of the people. In both instances the privilege of free enterprise was curtailed.

In each case Congress has delegated the power to regulate public utilities in interstate commerce for the purpose of safeguarding a dual interest, involving a reciprocal and correlative relationship between the public and the owner of the utility. As between the two, the public interest is of greater importance. Therein lies the justification for governmental regulation, and for placing in the hands of such administrative agencies as the Federal Communications Commission powers, which if arbitrarily exercised, may destroy the very subject of regulation. It is entirely true, as the Commission in this case argues, that "A station owner's rights are subject to the paramount authority of Congress to exercise *reasonable regulation* of broadcasting." [Italics supplied] It is equally true that carriers are subject to *similar reasonable* regulation of transportation. But it would be absurd, in one case as well as in the other, to contend that Congress intended to permit such arbitrary and uncontrolled exercise of power as would destroy meritorious and respectable

interference between stations; establish areas or zones to be served by stations; make special regulations applicable to chain broadcasting; require stations to keep records of programs and transmissions of energy; prescribe qualifications of station operators; classify, license, and suspend licenses of such operators; inspect radio installations; designate call letters; require painting and/or illumination of radio towers; make such rules and regulations and prescribe such restrictions and conditions not inconsistent with law, as may be necessary to carry out the provisions of the Act; (§ 308) grant station licenses; modify and review licenses; specify the form of applications and require that they set forth information concerning citizenship, character, financial, technical and other qualifications of applicants, the ownership and location of proposed stations and other information; (§ 309) determine whether station licenses, the rights therein granted, and the authorized frequencies may be transferred, assigned, or otherwise disposed of; (§ 312) revoke licenses for failure to operate as set forth therein, or for violation of or failure to observe "any of the restrictions and conditions of this Act or of any regulation of the Commission authorized by this Act"; (§ 315) make rules and regulations to carry into effect the requirements of the Act that equal opportunities must be provided for use of candidates for public office; (§ 317) announcement of sponsorship of broadcast advertising; (§ 318) make special regulations governing the use and operation of automatic radio devices; (§ 319) grant construction permits; (§ 320) designate stations liable to interfere with distress signals and to require that a licensed radio operator be kept listening in for such signals "during the entire period the transmitter of such station is in operation." Prohibitions contained in the Act, with respect to which the Commission is empowered to adopt implementing rules and regulations, include (§ 316) prohibition against broadcasting any advertisement or information concerning any lottery, gift enterprise, or similar scheme; (§ 317) against broadcasting any matter for which service, money, or any other valuable consideration is paid without announcing that it is so paid for or furnished and by whom; (§ 326) against the uttering of obscene, indecent, or profane language by means of radio communication.

⁴⁸ *Panama Refining Co. v. Ryan*, 293 U. S. 388, 421.

⁴⁹ Act of June 16, 1933, 48 Stat. 211, 49 U. S. C. A. § 250 *et seq.* (Supp. 1938).

⁵⁰ *Louisville & N. R. Co. v. United States*, N. D. Ill., E. D., 10 F. Supp. 185, 192.

⁵¹ *General Electric Co. v. Federal Radio Comm.*, 31 F. (2d) 630, 633, 58 App. D. C. 386, 389: "Without such national regulation of radio, a condition of chaos in the air would follow, and this peculiar public utility, which possesses such incalculable value for the social, economical, and political welfare of the people, and for the service of the government, would become practically useless."

licensees which had been thus selected to serve the public interest and to achieve the major purpose of each Act. We said in *Journal Co. v. Federal Radio Comm.*, that "The installation and maintenance of broadcasting stations involve a very considerable expense. Where a broadcasting station has been constructed and maintained in good faith, it is in the interests of the public and common justice to the owner of the station that its status should not be injuriously affected, except for compelling reasons."⁵²

The Commission attempts to support its position by arguing that "one of the chief concerns of Congress, as evidenced by the reports and debates, was to guard against monopolies and to preserve competition." It is difficult to understand how this result could be achieved by deliberately or carelessly licensing so many new competing stations as to destroy already existing ones, and possibly the newly created ones as well. While it is true that it was the intention of Congress to preserve competition in broadcasting, and while it is true that such intention was written into Section 314 of the Communications Act, it certainly does not follow therefrom that Congress intended the Commission to grant or deny an application in any case, other than in the interest of the public. Just as a monopoly—which may result from the action of the Commission in licensing too few stations—may be detrimental to the public interest, so may destructive competition, effected by the granting of too many licenses. The test is not whether there is a monopoly, on the one hand, or an overabundance of competition, on the other, but whether the granting or denying of the application will best serve the interest of the public.

In order to attain the purposes of the Act, the Commission must assume the full responsibility cast upon it by Congress with respect to each applicant and each protesting licensee. In order to insure full assumption of that responsibility and full performance of its duty, in situations such as exist in the present case, Congress made the Commission's action subject to judicial review. In the absence of such possibility of review the Commission—while admitting its duty—could arbitrarily avoid it; thus indulging in an abusive exercise of its administrative discretion. While the Commission was largely occupied, in its earlier years, with finding qualified licensees and controlling electrical interference; now a new problem has developed, which is just as important as electrical interference and which the Commission must meet and solve. The rapidly increasing number of stations and the resulting competition for advertising as well as program "talent" has just as dangerous possibilities as electrical interference. The public interest requires not merely that a maximum quantity of minimum quality service shall be given. If competition is permitted to develop to that extent, then "the larger and more effective use of radio in the public interest"⁵³ cannot be achieved.

The method of uncontrolled competition argued for by the Commission in the present case is in fact one way of creating monopolies. If it were allowed to go on unrestrained, according to its theory of non-reviewable arbitrary power, none but a financial monopoly could safely exist and operate in the radio broadcasting field. The Commission justifies its action in the present case, and justifies its contention in theory, by assuming that if a chain, operating several broadcasting stations, or a company which owns both newspapers and broadcasting stations, is able to carry one of them financially, even though the latter station is not able to support itself, then the latter cannot protest against destructive competition. The result of this policy might well be to destroy or frighten from the radio broadcasting industry, any independent station attempting to operate on its own resources; and to leave in the field only monopolies which were sufficiently supported financially to withstand the destructive competition which might result from arbitrary, careless action upon the part of the Commission in the granting of new station licenses. It was undoubtedly with just such considerations of possible arbitrary administrative action in mind that Congress provided for judicial review under the Communications Act on behalf of any person aggrieved or whose interests are adversely affected; as it likewise did under the Transportation Act. In each instance the remedy is statutory in character, and in each instance designed to protect rights and equities also deriving from statutes in derogation of the common law.⁵⁴

⁵² 48 F. (2d) 461, 463, 60 App. D. C. 92, 94. See *Evangelical Lutheran Synod v. Federal Communications Comm.*, (No. 7224, decided June 26, 1939) F. (2d) , App. D. C.

⁵³ Section 303(g).

⁵⁴ *Western Pacific California R. R. v. Southern Pacific Co.*, 284 U. S. 47, 51; *St. Louis Southwestern Ry. v. Missouri Pacific R. R.*, 289 U. S. 76, 81-83. The language of par. 20 of Section 1 of the Transportation Act, 49 U. S. C. A. § 1, par. 20, is no broader than that of Section 402(b)(2) of the Communications Act, 47 U. S. C. A. § 402(b)(2). Suit may be filed by "any party in interest." See *Claiborne-Annapolis Ferry Co. v. United States*, 285 U. S. 382; *Detroit & M. Ry. v. Boyne City, G. & A. R. R.*, E. D. Mich. N. D., 286 F. 540; *Bremner v. Mason City & C. L. R. R.*, D. Del., 48 F. (2d) 615.

We come then to the next important question, *i.e.*, whether appellant has assigned sufficient reasons of appeal to give this court jurisdiction. The Supreme Court has held that the jurisdiction of a district court is to be "determined by the allegations of the bill, and usually if the bill or declaration makes a claim that if well founded is within the jurisdiction of the Court it is within that jurisdiction whether well founded or not."⁵⁵ Similarly, our jurisdiction on appeal under the Communications Act depends upon whether reasons of appeal are assigned, which, if well founded, would show that the appellant is a person aggrieved or whose interests are adversely affected by the decision of the Commission from which the appeal is taken.⁵⁶ If, however, upon an examination of the record we find that the appellant is not a person aggrieved or adversely affected by the order of the Commission, it then becomes our duty to dismiss the appeal. *Woodmen of the World Life Ins. Co. v. Federal Communications Comm.*, (No. 7208, decided April 17, 1939) F. (2d) , App. D. C.

We have held that the reasons assigned in the *Sanders Brothers* case⁵⁷ were sufficient to furnish proper grounds of contest on appeal upon the issue of "economic injury to an existing station through the establishment of an additional station." In that case the reasons given showed (1) that the appellant was a licensee under the Act; (2) that it was engaged in the operation of a broadcasting station; (3) that the Commission had granted an application for a competing station license; (4) that the operation of the proposed station would necessarily result in such severe loss of operating revenue as to impair the service rendered by appellant; and (5) destroy its ability to render proper service in the public interest. Such a showing is sufficient to present the issue on appeal.

In the present case the following reasons for appeal were assigned:

1. The Commission erred as a matter of law in failing to find and conclude and on the basis of such conclusion to sustain the claim of appellant (successor to and assignee of protestant before the Commission) that the financial and economic interests of Station WAAB would be adversely affected by the establishment and operation of an additional regional station in Boston.

2. The conclusion that "the protestants have failed to sustain their respective protests" is arbitrary and capricious on the record as a whole, and specifically so, in holding:

(a) "The protestants have failed to establish facts to show that operation by the applicant, as proposed, would adversely affect their economic interests. There is nothing in the record indicating that the entry of the applicant into the regional field would so affect the economic welfare of the protestants, or any of them, as to have any ultimate effect whatsoever on the public interest, convenience and necessity"; and,

(b) "The charge that the granting of the application under consideration would increase competition wherein the protestants will be involved and will inflict upon them pecuniary loss is mostly a matter of conjecture; and the testimony offered to sustain the charge leaves the prospect so problematic as not to furnish a present substantial basis for the protests made or for any sound judgment based thereon"; and,

(c) "Station WMEX, operating as proposed and the protesting stations in the Boston area operating as at present, would serve to a large extent the same territory; and the protestants contend that if the applicant becomes a regional station and enters into competition with them for regional business, it will adversely affect their economic interests; but the protestants failed to develop any facts sufficient to indicate the extent of the competition that might result from the granting of the application or to show the effect of that competition upon the business of the protestants."

The foregoing statement of reasons fails to present an issue as to whether the anticipated competition will necessarily result in such severe loss of operating revenue as to impair the service rendered by appellant, or whether it will destroy appellant's ability to render proper service in the public interest. It falls far short, therefore, of the reasons which, on the record presented in the *Sanders Brothers* case, we held to be sufficient. In no event should the statement in the present case be regarded as a model for the future. However,

⁵⁵ *Utah Fuel Co. v. National Bituminous Coal Comm.*, 306 U. S. 56, 60. See also, *Levering & Garrigues Co. v. Morrin*, 289 U. S. 103, 105; *Moore v. Chesapeake & Ohio Ry.*, 291 U. S. 205, 210; *South Covington & Cincinnati Street Ry. v. Newport*, 259 U. S. 97, 99-100.

⁵⁶ *Sanders Brothers Radio Sta. v. Federal Communications Comm.* (No. 7087, decided January 23, 1939) F. (2d) , App. D. C. , and cases there cited; *Stuart v. Federal Communications Comm.*, (No. 7248, decided June 12, 1939) F. (2d) , App. D. C.

⁵⁷ (No. 7087, decided January 23, 1939) F. (2d) , App. D. C.

reason numbered 2(a) does at least suggest the issue, and we will consider it as sufficient, solely for the purposes of this appeal.⁶⁸

The Commission contends, however, that even if destructive economic competition may constitute a sufficient basis for contest on appeal, the appellant has failed to show any such injury in fact. Upon this point the Commission made the following findings, which for convenience we number:

1. "Shepard Broadcasting Company, Inc. (WNAC), Boston, operates on 1230 kilocycles with 1 kilowatt night and 5 kilowatts day; Bay State Broadcasting Corporation (WAAB), Boston, on 1410 kilocycles with 500 watts day and night; Massachusetts Broadcasting Corporation (WCOP), Boston, on 1120 kilocycles with 500 watts daytime only; and WLAC, Inc., Nashville, Tennessee, on 1470 kilocycles with 5 kilowatts, day and night."

2. "Station WMEX, operating as proposed [1470 kilocycles, 5 kilowatts unlimited] and the protesting stations in the Boston area operating as at present, would serve to a large extent the same territory; and the protestants contend that if the applicant becomes a regional station and enters into competition with them for regional business, it will adversely affect their economic interests; but the protestants failed to develop any facts sufficient to indicate the extent of the competition that might result from the granting of the application or to show the effect of that competition upon the business of the protestants."

3. "The Census of Business Radiobroadcasting for Boston (1935) when seven stations were operating, shows that their net sales of time amounted to \$1,649,000; that \$895,000 were for local service and \$754,000 were for national and regional service. Station WMEX is already in the field competing for a part of the radio revenue to be derived therefrom. If it becomes a regional station, it will raise its service rates. (And if a redistribution of regional advertising should occur the reasons therefor would, no doubt, also tend toward a realignment of local advertising.) The protestants have failed to establish facts to show that operation by the applicant, as proposed, would adversely affect their economic interests to any greater extent than operation by the applicant, at present, adversely affects their economic interests. There is nothing in the record indicating that the entry of the applicant into the regional field would so affect the economic welfare of the protestants, or any of them, as to have any ultimate effect whatsoever on the public interest, convenience and necessity."

4. "In the protest of Shepard Broadcasting Service, Inc. (WNAC), it is claimed that if the application is granted, Station WMEX will become a direct competitor of the protestant for advertising patronage as well as a direct competitor for listener audience and attention; that such competition will tend to decrease the income of the protestant or to make it more difficult for protestant to sell time on its station; and that the value of Station WNAC as an advertising medium will thus be depreciated."

5. "The protest of Bay State Broadcasting Corporation (WAAB) is similar to that of Shepard Broadcasting Service, Inc."

6. "The protest of the Massachusetts Broadcasting Corporation (WCOP) states that the granting of the application will work an economic hardship on that protestant. The Shepard Broadcasting Service, Inc., filed no statement of profit and loss account. Bay State Broadcasting Corporation filed a statement covering a period of 34 weeks ending on September 26, 1936, and showing a loss of \$24,213.22. Massachusetts Broadcasting Corporation introduced a statement covering a period of 7 months ending on January 31, 1937 showing a net loss for the period in the amount of \$1,750.19."

7. "The charge that the granting of the application under consideration would increase competition wherein the protestants will be involved and will inflict upon them pecuniary loss is mostly a matter of conjecture; and the testimony offered to sustain the charge leaves the prospect so problematic as not to furnish a present substantial basis for the protest made or for any sound judgment based thereon."

Except for number seven, these findings are sufficient to support the determination of the Commission, adverse to the contention of the appellant. Number seven is ambiguous. Standing alone and read literally it suggests that the Commission was unable to determine the issue presented by appellant and the other protestants. The Supreme Court has said that it is not the duty of a reviewing court to "... search the record to ascertain whether, by use of what there may be found, general and ambiguous statements in the report intended to serve as findings may by construction be given a meaning sufficiently definite and certain to constitute a valid basis for the order."⁶⁹ That court has also said, "We must know

what a decision means before the duty becomes ours to say whether it is right or wrong."⁶⁹ The use in finding number seven of language similar to that used by us in *WGN, Inc. v. Federal Radio Comm.*, 68 F. (2d) 432, 62 App. D. C. 385, cannot excuse its ambiguity and inadequacy. In that case the language was used to indicate the *insufficiency* of a statement of reasons on appeal. However, in view of the clear and unequivocal statements contained in findings two and three, there is sufficient basis for the Commission's determination. In fact, it was only by incorporating and denying those statements, in its reasons for appeal, that appellant succeeded in presenting the issue to us.

Moreover, we are unable to accept appellant's contention that the findings of the Commission are arbitrary and capricious. It is true that the evidence is susceptible of other conclusions than those drawn from it by the Commission; but that is not determinative. Neither is it material that this court might have arrived at other conclusions. As was recently said by the Supreme Court in *Rochester Telephone Corp. v. The United States*, (No. 481, decided April 17, 1939) U. S. : "So long as there is warrant in the record for the judgment of the expert body it must stand. . . . Having found that the record permitted the Commission to draw the conclusion that it did, a court travels beyond its province to express concurrence therewith as an original question. 'The judicial function is exhausted when there is found a rational basis for the conclusions approved by the administrative body.'"⁶⁴ To hold otherwise would be to substitute the judgment of the court for that of the Commission.⁶⁵ The record as a whole reveals a substantial basis both for the Commission's findings and for its determination. This being true they are neither arbitrary nor capricious.

We have carefully examined appellant's other contentions, but in the view we take of the case we find it unnecessary to decide the questions presented therein.

Appeal dismissed.

STEPHENS, Associate Justice, concurs in the result.

⁶⁰ *United States v. Chicago, Milwaukee, St. Paul & Pacific R. R.*, 294 U. S. 499, 511.

⁶¹ See also, *Mississippi Valley Barge Line Co. v. United States*, 292 U. S. 282, 286-287.

⁶² *Swayne & Hoyt, Ltd. v. United States*, 300 U. S. 297, 304; *Florida v. United States*, 292 U. S. 1, 12; *Federal Trade Comm. v. Pacific States Paper Trade Assn.*, 273 U. S. 52, 63; *Federal Trade Comm. v. Algoma Lumber Co.*, 291 U. S. 67, 73; *National Labor Relations Bd. v. Pennsylvania Greyhound Lines, Inc.*, 303 U. S. 261, 270, 271; *Agwilines, Inc. v. National Labor Relations Bd.*, 5 Cir., 87 F. (2d) 146, 151: "It was therefore for the Board, where the evidence offered a reasonable choice, to draw its own inferences and conclusions. If the evidence reasonably admitted of the conclusions they drew, we are bound by them. We may not, by substituting our own conclusions for the ones they drew, reverse theirs unless those conclusions are clearly improper, that is, the evidence affords no reasonable basis for them." See also, *Leach v. Carlile*, 258 U. S. 138, 140; *Farley v. Heiminger*, (7240, decided April 17, 1939) F. (2d) App. D. C.

FREE OFFERS

Two advertising agencies have withdrawn cost-per-inquiry proposals as a result of notification from the NAB that acceptance would constitute violation of the NAB Code of Ethics.

They were the Western Agency, Inc., Seattle, and the A. N. Baker Advertising Agency, Inc., Chicago.

The NAB is investigating a transcription offer from the Cadle Tabernacle, Indianapolis, and expects to have information available within a few days.

Lucien Lelong, Inc. (cosmetics), "Mademoiselle" (magazine), and the Kerr Glass Manufacturing Corporation (fruit jars) have sent out scripts, the use of which would constitute code violation.

"Congressional Intelligence," a Washington publication, is offering a "Washington column" in return for a plug.

The NAB has advised the Pruitt Company, Chicago, that most broadcasters feel it would be poor business

⁶⁸ See *Great Western Broadcasting Assn. v. Federal Communications Comm.*, 94 F. (2d) 244, 68 App. D. C. 119; *Pulitzer Pub. Co. v. Federal Communications Comm.*, 94 F. (2d) 249, 68 App. D. C. 214.

⁶⁹ *Atchison, Topeka & Santa Fe Ry. v. United States*, 295 U. S. 193, 201.

practice to give a discount on advertising in return for a discount on office machinery.

ROSENBAUM SUGGESTS CHANGES IN OPERATOR REQUIREMENTS

Sam Rosenbaum, WFIL, chairman of the NAB Labor Committee, has suggested modification of the FCC requirements for renewal of operators' licenses.

In a letter to the FCC, Mr. Rosenbaum stated that it appeared that "the scope of the present knowledge requirements covered by the examination questions is incompatible with the nature of the work demanded of the majority of present radio operators" and that "a required service record of three out of five years (at the transmitter) for technical men constantly in the employ of a broadcast station and receiving intermittent transmitter operation experience interspersed with their studio work, seems to be too strict a requirement."

Mr. Rosenbaum suggested the following modification:

"For the renewal of first and second class Radio-telephone broadcast licenses with respect to operators employed on the technical staffs of broadcast stations, at least fifteen percent of the employed time shall be devoted yearly to transmitter operation over the period of the license term; or at least fifteen percent of the employed time during any four year period of the license term; or twenty percent during any three years except that the last year of the license period shall be considered as one of the years; or twenty-five percent during two years, the last year of which shall be counted as one of the years; or fifty percent of the last year prior to application for renewal, or a total of one (1) year in the aggregate over the period of the entire license term plus ninety days within the last six months prior to the date of application for renewal.

In all cases, in computing percentages, the last year of the license term shall be considered as having ten months because the application date for renewal of licenses is sixty days prior to expiration."

The pattern and effect of the above may be more conveniently studied in the following tabulations:

Service Record Requirements for the Renewal of Radio-telephone first and second class Operators Licenses

<i>Transmitter Operation</i>	<i>Aggregate</i>
1) 15% of the time per year for the 5 yr. license term	9 months
2) 15% of the time per year for any 4 yrs. of the license term	9 "
3) 20% of the time per year for any 3 yrs. of the license term except that the last year shall be counted as one of the years	6.8 "
4) 25% of the time during 2 yrs., the last yr. of which shall be counted as one of the years	5.5 "
5) 50% of the time of the last year prior to renewal	5.0 "
6) or, 1 year in the aggregate over the 5 year period plus 90 days during the last six months prior to renewal application	14 "

BROADCAST MEASUREMENTS

During the month of July officials of the Federal Communications Commission measured 705 broadcast stations. Of this number 629 showed a maximum deviation within 0-10 cycles; 69 stations a deviation of 11-25 cycles; 6 a maximum deviation within 26-50 cycles and one station showed a deviation of over 50 cycles.

August 25, 1939

FEDERAL COMMUNICATIONS COMMISSION DOCKET

No broadcast hearings are scheduled to be held at the Commission during the week beginning Monday, August 28.

No date for a regular meeting has been designated. It is not expected, however, that a meeting will be held until after Labor Day.

FUTURE HEARINGS

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

October 2

NEW—George Penn Foster, Maxwell Kelch and Calvert Charles Applegate, d/b as Nevada Broadcasting Co., Las Vegas, Nev.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Las Vegas Broadcasting Co., Inc., Las Vegas, Nev.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

October 3

WSVS—Elmer S. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Renewal of license, 1370 kc., 50 watts, specified hours.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Modification of license, 1370 kc., 100 watts, 250 watts LS, unlimited time (requests facilities of WSVS). Present assignment: 1370 kc., 100 watts, 250 watts LS; time: all hours except those WSVS operates.

October 4

NEW—Publix Bamford Theatres, Inc., Asheville, N. C.—C. P., 1430 kc., 1 KW, unlimited time (DA night).

FEDERAL COMMUNICATIONS COMMISSION ACTION

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KARK, Little Rock, Ark.; KFDM, Beaumont, Tex.; KFEL, Denver; KFRC, San Francisco; KFRU, Columbia, Mo.; KFUD, Clayton, Mo.; KFYR, Bismarck, N. Dak.; KGHL, Billings, Mont.; KHQ, Spokane, Wash.; KOMO and auxiliary, Seattle; KMJ, Fresno, Calif.; KPOF, Denver; KSFO, San Francisco; WDEV, Waterbury, Vt.; WELL, New Haven, Conn.; WFIL and auxiliary, Philadelphia; WEAN, Providence, R. I.; WICC, Bridgeport, Conn.; WJAR and auxiliary, Providence, R. I.; WKBN, Youngstown, Ohio; WLBL, Stevens Point, Wis.; WORL, Boston; KMTR, Los Angeles; WCAO and auxiliary, Baltimore, Md.; WQAM and auxiliary, Miami, Fla.; WSYR-WSYU, Syracuse, N. Y.; WWJ and auxiliary, Detroit, Mich.

The following stations were granted renewal of licenses for the period ending February 1, 1940:

KTHS, Hot Springs National Park, Ark.; WIBC, Indianapolis, Ind.; WKAR, East Lansing, Mich.
KVGB—Helen Townsley, Great Bend, Kans.—Granted renewal of license for the period ending January 1, 1940.

MISCELLANEOUS

WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.; NEW—Copper County Broadcasting Co., Hancock, Mich.—Adopted final order, effective August 20, granting the application of WHDF for modification of license to authorize full-time operation on frequency 1370 kc. instead of specified hours, and denying application of Copper County Broadcasting Co. for a new station to operate on 1370 kc., 250 watts day and 100 watts night, unlimited time.

NEW—Suffolk Broadcasting Corp., Suffolk, Va.—Adopted final order, effective August 20, granting the application of Suffolk Broadcasting Corp. for a new station to operate on 1420 kc., 100 watts night, 250 watts LS.

WHMA—Harry M. Ayers, Anniston, Ala.—Adopted final order, effective August 20, granting the application of WHMA for modification of license to change hours of operation from daytime only to unlimited, on 1420 kc., 100 watts.

KPLT—North Texas Broadcasting Co., Paris, Tex.—Adopted proposed findings issued on July 13, 1939, and entered final order granting modification of license of KPLT to change power from 250 watts daytime on 1590 kc. to 100 watts night, 250 watts LS, on same frequency.

W1XOJ—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to test high frequency broadcast equipment of station W1XOJ authorized by modification of C. P. on frequency 43000 kc., with power not to exceed 2 KW, for the period August 18 to September 16, in order to make adjustments on equipment installed and for tuning and adjustments of antenna elements which are now assembled for erection atop 400-foot mast.

WSAI—The Crosley Corp., Cincinnati, Ohio.—Granted special temporary authority to operate a 50-watt portable transmitter with 100-foot vertical antenna, on the frequency 1360 kc., at the proposed location of WSAI, for a period of 30 days, during the hours of 7 a. m. to 6 p. m., EST, in order to make preliminary field survey of proposed site.

WMEF-WEJW—National Broadcasting Co., Inc., New York City.—Granted special temporary authority to utilize relay broadcast stations WMEF and WEJW for the period August 19 to August 24, to transmit program material by radio station WMFF describing Army maneuvers as occasion requires for broadcast over radio station WMFF.

WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Granted special temporary authority to operate from 5 to 6 a. m., CST, for the period September 1 to September 23, in order to conform with adoption of Daylight Saving Time in Chicago.

WELI—City Broadcasting Corp., New Haven, Conn.—Granted extension of special temporary authority to operate station WELI on 930 kc., with 500 watts, daytime only, at Benham Road and Paradise Ave., Hamden, Conn., for the period August 22 and until such time as proof of performance of the directional antenna system is submitted and approved by the Engineering Department but ending in no event later than September 21, and to operate with either DA or non-DA during same period in order to make comparisons and expedite field intensity survey.

KGEK—Elmer G. Beehler, Sterling, Colo.—Granted special temporary authority to operate from 1:30 to 3 p. m., MST, August 23, 24 and 25, in order to broadcast the main part of the Logan County Fair and Rodeo from Sterling Fair Grounds.

WAGM—Aroostook Broadcasting Corp., Presque Isle, Maine.—Granted special temporary authority to operate from 10 to 11 a. m. and 2 to 4 p. m., EDST, on August 28, 29, 30 and 31, 1939, in order to broadcast events of the Northern Maine Fair.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate unlimited time for the period August 30, 1939, to September 10, 1939, and from 2 to 3 p. m., EST, on Saturdays, September 16 and 23, 1939; from 8:30 to 10 a. m. and 2 to 3 p. m., EST, on Sundays, September 17 and 24, 1939, in order to broadcast programs as described in letter dated August 15, 1939.

WBRY—American-Republic, Inc., Waterbury, Conn.—Granted extension of special temporary authority to operate with the present two-unit directional antenna in accordance with the experimental authority granted under license, for the period August 31 to September 29, 1939, in order to determine necessary steps to change from a special broadcast to a standard broadcast station.

WCLE—Cleveland Radio Broadcasting Corp., Cleveland, Ohio.—Granted special temporary authority to operate from local sunset (August, 7:30 p. m., EST) August 22, 1939, until conclusion of the night baseball games for the purpose of broadcasting game.

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Granted modification of C. P. to change transmitter location to 583 Meserole St., Brooklyn, N. Y. (local move of approximately two blocks (1000 ft.), and extend commencement date to 30 days after grant and completion date to 90 days thereafter; towers to be marked in accordance with Sec. 3.45(d); granted conditionally.

KAND—Navarro Broadcasting Association, Corsicana, Tex.—Adopted final order, effective August 22, denying application for authority to install new equipment and operate with power of 250 watts daytime, and granting the application for authority to operate station KAND unlimited time, with its present power of 100 watts.

WLW—The Crosley Corp., Cincinnati, Ohio.—Granted C. P. to make changes in transmitting equipment.

KFDA—Amarillo Broadcasting Corp., Amarillo, Tex.—Granted license to cover C. P. authorizing new station to operate on 1500 kc., 100 watts, unlimited time.

KVAK—Carl Lastenser, Atchison, Kans.—Granted license to cover C. P. authorizing new station to operate on 1420 kc., 100 watts, daytime only.

WCNC—Albemarle Broadcasting Co., Elizabeth City, N. C.—Granted modification of C. P. approving transmitter and studio sites, changes in approved transmitter and installation of a vertical radiator.

NEW—WAVE, Inc., Louisville, Ky., Portable-Mobile.—Granted C. P. for new relay broadcast station, frequencies 1622, 2058, 2150 and 2790 kc., 50 watts.

WTOC—Savannah Broadcasting Co., Savannah, Ga.—Granted modification of C. P. extending completion date to November 19, 1939.

KXOX—Sweetwater Radio, Inc., Sweetwater, Tex.—Granted modification of C. P. for changes in equipment and approval of transmitter site; antenna system authorized to be determined by C. P. which authorized a new station to operate on 1210 kc., 250 watts, daytime only.

WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted extension of special temporary authority to operate from 9 to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for the period August 31 to September 29, in order to broadcast educational programs.

W3XO—Jansky & Bailey, Washington, D. C.—Granted special temporary authority to test the high frequency broadcast equipment of station W3XO, as described in application for modification of C. P., on frequency 43200 kc., with power of 1 KW, for a period not to exceed 30 days, to conduct frequency modulation tests on this frequency.

KOIN—KOIN, Inc., Portland, Ore.—Granted motion to dismiss without prejudice application for modification of license to operate with 5 KW day and night.

WMRO—Martin B. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts only from local sunset (August 7 p. m., CST) until 9 p. m., CST, August 23, in order to broadcast civic music and entertainment.

WCLE—Cleveland Radio Broadcasting Corp., Cleveland, Ohio.—Granted special temporary authority to operate from local sunset (September 6:45 p. m., EST) to 7 p. m., EST, on September 1, 4, 6, 8, 11, 13, 15, 18, 20, 22, 25, 27 and 29, in order to continue to carry the "Lone Ranger" program.

WQDM—Regan and Bostwick, St. Albans, Vt.—Granted temporary extension of license for period of two months ending November 1, 1939, subject to whatever action may be taken on renewal application.

KVNU—Cache Valley Broadcasting Co., Inc., Logan, Utah.—Granted temporary extension of license for period of one month ending October 1, 1939.

APPLICATIONS FILED AT FCC

610 Kilocycles

WIOD-WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—Construction permit to install new transmitter, directional antenna for day and night use, and increase power from 1 to 5 KW, move transmitter from 18th Ave. and 32nd St. to Northside of 79th Street, Causeway, Miami, Florida.

680 Kilocycles

KFEQ—KFEQ, Inc., St. Joseph, Mo.—Construction permit to install new transmitter, directional antenna for night use, increase power from 500 watts, 2½ KW-LS to 5 KW, hours of operation from daytime (LS at San Francisco, Calif.), to unlimited time, and move transmitter from Pickett Road, 5¾ miles S. E. of St. Joseph, Mo., to 5¼ miles N. N. E. of St. Joseph, Mo.

890 Kilocycles

KFNF—KFNF, Inc., Shenandoah, Iowa.—Authority to determine operating power by direct measurement of antenna power.

1010 Kilocycles

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Modification of C. P. (B5-P-1712) as modified, for a new transmitter, install directional antenna for day and night use, increase power, move of transmitter, requesting extension of completion date from 9-24-39 to 11-24-39.

1200 Kilocycles

KAST—Astoria Broadcasting Co., Astoria, Ore.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WFTC—Jonas Weiland, Kinston, N. C.—Modification of license to increase power from 100 watts, 250 watts day to 250 watts day and night.

WOLS—O. Lee Stone, Florence, S. C.—Construction permit make changes in equipment and increase power from 100 to 250 watts.

1210 Kilocycles

WJTN—James Broadcasting Co., Inc., Jamestown, N. Y.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WCOU—Twin City Broadcasting Co., Inc., Lewiston, Maine.—License to cover C. P. (B1-P-2317) to install new equipment and increase power.

KANS—The KANS Broadcasting Co., Wichita, Kans.—Construction permit for equipment changes, increase power from 100 watts to 250 watts.

WHBU—Anderson Broadcasting Corp., Anderson, Ind.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WGRM—P. K. Ewing, Grenada, Miss.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

1280 Kilocycles

WTNJ—WOAX, Inc., Trenton, N. J.—Construction permit to install auxiliary transmitter for emergency use only.

1300 Kilocycles

NEW—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Construction permit for a new station on 1300 kc., 1 KW power, unlimited time, using directional antenna day and night.

1310 Kilocycles

KFYO—Plains Radio Broadcasting Co., Lubbock, Texas.—Construction permit to install new transmitter and vertical antenna, change frequency from 1310 to 1380 kc., increase power from 100 watts, 250 watts LS to 500 watts; 1 KW LS, and move transmitter from 2312 Fifth St., Lubbock, Texas, to site to be determined, in or near Lubbock, Texas.

WJPR—John R. Pepper, Greenville, Miss.—Modification of C. P. (B3-P-2312) for new station, requesting approval of antenna and approval of transmitter site at State Road No. 1, at Levee, Greenville, Miss., and move studio from 808 Harvey St., to Washington and Hinds Sts., Greenville, Miss.

WCLS—WCLS, Inc., Joliet, Twp., Ill.—Modification of C. P. (B4-P-2404) for equipment changes and antenna changes, move of transmitter, further requesting changes in equipment, and increase in power from 100 to 250 watts, change hours of operation from specified hours to unlimited. Extend commencement and completion dates, 90 days after grant and 90 days thereafter.

WCMI—Ashland Broadcasting Co., Ashland, Ky.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1370 Kilocycles

WMGA—Frank R. Pidcock, Sr., Moultrie, Ga.—Modification of construction permit (B3-P-2390) for a new station, requesting approval of antenna and installation of new transmitter, and approval of studio and transmitter site at State Route 37, N. E. of Moultrie, Georgia.

WGBR—Eastern Carolina Broadcasting Co., Goldsboro, N. C.—Authority to determine operating power by direct measurement of antenna power.

WGBR—Eastern Carolina Broadcasting Co., Goldsboro, N. C.—License to cover C. P. (B3-P-2043) as modified, for new station.

WGL—Westinghouse Radio Stations, Inc., Baltimore, Md.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WLLH—Merrimac Broadcasting Co., Inc., Lowell, Mass.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WHLS—Harmon LeRoy Stevens and Herman LeRoy Stevens, d/b as Port Huron Broadcasting Co., Port Huron, Mich.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

KRMC—Robert McNab Co. (A. L. Roberts, R. B. McNab, A. J. Brietbach, Gen. Manager), Jamestown, N. Dak.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

1400 Kilocycles

WARD—United States Broadcasting Corp., Brooklyn, N. Y.—Modification of construction permit (B1-P-2254) for new equipment, new antenna, and move of transmitter, further requesting authority to move from 204 Scholes St., to 583 Meserole St., Brooklyn, N. Y., and extend commencement and completion dates 30 and 90 days respectively.

WLTH—Voice of Brooklyn, Inc., New York, N. Y.—Construction permit to move transmitter from 2568 Flatbush, Brooklyn, N. Y., to Provost and Huron Sts., Brooklyn, N. Y.

WIRE—Indianapolis Broadcasting, Inc., Indianapolis, Ind.—Modification of license to increase power from 1 KW; 5 KW LS to 5 KW day and night, make changes in present directional antenna system, for use nighttime only.

KTUL—Tulsa Broadcasting Co., Inc., Tulsa, Okla.—Modification of license to increase power from 1 KW; 5 KW LS to 5 KW day and night. Using directional antenna at night.

1420 Kilocycles

KWAL—Chester J. Howarth and Clarence Berger, Wallace, Idaho.—Modification of C. P. (B5-P-1967) as modified, for a new station, requesting changes in transmitting equipment, move of studio from U. S. Highway No. 10, between Wallace and Kellog, Idaho, to Samuels Hotel, Wallace, Idaho.

WMAS—WMAS, Inc., Springfield, Mass.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

1430 Kilocycles

KINY—Edwin A. Kraft, Seattle, Wash.—Modification of construction permit (B5-P-2401) for changes in equipment and increase in power, requesting further changes in equipment.

1480 Kilocycles

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

1500 Kilocycles

WOPI—Radiophone Broadcasting Station WOPI, Inc., Bristol, Tenn.—Modification of construction permit (B3-P-2413) for installation of new transmitter, antenna changes, increase in power from 100 watts to 100 watts, 250 watts LS, move of transmitter, further requesting authority to increase power to 250 watts day and night.

WKIN—Kingston Broadcasting Corp., Ulster Twp., N. Y.—Modification of construction permit (B1-P-2112) for a new station, requesting changes in transmitting equipment, approval of antenna, and approval of studio and transmitter site at Plainfield St., Ulster Twp., N. Y.

WOMI—Owensboro Broadcasting Co., Owensboro, Ky.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

MISCELLANEOUS

XXXXX—King-Trendle Broadcasting Corp., Detroit, Mich.—Extension of authority to transmit programs from Station WXYZ to stations of Canadian Broadcasting Corporation, period beginning 10-16-39.

NEW—WHEC, Inc., New York, N. Y.—Construction permit for new high frequency broadcast station on 42600 kc., 1 KW power special emission, site to be determined, New York, antenna to be determined.

WSLA—World Wide Broadcasting Corp., Boston, Mass.—Construction permit to change present location of transmitter from 70 Brookline Ave., Boston, Mass., to new site known as Hatherly Beach, near the town of Scituate, Mass.

NEW—The May Department Stores Co., Los Angeles, Calif.—Construction permit for a new television broadcast (experimental) station on frequencies 78000-84000 kc., aural and visual, power 1 KW, emission A3 and A5, to be located at Wilshire Boulevard at Fairfax St., Los Angeles, Calif.

XXXXX—Mutual Broadcasting System, Inc., Chicago, Ill.—Extension of authority to transmit programs to Station CKLW, stations owned and operated by the Canadian Broadcasting Corp., and stations licensed by the Canadian Minister of Transport.

WNEI—WFBM, Inc., Portable-Mobile, area of Indianapolis, Ind.—Modification of C. P. (B4-PRY-157) for changes in equipment.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

Dearborn Sales Company—A complaint has been issued against Sam Luber, trading as Dearborn Sales Company, 711 South Dearborn St., Chicago, charging the use of lottery methods in the sale and distribution of radios, coffee sets, roasters, silverware, waffle irons, toaster tray sets, and other articles of merchandise. (3870)

Globe Clock Company—See Sales Stimulators.

Marlin Firearms Company, New Haven, Conn., was charged, in a complaint, with falsely representing that it is the manufacturer of "Marlin" razor blades.

The complaint alleges that the respondent does not manufacture razor blades, and that the blades sold under its trade-mark and represented as "Marlin" blades are manufactured by another company, whose output, in part, is purchased by the respondent. It is further alleged that the respondent does not own or control the manufacturing plant in which the blades are made. (3871)

Sales Stimulators—A complaint has been issued against Ben Braude, trading as Sales Stimulators and as Globe Clock Company, 337 West Madison St., Chicago, alleging misleading representations in the sale of a sales stimulator plan.

According to the complaint, the respondent exaggerated the earnings of his salesmen and the retail values of premium merchandise such as silverware, clocks, and electric dry shavers.

It is further alleged that the cost of the stimulator plan to the retail merchants was in excess of that claimed by the respondent, and that he did not make refunds to the retail merchants in the manner advertised. (3873)

Scientific Manufacturing Company, Inc.—Alleging publication of misleading representations which unfairly disparage aluminum cooking utensils a complaint has been issued against Scientific Manufacturing Company, Inc., and its president, Howard J. Force, of Scranton, Pa.

The pamphlets, designated "Poisons Formed by Aluminum Cooking Utensils" and "Are You Heading for the Last Round Up," are alleged to contain representations of which the following are typical: "A friend of mine after having 17 carbuncles, threw out his fancy aluminum ware. The carbuncles disappeared."—"Another fed his dog from an aluminum dish; the dog died from cancer of the face."—"Two others each gave a dozen young ducks water in aluminum pans and all the ducks died in less than two weeks."—"Cancer has increased in Austria in proportion to the increased use of aluminum ware."

These, and similar representations, the Commission charges, deceive the public into the erroneous belief that aluminum utensils are a menace to the health of users, when in truth, they are not unsafe, poisonous, nor deleterious to mankind when properly used in the preparation or keeping of foods, and are used extensively in hospitals. (3874)

STIPULATIONS

The Commission has entered into the following stipulations:

Ane Company—R. W. Harris, trading as The Ane Company, Baltimore, entered into a stipulation to discontinue misleading representations in the sale of "Ane Herb Tonic."

Under the stipulation, the respondent will cease representing Ane Herb Tonic as being a tonic, a prescription, of botanical origin, or as containing several of the finest ingredients known to medical science.

The respondent will further cease advertising that Ane Herb Tonic is a competent remedy in the treatment of run-down and weakened condition, sore and stiff muscles and joints, faulty elimination, constipation (unless limited to temporary constipation), acid indigestion, dizziness, jitteriness, sleepless nights, indigestion, headaches, poor sleep, dizzy spells or so-called rheumatic pain. (02420)

Elmer E. Cary Company—Elmer E. Cary, trading as Elmer E. Cary Company, 1116 West Washington Blvd., Los Angeles, entered into a stipulation to cease disseminating misleading representations in the sale and distribution of the "Cary Economy Cooker."

Under the stipulation, the respondent is to cease representing that he is the manufacturer of the Cary Economy Cooker; that he manufactures utensils for, or to be sold to, the United States Government; that the Cary Economy Cooker is the only perfect method known to medical science of preparing food, or that this cooker is guaranteed to save the average family \$5 a month or any other amount which has not been determined by figures obtained in such a way as to verify the claims made. (2507)

France System—M. W. France, trading as The France System, 1424 North Occidental Blvd., Los Angeles, entered into a stipulation agreeing to discontinue misleading representations in the sale of San-Sur, for feminine hygiene, and a booklet, "The France System".

Under the stipulation, the respondent is to cease representing that San-Sur enables women to avoid delay; is sure, certain or positive in its results; is a "marvelous" or "new" discovery for feminine hygiene, or is a contraceptive. The respondent also agreed to cease using the word "San-Sur" or any similar word to designate the name of the product.

It was also stipulated that the respondent will cease representing that the booklet entitled "The France System" is a "prescription", or that it rebuilds sex strength for men and women, or increases sex vitality. (02419)

J. B. Simpson, Inc., 831 West Adams St., Chicago, entered into a stipulation to discontinue misleading representations in the sale of men's clothing.

The respondent agreed to cease representing as "Wool", "All Wool", "Woolen", "Virgin Wool", "100% Virgin Wool", "Australian Wool", "Worsted", or "All Pure Wool Worsted" the principal fabrics used in the manufacture of its clothing when such fabrics are not composed wholly of wool. The respondent is also to cease designating as "Wool", "All Wool", "Woolen", "Virgin Wool", "100% Virgin Wool", "Australian Wool", "Worsted", or "All Pure Wool Worsted" the principal fabric used in the manufacture of its clothing which is composed partly of wool and partly of cotton, silk, rayon, linen, or any other fiber, unless it is described as "Wool and Cotton", "Wool and Rayon", "Wool and Linen", etc., or by similar words in the order of the predominating fiber. (02418)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Mrs. Fanny Cohn, 6227 North Broadway, Chicago, has been ordered to discontinue misleading representations in the sale of a sales stimulator plan, including certificates, coupons and cards, redeemable in chinaware or other merchandise.

Under the order, the respondent is to cease representing that certificates, coupons or cards can be redeemed in chinaware or other merchandise, unless all of the terms and conditions of such offers are clearly stated; that she supplies advertising matter relating to her sales stimulator plan when such is not a fact, or that payment made by respondent's customers for the sales stimulator plan is a refundable temporary deposit, unless such is the fact and unless all conditions of such offers are clearly stated. The respondent is further directed to cease misrepresenting the actual cost to the respondent of her products or the actual cost of packing, handling and distribution. (3497)

Dearborn Supply Company, 2350 Clybourn Ave., Chicago, was ordered to discontinue misleading representations in the sale of cosmetic preparations.

Under the order, the respondent is to cease representing that "Mercolized Wax" absorbs surface skin, surface discolorations, or removes coarseness, blackheads, freckles or sunburn, or softens the skin, and to discontinue advertisements which fail to reveal that "Mercolized Wax" contains ammoniated mercury or that its use by some persons under certain conditions may produce injurious effects.

The order further forbids representations that "Parker-Belmont Beauty Cream" is a skillful or scientific blend of creams; that "Saxolite Astringent" is a skin tonic or smooths out wrinkles or age lines; that "Powdered Tarkroot", when used as a beauty mask, will revive or refresh a fatigued or drooping face more quickly or completely than other similar products, and that "Phelactine" is different from, or quicker and simpler to use than other hair removers. (3593)

Fairfield Engineering Company, 324 Barnhardt St., Marion, Ohio, was ordered to discontinue misleading representations in the sale of its "Fairfield Coal Distributors," "Fairfield Non-Segregating Coal Distributors," or any other similar devices.

Under the order, the respondent is to cease representing, through use of the term "non-segregating" or any similar term, that such coal distributors are non-segregating or that they cause a uniform layer of fine and coarse coal to be delivered across the entire surface of the fire boxes of boilers. (3850)

McDowell, Pyle & Company, Inc.—See Ohio Novelty Company.

Mode Novelty Company and its officers, Wolf Albourn and Samuel Weisman, Newark, N. J., has been ordered to discontinue misrepresenting the quality and type of the material out of which hats and caps, which they manufacture and sell, are made.

The respondents, in September 1936, entered into a stipulation with the Federal Trade Commission to cease selling baseball or novelty caps made from second hand, old, worn or discarded materials unless they clearly indicated that such products were not made from new and unused materials. The Commission finds that subsequently the respondents failed to abide by the terms of the stipulation.

Under the order, the respondents are to cease representing that hats or caps composed in whole or in part of used or second hand materials are new or are composed of new materials, either by direct assertions or by failure to indicate, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweat bands or hat body, the fact that such products are composed of second hand or used materials. (3473)

Ohio Novelty Company—Samuel Ravid, trading as Ohio Novelty Company, 107 Westmoreland Terrace, Akron, Ohio, and McDowell, Pyle & Co., Inc., 221 West Pratt St., Baltimore, were prohibited from using lottery methods in the sale and distribution of merchandise.

The Ohio Novelty Company, engaged in the sale of dresser sets, cigarette cases and lighters, tableware, kitchenware, pen and pencil sets, dolls, clocks, watches, blankets, bedspreads, tablecloths, wearing apparel and other novelty merchandise, and McDowell, Pyle & Co., Inc., engaged in the sale of peanuts and confectionery products, were ordered to cease selling any merchandise by means of lottery devices, or supplying others with lottery devices to enable such persons to sell merchandise. (3594-3832)

Zo-Ro-Lo, Inc., Ada, Ohio, was ordered to discontinue misleading representations in the sale of "Zo-Ro-Lo," a medicinal preparation.

Under the order, the respondent is to cease representing that its preparation is a cure or remedy for arthritis, asthma, brain disease, Bright's disease, diabetes, acidity, epileptic convulsions, gall stones, inward goitre, rheumatism, neuritis, sciatica, or sinus, kidney or prostate gland trouble.

The order further forbids representations that Zo-Ro-Lo neutralizes toxic poisons, relieves all pain, or has any therapeutic value in the treatment of ailments which are due to intestinal auto-intoxication, other than as a laxative or purgative. (3030)



RCA-Victor Postpones Licensing

The RCA Manufacturing Company has agreed to postpone the effective date of its Victor and Bluebird record licensing agreements until December 1.

The two-month postponement was made at the request of Neville Miller, NAB President, to permit further discussion of the question.

The licensing system, which would require every broadcaster using Victor or Bluebird records to buy a license from RCA, was to have gone into effect October 1. As soon as the proposed agreements were sent to member stations, Mr. Miller arranged conferences with RCA, Decca and Columbia officials. As a result of these, Lawrence Morris, counsel to RCA Manufacturing, sent Mr. Miller the following radiogram:

“IN COMPLIANCE WITH YOUR REQUEST AND IN ORDER TO EXTEND TO BROADCASTERS EVERY POSSIBLE CONSIDERATION WE ARE WILLING TO FURTHER POSTPONE EFFECTIVE DATE OF OUR LICENSE AGREEMENT TO DECEMBER FIRST 1939 PROVIDED OTHER PHONOGRAPH RECORD COMPANIES WILL DO THE SAME.”

Neither Columbia or Decca has as yet proposed a licensing system for its records.

Special Convention in Chicago September 15

A special NAB convention will meet at 10 a. m., central daylight saving time, in the Palmer House, Chicago, to decide whether to set up the machinery for creating a supply of tax-free and non-ASCAP music for the broadcasting industry. Non-members as well as members have been invited to this most important meeting.

The convention schedule:

September 13—The NAB board of directors will meet at the Palmer House at 10 a. m.

September 14—Both IRNA and the Independents will hold meetings at 10 a. m. in the Palmer House.

September 15—The special NAB convention will start at 10 a. m. in the Palmer House.



Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

Free Offers

Only two companies trying to chisel free time on the air were reported to NAB Headquarters this week, but both are prominent and probably well able to pay for time if they choose. Both are big newspaper advertisers.

The Motion Picture Industry, an old offender in the chiseling game, produced one of the free time proposals.

The latest attempt is in the form of a letter sent to many member stations by Towne and Baker Productions, Hollywood, Cal., offering "a 15-minute all-star transcribed program *which you may air free of charge.*" The offer, while frankly admitting that the program is based on the new RKO picture, "Swiss Family Robinson," soon to be released, states that there is "no commercial advertising or subtle exploitation."

Many member stations have forwarded this latest "time-chiseling" attempt to NAB Headquarters, and at least two stations have written strong replies direct to Towne and Baker. No doubt other members have received the same request for free time, and are invited to forward them to Headquarters.

The NAB reply to Towne & Baker, and the direct replies from those broadcasters who have sent copies to Headquarters, are reprinted below:

August 30, 1939.

MR. JAMES ALLEN
RKO Radio Studios
Hollywood, California

DEAR MR. ALLEN:

In reply to your letter of August 26, please be advised that this station is not interested in your free offer of the transcribed version of "SWISS FAMILY ROBINSON."

You may not realize it, but this radio station is flooded with requests similar to yours, all of which are promptly tossed in the wastebasket. However, since you asked for the courtesy of a reply, I am giving you one.

We are no different than RKO Pictures, in that we too are in business to make money. There's hardly a week goes by that some traveling act doesn't pound on our door asking us if we wouldn't like to have a good program on the air free. That good program is nothing more than a fifteen minute show plugging their personal appearance at one of the theaters in a community served by this station. We do not accept these "good shows" unless these acts are willing to pay for their time, and nine times out of ten they do, for they have discovered that WQDM serves more people in this area than they can reach through any other medium. WQDM offers the facilities to RKO on the same basis.

Sincerely yours,

G. S. WASSER.
Manager WQDM.

GSW:ES

September 1, 1939

MR. JAMES ALLEN,
Towne and Baker Productions,
RKO Radio Studios,
Hollywood, California.

DEAR MR. ALLEN:

We are not interested in the offer in your letter of August 25, and while the program perhaps does not have any subtle exploitation, as you put it, still somewhere there is going to be a build-up for your coming production. We, at this station, feel that it is time that motion pictures pay for such services. Perhaps you say there is not enough commercial on this to warrant payment, and our answer to that would be, then put out a strictly commercial program and pay for the time on the air.

We feel that we should have compensation for a show of this type.

Very truly yours,

A. K. REDMOND,
Manager WHP, Inc.

AKR:BP

August 30, 1939.

MR. JAMES ALLEN, Radio Director
Towne and Baker Productions
Hollywood, California.

DEAR MR. ALLEN:

Several of our member stations have forwarded to this office your recent requests for free time on the air in connection with the exploitation of the new RKO picture "Swiss Family Robinson."

Although radio has cooperated with the motion picture industry in the past, most of our stations feel that it is not good business practice to accept such material as you offer on a free time basis. However, the industry is certainly glad you appreciate the value of radio advertising and hope that you will see fit to use our medium on a regular basis, as do so many outstandingly successful advertisers.

Sincerely yours,

NATIONAL ASSOCIATION OF BROADCASTERS,
SAMUEL J. HENRY, JR.

Ringling Brothers-Barnum & Bailey Combined Shows has asked at least one station to provide free time for a complete program ballyhooing its circus. KFPY, Spokane's strong reply is reprinted below:

Our Seventeenth Year
August 26, 1939.

DEAR MR. KELLEY:

Reply to your letter of August eleventh has been delayed until the date of your Spokane showing and until, also, we might meet and talk with members of your publicity department who might accompany the show. Incidentally, the transcription discussed in your letter was received in due time and has been delivered to Mr. F. L. Morrissey of your radio publicity department, who called on us last Monday, without having been broadcast.

We took occasion, during the course of a very enjoyable chat with Mr. Morrissey, to discuss this entire subject of circus advertising, and we told him then, as we tell you now, some of our reasons for not broadcasting not only the records you sent us, but also shows from your organization which Mr. Morrissey wanted put on the air.

All requests from your company have been for gratis time. Not one suggestion was made that you would buy time. And yet all appearances in broadcast would have been strictly commercial, designed to recruit attendance at your two Spokane shows. And as we explained to Mr. Morrissey, we know not a single reason why we should give free time to your commercial enterprise while selling it to others; nor, as a matter of policy, do we, or will we, or have we, for the past six years, given any free time to any circus, simply for the reason that your activity is just as commercial as that of any other business, and therefore should not seek, or expect to receive, free time, while all other commercial accounts are buying it.

Every time a circus comes to town it buys display space in the local newspapers, and when circus managements come to the point where they treat radio in the same manner, and provide a budget for it, I can't help but feel that radio too will go just as far as

the newspapers have ever gone, maybe even farther in affording just as much cooperation as do the newspapers.

At any rate, whether you do or do not provide a radio budget for the future, KFPY will give away no free time for commercial advertising.

Sincerely,

ARTHUR L. BRIGHT,
Vice President.

ALB:K

F. Beverly Kelley, Esq.,
Ringling Bros.-Barnum & Bailey Combined Shows, Inc.,
331 Madison Avenue,
New York City.

S. J. HENRY APPOINTED TO HEAD RADIO ADVERTISING BUREAU

President Miller today announces the appointment of Samuel J. Henry, Jr., to the Headquarters Staff. Mr. Henry will be assigned to the Bureau of Radio Advertising. He comes direct from the World Broadcasting System, where he served as advertising and sales promotion manager.

A specialist in the preparation of radio sales presentations, Mr. Henry brings a wealth of experience to the Bureau.

He is a graduate of Brown University and was a one-time newspaperman on the Washington Herald. He wrote copy and radio continuity for the Cecil, Warwick and Cecil advertising agency, and for awhile was engaged in sales work in the Radio Sales Division of the Columbia Broadcasting System.

His experience at the World Broadcasting System placed him in contact with the local selling problems of hundreds of radio stations throughout the country. Much of his new work will center around the production of presentations and promotional pieces primarily designed for the development of local and regional radio advertising accounts.

The Bureau of Radio Advertising was established as a new service for members last spring. It has been jointly administered by Paul Peter, Director of Research, and Ed Kirby, Director of Public Relations. With the addition of a full-time man to the Bureau's work, Headquarters feels that a highly beneficial service will be rendered all member stations.

MILLER PRAISES INDUSTRY FOR WAR NEWS REPORTING

Praising the public service work of stations and networks in bringing the nation the most comprehensive war-crisis coverage in history, Neville Miller, president of the NAB, congratulated the industry in the following statement:

"The broadcasting industry is performing a monumental public service in this war crisis period. Commercial schedules have been abandoned at real financial sacrifice in order that the public interest may be served. No other industry can boast such an unselfish performance. Once again American broadcasters are proving their steward-

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ship. Operations have been on a twenty-four hour basis. Radio staff men and women have stuck to their posts day and night, that the American people may be informed of the startling minute-to-minute developments.

"The comprehensive news reports and on-the-spot broadcasts have undoubtedly gathered the greatest audience in the history of radio.

"In every home in America, from the White House to the most humble, radios are turned on, and people are listening and hoping that the holocaust may yet be averted.

"Through it all, there is a perceptible growth in public appreciation of the private and competitive character of the American System of Broadcasting which is rendering such a superb service. I congratulate the industry.

"And let me convey the gratitude of the industry to the gentlemen of the press who have cooperated so splendidly with us."

FLY TAKES FCC OFFICE

Frank R. McNinch stepped out Thursday as Chairman of the Federal Communications Commission and it is expected that James Lawrence Fly will take the oath tomorrow. Mr. McNinch has been Chairman since October 1, 1937.

President Roosevelt, in a communication which he sent to members of the Commission a couple of weeks ago, indicated that Mr. Fly would be Chairman to succeed Mr. McNinch.

SEPTEMBER DATES

September 5th—First Continental Congress opened in Philadelphia, 1774.

September 6th—Lafayette Day (Lafayette born 1757). Also celebration of Battle of Marne, 1914.

September 10th—Elias Howe patented sewing machine, 1846.

September 11-13th—Constitution Week, September 11-17.

September 13th—Star-Spangled Banner written 1814.

September 14th—Rosh Hashanah (1st day). (Jewish New Year.)

September 15th—Rosh Hashanah (2nd Day). National Felt Hat Day.

September 17th—Constitution Day (Constitution adopted, 1787). National Dog Week, September 17-23.

September 23rd—Yom Kippur (Day of Atonement). Jewish holiday. Autumn begins today. First air mail flight in U. S. in 1911, Earl Ovington, first mail pilot.

September 24th—Daylight Savings ends. Gold Star Mother's Day. National Newspaper Boys' Week, September 24-30. American Indian Day (21st).

September 30th—National Furniture Week, September 30-October 7. College football season starts.

NEW MEMBERS

At the meeting of the Executive Committee held in New York, August 22, the following membership applications were approved:

KOVO—Provo, Utah
KVGB—Great Bend, Kansas
KDRO—Sedalia, Missouri
WJHL—Johnson City, Tennessee
WMBG—Richmond, Virginia
WAPI—Birmingham, Alabama.

FCC MOTIONS DOCKET

The Federal Communications Commission has announced that the next meeting of the Motions Docket will be held at 10 a. m., Friday, September 8th, in Room 1411 of the New Post Office Building. Hearing of the Motions Docket was suspended during the month of August.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, September 4. They are subject to change.

Tuesday, September 5

KGLO—Mason City Globe Gazette Co., Mason City, Iowa—C. P., 1270 kc., 1 KW, unlimited time (DA-night), (requested facilities of KWLC and KGCA). Present assignment: 1210 kc., 100 watts, 250 watts LS, unlimited time.
KGCA—Charles Walter Greenley, Decorah, Iowa.—Renewal of license, 1270 kc., 100 watts, daytime. Shares KWLC.
KWLC—Luther College, Decorah, Iowa.—Renewal of license, 1270 kc., 100 watts, daytime. Shares KGCA.

Thursday, September 7

ORAL ARGUMENT BEFORE THE COMMISSION

Report No. B-5:

NEW—Saginaw Broadcasting Co., Saginaw, Mich.—C. P., 1200 kc., 100 watts, 250 watts LS, specified hours.
NEW—Harold F. Gross and Edmund C. Shields, Saginaw, Mich.—C. P., 950 kc., 500 watts, daytime.

Friday, September 8

NEW—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—C. P., 1200 kc., 100 watts, daytime.

FUTURE HEARINGS

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

October 11

WNBX—Twin State Broadcasting Corp., Springfield, Vt. (Proposed Studio and Trans. location, Keene, N. H.).—C. P., 1260 kc., 1 KW, unlimited time (DA-day and night). Present assignment: 1260 kc., 1 KW, unlimited time (DA-night).

FURTHER HEARING

NEW—Presque Isle Broadcasting Co., Erie, Pa.—C. P., 1500 kc., 100 watts, 250 watts LS, unlimited time.

October 20

KLCN—Charles Leo Lintzenich, Blytheville, Ark.—Renewal of license, 1290 kc., 100 watts, daytime.

October 25

WABI—Community Broadcasting Service, Inc., Bangor, Maine.—C. P., 560 kc., 1 KW, unlimited time (DA-night). Present assignment: 1200 kc., 100 watts, 250 watts LS, unlimited time.

WJBW—Charles C. Carlson, New Orleans, La.—Modification of license, 1200 kc., 100 watts, unlimited time. Present assignment: 1200 kc., 100 watts, specified hours.

WJBW—Charles C. Carlson, New Orleans, La.—Renewal of license, 1200 kc., 100 watts, specified hours.

November 10

WHA—University of Wisconsin, Madison, Wisc.—C. P., 670 kc., 50 KW, unlimited time (request facilities of WMAQ). Present assignment: 940 kc., 5 KW, daytime.

WMAQ—National Broadcasting Co., Inc., Chicago, Ill.—Renewal of license, 670 kc., 50 KW, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION ACTION

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KECA and auxiliary, Los Angeles; WFNF and auxiliary, Shenandoah, Iowa; WFRG and auxiliary, San Francisco; KSAC, Manhattan, Kans.; KSD, St. Louis, Mo.; WMMN and auxiliary, Fairmont, W. Va.; WMT, Cedar Rapids, Iowa; WPEN and auxiliary, Philadelphia; WSVA, Harrisonburg, Va.; WTAG and auxiliary, Worcester, Mass.; KFKA, Greeley, Colo.; KGFX, Pierre, S. Dak.; KTAR, Phoenix, Ariz.; WCOC, Meridian, Miss.
WSPR—WSPR, Inc., Springfield, Mass.—Granted renewal of license for the period ending February 1, 1940.

KUSD—University of South Dakota, Vermillion, S. Dak.—Present license extended on a temporary basis only for the period ending October 1, 1939, pending determination upon application for renewal.

KGBU—Alaska Radio & Service Corp., Inc., Ketchikan, Alaska.—Present license further extended upon a temporary basis only for the period ending October 1, 1939, pending determination upon application for renewal.

KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Present license further extended upon a temporary basis only for the period ending October 1, 1939, pending determination upon application for renewal.

KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Present license extended upon a temporary basis only for the period ending October 1, 1939, pending receipt of and determination upon application for renewal.

WSPA—Virgil V. Evans, tr/as The Voice of South Carolina, Spartanburg, S. C.—Present license extended upon a temporary basis only for the period ending October 1, 1939, pending determination upon application for renewal.

W8XWJ—The Evening News Assn., Detroit, Mich.—Present license for high frequency broadcast station further extended upon a temporary basis only until October 1, 1939, pending determination upon application for renewal.

W4XBW—WDOD Broadcasting Corp., Chattanooga, Tenn.—Present license for high frequency broadcast station further extended upon a temporary basis only until October 1, 1939, pending determination upon application for renewal.

WAXG—Florida Capitol Broadcasters, Inc., Portable-Mobile (area Tallahassee, Fla.)—Present license for relay broadcast station further extended upon a temporary basis only until October 1, 1939, pending determination upon application for renewal.

MISCELLANEOUS

WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted special temporary authority to operate from local sunset (September, 6:15 p. m., EST) to 7:00 p. m., EST, for the month of September in order to broadcast late weather forecasts.

W3XDS—RCA Manufacturing Co., Inc., New York City.—Granted special temporary authority to operate general experimental station W3XDS using the frequency 950 kc., with power of 1 KW, to conduct a comprehensive field survey to study the effects of fading on amplitude modulated facsimile emission during the hours 2 to 7 a. m., DST, on Sundays; midnight to 5 a. m., DST, Mondays; and 1 to 5 a. m., DST, from Tuesday through Saturday, for a period not to exceed thirty days.

KPAC—Port Arthur College, Port Arthur, Texas.—Granted special temporary authority to operate from local sunset (September, 6:15 p. m., CST) to 12:00 midnight, CST, with power of 100 watts on September 15, 1939, in order to broadcast local high school football game.

KPAC—Port Arthur College, Port Arthur, Texas.—Granted special temporary authority to operate from local sunset (September, 6:15 p. m., CST) to 12:00 midnight, CST, with power of 100 watts on September 22, 1939, in order to broadcast local high school football game.

KPAC—Port Arthur College, Port Arthur, Texas.—Granted special temporary authority to operate from local sunset (September, 6:15 p. m., CST) to 12:00 midnight, CST, with power of 100 watts on September 29, 1939, in order to broadcast local high school football game.

KWKH—International Broadcasting Corp., Shreveport, La.—Granted special temporary authority for excitation of a single radiator with a power of 100 watts on the frequency of 1170 kc. for the period August 28, 1939, to September 26, 1939, beginning one hour after sunrise and ending one hour after sunset (August 7 p. m., September 6:30 p. m., CST), for the purpose of making field intensity measurements in connection with the production of a proof of performance report.

WGAN—Portland Broadcasting System, Inc., Portland, Maine.—Granted special temporary authority to operate from 5:30 a. m. to 6:30 a. m., EST, on August 27, 1939, for the purpose of broadcasting a speech to be delivered at Tannenberg, Germany, by the head of the German nation.

W8XWJ—The Evening News Assn., Detroit, Mich.—Granted special temporary authority to rebroadcast on W8XWJ material transmitter from relay station WERO aboard crash boat on Gold Cup Race course during description of Gold Cup Race, 1 to 6 p. m., EST, on September 4.

WJBW—Charles C. Carlson, New Orleans, La.—Continued hearing on renewal of license and modification of license, from September 8 to October 25.

NEW—Lackawanna Broadcasting Co., Inc., Scranton, Pa.—Granted authority to take depositions at Scranton on September 13, in re application for new station to operate on 1370 kc., 100 watts, 250 watts LS, now scheduled for hearing on September 25.

KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted extension of special temporary authorization to operate unlimited time on 1180 kc., using 10 KW, employing DA system after sunset at Portland, Ore. (August, 7:15 p. m.; September, 6:30 p. m., PST), for the period August 31 to September 29.

KEX—Oregonian Publishing Co., Portland, Ore.—To operate unlimited time on 1180 kc., using 5 KW power, for the period August 31 and ending not later than September 29.

KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period August 22 and ending no later than September 20, pending KWLC's compliance with Rule 131.

WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Granted special temporary authority to rebroadcast over station WFBR program describing activities of the Fishing Fair at Annapolis, Md., on August 26, between 12:45 and 1 p. m., EST, and August 27, between noon and 12:15 p. m., EST, program to originate in Natl. Guard Plane operating on frequency 4060 kc.

KHAS—The Nebraska Broadcasting Co., Hastings, Neb.—Granted special temporary authority to conduct site survey for station KHAS, using Collins Type 45-A Transmitter, crystal controlled, 50 watts output, frequency 1200 kc., daytime hours, for the period August 28 to September 6.

WNEL—Juan Piza, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining program to be received from International broadcast station W9XAL and W3XAL over Station WNEL for the period September 7 to October 6, 1939.

WPTF—WPTF Radio Co., Raleigh, N. C.—Granted extension of special temporary authority to operate from 11 p. m. to 12 p. m., EST, for the period August 31 to September 29, in order to broadcast programs as described in letter of previous date.

WHA—University of Wis., Madison, Wis.—Granted special temporary authority to remain silent September 4, in order to observe legal holiday on Labor Day.

KFRO—Voice of Longview, Longview, Texas.—Granted special temporary authority to operate from local sunset (September, 6:30 p. m., CST), to 11:05 p. m. CST, using 100 watts power, September 4, Special Labor Day Celebration; September 11, 12, 13, 14, 15, 16, Gregg County Free Programs; September 26, Longview vs. Adamson Game; September 29, Longview vs. Port Arthur football game.

WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted special temporary authority to operate unlimited time during crisis in international situation and as long as international emergency exists but in no event longer than for a period of 10 days.

Unitarian Fellowship for Social Justice, Toledo, Ohio.—Granted special temporary authority to transmit programs by remote wire from WSPD to Station CKLW from 9 to 9:30 p. m., EST, on August 30, September 6, 13 and 20.

WLBL—Board of Regents, University of Wisconsin, Stevens Point, Wis.—Granted special temporary authority to remain silent September 4, in order to observe the legal holiday, Labor Day.

WWJ—The Evening News Assn., Detroit, Mich.—Granted special temporary authority to transmit by wire description of Gold Cup Races to Canadian Broadcasting Corp., Windsor, Ontario, for rebroadcast on Canadian Network stations 1:30 to 2 p. m., and 4:45 to 5:30 p. m., EST, on September 4.

WHBC—The Ohio Broadcasting Co., Canton, Ohio.—Granted special temporary authority to operate from 9:30 to 9:45 p. m., EST, August 31, with transmitting equipment and antenna system authorized in outstanding CP, in order to broadcast a special feature acquainting the audience with the time of the formal opening and presenting in dramatic form the part that radio plays in modern affairs.

WQDM—Regan and Bostwick, St. Albans, Vt.—Granted extension of special temporary authority to operate from 8 to 8:30 p. m., EDST, August 31, and from 7 to 8:30 p. m., EDST, September 1 to 8, inclusive, in order that station might complete its commercial broadcast of local baseball games.

WMBI—Moody Bible Institute Radio Station, Chicago, Ill.—Granted motion to dismiss without prejudice application for modification of license to change hours of operation to unlimited.

W9XBS—National Broadcasting Co., Inc., Chicago, Ill.—Granted motion to dismiss without prejudice applications for renewal and modification of high frequency broadcast station license.

KMAC—W. W. McAllister and Howard W. Davis, d/b as Wal-mac Co., San Antonio, Texas.—Granted petition to accept written appearance filed August 16 in re Docket No. 5626, application for CP to move transmitter, change frequency and increase time of operation and power.

W2XWC—Kolorama Labs., Inc., Irvington, N. J.—Granted extension of special temporary authority to operate a composite television transmitter to be located in Carlstadt, N. J., for radio television transmission in the 2000-2100 kc. band, for operation between the hours of 12 midnight and 6 a. m., on a non-interference basis, with power of 500 watts, for test and experimental purposes only, for the period September 5 to October 4.

WGAN—Portland Broadcasting System, Inc., Portland, Me.—Granted motion to dismiss without prejudice application for C. P. to change frequency, power and time of operation.

KRSC—Radio Sales Corp., Seattle, Wash.—Scheduled oral argument for September 28, 1939.

NEW—Vincennes Newspapers, Inc., Vincennes, Ind.—Scheduled oral argument for September 28, 1939.

NEW—Yuba-Sutter Broadcasters, Marysville, Calif.—Scheduled oral argument for September 28, 1939.

NEW—Thumb Broadcasting Co., Brown City, Mich.—Scheduled oral argument for September 28, 1939.

- NEW—George Penn Foster, Maxwell Kelch and Calvert Charles Applegate, d/b as Nevada Broadcasting Co., Las Vegas, Nev.—Granted petition to take depositions on September 18 in Las Vegas in re application for C. P. to erect a new station; the words in the order, "or any other disinterested person qualified to administer oaths in the State of Nevada," to be omitted.
- WHA—University of Wisconsin, Madison, Wis.—Granted petition to continue hearing on the application for C. P. requesting the facilities of WMAQ, Chicago, from September 11 to November 10, 1939.
- KOAC—Oregon State Agricultural School, Corvallis, Ore.—Granted extension of special temporary authority to operate from 9 a. m. to 1 p. m., and from 6 to 10 p. m., PST, during the month of September (instead of unlimited time as licensed), in order to observe regular vacation period.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted extension of special temporary authority to operate simultaneously, non-synchronously, with station KFAB commencing 4:45 a. m., CST. for the period September 8 to September 24, in order to conform to Daylight Saving Time.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—To operate as above except simultaneously, non-synchronously, with station WBBM.
- WSUI—State University of Iowa, Iowa City, Iowa.—Granted extension of special temporary authority to reduce hours of operation from unlimited time to a minimum of eight hours daily for the period September 1 to September 23, in order to observe summer vacation.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs Nat'l Park, Ark.—Granted special temporary authority to operate unlimited time during international crisis but in no event for a period exceeding 10 days.
- WGTM—WGTM, Inc., Wilson, N. C.—Granted special temporary authority to operate unlimited time for a period not to exceed 10 days in order to broadcast events concerning present European crisis.
- W1XSL—WDRG, Inc., Hartford, Conn.—Granted modification of C. P. extending completion date from September 9 to November 9, 1939, for developmental broadcast station.
- WOED—The Yankee Network, Inc., Boston, Mass.—Granted modification of license for additional power of 250 watts, not requiring new construction in high frequency relay broadcast station.
- Amendment of Rule 177 and 177.1 on Petition of Mayor LaGuardia of the City of New York.—Continued hearing now scheduled for September 11 until October 16, 1939.
- WCOV—Capitol Broadcasting Co., Inc., Montgomery, Ala.—Granted special temporary authority to operate unlimited time for the period ending in no event later than September 9, in order to broadcast during war crisis.
- WEJT—National Broadcasting Co., Inc. (area of Washington, D. C.), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- WEJS—National Broadcasting Co., Inc. (area of Washington, D. C.), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- WEJR-WEJJ—National Broadcasting Co., Inc. (area of New York City), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- WEJO—National Broadcasting Co., Inc. (area of Cleveland), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- WEJK—National Broadcasting Co., Inc. (area of Chicago), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- KEJH-KEJI—National Broadcasting Co., Inc. (area of San Francisco), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- KEJD-KEJC—National Broadcasting Co., Inc. (area of Denver), Portable-Mobile.—Granted license to cover C. P. authorizing changes in equipment of relay broadcast station; increase power to 2 watts and use frequencies 31220, 35620, 37020 and 39260 ke.
- WEJU—National Broadcasting Co., Inc. (area of New York City), Portable-Mobile.—Granted license to cover C. P., to make changes in equipment and decrease power to 25 watts; frequencies 31220, 35620, 37020 and 39260 ke.
- WBZ—Westinghouse E and M Co., Boston, Mass.—Granted C. P. to install new transmitter and DA system for day and night use and move transmitter to proposed site, Newport Road, Hull, Mass.
- W8XCN—Onondaga Radio Broadcasting Corp., Portable-Mobile, Syracuse, N. Y.—Granted C. P. to install new equipment and increase power in high frequency relay broadcast station to 20 watts.
- WEHH—Columbia Broadcasting System, Inc. (Portable-Mobile), New York City.—Granted C. P. to make changes in equipment and decrease power in high frequency relay broadcast station from 50 to 15 watts.
- WEGI-WEGJ—The Baltimore Radio Show, Inc. (Portable-Mobile), Baltimore, Md.—Granted C. P. to make changes in equipment of high frequency relay broadcast station and increase power to 2 watts.
- KEHA—The Associated Broadcasters, Inc., San Francisco, Cal. (Portable-Mobile).—Granted license to cover C. P. for new high frequency relay broadcast station; frequencies 33380, 35020, 37620 and 39820 ke., 2 watts.

APPLICATIONS FILED AT FCC

560 Kilocycles

- KFDM—Beaumont Broadcasting Corp., Beaumont, Texas.—Authority to determine operating power by direct measurement of antenna power.

630 Kilocycles

- WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Modification of construction permit (B1-P-2369) for new equipment, changes in directional antenna, increase in power, move of transmitter, requesting further changes in equipment and directional antenna for night, increase power from 1 KW, 5 KW-LS to 5 KW day and night, and extend commencement and completion dates to 30 days after grant and 180 days thereafter respectively.
- KRGV—KRGV, Inc., Weslaco, Tex.—Modification of license to change frequency from 1260 ke. to 630 ke.

710 Kilocycles

- NEW—Port Broadcasting Co., Houston, Tex.—Construction permit for a new broadcast station on 710 ke., 5 KW, unlimited time, directional antenna day and night.

770 Kilocycles

- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Construction permit to make changes in transmitting equipment.

940 Kilocycles

- WICA—WICA, Inc., Ashtabula, Ohio.—Modification of construction permit (B2-P-2316) for an increase in power and new equipment, requesting further changes in transmitting equipment, and extend commencement and completion dates 60 days after grant and 90 days thereafter.

950 Kilocycles

- WRC—National Broadcasting Co., Inc., Washington, D. C.—Construction permit to increase power from 1 KW, 5 KW-LS to 5 KW day and night. Amended: to install directional antenna for night use.

970 Kilocycles

- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—License to cover construction permit (B2-P-2268) as modified for installation of new transmitter, antenna and move transmitter from Elkins Park, Pa., to Hill Crest, Pa.

1100 Kilocycles

KGDM—E. F. Peffer, Stockton, Calif.—Modification of license to change frequency from 1100 kc. to 1530 kc., hours of operation from daytime to unlimited, using 1 KW day and night.

1200 Kilocycles

KWBD—W. B. Dennis, Plainview, Texas.—Modification of construction permit (B3-P-2381) for a new station, requesting approval of antenna and approval of studio and transmitter site on Highway 70, east of Court House, 1.2 miles, Plainview, Texas.

WSKB—McComb Broadcasting Corp., McComb, Miss.—License to cover construction permit (B3-P-2002 and B3-MP-784) for new station.

WHBC—The Ohio Broadcasting Co., Canton, Ohio.—Modification of license to increase power from 100 watts, 250 watts-LS, to 250 watts day and night.

1210 Kilocycles

WOCB—Harriett M. Alleman and Helen W. MacLellan, d/b as Cape Code Broadcasting Co., near Hyannis, Mass.—Modification of construction permit (B1-P-1140 and B1-MP-681) for new station, requesting extension of required date of completion from 9-24-39 to 1-1-40.

NEW—Louis R. Spiwak and Maurice R. Spiwak, d/b as L & M Broadcasting Co., Ottumwa, Iowa.—Construction permit for a new broadcast station on 1210 kc., 250 watts, unlimited time.

WJIM—WJIM, Inc., Lansing, Mich.—Modification of license to increase power from 100 watts, 250 watts-LS to 250 watts day and night.

WJW—WJW, Inc., Akron, Ohio.—Modification of license to increase power from 100 watts, 250 watts-LS to 250 watts day and night.

WSAY—Brown Radio Service and Laboratory (Gordon P. Brown, owner), Rochester, N. Y.—Modification of license to increase power from 100 watts, 250 watts-LS to 250 watts day and night.

1220 Kilocycles

WGNV—Peter Goelet, Newburgh, N. Y.—Voluntary assignment of license from Peter Goelet to Courier Publishing Corp.

1230 Kilocycles

WFBM—WFBM, Inc., Indianapolis, Ind.—Modification of license to change power from 1 KW, 5 KW-LS to 5 KW day and night, using directional antenna at night. Amended: change name to WFBM, Inc.

1240 Kilocycles

KFJZ—Tarrant Broadcasting Co., Fort Worth, Texas.—Construction permit to install new transmitter, increase power from 1 KW to 5 KW.

1310 Kilocycles

WJPR—John R. Pepper, Greenville, Miss.—Modification of construction permit (B3-P-2312) for a new station, requesting approval of antenna and approval of transmitter site at State Road #1, at Levee, Greenville, Miss., and move studio from 808 Harvey St. to Washington and Hinds Sts., Greenville, Miss. Amended: re equipment and give studio site at 110 North Shelby St., Greenville, Miss.

KRBA—Red Lands Broadcasting Assn., Ben T. Wilson, President, Lufkin, Texas.—License to cover construction permit (B3-P-2307) for changes in equipment and increase in power.

KCKN—The KCKN Broadcasting Co., Kansas City, Kans.—License to cover construction permit (B4-P-2440) for installation of new transmitter.

1320 Kilocycles

WADC—Allen T. Simmons, Village of Tallmadge, Ohio.—Construction permit to install directional antenna for day and night use; increase power from 1 KW, 5 KW LS, to 5 KW; move studio and transmitter from Cuyahoga Falls Road, Village of Tallmadge, Ohio, to State Road No. 8, R.F.D., North of Akron, Ohio.

1330 Kilocycles

KMO—KMO, Inc., Tacoma, Wash.—Voluntary assignment of license from KMO, Inc., to Carl E. Haymond.

1360 Kilocycles

KSLM—Oregon Radio, Inc., Salem, Ore.—Modification of license to increase power from 500 watts to 500 watts night, 1 KW day.

1370 Kilocycles

NEW—Chilton Radio Corp., Dallas, Tex.—Construction permit for a new broadcast station on 1370 kc., 250 watts, unlimited time. Requests facilities relinquished by station KFJZ.

KTEM—Bell Broadcasting Co., Temple, Tex.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

NEW—V. O. Stamps, Dallas, Tex.—Construction permit for new broadcast station on 1370 kc., 250 watts, unlimited time. Requests facilities to be relinquished by station KFJZ.

WIBM—WIBM, Inc., Jackson, Mich.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WMAN—Richland, Inc., Mansfield, Ohio.—Modification of construction permit (B2-P-2121) for approval of antenna, approval of studio site at 140 Park Ave., West, and transmitter site at Longview Ave., 400 feet west of Main St. Rd., Mansfield, Ohio, and installation of new transmitter.

WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Construction permit to make changes in equipment, increase power from 100 watts to 250 watts day and night, change hours of operation from daytime to unlimited time.

WOC—The Tri-City Broadcasting Co., Davenport, Iowa.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1390 Kilocycles

KABR—Aberdeen Broadcast Co., Aberdeen, S. D.—Authority to transfer control of corporation from Aberdeen Broadcast Co., to H. C. Jewett, Jr., 676 shares common stock.

1490 Kilocycles

KFBK—McClatchy Broadcasting Co., Sacramento, Calif.—Extension of special experimental authorization to transmit facsimile signals from 12 midnight to 6 a. m., PST, using 10 KW for period beginning 11-1-39.

1500 Kilocycles

WTMC—John T. Alsop, Jr., Ocala, Fla.—Voluntary assignment of permit from John T. Alsop, Jr., to Ocala Broadcasting Co., Inc. Amended: Re change to assignment of license instead of permit.

KSAM—Sam Houston Broadcasting Assn., H. G. Webster, Pres., Huntsville, Texas.—License to cover construction permit (B3-P-2295) for changes in equipment and increase in power.

KNOW—Frontier Broadcasting Co., Inc., Austin, Texas.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

KNOW—Frontier Broadcasting Co., Inc., Austin, Texas.—Modification of construction permit (B3-P-2436) for new transmitter, antenna, move and increase daytime power, requesting approval of transmitter site at Manor Road, Austin, Texas, antenna changes and new transmitter.

WWRL—Long Island Broadcasting Corp., Woodside, N. Y.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

KGKY—Hilliard Co., Inc., Scottsbluff, Neb.—Voluntary assignment of license from Hilliard Co., Inc. (a corporation) to L. L. Hilliard, Ruth K. Hilliard, R. M. Stewart, d/b as Hilliard Co. (a partnership).

WDAN—Northwestern Publishing Co., Danville, Ill.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WTMV—Mississippi Valley Broadcasting Co., Inc., East St. Louis, Ill.—Authority to transfer control of corporation from Lester E. Cox to Wm. H. West, Jr., 184 shares common stock.

WKAT—A. Frank Katzentine, Miami Beach, Fla.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

WJBK—James F. Hopkins, Inc., Detroit, Mich.—Authority to determine operating power by direct measurement of antenna power.

NEW—E. W. Williams, Corbin, Ky.—Construction permit for new broadcast station on 1500 kc., 100 watts, unlimited time.

MISCELLANEOUS

NEW—The Louisville Times Co., area of Louisville, Ky.—Construction permit for a new relay broadcast station on 30820, 33740, 35820, 37980 kc., 0.5 watts, emission A-3.

NEW—The Louisville Times Co., area of Louisville, Ky.—License to cover above.

NEW—The Louisville Times Co., area of Louisville, Ky.—Construction permit for a new relay broadcast station on 30820, 33740, 35820, 37980 kc., 0.5 watts, emission A-3.

NEW—The Louisville Times Co., area of Louisville, Ky.—License to cover above.

KEGN—Don Lee Broadcasting System, area of San Francisco, Calif.—Construction permit to install new equipment.

KADB—Nichols & Warinner, Inc., area of Long Beach, Calif.—Construction permit to install new equipment.

NEW—Bamberger Broadcasting Service, Inc., area of New York, N. Y.—Construction permit for a new high frequency broadcast station, site to be determined in the New York metropolitan area, on the frequency 43400 kc., 1 KW, emission Special for frequency modulation.

WEOB—Ashland Broadcasting Co. (area of Ashland, Ky.)—License to cover construction permit (B2-PRE-250) for reinstatement of relay station.

W2XB—General Electric Co., Albany, N. Y.—License to cover construction permit (B1-PVB-11) to request frequency channel 65000-72000 kc., and to specify location as being Town of New Scotland, N. Y.

WSLR—World Wide Broadcasting Corp., Boston, Mass.—Construction permit to change present location of transmitter from Boston, Mass., to Hatherly Beach, near Scituate, Mass.

W9XC—Central Broadcasting Co., near Mitchellville, Iowa.—Modification of construction permit (B4-PEX-23) for a new developmental broadcast station on 1000 kc., 1 KW, A-3 emission, requesting extension of completion date from 9-18-39 to 12-18-39.

WAIE—Joe L. Smith, Jr., area of Beckley, W. Va.—License to cover construction permit (B2-PRY-178) for new relay broadcast station on 1622, 2150 and 2790 kc., power 75 watts, A-3 emission.

The order also forbids advertisements which claim that excess uric acid causes or aggravates most cases of rheumatism, or which fail to reveal that the respondents' preparation is not a wholly safe drug to be used by the lay public in self-medication. (3678)

Block Drug Company, Inc.—See Alle-Rhume Remedy Company, Inc.

Lead Pencil Association, Inc.—Thirteen companies manufacturing approximately 75 per cent of the wood-cased lead pencils produced in the United States were ordered to discontinue entering into agreements resulting in unlawful restraint of competition through fixing and maintaining uniform prices for their products, and other practices.

The Lead Pencil Association, Inc., and its president and commissioner, William A. McDermid, 21 East 40th St., New York, and the following pencil manufacturers, twelve of which are members of The Lead Pencil Association, Inc., are named respondents in the order:

The Joseph Dixon Crucible Company, Jersey City, N. J.; The Eberhard Faber Pencil Company, Brooklyn; The American Lead Pencil Company (which withdrew from The Lead Pencil Association, Inc., in June, 1938), Hoboken, N. J.; Eagle Pencil Company, Inc., New York; Richard Best Pencil Company, Irvington, N. J.; Blaisdell Pencil Company, Philadelphia; General Pencil Company, Jersey City, N. J.; Hassenfeld Brothers, Inc., Providence, R. I.; National Pencil Company, Shelbyville, Tenn.; Reliance Pencil Company, Mt. Vernon, N. Y.; Universal Pencil Company, Oakland, Calif.; Red Cedar Pencil Company, Lewisburg, Tenn., and Wallace Pencil Company, St. Louis.

Findings are that The Lead Pencil Institute was formed in May, 1929, its membership comprising practically all of the companies engaged in the wood-cased pencil industry at that time, and that following a price war in 1935 and 1936, and for the purpose of eliminating that condition, the industry in January, 1937, reorganized the Institute and subsequently changed its title to The Lead Pencil Association, Inc., of which the respondent William A. McDermid was the president and commissioner. Further findings are that from about January to November, 1937, the manufacturers, acting through The Lead Pencil Association, Inc., or among themselves, carried out agreements and understandings resulting in an unlawful restraint of competition in the industry.

Under the order, the respondents are to cease fixing or maintaining uniform prices, terms or conditions for the sale of comparable wood-cased lead pencils; changing simultaneously the prices at which such pencils are to be sold; adopting, fixing or determining uniform schedules of quantity or annual cumulative discounts on comparable wood-cased lead pencils; fixing or determining uniform prices of lead pencils known as "blanks" (pencils on which neither the name or any brand of the manufacturer appears), or offering uniform bids on comparable wood-cased pencils to prospective purchasers. (3643)

Puritan Undergarment Corp., 950 Hart St., Brooklyn, N. Y., was ordered to discontinue misleading representations in the sale of women's wearing apparel.

Under the order, the respondent is to cease representing that its products are composed of fibers or materials other than those of which they are actually composed, or that any garment or fabric has a stated percentage of wool unless that is a fact.

The respondent was also ordered to cease advertising or selling wearing apparel or fabrics composed in whole or in part of rayon without clearly disclosing that fact, and when such garments or fabrics are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent. (3810)

Saks & Co., trading as Saks at 34th Street, Broadway and 34th St., New York, was ordered to discontinue misleading representations in the sale of perfumes and other toilet preparations.

Under the order, the respondent is to cease representing through the use of the term "Famous in France," or in any other manner, that perfumes or other toilet preparations which are made or compounded in the United States are made or compounded in France or in any other foreign country, provided that the country of origin of the various ingredients may be stated when immediately

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

No complaints have been issued by the Commission this week.

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Alle-Rhume Remedy Company, Inc., and Block Drug Company, Inc., both of Jersey City, N. J., were ordered to cease representing, directly or by implication, that "Allenru," or any similar preparation, will rid joints or muscles of all uric acid deposits; is compounded from a safe or scientific formula; is free from harmful drugs, or is a remedy or cure for, or has any substantial therapeutic value in the treatment of, rheumatism, sciatica, neuritis, lumbago or neuralgia.

The respondents were further ordered to cease representing that "Allenru" will quickly stop the distress and pain of rheumatism, neuritis, or sciatica caused by excess uric acid or other circulating poisons, or will remove the cause of, or effect a quick relief from, sciatica, neuritis or lumbago.

accompanied with an explanation that such products are made or compounded in the United States.

The respondent was further ordered to cease using the term "Renaud's Perfume—Famous in France," or any other terms indicative of French origin, or any French or other foreign words or terms, as brand or trade names for perfumes, or other toilet preparations, made or compounded in the United States, without clearly and conspicuously stating that such products are made or compounded in the United States. (3298)

Sifers Candy Company—Samuel I. Sifers, trading as Sifers Candy Company, Iola, Kans., was ordered to discontinue the use of lottery methods in connection with the sale and distribution of candy to ultimate consumers.

Under the order, the respondent is to discontinue selling and distributing candy or other merchandise so packed and assembled that sales to the public may be made by means of a lottery device, or supplying dealers with lottery devices which may be used in the sale of candy or other merchandise to the public.

The order also prohibits the respondent from supplying dealers with lottery devices, either with assortments of candy or other merchandise, or separately, such devices to be used in selling or distributing the candy or other merchandise to the public. (3311)

Simmons Company, New York, manufacturer of metal beds, mattresses and allied products, was ordered to discontinue unlawful price discriminations in violation of the Robinson-Patman Act. This company sold approximately \$24,600,000 worth of its products in 1938.

The order specifically prohibited price discrimination between different retailer purchasers of its products of like grade and quality paying the cumulative discounts of the "Simmons Plan" under which discounts of 3½ per cent were paid on purchases of \$75,000; 4 per cent on purchases of \$100,000; 4½ per cent on purchases of \$150,000; and 5 per cent on purchases of \$200,000 and more. No discount was paid on purchases of less than \$50,000.

Discriminations were also prohibited through payment to customers, whether individuals, central organizations or syndicate heads, of any cumulative or retroactive quantity discounts either under the Simmons Plan or any similar plan or method making provision for granting of cumulative or retroactive quantity discounts.

It was found that under the respondent's discount plan aggregate purchases of a customer during a calendar year not only determined the rate of discount, but the rate so determined was retroactively applied to all purchases made during such year, even to those purchases in the no-discount zone. (3840)

Sprague-Kitchen & Company—Mary Eloise Gauss, trading as Sprague-Kitchen & Co., 4254 North Hermitage Ave., Chicago, was ordered to discontinue misleading representations in the sale of a cosmetic preparation for the scalp and hair designated "Graolene".

The order prohibits representations in advertisements that "Graolene," or any similar preparation, is not a dye or is other than a dye; will cause gray hair to change color without dyeing the hair; will restore the original or natural color to gray hair; will supply to the hair shaft the materials in which gray hair is deficient, or will cause the scalp, the hair or the roots of the hair to be normal or healthy. (3821)

Sumlak Company, Cincinnati, Ohio, engaged in the sale of "Sumlakia," a compound found to contain various bromides, was ordered to discontinue advertising, directly or by implication, that their preparation is a cure or remedy or a competent treatment for epilepsy, or that it is safe for use. The respondent was further ordered to cease the dissemination of advertisements which fail to reveal that the long continued or excessive use of the preparation may cause serious injury to the health of the user. (3828)

Williams and Wilkins Company, Mount Royal and Guilford Avenues, Baltimore, have been ordered to discontinue violation of the Robinson-Patman Act through price discrimination in the sale of medical and scientific books.

Findings of the Commission are that, by granting price discounts ranging from 20 per cent to 35 per cent, the respondent discriminated in price between different purchasers buying the same books for resale to retail dealers or ultimate users in the

same area, thus enabling some purchasers to buy these books at lower prices than their competitors.

Under the order, the respondent is to cease discriminating in price between competing purchasers for resale of its medical and scientific books as related in the findings, or by granting or allowing differing discounts, the effect of which may be to lessen competition or tend to create a monopoly, or destroy or prevent competition with any customer receiving the benefit of the discrimination, except where such discount makes only due allowance for differences in the cost of manufacture, sale or delivery resulting from differing methods or quantities in which such books are sold. (3844)

STIPULATIONS

The Commission has entered into the following stipulations during the week:

Banker Pen Company—See James Kelly Fountain Pen Company.

J. Bennett, Inc.—See A. Cohen & Sons Corp.

A. Cohen & Sons Corp.—Two companies engaged in the wholesaling of novelty goods and glassware, including glass ash trays, entered into stipulations to discontinue using the word "cut", alone or in connection with any other words, so as to imply that the product referred to is cut by hand, when such is not a fact. The respondents are A. Cohen & Sons Corporation, 584 Broadway, New York, and J. Bennett, Incorporated, 360 Furman St., Brooklyn, N. Y. (2513-2516)

Louis Eckert Brewing Company, 666 Gibbons St., Los Angeles, entered into a stipulation to discontinue misleading representations in the sale of beer.

According to the stipulation, the respondent will cease representing that quality beer cannot be made and sold in large quantities or that its beer products are all brewed under the watchful eye, skillful hand, or personal supervision of Louis Eckert, president and brewmaster of the respondent company, when such are not the facts. (2510)

James Kelly Fountain Pen Company—James Kelly, trading as James Kelly Fountain Pen Company, and as The Banker Pen Company, 487 Broadway, New York, entered into a stipulation to discontinue misleading representations in the sale of fountain pens.

The respondent stipulated that he will cease using the words "Durium Pointed" or other expressions which imply that his pen points are tipped with any purported substance, fanciful or real, when such is not a fact. It was further agreed that the respondent will discontinue use of the designation "14 K" on pen points, with or without the words "Gold Plate", when the gold content is not actually of 14 carat fineness, or in any way convey the impression that the pen point is of 14 carat solid gold, when such is not a fact. (2508)

Perry Jett LeRoy, Jackson Heights, Long Island, N. Y., in connection with the sale of "LeRoy's Easy Piano Lessons", stipulated that he will cease representing that his sale offer is either "limited" or must be accepted "immediately" or is "for a short time only" or is "positively your last opportunity" to procure his course for \$1, when such is not a fact; or that the customary price for the course is limited or special, or that it will not be available in the near future, unless orders thereafter received at the price advertised are refused and the money returned to the senders.

LeRoy also agreed to cease representing that any person without regard to aptitude or circumstance, can, by taking his course, play the piano within five weeks or any other specified time "as he (LeRoy) plays"; or unreservedly that within such or any comparable time all those sending for the course will be gracefully playing the tunes they love. The respondent also agreed to discontinue claims that "thousands", or any other impressive and unverified number, have "learned to play" the piano through the aid of his course. (2514)

Master Electric Company—In a stipulation entered into, Master Electric Company, Dayton, Ohio, agreed to discontinue misleading representations in the sale of electric fans.

The respondent stipulated that it will cease using the word "rubber" or any other words connoting rubber, as descriptive of the blades of its products which are not composed of rubber, and will discontinue using the word "rubber" in any way as to imply that the blades of such products are made wholly of rubber, when such is not a fact. The stipulation provides that if the blades are composed in substantial part of rubber and in part of some other material, and the word "rubber" is used to describe the rubber part, then that word shall be accompanied by other words printed in equally conspicuous type so as to indicate clearly that the blades are composed in part of some other material. (2512)

New England Ribbon Mills—Louis Segal, trading as New England Ribbon Mills, Boston, entered into a stipulation in which he agreed to discontinue using the word "Mills" as part of his trade name, or in any other manner implying that he makes the products offered for sale, or that he actually owns and operates or controls the mill or factory in which his products are manufactured, when such is not a fact. (2511)

Jacob Ries Bottling Works, Inc., Shakopee, Minn., entered into a stipulation in which it agreed to cease representing either directly or by implication that "Sparkling Rock Spring Water," or any similar products, will prevent, counteract or otherwise effectively avoid or eliminate an excessive acid condition in the system resulting from the use of liquor. (2509)

Ruth Hosiery Mills, Inc., Durham, N. C., entered into a stipulation to discontinue misleading representations in the sale of hosiery.

Under the stipulation, the respondent will cease using the term "Rayon and Silk" as purportedly descriptive of any product not composed throughout of such fibers, or as descriptive of hosiery the top, heel and toe of which are composed of other materials. The stipulation provides that if silk, rayon or other fiber is present in less than a substantial amount or in an amount not exceeding 5 per cent by weight of the product, the name of such fiber shall be accompanied by the percentage in which it is present, or when confined to a decorative stripe shall be designated as being contained in such decoration, as, for example, "Rayon with decorative silk stripe." If the boot or leg is properly represented as rayon with decorative silk stripe but the top, heel and toe are composed of other materials, then such designation shall be immediately accompanied in equally conspicuous type by disclosure of the fiber content of the top, heel and toe.

The respondent will also cease advertising, branding, labeling or selling any product composed in whole or in part of rayon or in part of silk, and other kinds of fiber or substances, unless full and nondeceptive disclosure of the fiber and other content of such product is made by clearly designating and naming each constituent fiber in the order of its predominance by weight, beginning with the largest single constituent, and by giving the percentage of any fiber which is present in less than a substantial amount, or in any case less than 5 per cent, as, for example, "Cotton and Rayon," when the product is composed of cotton and rayon throughout, with the amount of cotton at least equal to or greater than the proportion of rayon present. (2517)

United Civil Service Training Bureau, Portland, Ore., in connection with the sale of its correspondence school courses intended to prepare students for United States Civil Service examinations, agreed to cease using the words "United," "Civil Service," "Bureaus" or "Bureau" as a part of its corporate or trade name, or using these words or any other representations so as to imply any connection with the Civil Service Commission or the United States Government. (2515)

FCC Assignments For September

Duties of Commissioners, Secretary, and Chief Engineer of the FCC as allocated by Order No. 28, dated November 29, 1937, which provides "That a Commissioner, to be selected and appointed by subsequent order or orders of the Commission, is hereby authorized to hear and determine, order, certify, report or otherwise act upon:

**ASSIGNMENT FOR
MONTH OF
September**

"All applications for aeronautical, aircraft, geophysical, motion picture, airport, aeronautical point to point, municipal and state police, marine relay, marine fire, and emergency and special emergency radio facilities.

**Commissioner
Thad H. Brown**

"All applications for licenses following construction which comply with the construction permit; applications for extensions of time within which to commence and complete construction; applications for construction permit and modification of construction permit involving only a change in equipment; applications to install frequency control; applications relating to auxiliary equipment; applications for authority to determine operating power of broadcast stations by direct measurement of antenna power; applications for special temporary authorization; applications for modification of licenses involving only change of the name of the licensee, where the ownership or control is not affected; applications for construction permit or modification of license involving relocation locally of a studio, control point or transmitter site; and applications for relay broadcast stations.

**Commissioner
Paul A. Walker**

"All radio matters of every character (except broadcast, operator licenses and amateur and ship stations) within the territory of Alaska.

**Commissioner
Norman S. Case**

"All uncontested proceedings involved in the issuance of certificates of convenience and necessity; and the authorization of temporary or emergency wire service, as provided in Section 214 of the Act.

**Commissioner
T. A. M. Craven**

"All matters arising in connection with the administration of tariff circulars of the Commission adopted pursuant to Section 203 of the Act, including the waiver of notice for the filing of tariffs.

**Commissioner
George Henry Payne**

"All matters arising under the Rules of Practice and Procedure of the Commission relating to withdrawals, dismissals, or defaults of applications or other proceedings, subject to the statutory right of appeal to the Commission; and to hear and determine all interlocutory motions, pleadings and related matters of procedure before the Commission.

**Commissioner
Frederick I. Thompson**

"That the Secretary of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act, with the advice of the General Counsel and the Chief Engineer, upon:

- (a) all applications for operator licenses, and
- (b) all applications for amateur and ship stations.

**Secretary
T. J. Slowie**

"That the Chief Engineer of the Federal Communications Commission is hereby authorized to determine upon all applications and requests, and to make appropriate order in letter form for the signature of the Secretary in the following matters:

- (a) operation without an approved frequency monitor;
- (b) operation without an approved modulation monitor;
- (c) operation without thermometer in automatic temperature control chamber;
- (d) operation without antenna ammeter, plate voltmeter or plate ammeter;
- (e) operation with substitute ammeter, plate voltmeter or plate ammeter;
- (f) operation with temporary antenna system;
- (g) operation with auxiliary transmitter as main transmitter;
- (h) operation with new or modified equipment pending repair of existing equipment, or pending receipt and action upon a formal application;
- (i) where formal application is not required, application for new or modified equipment or antenna system;
- (j) where formal application is not required, change of specifications for painting and lighting of antenna towers;
- (k) operation to determine power by direct method during program test periods;
- (l) relocation of transmitter in the same building;
- (m) operation with reduced power or time under Rules 142 and 151;
- (n) approval of types of equipment;
- (o) where it appears that terms of construction permit have been complied with, authorization for equipment and program tests or extensions thereof;
- (p) denial of requests for equipment and program tests where specifications of construction permit have not been met;
- (q) withdrawal of authorizations for equipment and program tests where subsequent to the issuance of the original authorization it appears that the terms of the construction permit have not been met;
- (r) extensions of time within which to comply with technical requirements specified in authorizations, orders and rules or releases of the Commission;
- (s) changes in equipment necessary to comply with technical requirements specified in authorizations, orders, rules or releases (except formal applications);
- (t) representations of compliance with technical requirements specified in authorizations, orders, rules or releases (except formal applications);
- (u) operation with licensed, new or modified equipment at a temporary location with a temporary antenna system in case of an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating at the licensed location."

**Chief Engineer
Ewell K. Jett**





The War

President Roosevelt has let it be known that he wants no censorship of press or radio in this country unless and until America goes to war.

However, the FCC has discussed "the problem of radio broadcasting in this country in its relation to the European situation" and has appointed a special committee to give that problem further study.

It is also known that the Administration is keeping close tab on how the broadcasting industry handles its war programs during the period of America's neutrality, and will attempt to judge what effect war broadcasts have on the American public.

James L. Fly, new FCC chairman, told reporters the day he took office that the commission would do everything it could to prevent unneutral statements on the air, but there has been no elaboration of this statement.

Above are the facts. Rumors come at a dime a dozen.

In making a statement for the President, Wednesday, the White House gave it as his view that press censorship might be unnecessary even in event of war, but that radio had yet to prove its quality in a period of national emergency.

Speaking for the President at his meeting with newspaper men, Stephen T. Early,
(Continued on page 3700)

Convention September 15

The special NAB convention will be held, as scheduled, at the Palmer House, Chicago, September 15 at 10 a. m.

War problems led some members to suggest postponement, but Neville Miller canvassed the board of directors and found the overwhelming majority in favor of holding the meeting as planned.

Nearly all the directors expressed the opinion that the industry's music problem was of such importance that there should be no delay in a united attempt at solution.

Undoubtedly the War will figure in the discussions of the board of directors which is to meet September 13 at the Palmer House. IRNA and the Independents are to meet at the same place September 14.



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

THE WAR

(Continued from page 3699)

White House secretary, described the press as a veteran of many campaigns which had performed well in war and peace as well as in periods of proclaimed neutrality.

Radio, on the other hand, he went on, was a "rookie" which had yet to prove its capacity for self-discipline without government control over its dissemination of news.

Mr. Early's discussion of the relative position of the press and radio in the news field was provoked by a question as to whether the President was considering any implementation of his drive against alien propaganda and espionage. Mr. Roosevelt said Tuesday that the government was determined to put down communistic and pro-dictatorship propaganda and to prevent this country's use as a center for clearing information to belligerent nations.

Mr. Early replied that there were various plans for implementing counter-espionage and anti-propaganda activities in times of peace and of war. In addition, he said, the general staff of the army had perfected plans for use in time of a national emergency, which all hoped would never come.

Then Mr. Early said he was satisfied that for the present the President did not want censorship of either the press or radio and hoped somehow to establish a "parity" between the two.

It was sometime later in the day that he explained in answer to further questions that, by "for the present" he meant there would be no censorship unless America went to war.

How the President proposed to bring about press censorship in event of war Mr. Early did not explain. There is not now any legal authority for it and the secretary indicated his own belief that the press was capable of controlling itself in such emergencies.

It was recalled by observers that the press itself invoked a "voluntary censorship" on its handling of official government information during the World War after Postmaster General Burleson failed to obtain legislation from Congress intended to accomplish the same result. The censorship consisting largely of clearing all official information through a committee on public information established for the purpose.

Among plans already in existence for controlling the handling of news in war time, Mr. Early mentioned that the Communications Act contained a provision authorizing the Federal Government to take over radio broadcasting facilities in such periods. He pointed out, however, that such control did not extend to peace times.

Then Mr. Early went on to say that there was a general feeling throughout the government that radio, because of its youth, was coming into a period in history which is new to it.

He added that if radio proved itself to be a "good child" and was well-mannered and showed that it had been well reared, it would be left to move along on its own. On the other hand, if radio proved itself to be a "bad child," the disposition would be to teach it some manners—to correct it so that it would behave itself, the secretary explained.

Meanwhile the President was said to be somewhat concerned about the position of international short-wave radio broadcasting from this country and its potential effect on the nation's neutral status.

The thought has been, according to Mr. Early, that both standard and amateur short-wave radio stations were in a position to give aid and comfort to belligerents with obvious adverse effect on America's neutral stand.

The government, he said, holds that all short-wave broadcasters should be increasingly careful of their operations and that the government itself should watch their activity more closely than ever before.

The government was particularly anxious to prevent their use as clearing center for information to warring countries, he explained.

This declaration was borne out by FCC experts who said that the problem of apprehending small radio sets broadcasting information about ship or merchandise movements, for example, would present serious difficulties. Extensive monitoring of the ether waves they indicated, would be necessary.

Mr. Early was asked in what way the radio in the new field might manifest its "bad manners." Without answering the question directly, he pointed out that the press had gone through wars and peace times and through periods of proclaimed neutrality by the United States whereas the radio had not.

The FCC committee of three members to study broadcasting war problems is composed of Chairman Fly and Commissioners Brown and Craven.

Mr. Fly stated, when he took office, that any plans for reorganization of the commission will only be put into effect after careful consideration and these changes, if any are made, are matters for the full commission. The Chairman said he would not take any impulsive action.

Frank R. McNinch, former Chairman, who attended the press conference, stated that he believed that the

commission's staff will be able to report to the committee the monopoly network study within the next three weeks. He said also that the Interdepartmental Radio Committee of which he is Chairman, will make a report to the President within the next ten days.

Mr. Fly was asked for his attitude on newspaper ownership and he said that he doesn't assume to make any statement on newspaper ownership or any other basic issues until he has made a careful survey of the subjects. He said he was very much impressed with the part the broadcasters are playing in the present war crisis.

Mr. Fly took his oath of office at the Commission on September 1, at which time he announced he had received a letter from the President designating him Chairman of the commission to succeed Mr. McNinch. A number of members of the commission attended the ceremony.

Attorney General Murphy announced last week that Mr. McNinch had been retained by the Department of Justice as a communications expert in the Western Union and other cases.

Radio Neutrality

Promulgation of the Neutrality Proclamation by President Roosevelt last Tuesday has quite naturally raised in the minds of broadcasters the question "What is radio neutrality?"

In considering the broad implications of the Neutrality Proclamation in the broadcasting field, Headquarters feels that the caution exercised by broadcasters should go to points even beyond those covered by the Controversial Public Questions and the News sections of the new NAB Code.

Though it is felt every broadcaster has endeavored to broadcast factual news, free from bias or editorial opinion, even before the Code was adopted last July, Headquarters would like to point out that the *method* and *manner* in which news is handled during the present situation is being as carefully scrutinized as is the content of the news broadcast itself.

While it should not be necessary for any newscaster or announcer to change his style of delivery, it should be pointed out that all news broadcasts, especially news "flashes" interrupting another program already on the air, should be handled with the greatest degree of restraint.

News matter which is obviously sensational, though thoroughly accredited to a responsible source, should be carefully checked and confirmed as far as possible before it is broadcast. Statements in conflict coming from censored belligerent sources should be paired and notice to the public should be given that all news from belligerent countries has passed under the blue pencil of the government censor before becoming available to American listeners.

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Though President Roosevelt stated that the declared neutrality of the United States did not deprive the right of the individual to his own opinion, broadcasters face a difficult and complex problem in allotting time to speakers. In general, Headquarters feels that the Public Controversial plank of the new Code is a safe guidepost for members to follow. While the Code is not yet in effect (the effective date is to be announced by the NAB Board at its meeting next week), it will be recalled that the Code bars all discussion of public controversial matter from paid time (except political—during a political campaign) and requires that time for such discussions shall "be allotted with due regard to all the other elements of balanced program schedules and to the degree of public interest in the questions to be presented. Broadcasters shall use their best efforts to allot such time with fairness to all elements in a given controversy."

In pointing out the seriousness and complexity of the problem of radio neutrality, Headquarters would like to quote two paragraphs from a recent column by Dorothy Thompson published this week:

"It would seem essential that while we are considering means of cushioning this country against the economic shock of war, and reconsidering whether the existing neutrality legislation is actually in the best interests of our neutrality, we should also have a policy adopted regarding propaganda, and particularly regarding propaganda on the air.

"The spoken word is provably far more inflammatory than the written word. The human voice is a more potent conveyor of emotion than is the printed page; it is less likely to appeal to reason; it is more capable of being misunderstood; from time immemorial it has been used to sway and control masses, and this possibility has been incalculably augmented by the radio and the power of reaching millions."

Headquarters is aware of the delicate problem of station management and supervision raised by the war period. It is closely following each development on the Washington front and within the industry so as to be in a position to advise members when unforeseen problems arise. A fuller discussion of the matter will be made at the convention next week.

Free Offers

American Express Company, through the Travel Radio Service, has recently offered member stations a series of 78 fifteen minute travel scripts, available "free of charge" if station uses credit line.

Ringling Brothers-Barnum & Bailey Circus is continuing its efforts to get free time by offering station managers passes to the circus in return for broadcasting of one or more 15-minute "educational" programs about circus life, etc.

Headquarters has advised the above companies that NAB policy forbids the granting of free time for such obviously commercial purposes.

TOM HAFFEY

WGAR, Cleveland, wants to know the whereabouts of Tom Haffey.

PERFORMERS' RIGHTS

The International Labour Office has issued Report A on a proposal to adopt an international agreement on the rights of performers in broadcasting, television and recording, to be considered at next year's June conference in Geneva.

Copies of the report are on sale at the International Labour Office, 734 Jackson Place, Washington, D. C.

The ILO is questioning the United States and all other member governments as to their opinion on giving performers now-disputed rights in this field.

The NAB is following the situation carefully and will report important developments.

C. C. I. R. MEETINGS

Meetings of the Conference Committee, under the Chairmanship of Dr. J. H. Dellinger, preparing for United States participation in the Fifth Meeting of the International Radio Consulting Committee (C. C. I. R.), to be convened at Stockholm, Sweden, about June 25, 1940, are to be held in Room 474, Department of State, on September 11 and 12.

The reports of the several subcommittees studying specified questions in which the United States is a collaborating administration, will be examined by the Conference Committee for final approval before transmission to the Bern Bureau and to foreign centralizing and collaborating administrations. The meeting will be open to any one interested in the deliberations.

DOMINICAN REPUBLIC, BRAZIL RATIFY AGREEMENTS

The State Department has issued the following announcements relative to telecommunications:

North American Regional Broadcasting Agreement

Dominican Republic

The American Legation at Ciudad Trujillo transmitted to the Department with a despatch dated July 26, 1939, a copy of the *Official Gazette* of July 8, 1939 (No. 5332), which contains the text of Resolution No. 135, promulgated by the President of the Dominican Republic on June 27, 1939, by which the Dominican Congress approves the ratification of the North American Regional Broadcasting Agreement signed at Habana on December 13, 1937. According to the information of the Department the countries which have deposited their instruments of ratification of this agreement are the United States, Canada, Cuba, and Haiti.

This agreement has not yet entered into force.

Inter-American Arrangement Concerning Radio-communications

Dominican Republic

The *Official Gazette* of July 8, 1939 (No. 5332), transmitted to the Department by the American Legation at Ciudad Trujillo under date of July 26, 1939, publishes the text of Resolution No. 136 of the Dominican Congress promulgated by the President of the Dominican Republic on June 27, 1939, approving the ratification of the Inter-American Arrangement Concerning Radio-communications signed at Habana on December 13, 1937. According to the information of the Department the countries which have deposited instruments of ratification of this arrangement are the United States, Canada, Chile, Haiti, Mexico, Panama, and Peru.

Inter-American Radiocommunications Convention (Treaty Series No. 938)

Brazil

The American Embassy at Rio de Janeiro transmitted to the Department with a despatch dated August 4, 1939, a copy of Decree Law No. 1435, of July 20, 1939, published in the *Diario Oficial* of July 27, 1939, by which the Brazilian Government approves, with reservations, the Inter-American Radiocommunications Convention signed at Habana on December 13, 1937, and annexes.

According to the information of the Department the countries which have deposited their instruments of ratification of this convention are the United States of America, Canada, Cuba, Dominican Republic, Haiti, Mexico, Panama, and Peru.

FACSIMILE BROADCAST STATIONS

(as of August 1, 1939)

<i>Licensee and Location</i>	<i>Call Letters</i>	<i>Frequency (kc)</i>	<i>Power</i>	<i>Emission</i>
Bamberger Broadcasting Service, Inc., New York, N. Y.	W2XUP	25250	100w	A-3, A-4
A. H. Belo Coporation, Dallas, Texas.....	W5XGR	25250	100w	A-4
The Crosley Corporation, Cincinnati, Ohio.....	W8XUJ	25025	1kw	A-3, A-4
The Evening News Association, Detroit, Mich.....	W8XTY	25250	150w	A-4
William G. H. Finch, New York, N. Y.....	W2XBF	43740	1kw	A-4
The Louisville Times Company, N. E. of Eastwood, Ky.....	W9XWT	25250	500w	A-3, A-4 (C.P. only)
The National Life and Accident Insurance Company, Inc., Nashville, Tenn.....	W4XIH	25250	1kw	A-4
The Pulitzer Publishing Company, St. Louis, Mo.....	W9XZY	25100	100w	A-4
Radio Air Service Corporation, Cleveland, Ohio.....	W8XE	43620	50w	A-4
Radio Pictures, Inc., Long Island City, N. Y.....	W2XR	43580	1kw	A-3, A-4
Sparks-Withington Company, Jackson, Mich.....	W8XUF	43900	100w	A-4
Star-Times Publishing Company, St. Louis, Mo.....	W9XSP	25250	100w	A-4
WBEN, Incorporated, Buffalo, N. Y.....	W8XA	43700	100w	A-4
WBNS, Incorporated, Columbus, Ohio.....	W8XUM	25200	100w	A-4

DEVELOPMENTAL BROADCAST STATIONS

(as of August 1, 1939)

Licensee and Location	Call Frequency		Power	Emission
	Letters	(kc)		
Bell Telephone Laboratories, Inc., Whippany, N. J.	W3XDD	560, 900, 1340	50kw	A-3
Central Broadcasting Company, near Mitchellville, Ia.	W9XC	1000	1kw	A-3 (C.P. only)
Connecticut State College, Storrs, Conn.	W1XCS	39540, 139960, 300000-400000	250w	A-3 and Special
Connecticut State College, Storrs, Conn.	W1XEV	26300	500w	Special
The Crosley Corporation, near Mason, Ohio	W8XO	700	100kw-500kw	A-3
National Broadcasting Co., Inc., (area of New York, N. Y.)	W10XF	1614, 2396, 2398, 2400, 3490, 3492.5, 3495, 4795, 4797.5, 4800, 6420, 6425, 6430, 8650, 8660, 9130, 9135, 9140, 12855, 12862.5, 12870, 17300, 17310, 17320, 23100, 30660, 31020, 31140, 31180, 31540, 33340, 33460, 33620, 35060, 35460, 37060, 37140, 37540, 39140, 39460, 39540, 132400, 132680, 133380, 134360, 135340, 137440, 137860, 138140, 138840, 139540, 139960, 162000-168000, 210000-216000, 264000-270000, 300000-400000, 401000 and above	25w	A-1, A-2 A-3
National Broadcasting Co., Inc., (area of New York, N. Y.)	W10XR	Same as above	100w	A-1, A-2 A-3
The National Life and Accident Insurance Co., Inc., Nashville, Tenn.	W4XFN	300000-400000, 401000 and above	15w	A-3
Carman R. Runyon, Jr., Yonkers, N. Y.	W2XAG	132400, 132680, 133380, 134360, 135340, 137440, 137860, 138140, 138840, 139540, 139960, 162000-168000, 210000-216000, 264000-270000, 300000-400000, 401000 and above	5kw	A-3 and Special
Travelers Broadcasting Service Corporation, Avon, Conn.	W1XEH	63500	150w	A-2, A-3
WDRG, Incorporated, Hartford, Conn.	W1XSL	139960	100w	Special (C.P. only)

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, September 11. They are subject to change.

Monday, September 11

NEW—Lakeland Broadcasting Co., Willmar, Minn.—C. P., 680 kc., 250 watts LS, limited time.

Wednesday, September 13

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—C. P., special experimental authorization, 1420 kc., 250 watts night, 1:05 to 2:15 a. m., CST.

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—C. P., 1270 kc., 1 KW, unlimited time (DA night). Present assignment: 1420 kc., 100 watts, 250 watts LS, unlimited time.

Thursday, September 14

Oral Argument Before the Commission

Report No. B-8:

WPG—Greater New York Broadcasting Corp., Atlantic City, N. J. (proposed studio location, New York, N. Y.) (proposed transmitter location, Kearney, N. J.)—C. P., 1100 kc., 5 KW, unlimited time (requests facilities of WOV and WBIL). Present assignment: 1100 kc., 5 KW, specified hours (WBIL).

WPG—City of Atlantic City (Assignor), Greater New York Broadcasting Corp (Assignee), Atlantic City, N. J.—Voluntary assignment of license, 1100 kc., 5 KW, specified hours (WBIL).

Report No. B-28:

WMFF—Plattsburg Broadcasting Corp., Plattsburg, N. Y.—C. P., 1240 kc., 1 KW, unlimited time (DA night). Present assignment: 1310 kc., 100 watts, 250 watts LS, unlimited time.

Report No. B-31:

NEW—The Moody Bible Institute Radio Station, Chicago, Ill.—C. P., 41300 kc., 100 watts, emission A-3, unlimited time.

Friday, September 15

W6XKG—Ben S. McGlashan, Los Angeles, Calif.—Renewal of license, 25950 kc., 1000 watts, 1000 watts LS, emission A-3, unlimited, according to Rule 983 (a).

W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Renewal of license, 88000, 120000, 240000 and 500000 kc., 500 watts, 500 watts LS, emission A-3, unlimited, according to Rule 983 (a).

FUTURE HEARINGS

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

September 28

Oral Argument Before the Commission

Report No. B-52:

KRSC—Radio Sales Corp., Seattle, Wash.—C. P., 1120 kc., 1 KW, unlimited time. Present assignment: 1120 kc., 250 watts, unlimited time.

Report No. B-65:

NEW—Vincennes Newspapers, Inc., Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

Report No. B-70:

NEW—Yuba-Sutter Broadcasters, Marysville, Calif.—C. P., 1320 kc., 250 watts, unlimited time (DA night).

Report No. B-71:

NEW—Thumb Broadcasting Co., Brown City, Mich.—C. P., 880 kc., 1 KW, daytime.

October 5

Oral Argument Before the Commission

Report No. B-62:

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—C. P., 1120 kc., 500 watts, 1 KW LS, unlimited time (DA night). Present assignment: 1370 kc., 100 watts, 250 watts LS, unlimited time.

Report No. B-68:

WGRC—Northside Broadcasting Corp., New Albany, Ind.—C. P., 880 kc., 250 watts, unlimited time. Present assignment: 1370 kc., 250 watts, daytime.

NEW—The Gateway Broadcasting Co., Louisville, Ky.—C. P., 880 kc., 500 watts, unlimited time (DA day and night).

Report No. B-73:

NEW—WJMS, Inc., Ashland, Wis.—C. P., 1370 kc., 100 watts, unlimited time.

October 16

Hearing Before the Committee

To Be Held in Room 1411

In the Matter of Amendment of Rules 177 and 177.1 on Petition of Mayor LaGuardia of the City of New York.

November 8

NEW—The Gazette Co., Cedar Rapids, Iowa.—C. P., 1420 kc., 100 watts, unlimited time.

November 14

KMAC—W. W. McAllister and Howard W. Davis, d/b as The Walmac Company, San Antonio, Tex.—C. P., 930 kc., 1 KW, unlimited time. Present assignment: 1370 kc., 100 watts, 250 watts LS, shares KONO.

WSBT—The South Bend Tribune, South Bend, Ind.—C. P., 930 kc., 500 watts, unlimited time (DA day and night). Present assignment: 1360 kc., 500 watts, shares WGES.

November 27

WINS—Hearst Radio, Inc. (Assignor), Metropolitan Broadcasting Corp. (Assignee), New York, N. Y.—Voluntary assignment of license, 1180 kc., 1 KW, limited time (KEX and KOB).

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

NEW—Worcester Telegram Publishing Co., Inc., Holden, Mass.—Granted C. P. for new high frequency broadcast station to operate on frequencies 43400 kc., conditionally; 1 KW.

WJMS—WJMS, Inc., Ironwood, Mich.—Granted C. P. to make changes in equipment and increase day and night power from 100 to 250 watts.

NEW—Stromberg-Carlson Tel. Mfg. Co., Rochester, N. Y.—Granted C. P. for new high frequency broadcast station to operate on 43200 kc., conditionally; 1 KW.

WSYB—Philip Weiss Music Co., Rutland, Vt.—Granted C. P. to make changes in equipment and increase power from 100 watts to 250 watts, unlimited time.

NEW—The Journal Company (The Milwaukee Journal).—Granted C. P. for new high frequency broadcast station to operate on frequency 42600 kc., with 1 KW power.

National Broadcasting Co., New York City.—Granted extension of authority to transmit recorded programs to all broadcast stations in Canada licensed to operate by the Canadian Government, for a period of 1 year from September 15.

NEW—Bell Tel. Labs., Inc., Whippany, N. J.—Granted C. P. for new developmental broadcast station to operate on frequency 43200 kc., conditionally; 5 KW power.

NEW—Allen B. DuMont Labs., Inc. (Passiac, N. J., area of USA), Portable-Mobile.—Granted C. P. for new portable-mobile television relay station to be operated in the New York area on an experimental basis; frequencies 156000-162000 kc., aural and visual power 50 watts.

W1XEH—The Travelers Broadcasting Corp., Avon, Conn.—Granted license for a new high frequency broadcast station to use frequency 42460 kc., 150 watts.

W6XDU—Don Lee Broadcasting System, Los Angeles, Portable-Mobile.—Granted modification of C. P. to make changes in equipment, reduce power from 100 watts to 6.5 watts, and change frequencies to 321000-327000 kc.

The following stations were granted modification of licenses to increase operating power to 250 watts, unlimited time:

WCHV, Charlottesville, Va.; WRAL, Raleigh, N. C.; WRGA, Rome, Ga.; WSLI, Jackson, Miss.; KRMD, Shreveport, La.; KMLB, Monroe, La.; WJBC, Bloomington, Ill.; KLUF, Galveston, Tex.; WEOA, Evansville, Ind.; KPQ, Wenatchee, Wash.; WDNC, Durham, N. C.; WGNC, Gastonia, N. C.; WSIX, Nashville, Tenn.; WSTP, Salisbury, N. C.; KCMC, Texarkana, Tex.; WHLB, Virginia, Minn.; WMFG, Hibbing, Minn.; WSAU, Wausau, Wis.;

WTRC, Elkhart, Ind.; KSRO, Santa Rosa, Calif.; WIL, St. Louis, Mo.; WTMA, Charleston, S. C.; WKBZ, Muskegon, Mich.; WEED, Rocky Mount, N. C.; WAML, Laurel, Miss.; KBND, Bend, Ore.; KVEC, San Luis Obispo, Calif.; KPLC, Lake Charles, La.; WMBH, Joplin, Mo.; WCAX, Burlington, Vt.; WCBM, Baltimore, Md.; KOCY, Oklahoma City, Okla.; WAYX, Waycross, Ga.; WEBQ, Harrisburg, Ill.; WNOE, New Orleans, La.; WBBZ, Ponca City, Okla.; KELO, Sioux Falls, S. Dak.; WIBU, Poynette, Wis.; KXRO, Aberdeen, Wash.; KPFA, Helena, Mont.; KWYO, Sheridan, Wyo.; WABY, Albany, N. Y.; WNBF, Binghamton, N. Y.; WBEO, Marquette, Mich.; WEST, Easton, Pa.; WGH, Newport News, Va.; WATL, Atlanta, Ga.; WMBS, Uniontown, Pa.; WSNJ, Bridgeton, N. J.; WPAX, Thomasville, Ga.; KOBH, Rapid City, S. Dak.; WHFC, Cicero, Ill.; KFAM, St. Cloud, Minn.; KGGI, Little Rock, Ark.; KGKL, San Angelo, Tex.; KVOX, Moorhead, Minn.; WTMV, E. St. Louis, Ill.; KRBC, Abilene, Tex.; WMIN, St. Paul, Minn.; KRE, Berkeley, Calif.; WIBX, Utica, N. Y.; WBRE, Wilkes-Barre, Pa.; WDAS, Philadelphia, Pa.; WMBO, Auburn, N. Y.; WCPO, Cincinnati, Ohio; WRBL, Columbus, Ga.; WJNO, West Palm Beach, Fla.; WRDW, Augusta, Ga.; KWOS, Jefferson City, Mo.; KCKN, Kansas City, Mo.

NEW—Westinghouse E. and M. Co., Boston, Mass.—Granted C. P. for new high frequency broadcast station to operate on 42600 kc., conditionally, 1 KW.

NEW—National Broadcasting Co., Inc., New York City.—Granted C. P. for new high frequency broadcast station to operate on 42600 kc., conditionally, 1 KW.

NEW—The Cincinnati Times-Star Company, Cincinnati, Ohio.—Granted C. P. for new high frequency facsimile broadcast station on an experimental basis to operate on frequency 25175 kc., conditionally, 100 watts.

Columbia Broadcasting System, Inc., New York City.—Granted extension of authority to transmit programs to CFRB and CKAC and other stations under the control of the Canadian Broadcasting Corp.

National Broadcasting Co., Inc., New York City.—Granted extension of authority to transmit programs to stations CFCE, CBL and the Canadian Broadcasting Corp., for period of 1 year.

KIT—Carl E. Haymond, Yakima, Wash.—Granted modification of license to increase night power to 1 KW.

DESIGNATED FOR HEARING

The following application has been designated for hearing by the Commission. Dates for the hearing have not yet been set.

NEW—Lakeland Broadcasting Co., Willmar, Minn.—Application for C. P. for new station, already in hearing docket, amended so as to request operation on frequency 680 kc., 250 watts, daytime only. Exact transmitter and studio sites and type of antenna to be determined with Commission's approval.

RENEWAL OF LICENSES

The following broadcast stations were granted renewal of licenses:

KFBB, Great Falls, Mont.; KFIO, Spokane, Wash.; KFJZ, Fort Worth, Tex.; KFKU, Lawrence, Kans.; KGCU, Mandan, N. Dak.; KGGF, Coffeyville, Kans.; KGVO, Missoula, Mont.; KIT, Yakima, Wash.; KLS, Oakland, Calif.; KFWB, Los Angeles, Calif.; KMBC and auxiliary, Kansas City, Mo.; KOIL, Omaha, Nebr.; KOIN, Portland, Ore.; KOL, Seattle, Wash.; KPAC, Port Arthur, Tex.; KQW, San Jose, Calif.; KTFI, Twin Falls, Idaho; KTMS, Santa Barbara, Calif.; KTW, Seattle, Wash.; KUOA, Siloam Springs, Ark.; KWSC, Pullman, Wash.; KXOK, St. Louis, Mo.; KMA, Shenandoah, Iowa; WAAT, Jersey City, N. J.; WATR, Waterbury, Conn.; WAVE, Louisville, Ky.; WBRC, Birmingham, Ala.; WCAD, Canton, N. Y.; WCAE and auxiliary, Pittsburgh, Pa.; WCOP, Boston, Mass.; WDAE, Tampa, Fla.

The following applications for renewal of relay broadcast stations were granted for a period of one year:

WOEB, Agricultural Broadcasting Co.; KIEO, Airfan Radio Corp., Ltd.; KAIH and KAXA, Earle C. Anthony, Inc.; WATA, Ashland Broadcasting Co.; WBAM, WBAO and WBAQ, Bamberger Broadcasting Service, Inc.; KAXD, A. H. Belo Corp.; KNED, Carter Publications, Inc.; KABJ, Central States Broadcasting Co.; WAHJ and WBGH, The Champaign News-Gazette, Inc.; WADA, Charleston Broadcasting Co.; WASJ, WNYK, WNYL, WNYN and

time for a period not to exceed ten days, in order to broadcast war news coverage.

WLAW—Hildreth and Rogers Co., Lawrence, Mass.—Granted special temporary authority to operate unlimited time for a period not to exceed ten days, in order to broadcast War News.

WGEA—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to remain silent on the frequency 21500 kc., for a period of ten days only and to waive the condition set forth in the existing license, which provides 'that three hours of each twenty-four hours shall be the minimum time for use of the frequency 21500 kc.' in order that Station WGEA may have additional time for broadcasts on the frequency 15330 kc., relative to the present European crisis.

NEW—Onondaga Radio Broadcasting Corp. (Syracuse, N. Y.), Portable-Mobile.—Granted C. P. for new low frequency relay broadcast station to operate on frequencies 1646, 2090, 2190 and 2830 kc., 20 watts.

WSLA (formerly W1XAL)—World Wide Broadcasting Corp., Boston, Mass.—Granted C. P. to move transmitter from 70 Brookline Ave., Boston, to Hatherly Beach, near town of Scituate, Mass.

WSLR (formerly W1XAR)—World Wide Broadcasting Corp., Boston, Mass.—Granted C. P. to move transmitter from 70 Brookline Ave., Boston, to Hatherly Beach, near town of Scituate, Mass.

WBTH—Williamson Broadcasting Corp., Williamson, W. Va.—Granted petition to intervene in the hearing on the application of Clarence H. Frey and Robert O. Greever for a new station in Logan, W. Va., scheduled for hearing on September 8, but denied the petition in so far as it requests enlargement of the issues.

WJLS—Joe L. Smith, Jr., Beckley, W. Va.—Granted petition to intervene and to enlarge the issues in re application of Clarence H. Frey and Robert O. Greever for a new station in Logan, W. Va.

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—Scheduled oral argument for October 5, 1939.

WGRC—Northside Broadcasting Corp., New Albany, Ind.; NEW—The Gateway Broadcasting Co., Louisville, Ky.—Scheduled oral argument for October 5, 1939.

NEW—WJMS, Inc., Ashland, Wis.—Scheduled oral argument for October 5, 1939.

WHDH—Matheson Radio Co., Inc., Boston, Mass.—Denied petition of WHDH for reconsideration of the Commission's action in granting the application of North Shore Broadcasting Company, without hearing, for a new station in Salem, Mass.

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Retired to the closed files the application of WBBM for C. P. to make changes in transmitting equipment, as permittee has filed an application to install a new transmitter and requested cancellation of the C. P. to make changes in equipment.

WLTH—Voice of Brooklyn, Inc., Brooklyn, N. Y.—Granted request for authority to remain silent pending Commission action upon application to move station to a new site, and should such application be granted, pending the actual move.

KMMJ—KMMJ, Inc., Grand Island, Nebr.—Denied petition for reconsideration of the Commission's action in granting the application of the Nebraska Broadcasting Co. for a new station in Hastings, Nebr., to operate on 1200 kc., with 100 watts night, 250 watts day, unlimited time.

WJBO—Baton Rouge Broadcasting Co., Inc., Baton Rouge, La.—Denied petition of WJBO for rehearing in the matter of the application of KSAL, R. J. Laubengayer, Salina, Kansas, for C. P. to change frequency from 1500 kc. to 1120 kc., power from 100 watts night, 250 watts LS, to 500 watts night, 1 KW LS, using DA at night, which was granted by the Commission on June 27, 1939.

WCPO—Scripps-Howard Radio, Inc., Cincinnati, Ohio.—Denied petition to rehear or reconsider action of the Commission of June 21, 1939, by which the application of WBOW, Terre Haute, Ind., for a local move of transmitter and change in frequency from 1310 kc. to 1200 kc. was granted. The Commission revised its Statement of Facts with respect to the question of interference from the operation of WBOW as proposed.

560 Kilocycles

WIND—Johnson-Kennedy Radio Corp., Gary, Ind.—Construction permit to increase power from 1 KW, 5 KW LS, to 5 KW day and night, and make changes in directional antenna. Amended: Changes in directional antenna system.

610 Kilocycles

WCLE—Cleveland Radio Broadcasting Corp., Cleveland, Ohio.—Voluntary assignment of license from Cleveland Radio Broadcasting Corporation to United Broadcasting Co.

640 Kilocycles

WGAN—Portland Broadcasting System, Inc., Portland, Maine.—Modification of license to change hours of operation from limited to unlimited (DA).

WHKC—Associated Radiocasting Corp., Columbus, Ohio.—Voluntary assignment of license from Associated Radiocasting Corporation to United Broadcasting Co.

710 Kilocycles

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Construction permit to install new transmitter and antenna to be determined; increase power from 500 watts to 1 KW, 5 KW LS; change hours of operation from limited to unlimited; move transmitter from 9631 Wilshire Blvd., Beverly Hills, Calif., to site to be determined, near Culver City, Calif. Amended: Re antenna specifications and give transmitter site as Moynier Lane, between Adams Blvd. and Higuerra St., near Culver City, Calif.

KTRH—KTRH Broadcasting Co., Houston, Tex.—Construction permit to change frequency from 1290 kc. to 710 kc.; increase power from 1 KW, 5 KW LS, to 10 KW day and night, antenna to be determined; install new transmitter and move transmitter from Deepwater Station, Houston, Texas, to site to be determined near Houston, Texas.

810 Kilocycles

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Authority to determine operating power of auxiliary transmitter by direct measurement of antenna power.

850 Kilocycles

WWL—Loyola University, New Orleans, La.—Authority to determine operating power by direct measurement of antenna power.

890 Kilocycles

KTKC—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, Pres., Visalia, Calif.—License to cover construction permit (B5-P-2055) as modified for change in frequency, installation of new transmitter, installation of directional antenna for night, change hours of operation, and increase power.

920 Kilocycles

KFEL—Eugene P. O'Fallon, Inc., Denver, Colo.—License to cover construction permit (B5-P-1572) for increase in power, change in hours of operation, equipment changes, and installation of new antenna.

930 Kilocycles

WELI—City Broadcasting Corp., New Haven, Conn.—Authority to determine operating power by direct measurement of antenna power.

WELI—City Broadcasting Corp., New Haven, Conn.—License to cover construction permit (B1-MP-760) for change in frequency, changes in hours of operation, change in power, move of transmitter, and installation of directional antenna for night use.

940 Kilocycles

WHA—University of Wisconsin, Madison, Wis.—Modification of license to change name from University of Wisconsin to State of Wisconsin, University of Wisconsin.

950 Kilocycles

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Construction permit to increase power from 1 KW, 5 KW LS to 5 KW day and night, and install directional antenna for night use.

1040 Kilocycles

KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Authority to determine operating power by direct measurement of antenna power.

1200 Kilocycles

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Modification of construction permit (B4-P-2143) for change in frequency and move, requesting increase in power from 100 watts, 250 watts LS to 250 watts day and night.

WCOL—WCOL, Inc., Columbus, Ohio.—Construction permit to change frequency from 1210 kc. to 1200 kc., increase power from 100 watts to 250 watts day and night, and make changes in transmitting equipment.

WBOW—Banks of Wabash, Inc., Terre Haute, Ind.—Modification of construction permit (B4-P-2143) for change in frequency and move, requesting approval of antenna and transmitter site at First and Payton Sts., Terre Haute, Ind.

1210 Kilocycles

WEDC—Emil Denmark, Inc., Chicago, Ill.—License to cover construction permit (B4-P-2047) as modified, for increase in power changes in hours of operation, and changes in equipment.

WLOK—The Fort Industry Co., Lima, Ohio.—Construction permit to install new transmitter, increase power from 100 watts day to 250 watts day and night and hours of operation from day to unlimited.

NEW—J. D. Falvey, Ottumwa, Iowa.—Construction permit for a new broadcast station on 1210 kc., 100 watts, unlimited time.

WALR—WALR Broadcasting Corp., Zanesville, Ohio.—Modification of construction permit (B2-P-2420) for move of transmitter and changes in antenna requesting installation of new transmitter, increase in power from 100 watts to 250 watts day and night, change studio location from 17½ S. 4th St., to 48-52 North 5th St., Zanesville, Ohio, and extend commencement and completion dates to 60 days after grant and 90 days thereafter respectively.

KGLO—Mason City Globe Gazette Co., Mason City, Iowa.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

1220 Kilocycles

WCAE—WCAE, Inc., Pittsburgh, Pa.—Construction permit to increase power from 1 KW, 5 KW LS to 5 KW day and night, using directional antenna at night.

1230 Kilocycles

KGBX—Springfield Broadcasting Co., Springfield, Mo.—Construction permit to install new transmitter, increase power from 500 watts to 5 KW, make changes in directional antenna (night use).

1270 Kilocycles

WJDX—Lamar Life Insurance Co., Jackson, Miss.—Authority to determine operating power by direct measurement of antenna power.

1310 Kilocycles

KGFW—Central Nebraska Broadcasting Corp., Kearney, Nebr.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

NEW—George F. Meyer, Medford, Wis.—Construction permit for new broadcast station on 1310 kc., 250 watts, daytime.

KOME—Oil Capitol Sales Corp., Tulsa, Okla.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

KCRJ—Central Arizona Broadcasting Co., Jerome, Ariz.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

KVOL—Evangeline Broadcasting Co., Inc., Lafayette, La.—Modification of license to increase power from 100 watts, 250 watts LS to 250 watts day and night.

1370 Kilocycles

KFRU—KFRU, Inc., Columbia, Mo.—Construction permit to install new transmitter and antenna, change frequency from 630 kc. to 1370 kc., decrease power from 500 watts, 1 KW LS to 100 watts, 250 watts LS, change hours of operation from simultaneous day, share WGBF night to unlimited time, and move transmitter from 1200 Broadway, Columbia, Missouri, to site to be determined, Columbia, Missouri (contingent on KXOK and WGBF B4-P-2323 and B4-P-2321). Amended: To request 250 watts day and night.

NEW—Hobart Stephenson, Milton Edge & Edgar J. Korsmeyer, d/b as Stephenson, Edge & Korsmeyer, Jacksonville, Ill.—Construction permit for a new broadcast station on 1370 kc., 250 watts, unlimited time.

WTSP—Pinellas Broadcasting Co., St. Petersburg, Fla.—Modification of construction permit (B3-P-1954) for new station requesting approval of antenna, approval of transmitter and studio sites at 35th Ave. and 4th St., N., St. Petersburg, Fla., and to install new transmitter.

WHDF—Upper Michigan Broadcasting Co., Calumet, Mich.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

KGFL—KGFL, Inc., Roswell, N. Mex.—Modification of license to change hours of operation from 6 a. m. to 1 p. m. and 4 p. m. to 7:30 p. m., MST, to 6 a. m. to 7:30 p. m., MST.

1390 Kilocycles

WHK—Radio Air Service Corp., Cleveland, Ohio.—Extension of special experimental authorization to transmit facsimile signals from 1 a. m. to 6 a. m., EST, using 1 KW, for the period 11-1-39 to 8-1-40.

WHK—Radio Air Service Corp., Cleveland, Ohio.—Voluntary assignment of license from Radio Air Service Corporation to United Broadcasting Company.

1420 Kilocycles

WSPB—WSPB, Inc., Sarasota, Fla.—Modification of construction permit (B3-P-2416) for a new station, requesting approval of antenna, installation of new transmitter, approval of studio and transmitter site at Ringling Isle, Sarasota, Fla.

WPAD—Paducah Broadcasting Co., Inc., Paducah, Ky.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1440 Kilocycles

WBIG—North Carolina Broadcasting Co., Inc., Greensboro, N. C.—Modification of construction permit (B3-P-2359) for new equipment, new antenna, increase in power and move of transmitter, further requesting increase in power from 1 KW, 5 KW LS, to 5 KW day and night; installation of directional antenna for night use; and extend commencement and completion dates 30 days after grant and 180 days thereafter, respectively.

KDON—Monterey Peninsula Broadcasting Co., Monterey, Calif.—Construction permit to install new transmitter, vertical antenna; increase power from 100 watts to 500 watts night, 1 KW day; change frequency from 1210 kc. to 1440 kc.; and move transmitter from Municipal Wharf, Monterey, Calif., to site to be determined, near Monterey, Calif.

1500 Kilocycles

KFDA—Amarillo Broadcasting Corp., Amarillo, Tex.—Construction permit to install new transmitter and increase power from 100 watts to 250 watts.

KOVC—KOV, Inc., Valley City, N. Dak.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

MISCELLANEOUS

W2XQR—John V. L. Hogan, New York, N. Y.—Modification of construction permit (B1-PHB-66) specifying transmitter location to be in Alpine, N. J., and change frequency from 111500 kc. to 43200 kc. Amended: Transmitter location to be 3104 Northern Blvd. (Long Island City), New York.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

- W2XWE—WOKO, Inc., Albany, N. Y.—Modification of construction permit (B1-PFB-14) to install new equipment.
- NEW—WDRG, Inc., Meriden, Conn.—Construction permit for a new television broadcast station to be located summit of West Peak, Meriden, Conn., on 96000-102000 kc., 1000 watts aural and visual, emission A3 and A5.
- WEHB—Cleveland Radio Broadcasting Corporation, area of Cleveland, Ohio.—Voluntary assignment of license from Cleveland Radio Broadcasting Corporation to the United Broadcasting Company.
- WEHB—Cleveland Radio Broadcasting Corporation, area of Cleveland, Ohio.—Voluntary assignment of license from Cleveland Radio Broadcasting Corporation to the United Broadcasting Company.
- WEHF—Cleveland Radio Broadcasting Corporation, area of Cleveland, Ohio.—Voluntary assignment of license from Cleveland Radio Broadcasting Corporation to the United Broadcasting Company.
- WEHU—Radio Air Service Corporation, area of Cleveland, Ohio.—Voluntary assignment of license from Radio Air Service Corporation to the United Broadcasting Company.
- WEHV—Radio Air Service Corporation, area of Cleveland, Ohio.—Voluntary assignment of license from Radio Air Service Corporation to the United Broadcasting Company.
- NEW—Grant Union High School District, N. Sacramento, Calif.—Construction permit for a new television broadcast station to be located in North Sacramento, Calif., Grand Avenue at Elm St., on 50000-56000 kc., 1000 watts, emission A3, A5 and special (both aural and visual power 1000 watts. Amended to specify F. M. Link equipment.
- WNEI—WFBM, Incorporated, area of Indianapolis, Ind.—Modification of construction permit (B4-PRY-157) for changes in equipment.
- NEW—The Crosley Corporation, Cincinnati, Ohio.—Construction permit for a new television broadcast station on 50000-56000 kc., 1000 watts visual and aural, A3 and A5 emission. Amended to request 44000-50000 kc.
- NEW—Radio Air Service Corp., area of Cleveland, Ohio.—Construction permit for a new relay broadcast station on 37340 kc., 50 watts, emission A3 (this transmitter to be used as order circuit). Amended to request additional frequencies of 31620, 35260, and 39620 kc., 25 watts, as program station.
- NEW—WIBX, Inc., Marshall, N. Y.—Construction permit for new high frequency broadcast station on 43400 kc., 1 KW, unlimited time, special emission for frequency modulation.
- NEW—Columbia Broadcasting System, Inc., area of New York, N. Y.—Construction permit for new television station on visual: 336000-346000 kc., 25 watts; aural: 180000-186000 kc., 25 watts, special and A-4 emission; unlimited time.
- NEW—Mason City Globe Gazette Co., area of Mason City, Iowa.—Construction permit for a new low frequency relay broadcast station on 1622, 2058, 2150 and 2790 kc., 2 watts, A3 emission.
- W9XYH—Head of the Lakes Broadcasting Company, Superior, Wis.—Modification of construction permit (B4-PHB-75) for new station, requesting change in frequency from 26300 kc. to 43000 kc., and extend commencement and completion dates to 60 days after grant and 90 days thereafter, respectively.
- WEGR—Donald A. Burton, area of Muncie, Ind.—Construction permit to install new transmitter and increase power from 5 watts to 15 watts.
- WEGR—Donald A. Burton, area of Muncie, Ind.—Construction permit to make changes in equipment.
- WEHX—Radio Air Service Corporation, area of Cleveland, Ohio.—Voluntary assignment of license from Radio Air Service Corporation to the United Broadcasting Company.
- W8XE—Radio Air Service Corporation, Cleveland, Ohio.—Voluntary assignment of license from Radio Air Service Corporation to the United Broadcasting Company.
- W8XNT—Radio Air Service Corporation, Cleveland, Ohio.—Voluntary assignment of license from Radio Air Service Corporation to the United Broadcasting Company.
- WAFZ—Minnesota Broadcasting Corp., area of St. Paul and Minneapolis, Minn.—Modification of license to change power from 7.5 watts to 2.5 watts.
- WEIN—The Journal Company (Milwaukee Journal), area of Milwaukee, Wisc.—License to cover construction permit (B4-PRE-273) for changes in equipment and decrease power from 50 watts to 25 watts.

Brunswick Worsted Mills, Inc., Moosup, Conn., manufacturer of worsteds and other woolen fabrics which are sold to manufacturers of men's suits, and other merchandise, and its exclusive sales agents, George O. Leckie and Henry C. Haskell, trading as Leckie & Haskell, 257 Fourth Ave., New York, were charged with failure to reveal the material content of a fabric composed in part of wool and rayon, by offering it for sale in the same manner as was customary in connection with the sale of Brunswick's exclusively woolen fabrics. The complaint points out that due to their long continued dealing in exclusively woolen fabrics the respondents' practice was to sell these products by number and sample without labeling or otherwise identifying the fiber content.

The complaint alleges that by reason of the respondents' reputation as dealers in woolen fabrics exclusively and by their failure to disclose that certain fabrics were a mixture of wool and rayon, purchasers relying on the respondents' reputation were misled into the erroneous belief that such mixed fabrics were composed wholly of wool, and suit and garment manufacturers purchasing such products were enabled to pass them off to the public as being genuine worsted or composed entirely of wool. (3880)

Cardinal Company—A complaint has been issued against Charles L. Klapp, trading as The Cardinal Co. and as The Cardinal Company of St. Louis, 406 Market St., St. Louis, charging the use of false and misleading representations in the sale of Femalade, an alleged treatment for delayed menstruation.

The complaint alleges that Femalade does not, as advertised by the respondent, constitute a competent, safe or effective treatment for delayed menstruation. It is also charged that the respondent's advertisements are false in that they fail to reveal that use of Femalade under the conditions prescribed in the advertisements or under customary or usual conditions may result in serious or irreparable injury to the health of users. (3879)

Diamond Knitting Mills, Inc., 7th and Green Sts., Philadelphia, was charged with representing by means of the words "Silk" and "All Silk" on tags, labels, and by other means, that certain of its knitted wearing apparel was composed entirely of unweighted silk, when in truth such products were composed entirely of weighted silk, which is silk that has been subjected to the process of a metallic bath and contains more than 15 per cent by weight of metallic salts or other weighting substance. (3877)

Kaufman Bros. & Bondy, Inc.—Complaints have been issued against two companies charging the use of lottery plans in the sale and distribution of their merchandise to ultimate consumers.

Kaufman Bros. & Bondy, Inc., 740 Broadway, West New York, N. J., was alleged to have promoted the sale of its pipes through distribution of push cards and punch boards. (3881)

Stone Bros., Inc., 1838 West 33rd St., Chicago, was charged with distributing push cards for use in the sale of its candy and its liquor chests. (3878)

Irving Napp, trading as Napp's Longlife Hosiery, 107 West 75th St., New York, was alleged to misrepresent hosiery which he sold as being run-proof and snag-proof, guaranteed for six months against runs or holes, and capable of outwearing all other

hosiery on the market, and to represent that prompt adjustments would be made where the customer was not satisfied. The complaint charges that the respondent filled certain orders with hosiery of different size, color or quality than ordered and in certain instances failed and refused to furnish hosiery after receiving orders with deposits and did not return such deposits. Further allegations are that the respondent did not, in many instances, adjust or correct orders which were improperly filled by him, and failed and refused to refund money or furnish new hosiery in accordance with the terms of his purported guarantee and representations. (3875)

Petersime Incubator Company, Gettysburg, Ohio, was charged with representing that "Petersime Electro-Thermo Bath", a device for applying dry heat to the body, has therapeutic value in the treatment of rheumatism, arthritis, sciatica, gout, kidney trouble, nervousness, high blood pressure, colds, fatigue, poor elimination, neurosis, frayed nerves, insomnia, overweight, neuritis, underweight, lumbago and low metabolism, when such are not the facts. According to the complaint, the respondent's device serves to apply dry heat to the body, and is not a cure, remedy or competent treatment for any disease. It is further charged that the regular use of the respondent's device may be harmful, especially to debilitated individuals and persons with deficient circulation. (3883)

Standard Toykraft Products, Inc.—In a complaint, Standard Toykraft Products, Inc., 319-327 McKibbin St., Brooklyn, N. Y., was charged with having misleadingly represented by means of the statement "TOYKRAFT KNITTING SPOOL SET, Copyright 1936 and Made by Standard Toykraft Products, Inc., New York, U. S. A." on containers, that certain of its toy sets were wholly manufactured in the United States, when in truth a substantial portion of the units comprising such sets were made in Japan and assembled by the respondent company in the United States. (3876)

Stone Bros., Inc.—See Kaufman Bros. & Bondy, Inc.

Universal Industries, Inc.—A complaint has been issued against Universal Industries, Inc., and Abraham Leonard Koolish, Mrs. Ida B. Koolish and George William Ehrlich, officers and directors, 6227 Broadway, Chicago, charging misleading representations in the sale of a sales stimulator plan.

The complaint alleges the respondents misleadingly represented Universal Industries, Inc., as having been engaged in the sale of sales stimulator plans for 29 years, and as having strong financial ratings with assets amounting to \$200,000, when in truth the respondent corporation was organized in 1939 and its assets are substantially less than the purported amount. It is further alleged that the respondents claimed their salesmen and distributors earn amounts which are far in excess of those normally earned by its representatives.

The complaint also charges the respondents with misrepresenting the cost to dealers of operating the sales plan, and with misrepresenting the retail value of premium merchandise and the circumstances concerning the award of alleged "free" gifts to sales representatives. (3882)

Vitaphore Appliances, Inc., South Bend, Ind., was alleged to represent that "Vibratherm" a heat and massage device, will cure prostate gland and women's disorders, and kindred disorders of the pelvic region, when such are not the facts. "Vibratherm", it was further charged, is not a cure for hemorrhoids, constipation and sexual decline, as advertised by the respondent. Nor, the complaint continues, can the device be used without risk. It is alleged that, contrary to the respondent's representations, its device does not combine heat, infra-red, vibration and massage, and has no therapeutic value other than possible temporary symptomatic relief of pain by locally applied heat. (3884)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

E. A. Hoffman Candy Company, 6600 Avalon Blvd., Los Angeles, was ordered to cease selling candy or any other mer-

chandise by means of lottery devices, or supplying dealers with lottery devices to be used in the sale of candy or other merchandise to ultimate consumers.

Spencer Business College—Trading as Spencer Business College, Melvin B. Selcer, Mary F. Selcer, Clay Spencer and Charlotte Spencer, co-partners, and Ray Axton, manager of the "extension division", were ordered to cease representing that they offer correspondence courses at a discount price unless such price is substantially lower than that at which the courses ordinarily are sold. They were also required to desist from misrepresenting the actual cost of materials used in the courses or the sales terms and conditions or the extent to which sale of the courses is limited.

The order also prohibited use of the term "scholarship" to describe an offer of a correspondence course for which the recipient was required to pay substantially the customary price.

Representation that the respondents maintain a branch office in any locality wherein they do not have such an office was also forbidden. (3694)

STIPULATIONS

The Commission has entered into the following stipulations:

Becker & Company, Inc.—A Boston distributor of office supplies has entered into a stipulation to discontinue misleading representations in the sale of certain of its products.

Becker & Co., Inc., 168 Lincoln St., Boston, in connection with the sale of its typewriter ribbons and carbon paper, stipulated that it will cease representing that the so-called premiums offered by it are "free" or are given "without charge" or as a "reward" for the customer's business, when such is not a fact. The respondent also agreed to discontinue representing that the plans used by it in the merchandising of its products are "profit sharing," so as to imply that the customer, who purchases such products, shares in the profits made by the respondent in the sale of its products, or that the price of each so-called premium purportedly given to the customer represents a part of the profits realized by the respondent in the sale of its carbon papers and typewriter ribbons, when such are not the facts. (2521)

Columbia Baking Company, Atlanta, stipulated that it will cease representing, directly or by implication, that the bread sold by it contains whole milk, or pure rich milk or certified milk, when such are not the facts. The respondent will also cease using in any manner the word "certified" so as to imply that its product has been endorsed authoritatively or attested in writing by a qualified independent agency, board or commission as to quality, qualifications and fitness, unless that is a fact. (2519)

Cyclone Manufacturing Company, Urbana, Ind., agreed to cease using the word "Chromized", "Cromized", or any similar words, as descriptive of the deflector or shield or other part of its brooders, so as to imply that the part so described is composed of chromium, or is chromium plated, when such is not a fact. The respondent will further cease representing that heat rays are evenly diffused to the floor of the entire brooding area, and that the asbestos insulation of its brooder is the best asbestos on the market or has any beneficial insulating value. The respondent also agreed to discontinue misleading claims as to the economy and capacity of its brooders, and to cease representing that its brooder has been tested by the Government, when that is not a fact. (2525)

Hi-Flex Products Company—Charles R. Lumley and James A. Nelson, trading as Hi-Flex Products Company, Seattle, engaged in the compounding of "Hi-Flex", for use as a lubricant for internal combustion engines, agreed to cease using in advertisements, the word "Manufacturers" or similar words, so as to imply that they make the essential ingredients, including the graphite or so-called oildag of which their product is composed, or that they actually own, operate or absolutely control the plant in which such ingredients are made. The respondents further agreed to cease using the word "liquid" as descriptive of the graphite which

forms an ingredient of the product sold by them, and to discontinue representing that the so-called "Derby" products have been set up as "Standard" by the United States Government. They also stipulated that they will cease representing that the use of their product will more than double the life of the moving parts of an automobile, and that they will cease exaggerating, by use of any other statements, the effectiveness of their product on the life of the moving parts of an automobile, over and above the effectiveness of plain oil. (2520)

Mme. Huntingford, Inc., Chicago cosmetics dealer, of 600 South Michigan Ave., entered into a stipulation to discontinue misleading representations in the sale of its hair treatments, creams and other preparations.

Under its stipulation, the respondent corporation agrees to cease advertising that any of its products is a scalp food or nourishing oil, or a corrective for dryness or excessive oiliness of the hair, or for baldness or loss of hair, and that its "Special Treatment Cream" reconditions the skin or that "Suave Cleanser" penetrates or flushes the pores.

The respondent agreed to use neither the word "bleach" as part of the trade name of "Bleach Emollient", nor the word "Indian" as part of the name "Indian Oil Astringent." (02421)

Ideal Manufacturing Company—A. G. Olscheske and R. B. McDowell, trading as Ideal Manufacturing Company, West Allis, Wis., stipulated that they will cease representing that savings of 80 per cent, or any other definite amount, can be made by using an Ideal Electric Fence Controller, irrespective of the amount of fencing required; that the use of their electric fence relieves anxiety concerning the escape of livestock or eliminates fencing problems, and that any fence equipped with an Ideal Electric Fence Controller is more effective to confine livestock than any ordinary fence not so equipped. (02422)

J. P. Redington & Company—G. V. Redington and F. E. Redington, trading as J. P. Redington & Co., Scranton, Pa., in connection with their sale and distribution of church furniture and fixtures, agreed to cease using in advertisements, or in any other way, the words "Manufacturers" and "Builders", or any similar words, or the phrase "Direct factory prices", so as to imply to purchasers that they make the products sold by them or that they own, operate, or absolutely control the plant in which their products are made. The respondents also agreed to cease using the word "factory" either alone or in connection with the word "direct" or with any other words as descriptive of the prices at which their products are sold, when such prices are other than factory prices. (2522)

Russia Cement Company, Gloucester, Mass., stipulated that it will cease describing in any manner by means of the word "waterproof" that liquid cement and casein glue, which it manufactures under the trade name "LePage's," are waterproof, when such is not a fact. (2518)

F. Schumacher & Co., 60 West 40th St., New York, entered into a stipulation to discontinue misleading representations in the sale of cotton drapery fabrics bearing the trade name "Waverly Fabrics."

Under the stipulation, the respondent is to cease using the term "Shrinkproof" or "Shrunk" so as to imply that the products to which such words refer are proof against shrinking or have been fully shrunk to the extent that no residual shrinkage remains, when this is not a fact. The stipulation provides that if the products have undergone the application of a shrinkage process and have been shrunk to a substantial extent that there remains

a certain amount of residual shrinkage, and the term "Shrunk" or any similar term is used to describe such product, the descriptive term shall be immediately accompanied by some other words printed in equally conspicuous type so as to indicate clearly that there remains a stated amount or percentage of residual shrinkage in both the warp and the filling or in the warp or the filling, whichever has the greater residual shrinkage. (2524)

Silver Mills—Max Silver, trading as Silver Mills, 335 Market St., Philadelphia, agreed to cease using the word "Mills" as part of the trade name under which he wholesales dry goods, or the word "Mills" on his letterheads, invoice blanks, or any way, so as to imply to purchasers that he makes the products sold by him or that he actually owns, operates or absolutely controls the mill, plant or factory in which his products are manufactured, when such are not the facts. (2523)

Termiteol Company—Harve D. Hagerty, trading as Termiteol Company, Covington, La., manufacturer of a termite eradicator, agreed to cease the use in advertisements of representations directly asserting or implying that all new lumber is infested with termites; that 98 per cent of buildings have termites in them; that a survey allegedly made by Termiteol Company of HOLC properties was in fact a "cross-section" inspection of all such properties, or that the average cost of treating a building for termites is comparable to the amount named in the respondent's advertising relating to the so-called Federal Government projects. The respondent will also discontinue claims that only the Termiteol Company insures against termite deterioration or destruction and can supply effective termite treating work, or that the U. S. Bureau of Entomology is properly quoted as saying that New Orleans and its subtropical neighboring territory is dangerously infested with the most destructive type of termites. (2527)

Unit Structures, Inc., Peshtigo, Wis., manufacturer of glued laminated wood structures, including arches and roof supports, stipulated that it will discontinue representing that it introduced laminated wood construction into this country in 1934, or at any other time, or, impliedly or otherwise, that it designed or originated the laminated arches or other construction of a designated building where such arches or construction were in fact made according to specifications prescribed by the owner. (2528)

Ward-Stilson Company, Anderson, Ind., manufacturer of women's apparel and men's shirts, agreed to discontinue advertising, branding, or labeling any product composed in whole or in part of rayon unless full and non-deceptive disclosure of the fiber and other content of such product be made by clearly designating each constituent fiber in the order of its predominance by weight, beginning with the largest single constituent, and by giving the percentage of any fiber which is present in less than a substantial amount, or in any case less than 5 per cent, as, for example, "rayon and wool" when the product is composed of rayon and wool throughout, the rayon content predominating, or "wool and rayon" when the amount of wool is at least equal to the amount of rayon present.

The respondent will also discontinue use of the words "Crepe", "Taffeta", "Satin", "Shantung", or any other words connoting silk, so as to imply that the fabric to which such words refer is composed of silk, when such is not a fact. If the words "Crepe", "Taffeta", "Satin" or "Shantung" are used to properly describe the type of weave or construction of a rayon fabric, then the designating word shall be immediately accompanied by the word "rayon", printed in equally conspicuous type, so as to indicate clearly that such product is in fact rayon, as, for example, "Rayon Crepe", "Rayon Taffeta", "Rayon Satin", or "Rayon Shantung". (2526)

Code Effective October 1

The Board of Directors decided Wednesday that the Code would go into effect October 1.

At the same time, the Board directed Neville Miller to appoint a committee fully empowered to interpret and enforce the Code throughout the industry. Mr. Miller immediately announced that Edgar Bill, WMBD, would head this committee.

"The Code is more than an expression of radio policy", Mr. Miller declared. "It is an outstanding example of voluntary industrial self-regulation, conceived and executed in the public interest."

The Code, adopted at the Atlantic City convention, requires that radio stations shall provide free time for the discussion of controversial public issues in such a way that conflicting viewpoints in public matters have a fair and equal opportunity to be heard. In no event will time be sold for such purpose, except for political broadcasts.

"The political broadcasts excepted are any broadcasts in connection with a political campaign in behalf of or against the candidacy of a legally-qualified candidate for nomination or election to public office, or in behalf of or against a public proposal which is subject to ballot. This exception is made because at certain times the contending parties want to use and are entitled to use more time than broadcasters could possibly afford to give away," Mr. Miller said.

This policy governing the discussion of controversial public issues through radio was adopted, Mr. Miller said, "because of the natural limitation of radio facilities and of the number of hours available per day for broadcasting. Without such a policy, the radio forum could conceivably gravitate almost exclusively to those with the greater means to purchase time. The NAB policy insures that radio will remain a free and democratic form for the fair and many-sided discussion of all public matters."

The Code further requires that news broadcasts be factual and presented without bias or editorial opinion. It also provides that children's programs be based upon "sound social concepts" and that radio stations continue to cooperate with educators in the further development of radio as an educational adjunct. It also provides that no one shall be permitted to use radio to "convey attacks upon another's race or religion."

While the full Code becomes effective October 1, the Board ruled that existing commercial contracts shall be respected for their duration, provided they do not run for more than one year after October 1, 1939. "New business, competitive with existing accounts, may be accepted with the same length of commercial copy as is permitted existing ac-

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

CODE EFFECTIVE OCTOBER 1

(Continued from page 3711)

counts." The Board directed that the new Code Committee, to be appointed by Mr. Miller, "shall immediately make itself available to resolve doubts of broadcasters as to whether proposed new business conforms or can be made to conform to the Code.

The full resolution adopted by the Board, making the Code effective October 1, follows:

RESOLVED that the Code of the National Association of Broadcasters adopted by the Seventeenth Annual Convention of the Association become fully effective October 1, 1939, except as it may apply to existing commercial contracts which shall be respected for their duration but provided they do not run for more than one year from October 1, 1939.

The Code Compliance Committee shall immediately make itself available to resolve doubts of broadcasters as to whether proposed new business conforms or can be made to conform to the Code.

New business, competitive with existing accounts, may be accepted with the same length of commercial copy as is permitted to the existing accounts.

Penna. Supreme Court Reverses Libel Decision

The Supreme Court of Pennsylvania for the Western District has reversed the decision rendered by the lower court in the case of Summit Hotel Company v. National Broadcasting Company, in which \$15,000 damages were awarded the hotel company for defamatory remarks uttered by Al Jolson. Jolson was appearing on a program sponsored by Shell Eastern Petroleum Products, Inc., and during the course of an interview by Jolson with the winner of an annual golf championship, Jolson said, in referring to the Summit Hotel, "That's a rotten hotel."

The decision by the Pennsylvania Supreme Court is important to the broadcasting industry as being the first case in which protection has been accorded against liability for defamatory remarks uttered by one not under the control of the station and interjected into the broadcast

without warning. In reversing the lower court, Chief Justice Kephart, who delivered the opinion, stated that the defamatory words did not appear in the script, that they had not been made at rehearsal and that the broadcasting company did not know the words were to be used.

The decision discusses the so-called rule of absolute liability imposed in some jurisdictions on the publisher of a newspaper and distinguishes the situation faced by the National Broadcasting Company from that of a newspaper publisher on the grounds that a newspaper publisher has an opportunity to ascertain the truth of the published matter. It then points out that the newspaper analogy of absolute liability has been approved in four cases involving radio broadcasting, but says the facts involved in the case under consideration disclosed no negligence on the part of the broadcasting company, either direct or implied.

Because of the importance of the decision and the detailed discussion of the question of defamation by broadcasting, the full text of the opinion of the Pennsylvania Supreme Court is given below:

In the

SUPREME COURT OF PENNSYLVANIA

Western District

No. 124 March Term, 1939.

Appeal from the judgment of the Court of Common Pleas of Allegheny County.

SUMMIT HOTEL COMPANY, a corporation of Pennsylvania,

v.

NATIONAL BROADCASTING COMPANY, a Corporation, Appellant.

OPINION OF THE COURT

KEPHART, C. J.:

The National Broadcasting Corporation rented its facilities to the J. Walter Thompson Company, a commercial advertising corporation, for the transmission of a series of sponsored radio programs over one of its networks, comprising 26 stations. The series was sponsored by Shell Eastern Petroleum Products, Inc. The principal performer on the programs was Al Jolson, a comedian. All of the participants, including the announcer, were employed and paid directly by the advertising company. A script for each program was prepared in advance, submitted to the broadcaster, and followed exactly by the performers at rehearsals in the broadcasting studio, where it was approved. The script for June 15, 1935, called for an interview by Jolson with the winner of an annual golf championship. In broadcasting from defendant's studio in Radio City, New York, Jolson, when the program was one-half or two-thirds completed, suddenly interpolated an extemporaneous remark. In response to the golf champion's statement that he secured his first job at the Summit Hotel, Uniontown, Pennsylvania, Jolson said: "That's a rotten hotel."¹ The interjected remark was made without warning; it did not appear in the script, had not been made at rehearsal, and defendant did not know the words were to be used. Present in the studios were defendant's production director and the Thompson program director; neither had an opportunity to prevent the interjection.

An action in trespass for defamation was brought to recover damages for injury to the hotel's reputation and business. No substantial attempt was made to show special damages, and the trial judge instructed the jury that the remarks were "slanderous per se." The lessor broadcasting company was held liable for damages in the sum of \$15,000, as awarded by the jury. Motions

¹ The exact statement was as follows: "But tell me, Sam, what did you do after you got out of college?" Answer: "I turned golf professional and in 1932 I got a job at the Summit Golf Club in Uniontown, Pennsylvania." Jolson replied "That's a rotten hotel".

for new trial and judgment n. o. v. being refused, this appeal followed.

The important question raised is whether a radio broadcasting company which leases its facilities is liable for an impromptu defamatory statement, interjected "ad lib." into a radio broadcast by a person, hired by the lessees, and not in the employ of the broadcasting company, the words being carried to the radio listeners by its facilities.

Although foreshadowed in one or two decisions and articles, this problem is unique; it is the first time the precise question has come before an appellate court in the United States or England. The law of defamation by radio is very much in its infancy, though there have been a few cases involving the liability of a broadcasting station or company therefor. But the situations involved in those decisions differ vastly from that which is before us.

The court below held that defendant's liability was absolute though it was without any fault. The fact that it rented its facilities to another to publish and disseminate a non-defamatory program, and that the defamatory interjection was spoken by lessee's employe under circumstances which precluded anticipation or prevention by the broadcaster, was treated as immaterial.

Appellant urges that to impose such liability for acts of the lessee upon a lessor who is utterly without fault, in no sense guilty of any wrong or negligence, is not only contrary to the common law but sets up a rule of liability that has never before existed.

The feature which distinguishes this case from the many cases cited for so-called liability without fault, is that here the broadcasting company rented its facilities to the advertising agency to broadcast a legitimate program. For this purpose the facilities were under the control of the agency. Appellant's program director could not have prevented the utterance by lessee's performer because of its suddenness; the supervision he exercised was merely to see that the facilities carried the program contained in the script. The duty of the monitor in the control room was to modulate and correct vocal sounds, and secure the audible transmission of intelligible, harmonious speech; he was, to this extent, as much a part of the rented facilities as the broadcasting equipment itself. His duty being to see that the program was produced clearly to the public over the air, he would be unable to exclude or eliminate a brief defamatory interjection, not only because of its suddenness, but also because his time is fully occupied with the technical details of his work. Moreover, it would require an expert in law to detect in extended remarks what was, or was not, defamation. In view of the positive assertion that, notwithstanding these circumstances, the broadcasting company is absolutely liable without fault, it will be necessary to examine the theory of absolute liability and the subjects to which it has heretofore applied, so as to ascertain whether it is appropriate in this new form of defamation.

Some writers have traced the origin of liability without fault to an ancient principle that every wrong must have a remedy, and therefore it is urged that the doctrine is not new to the law of torts, in many phases of which it may be found today. Others, on the contrary, have stated that the judicial determination that there may be liability without fault cannot, in strict reasoning, be applied to tort law, which is grounded in negligence, but that it, rather, assumes an independent sphere of compensation for injurious acts. The confusion of concepts has come about through the extension of the principle of liability without fault, covering injuries to land or to rights in land, to tort liability to persons. Distinguished legal scholars, however, have pointed out that the rule of absolute liability persists in several actions, generally included in the field of tort law, such as trespass q. c. f., trespass for nuisance and trespass for injuries caused by wild or domestic animals known to be dangerous, as well as some others which will be touched on later.

In our State, the doctrine of absolute liability has been invoked, almost without exception, only in that small group of actions which redress injuries to land, and it is only as to these that it can be fairly said that the doctrine prevails. This liability is a survival of the medieval law dictated by the landlord, in which the protection of the uninterrupted enjoyment of real property was a primary consideration.

In the very earliest times, all rights, real and personal, were probably entitled to absolute protection, and every injury redressed regardless of fault,² but a sharp line of distinction has since been marked between liability for injuries to land and injuries to

² The plaintiff under these cases was not required to prove any intent, moral culpability or carelessness and the injurer could not escape liability by showing he acted with the utmost care. The case frequently referred to is the decision in 1466 in *Y. B. 6 Edw. IV. 7, 18*. See *Holdsworth, A History of English Law* (4th Ed.) Vol. III, pp. 375-382.

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persons.³ The case of injuries to land may now be said to be the general exception to the modern rule that liability will not be predicated on innocent and diligent conduct. A tort today implies fault or wrong. Tort liability must be founded upon some blameworthy conduct, or lack of due care resulting in the violation of a duty owing to others.

It was in the Nineteenth Century that the law of negligence in torts had its development. Personal injury cases then consumed the greater portion of the time of the courts. Cases concerning rights in land yielded their earlier prominence, and the rules of law applicable to them have consequently remained, in the most part, unchanged, even to the present day.

In Pennsylvania, the principle of liability without fault for injuries to the person has received scant consideration. The great body of our law of liability for personal injuries is that of liability through fault; liability based almost exclusively on wrongful conduct. There is, therefore, no proper analogy between the cases of liability without fault for injuries to land and those for personal injuries where fault must be present.

Illustrating the definite trend of judicial decisions in this State to restrict liability without fault to cases affecting land, and, even there, to narrow its application, we may cite the following cases: We have held that the duty of lateral or subjacent support is limited to land in its natural condition, and it is not extended, unless the actor is guilty of negligence or willful misconduct. In *Malone v. Pierce*, 231 Pa. 534, we held that one who, in the exercise of his property rights, injures his neighbor, is liable in damages for willful, wanton, or negligent conduct, saying at page 536:

"... The right to lateral support is limited to land in its natural condition . . ."

See also *Home Brewing Co. v. Thomas Colliery Co.*, 274 Pa. 56, at page 60. The right of lateral support is incident to land. *McGittigan v. Potts*, 149 Pa. 155.

We find the germ of antecedent wrong even in our cases where "liability without fault" is invoked for injury to land, or to rights growing out of land. Intrusions upon land by persons, animals, or substances cast thereon, usually involve intentional or negligent invasion of the close. The law, recognizing the natural tendency of cattle to stray, imposes a duty on the possessor to keep his flock from another's land or to answer in damages. See *Barber v. Mensch*, 157 Pa. 390; *Teller et ux. v. Hood*, 81 Pa. Superior Ct. 443, 445. Here it would seem that the rule is not "absolute liability," but that there is a duty to conform to a high standard of care. There is no case in this State where the owner of cattle has been held liable for damages caused by them where he built and maintained an adequate fence which was destroyed through no fault of his. And, in driving livestock along the highway, the owner or possessor is liable only in the absence of reasonable care. *Erdman v. Gottshall*, 9 Pa. Superior Ct. 295.

Our Court has refused to follow *Rylands v. Fletcher*, L. R. 1 Exch. 265, L. R. 3 H. L. 330, which imposed absolute liability on a landowner for the escape of non-dangerous substances from his land to the land of another. See *Pennsylvania Coal Co. v. Sanderson*, 113 Pa. 126. We there said, at page 150:

"A rule which casts upon an innocent person the responsibility of an insurer is a hard one at best, and will not be generally applied unless required by some public policy, or the contract of the parties."

We have held that in blasting, a person conducting the operation is liable regardless of negligence, but this liability arises out of the inherently dangerous character of such explosions,⁴ and requires one who intentionally causes the explosion to be affected

³ In *Weaver v. Ward* (1616), Hohart 189, the modern principle of liability for personal injuries was laid down. It was there stated the defendant may escape liability for causing personal injury where the harm "may be judged utterly without his fault." See *Bohlen, Studies in the Law of Torts*, 366; *Wigmore, Responsibility for Tortious Acts; Its History*, 7 Harv. L. Rev. 315.

⁴ *Mulchanock v. Whitehall Cement Mfg. Co.*, 253 Pa. 262; *Baier et ux. v. Glen Alden Coal Co.*, 131 Pa. Superior Ct. 309; *Rafferty v. Davis*, 260 Pa. 563; *McGowan v. Steele & Sons Co.*, 112 Pa. Superior Ct. 552.

with knowledge that injury may result beyond his power to prevent. He therefore must assume the risk. This is not strictly a case of absolute liability.

In cases of trespass for nuisance, the person responsible may be unable, no matter how careful, to avoid injury to the lands of another, but, again, he knows that injury may result from the nature of his activities regardless of care. Under such circumstances he also assumes the risk.⁵ The responsibility for injury lies in creating or maintaining the harmful condition.

In all of these illustrations, the person responsible has, or should have, prior knowledge of the probable consequences, where the act done, or the instrumentality employed possesses potentialities of serious harm. From these cases it is apparent that our doctrine of liability without fault has very narrow restrictions even in its appropriate sphere of application.

When considering the field of personal injuries there appears no valid exception to the rule that liability can be based only upon intentional wrong-doing or lack of care. There are some cases which have been called, in other jurisdictions,⁶ exceptions to this rule. In this State the possessor of wild or domestic animals of a known vicious or dangerous tendency is chargeable with knowledge of the vicious nature of the animal.⁷ There is an element of wrongful conduct or a voluntary assumption of the known risk of injury to others in the mere fact of possession. As stated in *Andrews v. Smith et ux.*, 324 Pa. 455, at 457: "The negligence is in keeping such an animal after notice." As to animals normally not dangerous, there is no liability unless the owner is negligent in his care of them. One who drives cattle through the streets of a city is not liable for injuries to third persons unless he fails to exercise care. *Potter T. & T. Co. v. Oswald & Hess Co.*, 322 Pa. 81. A person permitting a horse to stand unattended and untethered in the street is presumptively negligent, and liability for personal injuries may be predicated thereupon. *Goodman v. Gay*, 15 Pa. 188; *Henry v. Klopfer*, 147 Pa. 178; *Jordan et ux. v. Eisele*, 273 Pa. 93.

It has been stated that those engaged in an ultra-hazardous activity are liable without fault for injuries caused by carrying on the activity. The rule has been applied in this State only to blasting, and the first cases involved injuries to land. Later it was extended inferentially to personal injuries.⁸ In *Rafferty v. Davis*, 260 Pa. 563, at 568, it is stated:

"in such a case the work itself is so inherently dangerous, that the doing of it, no matter how carefully, is of itself negligence, so that no amount of care in doing the negligent act will excuse the actor from the responsibility of the consequences which grow from it."

The storage of dangerous instrumentalities, such as dynamite, on the owner's land does not make him liable for injuries to persons or property if it explodes, unless it was negligently stored. The storage itself, even in the proximity of dwellings, has been held not to be a nuisance per se. *Sowers v. McManus*, 214 Pa. 244; *Derry Coal & Coke Co. v. Kerbaugh*, 222 Pa. 448. The handling of such substances merely imposes a high standard of care commensurate with the dangerous nature of the agency to personal safety. The general rule to be deduced from all of the cases involving the use of dangerous substances and instrumentalities⁹ has been summarized in *Fredericks v. Atlantic Refining Co.*, 282 Pa. 8, at page 13:

"A higher degree of care is required in dealing with a dangerous agency than in the ordinary affairs of life or business, which involve little or no risk."

Another asserted instance of liability without fault for personal injuries is Workmens' Compensation. This liability is really contractual; if the employer does not contract he assumes a common law liability stripped of certain defenses. We held in *Rich Hill Coal Co. et al. v. Bashore*, (not yet reported, opinion filed March 27, 1939), in passing on the constitutionality of the Workmens' Compensation Acts of 1937 and 1938:

⁵ See *Stokes v. Penna. R. R. Co.*, 214 Pa. 415, 419; *Gavigan v. Refining Co.*, 186 Pa. 604, 612; *Houck v. Pipe Line Co., Ltd.*, 153 Pa. 366, 374; *Ladner et al. v. Siegel et al.*, 296 Pa. 579, 585.

⁶ See *Exner et ux. v. Sremon Power Const. Co.*, 54 Fed. (2d) 510, 514.

⁷ *Andrews v. Smith et ux.*, 324 Pa. 455; *Sylvester v. Maag*, 155 Pa. 225; *Fink v. Miller*, 330 Pa. 195.

⁸ See *McGowan v. Steele & Sons Co.*, 112 Pa. Superior Ct. 552. In *Boker v. Hoge et al.*, 177 Pa. 128, the court reversed the court below for charging the jury that recovery could be had regardless of negligence.

⁹ See *Konchor v. Cebulor*, 333 Pa. 499; and *Fredericks v. Atlantic Refining Co.*, 282 Pa. 8 (as to gasoline); *MacDougall v. Penno. Power & Light Co.*, 311 Pa. 387, and also *Fitzgerald v. Edison Elec. Co.*, 200 Pa. 540 (as to electricity); *Hortman v. Citizens Natural Gas Co.*, 210 Pa. 19 (as to natural gas); *Lindh v. Protective M. Service Co., Inc.*, 310 Pa. 1 (as to firearms).

"But in common law actions of tort, it is the 'law of the land' that liability cannot be imposed upon one who is without fault. To legislate a person presumptively guilty of either a crime or a tort is an attempted erosion of 'the substance of original justice'."

In *Faiola v. Calderone*, 275 Pa. 303, we merely held that the employment of a child, in violation of a positive statutory duty, constituted negligence per se. In all such statutory regulations the legislature has adopted a public policy for the prevention of injury, and if the employer does not obey these preventive directions his act of disobedience is his negligence. We have not held liability without fault in automobile cases, and in the statutes covering the operation of airplanes the legislature has rejected the absolute liability theory.

To summarize, therefore, the cases mentioned, it may be stated that the doctrine of liability without fault has little or no place in torts involving injuries to the person, and its extension from the law of trespass to land has rarely been looked upon favorably in this State. In all of the exceptional cases there is a common ground of either antecedent negligence, or the assumption of a known risk of harm to others by intentional conduct. There is no element of injustice in imposing liability under such circumstances. Against the few exceptional situations in which absolute liability may have been applied, stands the great weight of modern authority that no man should be held liable for an unintentional injury resulting from the performance of a lawful act without negligence or wilful misconduct.¹⁰ Pennsylvania has expressly approved this trend of the law as expressed by Justice Holmes. See *Ebbert et al. v. Phila. Electric Co.*, 330 Pa. 257, 269. It must be an unusual case, therefore, and one amenable to no other solution as a matter of public policy, that would require this Court to extend the exceptional doctrine of liability without fault into a new field of commercial enterprise involving no recognizable probability of danger.

Considering the rule of supposedly absolute liability imposed in some jurisdictions on the publisher of a newspaper for his defamatory publications,—and this is the rule here chiefly relied on,—a close examination of the Pennsylvania law will show that our rule is not one of absolute liability, but rather, of a very strict standard of care to ascertain the truth of the published matter. *Clark v. North American Co.*, 203 Pa. 346; *Shelly v. Dampman*, 1 Pa. Superior Ct. 115.¹¹ The fact of defamatory publication is evidentiary of such lack of due care. The rule that a newspaper publisher is absolutely liable for defamation originated in the English case of *Thorley v. Lord Kerry*, 4 Taunt. 355 (1812), and was apparently adopted by the United States Supreme Court in *Peck v. Tribune Co.*, 214 U. S. 185.¹² It may have been inspired by the frequency of defamatory newspaper publications or, as stated by one author, by their tendency to publish sensational and scandalous matter. It might be justified by the difficulty in proving negligence, since the facts of publication are exclusively known to the publisher and his agents.

The newspaper analogy of absolute liability has been approved in four cases as applied to radio broadcasting.¹³ This analogy to

¹⁰ Justice Holmes has said (*The Common Law*, p. 108): "the law does in general, determine liability by blameworthiness." And, as stated by Professor Ames: (*Law & Morals*, 22 Harv. L. Rev. 97, 99): "The ethical standard of reasonable conduct has replaced the unmoral standard of acting at one's peril." (And see *Winfield, The Myth of Absolute Liability*, 42 L. Q. Rev. 37.)

¹¹ In the *Clark* case it was said, at p. 351: "Even in reporting an occurrence proper for publication there may be such an absence of the required diligence and care to ascertain the truth as to make the report libelous. . . . The mode of presenting the case to the jury made it turn on the intent and ignored entirely the liability arising from negligent disregard of the injury that might be inflicted upon the plaintiff." At page 352, it was said: ". . . the jury should consider the whole article and determine from all the evidence, whether, not withstanding the difference of name, the description was such either intentionally or by want of due care and diligence in ascertaining the true facts, that there would be a natural and reasonable inference that the plaintiff was the person referred to." In the *Shelly* case, the court said at page 123: "Conceding the occasion to have supplied the basis of privilege, the measure of diligence and care here shown to ascertain the truth of the statement published, is, in our opinion, entirely insufficient. It is not suggested in the point that there was any necessity or reason for such haste in publishing the defamatory matter as precluded inquiry, in the usual way, which would have revealed the utter falsity of the charge."

¹² In these and the following cases it was held that a newspaper publisher is liable for an unintentional defamation and cannot plead that he could not reasonably have known its libelous nature. See *E. Hulton & Co. v. Jones*, L. R. (1910) 35 App. Cas. 20, (1909) 2 K. B. 444 (Eng.); *Morrison v. Ritchie & Co.*, (1902) 39 Scottish L. Rep. 432; *Oklahoma Pub. Co. v. Givens*, 67 Fed. (2d) 62; *Taylor v. Hearst*, 107 Calif. 262, 40 Pac. 392; *Walker v. Bee-News Pub. Co.*, 122 Neb. 511, 240 N. W. 579.

¹³ It will be noted the facts in all cases differ materially from those in the instant case. In *Sorenson v. Wood*, 123 Neb. 348, 243 N. W. 82, the defamatory remarks were made by a political speaker to whom it had extended its facilities. The speaker used a prepared script that had not been previously submitted to the broadcasting company, though it could have obtained the script had it so desired. No effort was made to stop the transmission although the length of the remarks would have enabled the company to have done so.

newspaper liability, either under the Pennsylvania rule as stated, or under the broader rule existing in some other states, would support liability in the cases referred to, on their facts. Nevertheless, the analogy itself has been properly subjected to criticism by almost every legal commentator.¹⁴ The American Law Institute in its *Restatement of the Law of Torts* refused to adopt it. In Section 577¹⁵ the general rule is stated:

"Publication of defamatory matter is its communication intentionally or by a negligent act to one other than the person defamed."

To this is appended, in Comment (g), the following caveat:

"The Institute expresses no opinion as to whether the proprietors of a radio broadcasting station are relieved from liability for a defamatory broadcast by a person not in their employ if they could not have prevented the publication by the exercise of reasonable care, or whether, as an original publisher, they are liable irrespective of the precautions taken to prevent the defamatory publication."

This caveat was adopted after full discussion, on the ground that the decided radio cases were insufficient in number to require the acceptance of an analogy presenting such serious practical and legal difficulties.¹⁶

Moreover, the facts of this case must be kept in mind, as they differ greatly from the facts in the cases noted. The speaker here was an employe of a third party to whom the broadcasting company had leased its facilities. He was not under the broadcasting company's control, authority or command. The script used was examined and rehearsed exactly as written. It contained nothing offensive, and appellant, in renting its facilities, had no reason to believe anyone would utter a defamatory statement. There was no power or means possessed by the broadcasting company that enabled it to prevent the transmission of the defamatory remark. It was physically impossible for the monitor or program director to have intervened, as the performer, without notice, interjected his terse defamatory remark so quickly that no one in appellant's employ was able to prevent its transmission.

In these circumstances the analogy between the radio broadcaster and the newspaper publisher is demonstrably weak, considering not only the practical differences between the two media of communication but the different conditions under which the industries operate. Newspaper matter is prepared in advance, reviewed by members of the various staffs, set into type, printed, proof read and then "run off" by employees of the publisher; at all times opportunity is afforded the owner to prevent the publication of the defamatory statement up to the time of the delivery of the paper to the news-vendor. The defamation thus may be said to be an intentional publication, or at least one published without due care.

Similarly, the broadcaster may, as it did here, require the submission of the script in advance for editing; it may require rehearsals and its production director may prevent the transmission of doubtful matter. But where the circumstances, like those

The principal defense was privilege under the Federal Statute which prohibits the censoring of political addresses. The case was submitted on the issue of negligence resulting in a verdict for the defendant. This was reversed, the court holding the defendant liable by analogy to a newspaper publication. This was not a case of "ad libbing" nor of "leaving". In *Miles v. Louis Wosmer, Inc.*, 172 Wash. 466, 20 P. (2d) 847, the speaker was an announcer employed by the radio station. The defamatory words derogatory to plaintiff were from a prepared script which the company could have edited itself. Under the authority of the *Sorenson* case, liability was upheld. In *Coffey v. Midland Broadcasting Co.*, 8 F. Supp. 889, the transmitting company was in New York and one of its chain members in Kansas City was sued for defamatory remarks made in New York and transmitted to its station by telephone. Time and facilities were leased to a commercial advertiser and the speaker was an employe of the advertiser. The defamatory remarks apparently were part of a prepared and rehearsed program appearing in the script submitted to and passed on by the broadcasting company in New York. The court in remanding the case recognized that the *Sorenson* and *Miles* cases could have been decided on the basis of negligence but held that in this particular case the facts were broader. Another case, *Irwin v. Ashurst*, 158 Ore. 61, 74 P. (2d) 1127, held that defamation in the broadcast of proceedings at a trial was privileged, but only if the report was true and accurate.

¹⁴ See *Bohlen, Fifty Years of Torts*, (1937) 50 Harv. L. Rev. 725, 729-731; *Holey, Low on Radio Programs*, 5 George Washington L. Rev. 157, at p. 187; *Keller, Federal Control of Defamation by Radio*, 12 Notre Dame Lawyer 15, pages 153-162; *Guider, Liability for Defamation in Political Broadcasts*, 2 Journal Radio L. 708, at p. 713; *Nosh, Application of the Law of Libel and Slander to Radio Broadcasting*, 17 Ore. L. Rev. 307, at p. 309; *Thornton, Liability of Radio Re-Broadcaster*, 14 Ore. L. Rev. 492; *Sprogue, Freedom of the Air*, 8 Air. L. Rev. 30; *Fronk, Defamation by Radio*, 8 So. Calif. L. Rev. 389; *Fornum, Radio Defamation and the A. L. I.*, 16 B. U. L. Rev. 1; *Huston, Liability of Broadcasting Company*, 12 Ore. L. Rev. 149; *Socolow, Law of Radio Broadcasting* (1939) Volume 2, page 858; *Dovis, Low of Radio Communication* (1927) pages 163-164; *Report of Standing Committee on Communications*, 57 A. B. A. Rep. (1932) 423, 445-446.

¹⁵ *Restatement of the Law of Torts*, Vol. 3, page 192.

¹⁶ 12 *Proceedings, American Law Institute*, pp. 355 et seq; 14 *Proceedings, American Law Institute*, 73 et seq.

now presented are such that the defamation occurs beyond the control of the broadcaster, it is perfectly clear that the analogy between newspapers and broadcasting companies collapses completely. The superior control of the newspaper publisher is self-evident.

Other analogies have been suggested which, when first mentioned, may be thought of assistance, but when analyzed possess inherent weaknesses. In communications by telegraph the rule of due care has been invoked. We know of no case where a telephone company has been held for defamation for the use of its lines, but its duty should rise no higher than that of a telegraph company. Both activities are public utilities, and cannot select the users of their facilities.¹⁷ Radio companies are not in that category. They may select their performers and choose between applicants for the use of their facilities,¹⁸ which are designed, not for private communications from one individual to another, but for those to the public generally.

It has been suggested that the dissemination of matter by radio may be likened to dissemination by news-vendors and booksellers, who merely republish original utterances. The rule of absolute liability does not apply to such vendors.¹⁹ While this is possibly a close analogy, and has the support of eminent legal writers, its weakness is in the fact that the sound which is transmitted to radio listeners is carried directly by the facilities of the broadcaster, though the activating impulse may have been the spoken word at the microphone. It is a trifle more than the mere delivery of a newspaper to the purchaser. It has been held that it is the reproduction of the spoken word from the broadcasting room. *Buck v. Jewell-LaSalle Realty Co.*, 283 U. S. 191, 199-201. The combination of the voice and the transmitting apparatus is necessary to effect the broadcast. The speaking and publication of a defamation are simultaneous.

The closest analogy suggested²⁰ is the loud-speaking device installed in public halls, owned, maintained and operated, very much like the radio, by the owner of the premises. The halls are rented for public addresses, and may be equipped with outside amplifiers or loud-speakers, increasing the size of the audience. The only practical difference here is in the number of persons who hear the remarks. If the newspaper analogy is to be carried to its logical conclusion, the owners of the loud-speaking devices should be liable for the defamatory utterances of those leasing or using these devices.

The real difficulty arises from attempting to adapt to the new tort of radio defamation, rules of liability applicable in other fields of kindred, but not identical, types of wrong. Defamation in the law, until the radio appeared, was either libel or slander. Now, it is urged by some that the law of libel should be extended to defamation by radio because of the number of persons that hear it,²¹ others indicate that it should be treated as slander.²²

That part of the Roman law of defamation taken into the English law of libel was applicable to more serious cases. The strict rules of libel were originally directed at the printing press, which provided a wider means of publication. The differences between libel and slander, and the comparative ease of recovery in libel as against the more restricted and less stringent liability in slander, are well known. Some authors dispute these formal distinctions, asserting there is no sound reason to support them.²³ Among the factors to be considered in reaching a rule of liability for defamation is the extent of the publication; but that is not the only, or the main reason for the distinction between libel and slander. The more serious consideration is the permanence of the printed libel, and its capacity for continuous future harm over a wide area. Slander, or the spoken word, is not bound to any set form; it is easily fabricated and made to appear much worse than actually spoken; it offers opportunity for fraudulent and fictitious

¹⁷ See *Nosh, Application of the Law of Libel and Slander to Radio Broadcasting*, 17 Ore. L. Rev. 307, at page 312.

¹⁸ *Sto-Shine Products Co., Inc., v. Station WGBB*, 188 I. C. C. Rep. 271.

¹⁹ See *Bohlen, Fifty Years of Torts*, 50 Harv. L. Rev. 725, 731; *Nosh, Application of the Law of Libel and Slander to Radio Broadcasting*, 17 Ore. L. Rev. 307, at page 311; *Restatement of Torts*, Vol. III, Sec. 581, comment (f).

²⁰ *Bohlen, Fifty Years of Torts*, 50 Harv. L. Rev. 725, 731.

²¹ See *Sorenson v. Wood*, 123 Neb. 348, 243 N. W. 82.

²² See *Meldrum v. Australian Broadcasting Co.*, (1932) Victoria L. R. 425 (Australia). In *Locke v. Gibbons*, 164 Misc. 877, 299 N. Y. S. 188, it was held that the defamation was slanderous if made extemporaneously by the speaker. See *Dovis, Low of Radio*, (1927), pp. 158-159. In *Miles v. Louis Wosmer, Inc.*, 172 Wash. 466, 20 P. (2d) 847; *Singler v. Journal Company*, 218 Wis. 263, 260 N. W. 431, and *Locke v. Benton & Boles*, 253 App. Div. 367, 2 N. Y. S. (2d) 150, the courts recognized the difficulty of classifying radio defamation as either libel or slander, but held that it was immaterial.

²³ *Veeder, The History and Theory of the Law of Defamation*, (1903) 3 Col. L. R. 546, 571. 3 *Selected Essays of Anglo-American Legal History*, 446; *Restatement of Torts*, Sec. 568, Historical Note; 2 *Socolow, Low of Radio Broadcasting* (1939) 851-852.

claims; it is usually uttered in the presence of a few. The law has, therefore, encased it in most rigid rules.

When the radio sound reaches the human ear it is the spoken word. It is urged that the radio gives to it a power for harm even greater than the printing press gives to the printed word, but this conclusion does not consider the factor of permanency just mentioned, or the traditional belief in the veracity of the printed word, particularly important in the community where the injured person resides. Newspaper defamations possess possibilities for real harm far greater than defamations by radio, as they constitute permanent, continuing records, which, through circulation, are constantly republished. The radio word is quickly spoken and, generally, as quickly forgotten. Because of the differences in power of the stations from which it is sent, it may receive widely varying circulation.

The radio is, admittedly, a powerful agency for advertising and the conveyance of important public matters, as well as the promotion of religion and politics. It also affords its listeners a measure of entertainment, and brings to them the reports of many occurrences more quickly than the newspaper could possibly do. It does, to a certain extent, compete with the newspaper. But these factors, standing alone, should not be sufficient to cast upon the radio the cloak of liability without fault for defamatory publications, as libels, by extension of the law applicable in some States to newspapers. The *Restatement* has taken the position that when the words broadcast are read from script it is libel, but has expressed no specific conclusion as to extemporaneous remarks.²¹ As suggested in *Irwin v. Ashurst*, 158 Ore. 61, 65; 74 P. (2d) 1127, 1129, the distinctions of libel and slander seem inapplicable to the law of radio. We did not pass on the question in *Weglein v. Golder*, 317 Pa. 437.

Radio broadcasting presents a new problem, so new that it may be said to be still in a state of development and experimentation. It was not conceived nor dreamed of when the law of libel and slander was being formulated. Publication by radio has physical aspects entirely different from those attending the publication of a libel or a slander as the law understands them. The danger of attempting to apply the fixed principles of law governing either libel or slander to this new medium of communication is obvious. But the law is not so firmly and rigidly cast that it is incapable of meeting a new wrong as the demands of progress and change require. In this State our tort actions are in trespass; the pleader need not lay his cause either in slander or in libel, and, as defamation by radio possesses many attributes of both libel and slander, but differs from each, it might be regarded as a distinct form of action. Certainly, there is no necessity of extending to this situation a so-called rule of absolute liability without fault, particularly when our law of libel merely creates a high standard of care. A rule should be applied which will not impose too heavy a burden on the industry, and yet will secure a high measure of protection to the public or those who may be injured.

That a rule of this nature should be adopted becomes increasingly apparent when it is considered that in the field of its operation radio broadcasting is subjected to many restrictions, which are not imposed upon newspapers. Any person, firm, or corporation may publish a newspaper without asking the government's consent. Newspapers are the freest medium of communication in this country today. They are protected by the Constitution, by statutes, and by the liberal decisions of many courts. They determine their own policies, print as they desire, unrestricted and unlimited, except by criminal statutes for libel and by the possibility of civil action. The rule of civil liability for libel applicable to them is just and fair, considering the opportunities of correction or control.

On the other hand, a broadcasting company cannot operate without a license from the Federal Government, which must be renewed from time to time. No license may be granted unless the licensee serves the public interest. Radio is a governmentally-regulated industry. The number of stations, their locations and wave-lengths, the hours in which they may broadcast, and their transmitting power, are all subject to regulation. In this manner their effective range of communication and the number of their listeners may be controlled. The power of Congress in this respect, has been upheld as essential. *Radio Comm'n v. Nelson Bros. Co.*, 289 U. S. 266. Under the Act of June 19, 1934, c. 652, Section 303, 48 Stat. at L. 1082, as amended May 20, 1937, c. 229, Sections 5, 6(a), 50 Stat. at L. 190, 191, 47 U. S. C. A. Section 303, the Federal Radio Communications Commission is given broad powers to formulate rules for the conduct of radio stations; severe penalties are imposed for violations. *A broadcasting company that oversteps these rules may have its license*

revoked and lose the value of its entire plant; this, in the realm of radio, is capital punishment. And, the publication by a broadcasting station of defamatory matter, as also the transmission of certain forms of false and fraudulent advertising, may, if persisted in, result in the revocation of the license of the station or its deletion. But, even here:

"It seems inherently unreasonable to suppose that a station should be deleted by the Commission for the dissemination of defamation without knowledge or fault of the licensee."²⁵

Again, if the broadcaster is to be adjudged liable without fault for a defamatory remark and if the defamation is to be regarded as a libel, he might also become guilty of criminal libel, though, as in the circumstances before us, he is as innocent of wrong as one could possibly be.

All of these considerations cause the newspaper analogy to utterly fail, and no consideration of public policy could in any sense cause a broadcaster to be punished by a rule of absolute liability such as that invoked by the court below. If, as has been suggested, the imposition of such liability on newspapers was originally desirable as a matter of public policy because of the frequency of defamatory publications, and because no other means of discouraging the practice was available, these reasons do not exist in the case of radio broadcasting. Radio defamations have been infrequent, and governmental regulation affords a potent check.

It has been stated that the public "will be best served by a rule which will release a broadcasting station from liability for defamatory remarks made by others, wherever it appears that the management of the station exercised due and reasonable care to avoid the utterance of the defamation."²⁶ To inflict the rule of absolute liability would serve no useful purpose. It would not only place an unreasonably heavy burden upon the industry, but would open the door to frauds and perjuries as gross as could be practiced in actions of slander, and which could never be practiced successfully against a newspaper publication for libel. In situations like the present case, for instance, the broadcasting company might just as easily be the victim of a conspiracy to defame, participated in by the hotel and the speaker. Such conspiracies to defame might wreck the strongest broadcasting company and might become a widespread evil. Here lies the strength of the newspaper, for its printed word cannot be distorted or fabricated.

It is urged that appellant should have taken some steps to correct the remark before the program closed; that, not having done so it in effect adopted the remark. From the evidence the directors of both appellant and lessee endeavored to have the statement corrected and were partially successful. However, if appellant was liable when the remark was made, the explanation would have been merely in mitigation of damages. The converse is true. Not being liable nor responsible for the utterance when made, the lack of a full explanation or apology would not make appellant liable. Here again the facts must be considered. Any explanation or apology would not only tend to emphasize the defamation, but there would arise the question of its adequacy; the fact that it was omitted would not, of itself, impose liability, under the circumstances before us, against the lessor whose facilities were leased to a responsible agency for the broadcast of a nondefamatory commercial program, without the slightest intimation that they would be abused.

It is suggested that absolute liability should be imposed because appellant could protect itself therefrom by an indemnifying bond. This is the weakest of all arguments, and begs the question. It is indeed a new theory that a substantive rule of law should be based upon the possibilities of an indemnifying bond to save an innocent person from loss. If an indemnifying bond is to be the basis of judgment, then in all actions for personal injury it would be well to establish a general rule of absolute liability, requiring the party to be held liable without fault to take out a bond. It is inconceivable that any bonding company would place at a reasonable figure a bond to indemnify a broadcaster against absolute liability, and against the revocation of its license by the Federal authorities, as a result of an act which it did not perform, inspire, nor control.

In considering the basis of liability for defamation by radio and in balancing the conflicting interests, due regard must be had to the rights of all parties, and to the ultimate and collateral effects any pronouncement might have on public interests. A rule unalterably imposing liability without fault on the broadcasting

²⁵ *Haley, Law of Radio Programs*, 5 George Wash. L. Rev. 157, at pages 188-189.

²⁶ *Guider, Liability for Defamation in Political Broadcasts*, 2 Journal Radio Law, 708, at 712-713.

²¹ *Restatement of Torts*, Vol. III, sec. 568, comments (d) and (f).

company under any circumstances is manifestly unjust, unfair and contrary to every principle of morals. A fair aspect of the harm to the persons injured must be considered as well as the circumstances under which the incident occurred. An essential consideration in formulating a rule is the grave possibility of pyramiding damages as well as establishing criminal responsibility if defamatory broadcasting is treated as libel.

We therefore conclude that a broadcasting company that leases its time and facilities to another, whose agents carry on the program, is not liable for an interjected defamatory remark where it appears that it exercised due care in the selection of the lessee, and, having inspected and edited the script, had no reason to believe an extemporaneous defamatory remark would be made. Where the broadcasting station's employe or agent makes the defamatory remark, it is liable, unless the remarks are privileged and there is no malice.

We have assumed in our entire discussion that the remarks here made were actionable per se,²⁷ and that if the station were liable therefor it would not be necessary to prove malice or special damages. Regardless of these considerations, since it is conceded that there was no possible way in which appellant could have anticipated or prevented the remark, appellee has no cause of action against the broadcasting company.

Judgment reversed and here entered for appellant.

Networks Adopt Arrangement For War Broadcasts

Neville Miller made public on Monday an arrangement voluntarily reached by the Columbia Broadcasting System, Mutual Broadcasting System and National Broadcasting Company last Thursday in New York, for the conduct of their broadcasting during the present emergency. Chairman James Lawrence Fly of the FCC and his Committee, Commissioners Thad H. Brown and Commander T. A. M. Craven, were informed today of this voluntary arrangement at an informal meeting with Neville Miller, President of the National Association of Broadcasters, Niles Trammell, Executive Vice-President of the National Broadcasting Company, Alfred J. McCosker, Chairman of the Board of the Mutual Broadcasting System, and Edward Klauber, Executive Vice-President of the Columbia Broadcasting System.

Mr. Miller explained that the arrangement had not been made public hitherto because it was felt that as a matter of courtesy the new Chairman of the FCC and his Committee associates should be informally made aware of it first.

Mr. Miller expressed satisfaction that the major networks of the country had been able to find ways to apply the experience they have gained in broadcasting many critical events through the years to the war crisis without eliminating that competition which all concerned felt to be so essential to good public service.

The text of the arrangement:

MEMORANDUM OF EUROPEAN WAR COVERAGE

General

Every effort consistent with the news itself is to be made to avoid horror, suspense and undue excitement. Particular effort

²⁷ Appellant disputes this strenuously, and with much merit.

will be made to avoid suspense in cases where the information causing the suspense is of no particular use to the listener. For example, news of air raid alarms should not be broadcast until we actually learn whether or not there has been an air raid. Also, we will avoid descriptions of hypothetical horrors which have not actually occurred, such as discussing the things that might go on if another ship were to be torpedoed. In all broadcasts about the plight of refugees, the number of killed and wounded, and so on, we will use our best news judgment and try to avoid undue shock to the radio audience, without taking upon ourselves an unjustifiable responsibility for concealing how bad the war really is.

Broadcasters will make every effort to be temperate, responsible, and mature in selecting the manner in which they make the facts of war and its attendant circumstances known to the audience.

Broadcasters will, at all times, try to distinguish between fact, official statement, news obtained from responsible official or unofficial sources, rumor, and matter taken from or contained in the foreign press or other publications, so that, by reporting and identifying these sources, we can help the radio audience as much as possible to evaluate the news brought to it.

The radio audience should be clearly informed that the news from many sources, whether it be press bulletins or direct broadcasts, is censored and must be appraised in the light of this censorship.

Broadcasts from Europe

Broadcasters will designate, if they choose, broadcasts of news and news analysis, either or both, from Europe at such intervals as they individually deem to be desirable. It is advisable that these broadcasts be by Americans as far as possible, and that each individual broadcaster instruct the persons he employs, either permanently or temporarily, in the general principles set forth here. Insofar as European broadcasts contain news analysis, they are to conform to the definition of news analysis hereinafter set forth.

Speeches by foreigners from abroad, public proclamations and statements, and like matter are to be handled by each individual broadcaster in such manner as he deems best to serve his audience, but it is essential that fairness to all belligerents be maintained and that this phase of the operations be carried out in such a way that the American audience shall be as completely and fairly informed as possible.

Broadcasters recognize that, if they do not handle the war with complete responsibility toward the American people, and if they deviate from these principles, they run the risk of involving all other broadcasters in the consequences of their acts. The operation of these principles should include at all times a strong responsibility toward the industry as a whole.

Remotes

If broadcasts become available from scenes of battle, bombed areas, air-raid shelters, refugee camps and so on, broadcasters will not deprive the audience of the ability of radio to give them first-hand information, but will use taste and judgment to prevent such broadcasts from being unduly harrowing.

Propaganda from Europe

If broadcasters put on propaganda disseminated by radio stations or the press of European countries or distributed by these countries in any other manner, each will be guided by his own news judgment and endeavor to label precisely the source of the material, and to do this sufficiently often so that no reasonably careful listener is likely to be misled, and he will also be governed by the same rules of fairness in presenting all sides, though not necessarily in the same broadcast, nor need this judgment be a quantitative one. In this connection, it is recognized that there are certain hazards in bringing these broadcasts direct to this country and extreme care will be exercised in so doing.

Domestic News

All the foregoing general principles will of course apply to domestic broadcasts on any phase of the war. All news broadcasts, whether sponsored or unsponsored, are to remain in the strictest control of the broadcaster in order that the standards herein set forth may be maintained. News analysts are at all times to be confined strictly to explaining and evaluating such fact, rumor, propaganda, and so on, as are available. No news analyst or news broadcaster of any kind is to be allowed to express personal editorial judgment or to select or omit news with the purpose of creating any given effect, and no news analyst or other news broadcaster is to be allowed to say anything in an effort to influence action or opinion of others one way or the

other. Nothing in this is intended to forbid any news broadcaster from attempting to evaluate the news as it develops, provided he substantiates his evaluation with facts and attendant circumstances. His basis for evaluation should, of course, be impersonal sincere and honest.

In order not to keep the public unduly disturbed and alarmed, each broadcaster, exercising his own news judgment, will endeavor to interrupt programs for news bulletins as little as seems consistent with good operations.

Commercial Programs

No propaganda in connection with the war will be allowed in either the commercial announcements or the context of commercial programs. Nothing in this shall be interpreted as barring straight news or news analysis, as herein have been described, from commercial programs.

Speeches

The safeguards of fairness and program balance now applied in the handling of speeches on controversial issues will continue to be applied and, in order to make this effective, every effort will be made to obtain the text of speeches before they are scheduled.

After the meeting, the FCC issued a statement which said, in part:

"At this meeting the representatives of the industry submitted statements of policies and practices of their respective companies in regard to war coverage. They also submitted the "Memorandum of European War Coverage" adopted by a committee of the National Association of Broadcasters at a meeting in New York on September 7, 1939. Cooperative consideration was given to a number of problems which have arisen, but no final conclusions were arrived at.

"Chairman Fly expressed the thought that the radio industry, taken by and large, had rendered an important public service in broadcasting news and comment on war conditions. He said that all parties will continue to give consideration to the most effective means of assuring that broadcasting operations in this period of stress will promote the public interest."

FCC STARTS WAR BROADCAST PROCEEDINGS AGAINST WMCA

The FCC on Tuesday issued an order to WMCA, New York, to show cause why its license should not be revoked. The order said the Commission "has information in its possession tending to establish that" the station "caused the interception of secret radio communications sent by the governments of Germany and Gt. Britain" and "caused the said messages to be decoded and broadcast over the facilities of Station WMCA" in violation of the Federal Communications Act.

The text of the order:

WHEREAS, the Government of the United States has agreed with certain other governments, including Germany and Great Britain, to take all the measures possible, compatible with the system of telecommunications used, with a view to insuring the secrecy of international correspondence; and

WHEREAS, in order to insure the secrecy of international radio communications, the United States Government has agreed with other governments, including Germany and Great Britain, to take the necessary measures to prohibit and prevent (a) the unauthorized interception of radio communications not intended for the general use of the public; and (b) the divulging of the contents or of the mere existence, the publication or any use whatever, without authorization, of such radio communications; and

WHEREAS, Section 605 of the Communications Act of 1934 provides that no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect or meaning of such intercepted communication to any person, and further provides that no person having received such intercepted communication or having become acquainted with the contents, substance, purport, effect, or meaning of the same or any part thereof, knowing that such in-

formation was so obtained, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto; and

WHEREAS, the Federal Communications Commission has been directed by Congress to execute and enforce the provisions of the Communications Act of 1934, as amended; and

WHEREAS, the Federal Communications Commission has information in its possession tending to establish that the Knickerbocker Broadcasting Company, Inc., licensee of Station WMCA, New York, caused the interception of secret radio communications sent by the governments of Germany and Great Britain, respectively, containing orders to the naval or military forces of said governments to govern the movement of said forces in time of war, and thereafter caused the said messages to be decoded and broadcast over the facilities of Station WMCA, all without authority of the respective senders of said communications; and

WHEREAS, during the period of tense international relations the public interest, convenience and necessity required strict observance by licensees of radiobroadcast stations in this country of all provisions of international undertakings and federal legislation relating to the secrecy of international communications;

NOW, THEREFORE, IT IS ORDERED That the Knickerbocker Broadcasting Company, Inc., at or before 11:00 a. m., September 15, 1939, file a written statement under oath in the office of the Secretary of the Commission, Washington, D. C., which shall set forth all facts and circumstances pertaining to said alleged interception and broadcasting and shall show cause why the Federal Communications Commission should not, pursuant to Section 312 (a) of the Communications Act of 1934, as amended, revoke the license for said Station WMCA for violation of and failure to observe the provisions of the Communications Act of 1934, as amended, constituting conduct by said licensee contrary to the public interest.

WMCA ANSWERS COMMISSION

WMCA, in an answer filed with the Commission on Thursday, stated that it had neither directly nor indirectly intercepted any secret radio communications sent by the governments of Germany and Great Britain. The answer was sworn to by William Weisman, vice president of the Knickerbocker Broadcasting Company, licensee of WMCA. The complete answer is as follows:

WILLIAM WEISMAN, being duly sworn, deposes and says:

1. I am Vice-President of KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA), and make this affidavit in answer to the Order to Show Cause made in the above-entitled proceeding on September 12, 1939.

2. KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) neither directly nor indirectly intercepted or caused the interception of secret radio communications sent by the governments of Germany and Great Britain, respectively, or any other government, containing orders to the naval or military forces of any said governments to govern the movement of said forces in time of war. Neither has KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) at any time, under any circumstances, intercepted any code messages of any government in time of war or any other times.

3. In the course of its daily broadcasting schedule, KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) has broadcast news dispatches, including those emanating from the governments of Germany and of Great Britain. However, KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) has no news-gathering bureau of its own and relies entirely for its sources upon accredited news-gathering agencies.

A. In connection therewith, KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) has a written contract with KING FEATURES SYNDICATE, INC. (International News Service Department). A photostatic copy of said contract is hereto annexed, marked "Exhibit A," and made a part hereof. By virtue of said agreement there is installed in the offices of KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) a news ticker to which is transmitted the regular news service of King Features Syndicate, Inc. (International News Service Department). KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) edits the said news reports and prepares the same for broadcasting.

B. Because of the unusual situation in Europe during the past few weeks, and of the great interest of the American people in every phase of news emanating from Europe, KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) entered into an agreement with the New York Herald Tribune, by the terms of which the New York Herald Tribune has furnished KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA), for broadcasting purposes, special news flashes which it has received from its own direct sources and correspondents in Europe. Copies of the letters constituting such agreement are annexed hereto, marked "Exhibit B-1," "Exhibit B-2" and "Exhibit B-3," and made a part hereof. See also photostatic copy of bill rendered by New York Herald Tribune, annexed hereto, marked "Exhibit C," and made a part hereof.

C. By virtue of an oral arrangement with the New York Daily Mirror there is broadcast over the facilities of Station WMCA, once each day for 15 minutes, a news program emanating directly from the editorial rooms of the said New York Daily Mirror. These broadcasts have always consisted of news items which had already appeared in that publication.

4. I state upon my oath that KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) has not had, nor has it now, any knowledge of any secret or other code used by the governments of Germany or of Great Britain, or of any of the departments of either of said governments.

5. By this affidavit I swear that KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) has not broadcast any news item or other information which it obtained illegally or which KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) had any reason to believe was obtained illegally by any other person, firm or corporation. In fact, all of the news items which were broadcast by KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) have appeared in the daily newspapers in the regular course of publication.

6. I am aware of the advertisement which appeared in the Radio Daily of September 6, 1939, in which is reproduced excerpts from columns published in New York City newspapers, and in which it is stated that WMCA had decoded secret orders of the governments of Germany and Great Britain. KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) does not control, directly or indirectly, in any manner, either the said publications or any of the writers of the said columns. KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA) used the said items in the advertisement only as an indication of the fact that WMCA did broadcast the news items in advance of other radio stations or in advance of their publication in the daily newspapers in New York City, but not for the purpose of advertising that WMCA had in fact intercepted or decoded any of the secret orders of Germany, Great Britain or any other government.

7. I wish to make entirely clear that neither KNICKERBOCKER BROADCASTING COMPANY, INC. nor any of its officers, directors or employees have, directly or indirectly, violated any of the provisions of the Communications Act of 1934 as amended, or any parts thereof, especially those specified in the said Order to Show Cause.

FCC REVISES LOG RULES

The Federal Communications Commission September 12 amended Section 3.90 (a) (2) of the Standard Broadcast Rules by deleting the words "together with the name or title of each" and adding the words "of the complete program" so that the rule will read:

"... (2) An entry briefly describing each program broadcast, such as 'music', 'drama', 'speech', etc., together with the name or title thereof, and the sponsor's name with the time of the beginning and ending of the complete program. If a mechanical record is used the entry shall show the exact nature thereof such as 'record', 'transcription', etc., and the time it is announced as a mechanical record. If a speech is made by a political candidate, the name and political affiliations of such speaker shall be entered."

The Commission's action was taken following complaint that the previous rule requiring a log entry of the names of the particular records used imposes a financial burden, particularly on local stations. The Commission also stated that a further study would be made

of the rules governing log entries to insure that they impose no unnecessary burden on any particular group of stations.

798 STATIONS

During the month of August, the Federal Communications Commission dropped one station and issued operating licenses to two stations. The Commission granted five permits for the construction of new stations. A comparative table by months follows:

	Jan. 1	Feb. 1	Mar. 1	Apr. 1	May 1	June 1	July 1	Aug. 1	Sept. 1
Oper't'g stations	722	727	729	732	734	735	735	738	739
C'struct'n permits	42	39	37	37	38	38	43	56	59
Total	764	766	766	769	772	773	778	794	798

DISTRICT 15

Copyright, record licenses and the A. F. of M. were the principal topics of discussion at a District 15 meeting on September 6 in San Francisco. President Howard Lane presided. The following members attended:

Will Thompson, Jr., KROY, Sacramento; William D. Pabst, KFRC, San Francisco; Chas. P. Scott, KTKC, Visalia; Ed Franklin, KJBS, San Francisco; Marion S. Walker, KHUB, Watsonville; Howard C. Walters, KDON, Monterey; Will Gunzendorfer, KSRO, Santa Rosa; Preston D. Allen, KLX, Oakland; Wm. C. Grove, KSAN, San Francisco; S. H. Patterson, KSAN, San Francisco; H. P. Drey (formerly KROW), Oakland; E. L. Finley, KSRO, Santa Rosa; Gurden Moosey, KYA, San Francisco; W. H. Bates, Jr., KTRB, Modesto; S. W. Warner, KLS, Oakland; Philip G. Lasky, KSFO-KROW, San Francisco; Ralph R. Brunton, KQW, San Jose; Art Westlund, KRE, Berkeley; Howard Lane, KFBK, Sacramento; Chas. Whitmore, KTKC, Visalia; Lloyd Yoder, KPO-KGO, San Francisco, and Lou Kiplinger, KARM, Fresno.

FEDERAL COMMUNICATIONS COMMISSION

PROPOSED FINDINGS OF FACT

The Federal Communications Commission has announced its Proposed Finding of Fact proposing to grant the application of Station KOY, **Phoenix, Arizona**, to change its frequency from **1390 to 550 kilocycles**. The station operates with 1000 watts.

The Commission stated in its Proposed Finding that the granting of this application would improve the signal strength of the station in the areas now served and "extend its service to a substantially larger area and greater population than that now served by the station."

Application of the Bureau of Education (A. Corenson, owner and manager), **Montebello (Los Angeles), California**, for a construction permit for a new station to operate on **1420 kilocycles**, 100 watts, daytime hours of operation is proposed to be denied by the Commission in a Proposed Finding of Fact.

In the Proposed Finding, the Commission stated that the facts of record do not afford a sufficient basis for a finding "that the applicant is a proper person to be entrusted with the responsibility of operating a broadcast station in the interests of the public, or that the applicant possesses all the requisite qualifications of a licensee."

The Commission in another Proposed Finding of Fact proposes to deny the application of Lawrence J. Heller for a construction permit to establish a new station in **Washington, D. C.**, to operate on **1310 kilocycles**, 100 watts night, 250 watts LS, unlimited time, and an application for a special experimental authorization to construct and operate a synchronous station in Washington, to be used in conjunction with the facilities requested for a broadcast station with 10 to 100 watts power, unlimited time.

The Commission in a Proposed Finding of Fact proposes to deny the application of the Chicago Federation of Labor of **Chicago, Illinois**, for renewal of license for international broadcast station W9XAA; and to dismiss without prejudice to the filing of a new application for a new international station, the application of Radio Service Corporation of Utah for consent to voluntarily assign the license of Station W9XAA from the Chicago Federation of Labor to the Radio Service Corporation of Utah, and move the station's location from **York Township, Illinois**, to **Saltair, Utah**.

In its Proposed Finding, the Commission stated that the licensee of W9XAA "failed to establish that it was engaged in a program of research and experimentation contemplated by the Commission's rules governing broadcast stations in the international service, in effect during the period in which the license for this station was outstanding."

DECISIONS OF COMMISSION

The Federal Communications Commission has denied the application of Station WLAW, **Lawrence, Massachusetts**, for a construction permit to increase its operating assignment from sunset at Lawrence to sunset at San Francisco and install a directional antenna for nighttime use. The station now operates on **680 kilocycles**, 1000 watts, daytime only.

The Commission found that the operation of the station as proposed would not provide primary service for the Lawrence metropolitan area during nighttime hours because of objectionable interference from Station WPTF. Chairman Fly did not participate in this decision.

The application of WNEL, **Juan Piza, San Juan, Puerto Rico**, for license renewal has been granted by the Commission.

The Commission in a Final Order has granted the application of the Catawba Valley Broadcasting Company for the erection of a new station at **Hickory, North Carolina**, to use **1370 kilocycles**, 100 watts night, 250 watts LS, unlimited time.

The application of WCOV, **Montgomery, Alabama**, for modification of its license authorizing unlimited time on **1210 kilocycles**, instead of daytime hours only, using 100 watts power, was granted by the Commission.

In a Final Order, the Commission has granted the application of the Southern Oregon Broadcasting Company to erect a new station at **Grants Pass, Oregon**, to use **1310 kilocycles**, 100 watts, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, September 19. They are subject to change.

Tuesday, September 19

NEW—C. T. Sherer Co., Inc., Worcester, Mass.—C. P., **1200 kc.**, 100 watts, 250 watts LS, unlimited time.

Thursday, September 21

Oral Argument Before the Commission

Report No. B-40:

KRRV—Red River Valley Broadcasting Corp., Sherman, Tex.—C. P., **880 kc.**, 1 KW, unlimited time (DA day and night). Present assignment: **1310 kc.**, 250 watts, daytime.

Report No. B-54:

NEW—Spartanburg Advertising Co., Spartanburg, S. C.—C. P., **1370 kc.**, 100 watts, 250 watts LS, unlimited time.

Report No. B-66:

NEW—Wendell Mayes, Joe N. Weatherby and Wm. J. Lawson, d/b as "Brown County Broadcasting Co.," Brownwood, Tex.—C. P., **990 kc.**, 1 KW, daytime.

Friday, September 22

Further Hearing

NEW—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—C. P., **1200 kc.**, 100 watts, daytime.

FUTURE HEARINGS

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

October 9

NEW—The Mayflower Broadcasting Corp., Boston, Mass.—C. P., **1410 kc.**, 500 watts, 1 KW LS, unlimited time (requests facilities of WAAB).

WAAB—The Yankee Network, Inc., Boston, Mass. (main and auxiliary).—Renewal of license, **1410 kc.**, 1 KW, 1 KW LS (main). *500 watts, 1 KW LS (auxiliary), unlimited time. *Auxiliary purposes only.
NEW—Harold Thomas, Bridgeport, Conn.—C. P., **1310 kc.**, 100 watts, 250 watts LS, unlimited time.

October 17

NEW—Las Vegas Broadcasting Co., Inc., Las Vegas, Nev.—C. P., **1420 kc.**, 100 watts, 250 watts LS, unlimited time.

November 2

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—C. P., **620 kc.**, 500 watts, 1 KW LS, unlimited time (DA night). Present assignment: **1310 kc.**, 100 watts, 250 watts LS, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATION GRANTED

WMFO—James R. Doss, Jr., Decatur, Ala.—Granted voluntary assignment of license of station WMFO from James R. Doss, Jr., to Tennessee Valley Broadcasting Co., Inc.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KHSL, Chico, Calif.; KROW, Oakland, Calif.; KRSC, Seattle, Wash.; KVOR, Colorado Springs, Colo.; WASH, Grand Rapids, Mich.; WDBJ and auxiliary, Roanoke, Va.; WDOD, Chattanooga, Tenn.; WEBB and auxiliary, Duluth, Minn.; WGNY, Newburg, N. Y.; WJBO, Baton Rouge, La.; WMRO, Aurora, Ill.; WNBZ, Saranac Lake, N. Y.; WREN, Lawrence, Kans.; WTAW, College Station, Texas.

MODIFICATION OF LICENSES TO INCREASE POWER AUTHORIZED

The following stations were granted modification of licenses to increase power to 250 watts:

WABI, Bangor, Maine; WJTN, Jamestown, N. Y.; WMAS, Springfield, Mass.; WGAL, Lancaster, Pa.; WMPC, Lapeer, Mich.; WJAC, Johnstown, Pa.; WWSW, Pittsburgh, Pa.; WRAK, Williamsport, Pa.; WCMI, Ashland, Ky.; WOMI, Owensboro, Ky.; WHLS, Port Huron, Mich.; WFTC, Kinston, N. C.; KALB, Alexandria, La.; WJBY, Gadsden, Ala.; WJHL, Johnson City, Tenn.; KRIC, Beaumont, Tex.; WOPI, Bristol, Tenn.; KFVS, Cape Girardeau, Mo.; WRJN, Racine, Wis.; WGL, Fort Wayne, Ind., and KAST, Astoria, Ore.

MISCELLANEOUS

KPDN—R. C. Hoiles, Pampa, Tex.—Granted special temporary authority to operate unlimited time for the period September 7 to September 14, for the purpose of broadcasting war news only.

W2XAB—Columbia Broadcasting System, Inc., New York City.—Granted special temporary authority to conduct equipment tests on television station for a period of 10 days from September 8.

WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Granted special temporary authority to operate a temporary unmodulated 100-watt crystal controlled transmitter on **1090 kc.** in the Baltimore area one hour after sunrise to one hour before sunset, for the period September 12 to October 11, in order to conduct a site survey.

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Granted special temporary authority to operate from 6 to 10 p. m., CST, for the period September 10 to 16, in order to broadcast special night ceremonies and programs originating at Kentucky State Fair, using 100 watts after local sunset.

W1XOJ—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to test high frequency broadcast equipment of station W1XOJ on frequency **43000 kc.**, with power not to exceed 2 KW, for the period September 17 to October 16, in order to make adjustment on equipment installed and for tuning and adjustments of antenna elements which are now assembled for erection atop 400-foot mast.

NEW—United Theatres, Inc., San Juan, P. R.—Granted request for further extension in which to file opposition for re-opening case in re application for new station filed by Enrique Abarca Sanfeliz, San Juan, P. R., an additional 5 days from August 23 to August 28.

WLEU—WLEU Broadcasting Corp., Erie, Pa.—By motion of counsel, petition to intervene in the hearing on the application of Presque Isle Broadcasting Co., Erie, Pa., was withdrawn.

WTNJ—WOAX, Inc., Trenton, N. J.—Granted petition to accept amendment for change in hours of operation in re Docket No. 5667; continuance of hearing in Docket 5657 from November 6, and to hear both dockets together. Opposition and motion to strike filed by WCAM and WCAP overruled, counsel for WCAM and WCAP noting an exception.

NEW—Moody Bible Institute Radio Station, Chicago, Ill.—Referred to Commission en banc at oral argument on this case scheduled for September 14, 1939, the motion to amend application in re Docket No. 5321.

W2XBT—National Broadcasting Co., Inc., New York City.—Granted extension of special temporary authority to operate television broadcast station W2XBT on the frequency band **156-162 mc.**, for the period September 12 to October 11, pending adjustment of the license to conform with the provisions of Sec. 4.74.

NEW—Las Vegas Broadcasting Co., Inc., Las Vegas, Nev.—Denied motion to continue hearing for 15 days from October 2 to October 17, in re Docket 5702, the application of the Nevada Broadcasting Co. for a new station in Las Vegas.

KSO—Iowa Broadcasting Co., Des Moines, Iowa.—Granted petition to intervene in the hearing in re the application of The Gazette Co. for a new station in Cedar Rapids.

KMA—May Seed & Nursery Co., Shenandoah, Iowa.—Granted petition to intervene in the hearing on the application of WSBT, The South Bend Tribune, South Bend, Ind.

WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Granted petition to intervene and request for enlargement of the issues to determine whether there is interference, in re application of WSBT.

WDBJ—Times-World Corp., Roanoke, Va.—Granted petition to intervene and request for enlargement of the issues to determine whether there is interference, in re application of WSBT.

NEW—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Granted motion to amend application so as to request **1370 kc.**, 250 watts, unlimited time, instead of **1310 kc.**, 100 watts night, 250 watts day, unlimited time.

NEW—Enrique Abarca Sanfeliz, San Juan, P. R.—Granted motion to continue argument on petition to reopen hearing in re application of applicant and of the United Theatres, Inc., for a new station in San Juan.

KVOD—Colorado Radio Corp., Denver, Colo.—Granted petition to intervene in the hearing on the application of KABC, Alamo Broadcasting Co., Inc., San Antonio, Tex.

WMCA—Knickerbocker Broadcasting Co., Inc., New York City.—Withdrawn on motion of applicant, petition for postponement of oral argument now scheduled for September 14, on application of WPG for voluntary assignment of license and C. P. to move station to New York.

NEW—Las Vegas Broadcasting Co., Inc., Las Vegas, Nev.—Granted motion to continue hearing on application for new station for 15 days from October 2 to October 17.

NEW—Las Vegas Broadcasting Co., Inc., Las Vegas, Nev.—Granted motion for order to take depositions in re application for new station, with change in dates to September 25, 26 and 28.

NEW—Cascade Broadcasting Co., Inc., Everett, Wash.—Referred to Commission en banc, all parties requesting opportunity to argue before Commission, the motion to file amended application so as to request **1430 kc.**, 500 watts, unlimited time, filed in addition to new engineering testimony, and that time for filing proposed findings of fact and conclusions be extended.

WSPR—Conn. Valley Broadcasting Co., Springfield, Mass.—Granted petition of Conn. Valley Broadcasting Co. to accept amendment as to change in name to WSPR, Inc.;

- installation of a directive antenna, and increase in operating power to 500 watts, unlimited time.
- Thomas J. Watson, Endicott, N. Y.—Overruled motion to withhold further consideration of the application of WMFF, Plattsburg Broadcasting Corp., Plattsburg, N. Y., for C. P. to change operating assignment from **1310 kc.**, 100 watts night, 250 watts LS, to **1240 kc.**, 1 KW, unlimited time (DA night).
- NEW—Lackawanna Broadcasting Co., Inc., Scranton, Pa.—Granted request for order to take depositions in re application for new station.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Denied special temporary authority to operate simultaneously with station KICA from 7:30 to 10 p. m., MST, on September 10, 17 and 24, October 1 and 8, in order to broadcast the Sunday evening church services.
- W8XNU—The Crosley Corp., Cincinnati, Ohio.—Granted special temporary authority to use and operate transmitting apparatus of high frequency broadcast experiment station W8XNU, located at the southeast corner Warner and Chickashaw Sts., Cincinnati, at Carew Tower, Cincinnati, for the period September 15 to October 14, in order to make mechanical improvements in antenna and transmitting equipment.
- WBEN—WBEN, Inc., Buffalo, N. Y.—Granted special temporary authority to operate station WBEN on **970 kc.**, with 100 watts power, for a period not to exceed 15 days, daily from one hour after sunrise to one hour before sunset, in order to conduct site surveys.
- KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Denied special temporary authority to operate from 8 to 9 p. m., PST, on September 22 in order to broadcast Loyola University football game.
- KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Denied special temporary authority to operate from 8 to 9 p. m., PST, on September 29 in order to broadcast Loyola University football game.
- KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Denied special temporary authority to operate from 8 to 9:30 p. m., PST, on October 6, in order to broadcast a Loyola University football game.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Denied special temporary authority to operate simultaneously with station KICA from 7:30 to 11 p. m., MST, on September 15, 22, and 29, October 6 and 13, in order to broadcast Roswell High School football games.
- NEW—Worcester County Broadcasting Corp., Worcester, Mass.—Granted petition to intervene in the hearing on the application of C. T. Sherer Co., Inc., for a new station in Worcester. This case was heard before an examiner on July 14 and 24 and the record held open until September 15 for receiving further evidence concerning legal qualifications of applicant.
- WIS—WIS, Inc., Columbia, S. C.—Denied petition for rehearing in re application for a "satellite station" to operate on **560 kc.**, with power of 10 to 100 watts, with hours of operation local sunset until local sunrise at Sumter, S. C., which was denied by the Commission on July 13, 1939.
- WFBR—The Baltimore Radio Show, Inc., Baltimore, Md.—Denied petition to accept amendment and for rehearing in re application for special authority for a satellite station to operate on **1270 kc.**, synchronously with WFBR, with power of 10 to 100 watts, unlimited time, which was denied by the Commission on July 13, 1939.
- WFMJ—William F. Maag, Jr., Youngstown, Ohio.—Denied special temporary authority to operate unlimited time for the period September 7 to 16, in order to broadcast news reports on war situation.
- KGFL—KGFL, Inc., Roswell, N. Mex.—Denied special temporary authority to operate simultaneously with KICA from 1 to 4 p. m., MST, for a period not to exceed 30 days, in order to broadcast news of emergency nature concerning events in Europe.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Denied special temporary authority to operate for a period not to exceed 10 days, in order to broadcast war news.
- WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Denied extension of special temporary authority to operate unlimited time with power of 250 watts in order to broadcast matters concerning present European crisis, for the period September 11 to October 10.
- WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted special temporary authority to operate from local sunset
- (Sept. 6:30 p. m., EST), to 12 midnight or to conclusion of primary election returns broadcast, on September 12.
- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate unlimited time on September 11, in order to broadcast baseball game only.
- WLOK—The Fort Industry Co., Lima, Ohio.—Granted special temporary authority to operate from local sunset (September, 6:45 p. m., and October, 6 p. m., EST), to 10:30 p. m., EST on September 15, 22 and 29; October 6 and 13, in order to hold the audience from local sunset to 8 p. m. and to broadcast high school football games from 8 to 10:30 p. m.
- The Okla. Network, Inc., Oklahoma City, Okla.—Granted special temporary authority to operate Amateur Radio station W5CLI as a relay broadcast station for the period 6:30 to 7:30 p. m., CST, on September 16, in connection with the Cherokee Strip Celebration at Ponca City; transmitter to be operated with power less than 25 watts; frequencies to be selected from Section 4.23.
- KHBG—Okmulgee Broadcasting Corp., Okmulgee, Okla.—Granted special temporary authority to operate from local sunset (September, 6:30 p. m., October, 5:45 p. m., CST), to 11:30 p. m., CST, on September 22, 29 and October 6, 13 and 20, in order to broadcast high school football games only.
- KFDY—So. Dak. State College, Brookings, S. Dak.—Granted special temporary authority to operate from 2 to 4:45 p. m., CST, on September 23, 30; October 7 and 21, in order to broadcast football games only; denied authority to operate from 10 a. m., to 12:30 p. m., CST on October 21, in order to broadcast Hobo Day Parade.
- WBAA—Purdue University, W. Lafayette, Ind.—Granted special temporary authority to operate from 4 to 6 p. m., CST, on September 30; October 7, 14, 21 and 28, in order to broadcast Purdue University football game.
- WKST—Keystone Broadcasting Co., New Castle, Pa.—Granted special temporary authority to operate unlimited time on September 12, in order to broadcast primary election returns only.
- WRNL—Richmond Radio Corp., Richmond, Va.—Denied extension of special temporary authority to operate from 6:45 to 7 p. m., EST, for the period September 12 to 21, in order to broadcast Dr. Freeman's comments on European situation.
- WCOU—Twin City Broadcasting Co., Inc., Lewiston, Me.—Granted license to cover C. P. authorizing new equipment and increase in daytime power to 250 watts.
- NEW—The National Life and Accident Ins. Co., Inc., Nashville, Tenn.—Granted license to utilize the equipment of developmental broadcast station W4XFN as a high frequency relay broadcast station, on frequencies **300000, 330000, 360000 and 390000 kc.**, 15 watts.
- KBTB—Red River Broadcasting Co., Inc., Duluth, Minn.—Granted license to cover C. P. for a new low frequency relay broadcast station to be used when wire facilities are not available to relay programs to be broadcast over applicant's broadcast station KDAL; frequencies **1606, 2022, 2102 and 2758 kc.**, 50 watts.
- WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Denied extension of special temporary authority to operate evenings (LS, September, 6:30 p. m., October, 5:30 p. m., CST), for the period September 15 to October 14, in order to broadcast civic, charitable, religious, educational, fraternal, and commercial programs of outstanding interest, and in order to carry programs of great local interest from MBS.
- WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Denied special temporary authority to operate unlimited time (simultaneously with Station WOSU during hours WOSU is authorized to operate), in order to broadcast complete war news coverage of CBS, for a period not to exceed 10 days.
- WGAN—Portland Broadcasting System, Inc., Portland, Me.—Denied special temporary authority to operate unlimited time for the period September 14, to October 13, in order to broadcast war news.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Denied special temporary authority to operate from local sunset (September, 6 p. m., CST), to 10 p. m., CST, on September 15, 22 and 29, using power of 100 watts only, in order to broadcast football games.
- WKST—Keystone Broadcasting Co., New Castle, Pa.—Denied special temporary authority to operate unlimited time for a period not to exceed 10 days, in order to broadcast war news.
- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Denied special temporary authority to operate unlimited time with

1 KW, in order to broadcast matters concerning European crisis, and baseball games, for period September 11 to 16.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate unlimited time for the week ending September 16 (provided WSVS remains silent), as Seneca Vocational School Station WSVS will be silent due to infantile paralysis situation.

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted extension of special temporary authority to operate unlimited time with power of 1 KW in order to broadcast the Macon-Augusta baseball games only, for the period September 11 to 16.

WGEA—General Electric Co., Schenectady, N. Y.—Granted extension of special temporary authority for international broadcast station to remain silent on frequency 21500 kc., for the period September 12, and ending no later than September 21, and to waive the condition set forth in existing license, which provides, "that three hours of each twenty-four shall be the minimum time for use of the frequency 21500 kc." in order that station WGEA may have additional time for broadcasts on frequency 15330 kc., relative to present European crisis.

WMC—Memphis Commercial Appeal Co., Memphis, Tenn.—Granted extension of special temporary authority to operate with 5 KW night, using directional antenna, for the period September 12, and ending in no event later than October 11, in order to overcome interference from Cuban Station CMQ, provided such operation with additional power terminates immediately when CMQ ceases operation on frequency 780 kc., reduces power so that additional interference is not involved, or until defective directional system is corrected by installation of new tuning condensers.

WKAQ—Radio Corp. of Porto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from international broadcast stations W2XE and W3XAU over station WKAQ, on a non-commercial experimental basis only, for the period September 19 to October 1.

WTAR—WTAR Radio Corp., Norfolk, Va.—Granted extension of special temporary authority to operate with 5 KW at night, using directional antenna, for the period September 12 to October 11, in order to overcome interference from Cuban Station CMQ, provided such operation on 780 kc. with additional power terminates when CMQ ceases operation on that frequency or reduces power.

KNET—Palestine Broadcasting Assn., Palestine, Tex.—Granted special temporary authority to operate from local sunset (September, 6:30 p. m.; October, 5:45 p. m., CST), to 11:30 p. m., CST, on September 15, 22; October 6 and 13, in order to broadcast football games only.

KPAC—Port Arthur College, Port Arthur, Tex.—Granted special temporary authority to operate from 5:45 p. m. to 12 midnight, CST, on October 7, 13, 20 and 27, in order to broadcast football games only.

KWEW—W. E. Whitmore, Hobbs, N. Mex.—Granted special temporary authority to operate simultaneously with Station KBST from 7:30 to 10:30 p. m., MST, on September 14, 22 and 29, and October 6, 13, 1939, in order to broadcast football games only.

WRUF—University of Florida, Gainesville, Fla.—Granted special temporary authority to operate simultaneously with station KOA, to broadcast football games of Univ. of Fla. on September 23, October 7 and 21, as described in letter of August 15, 1939.

WKAR—Mich. State College, E. Lansing, Mich.—Granted special temporary authority to rebroadcast Naval Observatory time signals over station WKAR, provided station complies with requirements of Naval Observatory Station, for the period September 13 and ending no later than February 1, 1940.

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Granted special temporary authority to operate from 10 p. m., CST, midnight, for the period September 13 to 16, using 100 watts, in order to broadcast Ky. Fair programs and high school football games only.

NEW—Southern Oregon Broadcasting Co., Grants Pass, Ore.—Adopted Final Order, effective September 14, 1939, granting application for C. P. for a new station to use 1310 kc., 100 watts, unlimited time, Proposed Findings on which were made and entered by the Commission on July 13, 1939.

570 Kilocycles

KGKO—KGKO Broadcasting Co., Ft. Worth, Tex.—Voluntary assignment of license from KGKO Broadcasting Co. to Carter Publications, Inc.

580 Kilocycles

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Modified construction permit (B5-P-2277) for increase in power, new equipment, new antenna, move transmitter, requesting approval of antenna and approval of transmitter site.

590 Kilocycles

WEEL—Columbia Broadcasting System, Inc., Boston, Mass.—Modified construction permit (B1-P-1196) to install new transmitter and directional antenna, increase power and move transmitter to further request increase in power. Amended: To use directional antenna for day and night.

620 Kilocycles

WFLA—Florida West Coast Broadcasting Co., Inc., Tampa, Fla.—Authority to transfer control of corporation from Fred J. Lee to The Tribune Co., 10 shares common stock.

630 Kilocycles

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Modified construction permit (B1-P-2369) to increase power, move transmitter, install new transmitter and make changes in directional antenna further requesting changes in equipment.

680 Kilocycles

WPTF—WPTF Radio Co., Raleigh, N. C.—Authority to determine operating power by direct measurement of antenna power.

940 Kilocycles

NEW—Hunt Broadcasting Assn., Fred E. Horton, Pres., Greenville, Tex.—Construction permit for a new broadcast station to be operated on 940 kc., 1 KW, daytime.

1120 Kilocycles

NEW—R. B. Terry, D. A. Rawley, C. M. Waynick & H. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C.—Construction permit for a new broadcast station to be operated on 1120 kc., 250 watts, unlimited time. (Amended to change name.)

1180 Kilocycles

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Construction permit to install directional antenna for night use, change frequency from 1180 to 1240 kc., and hours from limited to unlimited time.

1200 Kilocycles

KBTM—Jay P. Beard, tr. as Regional Broadcasting Co., Jonesboro, Ark.—Construction permit to make changes in equipment, change hours of operation and power from 100 watts day to 100 watts night, 250 watts day, unlimited time.

WHBY—WHBY, Inc., Green Bay, Wis.—Modified construction permit (B4-P-2289) for move transmitter, new transmitter and antenna, further requesting approval of antenna and studio and transmitter site. Amended: Antenna changes and move transmitter.

KFJB—Marshall Electric Co., Marshalltown, Iowa.—Modified license (no changes in facilities requested). Amended: To request increase in power from 100 watts night, 250 watts day to 250 watts day and night.

WMFR—Radio Station WMFR, Inc., High Point, N. Car.—Authority to determine operating power by direct measurement of antenna power.

KFXJ—R. G. Howell & Chas. Howell, d/b as Western Slope B/C Co., Grand Junction, Colo.—License to cover construction permit (B5-P-2376) for new transmitter and vertical antenna.

- KDLR—KDLR, Inc., Devils Lake, N. Dak.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.
- WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

1310 Kilocycles

- WSAV—Arthur Lucas, Savannah, Ga.—Modified construction permit (B3-P-1714) for new station, requesting approval of antenna and studio and transmitter sites. Amended: Make antenna changes, install new transmitter and give transmitter site and change name to WSAV, Inc.
- NEW—E. E. Krebsbach, Miles City, Mont.—Construction permit for new broadcast station to be operated on 1310 kc., 100 watts night, 250 watts day, unlimited time.

1370 Kilocycles

- NEW—Lookout Mountain Corp. of Georgia, Lookout Mountain, Ga.—Construction permit for new broadcast station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time. Amended: To correct name to Lookout Mountain Co. of Georgia.
- KFRO—Voice of Longview, Longview, Tex.—Modified construction permit (B3-P-2117) to change frequency, increase power, change hours of operation, move transmitter, install new transmitter and directional antenna for night use, further requesting change in type of equipment, changes in antenna, move transmitter and extend commencement and completion dates.

1420 Kilocycles

- KDNT—Harwell V. Shepard, Denton, Tex.—Construction permit to make changes in equipment, increase power from 100 watts to 250 watts.
- KLBM—Harold M. Finlay and Eloise Finlay, La Grande, Ore.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.
- KORE—Frank L. Hill and C. G. Phillips, d/b as Eugene Broadcast Station, Eugene, Ore.—Construction permit to make changes in equipment and increase power from 100 to 250 watts.
- WLEU—WLEU Broadcasting Corp., Erie, Pa.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.
- NEW—R. B. Terry, D. A. Rawley, Staley A. Cooke and Rudy Fonville, d/b as Burlington Broadcasting Co., Burlington, N. C.—Construction permit for a new broadcast station to be operated on 1420 kc., 100 watts, daytime.
- WMSD—Muscle Shoals Broadcasting Corp., Muscle Shoals City, Ala.—Construction permit to make equipment changes and increase power from 100 watts to 250 watts.
- KGFF—KGFF Broadcasting Co., Inc., Shawnee, Okla.—Modified license to increase power from 100 watts night, 250 watts, to 250 watts day and night.

1440 Kilocycles

- WSAN—Lehigh Valley Broadcasting Co., Allentown, Pa.—Modified license to increase power from 500 watts to 1 KW.

1500 Kilocycles

- KYSM—F. B. Clements & Co., a co-partnership composed of F. Braden Clements, Clara D. Clements and C. C. Clements, d/b Southern Minnesota Supply Co., Mankato, Minn.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.
- KUTA—Jack Powers, David G. Smith, Frank C. Carman and Grant R. Wrathall, d/b as Utah Broadcasting Co., Salt Lake City, Utah.—Construction permit to make equipment changes.
- KVWC—R. H. Nichols, W. H. Wright and Stewart Hatch, a partnership, d/b as The Northwestern Broadcasting Co., Vernon, Tex.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.
- KGKY—Hilliard Co., Inc., Scottsbluff, Nebr.—Modified license to increase power from 100 watts night, 250 watts day, to 250 watts day and night.

- NEW—Midland Broadcasting Co., Kansas City, Mo.—License to utilize the former equipment of high frequency broadcast station W9XER as an order relay broadcast station on 31220 kc., with power of 50 watts, A3 emission. Amended to request 35620, 37020 and 39260 kc., using 25 watts power in addition to above frequency 31220 kc., using 50 watts power.
- WAIO—WDZ Broadcasting Co., Portable-Mobile.—License to cover construction permit (B4-PRY-188) for new relay broadcast station.
- WFYB—Columbia Broadcasting System, Inc., Portable-Mobile.—Modified license to change area and broadcast station with which it is to be operated from area of Cincinnati, Ohio, Radio Station WKRC, to area of New York, N. Y., Radio Station WABC-WBOQ.
- NEW—KRIC, Inc., Portable-Mobile.—Construction permit for new low frequency relay broadcast station to be operated on 1646, 2090, 2190, 2830 kc., 40 watts, A3 emission, area Beaumont, Tex.
- KBRG—WDAY, Inc., Portable-Mobile.—License to cover construction permit (B4-PRY-175) for new low frequency relay station.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

AC Spark Plug Company—See General Motors Corporation. **General Motors Corporation**, Detroit, and its subsidiary, AC Spark Plug Company, Flint, Mich., are charged with violations of the Clayton, Robinson-Patman and Federal Trade Commission Acts in the sale of spark plugs, oil filters, and accessories.

The respondents allegedly entered into contracts with some 1,500 wholesalers concerning the sale of "AC" products. It was alleged that certain of the contracts provided that the distributors handle "AC" products on an exclusive basis, and that prices were fixed and charged on the basis of such agreements. With other wholesalers, the respondents allegedly fixed prices and sold "AC" products to such dealers on the agreement, condition and understanding that they would not use or deal in similar competing products. All of these contracts were alleged to be in violation of Section 3 of the Clayton Act prohibiting exclusive dealing arrangements.

The result and effect was to compel many dealers to cancel sales contracts with the respondents' competitors and to substantially lessen competition in the sale of spark plugs and oil filters, according to the complaint.

Price discrimination allegedly was practiced by the respondents in violation of Section 2(a) of the Robinson-Patman Act between classes of their direct accounts, classes of their indirect accounts; between direct and indirect accounts; between contract accounts and non-contract accounts; and between all replacement accounts and original equipment accounts, with the effect of substantially lessening competition, tending to create a monopoly, and preventing competition between the customers receiving benefit of the discrimination and those not receiving it, and between the respondents and their competitors. (3886)

K. K. Importing Corporation—In a complaint, the K. K. Importing Corporation, 45 John Street, New York, was charged with violating the provisions of Section 5 of the Federal Trade Commission Act. The respondent is engaged in importing products into the United States and reselling them in foreign commerce. In connection with such business the respondent is charged with

inducing a Japanese manufacturer to misbrand Japanese-made optical lenses by falsely branding them or their containers with the words and letters "Made in U. S. A." The respondent is further charged with procuring foreign business by negotiating the export of such falsely branded products to Cuban importers.

The complaint alleges that purchasers in certain foreign countries, including Cuba, have a preference for products made in the United States as distinguished from like products made in Japan, and that certain foreign countries, including Cuba, grant reductions in import and custom duties on products made in and imported from the United States. (3885)

STIPULATIONS

The Commission has entered into the following stipulations during the week:

Crystex of Florida, Inc., 414 18th St., Miami Beach, agreed to cease representing by word or picture that its waterproofing product, "Crystex", has been used in the construction of Boulder Dam or any other specified structure, or that the company has branch offices or establishments in Los Angeles, Houston, Tex., or any other place, when such are not the facts. The respondent will also cease representing that its product has had 10 years of proving or testing in excess of the actual time. (2529)

Signal Manufacturing Company, trading as Simaco Products Company, 587 Washington St., Lynn, Mass., agreed to cease using the word "rubber" or any other word connoting rubber, either alone or in connection with the word "flexible" or with any other words as descriptive of electric fan blades which are not composed of rubber, or using the word "rubber" so as to imply that the blades are made wholly of rubber, when such is not a fact. The stipulation provides that if the blades are composed in substantial part of rubber and in part of other materials and the word "rubber" is used, then it shall be accompanied by some other words printed in equally conspicuous type so as to indicate clearly that the blades are composed in part of material other than rubber. (2531)

Simaco Products Company—See Signal Manufacturing Company.

Trojan, Inc., 2210 Wabansia Ave., Chicago, stipulated that it will cease using the word "Prism" or any similar term such as "Prisma", in any way, to describe its field glasses and binoculars when such products are not of the prism type. The respondent will also discontinue advertisements implying that its products have prism erecting systems, when such is not a fact. (2530)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

American Chemical Company—See Averbach Company, Inc.

American Oil Company, Baltimore, and **General Finance, Inc.**, Washington, operator of a gasoline station at Florida Ave. at 14th St., N. W., and engaged in selling and in financing sales of taxicabs, were ordered to discontinue price discriminations in the sale of gasoline in violation of the Robinson-Patman Act.

The Commission, in substance, ordered General Finance, Inc., to cease and desist from obtaining gasoline on a commercial consumer's contract for its own use, then reselling it to the public, to taxicabs, or others.

Findings of the Commission are that American Oil Company, by selling gasoline and petroleum products to General Finance, Inc., at prices substantially lower than those charged by it for such products to other retail dealers in the District of Columbia, discriminated in price between General Finance and its other dealers in the District, the effect having been to lessen competition between

General Finance and the other dealers and to prevent and destroy competition with American Oil Company and with General Finance, which received the benefit of the discrimination. The order prohibited such discrimination.

It was also found that prices fixed and agreed upon in contracts between American Oil and the other parties were based on the representation that gasoline and petroleum products purchased thereunder were for the purchaser's own consumption only and not for resale and that General Finance, by reselling such products so purchased under the contracts, thus obtained from American Oil Company an unlawful price discrimination in its favor and to the injury of other retail gasoline dealers competing with it, who were required to pay American Oil Company and other suppliers the full posted retail dealer tank wagon prices. This discrimination was also prohibited by the order.

The findings continue that General Finance, Inc., has well known that the prices fixed in the contracts were lower than those paid by other retail dealers competing with General Finance and the order prohibited this company from inducing or receiving the various discriminations found to have been made. (3843)

Anco Company—See C. R. Anthony Company.

C. R. Anthony Company, Oklahoma City, Okla., operator of 57 retail department stores in Oklahoma, Kansas, Texas, and New Mexico, was ordered to discontinue accepting brokerage fees in violation of the Robinson-Patman Act.

Findings are that C. R. Anthony Company under the name of The Anco Company, 1450 Broadway, New York, had been receiving from the seller respondents, without performing any services for them, so-called brokerage fees and commissions which amounted to an agreed percentage on quoted sales prices of women's apparel and other merchandise sold to The Anco Company for resale in the C. R. Anthony Company chain stores.

Under the order, the seller respondents were prohibited from paying any fee or commission as brokerage to C. R. Anthony Company, upon purchases made in its own or any other name. The C. R. Anthony Company, under its own or any other name, was ordered to cease accepting brokerage fees in connection with its purchase of merchandise. (3834)

Averbach Company, Inc.—An order to discontinue misleading representations in the sale of flavoring compounds, foodstuffs, toilet articles and novelties was entered against Averbach Company, Inc., Maid-O-Best, Inc., G. M. Moses, Esther Averbach, Morris Averbach, and Jerome Averbach, the latter three trading as The Muriel Company and as American Chemical Company, 1449 University Ave., St. Paul, Minn.

Under the order, the respondents are to discontinue representing that they manufacture the product they sell, unless they absolutely control a plant in which such products are made. The respondents were further ordered to cease representing that so-called "special offers" or "special deals" are limited to a given period of time or to a given number of persons, when the prices stated in such offers are the regular prices, or that any specified amount of money is on deposit in some financial institution, such sum to be used to cover refunds for returned Maid-O-Best Products, unless that is a fact.

The order further forbids the respondents from using the term "vanilla extract" to describe a flavoring product, unless prepared with a vehicle of ethyl alcohol and containing a flavoring content at least 50 per cent of which shall consist of true vanilla made from the vanilla bean.

Findings are that in July, 1936, the manufacturing businesses formerly conducted by G. M. Moses through Maid-O-Best, Inc., and by Morris Averbach, trading as The Muriel Company and as The American Chemical Company, were taken over by Averbach Company, Inc., organized and financed by Averbach and members of his family. (3342)

G. Bernardi, Cleveland, Ohio, was ordered to cease representing that "Benaris", or any similar preparation, is a cure or remedy for colds, catarrh, bronchitis, laryngitis and kindred ailments; causes greater diaphragmatic breathing, or results in finer head tones or increases the resonance, volume or quality of the voice. The respondent was also ordered to discontinue representing that "Benaris" will relieve headaches, unless such representation is limited to headaches which are due to congestion of the mucous membranes of the air passages. (3857)

Great Britain Spiritualist Church, Detroit, and Mrs. Charles P. Colbert, Virgil L. Eckridge, Mary Hopkins, and Delmar William White, individually and as officers, directors and agents of the corporation, have been ordered to cease and desist from advertising or representing, among other things, that magic qualities are attached to their products such as "Grendeline Holy Oil," "Fox Fire Powder," "Mintolean Mojou Lucky Oil," and "Jungles Floor Wash," or that the products or the substances from which they are made are imported from Africa or India, when such is not a fact.

Findings of the Commission are that the respondents are engaged in the sale and distribution of so-called "holy oils," books, tracts, talismans, charms, soaps, perfumes and similar products. (3474)

General Finance, Inc.—See American Oil Company.

Maid-O-Best, Inc.—See Averbach Company, Inc.

Muriel Company—See Averbach Company, Inc.

Peanut Novelty Company—William P. Bennett and Charles C. Bennett, trading as Peanut Novelty Company, Dallas, Texas, were ordered to cease selling packages of peanuts or any other merchandise containing coins, such packages being assembled with other packages of similar appearance not containing coins, for resale to the general public by means of a lottery plan. The respondents were also prohibited from furnishing dealers with display cards or other printed matter informing the purchasers that the merchandise was being sold by means of a lottery device. (2961)

United Distributors, Inc., Louisville, Ky., was ordered to cease representing that use of its preparation "Wittone" will lift mental depression regardless of its cause, and will assure, in all cases, good health and vitality, and that the product contains any specified number of carminatives other than the actual number, or is a remedy or an adequate treatment for all deranged stomachic conditions, inactive livers, weak kidneys or similar disorders. Further representations to be discontinued are that professional medical opinion is to the effect that 87 percent, or any other percentage of all ailments are traceable to constipation as the fundamental cause, unless such percentage is generally recognized by a consensus of the medical profession. (3708)

Walls Sales Company—See Wright Products Company.

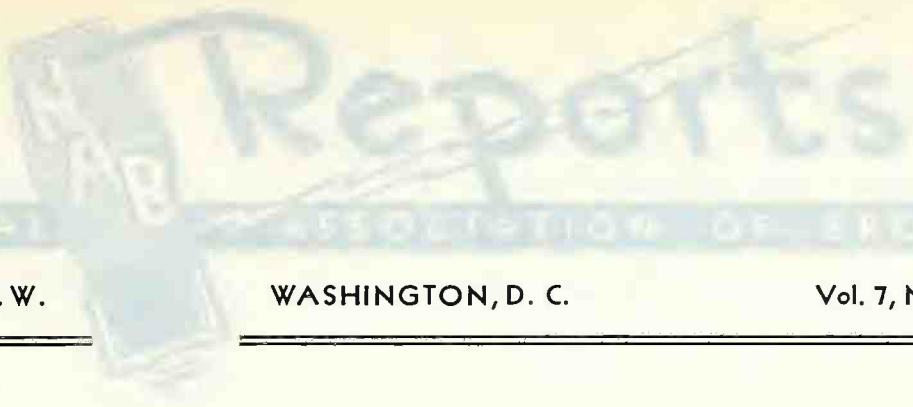
Wright Products Company—Isaac S. Friedman, trading as Wright Products Company, 4303 North Keeler Ave., Chicago, and Jean Lawrence, trading as Wells Sales Company, 4903 North Monticello Ave., Chicago, were ordered to cease supplying others with lottery devices for use in the sale of merchandise, or selling any merchandise by the use of lottery devices. (3806 and 3767)

Zendejas Products Corporation, Los Angeles, Cal., and Jose Silva, trading as Zendejas Products Company, Los Angeles, Calif., were ordered to cease representing directly or by implication that "Zendejas Medicine" contains well-known curative properties of many plants, barks and roots; contributes to the purification of the blood; is an alternative for the general digestive system, or promotes a formation of new and healthy elements. The respondents were further ordered to discontinue claims that "Zendejas Medicine" is a cure for all ailments for which an iodized medicine could be prescribed, and that millions of rheumatics recommend its use. The order also prohibits advertisements which fail to reveal that "Zendejas Medicine" contains potassium iodide and may be injurious to persons afflicted with latent tuberculosis or toxic goiter and that its indiscriminate use by the lay public is dangerous. The respondents were also ordered to discontinue advertisements which represent "Zendejas Ointment" as being a competent and effective treatment for eczema, rash, ringworm, itching and other skin diseases, or which fail to reveal that this preparation contains betanaphthol, a dangerous drug, which should be used only under a physician's supervision. (3679)

FTC CLOSES CASES

The Federal Trade Commission closed without prejudice its case against the now-dissolved Pacific Amusement Manufacturing Company, which also traded as Pacific Manufacturing Corporation, 4223 Lake St., Chicago. The respondent was charged with having used lottery schemes in the sale of chewing gum and other merchandise. The respondent corporation having been dissolved, the case was closed without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.

The Commission has also closed without prejudice its case in which the now-dissolved Brinker Candy Corporation, 3223 West Lake St., Chicago, was charged with having used lottery schemes in the sale of candy. The respondent corporation having been dissolved, the case was closed without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.



Enthusiastic Convention Approves Music Plan

Creation of an independent source of music for the broadcasting industry, authorized at last week's special NAB convention, is proceeding rapidly. Legal details were being worked out this week, and SEC approval will be sought shortly.

An enthusiastic convention directed the NAB to proceed on four fronts to free the industry from the chains of a music monopoly:

1. To create an independent source of music by organizing an industry-owned corporation to obtain and supply popular numbers. The convention decided that each broadcaster should contribute an amount equal to one-half of his 1937 ASCAP payment for stock in this corporation and license fees. All elements in the industry—networks, affiliates and independents—are to be represented on the board of directors of this new corporation. Further details of this plan may be found in the convention resolution printed below.
2. To continue NAB assistance to broadcasters involved in copyright monopoly litigation.
3. To urge the prosecution of the pending Federal monopoly suit against ASCAP.
4. To seek amendment of the Copyright Act of 1909 "so as to bring it into conformity with the needs of the broadcasting industry".

Copyright Resolutions

The special NAB Convention in Chicago last week adopted the following four resolutions dealing with the music copyright problem:

I

RESOLVED, That this convention authorizes the Board of Directors to cause a corporation to be organized with an authorized capital stock of 100,000 shares of the par value of \$1 a share, and with broad powers to carry out the building of an alternative source of music suitable for broadcasters and to make the same available to broadcasters and others.

RESOLVED, That this convention authorizes the Board

of Directors to do all things necessary and proper to enable the creation of an additional source of music suitable for radio broadcasting purposes, and that the convention urge all broadcasters, whether or not members of the National Association of Broadcasters, to pay to said corporation for stock and license fees a total sum equal to one-half of the total license fees paid or payable by each such broadcaster to the American Society of Composers, Authors, and Publishers covering the calendar year 1937, and that the convention urge those broadcasters, who did not pay ASCAP license fees during all of said year, to pay the amounts allocated to them by the NAB or by the music corporation to be formed.

FURTHER RESOLVED, That this convention authorizes Neville Miller to act as President of the corporation and Everett E. Revercomb to act as Secretary and Treasurer of the corporation until a paid Secretary-Treasurer is

Neville Miller, *President*Edwin M. Spence, *Secretary-Treasurer*Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

COPYRIGHT RESOLUTIONS

(Continued from page 3727)

employed, and authorizes the following to be the directors of the corporation, until the first meeting of stockholders of the corporation:

Neville Miller, representing National Association of Broadcasters;

Walter Damm, representing Newspaper-owned Stations;

John Elmer, representing Independent Stations;

Edward Klauber, representing Columbia Broadcasting System, Inc.;

Lenox R. Lohr, representing National Broadcasting Company, Inc.;

Samuel R. Rosenbaum, representing Independent Radio Network Affiliates;

John Shepard, III, representing Regional Broadcast Stations.

FURTHER BE IT RESOLVED, That this convention authorizes the National Association of Broadcasters to bear the expense of the corporate organization of the corporation and the registration of its security issue in accordance with applicable laws and the expense of the retention of counsel, accountants and such other persons as the National Association of Broadcasters shall deem necessary, on the understanding that the National Association of Broadcasters is to be reimbursed by the corporation for any and all of such expense when the corporation secures sufficient funds to enable the effective operation of the corporation in the judgment of the directors of the same for the purposes for which it is organized.

II

RESOLVED, That the assistance to broadcasters involved in copyright monopoly litigation be continued by the headquarters legal department, and that active cooperation with local attorneys be made available upon request of the District Director.

III

RESOLVED, That the National Association of Broadcasters regards the prosecution of the pending suit of the United States of America against the American Society of Composers, Authors and Publishers as vitally neces-

sary in the interests not only of the broadcasting industry but of the American public, and respectfully urges the speedy and vigorous prosecution of such suit.

IV

RESOLVED, That the National Association of Broadcasters further, by all legitimate means, the amendment of the Copyright Act of 1909 so as to bring it into conformity with the needs of the broadcasting industry.

IRNA REORGANIZES

Permanent organization of the Independent Radio Network Affiliates was completed at the convention at the Palmer House in Chicago last week. The organization consists of 325 radio stations in the United States affiliated with the networks of the National Broadcasting Company, Columbia Broadcasting System and Mutual Broadcasting System, but independently owned and not managed or operated by the network companies.

Samuel R. Rosenbaum, WFIL, Philadelphia, was re-elected chairman for the ensuing year, and Paul Morency, WTIC, Hartford, was elected vice chairman, to fill the vacancy caused by the resignation of Mark Ethridge, of WHAS, Louisville.

The convention was attended by 125 delegates, representing 150 of the member stations. The convention elected the following board of directors under a plan of reorganization, under which the organization has obtained a corporate charter:

For three years: Mark Ethridge, WHAS, Louisville; L. B. Wilson, WCKY, Cincinnati; Samuel R. Rosenbaum, WFIL, Philadelphia; Edwin W. Craig, WSM, Nashville; H. K. Carpenter, WHK, Cleveland.

For two years: Charles W. Myers, KOIN, Portland; John A. Kennedy, WCHS, Charleston; W. J. Damm, WTMJ, Milwaukee; Paul Morency, WTIC, Hartford; John Shepard, 3rd, Colonial Network, Boston.

For one year: I. R. Lounsberry, WGR, Buffalo; Edgar Bill, Peoria; E. B. Craney, KGIR, Butte; George W. Norton, Jr., WAVE, Louisville; Gene O'Fallon, KFEL, Denver.

The Board designated the following to serve as its executive committee for the ensuing year: Samuel R. Rosenbaum, Chairman; Mark Ethridge, Walter J. Damm, L. B. Wilson, and John Shepard, 3rd.

The executive committee was authorized to set up and maintain a permanent office for the organization, which is devoted to protecting the interests of the stations in their relations with the national networks. The immediate subject which will receive attention is the negotiations and the campaign now being waged by the broadcasting industry in relation to the problems arising out of the use of copyrighted music. In addition, the organization has for one of its objectives the elimination of certain practices to which it objects in connection with

commercial announcements and copy in network programs.

Two years ago, the organization was influential in settling the threatened nation-wide strike of musicians in radio stations. The contract which was then entered into will expire in January, 1940, and the subject of the future course of action of the stations in this regard is also receiving study.

INDEPENDENTS REORGANIZE

At a meeting in Chicago prior to the NAB Special Convention, the National Committee of Independent Broadcasters voted to reorganize as the National Independent Broadcasters, Inc., with Harold A. Lafount (WCOP) as president, Edward A. Allen (WLVA) as vice president, and Lloyd C. Thomas (KGFV) as secretary-treasurer.

Seventeen district directors were elected as follows:

District 1, Stanley Schultz (WLAW); District 2, Harold A. Lafount (WCOP); District 3, Frank Smith, Jr., (WWSW); District 4, Edward Allen (WLVA); District 5, Maurice Coleman (WATL); District 6, Jack Draughon (WSIX); District 7, Jack Howard (WCPO); District 8, James Hopkins (WJBK); District 9, Ralph Atlass, (WJJD); District 10, Edgar Shutz (WIL); District 11, Gregory Gentling (KROC); District 12, K. W. Pyle (KFBI); District 13, James Curtis (KFRO); District 14, Frank Hurt (KFXD); District 15, Arthur Westlund (KRE); District 16, Leo Tyson (KMPC); District 17, T. W. Symons (KXL).

Neutrality

Convention Resolution

The Special NAB Convention in Chicago last week adopted the following resolution dealing with neutrality:

WHEREAS, the declared public policy of the United States of America toward the current European war is one of strict neutrality; and

WHEREAS, in this emergency the members of the National Association of Broadcasters desire to contribute their full co-operation, through self-regulation, to the support of this declared public policy; therefore, be it

RESOLVED, That the members of the National Association of Broadcasters will exercise the greatest possible care in the use, preparation, and transmission of broadcasts dealing with the war, to the end that these broadcasts will conform with and support this declared public policy.

McNUTT ENDORSES NETWORKS WAR NEWS REGULATIONS

In a Mutual broadcast last week, Paul V. McNutt, social security administrator, highly praised the adoption of war broadcast regulations by the networks, as announced September 12 by Neville Miller, NAB president.

The fact that Mr. McNutt revamped his address on the eve of its delivery to include comment on the volun-

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tary arrangements perfected by NAB and the networks, is held significant in some quarters.

Some observers believe that industry action has served to allay official fears that the broadcasters might prove unequal to neutral handling of war news. The existence of such doubt was reported to members in NAB REPORTS of September 8 after radio had been referred to as an untried rookie by Presidential Secretary Stephen T. Early. Mr. McNutt's appearance over MBS had been arranged by Fulton Lewis, Jr., regular network commentator, who had booked Mr. McNutt and other notables to substitute for him during a short vacation.

Following is a part of Mr. McNutt's talk:

"The action, announced in this morning's papers, of the National Association of Broadcasters, is an outstanding example of this American attitude—this respect for liberty of speech, this determination not to abuse it or to let others abuse it. In pledging themselves to be, I quote, 'temperate, responsible, and mature in . . . the manner in which they make the facts of war and its attendant circumstances known to the public', in taking this self-appointed pledge our radio networks have set an example which we should both applaud and follow.

"I hope and believe that their great audiences throughout the country will listen to the news with the same dispassionate and objective striving for truth and balance with which they strive to present it. In a democracy like ours, and particularly in times like these, it is essential that the people know the facts—all the facts on all sides. But knowing is not enough. Understanding, sifting and weighing in the light of reason, is the better part of wisdom. And sifting and weighing the day's grist of news at home and abroad is a responsibility that not one of us should dare to shirk.

"The President said, a week ago Sunday, that Americans are the best informed people in the world. Let us continue to be also the most clear headed. Only so can we preserve the freedom of the press, of the radio and of the individual citizen . . ."

FCC WARNS AMATEURS

In announcing the two amateur license suspensions, the FCC stated this week that the international situation made it doubly necessary that the amateurs of this country observe closely the Rules and Regulations laid down for them. The Commission warned that further unauthorized activities by amateur stations during the period of the European war may tend to bring about curtailment of the short wave operations of amateurs generally. The Commission urged the 60,000 amateurs, who as a body have frequently performed outstanding public service, to take all appropriate steps to protect their own standing and their beneficial operations.

SHIP INFORMATION

The French (steamship) Line has requested the NAB to urge all members to refrain from broadcasting information regarding movement of ships at sea and any other information which would "disclose facts of military nature". The steamship company said it made this appeal "in the interest of protecting lives at sea".

FCC ORDERS HEARING ON CHARGE AGAINST WMCA

The FCC on Wednesday ordered a public hearing on Wednesday, September 27, 1939, on the order issued September 12, 1939, to Station WMCA, New York City, owned by the Knickerbocker Broadcasting Company, Inc., to show cause why its license should not be revoked for its alleged interception and broadcasting of secret radio communications of the Governments of Germany and Great Britain in alleged violation of Section 605 of the Communications Act. Under the commission's order the station was required, on or before September 15, 1939, to file a sworn answer setting forth all facts and circumstances in this regard. On September 13, 1939, an affidavit was filed on behalf of the station by William Weisman, vice president of the company, purporting to be in compliance with that order. The FCC noted that this affidavit appeared on its face to be incomplete, and did not constitute "a forthright compliance with the Commission's original order for the disclosure of all the facts and circumstances in this matter." The commission stated it had made its own investigation as to the alleged interception, and broadcasting by the station.

The text of the order:

Docket No. 5771

In re

KNICKERBOCKER BROADCASTING COMPANY, INC. (WMCA)

Order to Show Cause

ORDER

At a special meeting of the Commission, held at its offices in Washington, D. C., on Tuesday, September 19, 1939, the Commission having under consideration its Order to Show Cause entered September 12, 1939, in the above-entitled matter and the affidavit of William Weisman dated September 13, 1939, filed on behalf of Broadcast Station WMCA purporting to be in compliance with the requirements of said Order to Show Cause; and

WHEREAS the Commission, by its Order to Show Cause in this proceeding required the Knickerbocker Broadcasting Company, Inc., at or before 11 a. m. September 15, 1939, to file a written statement under oath setting forth all facts and circumstances pertaining to the alleged interception and broadcasting of certain secret radio communications and to show cause why the Commission should not revoke the license of said Station WMCA for violation of and failure to observe the provisions of the Communications Act of 1934, as amended, constituting conduct by said licensee contrary to public interest; and

WHEREAS the said affidavit of William Weisman is not in forthright compliance with the Commission's Order to Show Cause in that, while apparently intended to categorically deny that the licensee of Station WMCA itself intercepted messages in violation of the Communications Act, the said affidavit does not disclose whether the station broadcast any such messages knowing the same to be so intercepted; and further, in that the said affidavit, in lieu of disclosing all facts and circumstances as required by the Commission's Order, contains in large part general averments amounting to merely conclusions of law; and further, in that there are attached to said affidavit photostatic copies of documents alleged to constitute an agreement between Knickerbocker Broadcasting Company, Inc., and the New York Herald Tribune, by which the newspaper agrees to furnish the station material for broadcast purposes, the terms of said agreement, upon the face of these documents being ambiguous and indefinite in character, and that said written documents were supplemented by oral understandings constituting the full arrangement between the parties, the nature of such oral understandings not having been disclosed in said affidavit; and the particulars with respect to performance of said contract not being disclosed by said affidavit; that said affidavit is in other respects incomplete, evasive, and not in compliance with the Commission's Order; and

WHEREAS the Commission has information in its possession, and knowledge of facts not set out in said affidavit tending to establish that Knickerbocker Broadcasting Company, Inc., licensee of Station WMCA, New York, N. Y., caused the interception of secret radio communications sent by the Governments of Germany and Great Britain, respectively, and thereafter caused the existence, contents substance, purport, effect, or meaning of the same, knowing that such interception was in violation of the Communications Act, to be broadcast over the facilities of Station WMCA, and used the same or information contained therein for its own benefit all without authority of the respective senders of said communications; and

WHEREAS the Commission, considering that said affidavit is not in compliance with the terms of its order, desires to accord an opportunity for public hearing for the purpose of ascertaining all facts and circumstances pertaining to said alleged interception and broadcasting and for the purpose of permitting said Station WMCA to show cause why the Commission should not, pursuant to Section 312(a) of the Communications Act of 1934, as amended, revoke the license of said station in accordance with the terms of the Commission's Order to Show Cause of September 13, 1939;

It is by the Commission this 19th day of September, 1939, ordered that a public hearing be held at the offices of the Commission in Washington, D. C., at 10 a. m. on Wednesday, September 27, 1939, upon the issues set forth in the Commission's Order to Show Cause of September 12, 1939, and that notice of said hearing be given to the licensee of Station WMCA by registered mail and that public notice of said hearing be given by publishing in the office of the Secretary of the Commission and in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

BROADCASTING LEGISLATION POSSIBLE IN SPECIAL SESSION

While the special session of Congress which convened Thursday was called to consider the Neutrality Law, it is not limited to that subject. If it chose, it could take up broadcasting or any other legislation. How pending broadcasting legislation stood when Congress reconvened in the special session can be found in NAB REPORTS of August 11, page 3655.

"Curtain Raiser" Plans Moving Forward

Advance reports reaching Headquarters from all parts of the country indicate wide participation by member stations in Curtain Raiser, the industry's own promotion for the week of September 24.

Especially noteworthy is the use being made of a variety of media to tell the story of radio. But even more significant is the expressed determination of station managers to continue the campaign long after the new fall and winter season is under way.

The objectives remain the same: an increase in the hours of listening; an increase in the number of listeners, and, more fundamental, the securing of widest public recognition of the fact that the American system of broadcasting must be maintained in the U. S. A.

In addition to broadcasts, station executives have scheduled speaking engagements for themselves and staff members. They are promoting radio service over the air and have placed displays in store windows, lobbies and in vacant stores. Billboards are also being used.

Newspapers, too, are included in Curtain Raiser promotion. In addition to publicity, advertising space is being utilized in amounts varying from a part column to a series of full pages in the Baltimore News-Post, by WBAL, and an entire special section in The Norfolk Ledger Dispatch by WTAR.

In other cities the promotion is taking the form of radio shows with displays of receiving sets and arrangements for the public to witness local broadcasts. The first complete report of this character comes from Charie Balthrope, KTSA, San Antonio. This promotion has everything: jobber and dealer tie-up; lobby set-displays; window cards; public invitations; special shows; visual broadcasting; give-aways and ballyhoo.

Transcription companies are cooperating actively in Curtain Raiser. C. P. Mac Gregor and World Broadcasting are both supplying their stations with a series of 15-minute programs with the American system of Broadcasting as central theme.

National Broadcasting Company, Chicago, has taken over the huge Merchandise Mart with radio displays. They appear in the Mart's main floor lobby and in NBC's lobby. Curtain Raiser announcements are being aired and included in WENR's Home Forum program. News of the event is to appear in the NBC column in the Chicago Daily News.

In Omaha, John J. Gillin, Jr., manager of the Woodmen of the World station, WOW, is working with the radio retailers for the installation of windows.

Norman Corwin has a thirty-minute Curtain Raiser show over Columbia Broadcasting System, September 29, 8:30-9:00 p. m., EST.

FREE OFFERS

Although radio facilities and station time are limited, broadcasters continue to be swamped with "free" programs, transcribed or script. Reputable, well-financed companies whose promotion ideas, obvious publicity efforts, or straight commercial plugs are only thinly disguised as public interest material, continue to rain down their "free offer" requests on member stations.

The NAB Bureau of Radio Advertising has advised the following companies of radio's position on such "free offers":

Angelus—Campfire Company (marshmallow)
Mademoiselle Magazine
The Parents Magazine
White Cross Company

Steve Hanagan, well-known high-pressure "publicist" is another seeker of free time, apparently, in this case, for the greater good and better interests of:

1. Paint manufacturers
2. Rug manufacturers
3. Wool insulating material.

Scripts or ideas on domestic science and homemaking, etc., which station may use "free of charge," seem to be the favorite cloak under which the above firms camouflage their efforts to obtain free air advertising.

The White Cross Company (anti-tobacco) is interested in cost-per-inquiry advertising and the Bureau has advised this company that such procedure is a violation of the NAB Code of Ethics.

RKO in a radiogram to the NAB suggested that members attempt to obtain the sponsorship of local theaters for the transcription of "Swiss Family Robinson" which RKO offered recently to broadcasters. In reply the NAB suggested that RKO cooperate in attempting to obtain local sponsorship.

BUREAU OF RADIO ADVERTISING TRADE STUDY NO. 1

Vol. 1, No. 1 of "Results from Radio" has been mailed this week to all member stations. As originally agreed, this first in the series of trade studies to be released by the Bureau for local sales use is on the subject of department stores.

NAB is anxious to have all members partake of the benefits of the Bureau's efforts. Stations who have not replied to previous requests are urged to notify the Bureau as to the exact number of trade studies and other promotional material they will need. 100% response from the membership will enable us to gauge the exact printed requirements for future studies, and thus add to the efficient operation of the Bureau. If you have not already sent in your order, please let us hear from you at once. Use the business reply card mailed to you with the Department Store study.

BROADCAST MEASUREMENTS

Measurements were made by experts of the Federal Communications Commission during the month of August of 708 stations, with 81 stations not measured.

Of this number, 645 stations had a maximum deviation within 0-10 cycles; 57 stations a maximum deviation of 11-25 cycles; and 6 stations with a maximum deviation within 26-50 cycles. No stations measured had a maximum deviation of over 50 cycles.

INTERNATIONAL AGREEMENT

On September 18, the President issued his proclamation of the Regional Radio Convention for Central America, Panama and the Canal Zone which was signed at the City of Guatemala on December 8, 1938, by plenipotentiaries of the United States of America in behalf of the Canal Zone, and by plenipotentiaries of Costa Rica, El Salvador, Guatemala, Honduras, with a reservation, Nicaragua and Panama. The Senate gave its advice and consent to the ratification of the Regional Radio Convention on July 21, 1939 and the President ratified it on August 11, 1939. The ratification of Guatemala was deposited with the Ministry of Foreign Relations of the Government of Guatemala, which is the depositary of the Convention and the ratifications, on May 10, 1939 and the ratification of the United States in behalf of the Canal Zone was deposited on September 8, 1939. Pursuant to a provision in the Convention it will become effective, as between the ratifying Governments, thirty days after the deposit of ratifications by two Governments, that is on October 8, 1939.

The regional radio conference held at Guatemala City November 24, 1938-December 8, 1938 resulted from recommendations made at the International Radio Conference, Cairo, 1938, and the regional convention is designed to afford more effective broadcasting facilities for the countries of Central America, Panama and the Canal Zone.

On September 18, also, the President issued his proclamation of the Revision of the General Radio Regulations annexed to the International Telecommunications Convention signed at Madrid on December 9, 1932, and the Final Protocol to the Revision of the General Radio Regulations, embracing reservations made by several Governments, which were signed at the International Radio Conference held at Cairo, Egypt, February 1 to April 9, 1938. The Senate gave its advice and consent to the ratification of the Revision of the General Radio Regulations and the Protocol on July 21, 1939, and the President ratified the instruments on August 11, 1939. In accordance with Article 7 of the Madrid International Telecommunications Convention of December 9, 1932, the Secretary of State notified the Bureau of the International Telecommunication Union at Bern, Switzerland, of the ratification of the United States on August 24, 1939, which notice had the effect of bringing the revised regu-

lations and the protocol into force with respect to the United States.

Prior to being brought into force with respect to the United States the revised regulations and, with certain exceptions as indicated below, the final protocol, were put into force with respect to the following countries by notices given by the Governments of those countries to the Bureau of the International Telecommunication Union at Bern: Argentina; Australia, Belgium, including Belgian Congo and Ruanda-Urundi (not including protocol); Bulgaria (not including protocol); Czechoslovakia (not including protocol); Danzig; Denmark (not including protocol); Estonia; Germany; Great Britain; Hungary, Italy, including Italian East Africa and Italian Islands in the Aegean; Japan, including Chosen, Taiwan, Karafuto, Kwantung, and South Sea Islands under mandate; Lebanon; Libya; Morocco; Netherlands, including Netherlands Indies, Surinam and Curacao; Newfoundland; New Zealand (not including protocol); Poland; Portugal; Rumania; Spain, including Spanish colonies and possessions and Spanish Zone of Morocco; Switzerland (not including protocol); Syria; and Yugoslavia.

INTERNATIONAL BROADCAST STATIONS

September 15

Licensee and Location	Call Frequencies			Emission
	Letters	(kc)	Power	
Columbia Broadcasting System, Inc., near Wayne, N. J.	WCBX	6120, 6170, 9650, 11830, 15270, 17830, 21570	10 kw	A3
The Crosley Corp., Mason, O.	WLWO	6060, 9590, 11870, 15270, 17760, 21650	10 kw 50 kw CP	A3
General Electric Co., South Schenectady, N. Y.	WGEA	9550, 15330, 21500	25 kw	A3
General Electric Co., South Schenectady, N. Y.	WGEO	6190, 9530, 21590	100 kw	A3
General Electric Co., San Francisco, Calif.	KGEI	6190, 9530, 15330	20 kw	A3
Isle of Dreams Broadcasting Corp., Miami, Fla.	WDJM	6040	5 kw	A3
National Broadcasting Co., Inc., Bound Brook, N. J. ...	WRCA	9670, 21630	35 kw	A3
National Broadcasting Co., Bound Brook, N. J.	WNBI	6100, 17780	35 kw	A3
WCAU Broadcasting Co., Newtown Square, Pa.	WCAB	6060, 9590, 15270, 21520, 25725	10 kw	A3
Westinghouse Electric and Manufacturing Co., Millis, Mass.	WBOS	9570	10 kw	A3
Westinghouse Electric and Manufacturing Co., Saxonburg, Pa.	WPIT	6140, 9570, 11870, 15210, 17780, 21540,	40 kw	A3
World Wide Broadcasting Corp., Scituate, Mass.	WRUL	6040, 11730, 11790, 15130, 15250, 21460	20 kw	A3
World Wide Broadcasting Corp., Scituate, Mass.	WRUW	11730, 15130, 25600	20 kw	A3

w=watts

kw=kilowatts

C.P.=construction permit

FREE SPEECH

Little, Brown and Company has just published a book entitled *Free Speech and a Free Press*, by Giles J. Patterson, Jacksonville, Florida, Attorney. One chapter is devoted specifically to freedom of speech in radio although practically the entire book is pertinent.

CORRECTION

In the NAB REPORTS of July 15, 1939, page 3589, Resolution No. 10, concerning push button receiving sets, was erroneously reported as adopted by the NAB convention. The convention referred this resolution to the NAB Board of Directors.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, September 25. They are subject to change.

Monday, September 25

- NEW—Union Broadcasting Co., Scranton, Pa.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.
NEW—Lackawanna Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.
W9XTA—K. E. Schonert, d/b as Schonert Radio Service, Harrisburg, Ill.—Renewal of license, 26500 kc., 500 watts, emission A3, unlimited, according to Rule 983(a).
NEW—Samuel M. Emison, Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

Tuesday, September 26

- KNEL—G. L. Burns, Brady, Tex.—Modification of license, 1500 kc., 100 watts, 250 watts LS, unlimited time. Present assignment: 1500 kc., 250 watts, daytime.

Wednesday, September 27

- NEW—Dr. Willard Carver, Thomas B. Williams, Byrne Ross, Lawton, Okla.—C. P., 1420 kc., 100 watts, 100 watts LS, unlimited time.

Thursday, September 28

Oral Argument Before the Commission

Report No. B-52:

- KRSC—Radio Sales Corp., Seattle, Wash.—C. P., 1120 kc., 1 KW, unlimited time. Present assignment: 1120 kc., 250 watts, unlimited time.

Report No. B-65:

- NEW—Vincennes Newspapers, Inc., Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

Report No. B-70:

- NEW—Yuba-Sutter Broadcasters, Marysville, Calif.—C. P., 1320 kc., 250 watts, unlimited time (DA night).

Report No. B-71:

- NEW—Thumb Broadcasting Co., Brown City, Mich.—C. P., 880 kc., 1 KW, daytime.

FUTURE HEARINGS

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

October 2

- NEW—George Penn Foster, Maxwell Kelch and Calvert Charles Applegate, d/b as Nevada Broadcasting Co., Las Vegas, Nev.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.
NEW—Howton Radio Alarm Co., Seattle, Wash.—Permit for new special experimental station, 2414 kc., 12.5 watts, unlimited time, Pts. of Comm.: Portable within city limits of Seattle, Wash.

November 15

- NEW—E. B. Sturdivant, d/b as Silver Crest Theatres, Yuma, Ariz.—C. P., 1420 kc., 100 watts, specified hours.

Hearing Before Commissioner Case

- KUMA—Albert H. Schermann, Yuma, Ariz.—Hearing upon Order of Revocation of License of Station KUMA.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

- NEW—WHEC, Inc., Rochester, N. Y.—Granted C. P. for new high frequency broadcast station to operate on frequency 42600 kc., experimentally, conditionally, 1 KW. Exact site to be determined at or near Rochester.
NEW—Bamberger Broadcasting Service, Inc., New York City.—Granted C. P. for new high frequency broadcast station to operate on frequency 43400 kc., experimentally, conditionally, 1 KW. Exact site to be determined in New York metropolitan area.
WMBC—Michigan Broadcasting Company, Detroit, Mich.—Granted modification of license to increase nighttime power from 100 to 250 watts, subject to compliance with Sec. 3.45; denied special authority to use present antenna.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

WHN and auxiliary, New York City; WIBA, Madison, Wis.; WICA, Ashtabula, Ohio; WISN and auxiliary, Milwaukee, Wis.; WJAS, Pittsburgh, Pa.; WJDX, Jackson, Miss.; WKST, New Castle, Pa.; WNAC, Boston, Mass.; WNBX, Springfield, Vt.; WNOX, Knoxville, Tenn.; WOL, Washington, D. C.; WOOD, Grand Rapids, Mich.; WORC, Worcester, Mass.; WRC, Washington, D. C.; WTCN, Minneapolis, Minn.; WTNJ, Trenton, N. J.; WTOC, Savannah, Ga.; WXYZ, Detroit; KTRH, Houston, Tex.; KDYL and auxiliary, Salt Lake City; KFOX, Long Beach, Calif.; KGBX, Springfield, Mo.; KRGV, Weslaco, Tex.; KYA and auxiliary, San Francisco; WAIR, Winston-Salem, N. C.; WDAY, Fargo, N. Dak.; WDEL, Wilmington, Del.; WFBR and auxiliary, Baltimore, Md.; WHIO, Dayton, Ohio.

KUSD—University of South Dakota, Vermillion, S. Dak.—Granted renewal of license for the period ending April 1, 1940.

WSPA—Voice of South Carolina, Spartanburg, S. C.—Granted renewal of license for the period ending April 1, 1940.

KGCA—Chas. W. Greenley, Decorah, Iowa.—Granted renewal of license on a temporary basis only, subject to whatever action may be taken by the Commission upon pending applications for renewal of licenses of stations KGCA and KWLC and the pending application of Mason City Globe Gazette Co., KGLO.

KWLC—Luther College, Decorah, Iowa.—Granted renewal of license on a temporary basis only, subject to whatever action may be taken by the Commission upon pending applications for renewal of licenses of stations KGCA and KWLC and

the pending application of Mason City Globe Gazette Co., KGLO.

KLCN—Chas. Lee Lintzenich, Blytheville, Ark.—Granted renewal of license on a temporary basis only, subject to whatever action may be taken by the Commission upon the pending application of licensee for renewal.

WCAM—City of Camden, Camden, N. J.—Granted renewal of license on a temporary basis only, subject to whatever action may be taken by the Commission upon the pending application of licensee for renewal.

INCREASE IN POWER GRANTED

The following stations were granted modification of licenses authorizing increase in night power to 250 watts:

WJIM, Lansing, Mich.; WSAY, Rochester, N. Y.; KTEM, Temple, Tex.; WDAN, Danville, Ill.; WKAT, Miami Beach, Fla.; KNOW, Austin, Tex.; KRMC, Jamestown, N. Dak.; WIBM, Jackson, Mich.

MISCELLANEOUS

KGFL—KGFL, Inc., Roswell, N. Mex.—Granted special temporary authority to operate simultaneously with KICA from 7:30 to 10 p. m., MST, on September 17, 24, October 1 and 8, in order to broadcast church services only.

KGFL—KGFL, Inc., Roswell, N. Mex.—Granted special temporary authority to operate simultaneously with KICA from 7:30 to 11 p. m., MST, September 15, 22 and 29, October 6 and 13, in order to broadcast the Roswell High School football games.

KDNT—Harwell V. Shepard, Denton, Tex.—Granted special temporary authority to operate from local sunset (September, 6:30 p. m., CST) to conclusion of football broadcasts on September 15, 22, 27, 29.

WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Granted extension of special temporary authority to operate evenings (LS September, 6:30 p. m.; October, 5:30 p. m., CST), for the period September 15 to 20 only, in order to broadcast various civic, charitable, religious, etc., programs of local interest from Mutual Broadcasting System.

WTMJ—The Journal Company, Milwaukee, Wis.—Granted petition to intervene in re the application of WROL, Knoxville, Tenn. (Docket 5715).

WCNW—Arthur Fasse, Brooklyn, N. Y.—Granted supplemental request for order to take depositions in re application in Docket 5323.

WEEU—Berks Broadcasting Co., Reading, Pa.—Granted petition to intervene in re the application of WHDH, Boston, Mass.

WCBS—WCBS, Inc., Springfield, Ill.—Granted petition to dismiss without prejudice application to change frequency and increase power.

WHDH—Matheson Radio Co., Inc., Boston, Mass.—Granted motion to take depositions in re application to increase power from 1 to 5 KW and time of operation from daytime to unlimited.

WLBZ—Maine Broadcasting Co., Bangor, Maine.—Granted petition to intervene only in re application of WABI, Bangor, Maine (Docket 5677). Counsel notes exception as to ruling on enlargement of issues.

The Moody Bible Institute Radio Station, Chicago, Ill.—Granted motion to amend application in Docket No. 5321, by substituting the name Moody Bible Institute of Chicago, for the present name of Moody Bible Institute Radio Station.

WBRC—Birmingham Broadcasting Co., Inc., Birmingham, Ala.—Granted motion to enlarge issues in re application of KMAC, San Antonio, Texas (Docket 5626) to (1) determine whether the operation of station KMAC as proposed will be in accordance with the Commission's plan of allocation and Standards of Good Engineering Practice, and (2) to determine how the granting of the above-entitled application will affect the pending application of WBRC (B3-ML-538).

WDBJ—Times-World Corp., Roanoke, Va.—Granted motion to enlarge issues in re application of KMAC, San Antonio, Tex. (Docket 5626) to (1) determine whether the operation of station KMAC as proposed will be in accordance with the Commission's plan of allocation and Standards of Good Engineering Practice, and (2) to determine how granting of the above-entitled application will affect the pending application of WDBJ (B2-ML-358).

WHJB—Pittsburgh Radio Supply House, Greensburg, Pa.—Granted petition to intervene in the hearing on the application of WROL, Knoxville, Tenn., to change frequency and increase power.

NEW—William F. Huffman, Wisconsin Rapids, Wis.—Granted motion to allow amendment to application for new station so as to request 1310 kc., instead of 580 kc., and hearing scheduled for November 1, 1939, cancelled.

WMAL—National Broadcasting Co., Inc., Washington, D. C.—Granted authority to withdraw petition to intervene in re application of KSD, St. Louis, Mo.

WMAL—National Broadcasting Co., Inc., Washington, D. C.—Granted authority to withdraw petition to intervene in re application of KXOK, St. Louis, Mo.

WMAL—National Broadcasting Co., Inc., Washington, D. C.—Granted authority to withdraw petition to intervene in re application of KWK, St. Louis, Mo.

KMAC—W. W. McAllister and Howard W. Davis, San Antonio, Tex.—Denied without prejudice with leave to file amended petition to intervene in re application of WSBT, South Bend, Ind.

KMAC—W. W. McAllister and Howard W. Davis, San Antonio, Tex.—Denied petition to intervene in re application of KABC, San Antonio, Tex.

WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate unlimited time with 1 KW in order to broadcast for the period September 17 to October 16, civic, educational, commercial, etc., programs, and international events of extreme local interest, both of local origin and from CBS.

KFGQ—Boone Biblical College, Boone, Iowa.—Granted special temporary authority to operate from 4 to 5 p. m., CST, on September 20, 27 and October 4, in order to broadcast children's services.

KUMA—Albert H. Schermann, Flagstaff, Ariz., and E. B. Sturdivant, Yuma, Ariz.—Continued hearing now scheduled for September 25 until November 15, in re revocation of license of KUMA and application of Sturdivant for C. P. to establish a new station in Yuma.

WDGY—Dr. Geo. W. Young, Minneapolis, Minn.—Granted extension of special temporary authority to operate evenings (LS September, 6:30 p. m.; October, 5:30 p. m., CST), for the period September 15 to October 14, in order to broadcast civic, charitable, educational, etc., programs, and commercial programs of outstanding interest, and in order to carry programs of great local interest from MBS.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to rebroadcast Naval Observatory time signals received from radio station NAA/NSS over station WFMD for the period ending in no event later than 3 a. m. April 1, 1940.

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Denied special temporary authority to operate unlimited time using 100 watts power only nighttime, for period September 17 to September 26, in order to broadcast war news bulletins of Transradio Press Service and overseas pickups and commentaries of MBS during evening hours.

W3XO—Jansky & Bailey, Washington, D. C.—Granted extension of special temporary authority to test high frequency broadcast equipment of station W3XO on frequency 43200 kc., with 1 KW, for the period September 21 to October 20, to conduct frequency modulated tests on this frequency.

W2XOY-W2XDA—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to test high frequency broadcast equipment on frequencies 39420, 39460, 39500 and 39540 kc., 50 watts, for period not to exceed 30 days, to conduct amplitude and frequency modulated experimental transmissions on these frequencies.

KRRV—Red River Valley Broadcasting Co., Inc., Sherman, Tex.—Ordered that petition of KRRV to reopen the record in re Docket 5386, application for C. P. to change frequency from 1310 kc. to 880 kc., and power from 250 watts daytime to 1 KW unlimited time, and the motion of WKY Radiophone Co. and KGKO Broadcasting Co. to dismiss said petition, be set for oral argument on September 21, 1939, the date designated for oral argument on exceptions heretofore filed by KRRV to proposed decision of the Commission.

KGCA—Chas. Walter Greenley, Decorah, Iowa.—Retired to the closed files the application of KGCA requesting authority to use KELC's transmitter, which was granted subject to KWLC installing a new antenna.

WSAI—The Crosley Corp., Cincinnati, Ohio.—Granted extension of special temporary authority to operate a 50-watt portable transmitter with 100-foot vertical antenna, on frequency 1360 kc., at the proposed location for station WSAI, for the period beginning September 17, 1939, to October 16, 1939,

- during the hours of 7 a. m. to 6 p. m., EST, in order to make a preliminary field survey of the proposed site.
- WGRC—North Side Broadcasting Corp., New Albany, Ind.—Denied special temporary authority to operate unlimited time, using 100 watts power only nighttime, for the period September 17 to October 16, 1939, in order to broadcast evening Mutual Network programs and war news bulletins.
- KFRO—Voice of Longview, Longview, Tex.—Denied special temporary authority to operate from local sunset (September, 6:30 p. m., CST) to midnight on September 18, 19, 20, 21, 23, 25, 26, 27, 28, and 30, 1939, in order to broadcast European war crisis news, using 100 watts only.
- KBTM—Jay P. Beard, tr/as Regional Broadcasting Co., Jonesboro, Ark.—Granted special temporary authority to operate from 7:30 p. m. to completion of football game on September 15, 1939, and from 9 p. m., CST, to completion of football games on September 22 and 29, 1939, for football games only.
- KAKH—The Oklahoma Network, Inc., Oklahoma City, Okla.—Granted special temporary authority to operate amateur radio station W5CLI as a relay broadcast station from 5:30 p. m. to 6:30 p. m., CST, instead of from 6:30 p. m. to 7:30 p. m., CST, on September 16, 1939, as authorized by the Commission's grant of September 11, 1939, in connection with the Cherokee Strip Celebration at Ponca City, Okla., transmitter to be operated with power less than 25 watts, frequencies to be selected from Section 4.23.
- KPDN—R. C. Hoiles, Pampa, Tex.—Granted special temporary authority to operate unlimited time on September 15, 22, 29, October 6 and 13, 1939, in order to broadcast high school football games only.
- WJMC—Walter H. McGenty, Rice Lake, Wis.—Granted special temporary authority to operate from local sunset (September, 6:15 p. m. and October, 5:30 p. m., CST) to 10:30 p. m., CST, on September 22 and October 13 and 30, 1939, in order to broadcast high school football games only.
- WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted special temporary authority to operate from local sunset (October, 5:45 p. m. and November, 5 p. m., EST) to 6:30 p. m., EST, on October 7, 14, 21, 28, November 4, 1939, in order to broadcast football games only.
- WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted license to cover C. P. for changes in equipment and increase in day power from 1 KW to 5 KW (operate 5 KW to local sunset at Eau Claire, 1 KW to local sunset at Abilene).
- KTKC—Tulare-Kings Counties Radio Associates, Visalia, Calif.—Granted license to cover C. P. and modifications thereof for changes in frequency from 1190 kc. to 890 kc.; increase in power and time of operation from 250 watts, daytime, to 1 KW, unlimited time, employing DA system for nighttime operation.
- W9XC—Central Broadcasting Co., Davenport, Iowa.—Granted modification of C. P. for extension of completion date for construction from September 18 to December 18, 1939.
- WBAB—Press-Union Publishing Co., Atlantic City, N. J.—Granted modification of C. P. for approval of studio and transmitter sites, and installation of vertical radiator.
- WOCB—Harriett M. Alleman and Helen W. MacLellan, d/b as Cape Cod Broadcasting Co., near Hyannis, Twp. of Yarmouth, Mass.—Granted modification of C. P. for extension of completion date from September 24, 1939, to January 1, 1940.
- WICA—WICA, Inc., Ashtabula, Ohio.—Granted modification of C. P. to make changes in authorized equipment and extend commencement date from 7-16-39 to 60 days after grant and completion date 90 days thereafter.
- KOVO—Clifton A. Tolboe, tr/as Citizens Voice & Air Show, Provo, Utah.—Granted modification of C. P. for approval of transmitter and studio sites, and installation of vertical radiator.
- KWAL—Chester Howarth and Clarence Berger, Wallace, Idaho.—Granted modification of C. P. for approval of studio site, Samuels Hotel, and changes in authorized equipment.
- KINY—Edwin A. Kraft, Juneau, Alaska.—Granted modification of C. P. to make changes in composite equipment.
- KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Granted modification of C. P. for extension of completion date from September 24, 1939, to November 24, 1939.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted C. P. to install a new transmitter.
- KADB—Nichols and Warinner, Inc., Long Beach, Calif., Portable-Mobile.—Granted C. P. to install new equipment.
- WEJP—National Broadcasting Co., Inc., Portable-Mobile, Cleveland, Ohio.—Granted license to cover C. P. to make changes in equipment and increase power to 50 watts, with frequencies as listed under Group E of Section 41.03(a) (relay broadcast station).
- WJBK—James F. Hopkins, Inc., Detroit, Mich.—Granted authority to determine operating power by direct measurement of antenna input; type of antenna—vertical radiator, height of vertical lead 185 feet, overall height 200 feet, ground consists of network on roof of building with edges of screen grounded to frame of building.
- WGBR—Eastern Carolina Broadcasting Co., Goldsboro, N. C.—Granted authority to determine operating power by direct measurement of antenna input in compliance with the terms of Sec. 3.54; type of antenna—vertical, height of vertical lead 179 feet above base insulator, direct ground.
- KFDM—Beaumont Broadcasting Corp., Beaumont, Texas.—Granted authority to determine operating power by direct measurement of antenna input; type of antenna—"T", height of vertical lead 178 feet, length of flat top 179 feet, overall height 200 feet, direct ground.
- NEW—The Louisville Times Co., Louisville, Ky.—Portable-Mobile.—Granted C. P. for new high frequency relay broadcast station to be used to relay programs, where wire facilities are not available, to be broadcast over WHAS operating on 820 kc., power 50 KW, unlimited time; frequencies 30820, 33740, 35820 and 37980 kc., power 0.5 watt.
- NEW—The Louisville Times Co., Louisville, Ky., Portable-Mobile.—Granted license to cover above C. P.
- NEW—The Louisville Times Co., Louisville, Ky., Portable-Mobile.—Granted C. P. for new station to operate on 30820, 33740, 35820 and 37980 kc., power of 0.5 watt.
- NEW—The Louisville Times Co., Louisville, Ky., Portable-Mobile.—Granted license to cover above C. P.
- WEOB—Ashland Broadcasting Co., Inc., Ashland, Ky., Portable-Mobile.—Granted license to cover C. P. for new high frequency relay broadcast station using the frequencies in Group D of Sec. 41.03(a), 10 watts, unlimited time in accordance with Sections 41.01, 41.02(c), 41.03(b) and 41.05(b), to be used to relay programs where wire facilities are not available to be broadcast over Station WCMI.
- WAIE—Joe L. Smith, Jr., Beckley, W. Va.—Granted license to cover C. P. for new low frequency relay broadcast station using frequency listed in Group A of Sec. 41.03(a), power 75 watts, unlimited time in accordance with Sec. 41.04, to operate under the provisions of Sections 41.01 and 41.02(c) to relay programs where wire facilities are not available to be broadcast over Station WJLS.
- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Granted license to cover C. P. for move of transmitter site locally, install new equipment and vertical radiator.
- KSAM—Sam Houston Broadcasting Assn., Huntsville, Texas.—Granted license to cover C. P. to make change in equipment and increase in day power from 100 watts to 250 watts.
- KOMA—KOMA, Inc., Oklahoma City, Okla.—Granted authority to determine operating power by direct measurement of antenna input in compliance with terms of Sec. 3.54.
- WWL—Loyola University, New Orleans, La.—Granted authority to determine operating power by direct measurement of antenna input in compliance with the terms of Sec. 3.54; type of antenna—2 element directional, height of vertical lead 395 feet, overall height 400 feet, each tower loaded with 60 foot capacity top and 30 microhenry inductance at a point 60 feet below the top, so adjusted as to simulate a 190° tower; line of towers North-South spaced 135°, towers insulated; ground system 120 copper straps approximately ½ wave length long supplemented by 50 foot ground screen under each tower.
- WEDC—Emil Denmark, Inc., Chicago, Ill.—Granted license to cover C. P. for changes in composite equipment; increase in day power from 100 to 250 watts, and time of operation by adding hours from midnight to 6 a. m.
- KBTC—State Capital Broadcasting Assn., Austin, Texas.—Granted license to cover C. P. for new station to operate on 1120 kc., 1 KW, daytime (specified hours).
- WHP—WHP, Inc., Harrisburg, Pa.—Granted license to cover C. P. for installation of new equipment and directional antenna system and increase in power from 500 watts night, 1 KW day, to 1 KW night, 5 KW day, employing DA system for nighttime operation.
- WHP—WHP, Inc., Harrisburg, Pa.—Granted authority to determine operating power by direct measurement of antenna input; antenna current at common point of input—5.95 amperes for 1 KW. Antenna resistance at common point of

input is 27.9 ohms for 1 KW. Antenna current—6.35 amperes for 5 KW. Antenna resistance—124 ohms for 5 KW.
WEGS—Donald A. Burton, Muncie, Ind., Portable-Mobile.—Granted C. P. to make changes in equipment of high frequency relay broadcast station.
WSKB—McComb Broadcasting Corp., McComb, Miss.—Granted license to cover C. P. and modification thereof for new station to operate on 1200 kc., 100 watts daytime only.
KCKN—The KCKN Broadcasting Co., Kansas City, Kansas.—Granted license to cover C. P. for installation of new equipment.

APPLICATIONS FILED AT FCC

560 Kilocycles

KLZ—KLZ Broadcasting Co., Denver, Colo.—C. P. to install directional antenna for day and night use, increase power from 1 KW, 5 KW LS, to 5 KW day and night.

650 Kilocycles

KIRO—Queen City Broadcasting Co., Seattle, Wash.—C. P. to install new transmitter; make changes in antenna system; change frequency from 650 kc. to 710 kc.; increase power from 250 watts to 5 KW, 10 KW LS; change time from limited to unlimited time; and move transmitter from 2nd and Union Sts., Seattle, Wash., to site to be determined, near Seattle, Wash. Amended to request 10 KW power day and night.

680 Kilocycles

WPTF—WPTF Radio Company, Raleigh, N. C.—Construction permit to install new transmitter; increase power from 5 KW to 10 KW; increase hours of operation from limited to unlimited (using directional night). Amended to request 50 KW power and equipment changes, changes in directional antenna, and move transmitter to site near Morrisville, N. C.

880 Kilocycles

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Authority to install automatic frequency control.

930 Kilocycles

WDBJ—Times-World Corporation, Roanoke, Va.—Construction permit to install directional antenna for night use, increase power from 1 KW, 5 KW LS, to 5 KW day and night.

980 Kilocycles

KDKA—Westinghouse Electric & Manufacturing Co., Pittsburgh, Pa.—Modification of C. P. (B2-P-2308) for new transmitter and move of transmitter, requesting further authority to install new transmitting equipment.

1200 Kilocycles

NEW—Paducah Broadcasting Company, Inc., Hopkinsville, Ky.—Construction permit for a new station on 1200 kc., 250 watts, unlimited time.

WJNO—WJNO, Inc., West Palm Beach, Fla.—Authority to determine operating power by direct measurement of antenna power.

WDSM—WDSM, Inc., Superior, Wis.—Modification of C. P. (B4-P-770) as modified to extend completion date from 9-17-39 to 10-17-39.

KVNU—Cache Valley Broadcasting Co., Logan, Utah.—C. P. to make changes in equipment, increase power from 100 to 250 watts.

WJNO—WJNO, Inc., West Palm Beach, Fla.—License to cover C. P. (B3-P-2441) for new equipment.

KOOS—KOOS, Inc., Marshfield, Ore.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

WHBC—The Ohio Broadcasting Co., Canton, Ohio.—License to cover C. P. (B2-P-241) as modified for new equipment, increase in power, changes in antenna and move of transmitter.

KHAS—The Nebraska Broadcasting Co., Hastings, Nebr.—Modification of C. P. (B4-P-2367) for a new station, requesting approval of antenna and approval of studio and transmitter sites at 2nd and Burlington Ave., Hastings, Nebr.

1210 Kilocycles

KWJB—Sims Broadcasting Co. (Bartley T. Sims, Manager), Globe, Ariz.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1240 Kilocycles

KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—C. P. to install new equipment.

1260 Kilocycles

WFVA—Fredericksburg Broadcasting Corporation, Fredericksburg, Va.—Authority to determine operating power by direct measurement of antenna power.

1280 Kilocycles

WTNJ—WOAX, Inc., Trenton, N. J.—Modification of license to change hours of operation by adding hours from 8 to 10 p. m. each night. Amended to request unlimited time and request 1 KW power day, facilities of WCAM and WCAP.

1300 Kilocycles

KFH—Radio Station KFH Co., Wichita, Kans.—Construction permit for increases in power from 1 KW, 5 KW LS, to 5 KW day and night, and install directional antenna for night use.

1310 Kilocycles

WFIG—J. Samuel Brody, Sumter, S. C.—Modification of C. P. (B3-P-2171) for approval of antenna, installation of new transmitter, approval of studio site at 39½ North Main St., Sumter, S. C., and transmitter site at Liberty St. at city line, Sumter, S. C.

WJPR—John R. Pepper, Greenville, Miss.—Modification of C. P. (B3-P-2312) for a new station, requesting approval of antenna, and transmitter site at State Road No. 1, at Levee, Greenville, Miss., and move studio from 808 Harvey St., to 110 North Shelby St., Greenville, Miss. Amended to give studio site as 109 South Poplar St., Greenville, Miss.

WJPR—John R. Pepper, Greenville, Miss.—Modification of C. P. (B3-P-2312) for new station, requesting approval of antenna, and transmitter site at State Road No. 1, at Levee, Greenville, Miss.; make changes in equipment. Amended to give studio site as 107 South Poplar St., Greenville, Miss.

1310 Kilocycles

KVIC—Radio Enterprises, Inc., Victoria, Texas.—Modification of C. P. (B3-P-2118) for a new station, requesting approval of antenna, install new transmitter, and approval of studio and transmitter site at north of Victoria, on U. S. Highway #77, Victoria, Texas.

1330 Kilocycles

WSAI—The Crosley Corp., Cincinnati, Ohio.—Construction permit to change power from 1 KW, 5 KW-LS, to 5 KW day and night, install directional antenna for night use, move transmitter from S. E. corner Warner & Chickasaw Sts., Cincinnati, Ohio, to Cincinnati, Ohio. Amended: Re: transmitter site.

1370 Kilocycles

KVFD—Northwest Broadcasting Co., Fort Dodge, Iowa.—Modification of C. P. (B4-P-2042) for a new station, requesting authority to install new transmitter, and approval of studio at R. F. D., Ft. Dodge, Iowa, and transmitter site at Ft. Dodge, Iowa.

WFTL—Tom M. Bryan, Ft. Lauderdale, Fla.—Modification of C. P. (B3-P-2330) for a new station, requesting approval of antenna and approval of transmitter and studio site at 2700 S. Andrews Ave., Ft. Lauderdale, Fla.

1400 Kilocycles

WLTH—Voice of Brooklyn, Inc., New York, N. Y.—Construction permit to move transmitter from 2568 Flatbush, Brooklyn, N. Y., to Provost and Huron Sts., Brooklyn, N. Y. Amended: Re: Antenna.

WVFW—Paramount Broadcasting Corporation, Brooklyn, N. Y.—License to cover C. P. (B1-P-918) for equipment changes.

1410 Kilocycles

WAAB—The Yankee Network, Inc., Boston, Mass.—Modification of license to increase night power of auxiliary transmitter from 500 watts to 1 KW.

1420 Kilocycles

- KWBG—The Nation's Center Broadcasting Co., Hutchinson, Kans.—Construction permit for equipment changes; increase power from 100 watts to 250 watts; make changes in antenna system; and move transmitter from 101 East Avenue "A", Hutchinson, Kans., to outside city limits, near Hutchinson, Kans.
- KSAN—Golden Gate Broadcasting Corp., San Francisco, Calif.—C. P. to make changes in transmitting equipment and increase power from 100 to 250 watts.
- WFMJ—William F. Maag, Jr., Youngstown, Ohio.—License to cover C. P. (B2-P-1727) for a new station.
- WFMJ—William F. Maag, Jr., Youngstown, Ohio.—Authority to determine operating power by direct measurement of antenna power.
- WCBS—WCBS, Inc., Springfield, Ill.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1440 Kilocycles

KXYZ—Harris County Broadcast Co., Houston, Tex.—Construction permit to install new transmitter, directional antenna for night use, change frequency from 1440 kc. to 710 kc., increase power from 1 KW to 10 KW, and move transmitter from Main and Rusk Sts., Houston, Tex., to near Highway No. 90, Dawes, Tex.

1460 Kilocycles

KSTP—National Battery Broadcasting Company, St. Paul, Minn.—Construction permit to install auxiliary transmitter at present site of main transmitter, using 1 KW power.

1490 Kilocycles

WCKY—L. B. Wilson, Inc., Covington, Ky.—Modification of license to move studio from Sixth and Madison Ave., Covington, Ky., to Gibson Hotel, Cincinnati, Ohio.

1500 Kilocycles

- KPLT—North Texas Broadcasting Co., Paris, Tex.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.
- KGKB—East Texas Broadcasting Company, Tyler, Tex.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.
- WMOG—Coastal Broadcasting Co., Brunswick, Ga.—Modification of C. P. (B3-P-2306) for new station, requesting changes in equipment, approval of transmitter and studio site at Brunswick, St. Simons Highway, Brunswick, Ga., and approval of antenna.

MISCELLANEOUS

- WABE—Central New York Broadcasting Corporation, Syracuse, N. Y., Portable-Mobile.—License to cover C. P. (B1-PRY-186) for a new relay broadcast station.
- WEHA—City of New York, Municipal Broadcasting System, area of New York.—License to utilize the equipment of relay station WASJ in lieu of authorized equipment and increase power from 8.5 to 25 watts.
- W1XKB—Westinghouse Electric & Mfg. Co., East Springfield, Mass.—License to cover C. P. (B1-PHB-70) for new equipment and increase in power.
- W1XOJ—The Yankee Network, Inc., Paxton, Mass.—Modification of C. P. to extend date of completion from 10-29-39 to 4-29-40.
- W1XSN—Westinghouse Electric & Mfg. Co., Pittsburgh, Pa.—License to cover C. P. (B1-PHB-69) to move transmitter and install new equipment, increase power.
- W1XG—General Television Corp., Boston, Mass.—Modification of license to change frequency from 42000-56000, 60000-86000 kc. to 44000-50000 kc.
- NEW—Don Lee Broadcasting System, area of California.—C. P. for new relay broadcast station to employ frequency modulation to be operated in area of KHJ, California, on 133030,

134850, 136810 and 138630 kc. (Group I), using 50 watts power, special emission.

- WEJV—National Broadcasting Co., Inc., area of Chicago.—License to cover C. P. (B4-PRE-287) for installation of new equipment and decrease in power.
- WEJX—National Broadcasting Co., Inc., area of Chicago.—License to cover C. P. (B4-PRE-288) for installation of new equipment and decrease in power.
- NEW—Arizona Broadcasting Co., Inc., Tucson, Ariz.—Construction permit for new relay broadcast station on 31220, 35620, 37020, and 39260 kc.. 10 watts power, A-3 emission.
- KEIM—KTAR Broadcasting Co., Portable-Mobile.—Construction permit to make changes in equipment and increase power from 10 to 25 watts.
- WENN—WPTF, Radio Co., Portable-Mobile.—Construction permit to make changes in equipment.
- NEW—Farnsworth Television and Radio Corp., Fort Wayne, Ind.—C. P. for new television station located at 3700 E. Pontiac St., extended, Fort Wayne, Ind. (utilize aural equipment of W3XPF, Springfield, Pa.), on 66000-72000 kc., 1 KW power, A-3, A-5 and special emission.
- NEW—Zenith Radio Corporation, Chicago, Ill.—Construction permit for new high frequency station located at 6001 Dickens Ave., Chicago, Ill., to be operated on 42800 kc., 5 KW power, A-3 and special emission, unlimited time.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

Apex Oil Products Company—H. G. Hornibrook, trading as Apex Oil Products Company, 100-200 17th Ave., North, Minneapolis, was charged in a complaint with misleadingly representing a lubricating oil designated as "Film-X Motor Oil".

It is alleged that the respondent advertised that use of its oil will remove carbon from motors and will cause motors to wear less than one-tenth as much as motors lubricated with other oil, when such are not the facts. The complaint continues that there is no substantial difference in the wear of a motor in which the respondents' lubricating oil is used and the wear of a motor in which any high quality lubricating oil is used.

The complaint also charges that the use of assertions representing that the respondent's oil has several times the film strength of any other natural oil unduly exaggerates the importance of such property and conveys the erroneous meaning that other oils of less film strength are inferior to the respondent's oil. (3888)

Bauer & Black—See Kendall Company.

Electric Storage Battery Company, Philadelphia, and its subsidiary, Willard Storage Battery Company, Cleveland, were charged with unlawful acquisition of the capital stock of the Grant Storage Battery Company, Minneapolis, under a complaint. The complaint alleges violation of Section 7 of the Clayton Act which prohibits acquisition of the capital stock of another corporation where the effect may be to substantially lessen competition between the corporations, restrain trade or tend to create monopoly.

With the knowledge and at the instance of The Electric Storage Battery Company, the Willard Storage Battery Company, on or about December 31, 1938, allegedly acquired all of the outstanding capital stock of the Grant Storage Battery Company amounting to 900 shares of preferred stock at \$100 a share, and 3,996 shares of common at about \$263 a share, the par value having

been \$50 a share. The complaint alleged that since that time the Willard company continued to own the Grant Company's stock and the respondents controlled its corporate activities. The Willard Storage Battery Company, as of December 31, 1938, also owned all outstanding capital stock of the Willard Storage Battery Company of California, Los Angeles, according to the complaint.

One alleged effect of the acquisition was a substantial lessening of competition between the Grant company on the one hand, and the Electric and Willard companies and their California subsidiary, on the other. Further effects of the acquisition, according to the complaint, were restraint of interstate commerce and a tendency to create a monopoly in The Electric Storage Battery Company and its subsidiaries. (3892)

Fink & Co., Inc., 151 West 40th St., New York, was charged in a complaint with the dissemination of misleading representations in the sale of vitamin preparations designated as "Mi-Vit-Ine" and "Vi-Min-Ex," and of a facial cream designated as "Muriel Joan Beautifier."

According to the complaint, the respondent misleadingly represented Vi-Min-Ex and Mi-Vit-Ine as being competent treatments or effective remedies for constipation, low vitality, malnutrition, loss of appetite and weight, nervousness, anemia, colds, alcoholism, heart disease, paralysis, or other diseases, when such are not the facts. Representations that Mi-Vit-Ine will replace a vitamin deficiency were also alleged to be false, as were claims that Vi-Min-Ex and Mi-Vit-Ine supply all the essential vitamins and minerals required by the body. (3890)

Heifler & Jackson—In a complaint Rose Heifler and Fred Jackson, trading as Heifler and Jackson, 740 Bergen St., Brooklyn, N. Y., were charged with disseminating misleading representations in the sale of "Morgan's Pomade," a preparation for the treatment of the hair and scalp.

According to the complaint, the respondents misleadingly represented that their preparation is not a tint or dye; that its use causes gray hair to change its color without dyeing and will restore the original natural color to gray hair, and supplies to the hair shaft the materials in which gray hair is deficient, when such are not the facts. The respondents were further alleged to have falsely represented that the use of their preparation will prevent the hair from falling out; that "Morgan's Pomade" penetrates to the roots of the hair and nourishes the hair, and that it is a competent and effective cure, preventive, or remedy for dandruff. The complaint says that "Morgan's Pomade" is a lead and sulphur dye and only artificially dyes the exterior of the hair. (3893)

Johnson's Lixolene Company—In a complaint issued John C. Johnson, trading as Johnson's Lixolene Company, 4028 Hill Crest Drive, San Diego, was charged with the dissemination of misleading representations in the sale of a medicinal preparation designated as "Johnson's Lixolene".

It is alleged that the respondent represented his preparation as being a safe skin remedy, a reliable compound, an effective antiseptic, and a powerful germicide, and as an effective remedy or cure for eczema, acne, ringworm, psoriasis, dandruff, poison ivy, seborrhea or alopecia, when such were not the facts.

The respondent's claims that all eczemas and other diseases of the skin are caused by parasitic infection and should be treated by the local application of a mild germicide such as "Johnson's Lixolene," are alleged to be misleading. The complaint points out that not all skin ailments are caused by parasitic infection, many being the result of allergic conditions, and require treatment by a competent physician. (3887)

Kendall Company, trading as Bauer & Black, 2500 South Dearborn St., Chicago, was charged in a complaint with the dissemination of misleading representations in the sale of a cosmetic preparation now designated "Velure Vanishing Lotion" and formerly designated "Velure Lotion."

According to the complaint, the respondent misleadingly represented by means of periodical and radio advertisements that its preparation is a new and scientific discovery which, when applied to the hands, acts more quickly in softening and beautifying the skin than its competitors' products; that its preparation in all instances penetrates the skin and leaves no artificial coating or

stickiness thereon; that it conserves and supplements the natural oils of the skin; that it has a bleaching or whitening effect and makes hands several shades lighter, and that it is more economical and effective in use than competitive hand lotions, when such were not the facts. The complaint points out that the respondent's preparation consists of ingredients lacking in substantial therapeutic value, and commonly found in competitive hand lotions. (3894)

National Numbering Machine Co., Inc.—A complaint has been issued against the National Numbering Machine Company, Inc., 1 Beekman St., New York, charging price discrimination in violation of the Robinson-Patman Act.

The complaint alleges that the respondent discriminated in price between different purchasers buying typographical numbering machines of like grade and quality by allowing to some of such purchasers lower prices than those granted to other of its purchasers competitively engaged one with the other in the resale of such machines to dealers and ultimate users. (3889)

Vendol Company—In a complaint David H. Fulton, trading as Vendol Company, 1 West Biddle St., Baltimore, was charged with disseminating misleading representations in periodical, circular and radio advertisements, concerning a medicinal preparation designated "Vendol."

According to the complaint, the respondent misleadingly advertised that his product is an effective treatment for constipation, stomach disorders, liver ailments, muscle, joint and body pains, rheumatism, dizziness, excess acidity, gas, cramps, skin disorders, stiffness, or declining health, when such are not the facts. The complaint further alleges that the respondent falsely advertises his product as being a tonic and an appetizer. In truth, the complaint continues, the therapeutic properties of Vendol are limited to that of a laxative with mild diuretic and anti-acid effects.

In certain of his advertising, it is charged, the respondent lists symptoms which are attributable to various diseases with the representation that his preparation will relieve or cure such symptoms if due to constipation. By this means the respondent allegedly represents that Vendol is an effective treatment for various disorders which are not in fact related to or connected with constipation and upon which Vendol will have no curative or therapeutic effect. (3895)

Willard Storage Battery Company—See Electric Storage Battery Company.

York Cone Company, 615-623 South Pine St., York, Pa., was charged in a complaint with the use of lottery schemes in the sale of its candy. According to the complaint, the respondent furnished dealers with push cards for use in the sale of its candy to ultimate consumers. (3891)

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

America's Medicine and Nu-Mode Company—Harry S. Benham, trading as America's Medicine and Nu-Mode Company, 620 Orleans St., Chicago, has been ordered to discontinue the dissemination of misleading representations in the sale of medicinal preparations for the relief of delayed menstruation, such preparations being designated as "America's Medicine XX Compound," "Nu-Mode XX Compound" and "Kotess Periodic Relief Compound," and "America's Medicine XXX Compound," "Nu-Mode XXX Compound" and "Kotess Periodic Relief Compound."

Under the order, the respondent is to discontinue advertising that the use of the preparations constitutes a safe, competent and scientific treatment for delayed menstruation and will have no ill effects upon the user. The respondent is also prohibited from disseminating advertisements which fail to reveal that the use of the preparations may result in serious or irreparable injury to the health of the user. (3851)

Floracube Company, Inc.—Eugene H. Hunter and Rae LaMarr Hunter, trading as The Floracube Company, Inc., 2133 Sunset Boulevard, Los Angeles, has been ordered to discontinue misleading representations in the sale of a medicinal preparation designated as "Floracubes."

Finding that "Floracubes" is nothing more than a laxative or purgative depending upon the amount ingested, the Commission ordered the respondents to cease representing that their preparation has any therapeutic value other than as a palliative in the treatment of constipation, or that it is a cure or remedy for any disease, disorder or malady, or that it will rid the body of the causes of such ailments and conditions.

The order prohibited specific representation that the respondents' preparation is a cure or remedy for colitis, overacidity, food decay within the body, rheumatism, arthritis and other ailments. (3284)

Paul Hartmann Agency—See Sterling Products Corporation.

Sterling Products Corporation, trading under its own name and as Paul Hartmann Agency, 36 East 22nd St., New York, was ordered to discontinue misleading representations in the sale and distribution of drugs, pharmaceuticals, surgical instruments, dressings and surgical supplies.

Under the order, the respondent is prohibited from representing that its competitors' domestic made ethyl chloride tubes, ethyl chloride, or any other of their merchandise, were made in whole or in part in a foreign country. The respondent was further prohibited from representing that it was closing out its stock of foreign-made surgical instruments, when such was not a fact.

Further representations to be discontinued were that the respondent deals only in surgical instruments manufactured wholly in the United States, when it actually fills orders for surgical instruments manufactured in whole or in part in a foreign country. (2779)

Zelle Company—Leland F. Benham, trading as The Zelle Company, 620 Orleans St., Chicago, was ordered to discontinue disseminating misleading representations in the sale of "Zellets No. 1" and "Zellets No. 2," described as medicinal preparations for the relief of delayed menstruation.

The respondent was ordered to cease advertising that his preparations constitute safe, competent and scientific treatments for delayed menstruation, or that their use will have no ill effects upon the user. The respondent was also ordered to discontinue advertisements which fail to reveal that the use of his preparations may result in serious or irreparable injury to the health of the user. (3854)

STIPULATIONS

The Commission has entered into the following stipulations:

Cre-O-Tox Chemical Products Company—Verne D. Benedict and Maurice S. Kuhn, trading as Cre-O-Tox Chemical Products Company, 1579 Madison Ave., Memphis, Tenn., agreed to cease representing that by the use of "Cre-O-Tox A," a treatment for timbers in buildings which may be infested with subterranean termites, or by use of the "Tox-Eol" method, or any similar product or method, termites in the ground as well as those in the building are, without qualification exterminated. The respondents will also discontinue representing that their method is "not a temporary control method but complete extermination" or has "lasting results." They also agreed to cease making claims that the chemicals used in their product are given the highest rating in the International Termite Exposure Tests of many years duration, or that their product or method is the result of many years of patient and time-taking experience on the part of the Cre-O-Tox Chemical Products Company, when such are not the facts. It was also agreed that the respondents will discontinue representing that the property owner is completely protected by a "5 Year Warranty Bond" or by any "Bond" unless that is a fact, or that the oils used in the "Tox-Eol" systems are of great penetrating power which carry the chemicals deep into the wood. (2533)

Floredex Company—Harold T. Maloney, trading as Floradex Company, successor of Nu-Health Products Company, 178 East Long St., Columbus, Ohio, agreed to cease representing that his preparation, "Floradex" advertised as a treatment for constipation, is marvelous or new; will keep a person from being sick; will restore or build health; will enable one to gain vim and vigor, or that it is beneficial in removing the cause of most common ailments. The respondent further agreed to cease representing that constipation is the factor behind most human ills and ailments, and to discontinue using the word "Food," or any similar words, so as to imply that his preparation has any food value.

This stipulation is supplemental to, but does not affect, the stipulation (No. 01944) executed in November, 1937, by Harold T. Maloney and John C. O'Neil, trading as Nu-Health Products Company and selling the same product under the trade name of "Floradex." (01944)

Mead Glidders—T. E. Mead, trading as Mead Gliders, 15 South Market St., Chicago, stipulated that he will cease advertising that the paddle or the oars and rowlocks offered by him to the purchaser of a "Ki-Yak" or other boat is given free, or that their cost is not included, either in whole or in part, in the price of his product, when such are not the facts. The respondent will also discontinue claims that the paddle which accompanies the "Ki-Yak" is a \$6 value, or that the offer of the paddle or of the oars and rowlocks is either "special" or "introductory," or limited in time, when such are not the facts. (2532)

Mid-West Map Co., Aurora, Mo., agreed to cease representing that its cigar lighter and advertisement display device, Lite-O-Phone, is absolutely trouble free, or is the first perfect cigar lighter. The respondent will further cease representing that agents are able to earn sums in excess of those consistently made by a substantial number of its representatives under normal conditions; that agents without previous selling experience cannot fail to sell its products, or that there is an unlimited field and great demand for its products. (02424)

Minnesota Horticultural Peat & Litter Company—Thomas W. Dunlop, trading as Minnesota Horticultural Peat & Litter Company, 650 Second Ave., North, Minneapolis, stipulated that he will discontinue claims that "Gro-Zum," a garden peat moss, is of the same texture or analysis as that of peat moss produced in and imported from Germany; that it has been officially approved or indorsed by the University of Minnesota or other State universities; that the moisture-holding or water-retaining properties of German peat moss are destroyed as a result of the drying and packing under pressure to which such peat moss is subjected, or that, because of its alleged higher content of nitrogenous material, "Gro-Zum" has any more appreciable availability for growing plants than has the competitive imported German product, when such are not the facts. (2534)

Fred W. Neely Company—Fred W. Neely, trading as Fred W. Neely Company, 508 South Dearborn St., Chicago, entered into a stipulation in which he agreed to cease certain misleading representations in violation of the Federal Trade Commission Act.

The respondent stipulated that in connection with his sale and distribution of typewriter ribbons and carbon paper, he will discontinue representing that he has branch offices or establishments in New York, Brooklyn or elsewhere unless that is a fact. The stipulation points out that the respondent shipped his products in interstate commerce in boxes on which were imprinted the words: "Branches New York City, Chicago, Brooklyn," when in fact he operated no branches in New York or Brooklyn but conducted his business solely from his office in Chicago. (2537)

W. C. Ohlendorf, trading as Dr. Ohlendorf, 1924 Blue Island Ave., Chicago, stipulated that he will cease representing that "Dr. Ohlendorf's Tonic" is a competent treatment for the relief of weak, nervous, run-down conditions, sluggish kidneys, irritated bladder, backache, rheumatism, neuritis, diabetes, catarrh of the bladder and bowels, or poor blood circulation. The respondent also agreed to discontinue claims that his tonic is a diuretic and will in all conditions enrich the blood and increase its circulation, or that the price charged for his product is a special price. (02428)

Pacific Bedding Company, 710 East 62nd St., Los Angeles, agreed to cease placing on its mattresses price marks which are higher than the prices at which they are intended to be sold to the purchasing public. The respondent also will discontinue using any fictitious price mark-ups or representations which may convey the belief to purchasers that such mattresses have a value or quality which they do not in fact possess. (2536)

Raymond Powell Company—C. Raymond Powell, trading as Raymond Powell Company, an advertising agency. Memphis, Tenn., has entered into a stipulation to cease and desist from disseminating false and misleading claims concerning "Blue Star Ointment," a medicinal preparation alleged to be effective for the relief of various skin affections.

This is the first stipulation entered into by an advertising agency pursuant to a recent order of the Commission that such agencies be included with vendor-advertisers where inquiries have developed the fact that false and misleading advertising has been placed through advertising agencies.

In the stipulation the respondent admits that in the course and conduct of his business he has disseminated, by United States mails and in commerce, certain advertisements for the purpose of inducing the purchase of the commodity. The respondent also admits, upon competent evidence and in accordance with written admissions of the distributor of the preparation, that "Blue Star Ointment" will not give permanent or prolonged relief from conditions described, and does not reach or relieve their causes. The ointment was advertised to "put a stop to itching torture of eczema, rash, tetter, ringworm, pimples, scabies, between the toes, etc."

The stipulation was entered into by the advertising agency under the Commission ruling that advertising agencies be offered the privilege of signing an independent stipulation and agreement to cease and desist from further dissemination of false advertising copy when it has not been intentionally done. (02429)

Proctor & Gamble Co., Cincinnati, Ohio, stipulated that it will cease representing that its product "Chipso" is safer for the hands than all other laundry soaps or, without justifiable qualification, that it is as safe for the hands as toilet soap; that the detergent action of "Chipso" is substantially different from that of all other soaps; that it is the only soap producing "shampoo" action or employing a "suction" principle, or that either of such actions is new. The respondent further agreed to cease representing that "Chipso" is unqualifiedly safe for all materials; that it will never weaken threads, or that "Chipso" in and of itself, protects the clothes from washtub wear and tear. Other representations to be discontinued are that laboratory tests establish "Chipso" as being superior to every other packaged soap for restoring whiteness to clothing, or that "Chipso" is made especially for any particular locality, when such is not a fact. (02423)

Seaboard Pencil Company—Herbert Hein, trading as Seaboard Pencil Company, 245 Seventh Ave., New York, agreed to cease representing that pencils sold by him are offered at regular factory prices, or that his customer buys direct from the factory,

or saves the middleman's profit by dealing with Hein, when such are not the facts. The respondent will also cease representing that his pencils are made in the factory supplying the world's largest pencil users unless such statements shall have been established by adequate proof. Further representations to be discontinued are that Hein is associated with any pencil factory, when such is not a fact, or that he is other than a dealer in such products. (2535)

Herbert A. Strong Tailoring Company, 2226 West Wabansia Ave., Chicago, agreed to cease representing as "wool," "all wool," or "woolen," the principal fabrics used in the manufacture of its clothing when it is made partly of wool and partly of cotton, silk, rayon, linen, or any other fiber, unless the clothing is designated as "wool and cotton," "wool and silk," "wool and rayon," or "wool and linen," etc., in the order of the predominating fiber content. The respondent also agreed to cease representing that any fibers contained in its product are silk, when they are in truth rayon or some fiber other than silk. (02427)

V. & R. Manufacturing Company—A. A. Haines and Amalia G. Haines, trading as V. & R. Manufacturing Co. and V. & R. Electro Mfg. Co., Detroit Lakes, Minn., stipulated that they will cease representing that the "V. & R. Aerial Eliminator" is a "new" device, or materially different from other similar devices now on the market; is equivalent to a 75-foot aerial in 4-inch attachment; is guaranteed to make outside aeriels unnecessary, or will give international or all wave radio reception. The respondents also agreed to discontinue claims that their aerial eliminator is a "Hi-Capacity" device; produces better tone, improved volume or sharper selectivity, or helps reduce static. (02426)

Washington School of Art, Inc.—Wallace Luchs, Sr., Sylvan J. Luchs and Ernestine F. Luchs, trading as Washington School of Art, Inc., Washington, D. C., stipulated that they will cease representing that the person purchasing their correspondence course of instruction has hidden talent or has the ability to make a career in art; that one may begin a career as an artist by the payment of \$3, or that ability is a matter of training. The respondents will further discontinue representations that persons taking their advertising sellers' course of instruction in commercial art can make profits in excess of those made consistently by their active graduates under normal business conditions. It was also agreed that where a qualifying word or phrase is used in connection with a specific claim of earnings, the respondents will make such phrases as clear as the claims which they purport to limit or qualify. (02425)

FTC CLOSES CASE

The Federal Trade Commission closed its case against the now-dissolved corporation, Heller & Newman, Inc., 250 West 39th St., New York. In July, 1939, the Commission issued a complaint against the respondent alleging misleading representation through the labeling of garments with the legend "Harris Tweed," when they were not made of genuine "Harris Tweed."



The Code in Effect October 1

(A Statement by Neville Miller)

I am gratified to report well nigh industry-wide support of the new NAB Code which becomes effective October 1.

In accordance with instructions of the Board, I have appointed a Code Compliance Committee—the Committee of Audience Relations. I am glad to report that Edgar Bill, WMBD, Peoria, Illinois, has agreed to serve as chairman. The Committee is representative of a cross-section of both the industry and of the country. We feel it is more than competent to represent every type of radio station and interest as well as the problems of the industry as a whole.

Mr. Bill has called the first meeting of the Committee for this coming Monday, October 2, at Headquarters in Washington.

This will be a highly important meeting, important to the future of your station and to the future of the entire American System of Broadcasting. We believe that each section of the Code is well understood by most members of the industry. Following its meeting, the Code Committee will issue a Code manual which will contain specific answers to specific problems which have already been presented for ruling. As more of these interpretations are made from time to time, they will be sent to you immediately. The Code manual itself will be in loose-leaf binder form so that you may arrange reports from the Committee under the particular section of the Code applicable.

We feel you will find the interpretations of the Committee to be fair decisions, honestly arrived at, and in conformity with the letter and spirit of the Code passed by the Convention in Atlantic City last July.

In its deliberations, I can assure this industry and the listening public that the Code Committee is concerned with fundamental principles only and not with personalities. The Code represents almost a year's constant deliberation of every conceivable problem affecting the operation of radio in both the social and economic life of our nation. Adherence to the Code means to the individual radio station operator a better long-pull investment and to the American home gives another reason for inviting the NAB station as a preferred guest in its living room. I am convinced that in the Code we find an admixture of the best interests of the radio industry and of the public interest of the American people. The two are inseparable. This is the essence of self-regulation as we know it

(Continued on page 3742)

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

Andrew Bennett, *Counsel*; Edward M. Kirby, *Director of Public Relations*; Joseph L. Miller, *Director of Labor Relations*; Paul F. Peter, *Director of Research*

THE CODE IN EFFECT OCTOBER 1

(Continued from page 3741)

in our American democracy. And this is the purpose of the NAB Code.

The Committee of Audience Relations (Code Compliance Committee): Chairman—Edgar Bill, WMBD, Peoria, Illinois; Martin Campbell, WFAA, Dallas, Tex.; Walter J. Damm, WTMJ, Milwaukee, Wisc.; Edward Cargill, WMAZ, Macon, Georgia; Earl J. Glade, KSL, Salt Lake City, Utah; Edward Klauber, Columbia Broadcasting System; Don Searle, KOIL, Omaha, Nebraska; Calvin J. Smith, KFAC, Los Angeles, California; Theodore Streibert, Mutual Broadcasting System; Niles Trammell, National Broadcasting Company; E. M. Kirby, NAB, Washington, Secretary.

WMCA Hearing

The FCC held a hearing Wednesday on its charge that Station WMCA, New York City, had violated Section 605 of the Communications Act of 1934 by interception and broadcast of secret German and British naval orders.

In an affidavit answering the Commission's charge WMCA denied any illegality and pointed out that all war news broadcast over the station was obtained from the International News Service, the New York *Herald Tribune* and the New York *Daily Mirror*.

Stanley Wolf, chief radio operator for the New York *Herald Tribune*, was the Commission's first witness at Wednesday's hearing.

Wolf testified that he and the four operators under him picked up, for the *Tribune*, government news broadcasts from abroad.

WMCA had an arrangement with the *Tribune*, he testified, to obtain from the *Tribune's* radio department important news received and this arrangement was made during August of this year. A similar arrangement prevailed during the Munich crisis.

Wolf said that Station DLE, a German government station, interrupted an English news broadcast the evening of August 27 to send a message addressed to all German ships, in German. This was followed by three German words, "Nach Sonderanweisung Handeln." Wolf

said he called WMCA and gave the station this message. He also sent it to the editorial rooms of the *Herald Tribune*. A later check with both the editorial rooms and WMCA, he said, showed that this was translated as "upon receipt of this transmission, act upon your special secret instructions."

Two days later, Wolf said, he was listening to an official news broadcast from Station GPR, British government station, when it interrupted the news broadcast by saying, "Here admiralty message." Instructions to all British ships then were broadcast. This, like the German message, was passed on to both the *Herald Tribune* editorial room and WMCA.

After Wolf's testimony, an FCC official said that DLE was registered at Berne as a fixed station and GBR as a land station. This official said he assumed both were in point-to-point service.

The Commission refused to allow Donald Flamm, WMCA president, to read a prepared statement about the case. Flamm explained that WMCA had added the *Herald Tribune* service to its normal news service to obtain official broadcasts, news prepared by *Herald Tribune* staff writers abroad and news bulletins from foreign stations. He then turned to the trade press advertisement which WMCA had prepared. These reprinted parts of two New York gossip columns which said that WMCA's important news scoops had resulted from decoding secret messages. Mr. Flamm denied that these columns were "inspired" and said WMCA at no time had in its employ a code expert. There was no interception at the station and no payment to anyone other than the *Herald Tribune*, he said. Asked if the information in the columns was true, as a whole, Mr. Flamm said it was not. There was a long debate between Mr. Flamm and Commissioners about the amount of the material in the columns that was true.

Leon Goldstein, special events director for WMCA, next on the stand, described in detail the arrangements for the *Herald Tribune* service. He then was questioned extensively about the trade press advertisement. He admitted, under close questioning, that he knew parts of the gossip columns were inaccurate when he used them in the ad and was lectured extensively about the "responsibility" that a broadcast licensee shoulders.

After the luncheon recess, the Commission again questioned Goldstein extensively. Whether the messages were news or plain intercepted messages and whether WMCA had obtained from the *Tribune* a "story" about the messages or just intercepted messages were among the points at issue.

William Weisman, vice president and general counsel of WMCA, was the final witness. He and William Dempsey, FCC general counsel, engaged in a long debate about whether WMCA's answer to the Commission's original charge was complete.

FCC SUSPENDS INDEFINITELY INTERNATIONAL RULE

The FCC this week suspended indefinitely the rule requiring international broadcast stations to send out only programs which would promote "international goodwill, understanding and cooperation."

Opposed by the NAB as a step toward censorship of domestic programs, the rule was suspended temporarily after a hearing. This week, the FCC adopted the following resolution:

WHEREAS, on May 23, 1939, the Commission adopted Rule No. 42.03(a) having to do with the conduct of international broadcast stations, which rule was thereafter suspended pending further investigation, and

WHEREAS, the outbreak of the European war has injected into the problem of international broadcast regulations various additional significant factors, and

WHEREAS, on September 6, 1939, this Commission appointed a committee composed of Chairman Fly, Commissioner Brown and Commissioner Craven to study the various phases of the communications problem in relation to current war conditions, to maintain contact with the various Government agencies and the industry and to report to the Commission its recommendations, which committee has made studies and held various conferences on the problems in relation to international broadcasting,

THEREFORE, BE IT RESOLVED, That said rule is hereby further suspended pending the conclusion of said studies and conferences and subject to the report of said committee recommending to the Commission such further action as it may deem appropriate.

"RADIO GUIDE" UNDERTAKES SONG CONTEST FOR BROADCASTING

In cooperation with Davis and Schwegler, Inc., tax-free music publishers, *Radio Guide* Magazine is undertaking a "National Song Search" to discover new authors and composers in three fields of music: popular, semi-classical and sacred music.

Attention of broadcasters has been drawn to the contest because of its immediate value in determining the extent and quality of undiscovered sources of useable new music, independent of ASCAP affiliation.

While the selection of winners in the sacred music and semi-classical sections will be announced on December 30 and January 6 respectively, the last dates for entries in the weekly contest for new popular music begin at once, the first one closing as of October 7. Two hundred dollars in cash is offered the winner of each weekly contest. Quoting from *Radio Guide*, the prizes are as follows:

PRIZES

- | | |
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| <p>The greatest first prize ever offered an unknown songwriter. The winner of each contest will receive:</p> <ol style="list-style-type: none"> 1. \$200 in cash. 2. The regular song-writer's contract with the great Los Angeles music-publishing firm, Davis-Schwegler, providing for royalties on all sheet music and other sales. 3. Immediate publication and distribution as sheet music. 4. Immediate recording and distribution as phonograph record. | <ol style="list-style-type: none"> 5. Inclusion of the winning song in regular Davis-Schwegler Library Service to radio stations from Coast to Coast. <p style="text-align: center;"><i>Consolation Prizes</i></p> <p>The next five song-writers selected will receive \$10 each in cash.</p> <p style="text-align: center;"><i>Honorable Mentions</i></p> <p>The next six song-writers will be given Honorable Mention Certificates.</p> |
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As the music is received, title, lyrics and score will be searched by the Davis and Schwegler staff. Following this, selections will be made to a professional judging committee, headed each week in the popular field by name-band orchestra leaders and prominent radio singers and musicians. This week's issue announces that the committee in the second week's contest will be headed by Kay Kyser and Ginny Simms. The sheet music will be made available to all radio stations and networks, for performance. Davis and Schwegler will include the winning selections in their transcription service and on their records. *Radio Guide* informs Headquarters that network performance opportunities have been arranged through connection with commercially sponsored leaders in the popular field. Other exploitation of the new music on individual stations has also been arranged, through station tie-ups with the magazine.

Headquarters feels that the contest and the subsequent radio performance of the new music will furnish helpful information about the music problem.

FREE OFFERS

The following companies were reported by member stations as seeking free time for commercial purposes, in violation of the NAB Code of Ethics:

- American Road Builders Association
- The Spool Cotton Company
- B'rer Rabbit Molasses
- The Woman Magazine

The Bureau of Radio Advertising has advised the above concerns that their proposals constitute "free offers," which the NAB Code of Ethics prohibits member stations from accepting. Stations are again urged to make every effort to convert these free offer requests into paid advertising, either through solicitation of local outlets or direct to the national organization. The Bureau of Advertising is making similar efforts wherever possible.

COST-PER-INQUIRY

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

- Dorland International Agency (on behalf of Poya)
- Popular Music Instruction Company (piano course)

The NAB Bureau of Radio Advertising has advised these concerns that the Code of Ethics prohibits stations from accepting business on a contingent or cost-per-inquiry basis and has suggested that they buy time at the stations' regular rates.

THE FOOD COUNCIL

The NAB suggests that member stations receiving proposals from the Food Council, 308 Fourth Avenue, New York City, to broadcast scripts or transcriptions free of charge communicate with NAB Headquarters before accepting same or committing themselves with advertisers who may wish to sponsor these programs.

CROWELL-COLLIER PUBLISHING COMPANY

NAB has discussed with the Crowell-Collier Publishing Company the "Voice of Industry" programs which the company proposes to have stations broadcast as part of a campaign to humanize industry and explain advertising to the public. Crowell-Collier has agreed to waive mention of the four magazines they publish in the closing announcement of these transcriptions, thus allowing stations who wish to run this series to fade out the closing credit and substitute their own with whatever wording is considered most fitting.

CLINE, WLS, HEADS NAB SALES MANAGERS COMMITTEE

Neville Miller this week appointed William R. Cline, Commercial Manager of WLS, Chicago, as chairman of the Sales Managers' Committee, succeeding Craig Lawrence, KSO, Des Moines. In confirming Mr. Cline's appointment, Neville Miller, NAB president, outlined the reorganization plans intended to further the efficient operation of the Sales Managers' division, under the direction of the NAB Board of Directors.

An Executive Committee will be appointed from the Sales Managers' Division to meet regularly and work in cooperation with the Bureau of Radio Advertising and Headquarters' staff in developing a sales and promotion program on behalf of all member stations. Under the reorganization plan, it is expected that district directors will appoint representatives to the Sales Managers' Committee and that all activity of the Committee in each district will be centered under the Director.

"CURTAIN RAISER" HISTORY

A pictorial history of Curtain Raiser as observed throughout the United States during the week of Sept. 24 and thereafter is to be published by NAB. It will be distributed to advertisers, agencies, members and others.

The receipt of photographs and copy will be appreciated at headquarters at the early convenience of members.

OCTOBER EVENTS

- October 8-14—Fire Prevention Week
National Candy Week
- October 9 —Canadian Thanksgiving Day
- October 10-20—Picture Week
- October 12 —Columbus Day (celebrating discovery of America, 1492)
- October 14 —Sweetest Day—Last day of Candy Week
William Penn born 1644
- October 15-21—National Business Show in New York
- October 22-28—National Pharmacy Week
- October 27 —Navy Day
Theodore Roosevelt born 1858
First World War shot fired by American troops, 1917
- October 28 —Anniversary of freedom of U. S. Press, 1753
- Oct. 29-Nov. 6—Girl Scout Week (birthday of Juliette Low, founder of Girl Scouts)
- October 31 —Hallowe'en
- Oct. 31-Nov. 5—National Apple Week

NOTE: National Retail Grocers Week will be held some time this month. Check your local stores for dates.

NEBRASKA-ASCAP SUIT TRIED

The trial of Buck, et al., v. Swanson, et al., took place in Lincoln, Nebraska, on September 18 to 21, inclusive, before a specially constituted three judge Federal court presided over by Judge Gardner of the Circuit Court of Appeals for that district. ASCAP brought suit against the Nebraska state officials and county attorneys to enjoin prosecutions under the Nebraska Copyright Monopoly Statute, adopted by the Legislature in 1937, on the grounds that the statute is unconstitutional. Many provisions of the state law are believed by attorneys to be beyond the power of the state legislature but it is contended that the monopoly section prohibiting price fixing by combination of copyright owners is within the police power of the legislature.

Testimony was introduced by ASCAP who produced as witnesses, among others, Gene Buck, president of ASCAP; Claude Mills, Chairman of the Administrative Committee; and John Paine, general manager. They testified primarily to the history of ASCAP, to the efforts of users to hamper their operations, and to their alleged inability to operate under the Nebraska statute.

The defendant state officials introduced testimony tending to show ASCAP's method of operation in the State of Nebraska and to bring out the monopoly power concentrated in the Society through its publisher membership. Among the witnesses called by the state officials were John J. Gillin, Jr., manager of WOW, and Don Searle, manager of KFAB-KOIL-KFOR. Mr. Gillin testified in detail as to ASCAP's licensing method with respect to radio stations, the discriminatory character of the licenses issued to commercial stations and those issued to newspaper owned stations and the inability of his station to continue operation without acceding to ASCAP's demands. Mr. Gillin's testimony was corroborated by Mr. Searle.

A decision by the Court is not expected for some time. ASCAP was represented by L. J. TePoel, Louis D. Froh-

lich and Herman Finkelstein. The state officials were represented by John L. Riddell, Chief Assistant Attorney-General, William J. Hotz and Andrew W. Bennett.

LABOR NOTES

The actors' row which for a time threatened to make trouble for broadcasting has been settled by agreement with the following results:

The American Federation of Actors is out of business and Ralph Whitehead, its executive secretary, is out of a job.

The American Guild of Variety Artists has succeeded the American Federation of Actors as the A. F. of L. union for vaudeville and night club performers.

The American Federation of Radio Artists now has the same exchange arrangement with AGVA as it used to have with AFA.

The Screen Artists Guild made peace with the International Alliance of Theatrical Employees and Motion Picture Operators, withdrew its support of the United Studio Technicians—and the IA beat the UST in an election at the Hollywood studios.

Sophie Tucker is now in good standing with the AGVA.

It all amounts to *status quo ante bellum*, excepting for Ralph Whitehead's job.

The New York papers report a fight between the A. F. of M. and ASCAP over the latter's music festival plans. ASCAP, it is reported, hired the Boston Symphony for the festival, to start October 2. The Boston Symphony is the only major non-union symphony orchestra, and the A. F. of M. threatened to refuse to allow union musicians to take part in the festival if non-union musicians appeared. The papers say ASCAP substituted the New York Philharmonic for the Boston Symphony because of this threat.

After October 24, the Wage and Hour Act requires payment of time and one-half for overtime above 42 hours a week to all covered employees in the broadcasting industry. The NAB labor relations department will be glad to answer any questions about the change.

FEDERAL COMMUNICATIONS COMMISSION DOCKET

The following hearings and oral arguments are scheduled before the Commission in broadcast cases beginning the week of Monday, October 2. They are subject to change.

Monday, October 2

NEW—George Penn Foster, Maxwell Kelch and Calvert Charles Applegate, d/b as Nevada Broadcasting Co., Las Vegas, Nev.—C. P., 1370 kc., 100 watts, 250 watts LS, unlimited time.
NEW—Howton Radio Alarm Co., Seattle, Wash.—Permit for new special experimental station, 2414 kc., 12.5 watts, unlimited time. Pts. of Comm.: Portable within city limits of Seattle, Wash.

Tuesday, October 3

WSVS—Elmer S. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Renewal of license, 1370 kc., 50 watts, specified hours.
WBNY—Roy L. Albertson, Buffalo, N. Y.—Modification of license, 1370 kc., 100 watts, 250 watts LS, unlimited time (requests facilities of WSVS). Present assignment: 1370 kc., 100 watts, 250 watts LS. Time: All hours except those WSVS operates.

Wednesday, October 4

NEW—Publix Bamford Theatres, Inc., Asheville, N. C.—C. P., 1430 kc., 1 KW, unlimited time (DA night).

Thursday, October 5

Oral Argument Before the Commission

Report No. B-62:

WMBR—Florida Broadcasting Co., Jacksonville, Fla.—C. P., 1120 kc., 500 watts, 1 KW LS, unlimited time (DA night). Present assignment: 1370 kc., 100 watts, 250 watts LS, unlimited time.

Report No. B-68:

WGRC—Northside Broadcasting Corp., New Albany, Ind.—C. P., 880 kc., 250 watts, unlimited time. Present assignment: 1370 kc., 250 watts, daytime.

NEW—The Gateway Broadcasting Co., Louisville, Ky.—C. P., 880 kc., 500 watts, unlimited time (DA day and night).

Report No. B-73:

NEW—WJMS, Inc., Ashland, Wis.—C. P., 1370 kc., 100 watts, unlimited time.

FUTURE HEARINGS

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

November 2

WROL—Stuart Broadcasting Corp., Knoxville, Tenn.—C. P., 620 kc., 500 watts, 1 KW LS, unlimited time (DA night). Present assignment: 1310 kc., 100 watts, 250 watts LS, unlimited time.

NEW—Samuel M. Emison, Vincennes, Ind.—C. P., 1420 kc., 100 watts, unlimited time.

FEDERAL COMMUNICATIONS COMMISSION ACTION

APPLICATIONS GRANTED

King-Trendle Broadcasting Corp., Detroit, Mich.—Granted extension of authority to transmit programs from station WXYZ to the stations of the Canadian Broadcasting Corp., for the period ending October 16, 1940.

Mutual Broadcasting System, Inc., Chicago, Ill.—Granted extension of authority to transmit programs to station CKLW, stations owned and operated by the Canadian Broadcasting Corp., and stations licensed by the Canadian Minister of Transport, through the facilities of the American Telephone and Telegraph Co., for the period ending September 1, 1940.

DESIGNATED FOR HEARING

The following application has been designated for hearing by the Commission. Date for the hearing has not yet been set.

WCAP—Radio Industries Broadcast Company, Asbury Park, N. J.—Application for renewal of license; temporary license granted from October 1, 1939, pending hearing. This application was designated for hearing because of request of WTNJ, Trenton, N. J., for unlimited time and increase in nighttime power from 500 watts to 1 KW; this involves all facilities of WCAM and WCAP.

RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the regular period:

KFSG, Los Angeles; KRKD, Los Angeles; WCSH, Portland, Maine; WFBM, Indianapolis, Ind.; WHA, Madison, Wis.; WKAQ, San Juan, P. R.; WNAD, Norman, Okla.; KVOA, Tucson, Ariz.

KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Granted renewal of license for the period ending February 1, 1940.

KBNU—Cache Valley Broadcasting Co., Logan, Utah.—Granted renewal of license for the period ending December 1, 1939.

Licenses for the following stations were extended on a temporary basis for the period ending November 1, 1939, pending receipt of and determination upon application for renewal:

KGGM, Albuquerque, N. Mex.; WDSU, New Orleans; WHBF, Rock Island, Ill.; WHBI, Newark, N. J.; WNEL, San Juan, P. R.; and WNEW, New York City.

KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Present license further extended upon a temporary basis only for the period ending November 1, 1939, pending determination upon application for renewal.

KGBU—Alaska Radio & Service Co., Inc., Ketchikan, Alaska.—Present license further extended upon a temporary basis only for the period ending November 1, 1939, pending determination upon application for renewal.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Present license further extended upon a temporary basis only for the period ending November 1, 1939, subject to whatever action may be taken upon pending application for renewal, and subject further to the express condition that said extension shall not be construed as a finding by the Commission that the operation of this station is or will be in the public interest beyond the express terms hereof.

W4XBW—WDOD Broadcasting Corp., Chattanooga, Tenn.—Present license for high frequency broadcast station was further extended upon a temporary basis only for the period ending November 1, 1939, pending determination upon application for renewal.

W8XWJ—The Evening News Assn., Detroit, Mich.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1940.

WAXG—Florida Capitol Broadcasters, Inc., Portable-Mobile.—Present license of relay broadcast station was further extended upon a temporary basis until November 1, 1939, pending determination upon application for renewal.

The following portable-mobile relay broadcast stations were granted renewals for the regular period:

KBKC, WCBE, WCBF, WCBG, Columbia Broadcasting System, Inc.; WAAJ, The Fort Industry Co.; KALO, Intermountain Broadcasting Corp.; WIOE, Isle of Dreams Broadcasting Corp.; KBIB, The KANS Broadcasting Co.; KDJB, Mason City Globe-Gazette Co.; KABF, McClatchy Broadcasting Co.; WAFZ, Minnesota Broadcasting Corp.; WBPA, The National Life and Accident Ins. Co., Inc.; KBID, Radio Service Corp. of Utah; WATS, Allen T. Simmons; WGBD, WBNS, Inc.; WAXL, Jonas Weiland; WIPL, WIPM, WNEI, WFBM, Inc.; WGTO, WGTM, Inc.

Renewals for the following portable-mobile relay broadcast station licenses were extended upon a temporary basis only for the period ending November 1, 1939, pending receipt of and determination upon application for renewal:

KIJG, Eagle Broadcasting Co., Inc.; KAGB, Albert Lee Broadcasting Co.; WABG, Memphis Commercial Appeal Co.; KABE, National Battery Broadcasting Co.; KAIE, National Battery

Broadcasting Co.; WABV, Juan Piza; KNEF, Radio Service Corp. of Utah; WAXH, Savannah Broadcasting Co., Inc.

250 WATTS POWER AUTHORIZED

The following stations were granted modification of licenses to increase nighttime power to 250 watts:

WMFF, Plattsburg, N. Y.; WJBK, Detroit, Mich.; WJW, Akron, Ohio; WPAD, Paducah, Ky.; KGFV, Kearney, Nebr.; KOMA, Tulsa, Okla.; WHDF, Calumet, Mich.; WBOW, Terre Haute, Ind.; KVOL, Lafayette, La.; KGFF, Shawnee, Okla.; KVWC, Vernon, Tex.; KDLR, Devils Lake, N. Dak.; KGKY, Scottsbluff, Nebr.; KGLO, Mason City, Iowa.

MISCELLANEOUS

KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted extension of special temporary authority to operate unlimited time on **1180 kc.**, using 10 KW power, employing directional antenna system after sunset at Portland, Ore. (September 6:30 p. m. and October 5:30 p. m., PST), for the period September 30, 1939, to October 29, 1939.

KEX—Oregonian Publishing Co., Portland, Ore.—Granted extension of special temporary authority to operate unlimited time on **1180 kc.**, using 5 KW power, for the period September 30, 1939, to October 29, 1939.

W2XR—Radio Pictures, Inc., Long Island City, N. Y.—Granted special temporary authority to operate on **2012 kc.**, for the period ending September 30, 1939, in order to avoid interruption of important experiments with improved independent synchronization system.

KYOS—Merced Broadcasting Company, Merced, Calif.—Granted special temporary authority to operate from 8 p. m. to 10 p. m., PST, on September 29, October 6, 13, 20, 27, 1939, in order to broadcast high school football games.

WTAR—WTAR Radio Corp., Norfolk, Va.—Granted special temporary authority to pick up and rebroadcast emergency Red Cross drill to be received from amateur stations W3NT, W3II, W3HMB, W3FQP, W3EMM, W3BEK, W3HJC, W3CHE, W3IEY, W3FGJ, W3PK, W3HFL, W3DGG, W3AJA, W3AKN, W3GON, operating on **1805 kc.**, over radio station WTAR from 8 p. m. to 9 p. m., EST, on September 28, 1939; WTAR to communicate with amateur stations through relay broadcast station WAHE operating on **2022 kc.**

WSAL—Frank M. Stearns, Salisbury, Md.—Granted special temporary authority to operate from 5:30 p. m. to 6:30 p. m., EST, on October 7, 14, 21 and 28, 1939, in order to broadcast football games as described in letter dated September 14, 1939.

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Granted special temporary authority to operate on September 24 and 29, 1939, using 100 watts only, to carry dedication program Mutual and Southern Network services to WGRC, and football game.

WJRD—James R. Doss, Jr., Tuscaloosa, Ala.—Granted special temporary authority to operate unlimited time on September 29, October 6, 13 and 20, 1939, in order to broadcast high school football games, for time of game only.

WBRB—Monmouth Broadcasting Co., Red Bank, N. J.—Granted special temporary authority to operate simultaneously with station WFAS from 4 p. m. to 5 p. m., EST, on September 23, 1939, in order to broadcast a football game.

NEW—Thomas J. Watson, Endicott, N. Y.—Denied motion to withhold further consideration in re Docket No. 5372, WMFF, Plattsburg Broadcasting Corp., Plattsburg, N. Y.

KRKO—Lee E. Mudgett, Everett, Wash., and NEW—Cascade Broadcasting Co., Inc., Everett, Wash.—Ordered that the final date for all parties in Dockets Nos. 5097, 5226, 5443, and 5114, to submit proposed findings of fact and conclusions, be extended from September 20 to October 11, 1939.

KVAK—Carl Latenser, Atchison, Kans.—Granted special temporary authority to operate on October 13, 1939, in order to broadcast high school football game only.

WBNY—Roy L. Albertson, Buffalo, New York.—Granted special temporary authority to operate from 2 p. m. to 3 p. m., EST, on September 30, October 7, 14, 21 and 28, 1939, in order to broadcast newscasts, musical programs and other features of public interest; to operate from 8:30 a. m. to 10 a. m., and from 2 to 3 p. m., EST, on October 1, 8, 15, 22, and 29, 1939, in order to broadcast religious services, newscasts, and musical programs; to operate unlimited time on

- October 12 and 27, 1939, in order to broadcast musical programs and newscasts (provided WSVS remains silent).
- WBRV—American-Republic, Inc., Waterbury, Conn.—Granted extension of special temporary authority to operate with the present two-unit directional antenna in accordance with the experimental authority granted under license, for the period September 30, 1939, to October 29, 1939, in order to determine necessary steps to change from a special broadcast to a standard broadcast station.
- WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted special temporary authority to operate with power of 250 watts on September 24, 1939, in order to broadcast an address by a Bishop of the Holy Name Society, for actual address only.
- WLOK—The Fort Industry Co., Lima, Ohio.—Granted special temporary authority to operate night on September 23, 1939, in order to broadcast high school football game only.
- WMFO—Tennessee Valley Broadcasting Co., Inc., Decatur, Ala.—Granted special temporary authority to operate on September 29, October 6, 13, 20, 27, 1939, using 50 watts only, in order to broadcast local high school football games only.
- WCAT—South Dakota State School of Mines, Rapid City, S. Dak.—Granted special temporary authority to operate on September 29, October 20 and 27, 1939, in order to broadcast football games only.
- KFIO—Spokane Broadcasting Corp., Spokane, Wash.—Granted special temporary authority to operate from 7:00 p. m., PST, to the conclusion of high school football games on September 22, 29; October 1 and 6, 1939, and to broadcast United Press Service news for ten minutes after the close of the game on October 1, 1939.
- United Air Lines Transport Corp., Washington, D. C.—Granted special temporary authority to operate already licensed aircraft radio transmitter, aboard the plane owned by United Air Lines Transport Corp., call letters KHAZT as a relay broadcast station on the frequency of 2790 kc., to relay broadcast program describing American Legion Parade to Radio Station WGN, from 1:00 p. m. to 3:00 p. m., CST, on September 26, 1939.
- KFVS—Oscar C. Hirsch, tr. as Hirsch Battery and Radio Co., Cape Girardeau, Mo.—Granted special temporary authority to operate simultaneously with Station WEBQ on nights of September 22, 29, October 13 and 20, 1939, in order to broadcast football games only as described in letter dated September 18, 1939.
- WRCA-WNBI—National Broadcasting Co., New York, N. Y.—Granted extension of special temporary authority to transmit programs consisting of Spanish News to be rebroadcast by Cuban Stations CMX and COCX, for the period September 28 to October 27, 1939.
- KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period September 21, 1939, to October 20, 1939.
- WESG—Cornell University, Ithaca, N. Y.—Reconsidered action in designation for hearing the application for renewal of license of WESG, and granted same, dismissing same from the hearing docket. This application was originally designated for hearing by reason of the applications and petitions submitted in behalf of the licensees of Stations WTIC, WBAL, KTHS, and KRLD, for special experimental authority to operate on frequency of 1040 kc., assigned to Station WESG.
- NEW—Suffolk Broadcasting Corp., Suffolk, Va.—Amended Order heretofore entered on August 19th, with reference to grant of new station to operate on 1420 kc., 100 watts, 250 watts LS, unlimited time, by inserting a fourth paragraph thereof, directing applicant to file application for modification of C. P. specifying exact transmitter location and antenna system within two months after effective date of amended Order—September 27, 1939.
- In re: Change of Rules 177 and 177.1.—Denied motion to strike filed by counsel for City of New York on behalf of Mayor LaGuardia, in the matter of amendment of Rules 177 and 177.1, in so far as it requests the striking of Issue No. 4, which is as follows: "To determine to what extent, if at all, the amendment of the rules as set forth in paragraphs 1 and 2 hereof would affect the operation of commercial stations as to program service and listening audience". Granted motion in so far as it requests amendment of Issue No. 6, which is as follows: "To determine whether, in view of the long distance characteristics of international stations and the unreliability of the short or national services of such stations, international stations should be permitted to be used to assist in the building of programs for regular broadcast stations, "by adding thereto the following: "whose licensees are the same as those set forth in paragraph 1 hereof," and said Issue No. 6 was amended that said motion was denied in so far as it requests striking of Issue No. 9, which is as follows: "To determine whether the Commission should change its basic policy of not authorizing the use of radio facilities where other facilities are available to render the same service."
- KFRO—Voice of Longview, Longview, Texas.—Granted request in part to operate as follows: Between sunset and midnight on October 1, 8, 15, 22 and 29, when actually transmitting church services; no other broadcast authorized on these nights; to operate on the nights of October 6, 13, 20 and 27, to broadcast football games while actually transmitting the football games only; no other broadcast authorized on these nights; to operate on nights of October 3, 10, 17 and 24, while actually transmitting programs directly pertaining to the Fair; no other programs not directly related to the Fair not authorized. Station KFRO must remain silent all hours at night except those specifically set out above for the programs as mentioned; request for carrying other programs denied, which includes operation on October 7, 14, 21 and 28, for college football roundup.
- WGIL—Galesburg Broadcasting Co., Galesburg, Ill.—Granted special temporary authority to operate from local sunset (September, 6:15 p. m., CST), to 9:30 p. m., CST, on September 26, in order to broadcast special Dedicatory program of the Galesburg Public Schools and Board of Education.
- WELI—City Broadcasting Corp., New Haven, Conn.—Granted authority to determine operating power by direct measurement of antenna input.
- WELI—City Broadcasting Corp., New Haven, Conn.—Granted license to cover C. P. authorizing change in frequency from 900 to 930 kc., and time of operation from daytime to unlimited, with 250 watts night, 500 watts day, employing DA system for nighttime operation.
- NEW—Radio Air Service Corp., Portable-Mobile, area of Cleveland, Ohio.—Granted C. P. for new high frequency relay broadcast station; frequencies 31620, 35260, 37340, 39620 kc., 25 watts.
- WEGR—Donald A. Burton, Muncie, Ind., Portable-Mobile.—Granted C. P. to install new equipment and increase power in high frequency relay broadcast station from 5 to 15 watts.
- NEW—Mason City Globe-Gazette Co., Mason City, Iowa, Portable-Mobile.—Granted C. P. for low frequency relay broadcast station to operate on frequencies 1622, 2058, 2150 and 2790 kc., 2 watts.
- WCKY—L. B. Wilson, Inc., Covington, Ky.—Granted license to cover C. P. authorizing changes in equipment, installation of directional antenna for day and nighttime operation, and increase in power from 10 to 50 KW.
- WEIN—The Journal Company (The Milwaukee Journal), Portable-Mobile, area of Milwaukee, Wis.—Granted license to cover C. P. for relay broadcast station; frequencies 33380, 35020, 37620 and 39820 kc., 25 watts.
- WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Granted C. P. to make changes in authorized equipment.
- KWBD—W. B. Dennis, Plainview, Tex.—Granted modification of C. P. for approval of transmitter and studio sites and installation of vertical radiator.
- WMAN—Richland, Inc., Mansfield, Ohio.—Granted modification of C. P. approving studio and transmitter sites, changes in authorized equipment and installation of vertical radiator.
- WAFZ—Minn. Broadcasting Corp., Portable-Mobile, Minneapolis, Minn.—Granted modification of license to reduce power in low frequency relay station from 7.5 to 2.5 watts.
- WNYC—City of New York, Municipal Broadcasting System, New York City.—Granted authority to determine operating power of auxiliary transmitter by direct measurement of antenna input.
- WMFR—Radio Station WMFR, Inc., High Point, N. C.—Granted authority to determine operating power by direct measurement of antenna input.
- WTNJ—WOAX, Inc., Trenton, N. J.—Granted C. P. to install auxiliary transmitter for emergency use only.
- WLTH—Voice of Brooklyn, Inc., New York City.—Granted C. P. to move transmitter site locally and install vertical radiator.
- KUTA—Utah Broadcasting Co., Salt Lake City, Utah.—Granted C. P. to make changes in equipment.
- KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Granted C. P. to install new equipment.

KEGN—Don Lee Broadcasting System, San Francisco, Cal., Portable-Mobile.—Granted C. P. to install new equipment.

WVFW—Paramount Broadcasting Corp., Brooklyn, N. Y.—Granted license to cover C. P. authorizing changes in equipment.

WFMJ—William F. Maag, Jr., Youngstown, Ohio.—Granted license to cover C. P. authorizing new station to operate on 1420 kc., 100 watts, daytime only.

WHBC—The Ohio Broadcasting Co., Canton, Ohio.—Granted license to cover C. P. authorizing new station to operate on 1200 kc., 100 watts night, 250 watts day, unlimited.

WGBR—Eastern Carolina Broadcasting Co., Goldsboro, N. C.—Granted license to cover C. P. authorizing new station to operate on 1370 kc., 100 watts, unlimited time.

KRBA—Red Lands Broadcasting Assn., Lufkin, Tex.—Granted license to cover C. P. authorizing changes in equipment and increase in day power from 100 to 250 watts.

WJNO—WJNO, Inc., West Palm Beach, Fla.—Granted license to cover C. P. authorizing installation of new equipment.

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted license to cover C. P. authorizing move of transmitter locally.

KFXJ—Western Slope Broadcasting Co., Grand Junction, Colo.—Granted license to cover C. P. authorizing installation of new equipment and vertical radiator.

W2XWE—WOKO, Inc., Albany, N. Y.—Granted modification of C. P. to make changes in equipment.

WMGA—Frank R. Pidcock, Sr., Moultrie, Ga.—Granted modification of C. P. approving transmitter and studio sites, changes in authorized equipment and installation of vertical radiator.

WNEI—WFBM, Inc., Indianapolis, Ind., Portable-Mobile.—Granted modification of C. P. covering changes in equipment.

WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Granted authority to install automatic frequency control.

WCKY—L. B. Wilson, Inc., Covington, Ky.—Granted authority to determine operating power by direct measurement of antenna input.

WFMJ—William F. Maag, Jr., Youngstown, Ohio.—Granted authority to determine operating power by direct measurement of antenna input.

KFNF—KFNF, Inc., Shenandoah, Ia.—Granted authority to determine operating power by direct measurement of antenna input.

WJNO—WJNO, Inc., West Palm Beach, Fla.—Granted authority to determine operating power by direct measurement of antenna input.

WNAD—Univ. of Okla., Norman, Okla.—Granted special temporary authority to operate from 2:30 to 3 p. m. on Oct. 23 and 30, and from 10:30 a. m. to 11:30 a. m., CST, on Oct. 24, 25, 26 and 31, in order to broadcast special educational programs (provided KGGF remains silent).

KGGF—Hugh J. Powell, Coffeyville, Kans.—To remain silent on above periods in order to permit WNAD to broadcast special educational programs.

WOL—American Broadcasting Co., Washington, D. C.—Granted special temporary authority to operate with antenna currents in the ratio 1.50 to 1.00 and phase angle of 105° yielding field intensity of 53.5 mv/m in the direction of radio stations WNAC and WFBM during daytime for the period Oct. 4 and continuing for duration of the World's Series Baseball games, in order to maintain the field intensity of WOL for service in the Chevy Chase-Bethesda, Md., areas.

WKAQ—Radio Corp. of Puerto Rico, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from International Broadcast stations WCBX and WCAB over station WKAQ, on a non-commercial experimental basis only, for the period 3 a. m., October 1 and ending no later than October 30, 1939.

WNEL—Juan Piza, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast sustaining programs to be received from International Broadcast station WNBI and WRCA over station WNEL, for the period October 7 to November 5, 1939.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate additional time on October 1, 8, 15, 22 and 29, in order to broadcast baseball games only.

KDNT—Harwell V. Shepard, Denton, Texas.—Granted special temporary authority to operate additional time to broadcast Denton County Fair programs only, on October 3, 4, 5, 6 and 7, and to broadcast football games only on October 13, 20 and 27.

KWLK—Twin City Broadcasting Corp., Longview, Wash.—Granted special temporary authority to operate additional

time on September 29, October 6, 13, 20 and 27, in order to broadcast football games only.

WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate additional time on September 30, October 7, 13, 14, 21, in order to broadcast University football games only.

KPDN—R. C. Hoiles, Pampa, Texas.—Granted special temporary authority to operate additional time on October 20 and November 3, in order to broadcast high school football games only.

WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted special temporary authority to operate between 6:15 and 7 p. m., EST, daily during month of October in order to broadcast weather reports only.

WTAW—Agricultural and Mech. College of Texas, College Station, Texas.—Granted special temporary authority to operate simultaneously with WJBO while broadcasting Texas A. & M. v. Santa Clara football game only.

APPLICATIONS FILED AT FCC

850 Kilocycles

WKAR—Michigan State College, East Lansing, Mich.—Modification of C. P. (B2-P-1767) to extend completion date from 9-30-39 to 11-30-39.

1140 Kilocycles

WSPR—WSPR, Inc., Springfield, Mass.—Modification of license to change frequency from 1140 kc. to 1240 kc., and power from 500 watts to 250 watts, 500 watts day; time from limited to unlimited. Amended to change application to a construction permit; install directional antenna for day and night use, requesting 1240 kc., 500 watts power day and night, unlimited time; and change name to WSPR, Inc.

WAPI—Alabama Polytechnic Institute, University of Alabama, Alabama College (Board of Control of Radio Broadcasting Station WAPI), Birmingham, Ala.—C. P. to install new transmitter, directional antenna for day and night; change frequency from 1140 kc. to 1070 kc.; increase power from 5 to 50 KW, hours of operation from simultaneous day, shares KVOO night, to unlimited; move transmitter from on Sandusky Mt., near Pratt City, Birmingham, Ala., to 9 miles north of Birmingham, Ala. Amended to request 1050 kc.

1200 Kilocycles

KHAS—The Nebraska Broadcasting Co., Hastings, Nebr.—Modification of C. P. (B4-P-2367) for a new station, requesting approval of antenna and approval of studio and transmitter site at 2nd and Burlington Ave., Hastings, Nebr. Amended to request 250 watts power day and night.

WENY—Elmira Star-Gazette, Inc., Elmira, N. Y.—Modification of C. P. (B1-P-1461) for a new station, requesting increase in power from 100 watts, 250 watts LS, to 250 watts day and night; extend commencement and completion dates 60 days after grant and 180 days thereafter, respectively.

1210 Kilocycles

NEW—M. W. Plowman and F. Koren, d/b as Midland Broadcasting Co., Watertown, S. Dak.—C. P. for new station on 1210 kc., 100 watts, 250 watts LS, unlimited time.

WEDC—Emil Denmark, Inc., Chicago, Ill.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

KOCA—Oil Capitol Broadcasting Association, Kilgore, Tex.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.

1260 Kilocycles

WFVA—Fredericksburg Broadcasting Corporation, Fredericksburg, Va.—License to cover C. P. (B2-P-2105) for a new station.

1290 Kilocycles

KLCN—Charles Leo Lintzenich, Blytheville, Ark.—Authority to determine operating power by direct measurement of antenna power.

KLCN—Charles Leo Lintzenich, Blytheville, Ark.—License to cover C. P. (B3-P-2224) for new antenna and transmitter and move of transmitter.

1310 Kilocycles

- NEW—Wm. F. Huffman, Wisconsin Rapids, Wis.—C. P. for a new station on **580 kc.**, 250 watts, unlimited time. Amended to request **1310 kc.**, 100 watts, 250 watts LS, unlimited, and omit request for directional antenna. Transmitter site to be determined, Wisconsin Rapids, Wis.
- WTJS—The Sun Publishing Company, Inc., Jackson, Tennessee.—C. P. to install new transmitter, directional antenna for night use; change in frequency from **1310 kc.** to **1360 kc.**; increase power from 100 watts, 250 watts LS, to 1 KW day and night.
- WLNH—Northern Broadcasting Co., Laconia, N. H.—Construction permit to make changes in equipment and increase power from 100 to 250 watts.

1370 Kilocycles

- KTSW—Emporia Broadcasting Co., Inc., Emporia, Kansas.—C. P. to make changes in equipment and increase power from 100 to 250 watts.
- WISE—Harold H. Thoms, Asheville, N. C.—Modification of C. P. (B3-P-1066) for a new station, requesting authority to install new transmitter, change name from Asheville Daily News (Harold H. Thoms, owner), to Harold H. Thoms.

1420 Kilocycles

- WMBC—Michigan Broadcasting Co., Detroit, Mich.—Authority to transfer control of corporation from E. J. Hunt, to John L. Booth, 1,643 shares common stock.

1500 Kilocycles

- KPAB—Mervel M. Valentine, Laredo, Texas.—Modification of license to increase power from 100 watts, 250 watts LS, to 250 watts day and night.
- KDRO—Albert S. Drohlich, Robert A. Drohlich, Drohlich Brothers, Sedalia, Mo.—Authority to determine operating power by direct measurement of antenna power.
- KDRO—Albert S. Drohlich, Robert A. Drohlich, d/b as Drohlich Brothers, Sedalia, Mo.—License to cover C. P. (B4-P-2165) for a new station.

MISCELLANEOUS

- NEW—International Broadcasting Corp., area of WOV (N. Y.).—Construction permit for a new relay broadcast station to be operated on **31220, 35620, 37020, 39260 kc.**, 10 watts, A-3 emission, located in area of New York, N. Y.
- NEW—International Broadcasting Corp.—License to cover above.
- WTNK—WOAX, Incorporated, vicinity of Trenton, N. J.—Construction permit for reinstatement of station WTNK (C. P. expires 9-24-39).
- NEW—WCAU Broadcasting Co., Philadelphia, Pa.—Construction permit for a new television station, site to be determined, Philadelphia, Pa., operated on **78000-84000 kc.**, 1 KW power, A-5 emission, unlimited time.
- WHPT—Radio Station WMFR, Inc., vicinity of High Point, N. C.—License to cover C. P. (B3-PRY-168) for new relay broadcast station.
- NEW—Moody Bible Institute of Chicago, Chicago, Ill.—C. P. for a new non-commercial educational broadcast station on **41,300 kc.**, unlimited time, A-3 emission, 100 watts power. Located at RFD #1, Addison, Ill. Amended: To change name from The Moody Bible Institute Radio Station, to Moody Bible Institute of Chicago.
- NEW—R. B. Eaton, Des Moines, Iowa.—C. P. for new television broadcast station at Des Moines, Iowa, on **46500 kc.**, visual, and **49750 kc.** for aural transmission, 100 watts power, A-3 and A-5 emission. Amended: To request **44000-50000 kc.**, for both aural and visual.
- W9XC—Central Broadcasting Co., near Mitchellville, Iowa.—Modification of C. P. to extend completion date from 9-18-39 to 12-18-39.
- W9XC—Central Broadcasting Co., near Mitchellville, Iowa.—License to cover C. P. (B4-PEX-23) as modified for a new station.
- NEW—Board of Education of the San Francisco Unified School District, San Francisco, Calif.—C. P. for a new non-commercial educational broadcast station to be located at 22nd and Bartlett Streets, San Francisco, Calif., to be operated on **41300 kc.**, 1 KW power, A-3 emission, unlimited time. Amended: Re: name.

FEDERAL TRADE COMMISSION ACTION

COMPLAINTS

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

Bolivar Studios, Inc.—See National Press Photo Bureau, Inc.

Kay Hart Studios, Inc.—See National Press Photo Bureau, Inc.

National Press Photo Bureau, Inc., Kay Hart Studios, Inc., Bolivar Studios, Inc., and Samuel F. Reese and Clara L. Reese, both officers of National Press Photo Bureau, Inc., and Kay Hart Studios, Inc., all of 509 Fifth Ave., New York, were charged, in a complaint, with misleading representations in the sale of photographs.

The respondents allegedly represented that National Press Photo Bureau, Inc., is connected with leading newspapers of the United States; that it represents local newspapers and has a following throughout the country; that the respondents are obtaining photographs for their files, and furnish the photographs to the press. Acting under such representations, the complaint continues, the respondents or their agents procure permission to photograph members of the purchasing public and subsequently attempt to sell them the finished photographs. (3898)

Norwalk Lock Company—See Segal Lock & Hardware Co., Inc.

Segal Lock & Hardware Company, Inc.—Under a complaint, Segal Lock and Hardware Company, Inc., Norwalk Lock Company, and their president, Louis Segal, and Jack Klein, who trades as Tested Appliances Company, all of 261 Broadway, New York, were charged with dissemination of misleading representations in the sale of a lock or lock cylinder device designated "Segal Pick-Proof Lock," "Segal Pick-Proof Lock Cylinder," and "Segal Pick-Proof Cylinder."

The respondents were charged with making misleading claims concerning the mechanical perfection and "pick-proof" quality of the Segal lock cylinder and the absence of such qualities in competing locks or lock cylinders.

By the use of a "pick gun" or other lock-picking device, the respondents, their salesmen and representatives, in their demonstrations, picked and opened the locks or cylinders manufactured and installed by competitors and accompanied such demonstrations with assertions regarding the superiority and pick-proof quality of the Segal lock cylinder, according to the complaint.

The respondents allegedly represented that the Segal lock cylinder is absolutely "pick-proof" under all circumstances; that experts have tried and failed to pick it; that the inventor of the "lock-picking gun" failed in a public demonstration to pick it; that without the Segal device any lock can be picked or opened by skeleton keys or other lock-picking devices, and that the Segal lock cylinder is the first device which is an absolute guarantee of complete safety from the lock-picking menace and dangerous pick-gun.

On the contrary, the complaint alleges, all locks or lock cylinders can be opened or picked by some lock-picking device in the hands of an expert; the Segal lock cylinder is not safe from the "lock-pick" menace and the picking gun, and Bernard Zion, co-inventor of the pick-gun, did not, on the occasion of a public demonstration or contest, fail in an honest endeavor to open the Segal lock cylinder, but only pretended that he could not. Zion actually has opened or picked the Segal device, according to the complaint. (3896)

Tested Appliances Company—See Segal Lock & Hardware Company, Inc.

CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

Consolidated Candy Company, Inc.—See Model Lingerie Company.

Excelsior Hat Works—See Morben Hat Works, Inc.

Kidder Oil Company, 818 South Third St., LaCrosse, Wis., was ordered to discontinue the dissemination of misleading representations in the sale of a lubricant designated as "Koatsal."

Findings of the Commission are that the graphite used in Koatsal is manufactured by a Michigan concern which sells to the respondent a product called concentrated "Oildag," composed of 10 per cent colloidal graphite and 90 per cent lubricating oil. The respondent, it was found, blends one part of concentrated "Oildag" with 50 parts of lubricating oil to make Koatsal. The Michigan concern formerly made a product called "Ready for Use Oildag" which was substantially the same as Koatsal, and was introduced several years before the respondent's product.

Further findings are that, contrary to the respondent's claims, no reduction of friction is accomplished by conditioning a motor with Koatsal, nor does this product have qualities and properties in excess of that of the oil contained in it.

Under the order, the respondent is to cease representing that Koatsal penetrates and adheres to all metal surfaces it reaches, permeates the pores of the metal, soaks into the metal, providing a plating on the metal for moving parts to ride on, or that the lubricating qualities of Koatsal are any greater than those of the oil which it contains. (3026)

Martin Custom Made Tires Corporation, 645 Eleventh Ave., New York, was ordered to discontinue misleading representations in the sale of certain of its automobile and truck tires. Under the order, the respondent is to cease representing, directly or by implication, that the construction of its tires or the materials or the number of plies contained in the tires are other than is actually the case. (3585)

W. E. & M. E. Medicine Company—William Everette, trading as W. E. & M. E. Medicine Company, 509 North 58th St., Philadelphia, was ordered to discontinue misleading representations in the sale of "W. E. & M. E. Herb Tonic."

Findings of the Commission are that the respondent's preparation is a simple laxative, sedative and tonic and as such may have incidental benefits for some of the ailments it is represented to relieve. Further findings are that the "Herb Tonic" contains drugs prescribed by physicians for some of the ills it is claimed to relieve, but that the dosage indicated by the respondent does not give users the amounts of these drugs, even as a laxative that are recommended by the medical profession in most cases.

Under the order, the respondent is prohibited from representing that use of his preparation purifies the blood, relieves all acute pains, stimulates the sexual organs or system, relieves backache or disorders of the liver or kidneys, or remedies disorders of the stomach, indigestion or cramps. Representations that the "Herb Tonic" is a cure for the menopause or a relief from suffering caused by it, or that the preparation contains no harmful ingredients, are also prohibited under the order. (3087)

Model Lingerie Company—A Chicago hosiery company and a Dallas, Texas, dealer in candy and nut confections were ordered to discontinue using lottery schemes in the sale and distribution of their merchandise to ultimate consumers.

Model Lingerie Company, and its officer, Gertrude Leith, 529 South Franklin St., Chicago, and Consolidated Candy Company, Inc., and its officer, Leslie Finucane, 826 Exposition Ave., Dallas, were ordered to cease selling any merchandise by the use of

lottery devices such as push or pull cards or punchboards, or supplying dealers with lottery devices to be used in the sale of any merchandise. (3659-3657)

Morben Hat Works, Inc.—Prohibiting certain misleading representations in the sale of hats, cease and desist orders have been issued against two manufacturers in New York and New Jersey, who make hats from felts and other materials obtained from old and previously used hats.

The respondents are Morben Hat Works, Inc., and Morris S. Altman, officer and principal stockholder of the corporation, 162 Green St., New York, and Joseph A. Villone, trading as Excelsior Hat Works, 275 Fifteenth St., Jersey City. Under the orders they are directed to cease and desist from representing that hats made in whole or in part from old, used or second-hand materials are new or are composed of new materials.

The orders also prohibit the representation that hats composed in whole or in part of used or second-hand materials are new or are composed of new materials by failure to stamp on the sweatbands thereof, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweatbands, a statement that the products are composed of secondhand or used materials. The order provides that if sweatbands are not affixed to the hats then such stamping must appear on the bodies of the hats in conspicuous and legible terms which cannot be removed or obliterated without mutilating the bodies. (3838-2046)

Research Products Company—Robert C. Oberlin, trading as Research Products Company, 3170 Berkshire Road, Cleveland, has been served with an order prohibiting misleading representations in the sale of medicinal preparations.

The order prohibits advertisements that use of the respondent's preparations known as "Dupree Pills," "Dupree Double Strength Pills" and "Dr. Gordon's Special Formula Double Strength Pills" are competent, safe and scientific treatments for delayed menstruation and that their use will have no ill effects on the body.

Dissemination of advertisements which fail to reveal that the use of such preparations may result in serious and irreparable injury to the health of users, is also forbidden.

On petition of the Commission, the United States District Court in Cleveland on June 30 granted a preliminary injunction prohibiting advertisement of the respondent's treatments for delayed menstruation in substantially the same manner as alleged in the Commission's complaint, pending disposition of the case under the Federal Trade Commission Act.

Under the Commission's order, the respondent is also directed to cease representing that the use of "Van Dyke Dutch Brand Haarlem Oil Capsules" is a cure or remedy for, or has therapeutic value in the treatment of rheumatism, sleeplessness, nervousness or pains in the back, and that use of "Dr. Gordon's Vitam-Perles" or "Vitamin E Perles" is a competent or effective remedy or cure for, or has therapeutic value in the treatment of the conditions known as lack of ambition, loss of strength, loss of blood, or anemia, or rundown condition. (3863)

STIPULATIONS

The Commission has entered into the following stipulations during the week:

Mme. Nell E. Anderson, 1415 Echo Park Ave., Los Angeles, stipulated that she will cease using the term "Bust Developing Cream" in designating her cosmetic preparation, and will cease representing, directly or by implication, that the use of her commodity, "Mme. Anderson's Bust Developing Cream," for massaging in conjunction with prescribed muscular exercise or in any other manner, will enlarge the bust. (02431)

Beverly Knitting Mills—Lester G. Griffith, trading as Beverly Knitting Mills, 1240 South Main St., Los Angeles, stipulated that he will cease using the word "silk" on labels, invoices, or any other printed or advertising matter to describe products which are not composed of silk. The stipulation provides that if the products are composed substantially of silk and in part of some other fabric material, and the word "silk" is used to refer to the silk

content of such products, then the word "silk" shall be accompanied by some other word or words printed in equally conspicuous type so as to indicate clearly that they are not composed wholly of silk. If the fabric other than silk constitutes the major content of such products, the name of the predominant material shall precede the word "silk," as, for example, "Cotton and Silk." The respondent also agreed to discontinue use of the words "Knitting Mills" as part of his trade name and from use of the words "Manufacturers" or "Knitting Mills" so as to imply that the respondent makes his products or that he absolutely controls the factory in which such products are made. (2541)

Direct Company—H. F. Goring, trading as The Direct Company, and Directo, 221 Broad St., Savannah, agreed to discontinue use of the trade names "The Direct Company" and "Directo," and to cease using the words "Direct from mill" so as to represent that hosiery which he sells is shipped directly to customers from a factory, or that he controls the factory in which his merchandise is made. The respondent will also cease using phrases such as "Wholesale to you" and "Wholesale direct to you," so as to represent that his product is offered to the purchasing public at a wholesale price. (02433)

Faultless Appliance Sales Company—Lewis D. Coburn, trading as Faultless Appliance Sales Company, Whitman, Mass., agreed to discontinue representing or implying that use of the rupture support or truss which he sells will permanently cure difficulties associated with rupture or that his device will afford adequate support for all varieties and grades of hernia. The respondent further stipulated that he will cease representing that his device has neither a steel bar nor band or a pad, when it is actually equipped with such elements. (2539)

Juvenex, Inc., and its president, Charles H. Whitsey, Bond Building, Washington, D. C., engaged in the sale and distribution of "Juvenex," a laxative tablet, agreed to cease using on labels or any other printed material, any price which is in excess of that at which such products are sold or intended to be sold in the usual course of trade. The respondents will also cease using in advertisements the word "manufacturer," or similar designations implying that they make their products or own or control the factory in which such products are made. (2540)

Charles B. Knox Gelatine Co., Inc., Johnstown, N. Y., in connection with the sale of its "Knox Gelatine," agreed to discontinue advertising that the United States Government has created a standard of purity for gelatine. In its stipulation, the respondent company admitted that the Government has not created a standard of purity for gelatine. (02436)

Merit Food Company, Inc., Hackensack, N. J., entered into a stipulation to discontinue misleading representations in the sale of Cuban honey.

The respondent agreed to cease advertising that Cuban honey is a tonic or that it has, or is credited by the medical profession or leading physicians with having curative qualities in the treatment of stomach ailments, inflammation of the intestines, asthma, bronchitis, sinus infections, or irritations of the throat and bronchial tract, or that it will do more than to afford temporary relief from irritations, such as result from a cough or cold, or that it has value other than that of a bland food in the treatment of digestive disorders. (2542)

National Library Press—M. Fryfield, trading as The National Library Press, 110 West 42nd St., New York, agreed to cease advertising that the book, "How to Draw From the Nude," teaches art as it is taught in studios; enables a pupil to study as in classes with personal instruction, and is the most comprehensive book on art instruction published. The respondent further stipulated that he would not represent that the book, "Making Art Pay," was being given free or without charge to purchasers of "How to Draw From the Nude." (02430)

Neuhaus Pharmacal Company—F. G. Neuhaus, trading as Neuhaus Pharmacal Co., 824 South Kingsley Drive, Los Angeles, agreed to cease representing that his preparation, "Dr. Custodis' Oil of Garlic Capsules," or any similar preparation, will bring about a reduction in high blood pressure except when reference is made to a temporary reduction, not to exceed several hours, of hypertension due to muscular constriction of blood vessels; that the product will be of value in the relief or treatment of headaches, thoracic oppression, dizziness of anorexia in any case other than where a temporary reduction of high blood pressure due to muscular constriction might be of value in giving temporary relief from such symptoms; that it will correct gastro-intestinal disorders, or will remove the cause of any ailment. The respondent will also cease representing by use of the word "Pharmacal" in his trade name or otherwise, that he prepares his product, or maintains pharmacal facilities or a laboratory for testing the efficacy of his product. (02432)

J. Pressman & Co., Inc., 882 Third Ave., Brooklyn, N. Y., agreed to discontinue employing the slogan "Made in U. S. A.," or any similar phraseology, on containers of toy assortments so as to imply that every item of the assortments is an American-made product, when such is not a fact. The stipulation provides that if an assortment comprises in part an item or items actually made in the United States and an item or items made elsewhere, the slogan "Made in U. S. A.," if used to designate the American-made items shall be accompanied by other words in equally conspicuous type so as to indicate clearly that the assortment does not consist wholly of American-made items. (2538)

Proctor & Gamble Company, Cincinnati, Ohio, in the sale of "P and G The White Naphtha Soap," agreed to discontinue advertising that this product contains a unique ingredient which makes it the only soap which will remove stubborn "deep down" dirt from clothes; that it is kind to all sorts of fabrics and colors, or that it never fades colors, unless this last assertion is directly limited in context to reference to colors which are washable. The respondent company also stipulated that it will desist from advertising that the use of "P and G The White Naphtha Soap" enables one to cut washing time, or that it loosens dirt faster or washes clothes whiter. The respondent also agreed to discontinue employing any other statement purporting to express a comparison, unless the basis of the comparison is stated in direct connection therewith.

John Puhl Products Company, 3640 Pershing Road, Chicago, agreed to cease advertising that its chemical solution, "Fleecy White," is a competent remedy in the treatment of poison ivy, poison oak, sumac, insect bites, or minor burns, unless the representation is limited to cases in which secondary infection has supervened. Other representations to be discontinued are that "Fleecy White" is competent for treating athlete's foot or barber's itch, will destroy the fungus that causes athlete's foot, and is a competent remedy for all types of sores or for cuts or scratches, unless this last named representation is limited to such benefits as may result from use of the respondent's preparation as a germicide or antiseptic dressing. (02435)

FTC CLOSES CASE

The Federal Trade Commission closed its case against Try-Mo Radio Company, Inc., 85 Cortlandt St., New York, in which the respondent was charged with misleading advertising of radio receiving sets and radio equipment.

The respondent, on July 24, 1939, agreed to discontinue the unfair practices charged in the Commission's complaint and agreed to accept and abide by the rules of fair trade practice for the radio receiving set industry promulgated by the Commission July 22, 1939. The case was ordered closed without prejudice to the right of the Commission to reopen it and resume prosecution, should future facts so warrant. (2483)

The Commission has also closed its case against the now-dissolved Universal Detective System, Inc., 188 West Randolph St., Chicago, in which the respondent was charged with the dissemination of misleading representations in the sale of correspondence courses in detective work. Because of such dissolution, the case was ordered closed by the Commission without prejudice to its right to reopen it should future facts so warrant. (3829)

