

## BMI Sending First Songs to Its Subscribers

Six new popular songs soon will be in the hands of all broadcasters holding BMI licenses.

Carefully selected to indicate the quality of material which BMI will supply from the pens of non-ASCAP writers, these songs are:

HERE IN THE VELVET NIGHT by Ernest Gold and Dan McCray

SAGEBRUSH SERENADE by Milton Cassel and Charlotte Cassel

WE COULD MAKE BEAUTIFUL MUSIC TOGETHER by Henry Manners and Robert Sour

LET'S DRAW STRAWS by Eugene Conrad and Robert Braine

IN THE SILENCE OF THE DAWN by Leon Da Costa and Samuel O. Johnson

WHAT GOOD'S THE MOON by Lee Wainer and Robert Sour

In announcing the release of these songs, BMI said that April 1 had been designated as the official date on which the term of licensing commenced, and that the expiration date would be determined in the light of the date on which "a substantial number of works are actually available for performance." This expiration date cannot come before April 1, 1941.

Meantime, the IRNA executive committee, CBS and NBC urged affiliates to consider the ASCAP proposal of March 21 with a view to its long-range effect. Below are the letters:

The IRNA letter:

March 23, 1940.

To ALL AFFILIATES:

On Thursday, March 21st, the ASCAP negotiators sent for the Broadcasters and told the Broadcasters the ASCAP terms for peace. This is a procedure which is apparently being uniformly adopted these days by people in a position to get what they want.

Therefore, the sole question for broadcasters now is: are the terms acceptable, and is there no alternative?

At first reading many small broadcasters seem to think they

are being given satisfactory concessions and will save money on the new terms. The evident object of ASCAP is now as it was before, to split and separate the industry by offering painted candy to the little fellows. The whole ASCAP proposition is a composition for male chorus to the tune of "Soak the Networks," in the hope everybody will immediately join in with gusto.

Will it work? We affiliates have no intention of pulling chestnuts out of the fire for the networks, but common sense dictates that we are part of the networks and there is a point at which network operation becomes unprofitable. If it does, the network system of broadcasting, as we know it, will become a thing of the past and we know that if that happens we will all be the losers.

In the present situation what would be the result if all the individual and affiliated stations accepted the ASCAP deal and the networks refused to? You all know the basic reason all affiliates are holding out for "clearance at the source" is that network programs contain all the big popular numbers and many operators feel that they can operate locally without ASCAP music as long as the network continues to feed it. Therefore it is apparent (although not so stated in the ASCAP proposition) that its acceptability to affiliates is entirely contingent upon its acceptance by the networks. As to independent non-affiliated stations, they likewise are in the same position, though for another reason. It is the popular network programs which build up popularity for tunes; the small independents who operate largely with recordings and transcriptions would find ASCAP tunes falling upon deaf ears in their own localities unless the networks were making them familiar and popular.

It is therefore ordinary common sense that anyone who accepts or signs up the ASCAP proposition in its present form without knowing definitely what the networks will do, is buying a pig in a poke.

Suppose the networks were willing to make this ASCAP deal. It must be expected that in such event they would try to find a way to back-charge against the affiliates the extra cost of clearance at the source. If they succeed affiliates will be paying 7½% ASCAP tax on network revenue instead of 5% as at present. To that extent the ASCAP deal would cost you 50% more than it does at present.

In its present form the ASCAP proposition perpetuates a tax on gross receipts of every station and shuts out the possibility of paying only on programs or for music as used. This is contrary to the declaration of principles of IRNA and to that extent also the ASCAP proposition is unacceptable.

There is an alternative.

The industry has started out to provide itself with its own source of supply. Broadcast Music, Inc., is just beginning to function. There can be no doubt that ASCAP published its terms for a new deal in March 1940 instead of December 1940 in order to discourage the growth of BMI. Now, if ever, is the time for the broadcasting industry to stand together and act as a unit.

During the past five years we should have learned a lesson or two from the successes achieved by our employees and by the composers through collective bargaining. They stand together. So should we.

IRNA is not a collective bargaining agency. However, it can give advice. Our advice is: Don't get up a high blood pressure over the ASCAP proposition. It is to your advantage to stand by BMI. If you want to know more about it, call any member of the IRNA Executive Committee. We are at your service.

We do not have exact figures but it is estimated that ASCAP's revenue from the broadcasting industry in the year 1940 will probably be \$5,000,000. Under the new ASCAP proposition, ASCAP's revenue on the same volume of business would be over \$7,500,000. This means \$2,500,000 of the industry's revenue taken

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

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

## BMI SENDING FIRST SONGS TO ITS SUBSCRIBERS

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away from somebody. Correspondingly it means that much less available for the employees of the industry, and for their employers, or else increasing costs to advertisers which will drive advertisers into other media.

Probably it is perfectly human for ASCAP to try to add 50% to its take in one year. If it is strong enough to succeed, that will only mean we are weak enough to let it. If we are, it is our own fault and we deserve no sympathy.

This letter is going to all affiliates, whether you are members of IRNA or not. You can easily see how vital it is to maintain and support an organization of affiliates in this situation. If you have not joined IRNA, we advise you to do so.

IRNA EXECUTIVE COMMITTEE.

### The Columbia letter:

April 4, 1940.

DEAR MR. \_\_\_\_\_:

The American Society of Composers, Authors and Publishers, which already gets a disproportionate share of its revenue from the broadcasters, has now set out to exact an additional tribute of some four or even five million dollars from our industry. The broadcasters, meantime, have laid their own plans to break the grip of this monopoly once and for all. This letter is to advise you that so far as Columbia is concerned, we intend to fight and we believe we will win.

In considering the bait which ASCAP has held out to you in the form of a reduction in your fees, to be offset by astronomical and impossible increases from the networks, may I suggest that you bear four things in mind—

First, that the additional millions which ASCAP now seeks to exact have to come out of somebody's pocket and, in the long run, ASCAP would be enriched to that amount and broadcasters as a whole would be impoverished to that degree, regardless of how these additional sums are levied. You know our business and your own well enough to realize that adjustments would be required and that the "saving" proffered to you would, in the long run, prove illusory.

Second, that if ASCAP does succeed in dividing the industry into hostile camps—regardless of who suffers first—we will separately and individually be pushovers for them and, in the end, everybody will pay.

Third, that the brains, the energy and the money of the industry are behind Broadcast Music, Inc., and that, for the first time, we will be able to confront ASCAP with a weapon in our hands instead of meeting them unarmed and helpless, as we have in the past.

Fourth, that unless ASCAP comes to its senses, there is absolutely no present possibility that Columbia will have any ASCAP music on the network after December 31st next, and without this network plugging of ASCAP tunes the value of an ASCAP license to any station will be greatly diminished.

I am sending this letter because I think, as affiliates, you will want to know and are entitled to know of Columbia's attitude.

Sincerely yours,

EDWARD KLAUBER.

April 5, 1940

### The NBC letter:

March 26, 1940.

TO THE STATION MANAGER:

You have undoubtedly received a copy of ASCAP's letter No. 3254, dated March 21, 1940, which was mailed to all ASCAP licensees and to which was attached ASCAP's "plan" for the licensing of broadcasting stations for the period commencing January 1, 1941.

While the plan purports to be ASCAP's idea of a fair basis of licensing, you will note particularly that in the last paragraph of Mr. Paine's covering letter, he offers to meet with the broadcasters to *negotiate* for a contract.

In connection with your study of this plan we should like to suggest a few points for your consideration:

In the first place, the ASCAP plan would result in the broadcasting industry as a whole paying between three and four million dollars more for the use of ASCAP music than it is currently paying, and most, if not all of this increase, would be placed on the networks. This huge increase would have to come out of the pockets of the broadcasters and their advertising clients. Any such increased burden on the broadcasting industry as a whole or the networks would be inordinately excessive.

The National Broadcasting Company is not opposed to the principle of clearance of music at the source providing it can be done on a basis which is legally feasible and economically sound. The plan which has been submitted by ASCAP is so intolerably burdensome upon NBC that it would be impossible for us to accede to their terms. It is obvious that the classification of broadcasting stations proposed by ASCAP outlines definitely the kind of a split which that organization desires to accomplish within the broadcasting industry. The National Broadcasting Company is prepared to assume its proper burden in the payment to copyright proprietors for their music and are willing to join with other elements of the broadcasting industry to negotiate to that end.

As you know, the National Broadcasting Company has joined hands with others in the industry to create Broadcast Music Incorporated, as an independent source of music. We have pledged ourselves to payment of approximately \$250,000. A large number of stations have subscribed and paid for stock and committed themselves to pay to BMI license fees for use of its music. Currently BMI is making every possible effort to deliver to its subscribers at an early date a library of music suitable for broadcasting. The effect of the ASCAP plan upon the broadcasters' investment in BMI is one which will need careful consideration. Certainly BMI is energetically prosecuting its efforts to line up catalogues of music and if it is to succeed it must have the continued support of the industry.

As a final thought may I suggest that you study the ASCAP plan for the effect that it will have upon you as an affiliate in the absence of any agreement between ASCAP and the networks.

Sincerely yours,

WILLIAM S. HEDGES.

BMI on April 3 sent out the first issue of a new publication, "Notes from BMI," which will keep subscribers informed of developments. Subscribers should be on the lookout for it.

### EXECUTIVE COMMITTEE MEETS

The Executive Committee met with Neville Miller at headquarters on Monday, and discussed Broadcast Music, Inc., and a number of other matters. Committee members present were John Elmer, WCBM; Herbert Hollister, KFBI; Paul Morency, WTIC, and Harry Wilder, WSYR.

### CODE COMMITTEE TO MEET

The NAB Code Compliance Committee will meet in the Board Room at Headquarters in Washington, next Thursday, April 11. A full attendance is expected.

## ARNEY MEETING WESTERN BROADCASTERS NEXT WEEK

C. E. Arney, Jr., new assistant to Neville Miller, is having a series of informal meetings with broadcasters, on his way from Seattle to Washington.

This week, he met with station managers and others in San Francisco and Los Angeles, while next week he will be in Salt Lake City (Monday), Denver (Tuesday), Omaha (Wednesday morning), Wichita (Wednesday night), Kansas City (Thursday), St. Louis (Friday), Chicago (Saturday and Sunday).

Mr. Arney—"Bee" for short—can be reached at the Brown Palace in Denver, the Montenelle in Omaha, the Lassen in Wichita, the Jefferson in St. Louis, and the Palmer House in Chicago. He will be delighted to talk with broadcasters about individual or industry problems.

## FLY DEFENDS COMMISSION'S TELEVISION ACTION

James Lawrence Fly, FCC chairman, defended the Commission's action in revoking its television rules, in a Mutual-NBC Red broadcast this week.

Senator Lundeen (FL-Minn) introduced a resolution asking the Interstate Commerce Committee to investigate the Commission's action, "to ascertain whether the Commission has exceeded its authority, and whether it has interfered with the freedom of public and private enterprise."

The text of Mr. Fly's speech and the statement of Senator Lundeen made when he introduced his resolution:

During the past several weeks much has been said, and even more written, about television. It is altogether appropriate that, as Chairman of the Federal Communications Commission, I should make this report to the radio public on the present status of this great invention.

In view of international conditions, American industry has the opportunity to lead the world in the development of the art of visual broadcast. Where television was advancing with youthful faltering steps in Europe, darkness has descended. Research has been stopped while all energies are devoted to war. Foreign television for the time being is paralyzed. It is singularly fortunate that in our own country neither war nor any other ruthless force can lay a heavy hand upon the youthful television industry and impede its normal progress.

In the present state of radio, broadcasting of sound has progressed to the point where reliable service can be received in nearly every home. Receiving sets are within the means of almost every family. In the meanwhile, television has been gradually approaching the threshold of the American home.

Most of us have witnessed radio grow from its laboratory stages. All of us will have the thrill of seeing television ripen into a reality for everybody to enjoy. While television is still in the experimental stage it is moving out of the laboratory. We know that it is a practical thing, and that it has great potentialities for development into a permanent instrument of entertainment, of information, and of education. Our generation has been entrusted with the responsibility of carrying forward this advance. There may be differences of opinion as to what is best for television, but no one would favor other than its orderly and healthy growth into an instrument of permanent public good.

Why is the Federal Government interested in television? And why am I impelled to make this report to you tonight?

The Federal Communications Commission was created by Congress to regulate among other things the use of radio transmitting equipment. Unless such Federal regulation existed, the public could not use the radio for either sound or vision. For it is a

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unique characteristic of radio that its indiscriminate use by all makes it impossible for benefits to be derived by anyone.

The *only* way a *few* may broadcast effectively is to exclude the many. The responsibility for allocating radio frequencies which shall be used for broadcasting, for the aviation services, for police radio stations, for the preservation of life and property at sea, for television, and for a multitude of other purposes, places a grave responsibility on the Commission.

But to meet the point more specifically, what are the other functions of the Federal Communications Commission relating directly to television? Let me quote from the Communications Act:

"The Commission, from time to time as public interest requires, *shall*

"Study new uses for radio, provide for *experimental* uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest; . . .

"Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein; . . .

"Make such regulations not inconsistent with law as it may deem necessary to carry out the provisions of this Act."

In other words the Congress has placed upon the Commission the duty to issue licenses for experimental operations; the duty to foster research and development, and to encourage the achievement of high standards, and, *ultimately*, to recognize those high standards—once they have been achieved by the *industry's engineers*.

It is likewise under a clear mandate to regulate the kind of apparatus to be used in radio broadcasting, including television, and to promulgate appropriate regulations. We should be derelict in our duty to the public if we should disregard this mandate of the Congress, or if we should permit any business interest to render it ineffective.

We should also be avoiding our obligation if, in the regulation of the experimentation, and of the transmitting apparatus, and its methods of operation, we ignored the current state of the science. As most of you know, television has been developing for several years. For more than ten years the Commission has issued licenses to enable the engineers of the industry to carry on experimental operations. Under authority of the Commission, actual television programs have been broadcast for a number of years. Commission members and the staff, during the last two years, have made an extensive study of the engineering developments, potentialities, and problems.

Recently the Commission undertook a study to ascertain the present situation of television as a basis for proposed rules for the licensing and operation of stations. We scheduled hearings in Washington and invited every broadcaster and every manufacturer interested in television to participate.

Scientists were invited to give the Commission their views on the status of the art. Extensive public hearings were held. The Commission made personal inspection trips to obtain first hand information of television in actual operation. The Commission

issued its report on February 29th of this year. It also issued new rules and regulations for this service. I should like to read a significant portion of the Commission's unanimous television report:

"That research should not halt and that scientific methods should not be frozen in the present state of the art is fairly to be deduced from the engineering testimony of representatives of the companies represented at the hearing. Actual demonstrations to members of the Commission indicate the need for further improvement in the technical quality of television. The evidence before the Commission reveals a substantial possibility that the art may be on the threshold of significant advances. Research in fact does and should continue in significant phases of the field."

We pointed out that television engineering is in a state of flux and added:

"The issuance or acceptance of transmission standards by the Commission, especially in combination with the more extensive experimental program service which will in all probability develop under these rules, would have a tendency to stimulate activity on the part of manufacturers and the public in the sale and purchase of receivers for home use. It is inescapable that this commercial activity inspired and then reinforced by the existence of Commission standards would cause an abatement of research. To a greater or less extent the art would tend to be frozen at that point."

"Even more important," we warned, "nothing should be done which will encourage a large public investment in receivers which, by reason of technical advances when ultimately introduced, may become obsolete in a relatively short time. The Commission has not overlooked the significant sums invested by pioneers in making possible our present knowledge of television, and it is not unsympathetic with their desire to recoup their investment in the process of bringing television's benefits to the public. It will be realized, however, that the loss to the public by premature purchase in a rapidly advancing field might in a relatively short period exceed many times the present total cost of research. Such an economic loss in the long run can rebound only to the harm of the industry. In view of the apparent proximity of improvements and of the resolution of disputed technical questions, these risks should not be taken. The Commission is, therefore, reserving the matter of issuing standards for consideration at some future time."

These words would seem to have made the Commission's attitude perfectly clear.

However, it might be helpful to explain the term "transmission standards." As I have already indicated, the Commission is charged with the duty of regulating the kind of transmitting apparatus used with respect to its external effects. Such regulation is done by the issuance of engineering transmission standards. "Transmission standards," then, are the engineering rules laid down by the Commission to govern the types of radio transmitters and their operation. The problem of formulating such standards in the case of television is fraught with peculiar difficulties during this developmental stage.

Let me explain why this is so. There is at present in the television industry a very wholesome state of competition between rival manufacturers to develop their transmitting apparatus to a point where the quality of reception of their telecast pictures will be superior to those of any other manufacturer. It was the Commission's considered judgment and, in this judgment I might say there has been the universal concurrence of the engineering profession, that no one manufacturer of transmitting equipment has yet perfected his apparatus to a point where it should be accepted as the standard for universal application. On the contrary, no voice has dissented from the proposition that further research and experimentation is needed. The recently adopted rules and regulations of the Commission governing television broadcasting recognize this engineering fact. The Commission, therefore, deliberately refused to place its final approval upon any present type of transmitting equipment as the type which all must use. This attitude is merely a reflection of the engineering opinion in the television industry that there were still too many improvements in sight to warrant standardization at this time. It seems clear that the research should continue, and that order and caution should be the keynote to foster that improvement.

What a great tragedy it would be if today some heedless power, for the sake of an immediate short-sighted interest, should obstruct television's progress and leave it dwarf-like in the shadow of its own great potentialities. But, you may readily ask, "How can

this happen to television; it didn't happen to motion pictures; it didn't happen with automobiles; it didn't happen with the advance of ordinary broadcasting itself." Why, then, the special solicitude for the future advance of television?

The answer is not readily obvious, but it is fundamental and, I think, thoroughly understandable.

The fact is that television is not like ordinary broadcasting, not like the automobile, not like motion pictures.

First let us consider the case of the broadcast of sound alone. Such broadcasting in the United States is roughly twenty years old. As you all know, during these years there has been vast improvement in the technique of radio transmission and reception. There has, however, been no change in the fundamental standards for transmission and reception during that entire period. A receiver built to receive a broadcast station operating in 1920 will receive a broadcast station that operates in 1940. A transmitter built in 1920 can be received by radios in use today. Better transmitters are being built now than were being built in 1920, and the same is true of receivers, but they all operate on the same principle; or more technically, on the same basic standards. Improvements have been gradual. Obsolescence has taken only a normal toll.

The automobile may be similarly characterized. Our streamlined cars of today bear no resemblance either in appearance or performance to the wheezing, coughing, horseless carriage of thirty-five years ago. But that ancient jalopy will still run!

Television is different—uniquely so.

In the case of television, a receiving set is so synchronized with the transmitter that the two are inseparable in operation. The receiving set is, in effect, the key which unlocks the transmitter in order to receive the broadcast. A substantial change in the lock renders the key useless. The necessary dependence of the television receiver upon the operation of a television transmitter in the vicinity, and conversely, the dependence of a television transmitter upon the existence of television receivers capable of receiving it, if it is to have any public value, is the vital difference between television receivers and automobiles, for example. It is the Commission's clear duty to license television transmitters to supply programs for television receivers in the hands of the public. The Commission cannot ignore what the public does with respect to the purchase of television receivers.

Then, too, there are today different methods of transmitting television signals.

A television receiving set capable of receiving the signal of one type of transmitter may not accept the signal of a different type of transmitter in existence today. The receiving set must be constructed to operate on the same principle as the particular transmitter. If the American people should buy television receivers in great numbers as they have bought ordinary radios, and if at a later date transmission standards are adopted which contemplate an alternative or improved transmission system over that on which the particular receivers can operate, we should, in effect, be changing the locks and leaving you with a bunch of highly expensive keys rendered utterly useless.

Some of the finest inventive and scientific brains in this country are at work on this problem. No one can successfully assert, and no single person has asserted, that now is the time to lay down the principles which shall govern all future development of television. But television is on the march. Its future is assured. We venture to hope that soon a set of standards will prove itself as meriting adoption. We know there can never be absolute assurance that future discoveries will not demonstrate their inadequacy. I do believe, however, that the American public would deem the Commission unfaithful to its trust if it adopted, or standing by, permitted at this time the crystallization of, any set of standards for television contrary to the engineering opinion of the industry and without adequate trial, or that did not give promise of reasonably satisfactory public service over a reasonable period of time.

In conscience, all must agree that nothing should be done which would shackle the ability of television to move forward.

The Commission's rules governing television broadcasting recognize the admitted need for further experimentation and the fact of its continuance. The rules provide for the licensing of two types of experimental television stations. One type of station is for the purpose of carrying on a program of laboratory experimentation in the technique of telecasting. From these experiments the public ultimately will derive vast benefits. In the meantime the work will go on for the most part, unknown to the public.

These pioneers in science deserve our unstinted praise. Their industry, inventive genius, and financial resources are being expended not for any immediate private gain but to pave the way for future advances. That success may mean to them opportuni-

ties for personal gain, financially or from the standpoint of prestige in the science or the industry, does not alter the fact that they are performing a distinct public service.

The second type of experimental broadcast station is for experimentation in the technique of programming. Here the American public is in a position to play an important role.

There is much to be learned about the techniques of building and producing television programs. Their cost is high and as yet sponsors are not plentiful. The Commission's new rules will soon permit what has been termed limited commercialization which will enable the owners of television stations to charge for the cost of programs as distinguished from other operating charges.

Naturally, no programs are on anything like a full-time basis. Most television stations, for a while at least, will of necessity be able to operate only a few hours during the day. Undoubtedly, when commercialization is permitted and program techniques are better worked out the public will be offered a wider program selection. At the present time three stations in New York City, Los Angeles and Chicago offer such a limited program service with some degree of regularity. There are about twenty applications for additional stations from these and several other cities on file with the Commission. All present licenses are experimental in character. Some additional stations will be constructed in the near future. The operations will move on to a commercial basis, not immediately, but when the engineers of the industry itself find it ready for such broad service.

Now let me be perfectly plain in stating the position of the Federal Communications Commission on the question of public participation in the future development of television. Does the Commission wish to discourage members of the public from purchasing television receiving sets today? The answer is emphatically "No". As a matter of fact, it is only by having receiving sets in the homes of members of the public that experimentation in program techniques can be successfully carried on. But it is important that the general public know that when they buy television sets they are definitely partaking in a program of experimentation. If the public knows the facts about the limited number of stations which are now operating, the few hours of programs that are on the air, the experimental character of their operation, and finally that new standards of television transmission may convert the sets of today from instruments of enjoyment to articles of furniture of doubtful usefulness, then there can be no danger in public participation. A man who buys an automobile today knows, of course, that he will have an increasingly insistent pressure to replace it with a new one as the years pass, because everyone knows that the automobile of tomorrow will be superior to the automobile of today. No one, however, purchasing an automobile today need have any fear that in a year or two his car will be completely useless. That knowledge, however, should be in the mind of the purchaser of a television receiver.

I do not believe that persons in a position to afford television entertainment at this time will be unduly deterred by that knowledge from getting the immediate benefits which are now available in areas served by television transmitters. I certainly hope they will not be deterred, as the Commission is counting upon public participation in television experimentation in order that the television of the future may be molded to reflect the desires of the American public. However, even had I less confidence in this prediction, I would still feel that the relation of trust in which the Commission stands to the public would require it in good faith and common decency to lay the facts before you.

Let me make it clear that we neither have nor desire any regulatory power over the sale of receivers or over advertising. But any action we take under our duty to license experimental operations and to encourage advances in radio, must of course be taken in the light of actualities. Our course can be influenced, for example, by the rare case where a licensee might engage in extravagant promotion of sales to people of modest incomes while failing to inform the public of the limited and experimental character of the service now available, and of the mobility of the science, where it appears that such activities threaten to make his system dominant among both transmitting stations and the public. For the result would be that his competitors—continuing their research—might find themselves with an improved system of broadcasting television which cannot be given to the public.

By this sales activity alone the standards of the science might be locked against their improvements. Under such circumstances it is rather more likely that the competitors too would be crowded into production and sales promotion. This would make it even more probable that television would be shackled at its present state and future progress obstructed. These are the unanimous views the Commission has clearly and repeatedly expressed in recent months.

The American people, I am certain, do not want to stop short of improvements which the industry's engineers assure us may be just over the horizon. The Commission must not lose sight of the long range interest of the public. We shall not. This, I might add, is the only axe we have to grind.

Television then is ready to go forward. It is going forward toward maturity. But its own sponsors tell us it has not yet come of age—in that opinion they are practically unanimous. Once the opinion of the industry shifts in the other direction, I can promise every assistance governmental regulation can give to aid in enlarging its activities, in spreading its service, in converting its potentialities into realities. We are and always have been eager to advance with television. Indeed, persons interested in other types of radio have suggested that we unduly favor it. As the industry has long known, when the engineering opinion of the television industry itself is in substantial accord on a foundation for lasting progress, the Commission will cooperate in every possible way and prompt steps will be taken to lift television out of the experimental stage.

I do not think that knowledge of the facts will deter you any more than it will deter me from being eager to participate in the exciting adventure of television experimentation. Many of you undoubtedly will do so. I sincerely hope so. Today television is entertaining. If unimpeded, the television of tomorrow will be a great public service.

Meanwhile, I am certain that you will agree that the true facts about the new science should be reported to you. I firmly believe, with all deference to those who may hold the contrary view, that a full statement of all the facts is the surest way to promote television.

## STATEMENT BY MR. LUNDEEN

Mr. President: I have introduced a resolution requesting an investigation by the Senate Interstate Commerce Committee of actions by the Federal Communications Commission in connection with the development of television and asking the committee to inform the Senate if, in connection with the Commission's confusion of orders on television, the Commission has exceeded its authority and whether it has interfered with the freedom of public and private enterprise. The Commission issued an order some time ago permitting limited television operation on September 1, 1940. Television interests immediately started the manufacture of television sets and launched an advertising and selling campaign. I have read where an official of the Radio Corporation of America stated publicly that his company has spent about \$10,000,000 in developing television and in trying to create a new art and a new industry. Unquestionably other interests have likewise spent tremendous sums and I, for one, do not believe that such development should be arbitrarily retarded by some bureau here in Washington.

I am not at all sure that the Federal Communications Commission was ever delegated such authority as it is attempting to exercise in connection with television and for that reason I believe the Senate Interstate Commerce Committee should place the facts before the United States Senate.

## FCC ANNOUNCES PROCEDURE FOR TELEVISION HEARING

The FCC by its Order No. 65, on March 23, 1940, reopened the hearing on television (Docket No. 5806) for further testimony to determine (1) whether research and experimentation and the achievement of higher standards for television transmission are being unduly retarded by recent promotional activities, requiring any additions, modifications, revisions, or amendments of the rules adopted February 29, 1940, governing television broadcast stations, or other action by the Commission; and (2) whether the effective date for the beginning of limited commercial operations set forth in Section 4.73, Subsection (b) of the Commission's Rules and Regulations should be changed from September 1, 1940, to some subsequent date.

The Commission desires to hear all parties who at the January 15 hearing offered testimony that they were carrying on substantial research tending toward improvement in broadcasting of television. The evidence of such parties should, in summary form, state the scope of their present television experimentation in terms of subject matter, staff, and time devoted to the same and should indicate what proportions of such work are directed toward technical ends and toward commercial production. This information should be broken down with respect to the periods prior and subsequent to March 1, 1940. Any changes made or under consideration as a result of sales promotional activities should be stated.

General conclusions should be offered as to the prospects for improving the performance of television broadcasting but descriptions of recent improvements are desired only if they have taken place since the date of the original hearings or are the final results of previous experimentation. Evidence will be received also as to the effect of the above matters on the prospects for higher transmission standards and as to whether there has been any retardation of progress. Parties are also requested to express their views, based upon the facts on the foregoing matters, as to the appropriate date for commencing limited commercialization. No invitation is extended to parties who did not appear at the hearing of January 15, 1940. Limited testimony may, however, be accepted from new parties upon a showing that they are engaged in substantial research and have evidence bearing upon the above matters which includes information not heretofore presented to the Commission and which relates to the present status of the technical phases of the science.

The hearing will begin at 10:00 o'clock A. M. on April 8, 1940, and will be held in Hearing Room A, in the Interstate Commerce Commission Building. At least 18 copies of printed or typewritten material to be submitted should be made available at the hearing.

Appearances should be handed to the Docket Clerk at the hearing prior to its opening.

#### CONSUMER EDUCATION CONFERENCE

Ed Kirby, Director of Public Relations, represented the NAB at the Second National Conference on Consumer Education which attracted some 700 people to the campus of Stephens College, Columbia, Missouri, this week. Some fifty representatives of agencies, advertisers, magazines and newspapers were present, including John Benson, president of the American Association of Advertising Agencies; W. T. Nardin, Pet Milk Company; A. T. Court, American Automobile Manufacturers Association; Paul Willis, Associated Grocery Manufacturers; Marshall Mott, Association of Better Business Bureaus and Walter Preston, NBC.

April 5, 1940

Criticism and defense of advertising characterized the three-day session. At the start of the Conference the following statement of policy was issued by Dr. W. W. Charters, Chairman of the Governing Committee:

1. We accept the following definition of consumer education: Consumer education is development in attaining the maximum individual and group satisfaction for time, effort, and money expended.
2. We hold that consumer education, thus defined, will increase the efficiency of the system of free enterprise and will have a beneficial effect on public economic policy.
3. We consider that individual development for the ends in view can take place only through
  - (a) A realistic comprehension of one's own personality and position in life.
  - (b) An intelligent understanding of the workings of the economic order.
  - (c) A consciously trained ability to analyze and appraise accurately the competitive claims for goods and services offered as necessities, comforts, or luxuries of life.
4. The Institute is concerned with the development of consumer education as thus described. Its facilities are for the use of students and educational institutions and organizations. Its publications, although available to the public, are developed primarily as materials for the use of those engaged in consumer education. Likewise, its conferences are open to all who wish to attend, but are organized and conducted in accordance with the particular needs and desires of teachers, economists and others professionally interested in the education of consumers.

A detailed report will be presented to the Board and the Code Compliance Committee.

#### SPECIAL PROMOTIONAL EVENTS

Following are among some of the announcements received recently of special periods designated in connection with promotional efforts:

America's Home .....	April 6-13
Foot Health Week.....	April 15-20
National Notion Week.....	April 22-27
National Hardware Week.....	April 25-May 4
National Fishermen's Week (7th annual observance).....	April 27-May 4
Better Homes Week.....	April 28-May 4
National Golf Week (11th annual observance).....	May 4-11
National Restaurant Week.....	May 6-12
Bottled Carbonated Beverage Week.....	May 12-18
National Cotton Week.....	May 17-25
National First Aid Week (19th observance).....	May 19-25
National Foreign Trade Week.....	May 19-25
National Tennis Week (9th annual observance).....	May 25-June 1
National Hotel Week (2nd annual observance).....	June 2-8
National Swim-for-Health Week.....	June 24-29
Iced Coffee Week.....	June 25-July 1

#### BUREAU OF RADIO ADVERTISING RELEASES NO. 5 STUDY

The fifth study in its "Results from Radio" series has gone out to all members from the Bureau of Radio Advertising. The newest success story deals with the experience of a small ice cream retailer in Devils Lake, N. D., who used radio advertising exclusively to build the largest sales volume in the entire state.

The sponsor credits a 100 per cent increase in sales directly to his broadcasts of basketball games over KDLR. Says the advertiser, "Radio has brought us more new customers, and kept more old ones coming back, than any other advertising we could buy."

Extra copies of the No. 5 study, as well as previous releases in the "Results from Radio" series, are available to members on request. Stations who have not ordered their supply of these case histories are urged to use the order blank which accompanies the sample copy recently sent them.

## LABOR NOTES

Colonel Philip B. Fleming, Wage and Hour administrator, announced this week that his 441 inspectors would proceed with inspections hereafter without waiting for complaints to be filed. Heretofore, have inspected firms only after complaints had been filed by employees or competitors.

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The Wage and Hour administration will hold a hearing on April 10 on a petition by the wholesale distributing industry to amend the definitions of "executive" and "professional" as they apply to that industry. This will be the first hearing following the administration's statement that individual industries could petition for amendment of the definitions as they applied to individual industries.

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The House lopped \$1,080,000 from the Wage and Hour administration's budgeted appropriation for the next fiscal year, and \$350,000 from the Labor Relations Board's. Observers say this shows the House is of a mind to amend drastically both the Wage and Hour and Wagner acts.

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The House Labor Committee has approved four amendments to the Wagner Act. They would:

Enlarge the three-man National Labor Relations Board to five members.

Protect craft unions in collective bargaining elections with industrial unions.

Permit employers, as well as unions, to ask the board for bargaining elections.

Require the board to accept for one year, as wholly effective, any exclusive bargaining contract approved between employers and workers.

William Green, A. F. of L. president, has voiced approval. The C. I. O. doesn't like them. Neither does the House group which favors the more stringent "Smith" amendments.

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The Labor Board has certified AFRA as the sole collective bargaining agency of employees of Station WCPO, Cincinnati, who appear before the microphone in a professional capacity, but excluding "hillbillies." Board action was based on a collective bargaining election held March 15 resulting in a count of 8 to 3 in favor of the A. F. of L. union.

## FIVE RADIO PROGRAMS CITED

Five radio programs deemed to violate that section of the Communications Act prohibiting lottery broadcasts were referred to the Attorney General by the Federal Communications Commission on March 29.

They are "Musico," broadcast by station WGN, Chicago; "Songo," broadcast by station WIP, Philadelphia; "Especially for You," broadcast by station WFIL, Philadelphia; "Sears' Grab Bag," broadcast by station WISE, Asheville, N. C., and "Dixie Treasure Chest," broadcast by station KRLD, Dallas, Texas.

"Musico" is sponsored by the National Tea Company, Chicago. Cards are supplied by National Food Stores and other sources. Each card has five rows of squares and five squares in each row. Names of songs are involved. To win a cash prize in this "game" one must be lucky enough to get a card with the songs listed that are broadcast, must listen to the program broadcast, and must fill out or check the correct names of the songs or musical selections broadcast, and must be the first to telephone the answer to the radio station.

"Songo" has similar characteristics, employing cards furnished by the Nevins Drug Company, Philadelphia.

In "Especially for You," a wheel is spun to determine from Philadelphia and suburban directories the person who is to be given a chance to win a Farnsworth radio. If the party selected has a telephone he is called. If he answers the phone and answers two questions satisfactorily he receives a radio. If he does not respond correctly, he is given two tickets to "Mystery History," a network show.

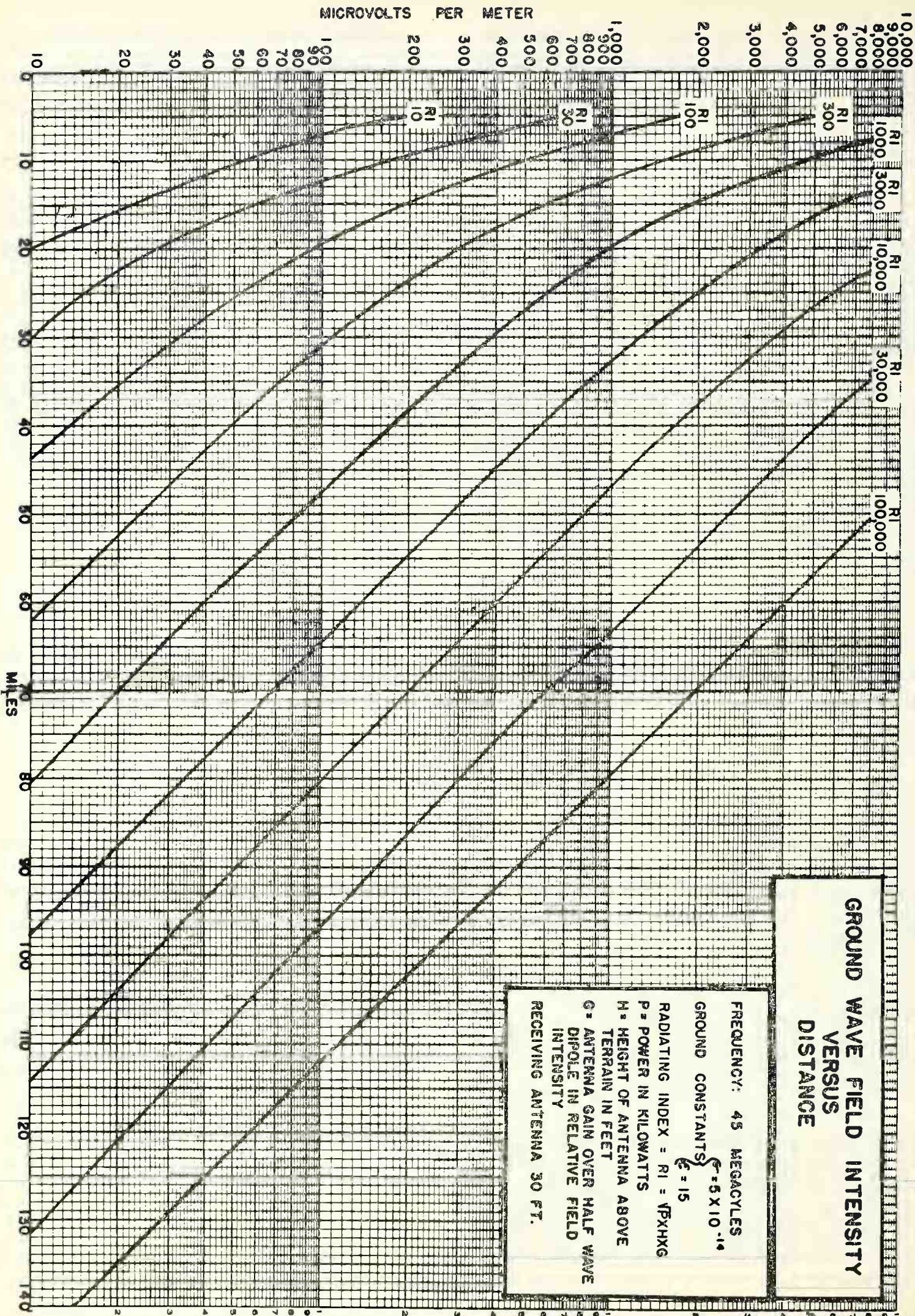
"Sears' Grab Bag" involves a box of numbered slips of paper placed in front of the Sears' store in Asheville. The advertising manager of the store selects the numbers. If the holders of the numbers are in the broadcast audience they receive prizes. If they are not listening in the nearest numbers get the prizes.

In the "Dixie Treasure Chest" program the announcer selects a number from the Dallas telephone directory. If the party called answers the telephone he or she is asked, "What is the color of the border of the Dixie Margarine package?" If the party answers correctly, a prize of fifty dollars is the stake.

As in the case of Tums "Pot o' Gold" and the Mead's Bakery programs previously referred to the Department of Justice, complaints allege that such gifts by chance, and public announcements of them, violates Section 316 of the Communications Act which bans broadcast of "any advertisement, or information concerning any lottery, gift enterprise, or similar scheme."

## IT'S A BOY

At the O. L. (Ted) Taylors in Amarillo, Texas. Born, 12:15 p. m., April 1. Mother and son doing nicely; father, as well as could be expected.





## FREQUENCY MODULATION

NAB REPORTS for January 26 contained a general discussion on Frequency Modulation. Evidence presented during the FCC "high frequency" hearing during the two weeks beginning March 18 has served to answer many of the questions concerning FM brought out in that article.

The evidence has clearly shown that FM has a decided advantage over AM on the same frequency even when using a so-called narrow band with a deviation of 1 to 1. It was shown that FM using a deviation of 1 to 1 has an advantage of about 16 DB signal to noise ratio and that FM with a deviation ratio of 5 to 1 has an advantage of about 30 DB signal to noise ratio. "Deviation" is the amount the carrier shifts in frequency, on modulation, each side of the carrier frequency and "frequency swing" is the total frequencies over which the carrier swings and this is equal to twice the deviation. Deviation ratio is the ratio between the highest frequency deviation and the highest audio frequency to be transmitted. The deviation ratio of a system is then determined by the maximum frequency deviation divided by the maximum audio frequency to be transmitted. For a frequency modulation channel it is necessary to allow space a little greater than the frequency swing in order to take care of side frequencies, receiver drift and receiver selectivity characteristics. More data is needed on this phase; however the consensus of opinion was that a 200 KC band is needed for a swing of 150 KC. There was ample evidence to indicate that FM stations should not be assigned adjacent channels in the same locality, but that by skipping a channel, FM stations can be allocated without regard to geographical separation.

The consensus of opinion substantiated the claims of Major Armstrong that a swing of 150 KC should be used; however RCA entered testimony on a phase which was not touched on by others. Testimony was entered by NBC showing that with Frequency Modulation there is a threshold beyond which the signal to noise ratio rapidly decreases. Mr. Raymond Guy of NBC entered an exhibit showing measurements taken on W2XWG, New York City, transmitting with Amplitude, a deviation of 15 KC and a deviation of 75 KC modulation and with deviation ratios of 1 to 1 and 5 to 1, respectively. Observations were taken at Bellmore, Long Island, under conditions described as "Tube hiss and miscellaneous quiet neighborhood noise", and the power of the transmitter was varied in order to make observations at the threshold signal intensities. These measurements were then corrected for a constant power of 1 KW. The exhibit showed that at a distance of 88 miles there would be a field intensity of 5.7 microvolts per meter, and that the 15 KC signal would be 38 DB-RMS above the noise and that the FM 75 KC signal would be 52 DB-RMS

above the noise at the receiver output. The exhibit showed that at approximately 94 miles the signal to noise ratio out of the two systems would be the same, namely, 35 DB-RMS. Beyond this point the 15 KC signal to noise ratio became increasingly better in comparison with the 75 KC. During the hearing Mr. Lent, of NBC, testified that with a given signal to noise ratio out of the loud speaker there is an optimum deviation. Based on a 40 DB-RMS signal to noise ratio, he said that the optimum deviation is 30 KC or a 60 KC swing.

The consensus of testimony was to the effect that an audio band width of 15,000 cycles should be allowed for. It also was the consensus of testimony that the signal to noise ratio of 40 DB-RMS, which is 100 to 1 in signal, out of the loud speaker was the threshold for good reception and that ratios up to 70 DB were desirable for excellent service.

The hearing added to the information on the variations of field intensity in the UHF due to terrain variations and fading phenomena. Variations as much as 20 DB from the average can be expected due to terrain variations and at a distance of about 80 to 100 miles it can be expected that terrain and fading might produce variations of 1000 to 1 in signal or 60 DB between the minimum and the maximum field. Quite a number of ultra-high frequency field measurements were entered and these checked within reasonable limits with the theoretically derived curves of Mr. K. A. Norton of the FCC. In view of the information presented on noise it is fair to assume, when using an FM swing of 150 KC and a deviation ratio of 5, that 10 microvolts will render rural service, 100 microvolts city residential service and 500 microvolts service to city business sections. These values are subject to variations the same as are the service standards used on the present band and are subject to revision as we accumulate more information on UHF.

There are three factors which enter into the field produced by a UHF station. These three factors are the power input to the antenna, the height of the antenna above the surrounding terrain and the gain of the antenna. Mr. Paul deMars devised a method for taking all three into account and called it the Radiating Index abbreviated to RI. The RI of an antenna equals the square root of P times H times G; where "P" equals power input in kilowatts to the antenna; "H" equals height of antenna above the surrounding terrain in feet; and "G" equals the antenna gain over a half wave dipole in relative field intensity.

The factor "H" is not just the actual height of the antenna but is the height of the antenna above the surrounding terrain. Thus the factor "H" might vary in different directions from the antenna.

The factor "G" probably needs some explaining. This factor is based on the radiation perpendicular to a hori-

zontal one half wave dipole. The following values of "G" are based on Dr. G. H. Brown's calculations for the field produced by turnstile antennas. The full theoretical gain of these antennas is not realized, however, for practical purposes the value of "G" can be based on his calculations. Following is a table of "G" for various antennas:

Antenna	"G" (Relative Field Intensity)
Perpendicular to one half wave horizontal dipole.....	1.0
One half wave vertical.....	1.0
One bay turnstile.....	.707
Two bay turnstile.....	1.11
Three bay turnstile.....	1.41
Four bay turnstile.....	1.64
Five bay turnstile.....	1.84
Six bay turnstile.....	2.07

In considering the field strength from a UHF station it is important that the height of the receiving antenna be taken into consideration inasmuch as the field strength received varies directly as the height of the receiving antennas. It has become standard practice to use a receiving antenna height of 30 feet in considering UHF performance.

The chart entitled "Ground wave field intensity versus distance" was prepared by Mr. Paul A. deMars using his "RI" device and is reproduced through courtesy of FM Broadcasters, Inc. This chart was one of Mr. deMars's exhibits presented in the FCC hearing on "High Frequency."

Mr. deMars used as a basis for this chart the FCC theoretical curves developed by Mr. K. A. Norton. These curves have been substantiated by enough UHF propagation investigators so as to be reliable in using them as an average in determining coverage. Individual cases, of course, will vary from the average just as we have variations in determining coverage in the present band.

Thus a typical calculation problem would be: given a 300-foot antenna above surrounding terrain, a power of 5 KW and a 5 bay turnstile and frequency approximately 45 MC; to determine the rural, suburban and urban radius. RI would equal the square root of 5 times 300 times 1.84 which equals 1230. From the chart 10 microvolts for rural coverage would be at 83 miles, 100 microvolts for suburban at 54 miles and 500 microvolts for urban coverage at 31 miles approximately.

This chart and calculation of coverage does not take into account the fact that there is fading present and that the signal must be above a certain level or it is of no value, therefore, the distances calculated by the use of this chart should be reduced approximately 15%.

This chart can be used to calculate the coverage with any other deviation ratio. The signal input to an FM receiver has a direct ratio to the deviation ratio, for any given signal to noise ratio out of the loud-speaker. Therefore for any given service; the signal intensities must be multiplied by the ratio of the deviation ratios.

The point at which service is limited by tropospheric reflections causing fading has not been definitely established. Norton, in his "A theory of Tropospheric wave propagation" when drawing conclusions from his work says "The fading free service area of UHF stations may be expected to increase in approximate proportion to the transmitting antenna height." Norton shows that the ground wave and tropospheric wave field intensities, on approximately 50 MC, become equal at 2.37 times the distance to the line of sight for the 100 foot transmitting antenna, 2.27 for 200 foot, 2.03 for 500 foot and 1.87 times for a 1,000 foot antenna using a 30 foot receiving antenna. The horizon in miles is calculated by taking the square root of twice the height of the transmitting antenna in feet plus the square root of twice the height of the receiving antenna in feet. It is probable that these distances represent the limits of coverage, regardless of power, however we need more experimental data to substantiate the theoretical work of K. A. Norton.

A further and more complete analysis of the factual data available on UHF and FM is being prepared by Lynne C. Smeby, Director of Engineering. However, this will take some time to prepare and it was felt that an approximate method of calculating UHF, FM coverage would be useful to station managers and engineers at this time.

## ROSENBAUM DEFENDS CHILD PROGRAMS

The charge that most parental objections to children's radio programs are groundless was voiced today by Samuel R. Rosenbaum, president of radio station WFIL, in an address to the Shoemaker School of Elkins Park, Pennsylvania.

Speaking on the subject "What Do Parents Expect of Radio?", Rosenbaum declared: "Many parents are inclined to voice thoughtless criticisms of children's programs on the air. It is difficult for water to rise higher than its own level. Children's programs, like all radio programs, must please the large majority of the audience. Programs that might please cultured mothers in women's clubs will not always please the vast majority of healthy, vigorous children who adore action more than they do delicacy.

"Radio claims it is fulfilling its duty to meet this want and keep the level of its material always slightly in advance of the mere average of public taste. If it gets too far in advance it will be a general without an army.

"It is well known that the most popular features of every newspaper in the country are the comic strips. These are devoured with glee by parents as well as children by the millions. It is inconsistent for parents to expect radio programs to be exclusively hightoned and cultured, unless the same criticism is levelled at the universally circulated comic strips in the daily newspapers. On the average radio programs certainly are superior

to the average entertainment provided in any other medium."

### MEN FROM MARS

A thorough study of the effect of Orson Welles' "The War of the Worlds" by Hadley Cantrill has just been published by the Princeton University Press. Entitled "The Invasion from Mars," it is on sale at most bookstores for \$2.50.

### WSAL LICENSE REVOCATION

The FCC has affirmed its order revoking the license of radio station WSAL, Salisbury, Maryland, effective at 3 a. m., March 31.

In doing so, it adopted its Proposed Findings of Fact and Conclusions of October 24, 1939, with supplement and modification.

### REBROADCASTING OF INTERNATIONAL PROGRAMS PROPOSED

Recommendation that radio station WNYC, New York City's municipal and non-commercial broadcast station, be permitted to pick up and rebroadcast international programs of station WRUL, Boston, was made to the FCC today by a special committee comprising Commissioners George Henry Payne, acting chairman in the absence of Norman S. Case, and T. A. M. Craven.

This general recommendation, which climaxed hearings on the subject, was unanimous. The committee called attention to testimony by Mayor Fiorello H. La Guardia of New York City, and Professors William Y. Elliott and Harry Rowe Mimno of Harvard University. Professor Elliott contended that such a grant would be in the interest of education in general, as it would make available to the public at large the great resources of our universities; that it would enable non-profit radio stations to render better public service; that rebroadcasting without the use of wires is feasible; that there would be no interference with existing communications, and no one's interest would be injured.

The committee points out that rebroadcasting of international programs is not prohibited by international convention; that no use of an international frequency for primarily domestic purposes is involved; that the use of wires for feeder purposes places a serious expense on non-profit stations; that there are no legal bars to picking up and rebroadcasting such programs, and, further, "if there exist technical obstacles to this form of rebroadcasting, it is important to learn how these obstacles can be removed."

Accordingly, the committee proposes amending rule 4.10(d) of the Commission to make the authorization possible. There is some difference of opinion as to the exact wording. Commissioner Payne recommends the following change:

"4.10(d) Authority will not be granted to rebroadcast in the United States the programs of an international broadcast station located within the limits of the North American Continent, except upon a satisfactory showing that the rebroadcast programs in question are intended solely for non-profit purposes and are not commercially sponsored."

Commissioner Craven suggests this rewording of the rule:

"4.10(d) Authority will not be granted to rebroadcast in the United States the program of an international broadcast station located within the continental limits of the United States, except upon a satisfactory showing in the following respects:

- (1) that such rebroadcasting will not detract from the primary function of an international broadcast station, the programs of which are being rebroadcast; and
- (2) that the technical quality of the rebroadcasting will be reasonably free from distortion and noise, as well as reasonably free from the effects of fading. The Commission will afford to applicants a reasonable opportunity to secure facts concerning the proposed technical performance."

### HOUSE COMMITTEE REPORTS MONITOR STATION BILL

House Committee on Interstate and Foreign Commerce has favorably reported S. 2611 which has already passed the Senate and which provides for the purchase of a site and the erection of a building in Massachusetts for the use of a radio monitoring station.

The bill as it passed the Senate and as it has been favorably reported by the House Committee is as follows:

"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 Government 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 or facilities on such site for such purpose, and to provide the necessary associated antenna systems, roadways, power, water, and sanitary facilities, including the construction and installation of goniometric apparatus and including necessary outfits, apparatus, and equipment at a total cost of said site, buildings, and equipment of not to exceed \$30,000."

In making its favorable report the committee made the following explanation:

The monitoring station of the Federal Communications Commission, now located at Hingham, Mass., which is used for the monitoring of all classes of radio stations, including ships on the Atlantic Ocean, is no longer suitable for efficient operation in the broadcast band and is not adequately equipped to cover the extension of radio communication in the frequency spectrum above 30 megacycles. The station is now located in the naval ammunition depot by arrangement with the Navy Department and restrictions are required to be imposed as to the antenna structures, as well as to the amount of weight that can be placed on the floors of the building. Also, the configuration of the naval reservation precludes the erection of a suitable type of directive antenna for efficiently monitoring the broadcast bands.

Increased activity at the ammunition depot, the lack of adequate space for the accommodation of personnel, as well as the factors mentioned above, make necessary the immediate relocation of this monitoring station in order that the Federal Communications Commission may carry out the responsibilities placed upon it by law. Reference is made to the provisos of sections 4 (k), 301, 303 (e), 316, 317, 321 (b), and 603 (b) of the Communications Act of 1934, as amended.

An investigation has been made and it has been determined that a suitable site can be acquired near Millis, Mass., together with a usable building and other structures, for the sum of \$10,000. An additional \$5,000 would be required for the removal and reinstallation of equipment, necessary improvements to existing buildings, and small items of additional equipment.

The growth of the use of the higher frequencies for commercial communications, and the increase in long-range radio interference, have given rise to a need for a long-range method of determining the location of sources of interference of unlicensed or other irregular communications. The Commission, at the present time, has no apparatus suitable for this purpose. In connection with the removal of the monitoring station from Hingham, Mass., to another location, it is desired to install a high-quality goniometer as the first unit of a direction-finding system capable of determining the location of any radio station within the United States. An estimate of \$15,000 for the installation of such apparatus is included in the request for appropriations.

Inasmuch as the problem of the Commission in suppressing interference and operation of unlicensed stations closely ties in with the military activities of the Government in time of war in the suppression of clandestine communications, the desirability of establishing, on a peacetime basis, a system of this nature, has the approval of the War Department.

For all the foregoing purposes, a total appropriation of \$30,000 is requested, and the Commission urges that this matter be given favorable consideration in the present session of Congress.

## NEW YORK BILLS DIE

The New York Legislature adjourned March 30, 1940 without passing any of the bills which broadcasters had opposed. Two bills to which there was opposition and which came close to passage were the Perry bill with respect to the recording of broadcasts and the Ostertag bill which affected Artists Bureaus run by broadcasting companies.

The Perry bill passed the Senate but was never reported out of the Rules Committee of the House.

## STATE LEGISLATION

### MISSISSIPPI:

H. 807 (Etridge et al) (Same as S. 359) COPYRIGHT AGENTS—To amend Section 190, Chapter 117, Laws of 1938, so as to provide for a State-wide license. Referred to Ways and Means Committee.

### MISSISSIPPI:

S. 359 (Riddell) (Same as H. 807) COPYRIGHT AGENTS—To amend Section 190, Chapter 117, Laws of 1938, so as to provide for a state-wide license. Referred to Committee on Finance.

## FCC ASSIGNMENTS

The FCC has announced that the work, business and functions of the Commission for the month of April have been assigned as follows:

- |                    |   |
|--------------------|---|
| Commissioner Brown | Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.  |
| Commissioner Payne | Designated to hear and determine, order, certify, report or otherwise act upon; (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission and those requesting change or modification of a final order made by the Commission; <i>provided</i> , however, that such matters shall be handled in accordance with the provisions of Sections 1.251 and 1.256, inclusive, of the Commission's Rules of Practice and Procedure; (b) the designation pursuant to the provisions of Sections 1.231 to 1.232 of the Commission's Rules of Practice and Procedure of officers, other than Commissioners, to preside at hearings. |

## INTERNATIONAL BROADCAST STATIONS

(as of March 31, 1940)

<i>Licensee and Location</i>	<i>Call Letters</i>	<i>Frequency (kc.)</i>	<i>Power</i>	<i>Emission</i>
Columbia Broadcasting System, Inc., near Wayne, N. J.	WCBX	6120, 6170, 9650, 11830, 15270, 17830, 21570	10kw	A-3
The Crosley Corporation, Mason, Ohio	WLWO	6060, 9590, 11870, 15270, 17760, 21650	10kw C. P. 50kw	A-3
General Electric Company, San Francisco, Calif. . . . .	KGEI	6190, 9530, 15330	20kw	A-3
General Electric Company, South Schemectady, N. Y. . . . .	WGEA	9550, 15330, 21500	25kw	A-3
General Electric Company, South Schemectady, N. Y. . . . .	WGEO	6190, 9530, 21590	100kw	A-3
Isle of Dreams Broadcasting Corp., Miami, Fla. . . . .	WDJM	6040	5kw	A-3
National Broadcasting Co., Inc., Bound Brook, N. J. . . . .	WNBI	6100, 17780	35kw	A-3
National Broadcasting Co., Inc., Bound Brook, N. J. . . . .	WRCA	9670, 21630	35kw	A-3
WCAU Broadcasting Company, Newtown Square, Pa. . . . .	WCAB	6060, 9590, 15270, 21520, 25725	10kw	A-3
Westinghouse Electric and Manufacturing Co., Millis, Mass. . . . .	WBOS	6140, 9570, 15210, 21540	10kw	A-3
Westinghouse Electric and Manufacturing Co., Saxonburg, Pa. . . . .	WPIT	6140, 9570, 11870, 15210, 17780, 21540	40kw	A-3
World Wide Broadcasting Corp., Scituate, Mass. . . . .	WRUL	6040, 11730, 11790, 15130, 15250, 21460	20kw C. P. 50kw	A-3
World Wide Broadcasting Corp., Scituate, Mass. . . . .	WRUW	11730, 11790, 15130, 15250, 25600	20kw	A-3

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings in broadcast and television cases are scheduled to be heard before the Commission for the week beginning Monday, April 8. They are subject to change.

Further Hearing Before the Commission En Banc  
(Television)

Pursuant to Order No. 65: To determine whether research and experimentation and the achievement of higher standards for television transmission are being unduly retarded by the action of the Radio Corporation of America or its subsidiaries, or any other licensee, requiring any additions, modifications, revisions, or amendments of the rules adopted February 29, 1940, governing television broadcast stations, or other action by the Commission; and whether the effective date for the beginning of limited commercial operations set forth in Section 4.73 Subsection (b) of the Commission's Rules and Regulations should be changed from September 1, 1940, to some subsequent date.

Wednesday, April 10

Further Hearing

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Modification of license, **810 kc.**, 1 KW, specified hours (6 a. m. to 11 p. m., EST), DA daytime. Present assignment: **810 kc.**, 1 KW, daytime-WCCO, directional antenna.

Friday, April 12

Further Hearing

NEW—Harold Thomas, Bridgeport, Conn.—C. P., **1420 kc.**, 250 watts, unlimited time.

#### FUTURE HEARINGS

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

May 6

Broadcast

WRTD—Times Dispatch Radio Corp., Richmond, Va.—C. P., **590 kc.**, 1 KW, unlimited time (DA night). Present assignment: **1500 kc.**, 100 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

#### APPLICATIONS GRANTED

WMEX—The Northern Corp., Boston, Mass.—Granted construction permit to change directional antenna and transmitter site and install new transmitter; also extend commencement and completion dates (B1-MP-900).

WSGN—The Birmingham News Co., Birmingham, Ala.—Granted construction permit to increase power from 100 watts night, 250 watts day, to 250 watts night and 250 watts day, and move transmitter and install new antenna; frequency **1310 kc.**, unlimited time (B3-P-2558).

KMJ—McClatchy Broadcasting Co., Fresno, Calif.—Granted modification of license to increase night power from 1 KW to 5 KW on **580 kc.** (B5-ML-909).

KWLK—Twin City Broadcasting Corp., Longview, Wash.—Granted modification of license to change frequency from **780 kc.** to **1370 kc.** and hours of operation from daytime to unlimited (B5-ML-938).

KARM—Gilbert H. Jertberg, Executor of the Estate of George Harm, Fresno, Calif.—Granted consent for involuntary assignment of license from George Harm, deceased, to Gilbert H. Jertberg, Executor of Estate of George Harm, of station KARM, which operates on **1310 kc.**, 250 watts, unlimited time (B5-AL-274).

WKEU—Radio Station WKEU, Griffin, Ga.—Granted construction permit to increase time of operation from daytime to unlimited, and make changes in antenna. (B3-P-2693).

The Kaw Valley Broadcasting Co., Inc., Topeka, Kans.—Application for construction permit to erect a new station to operate on **1500 kc.**, 250 watts, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval (B4-P-2643).

#### MISCELLANEOUS

WCPO—Scripps Howard Radio Inc., Cincinnati, Ohio.—Denied petition for hearing or rehearing in the matter of the application of WCOL to change frequency from **1210 to 1200 kc.**, and power from 100 watts to 250 watts unlimited time, which was granted without hearing on October 10, 1939.

WWRL—Long Island Broadcasting Corp., Woodside, N. Y.—Extended effective date of Provision (3) of Commission's Order of December 5, 1938, 30 days from March 30, 1940, in dockets 4029, 4050, 3941, 4302, 4331 and 4622.

WREN—The WREN Broadcasting Co., Inc., Lawrence, Kans.—Referred to the Commission en banc the motion to amend notice of hearing by striking certain of the issues specified in re application to move studio and transmitter; station operates on frequency **1220 kc.**

WKIP—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—Granted petition to intervene and motion to enlarge issues in re application of Harold Thomas for a new station in Bridgeport, Conn., to operate on **1420 kc.**, 250 watts, unlimited time.

West Va. Newspaper Publishing Co., Morgantown, W. Va.—Granted supplemental petition for order to take depositions in re application for new station to operate on **1200 kc.**, 250 watts, unlimited time.

KCMO—KCMO Broadcasting Co., Kansas City, Mo.—Referred to Commission en banc the motion to dismiss "motion to amend notice of hearing by striking certain of the issues specified," in re application of WREN to move station, etc.

KMBC—Midland Broadcasting Co., Kansas City, Mo.—Referred to Commission en banc the opposition to applicant's motion to amend issues, in re application of WREN referred to above.

KCKN—KCKN Broadcasting Co., Kansas City, Kans.—Referred to Commission en banc the motion to dismiss "motion to amend notice of hearing by striking certain of the issues specified," in re WREN application.

Lookout Mountain Co. of Ga., Lookout Mountain, Ga.—Granted motion to dismiss without prejudice, the application for a new station to operate on **1370 kc.**, 250 watts, unlimited time.

WMAM—M. & M. Broadcasting Co., Marinette, Wisc.—Granted special temporary authority to operate from local sunset (April, 6:30 p. m. EST) to 10:00 p. m. EST on April 13 and 20, 1940, in order to broadcast the activities of the annual smelt carnival. (B4-S-1016)

WLPM—Suffolk Broadcasting Corp., Suffolk, Va.—Granted license to cover construction permit as modified for new broadcast station to operate on **1420 kc.**, 100 watts night, 250 watts day, unlimited time; also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (B2-L-1122 and B2-Z-369).

KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Granted authority to determine operating power by direct measurement of antenna power in compliance with Section 3.54. (B5-Z-367).

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54, auxiliary transmitter. (B2-Z-363).

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 6:30 to 10 p. m., CST, on April 1, 1940, in order to broadcast a talk by the State Commander of the American Legion. (P4-S-995).

WEAU—Central Broadcasting Co., Eau Claire, Wisc.—Granted special temporary authority to operate from 7:45 p. m. to 11:00 p. m., CST, on April 5, 6, and 7, 1940, in order to broadcast the Annual District Boxing Tournament of the Catholic Youths Organization in Chippewa Falls. (B-4-S-924).

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 6:30 to 9:00 p. m., CST, on April 5, and 8, 1940, in order

- to broadcast Democratic and Republican political meetings and to operate from 6:30 p. m. to 11:00 p. m., CST, on April 9, 1940, in order to broadcast election returns. (B4-S-995).
- W2XOY—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to relay through high frequency station W2XOY the frequency modulated programs of high frequency station W2XMN, for the period April 1, 1940 to not later than April 26, 1940.
- W2XB—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to relay through television broadcast station W2XB the television programs to be received from the NBC, Inc., transmitter, call letters W2XBS located atop the Empire State Building, for the period April 1, 1940 to not later than April 26, 1940.
- WTAW—Agricultural and Mechanical College of Texas, College Station, Texas.—Granted special temporary authority to operate simultaneously with station WJBO from 7 to 9 p. m., CST, on April 4, in order to broadcast a dinner honoring Postmaster General Farley. (B3-S-394).
- Edwin H. Armstrong, New York City.—Granted extension of special temporary authority to operate frequency modulated transmitter with power of 10 KW on 43 megacycles at the site of transmitter of station W2XMN, Alpine, N. J., to be operated simultaneously with station W2XMN (40 KW on 42.8 megacycles), in order to secure data on overlapping of services between this transmitter and that of the Yankee Network, Inc., high frequency station W1XOJ, for the period ending no later than April 17.
- KSAL—KSAL, Inc., Salina, Kans.—Granted license to cover construction permit (B3-P-2068), as modified, which authorized change in frequency from 1500 kc. to 1120 kc., power from 100 watts night, 250 watts day, to 500 watts night, 1 KW LS, installation of DA. (B4-L-1123). (Action taken by Adm. Board March 30).
- KSAL—KSAL, Inc., Salina, Kans.—Granted authority to determine operating power by direct measurement of antenna power. (B4-Z-371). (Action taken by Adm. Board 3/30).
- WCLS—WCLS, Inc., Joliet, Ill.—Granted special temporary authority to operate from 8:30 p. m. to 10:00 p. m., CST, on April 3 and 4, 1940, in order to broadcast political speeches by the Democratic Central Committee, Hershey for Governor (B4-S-591).
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54 (B2-Z-370).
- WKZO—WKZO, Inc., Kalamazoo, Mich.—Granted license to cover construction permit (B2-P-B-3134) as modified, which authorized change in hours of operation and installation of directional antenna; frequency 590 kc., 1 KW, unlimited time, directional antenna night (B2-L-1113).
- WMBG—Havens & Martin, Inc., Richmond, Va.—Granted license to cover construction permit (B2-P-1912) as modified, for new equipment and increase in power from 500 watts to 1 KW night, 5 KW day, and changes in antenna system; frequency 1350 kc. (B2-L-1120).
- KFRO—Voice of Longview, Longview, Texas.—Denied special temporary authority to operate from 7:45 p. m., CST, to the conclusion of baseball games on April 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29 and 30, 1940, in order to broadcast baseball games as described in letter dated March 21, 1940, only, using power of 250 watts.
- WHP—WHP, Inc., Harrisburg, Pa.—Granted special temporary authority to operate with power of 500 watts nighttime on April 1 and 2, 1940, in order to serve the isolated communities on the Susquehanna River due to present flood conditions (B2-S-343).
- WBZ—Westinghouse Electric & Manufacturing Co., Boston, Mass.—Granted modification of construction permit for move of transmitter, installation of new transmitter and directional antenna, for extension of completion date from April 30, 1940 to June 30, 1940.
- WHN—Marcus Loew Booking Agency, New York, N. Y.—Granted special temporary authority to transmit on April 2 and 3, 1940, play by play hockey broadcasts from Madison Square Garden, New York City to Radio Station CKCL, Toronto, Ontario (B1-S-249).
- WLOG—Clarence R. Frey and Robert O. Greever, Logan, W. Va.—Granted modification of construction permit (B2-P-2340 for authority to erect a new broadcast station) for approval of antenna and approval of transmitter and studio site at Kanada St., Logan, W. Va.; frequency 1200 kc., 100 watts, daytime operation (B2-MP-949).
- KALE—Kale, Inc., Portland, Ore.—Granted license to cover construction permit as modified which authorized move of transmitter, changes in antenna, installation of new transmitter and increase of daytime power from 1 KW to 5 KW; frequency 1300 kc., 1 KW, 5 KW LS, unlimited time (B5-L-1124).
- WDLP—Panama City Broadcasting Co., Panama City, Fla.—Granted license to cover construction permit for new broadcast station, frequency 1200 kc., 100 watts, 250 watts LS, unlimited (B3-L-1126); also granted authority to determine operating power by direct measurement of antenna input in compliance with Sec. 3.54 (B3-Z-373).
- WSAL—Frank M. Stearns, Salisbury, Md.—Dismissed application for voluntary assignment of license of station WSAL from Frank M. Stearns to Eastern Shore Broadcasting Co., Inc., in view of the revocation of WSAL's license which became effective March 31, 1940 (B1-AL-261).
- WLAC—J. T. Ward, tr/as WLAC Broadcasting Service, Nashville, Tenn.—Denied petition of J. T. Ward requesting Commission to classify station WLAC as a I-B station; that it classify WMEX, Boston, Mass., as a II station, and that any application filed by WMEX, which would be in conflict with these prayers, be held in abeyance.

## APPLICATIONS FILED AT FCC

### 560 Kilocycles

- KWTO—Ozarks Broadcasting Co., Springfield, Mo.—Construction permit to change hours from specified (5 a. m. to local sunset) to unlimited time, using 1 KW night, and install directional antenna for night use (requests Class III-B station).

### 570 Kilocycles

- KGKO—KGKO Broadcasting Co., Fort Worth, Tex.—Authority to transfer control of corporation from Amon G. Carter to Geo. B. Dealey, E. M. Dealey, J. M. Moroney and M. M. Donosky, in trust for A. H. Belo Corp., 350 shares common stock (new stock issued).
- WSYR—WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—License to cover construction permit (B1-P-2798) for a new transmitter.

### 580 Kilocycles

- WTAG—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Authority to determine operating power by direct measurement of antenna power.
- WTAG—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—License to cover construction permit (B1-P-2432) to install new transmitter, make change in antenna and increase power.

### 600 Kilocycles

- WMT—Iowa Broadcasting Co., Cedar Rapids, Iowa.—Construction permit to increase power from 1 KW, 5 KW day, to 5 KW day and night, and make changes in directional antenna, night use. Requests III-A station.

### 740 Kilocycles

- WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Modification of construction permit (B1-P-2457) for increase in power, new equipment, move of transmitter and studio, requesting authority to change type of transmitter, and make changes in antenna.

### 850 Kilocycles

- WWL—Loyola University, New Orleans, La.—Extension of special experimental authority for unlimited time for the period 5-1-40 to 8-1-40.

### 890 Kilocycles

- KTKC—Tulare-Kings Counties Radio Associates, Chas. A. Whitmore, Pres., Visalia, Calif.—License to cover construction permit (B5-P-2735) for changes in transmitting equipment.

### 920 Kilocycles

- WAAF—Drovers Journal Publishing Co., Chicago, Ill.—Modification of license to change hours of operation from 6 a. m. to

local sunset, CST, to 5 a. m. to local sunset, CST, for the period 4-28-40 to 9-29-40.

#### 940 Kilocycles

NEW—Carl Sholtz, Ft. Pierce, Fla.—Construction permit for a new broadcast station to be operated on 940 kc., 250 watts, unlimited time. Amended: change studio site to New Ft. Pierce Hotel and transmitter site to Causeway Island, Ft. Pierce, Fla., and make changes in antenna.

#### 990 Kilocycles

WBZ—Westinghouse Electric & Manufacturing Co., Boston, Mass.—Modification of construction permit (B1-P-2161) as modified for new transmitter, move transmitter and install directional antenna, requesting extension of required date of completion date from 4-30-40 to 6-30-40.

#### 1040 Kilocycles

KRLD—KRLD Radio Corp., Dallas, Tex.—Extension of special experimental authority to operate unlimited time, simultaneously with WTIC, for period from 5-1-40 to 8-1-40.

#### 1050 Kilocycles

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Modification of license to change frequency from 1050 kc. to 900 kc., increase power from 1 KW night, 5 KW day, to 5 KW day and night; change time from limited to unlimited time.

#### 1120 Kilocycles

WTAW—Agricultural & Mechanical College of Texas, College Station, Tex.—Modification of license to change specified hours from: Daily except Sunday: 11:25 a. m. to 12 noon; Sunday, 8:30 to 9:30 a. m.; Friday, 4:30 p. m. to 5:30 p. m.; to Daily except Sunday: 6 to 8 a. m., 11:30 a. m. to 12:30 p. m.; Daily except Saturday, 3 to 6 p. m.; Saturday only, 2:30 to 5:30 p. m. (contingent on KTBC license being revoked).

#### 1200 Kilocycles

WFXD—Frank E. Hurt, Nampa, Idaho.—Construction permit to change frequency from 1200 kc. to 990 kc.; increase power from 250 watts to 1 KW; equipment changes; move transmitter from 1024 12th Ave. So., Nampa, to site to be determined, Nampa; install new antenna, and request Class II station.

NEW—Radio Corporation of Orlando, Orlando, Fla.—Construction permit for a new radio broadcast station to be operated on 1200 kc., 250 watts, unlimited time. Amended re transmitter site, west section of city, Orlando, and studio in a downtown hotel, Orlando (requests facilities WLOF).

WDLP—Panama City Broadcasting Co., Panama City, Fla.—License to cover construction permit (B3-P-2213) as modified for a new broadcast station.

WDLP—Panama City Broadcasting Co., Panama City, Fla.—Authority to determine operating power by direct measurement of antenna power.

WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Authority to determine operating power by direct measurement of antenna power.

#### 1210 Kilocycles

WFTM—Fort Myers Broadcasting Co., Fort Myers, Fla.—License to cover construction permit (B3-P-2444) as modified for a new station.

#### 1280 Kilocycles

KLS—S. E. Warner & E. N. Warner, d/b as Warner Brothers, Oakland, Calif.—Construction permit to increase power from 250 watts to 1 KW, install new transmitter and make changes in antenna.

#### 1290 Kilocycles

WEBC—Head of the Lakes Broadcasting Co., Duluth, Minn.—Construction permit to increase power from 1 KW night, 5 KW day to 5 KW day and night and install directional antenna for night use. Requests Class III-A station.

#### 1310 Kilocycles

WHAT—Independence Broadcasting Co., Inc., Philadelphia, Penna.—Authority to transfer control of corporation from Bonwit-Teller & Co. of Philadelphia, to Philadelphia Record Company, 200 shares common stock.

NEW—Keys Broadcasting Co., Key West, Fla.—Construction permit for a new broadcast station to be operated on 1310 kc., 250 watts, unlimited time. Amended: Change transmitter site to Wm. R. Porter's Lime Grove, Flagler Ave. or County Road, Key West, Fla., and make changes in antenna.

#### 1320 Kilocycles

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

WSMB—WSMB, Inc., New Orleans, La.—License to cover construction permit (B3-MP-867) for increase in power and changes in antenna.

#### 1340 Kilocycles

WPAB—Portorican American Broadcasting Co., Inc., Ponce, Puerto Rico.—Modification of construction permit (B-P-2389) for a new station, requesting approval of antenna and approval of studio site at 18 Leon St., Ponce, Puerto Rico, and transmitter site at Playa, Ponce, Puerto Rico.

#### 1350 Kilocycles

WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit (B1-P-1527) for increase in power, move of transmitter, installation of new transmitter, changes in directional antenna, further requesting authority to install new type of transmitter.

#### 1370 Kilocycles

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

#### 1420 Kilocycles

WMBC—Michigan Broadcasting Co., Detroit, Mich.—Construction permit to change frequency from 1420 to 1220 kc. (under North American Regional Agreement), increase power from 250 watts to 50 KW, move transmitter from 7310 Woodward Ave., Detroit, Michigan, to near Plymouth, Michigan, install new equipment and directional antenna for day and night use. Request Class II Station.

WKIP—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—Modification of construction permit (B1-P-2446) as modified for new station, requesting change in type of transmitting equipment, extend commencement and completion dates to 120 days after grant and 180 days thereafter.

NEW—Dora Catherine S. Moss, Macon, Ga.—Construction permit for a new radio broadcast station to be operated on 1420 kc., 250 watts, unlimited time.

#### 1500 Kilocycles

KSAL—KSAL, Inc., Salina, Kans.—License to cover construction permit (B4-P-2068) as modified to change frequency, make changes in equipment, install directional antenna for night use and increase power.

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

NEW—Greenville Broadcasting Co., Greenville, S. C.—Construction permit for a new radio broadcast station to be operated on 1500 kc., 100 watts night, 250 watts day, unlimited hours. Class IV. Amended: To request 250 watts day and night and specify transmitter site as Poinsett Hotel, corner Main & Court Sts., Greenville, S. C.

NEW—Milburn H. Stuckwisch & Harry C. Stuckwisch, d/b as Tyler Broadcasting Co., Tyler, Texas.—Construction permit for a new broadcast station to be operated on 1500 kc., 250 watts, unlimited time. Class IV station. (Facilities of KGKB if KGKB's license is revoked.)

#### MISCELLANEOUS

NEW—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Construction permit for a new high frequency broadcast

station to be operated on 43200 kc., 1000 watts, unlimited time, special emission for frequency modulation. Amended: To request 42800 kc.

- NEW—The Liberty Life Insurance Co., Columbia, S. C.—Construction permit for a new high frequency broadcast station to be operated on 43200 kc., 1000 watts, special emission for frequency modulation.
- NEW—Washington Institute of Technology, Inc., College Park, Md.—Construction permit for a new high frequency broadcast station to be operated on 42800 kc., 1000 watts, special emission for frequency modulation.
- NEW—WFIL Broadcasting Co., Philadelphia, Pa.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts, special emission for frequency modulation.
- WSUI—State University of Iowa, Iowa City, Iowa.—Modification of construction permit (B4-P-2260) for a new transmitter, directional antenna, increase in power, move of transmitter, further requesting increase in power from 1 KW, 5 KW day, to 5 KW day and night; make changes in directional antenna and extend commencement date to 60 days after grant and completion date 180 days thereafter. Requests Class III-A station.
- NEW—Houston Printing Corp., Houston, Tex.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts, special emission for frequency modulation.
- NEW—The Sun Publishing Co., Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on 30820, 33740, 35820, 37980 kc., 15 watts, Emission A3, area of Jackson, Tenn.
- W3XMC—McNary & Chambers, Washington, D. C.—License to cover construction permit (B1-PHB-86) as modified for a new high frequency broadcast station.
- NEW—WIBX, Inc., Deerfield, N. Y.—Construction permit for a new high frequency broadcast station to be operated on 43400 kc., 1 KW power, unlimited time, special emission for frequency modulation. Amended: transmitter site, Smith Hill, Town of Deerfield, N. Y.
- NEW—Drivers Journal Publishing Co., Chicago, Ill.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1 KW, special emission, to be located at a site to be determined, Chicago, Ill.
- NEW—C. C. Dues and W. H. M. Watson, d/b as El Paso Amusement Co., El Paso, Tex.—Authority to transfer programs to Juarez, Mexico, from El Paso, Tex.
- NEW—Knickerbocker Broadcasting Co., Inc., Kearny, N. J.—Construction permit for a new high frequency broadcast station on 43600 kc., 1 KW, special emission. To be located at Belleville Turnpike, Kearny, N. J.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**Logan-Cache Knitting Mills**—Charging misrepresentation through simulation of a competitor's trade names, a complaint has been issued against Logan-Cache Knitting Mills, Logan, Utah, manufacturer and distributor of women's knitted suits, dresses and sweaters and a dealer in other apparel and merchandise.

The complaint alleges that the respondent's trade name, Logan-Cache Knitting Mills, so closely imitates that of its 14-year old competitor, Logan Knitting Mills & Garment Company, also of Logan, Utah, and the latter's trade-mark "Loganknits," as to confuse buyers into believing that by purchasing respondent company's knitted wear they are obtaining the product of Logan

Knitting Mills & Garment Company, and that the respondent is the manufacturer of a well known line of knitted wear widely advertised and sold by the Logan Knitting Mills & Garment Company under its established trade-mark "Loganknits."

It is alleged that the respondent furthered the erroneous impression through inserting in its advertisements of knitted wear statements containing the words "Logan Knits" in simulation of its competitor's trade-mark, and through representations of its salesmen, made both by direct statement and concealment of the truth, that they sold products manufactured by Logan Knitting Mills & Garment Company.

A further allegation is that the respondent corporation falsely represented itself as "The Old Reliable Since 1890" and as "Pioneer Knitters of The West." (4075)

**Murine Company, Inc.**, 660-678 North Wabash Ave., Chicago, is charged in a complaint with misrepresentation in the sale of "Murine," a drug preparation for treating the eyes.

Through the use of newspaper, periodical, radio and circular advertisements, the respondent is alleged to represent that "Murine" is a cure, remedy and competent treatment for eye strain caused by excessive use of the eyes, and that the preparation will prevent eye strain due to dust, sun, light glare, driving, movies, reading, sewing, and other excessive uses of the eyes, and quickly relieve and eliminate the irritation and eye strain which they cause.

The complaint alleges that the respondent's preparation is not a cure, remedy or competent treatment for eye strain caused by excessive use of the eyes; that after strain caused by excessive use or uncorrected defects in focusing, the instillation of the respondent's preparation into the conjunctival sac of eyes so afflicted will have no effect other than that of affording a sensation of refreshment; that the respondent's preparation will not prevent eye strain due to the several causes mentioned, and will not relieve or eliminate irritations in excess of affording a temporary sensation of refreshment to the eyes. (4076)

**Popular Publications, Inc.**—Misrepresentation of imitation stones in the sale of jewelry is alleged in a complaint issued against Popular Publications, Inc., 205 East 42d St., New York.

The respondent allegedly advertised that imitation stones contained in its "Lucky Birthstone Rings" were respectively the real stones identified as the birthstones of the different months of the year, such as garnet, amethyst, jasper or bloodstone (aquamarine), diamond or sapphire, emerald, agate, turquoise, carnelian, chrysolite, beryl, topaz and ruby. (4077)

**Purex Corporation, Ltd.**—A complaint has been issued against Purex Corporation, Ltd., 1001 East 62d St., Los Angeles, alleging misrepresentation in the sale of "Purex," a chemical preparation intended for use as a germicide.

The respondent corporation allegedly advertised its preparation as a "most powerful germicide" and represented that a solution made by adding two tablespoons of Purex to a gallon of water will, when applied externally to livestock and other animals, destroy bacteria and disinfect any surface cuts or sores, and that such solution will prevent the spread of bacteria and will destroy bacteria on metal or wood equipment.

The complaint alleges, however, that while the preparation possesses germicidal properties, the solution in question is wholly ineffective, and that in order for a solution of Purex to constitute a competent and effective germicide or disinfectant, it would have to contain at least 10 per cent of the respondent's preparation in its undiluted form. (4074)

**Sohn Bros.**—See Sohn & Company, Inc.

**Sohn & Company, Inc.**—Two Chicago manufacturers of mattresses and bedding have been charged in complaints with misleading representations in the sale of their products. The respondents are Sohn & Co., Inc., and Benjamin, Morris and Isadore Sohn, officers and directors, trading as Sohn & Co., Inc., 1450 West Roosevelt Road, and Arthur and Carl Sohn, trading as Sohn Bros., 1709 West Roosevelt Road.

The respondents allegedly buy old, second-hand, used and discarded cotton and other used materials which they comb by machinery, rework and use in the manufacture of mattresses and



bedding which are equipped with new coverings, the finished products having the appearance of new mattresses. These products, it is alleged, are then sold to wholesalers and jobbers and to retailers and other purchasers, who resell them to the purchasing public, without any marking clearly stamped thereon to indicate to such purchasers that they were made from old and previously used materials.

It is alleged that certain of the mattresses so manufactured and sold by the respondents have stamped on them the phrase "Made of Previously Used Materials," but in letters illegible and so inconspicuous that they cannot be read by the purchasers. (4072-4073).

## CEASE AND DESIST ORDERS

Following cease and desist orders have been issued during the past week:

**Consolidated Silver Company of America**—William M. Irvine, trading as Consolidated Silver Company of America, 7338 Woodward Ave., Detroit, has been ordered to discontinue misleading representations in the sale to retail merchants in several States of a promotion plan for their use in selling merchandise to the public. The respondent also sells silverware, promotion cards, gift cards, certificates redeemable in silverware, and other materials for use in effecting the plan.

Commission findings are that the respondent's agents, who sell the plan, are supplied with order blanks, contract forms and other advertising literature which facilitate misrepresentation as to the character of the plan and that the respondent's representations, among other things, have a tendency to mislead retailers and other buyers believing they are participating in a bona fide sales stimulation plan in connection with the advertising of William A. Rogers silverware, when in fact such purchasers are merely buying such ware from the respondent, who is in no way connected with the manufacturer of William A. Rogers silverware other than as an indirect purchaser therefrom.

The Commission order prohibits the claim that the respondent represents or has any connection with the manufacturer of William A. Rogers silverware, or conducts special or advertising campaigns to introduce merchandise on behalf of the maker of Rogers ware or any other manufacturer, but contains a proviso that the order shall not be construed as restraining the respondent from dealing in Rogers ware.

Other representations to be discontinued are that sales cards, gift cards, premium certificates, or other similar devices can be redeemed in silverware or other merchandise, unless all terms and conditions are clearly stated without deception; that the respondent will refund any sum to dealers on the redemption of a specified number of cards or certificates, when such refund actually is not made (any conditions in connection with the refund to be clearly stated without deception); that he will give silverware or other merchandise free, when it is not actually so given; will advertise his plan locally for dealers or assist them in putting it into operation, when in fact he neither conducts such advertising nor renders such assistance, and that he will supply dealers with display sets of silverware or other merchandise for use in putting the plan into operation, when such sets are not supplied as represented. (3789)

**H. K. Patch Company**—Patch Premek Corporation.

**Patch Premek Corporation**—Misrepresentation in the sale of a medicinal preparation is prohibited under an order issued against Patch Premek Corporation, 1716 East Seventh St., Los Angeles, and H. K. Patch, its president, who also trades under the name of H. K. Patch Company.

Among claims found to have been made by the respondents in advertising matter were that their preparation known as "Premek 33," which is also sold to the medical profession as "C. S. 53," is an amazing new discovery effective for ending all kinds of irritations and capable of curing eczema, athlete's foot, dhoobie, chafing, shingles, ringworm, and various other irritations and conditions.

Commission findings are that the only ingredient in the respondents' product which is of consequence therapeutically is colloidal or finely divided sulphur, which is neither new nor an amazing discovery, and that the preparation is not a quick or

effective treatment for the conditions mentioned, although it may also be used as an accessory treatment for some ailments resulting from superficial causes.

The Commission also finds that the respondents' false advertisements induce or are likely to induce, directly or indirectly, the purchase of a drug.

The order directs the respondents to cease and desist from disseminating advertisements which represent, directly or through implication, that their preparation is a cure or remedy for such various ailments and conditions, or that it constitutes a competent or effective treatment for any of them other than to serve as an accessory treatment for those which are due to superficial or external causes only.

Other representations ordered discontinued are that the preparation is a bactericide or will prevent reinfection; that its use will stop perspiration or prevent body odors, and that it is a "new" or an "amazing" discovery. (3469)

**V. Portnoy & Sons, Inc.**, trading as Roosevelt Mercantile Company, 566 Roosevelt Road, Chicago, has been ordered to discontinue misrepresentations in the mail order sale of clothing and other merchandise.

Among representations found to have been made in advertising were that the respondent ships the kind of merchandise pictured in its literature; single garments may be obtained in all sizes, colors or styles; its new merchandise is of the latest style; its slightly used merchandise is always cleaned, pressed and repaired by its own expert craftsmen; it guarantees to replace unsatisfactory merchandise; its buying connections throughout the country enable it to purchase quality goods at prices lower than can all of its competitors, and purchasers of its merchandise can make large profits by reselling it.

The Commission finds the respondents' representations are misleading and untrue, as the pictures in its advertising literature are not representative of its merchandise which is often pictured as being new, clean, stylish and modern when in fact the products shipped in response to mail orders are in most instances used, dirty and unfashionable; articles shipped are usually whatever the respondent had on hand whether in the size, style or color requested or not; unsatisfactory articles returned are replaced with garments equally as unsatisfactory; used merchandise sold is rarely clean, pressed and repaired by the respondent before shipping; the respondent does not employ expert craftsmen, and has no special buying connections but purchases from peddlers, junk dealers and charitable organizations and occasionally buys new goods from wholesalers who come to its door. (3576)

**Roosevelt Mercantile Company**—See V. Portnoy & Sons, Inc.

**Madame Marguerite Turmel, Inc.**, 256 West 31st St., New York, trading also under the names Madame Marguerite Turmel and Madame Turmel, has been ordered to cease misleading representations in the sale of "Knogray," a treatment sold for coloring gray hair or streaked or faded hair.

The order directs the respondent to cease representing that its preparation will color the roots of the hair or have any effect thereon or on new hair growth, or will restore the natural or original color to the hair, or affect the color of the hair in any way other than as a dye.

The respondent also is ordered to desist from the claim that the preparation is not a dye or is anything other than a dye, and that anything less than repeated applications of the preparation will cause the hair to retain the color imparted to it by the preparation. (3513)

**Valligny Products, Inc.**, 254 West 31st St., New York, have been ordered to discontinue misrepresentation in the sale of "Shampoo-Kolor," a hair treatment.

Shampoo-Kolor, according to Commission findings, was advertised, directly or by implication, as being capable of coloring the roots of the hair, affecting the color of new growth hair, and eliminating the necessity for repeated applications in order to prevent the new growth from showing gray, streaked or faded above the scalp-line.

Other representations found to have been made were that use of the preparation causes the natural color to be restored to the hair; that the preparation is made in France and is uniquely different or entirely revolutionary in methods or results.

The Commission found the respondent's advertisements to be exaggerated and misleading and ordered it to cease and desist from representing (1) that Shampoo-Kolor will color the roots of the hair or have any effect thereon or on new hair growth, or restore the natural or original color to the hair, or affect the color of the hair in any way other than as a dye; (2) that anything less than repeated applications will cause the hair to retain the color imparted by the preparation; (3) that the preparation is compounded or manufactured in France or in any country other than the United States, and (4) that it is "unique" or "revolutionary" in methods or results. (3602)

**Washington Laundry**—Joseph T. Gibbons, trading as Washington Laundry, 2627 K St., N. W., Washington, D. C., has been ordered to discontinue certain misleading representations in connection with the interstate activities of his laundry, dry cleaning and dyeing business.

The respondent is directed to cease representing that wearing apparel and other articles delivered to him for laundering or cleaning will be washed with "Ivory Soap" or any designated cleaning agent, when such wearing apparel and other articles are not washed or cleaned with that soap or a particular cleaning agent designated. (3930)

### STIPULATIONS

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

**Charles E. Hires Company**, Philadelphia, Pa., agrees to cease advertising that its "Hires R-J Root Beer" will preserve the alkaline reserve; has the same alkaline reaction as orange juice and in the same manner aids in maintaining the alkaline balance; is healthful because it is not acid forming, and agrees with foods because it is not acid forming. (02534)

**MacFadden Book Company, Inc.**, New York, N. Y., in the sale of a book embracing a system of eye exercises, entitled "Strengthening the Eyes," agrees to cease advertising that its book is based upon new facts or that the advice or exercises are new or revolutionary; that by following the advice and exercises a person with weak or defective vision may quickly train any of the muscles of his eyes so as to correct such defects; that exercise is the only real help in cases of impaired vision; that use of the respondent's method will enable one to obtain perfect eyesight either with or without the use of glasses, and that as a result of the use of this method those who have used glasses to overcome the effect of faulty refraction, far or near sightedness, astigmatism, squint eyes, cross eyes, weak, watering eyes, poor vision, eye headache or strain, can generally remove these defects and be relieved of the necessity for wearing glasses. (02533)

**Miracle Dry Shaver Corporation**, 36 South State St., Chicago, and J. M. Friedman, its president and owner of most of its capital stock, have made a stipulation in which they agreed to discontinue misleading representations in the sale of an electric razor of the dry shaver variety.

The stipulation points out that the same quality of razor was sold by the respondent for \$10 under the trade name "Miracle", and for \$15 under the trade name "Shave King."

The respondents agree to cease selling or supplying others with products to which are affixed, or which are referred to by means of, any price purporting to be the retail selling price, when in fact such price is not the regular retail price, or is in excess of the customary retail price. (2722)

**National Academic Cap & Gown Company**—Emanuel and Daniel Cohen and Abraham Kadis, trading as National Academic Cap & Gown Co., Philadelphia, Pa., agree to cease employing the word "Silk," either independently or as part of the trade designation "Silk Neu Faille," or in conjunction with any other words in advertisements or otherwise, to designate fabrics not made of silk, and to discontinue selling any product made of rayon without disclosure of the fact that the material of which it is composed is rayon, such disclosure to be made clearly and unequivocally in invoices, advertising matter, sales promotional descriptions, or other designations. (2720)

**Princeton Knitting Mills**—Louis Rubin, sole trader as Princeton Knitting Mills, Philadelphia, Pa., manufacturer and distributor of sweaters and swimming suits, stipulates that he will desist from the use in advertising matter or otherwise of the legend "100% Wool" as descriptive of bathing suits or other garments not composed wholly of wool; or from use of the word "Wool" in any manner implying that the garment referred to is composed entirely of wool when an integral part of it is made of other fibers. The stipulation provides that if the body of the garment is properly represented as "Wool," but the supporter, plaque or reinforcement is of other material, then the word "Wool" shall be immediately accompanied by suitable phraseology, in type equally conspicuous, indicating clearly that such designation does not apply to the supporter, plaque or reinforcement.

The respondent also agrees to discontinue branding or selling any product, an integral part of which is composed of rayon and other kinds of fibers or substances, without full and non-deceptive disclosure of the rayon and other content of the product, made by accurately designating each constituent fiber thereof 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 a proportion of 5 per cent or less by weight. (2721)

**Sears, Roebuck & Co.**, Chicago, has entered into a stipulation in which it agrees to cease misleading representations in the sale of marble and granite monuments.

The respondent stipulates that it will cease the use in advertising matter of the words "lasts forever" or "eternally beautiful" or other words of similar meaning so as to imply that the monuments or markers to which such words refer will last forever or throughout long periods of time beyond their provable capacity of endurance.

The respondent also agrees to discontinue representing that lettering and ornamentation will show up better on blue vein Vermont marble than on "any other kind", including by inference all other kinds of blue marble, when such is not a fact. The stipulation points out that while the blue vein Vermont marble has an advantage over white marble in the matter of lettering and ornamentation, the same is true of any other blue marble, wherever quarried. (2723)

### FTC DISMISSES COMPLAINT

The Federal Trade Commission has dismissed a complaint charging Oppenheim, Collins & Co., Inc., 33 West 34th St., New York, with misleading representation of furs and fur garments.

The dismissal order recites that the respondent had discontinued the practices complained of before or about the time such practices became the subject matter of an investigation by the Commission, that there is no reason to believe that the practices will be resumed, and that the advertising matter in question was changed prior to promulgation of, and is in conformity with, the trade practice rules now in effect for the fur industry.



## Television

So loud was the protest this week against the FCC's television policy that both President Roosevelt and Congress concerned themselves with it.

After a talk with the President on Thursday, Chairman Fly was quoted by the newspapers as having said:

"We are hopeful that within a few months we will have television receivers capable of receiving all transmitters. \* \* \*

"As soon as the industry is ready to go ahead, the Commission is, too."

A few hours later, however, Mr. Fly issued a statement saying that nothing he had said (to the White House newspapermen) should be construed as indicating what action the Commission would take.

"It is hazardous to conjecture now when proper standardization may be achieved and commercial operations undertaken," he said.

The FCC chairman's White House visit followed the conclusion of a hearing by the Senate Interstate Commerce Committee on a resolution by Senator Lundeen (FL-Minn) calling for an investigation of the Commission's television policy.

Mr. Fly and David Sarnoff, RCA president, were the principal witnesses at the hearing, although the committee received a letter from Commissioner T. A. M. Craven, stating that he took issue with two of Mr. Fly's statements. Counsel for Dumont and Farnsworth interests also testified.

Meantime, the Commission proceeded with its television hearing which started Monday. This hearing was called when the Commission suspended its February 29 order, permitting limited commercialization of television starting next fall.

This order was suspended, it was said, because RCA's merchandising plans would tend to "freeze" television at its present state of development.

Senator Lundeen's resolution followed—as did a proposal by Senator Barbour (R-NJ) to amend the Communications Act specifically to forbid the Commission

from interfering with "radio experimentation, research, or development, or the manufacture, sale, or use of any apparatus" for radio transmission or reception.

While newspapers throughout the country were berating the Commission editorially, Representative Cox (D-Ga) raised a lone voice in the Commission's defense and Representative Connery (D-Mass) introduced another resolution calling for an investigation of radio monopoly.

### Mr. Sarnoff's Statement to Senate Interstate Commerce Committee

Inasmuch as hearings are still proceeding on the order issued by the Federal Communications Commission on March 22, 1940, I take it that your Committee is primarily interested in hearing from me an affirmative statement of the position, plans, and policies of the Radio Corporation of America with regard to television. The solution of this problem insofar as the regulatory function of the Commission is concerned, lies in action, not in words. Our company has never questioned the jurisdiction of the Federal Communications Commission with respect to the powers given it by Congress to license television or other radio transmitters. We have no views to express as to whether any act of the Commission will advance or retard the creation of this great new art, until such action is made clear as the result of the current hearings.

The Board of Directors and the Management of the Radio Corporation of America are of the considered opinion that television offers the opportunity for the creation of a new industry, new employment and new services; that its introduction now is not only timely but important; and that substantial progress in the art can come only after its introduction upon a commercial basis. The four main questions with regard to television, judging from current discussion, are:

- (1) Should the introduction of television on a commercial basis wait until all the engineers of the entire industry have agreed on technical standards of transmission and reception?
- (2) Would further research be retarded by the sale and public acceptance of the television receivers now on the market?
- (3) Will the public suffer from excessive obsolescence due to improvements in the new art?
- (4) Will competition be helped or hindered through the commercial introduction of television by those in the industry who are now ready, able and willing to go ahead?

I propose to deal with these four questions in order.

#### I.

The Radio Corporation of America believes that in an art such as television there can be no shorter cut from promise to performance than through the process of laboratory development, field test, and service to the public.

If the industry is left free to determine, through experimentation and test, the competitive advantages of every system, the practical standards prevailing in any given period will represent the best that the art has attained.

The Radio Corporation has never proposed nor urged the freezing of standards. Nor is such action necessary to create the television industry and the new public services that would flow from it.



1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

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

## TELEVISION

(Continued from page 4163)

### II

It is a fallacy to assume that the commercial introduction of television, on any standard now conceivable, would affect the continuance of research in this art, or prevent the adoption of higher standards of service and performance.

The triumph of television lies in the fact that science, research and experimentation have made possible the addition of the electrical eye to the electrical ear in radio.

Because it recognized this as a fundamental development, the Radio Corporation of America has invested more than \$10,000,000 in research, development, experimentation, patents, field tests, and actual program service. For more than ten years, five major engineering groups of the RCA organization, including its broadcasting and manufacturing, have been engaged in a coordinated attack on the problems of transmission, reception, tube development, radio relaying and programming. Hundreds of engineers have been engaged in developing television, and the current rate of expenditure for this work by the Radio Corporation of America alone is about \$2,000,000 annually.

But these expenditures are only a drop in the bucket to what will be required for further research and development in the next twenty years. Almost two decades have elapsed since the introduction of sound broadcasting on a commercial basis, but improvement still continues; and I can safely say there is little we have achieved today that will survive the next ten years.

The television research achievements by the Radio Corporation of America to date have been set forth publicly in 229 papers and reports to scientific societies, 671 additional technical reports, and two major textbooks, a total of approximately 1,000 engineering studies. We believe that, far from retarding the achievement of higher standards of television transmission, the Radio Corporation of America has done more to develop high television standards than any other organization in the United States.

And while on the subject of research let me refer to the importance of increasing not merely the size of the television picture, but of the television audience—in other words, to give more people in more communities the opportunity to enjoy television, and to participate in its activities. I submit that a greater public interest will be served at this time by research toward the methods that would extend television service to as many homes as possible, rather than in improvements that would merely add to the size or the definition of the picture now enjoyed by the few.

To meet this need the Radio Corporation of America has developed a radio relay system designed to extend the service of television to the public on a nationwide basis.

The Radio Corporation of America is ready, if commercial television is authorized, to ask for a license from the Federal Communications Commission for the construction of such a radio relay system, using higher frequencies than have ever before been utilized. Such facilities could serve broadcasters with programs moving simultaneously in both directions.

Home television receivers giving pictures as large as 18 x 24 inches are now being developed in our laboratories. We shall also soon make available theater television receiving equipment which will project pictures upon full size motion picture screens.

### III

In every step it has taken in the development of television, the Radio Corporation of America has kept faith with the public. During the years that it has spent millions in the furtherance of this project, its statements have been so conservative as to its

achievements that it has had to meet the false charge of holding back the art for commercial reasons. In the few transmission areas in which television service is available, every school boy knows the limitation of program, broadcasting time, size of picture, and similar details. The modern television receiver is not sold sight unseen in a package over the grocery store counter. It is sold after demonstration, and very considerable demonstration, which familiarizes the user exactly with the service he is to receive.

The purchaser of such a set knows exactly what he is paying for. He is paying for the unique privilege of seeing what is important or interesting today in a program of news, information, entertainment, education and sports—events which he cannot witness tomorrow or next year, however great the technical improvements that may or may not be made in the meantime. The miracle of sight transmitted through the air should not be treated on the same basis of obsolescence as a Spring hat or furniture.

Nothing that would make present television equipment of continuing value to the purchaser has been neglected by the Radio Corporation of America. In the first place, the standard set offered to the public at the lower prices made possible by commercial production, includes not only sight reception but the most modern sound receiver the Company has been able to produce. Even if higher standards should entail ultimate obsolescence of the television element, the purchaser would still have a first class receiving set with sound reception on three bands—international short wave, standard broadcasting, police and aviation—unaffected by any changes in television transmission.

But sufficient experience has been gained, both with regard to television reception and transmission, to enable this Company as well as other manufacturers to make changes economically in equipment that has been sold to keep it up to date. From what we know today, the possible improvements which might affect television receivers would concern: (a) the number of picture lines; (b) the number of pictures per second; and (c) synchronization.

While a radical change in these particulars might make present-day television receivers temporarily inoperative, we know that they could be modified at moderate cost to adapt them to any new method now on the horizon. The cost to the consumer, if all the changes under discussion were adopted, would be about \$40, and it is our conviction that all of these changes will not have sufficient merit to warrant adoption.

Finally, we have, without obligation on our part, refunded to our pioneer purchasers amounts equal to the reduction in price made possible by commercial production. In some cases these refunds amounted to \$205 per instrument sold.

### IV

The Radio Corporation of America welcomes the keen competition promised in the industry in the development of the television art. The promise of this competition is increased, not lessened, by the present disagreement among a few engineers as to standards of transmission and reception, and the methods by which the highest standards may best be achieved.

The phenomenal growth of radio in our country is due largely to the fact that the industry has had available, through licensing, the many inventions developed by those who spent millions of dollars to bring the art out of the laboratory and into commercial use. About 50 manufacturers are licensed by the Radio Corporation under its own patents and also under those of other domestic and foreign companies from which the Radio Corporation has acquired the right to grant such licenses.

It is the firm belief of the Radio Corporation of America that a truly new industry and new service and new employment could be created on a scale that would affect our whole economy, through the development of television that would give our own country leadership in this new art. I believe that, given the opportunity, American ingenuity and enterprise can, in a reasonable time, develop a new industry in television amounting to a billion dollars annually.

It is our opinion that this could be done without undue disturbance to the present broadcasting structure. But this achievement is impossible unless we show the courage that has made this country the radio center of the world.

## Fly Testifies; Sarnoff Cross-examined

Before Mr. Sarnoff testified, Fly had defended the Commission's recent order reopening the television inquiry on the ground that RCA's commercial promotion of receivers was threatening to

"freeze" development and load the public with sets that may soon become obsolete.

Chairman Burton K. Wheeler sought several times to persuade Sarnoff to agree to alter the design of the RCA television receivers so that they could receive any current system of visual broadcasting. The Senator expressed the opinion that this would remove the cause of the dispute.

### Cites Price Increase

Sarnoff insisted the additional expense of \$20 to \$40, which would be represented in an increase in the sales price is not warranted, as competing systems do not have television stations in operation except in a very limited experimental capacity.

Fly retorted that the FCC shortly would grant transmission licenses to sponsors of television transmission different from that used by RCA, Allen B. Du Mont, of Passaic, N. J., chief rival of RCA in the current fight, has an application for a permit to erect a station in New York.

At the conclusion of his testimony, Sarnoff engaged in a sharp exchange with William A. Roberts, attorney for Du Mont, who challenged some of the RCA president's statements. When Sarnoff retorted that Du Mont was owned by Paramount Pictures, Roberts denied it but admitted the motion picture company has backed Du Mont financially.

Chairman Wheeler and other members raised the question as to why Great Britain had enjoyed television for two years prior to the outbreak of the war.

Sarnoff replied that England's progress was due to the fact that a government commission investigated all phases of the art and then fixed transmission standards for a specified period.

Sarnoff termed ridiculous the contention of FCC that the sale of a projected 25,000 television sets in the New York area would "freeze" transmission standards and halt further research. He pointed out that experimentation in frequency modulation is going ahead although none of the 40,000,000 standard radio receivers will be able to tune in FM stations.

He hotly denied that RCA was trying to obtain monopoly of the infant industry when Wheeler said such charges were being made against the corporation.

### Craven's Letter

April 11, 1940.

Honorable Burton K. Wheeler,  
United States Senate,  
Washington, D. C.

MY DEAR SENATOR WHEELER:

Referring to telephone conversation of last night concerning my request for a postponement of the hearing of the Interstate Commerce Committee on the matter of television, I beg to inform you that the disputed television hearings are now in progress before the Commission. Today, which is coincidental with the hearing before the Interstate Commerce Committee, the most important engineering testimony is to be given. I am unable to recess the Commission's hearing and feel that my duty compels me to be present when the engineering testimony is given.

On the other hand, I feel it my duty to be present at your Committee meeting in response to your request, and also, I have no desire whatsoever to be discourteous to any individual of the Senate.

Since these two duties conflict, I hope that, as per my request of last night, it will be possible to delay the Interstate Commerce Committee meeting until some later date. I am willing to appear and testify any time the Committee may desire.

I have called Senator Lundeen, who I understand was responsible for requesting my presence, and while he appeared to be disappointed, I am certain that he understands the difficult situation caused by these conflicting duties. He suggested that I use my own judgment in the matter.

There are two matters which I understand were advanced in yesterday's hearings of your Committee, which should be clarified.

The first is that I responded to an official written request from a United States Senator to give my reasons for my dissent in the disputed television order of the Commission. Being in public office and a Commissioner in an independent agency authorized by Congress, I feel that not only courtesy to the legislative body but also duty compels me to reply to requests from Senators on matters such as in the instant case. It should be made clear that I did not voluntarily write to any Senator concerning matters under dispute in the Commission.

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The second clarification of the record pertains to the statement of Chairman Fly of this Commission to the effect that I had not filed a dissenting opinion with the Commission in this matter. It is not usual in such matters as this, which is not a judicial proceeding, for members of this Commission to file written dissenting opinions. However, as the enclosed minutes of the Commission will show, I voted "no" when the decision to issue Order No. 65 was reached. Furthermore, I gave my reasons orally to the Commission at that time, and suggested that the Commission postpone action until sufficient time had elapsed for second thoughts. Furthermore, I urged the Chairman personally not to take the action which the majority has taken. I also suggested to the Chairman that if the majority was insistent upon taking some action, it modify the original action taken.

I hope that you will either clarify the record in the foregoing respects, or permit me at some later date to testify under oath with respect to the matter.

Very respectfully yours,

T. A. M. CRAVEN,  
*Commissioner.*

Enclosure.

P.S. I wish to call particular attention to the fact that as late as 10:30 a. m., March 23, the day the order was published, I pleaded with the Chairman of this Commission to either delay or modify the action taken.

### Lundeen's Radio Speech

April 6, 1940

Permit me to thank Mutual Broadcasting Company and the National Broadcasting Company for this opportunity to discuss the current confusion over the development of television. A member of the Interstate Commerce Committee of the United States Senate, to which all radio legislation is referred for detailed study and consideration, must keep abreast of radio developments. The seriousness of the television crisis of the moment is impressed upon me by the current disturbed feeling in advertising circles.

During a session of Congress, we find it physically impossible to engage in much research on economic trends and yet we must be informed. We must work out some satisfactory system to keep reasonably well informed on what the "feel" is in business circles.

Keeping in touch with the advertising world gives a quick and reliable insight into what the future may hold by way of business improvement or retrenchment. Trends up or down in advertising constitute an excellent barometer of the thinking among men who guide American industry, the men who really determine the size of payrolls. There never was or never can be a substitute for jobs in private industry as the key to national prosperity. The simplest way for me to keep in touch with advertising is to read advertising trade papers.

Here is the heading from the leading story in the last issue of ADVERTISING AGE, a national newspaper of advertising:

"FCC's Drastic Stand on Television Stuns Trade—RCA Cancels Advertising; Dealers Utter Lamentations."

Listen to the first paragraph of that story:

"Television, the lusty infant that was being groomed to discard its swaddling clothes, this week appeared destined to

continue in diapers, at least until settlement of the industry row caused by the Federal Communications Commission's order rescinding a previous order that would have permitted limited commercial sponsorship beginning September 1."

On reading that pessimistic report from an advertising paper, I decided it was a duty to look into the situation. Securing copies of orders and press releases on television from the Federal Communications Commission, here is what we found:

After extensive hearings, the Commission on February 29 of this year issued an order permitting limited commercial operation of television after September 1. This was immediately followed by a step-up in manufacturing operations of companies producing television receiving sets, accompanied by advertising and sales campaigns. Then on March 22, less than a month later and when the manufacturing and sales efforts were really getting underway, the Commission—without a hearing of any sort—suddenly rescinded its order of February 29 and stopped television development in its tracks pending more hearings to begin April 8. According to BROADCASTING, national radio magazine, this action jeopardizes the jobs of some 1,000 employees of one company alone, one that has spent \$10,000,000 on television. The Commission did not claim that unexpected technical developments justified these new hearings with the attendant delay and confusion. Its only explanation, as given in a press release, was some criticism certain members of the Commission had of the marketing campaign of one of the manufacturers of television sets.

Having had a hand in passing the law under which the Federal Communications Commission operates, I knew of no authority Congress had given the Commission to regulate, control or supervise the marketing of radio or television receiving sets. On the contrary, authority to cope with misleading advertising rests in the Federal Trade Commission. In fact, just a week earlier the Supreme Court of the United States handed down a decision in which the Court stated that the Communications Act does not essay to regulate the business of the licensee.

A new industry is being throttled by a government bureau exercising power never granted by Congress. My feeling in this regard was strengthened when I read an editorial in the *Washington News*, a Scripps-Howard newspaper, which observed as follows on this action by the FCC—

"In this, the bureau designed to allocate wave lengths—an obviously necessary job, since wave lengths are limited—arrogates to itself the authority to forbid merchandising of receiving sets on the contention that in this new art the sets might too soon become obsolete. Under that sort of government philosophy the automobile, the electric light, aviation and radio would never have got started."

I have offered a resolution in the Senate asking the Interstate Commerce Committee to make an immediate investigation of the Commission's actions on television and ascertain, in particular, whether the Commission had exceeded its authority and whether it has interfered with the freedom of the public and of private enterprise. Senator Burton K. Wheeler, of Montana, is chairman of that committee. Perhaps we may be able to stop this bureaucratic seizure of power there.

Apparently Chairman James Lawrence Fly of the Federal Communications Committee realized that this action of the Commission had created widespread protest for on Tuesday evening of this week, over an NBC and Mutual hook-up, the Chairman discussed television.

He said:

"Now let me be perfectly plain in stating the position of the Federal Communications Commission on the question of public participation in the future development of television. Does the Commission wish to discourage members of the public from purchasing television receiving sets today? The answer is emphatically 'No.' As a matter of fact, it is only by having receiving sets in the homes of members of the public that experimentation in program techniques can be successfully carried on. But it is important that the general public know that when they buy television sets they are definitely partaking in a program of experimentation."

All I can say to that is that if the chairman had issued a statement along similar lines, instead of having the Commission revoke its order of February 29, there would be no such apprehension as now has been created.

I noticed in the press that Commissioner T. A. M. Craven, who is recognized in and out of radio circles as the one technically informed man on the Commission, dissented from the unusual action

of the Commission on March 22. Inasmuch as I had heard Chairman Fly's views at length over the radio and I wanted all angles of the story, I wrote to Commissioner Craven asking his reasons for dissenting. He has written me a letter and because of his pre-eminence in radio development, I want to quote from this expert as to whether any situation, which might stop research and "freeze" technical development of television, existed between the Commission's first action in February and its second order in March.

While explaining that his dissenting vote reflected an honest difference of opinion and insisting that he prefers not to disturb the present friendly relations within the membership of the Commission by engaging in any public controversy over this or any other issue with other commissioners, Mr. Craven writes—

"The majority concludes that recent promotional activities of a television receiver manufacturer will effectively stop research and 'freeze' technical development in television.

"In my opinion, such a contention is absurd on its face, and is not justified by either facts or experience. Nothing can stop scientific research and technical progress in a free democracy if incentive is not discouraged by Government. The Commission itself, by order of suspension, such as in the instant case, can create such confusion as to retard the development of television and discourage the incentive and initiative of private enterprise.

"In my opinion, the technique of television has advanced to the stage where an initial public trial is entirely justified. Such a trial would spur television onward, not only more rapidly, but also more effectively than any other method. I agree with the majority that technical improvements are required in television and I agree that the Commission should not approve standards at this time. However, no one can foretell accurately how these technical improvements will be secured and what public reaction will be. It is already obvious that some of the technical methods suggested by the Commission in its previous report may not be the best. This is not surprising, since the Commission has had no practical experience in technical research for television nor is it equipped to undertake such problems.

"There is no need, in the present state of development of television for a Commission in Washington to substitute its judgment for that of the public. The public is the wisest judge of scientific achievement and will be most effective in securing the technical improvements it desires.

"In this case the Commission would have been on more logical grounds had it merely made public the facts concerning obsolescence of television receivers, rather than taking action which prevents the public from exercising its own judgment. The Commission will have performed its duty to the public, insofar as obsolescence of receivers is concerned, when it has informed the public of the facts.

"The present prices of television receivers automatically restrict its use to those who can afford replacements as technical progress requires. The burden of experiment falls on wealthy people, as it should, to pave the way for ultimate inexpensive television to all."

That concludes Commissioner Craven's observations on this subject of "freezing" television development.

My studied opinion is that the Federal Communications Commission was in error when it rescinded its permission for limited commercial television. Accordingly, I believe the best interest of television development calls for abandoning the new and unnecessary hearings which are scheduled to start on Monday and a return to the status quo of before its unfortunate action of March 22. I believe the FCC should stay within the authority granted it by Congress and defined so recently by the United States Supreme Court. I believe it and every other bureau of government agency should use common sense and encourage, not block, the development of television or any other industrial activity that will put unemployed men and women back on private payrolls and speed up the return of a prosperous United States.

## Barbour's Bill

An amendment to the Communications Act of 1934 has been introduced in the Senate by Senator Barbour of New Jersey "to limit the powers of the FCC in certain cases."

The bill was referred to Committee on Interstate Commerce and is as follows:

That the Communications Act of 1934 is hereby amended in the following respects:

(1) By striking out the heading preceding section 326 and inserting in lieu thereof "Limitations; Censorship; Indecent Language"; and

(2) By inserting after the first sentence of section 326 the following new sentence: "Except as expressly provided in section 301 of this Act, nothing in this Act shall be understood or construed to give the Commission any power to regulate or in any way supervise, control, or interfere with radio experimentation, research, or development, or the manufacture, sale, or use of any apparatus for the transmission or reception of energy, communications, or signals by radio, or the business policies of radio broadcasters."

## Barbour's Statement

### (Accompanying His Bill)

Millions of Americans will be deprived of an early opportunity to get television programs unless Congress "knocks some sense into the Federal Communications Commission," Senator W. Warren Barbour of New Jersey declared today as repercussions from the Commission's recent stop order addressed to the industry continued throughout the capital.

As a Senate committee plunged into the problem and the Commission itself continued its own hearings on the subject, Senator Barbour offered a bill in the Senate designed to unshackle television from what he described as "horse-and-buggy control by a bungling and brazen bureaucracy."

The measure would explicitly deny to the Commission any power to control or interfere with radio experimentation, research or development, or with the use, manufacture or sale of transmission or reception equipment, including television sets, or the business policies of broadcasters. Its effect would be to give statutory reinforcement to last week's decision by the Supreme Court of the United States holding that the Commission does not possess these powers now.

"I have prepared and introduced this proposed legislation as a necessary step, in my judgment, to end the present horse-and-buggy control of a rapidly developing new industry by a bungling and brazen bureaucracy," Senator Barbour said.

"Instead of promptly accepting the language and implications of the Supreme Court's decision of last week, the Federal Communications Commission not only has failed to withdraw its stop order addressed to the radio industry, but arrogantly announced and is now holding hearings to decide, presumably, whether it shall obey the law.

"It is already apparent that unless Congress knocks some sense into the Commission, millions of Americans will be deprived of an early opportunity to get television programs.

"Records of the Communications Commission show clearly that its recent action in denying the right of the industry to market television sets this summer is completely consistent with its whole attitude with respect to television. It has assumed for more than a year that it had powers which the Supreme Court now says it does not have, and proceeded on this false assumption to interfere with and retard the progress of one of the most interesting and popular inventions of our time.

"If a government bureaucracy had been allowed similarly to interfere with the early development of the telephone, phonograph, motion pictures, the automobile and radio, these things would never have reached their present perfection and would not now be enjoyed by most American families.

The Commission complains that television is not sufficiently sharp and clear to justify widespread sale of receiving sets. As compared with the first motion pictures which the public paid to see, television is so far superior as to make the Commission's attitude laughable.

"It was the willingness of the public to buy the first automobiles and phonographs and radio sets, in spite of their imperfections and initial high cost, which made mass production of the present relatively perfect machines at low cost possible. The perfection of the movies is due entirely to public patronage. The same thing will occur in the development of television if the industry is unshackled.

"The Commission in February magnanimously announced that television stations would be permitted to begin 'limited commercial operations under which advertising will be permitted' in connection with sponsored programs. What a concession! The Communications Act explicitly denies to the Commission any power of censorship, except on the score of indecency, yet here it is attempted to be exercised. And now even this privilege is withdrawn.

"American experience in the development of radio has shown that

the public is its own best censor of radio programs. If people do not like what they get, all they have to do is shut off the program. As a result, advertisers and radio broadcasters compete with one another to give the public the best radio programs in the world, as a necessary condition of remaining in business.

"Last November the radio committee of the Commission reported that it did not believe commercialization of television would increase the sale of receiving sets. What business has the Commission in this field? This is a matter for the public itself to decide.

"The Commission also talks of 'planning' for the development of television. Congress never gave it the right to plan anything, and it has neither the power nor the capacity to create. Its function with respect to radio is to police the air, to see that the limited number of radio channels are used in orderly manner, that the programs are decent, and that those persons are licensed to broadcast who best serve the public interest. There its authority over radio stops, and should stop. I hope Congress will see that it does."

## Connery's Resolution

Representative Connery (D-Mass.) on Wednesday introduced a resolution (H. Res. 462) in the House to investigate the FCC. The resolution, which is similar to other resolutions introduced by Connery has been referred to the House Committee on Rules.

It is as follows:

Whereas the Congress in creating the Federal Communications Commission, and in enacting the Communications Act of 1934, expressly reserved to the people of the United States control of all radio frequencies; and

Whereas, despite this restriction through the leasing of, the purchase of, the affiliating of, the operation of, or, through the possession of contracts giving to a select few the exclusive right to use the more desirable time of these radio-broadcasting stations, there is reason to believe that contrary to the intent and the spirit, as well as the language, of laws in force, a monopoly exists in radio broadcasting, which radio-broadcasting monopoly is believed to be profiting illegally at the expense and to the detriment of the people through the monopolistic control and operation of all clear-channel and other highly desirable radio-broadcasting stations; and

Whereas it is believed that neither public interest, convenience, nor necessity is served by permitting a virtual radio-broadcasting monopoly to control this property, which has been reserved to the control of the American people; and

Whereas information revealed by the Federal Communications Commission shows that in innumerable cases these governmental grants have been sold by licensees for millions of dollars to the detriment of the public and contrary to the expressed intent of the Congress; and

Whereas it is contrary to public policy, convenience, or necessity to allow any private groups to traffic in a property reserved to and for the people: Therefore be it

*Resolved*, That a committee of seven Members of the House of Representatives shall be appointed by the Speaker, which committee is hereby authorized and directed to inquire into and investigate the allegations and charges that have been or may be made relative to irregularities in or pertaining to the monopoly which exists in radio and the activities and functions carried on under the Communications Act of 1934 and all matters pertaining to radio and radio broadcasting; be it further

*Resolved*, That the said committee shall make a thorough and exhaustive investigation of all allegations and charges that have been or may be made in connection with or pertaining to the monopoly which exists in radio and the activities and functions carried on under the Communications Act of 1934 and all matters pertaining to radio and radio broadcasting, and shall report in whole or in part at any time to the House of Representatives, together with such recommendations as it deems advisable; and be it further

*Resolved*, That for the purpose of this resolution the said committee is authorized to hold such hearings, to sit and act during the sessions and the recesses of the present Congress at such times and places, either in the District of Columbia or elsewhere, and to employ such expert, clerical, and stenographic services as may be found necessary and to require by subpoena or otherwise the attendance of witnesses; to administer oaths; to compel the production of books, papers, and documents by Government or private agencies; and to take and record such testimony as the committee may deem advisable or necessary to the proper conduct of the investigation directed by this resolution.

# FCC Television Hearing

Monday, April 8, 1940.

The Television Hearing was conducted by the entire Commission with the exception of Commissioner Case.

Chairman Fly opened the hearing by reading a prepared statement which read as follows:

"After long study of the problems of television by the Commission's Television Committee, composed of Commissioners Craven, Case and Brown, and by the staff, the full Commission in January of this year held extensive hearings on this subject. On February 29, a report was issued which to a great extent was a reflection of an earlier report of the Committee.

This unanimous report of the full Commission held that in view of the admitted need for improvement and because of the extensive experimental work then under way, research and experimentation should continue unabated, and, therefore, that transmission standards should not be then fixed either by the Commission or by members of the industry. The Commission emphasized that its controlling aim was the achievement of higher standards by research and development and, necessarily, the avoidance of any crystallization of transmission standards at present levels of efficiency.

The engineering evidence had clearly established the lock and key relationship of receiver and transmitter precluding major changes in transmitters because of the great loss which might be caused to the owners of receivers. The Commission warned the industry of the retarding effect upon future research which would be caused by a widespread public investment in television equipment that would lock transmission standards down to the levels of current development.

It further determined that licenses should continue on an experimental basis for the time being, although as a part of the program of experimentation there might be, after September 1, 1940, a limited participation by program sponsors.

Rules concurrently issued for experimental television operations, which were only modifications of those projected by the Television Committee, placed these conclusions into effect.

Thereafter, on March 22, 1940, because of certain intervening events, the Commission issued its order to determine

"... whether research and experimentation and the achievement of higher standards for television transmission are being unduly retarded by the action of the Radio Corporation of America or its subsidiaries, or any other licensee, requiring any additions, modifications, revisions, or amendments of the rules adopted February 29, 1940, governing television broadcast stations, or other action by the Commission; and whether the effective date for the beginning of limited commercial operations set forth in Section 4.73 Subsection (b) of the Commission's Rules and Regulations should be changed from September 1, 1940, to some subsequent date."

It should be made clear that no subject matter is to be considered at this hearing which was not considered and dealt with in the Commission's previous hearings and reports. The present order covers only a part of the same subject matter.

It should be borne in mind that this is not a trial; and no effort will be made here to determine the legal propriety of the promotional activities of the industry. It should also be emphasized that the Commission has no intention of adopting any rules as to the design or as to the marketing of receiving sets.

The subjects to which this inquiry is directed concern the present status of television, its research and development, and the problem of the exercise of the Commission's statutory duty to issue experimental licenses and to fix the standards for television transmission.

Evidence of the foregoing subjects will be received and considered only as and to the extent that it bears upon these duties of the Commission. More specifically, the scope of the problems to be dealt with here is stated in our Public Notice of April 4, 1940, as follows:

"The evidence of . . . parties should, in summary form, state the scope of their present television experimentation in terms of subject matter, staff, and time devoted to the same and should indicate what proportions of such work are directed toward technical ends and toward commercial production. This information should be broken down with respect to the periods prior and subsequent to March 1, 1940. Any changes made or under consideration as a result of sales promotional activities should be stated.

"General conclusions should be offered as to the prospects for improving the performance of television broadcasting but descriptions of recent improvements are desired only if they

have taken place since the date of the original hearings or are the final results of previous experimentation. Evidence will be received also as to the effect of the above matters on the prospects for higher transmission standards and as to whether there has been any retardation of progress. Parties are also requested to express their views, based upon the facts on the foregoing matters, as to the appropriate date for commencing limited commercialization. No invitation is extended to parties who did not appear at the hearing of January 15, 1940. Limited testimony may, however, be accepted from new parties upon a showing that they are engaged in substantial research and have evidence bearing upon the above matters which includes information not heretofore presented to the Commission and which relates to the present status of the technical phases of the science."

The Communications Act requires that the Commission shall, among other things, "study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest." Essentially, this hearing is to study the status and potentialities of the transmission of correlated vision and sound by radio—that is, television—and to determine certain policies in connection with the issuance of licenses for experimental uses of frequencies for television.

The Act also provides that the Commission shall "regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein." Accordingly, an important phase of this hearing is to investigate problems relating to the statutory duty to issue standards to regulate the kind of transmission apparatus to be used by television stations.

No question has been raised by any party in the course of the proceedings of the Television Committee or in those of the full Commission as to the scope of the statutory duties of the Commission and its jurisdiction to deal with these subject matters. I reiterate that it is the Commission's intention here to cover only subject matters heretofore dealt with and to proceed strictly in accordance with these statutory provisions. It is hoped that each counsel will bear these points in mind."

The first witness was Mr. Allen B. DuMont, president of Allen B. DuMont Laboratories. Mr. DuMont outlined experimental work being carried on by his company. He explained that their television set has a switch in it for changing from the RMA to the DuMont signal. His company has agreed to modify its receivers free of charge up to 1942 if changes are made necessary due to modifications in standards. Mr. DuMont reiterated his stand that a fully flexible standard should be adopted. He said that if the 441 line standard is adopted that his company's experimentation on a higher definition pictures will cease. Mr. DuMont said that he saw no reason why we couldn't have limited commercialization by September 1, provided standards are set the same as RMA with the exception that the number of lines, number of frames and the synchronizing impulse should not be specified, and these should be left flexible.

Tuesday.

Mr. Harry R. Lubcke, director of television for Don Lee, was the first witness on Tuesday. He reaffirmed his previous stand that the RMA standards is the best engineering arrangement in a 6 MC channel. Chairman Fly asked if he didn't think that different stations should have comparable facilities, and the answer was, "Yes", and that the lower the frequency the better.

Mr. Lewis Allen Weiss, vice president and general manager of Don Lee, appeared next. He said that television has progressed far enough so that it is ready now for full commercialization and that he does not hold a brief for the RMA standards except that they represent the thinking of most of the television engineers. Mr. Weiss said that a chain of theaters was interested in installing television equipment and that if commercialization were allowed then Don Lee could expect a revenue of \$18,000 to \$20,000 per week from this source. He said that about 2 to 3 years after commercialization there should be about 10,000 television sets in the LA area and that then television could be an adult advertising medium.

Next to appear was W. D. Smith on behalf of Philco and he said that their staff of about 40 television research engineers had been cut to about two-thirds since the FCC order of February 29, allowing partial commercialization. Philco figured that research outside the RMA standards was of no avail. Mr. Smith said that the only way we could have research outside the RMA standards was by holding up commercialization and that there should be a six months' period in which to correlate the information available and immediately available in order to set standards and go commercial.



Wednesday.

U. A. Sanabria of Chicago appeared and told of his long association with television. He also represented Dr. Lee deForest. Mr. Sanabria proposed that the Commission have a conference of all the patent holders and have them get together in such a way that there is no patent monopoly. He advocated a flexible set of standards.

Mr. Marshall Wilder, chief television engineer for American Television Company, stated that the basic standards are set by the 6 MC band width and that receivers can easily be built to take care of any changes within this band width and they can easily be altered to suit the different kinds of transmission.

Mr. William B. Campbell, president of National Television Manufacturing Corporation, said that they have developed a set which will receive transmitters using different numbers of lines and frames and that they are reluctant to go into production until there are a reasonable number of hours of telecasting available to the public. It was his opinion that sets could be made to fit flexible transmitting standards and that full commercialization should be allowed.

Next to appear was Mr. Brown of Zenith Radio Corporation, who read a prepared statement in which he said ". . . Television pictures under the present standards are good, probably good enough for public service. There is no question but what they can be improved." And at another place his statement said, ". . . We definitely feel that there is no single step which can be taken that will overnight, so to speak, cause television to suddenly assume large proportions of satisfactory service. We believe that it is something which can come only gradually over a period of years, as a more complete understanding of the problem is reached and as the service can improve, prices become less and the requirements of a television system better understood. . . ." Mr. Brown said that Zenith is in favor of limited commercialization.

Thursday.

Mr. Edwin M. Morton, appearing for Farnsworth, advocated the adoption of the RMA standards and full commercialization. He said that there is plenty of room for improvement inside these standards.

The next witness to appear was Mr. F. J. Bingley, research engineer of Philco. Mr. Bingley told about RMA sub-committee meetings of February 21 and 29, in which the views of Philco were stated and these were that they wanted RMA to reopen the question of television standards, and that RMA so notify the FCC. He said that there was objection to making such a statement. However, someone else suggested the formation of a sub-committee to reconsider the standards. Mr. Bingley said that there was considerable argument on this point resulting in his resignation from the committee. He said that it was his opinion that limited commercialization would freeze the standards to the RMA standards by usage. Mr. Bingley said that it was the next day after the February 29 meeting, when he had resigned, that Philco made changes in its research staff; described by W. D. Smith of Philco during Tuesday's testimony.

The first witness for RCA was Mr. Alfred Morton, vice president of NBC in charge of television. Mr. Morton described the engineering and program research work carried on by NBC prior to March 1, and that on March 1, after the FCC order allowing partial commercialization, there was an acceleration of their television work. Mr. Morton said that he is in favor of immediate commercialization and that there are eight or nine companies wishing to buy programs.

Appearing next for RCA was Mr. Elmer Engstrom, director of television research. He said that they are continuing their television research and outlined the work they have done since the last television hearing. In response to a question about synchronization, Mr. Engstrom said that it was his experience that the pictures are gone before synchronization is lost in using the RMA standards.

The television hearing will be continued Friday.

## Ten More Stations Join Broadcast Music, Inc.

Subscriptions from ten more stations for BMI have been received, bringing the total to 290. Ninety-four

more have pledged subscriptions. The total amount now paid and pledged is \$1,267,189.05.

The new stations:

	District 5
WMGA, Moultrie, Ga.	
WDAE, Tampa, Fla.	
	District 8
WFBM, Indianapolis, Ind.	
	District 9
WHFC, Cicero, Ill.	
WAAF, Chicago	
	District 10
KSO, Des Moines, Iowa	
KRNT, Des Moines, Iowa	
WMT, Cedar Rapids, Iowa	
	District 11
WNAX, Yankton, S. D.	
	District 17
KRSC, Seattle	

## CODE COMMITTEE MEETS

Expressing its satisfaction at the progress being made by the NAB Code and the increased public understanding and support which it is receiving, the Code Compliance Committee met Thursday at Headquarters for an all-day conference.

Problems imminent with the approach of the presidential campaign during the summer and fall months were thoroughly analyzed and discussed. The question of enforcement of the Commercial Section of the Code, which becomes fully effective next October 1, was another major topic of discussion. Aspects of labor discussions on the air were presented by Joseph L. Miller, NAB Director of Labor Relations.

Those attending the meeting were: Edgar Bill, WMBD, Chairman; Martin Campbell, WFAA; Earl J. Glade, KSL; Gilson Gray, CBS; Don Searle, KOIL; Calvin J. Smith, KFAC; Theodore Streibert, MBS; Kenneth Berkeley, NBC; William B. Dolph, WOL; Ed Kirby, Secretary of the Committee.

Neville Miller, NAB president, also attended the all-day session.

## NEW APPLICATION FORMS

Last week the Federal Communications Commission released a new construction permit application questionnaire—FCC Form No. 301 (Revised March 1940). The title of the new form is "Application for Standard Broadcast Station Construction Permit or Modification Thereof". The questionnaire, in mimeographed form, occupies 42 pages. It is understood that the form is amplified to facilitate the Commission's granting construction permits without hearings.

The NAB staff is studying the revised form in the light of the burden it places upon applicants.

## BROADCASTERS FREE TO USE COLUMBIA, DECCA RECORDS

Both Columbia and Decca Records have advised broadcasting stations that they would make no claim against the stations, for the time being, for use of their phonograph records.

The following notices were received by stations:

### WESTERN UNION TELEGRAM

April 8, 1940.

Radio Station —

We confirm that our consistent policy remains unchanged of refraining from taking action against broadcasters for performance our records. We will not bring action or make claim against your station arising use Columbia Brunswick Vocalion records and will give you due notice if circumstances cause us hereafter to alter policy.

COLUMBIA RECORDING CORPORATION,  
Bridgeport, Conn.

DECCA RECORDS, INC.  
50 W. 57th Street,  
New York City.

April 5, 1940.

Radio Station —

GENTLEMEN:

Heretofore we advised you that the United States District Court for the Southern District of New York rendered a decision holding that record manufacturers have the right to control the use of their phonograph records by broadcasting stations. This decision has been appealed. We are informed that it may take some time before the courts make final disposition of the appeal.

It is the purpose of this letter to advise you that for the time being, and subject to withdrawal upon sixty days' written notice, we shall make no claim against you because of any reasonable use of our records on your station.

Very truly yours,

DECCA RECORDS, INC.,  
by Jack Kapp,  
*President.*

### SEND BILLING FORMS TO NAB

The American Association of Advertising Agencies has expressed the desire to standardize invoice or billing forms. For that reason, member stations are urged to submit copies of their billing forms to the NAB Research Department for its study.

NAB has indicated its desire to cooperate to the 4 A's calling its particular attention to the matter of affidavits required by certain agencies. Headquarters has received many inquiries from stations concerning this bothersome affidavit detail. It is felt that through cooperation with the 4 A's in developing recommended invoice or billing forms, the need for affidavits can be completely eliminated.

The following letter from the American Association of Advertising Agencies dated April 3rd and signed by Mr. Richard Turnbull was received by Neville Miller last week.

DEAR MR. MILLER:

Our Committee on Fiscal Control feels that it would be very desirable if invoices submitted to agencies by radio stations were standardized as to form.

April 12, 1940

The Committee expects, in the near future, to look over station invoices to see if such a standard form can be devised.

We are sending the attached letter to a list of about 100 radio stations, picked more or less at random, in order to get sample forms to work with.

If anything comes of the Committee's study of these forms we will get in touch with you.

Yours very truly,

s/RICHARD TURNBULL,  
*Secretary to Committee on Fiscal Control.*

Richard Turnbull/cs

Enclosure.

The communication addressed to stations referred to in the above letter is as follows:

DEAR —————:

Our Association's Committee on Fiscal Control is making a study of the invoice forms employed by radio stations in billing advertising agencies for station time.

In connection with this study we are gathering such forms from about 100 radio stations throughout the country.

Would you be willing to cooperate with our Committee by sending us a specimen of the form you use in billing advertising agencies?

Yours very truly,

*Secretary to Committee on Fiscal Control.*

Richard Turnbull/cs

All member stations are requested to submit their billing forms to the NAB Research Department to facilitate our cooperation with the AAAA on the subject.

### FREE OFFERS

The following "free offers" have been reported by member stations during the past two weeks:

American Institute of Baking  
Better Vision Institute, Inc.  
Harcourt, Brace & Company, Inc.  
Marine Studios.

The Bureau of Radio Advertising has written to these concerns, inviting them to pay for time. Though much of the material submitted to stations "free of charge" is undoubtedly interesting, the Bureau and NAB members are of the opinion that it is definitely commercial in nature and purpose, and therefore should be paid for. Broadcasters who accept on any other basis are, in the opinion of the NAB, undermining their own economic position.

The same applies to such percentage propositions as those of Leroy A. Kling, on behalf of Vita-Culture, and Rogers & Smith, on behalf of several clients. These agencies have recently written lengthy letters to a large list of stations, inviting them to accept contingent advertising on a basis of 35 cents for each \$1 order stations produce. In both cases, the letter points out the potential profits which will accrue to broadcasters on this basis, but emphasizes the definite risk to advertiser on any other basis of payment. The Bureau has written these concerns, reminding them that agencies and media have a common interest in the proper and healthy growth of radio advertising, which can only be accomplished by maintaining

radio's rate structure (as well as the 15 per cent commission), paying for time at card rates. No medium, the Bureau points out, can be expected to guarantee results from advertising or assume the risks of product promotion.

### SALES MANAGERS TO MEET

Chairman William R. Cline, WLS, Chicago, has called a meeting of the Steering Committee of the Sales Managers' Division for Monday, April 15, in Chicago.

Expected to attend the discussion of industry sales and advertising problems are Craig Lawrence, KSO, Des Moines, former Sales Managers' Chairman; Charles Caley, WMBD, Peoria; Ellis Atteberry, KCKN, Kansas City, Kansas; Barney Lavin, WDAY, Fargo; Owen Uridge, WJR, Detroit; and Sam Henry of the NAB Bureau of Radio Advertising.

### N. Y. SANITARY CODE

Neville Miller urged the New York City health department this week to amend a proposed new article of the Sanitary Code which would prohibit "the dissemination of any advertising relative to any drug or device or cosmetic which is false or misleading." Mr. Miller pointed out that the broadcasting industry already was covered by federal and state legislation on this point and that the section, as written, "will work an unfair hardship" on stations in New York.

### FM BRIEFS DUE APRIL 22

The FCC announced Thursday it had extended for one week from April 15 the time for filing briefs in connection with the hearing on Frequency Modulation.

### 44,000,000 RADIOS

In view of conflicting industry claims, the NAB Research Department reiterates its estimate published in NAB Reports (Vol. 7, No. 52, December 29, 1939) that at January 1st there were 44,000,000 radios in the United States. Further detail of this information is as follows:

Radio Families .....	28,000,000
Extra Sets .....	9,500,000
Automobile Sets .....	6,500,000
Total Sets .....	44,000,000

By way of explanation, under the heading Extra Sets, are secondary sets in homes, portable radios, radios in places of business, institutions, hotels, etc.

The 1940 Census which is now in the field will develop information on the number of radio families only and throw no light on the extra sets in homes, those in places of business, etc.

### FCC ORDER AMENDED

The FCC has adopted an amendment to its order issued March 13 in the matter of the application of the Presque Isle Broadcasting Company, to erect a new station in

Erie, Pa., to operate on frequency 1500 kc., with power of 100 watts night, 250 watts local sunset, unlimited time, by adding a paragraph directing that permittee shall within two months after effective date of order file with the Commission an application for modification of construction permit, specifying exact transmitter site and antenna system.

### RADIO IN THE COURTROOM

Neville Miller took part in a panel discussion in New York on April 6 on radio and the press in the courtroom. The discussion was held under the auspices of the Regional Conference Section of Bar Association Activities of the American Bar Association. On the panel were William Allen White, Paul Bellamy, Giles Patterson and Mr. Miller. Raymer Maguire, chairman of the Section, presided.

### FCC APPEALS KSFO CASE TO SUPREME COURT

The FCC has petitioned the Supreme Court for a writ of certiorari in the KSFO-CBS case to determine whether appeal lies from the Commission's denial of a request for written consent to the assignment of a radio station license.

### Harry Wilder, Jr.

Harry Wilder, Jr., aged 21, son of NAB's Second District Director, was killed in an automobile accident in Florida last Sunday night. The funeral was held Thursday in Syracuse, N. Y. The entire industry extends its sympathy to Mr. and Mrs. Wilder.

### ANNOUNCE NATIONAL RADIO FESTIVAL, INDUSTRY'S SPRING PROMOTION

Plans for National Radio Festival, June 3-8, or "any date you select", were mailed to member stations Wednesday, April 10.

A follow-up mailing on Thursday contained a demonstration-talk suitable for delivery before business and civic groups, and a reproduction of two tie-in windows.

The talk was provided by Edward A. Allen, president of WLVA, Lynchburg, Va., and the window photographs by Paul J. Miller, production manager of WWVA, Wheeling, W. Va. A variety of activities and specific promotions were suggested in the announcement of the event.

Cooperation of members is urgently required at the outset in the matter of securing a large number of city and state Radio Festival proclamations, suggested copy of which was enclosed in the first mailing.

Station personnel with additional ideas for promotion are urged to send them in at once in order that they may be put to work throughout the industry.

One hundred dollars (\$100) in cash has been made available by NAB for the best essay on the "American System of Broadcasting—Why It Is Best for Americans."

The best essay will be selected from among the prize winners at individual member stations. Allowance will be made for age and grade of contestants.

### STATE LEGISLATION

#### MISSISSIPPI:

H. 901 (Osborne) RADIO EQUIPMENT—POLICE—TRACTORS—To authorize the Governing Authority of the City of Greenwood to issue not exceeding \$30,000.00 bonds for the purpose of buying garbage trucks, graders, tractors, sprinklers and flushers and other motor vehicles for use in the street department; two-way Radio Broadcasting and Receiving equipment for Police Station and Patrol Cars. Referred to Local and Private Committee.

### 823 STATIONS

During the month of March, 1940, the Federal Communications Commission issued operating licenses to five stations, and granted two permits for the construction of new stations. One station was deleted. A comparative table by months follows:

	April 1	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	April 1
Operating .....	732	734	735	735	738	739	743	751	755	765	769	771	775
Construction .....	37	38	38	43	56	59	57	58	57	49	48	51*	48
	769	772	773	778	794	798	800	809	812	814	817	822*	823

\* Correction.

## FEDERAL COMMUNICATIONS COMMISSION

### FINDINGS OF FACT

Federal Communications Commission has tentatively denied the application of the American Broadcasting Corporation of Kentucky, licensee of Station WLAP, Lexington, Kentucky, for a permit to install a new transmitter and a directional antenna for nighttime and to change its frequency from 1420 to 1270 kilocycles, and to operate with 1000 watts, unlimited time, instead of 100 watts, 250 watts LS, unlimited time.

Application of the Neptune Broadcasting Corporation for a new station at Atlantic City, New Jersey, has been tentatively granted to operate on 1420 kilocycles, 100 watts night, 250 watts LS, unlimited time, subject to a selection of an approved transmitter site and antenna system.

Commission has tentatively denied the application of Ben S. McGlashan for renewal of high frequency broadcast station licenses for stations W6XKG operating on frequency 25,950 kilocycles with power of 1000 watts, and station W6XRE operating on 42,300, 116,950, and 350,000 kilocycles with power of 500 watts, both stations licensed on an experimental basis, located in Los Angeles, California.

April 12, 1940

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings are scheduled before the Commission in broadcast cases during the week beginning Monday, April 15. They are subject to change.

Monday, April 15

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 250 watts, unlimited time.

Tuesday, April 16

NEW—Miami Broadcasting Co., Miami, Fla.—C. P., 1420 kc., 250 watts, unlimited time.

Friday, April 19

WGRC—Northside Broadcasting Corp., New Albany, Ind.—Modification of license to move main studio to Louisville, Ky., 1370 kc., 250 watts, unlimited time.

### FUTURE HEARINGS

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

April 25

Oral Argument Before the Commission

REPORT No. P-5:

NEW—Eddie Erlbacher, Cape Girardeau, Mo.—C. P., 2738 kc., 50 watts, emission A-3, unlimited time. Pts. of Comm.: With vessels on Mississippi and Ohio Rivers.

REPORT No. B-88:

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

May 27

Further Hearing

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Modification of license, 810 kc., 1 KW, specified hours (6 a. m. to 11 p. m. EST), DA-Daytime. Present assignment: 810 kc., 1 KW, daytime—WCCO, directional antenna.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

There was no meeting of the Commission this week.

### MISCELLANEOUS

W2XWF—William G. H. Finch, New York, N. Y.—Granted extension of special temporary authority to change from A-3 emission to special emission frequency modulation 75 kc. swing to make comparative tests on amplitude modulation from April 4, 1940, to not later than April 13, 1940, in order to complete installation of FM unit.

KAXZ—United Air Lines Transport Corp., c/b Aeronautical Radio Inc., 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 **2790 kc.**, to relay broadcast program in connection with Washington-California Crew Races to be released through Radio Station KOMO to the NBC Red and Blue Networks from 2:00 p. m. to 5:00 p. m. PST on April 20, 1940.
- KFRU**—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with Station WGBF with power reduced to 250 watts from 7:00 p. m., CST, to midnight on May 7, 1940, in order to permit WGBF to broadcast Primary Election returns (B4-S-624).
- WGBF**—Evansville on the Air, Inc., Evansville, Ind.—Granted special temporary authority to operate as above except simultaneously with Station KFRU in order to broadcast Primary Election returns (B4-S-490).
- W3XAD**—RCA Manufacturing Co., Inc., New York, N. Y.—Granted special temporary authority to operate Television Station W3XAD on **288 mc.** in lieu of its normal assigned experimental channel **321-327 mc.** for the purpose of carrying out preliminary setup tests on April 5, 1940, and to relay the Army Day parade maneuvers as the various contingents pass the reviewing stand at Fifth Ave. and 64th Street, New York City to Television Station W2XBS, on April 6, 1940.
- WCAR**—Pontiac Broadcasting Co., Pontiac, Mich.—Granted special temporary authority to rebroadcast army plane transmissions while flying over Pontiac and Detroit, on April 5 and 6, 1940, in cooperation with Selfridge Field officials for Army Day Celebration (B2-S-1040).
- E. E. Krebsbach**, Miles City, Mont.—Granted motion to dismiss without prejudice application for new station to operate on **1310 kc.**, 100 watts night, 250 watts LS, unlimited time.
- Star Printing Co.**, Miles City, Mont.—Granted motion for indefinite continuance of hearing now scheduled for May 1, on application for new station to operate on **1310 kc.**, 250 watts, unlimited time.
- Springfield Radio Service, Inc.**, Springfield, Ohio.—Dismissed with prejudice application for new station to operate on **780 kc.**, 250 watts, daytime only.
- The Brockway Company**, Watertown, N. Y.—Granted motion to accept amendment to application for construction permit for new station, to delete in its entirety the amendment filed July 13, 1936, and substitute therefor an amendment specifying 500 watts power instead of 250 watts, change in equipment, and deletion of any reference to lessee operation; the frequency requested is **1270 kc.**, daytime hours.
- C. T. Sherer Co.**, Worcester, Mass.—Scheduled for oral argument the proposed findings in re application for new broadcast station, for April 25, 1940 (Docket No. 5474).
- WRVA**—Larus & Bros. Co., Inc., Richmond, Va.—Granted special temporary authority to rebroadcast program in connection with arrival of Army plane being flown blind from Mitchell Field to Langley Field, using Army short wave equipment and frequency on April 6, 1940 (B2-S-386).
- KGFI**—Eagle Broadcasting Co., Inc., Brownsville, Texas.—Granted special temporary authority to discontinue the broadcasting operations until the revocation of license and other matters can be placed before the Commission, but ending not later than August 1, 1940 (B3-S-401).
- KTKC**—Tulare-Kings Counties Radio Associates, Visalia, Calif.—Granted license to cover construction permit for changes in transmitting equipment; frequency **890 kc.**, 1 KW, unlimited time, directional antenna at night (B5-L-1125).
- WKIP**—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—Granted modification of construction permit for authority to make changes in type of transmitting equipment and extend commencement date 120 days after grant and completion date 180 days thereafter; **1420 kc.**, 250 watts, unlimited time (B1-MP-955).
- WEKH**—Peoria Broadcasting Co. (area of Peoria, Ill.), Portable-Mobile.—Granted license to cover construction permit for change of frequencies, changes in equipment and to operate with 50 watts power; frequencies **1622, 2058, 2150, 2790 kc.** (B4-LRY-189).
- WHP, Inc.** (area of Harrisburg, Pa.), Portable-Mobile.—Granted construction permit for new relay broadcast station; frequencies **33380, 35020, 37620, 39820 kc.**, power 25 watts (B2-PRE-339).
- Pinellas Broadcasting Co.** (area of St. Petersburg, Fla.), Portable-Mobile.—Granted construction permit for new relay broadcast station; frequencies **30820, 33740, 35820, 37980 kc.**, power 15 watts (B3-PRE-341).
- WAUV**—The Louisville Times Co., Louisville, Ky.—Granted modification of construction permit for new relay broadcast station, for change in corporate name to Courier-Journal and Louisville Times Co. (B2-MPRY-25).
- WALM**—The Louisville Times Co., (area of Louisville, Ky.), Portable-Mobile.—Granted modification of license to change corporate name of licensee to Courier-Journal and Louisville Times Co. (B2-MLRE-57).
- WALN**—The Louisville Times Co., (area of Louisville, Ky.), Portable-Mobile.—Granted modification of license to change corporate name of licensee to Courier-Journal and Louisville Times Co. (B2-MLRE-58).
- WAUJ**—The Louisville Times Co., (area of Louisville, Ky.), Portable-Mobile.—Granted modification of license to change corporate name of licensee to Courier-Journal and Louisville Times Co. (B2-MLRE-59).
- WAIC**—The Louisville Times Co., (area of Louisville, Ky.), Portable-Mobile.—Granted modification of license to change corporate name of licensee to Courier-Journal and Louisville Times Co. (B2-MLRY-23).
- W9XWT**—The Louisville Times Co., N.E. of Eastwood, Ky.—Granted modification of license to change corporate name of licensee to Courier-Journal and Louisville Times Co. (B2-MLFB-7).
- WSYR-WSYU**—Central New York Broadcasting Corp., Syracuse, N. Y.—Granted license to cover construction permit for new transmitter; frequency **570 kc.**, 1 KW, unlimited, directional antenna day and night use (B1-L-1127).
- KEIT**—Midland Broadcasting Co. (area of Kansas City, Mo.), Portable-Mobile.—Granted license to cover construction permit for equipment changes (B4-LRE-291).
- C. L. Burns** (area of Brady, Tex.), Portable-Mobile.—Granted construction permit for new relay broadcast station; frequencies **1622, 2058, 2150, 2790 kc.**, power 40 watts (B3-PRY-212).
- The Crosley Corp.** (area of Cincinnati, Ohio), Portable-Mobile.—Granted construction permit for new relay broadcast station; frequencies **1606, 2022, 2102, 2758 kc.**, power 50 watts (B2-PRY-213).
- The Sun Publishing Co., Inc.** (area of Jackson, Tenn.), Portable-Mobile.—Granted construction permit for new relay broadcast station; frequencies **30820, 33740, 35820, 37980 kc.**, power 15 watts (B3-PRE-343).
- WHBU**—Anderson Broadcasting Corp., Anderson, Ind.—Granted construction permit to install new transmitting equipment and make changes in antenna system (B4-P-2801).
- WFTM**—Fort Meyers Broadcasting Co., Fort Meyers, Fla.—Granted license to cover construction permit as modified for new station; frequency **1210 kc.**, power 250 watts, unlimited; granted conditionally. (B3-L-1121.) Also granted authority to determine operating power by direct measurement of antenna power in compliance with Section 3.54 (B3-Z-368).
- WEGM**—Bamberger Broadcasting Service, Inc., New York, N. Y.—Granted construction permit to move transmitter locally (B1-PRE-340).
- WTAW**—Agricultural & Mechanical College of Texas, College Station, Texas.—Granted special temporary authority to operate simultaneously with Station WJBO from 9:30 p. m. to 10:30 p. m. CST on April 12, 1940, in order to broadcast Cavalry Bell of ROTC unit (B3-S-394).
- WNYC**—City of New York, Municipal Broadcasting System, New York, N. Y.—Continued to May 27, 1940, the hearing on application in Docket No. 5705, now scheduled for April 10.
- WBAL**—The WBAL Broadcasting Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with station KTHS on **1060 kc.** from 9 p. m. to midnight, EST, on May 5, 1940, in order to broadcast speeches by political candidates in the Maryland State Primary Election and on May 6, 1940, in order to broadcast Maryland State Primary Election returns (B1-S-152).
- WBAA**—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 5:00 p. m. to 6:00 p. m. CST on April 16, 17, 23, May 3, 1940, and from 4:00 p. m. to 5:00 p. m. CST on May 4, 1940, in order to broadcast Purdue baseball games (B4-S-501).
- WDGY**—Dr. George W. Young; Minneapolis, Minn.—Granted special temporary authority to operate from 8:45 p. m. to 9:00 p. m. EST on April 15, 1940, in order to broadcast a program in celebration of Universal Notre Dame Night (B4-S-669).
- WPRR**—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10:00

p. m. AST April 13, 1940, to 1:00 a. m. AST on April 14, 1940, in order to broadcast social activities of the College of Agriculture and Mechanical Arts (B-S-932).

**KYOS**—Merced Broadcasting Co., Merced, Calif.—Granted special temporary authority to operate from 7:00 p. m. April 9 until 2:00 a. m., April 10, 1940, PST, for the purpose of broadcasting election returns only (B5-S-896).

**WMRO**—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 6:30 p. m. to 10:00 p. m. CST on April 10, 1940, in order to broadcast a program concerning the Court of Honor being held by the Boy Scouts of the county (B4-S-995).

**W1XOJ**—The Yankee Network, Inc., Boston, Mass.—Granted extension of special temporary authority to test the high frequency broadcast equipment of station W1XOJ, authorized by modification of construction permit on frequency 43000 kc., with power in the range 2000 watts to 50000 watts, for the period April 14, 1940, to not later than April 28, 1940, in order to make adjustments of the antenna elements which are now assembled for erection atop 400-foot mast.

**Queen City Broadcasting Co.**, Seattle, Wash.—Granted special temporary authority to use radio equipment licensed to the Department of the Interior and operated by the Mt. Rainier National Park Service (four pack transceiver sets operating on 3415 and 3255 kc., with power of 2 watts) from 2 p. m. to 3 p. m., PST, on April 13, 1940, for the broadcasting of the Silver Skis over radio station KIRO.

**WBAL**—The WBAL Broadcasting Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with station KTHS on 1060 kc., from 9 p. m. to 10 p. m., EST, on April 10, 1940, in order to broadcast debate between Senator George L. Radcliffe and his opponent for Democratic Senatorial nomination, Howard Bruce, only (B1-S-152).

**WKEU**—Radio Station WKEU, Griffin, Ga.—Granted special temporary authority to operate from 6 p. m. to 11 p. m., CST, on April 11, 1940, to broadcast program sponsored by Rotary Club in order to raise money for school destroyed by fire. (B3-S-819).

**KWLC**—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 3:30 p. m. to 4:30 p. m. and from 5:30 p. m. to 6:15 p. m., CST, on April 18, May 2, 7, 10, and 11, 1940, in order to broadcast college baseball games only (provided KGCA remains silent) (B4-S-520).

**Alabama Polytechnic Institute, University of Alabama and Alabama College, Portable-Mobile (area of Birmingham, Ala.)**.—Granted construction permit for new relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., power 25 watts (B3-PRY-211).

**The Baltimore Radio Show, Inc., Portable-Mobile (area of Baltimore, Md.)**.—Granted construction permit for new relay broadcast station, frequencies 31620, 35260, 37340, 39620 kc., power 100 watts (B1-PRE-342).

**W2XOR**—Bamberger Broadcasting Service, Inc., Carteret, N. J.—Granted license to cover construction permit as modified for new high frequency broadcast station, frequency 43400 kc., power 1000 watts, special emission for frequency modulation, maximum band width not over 200 kc., granted upon an experimental basis only, conditionally (B1-LHB-55).

**W3XMC**—McNary and Chambers, Washington, D. C.—Granted license to cover construction permit as modified for new high frequency broadcast station, frequency 42600 kc., power 100 watts, special emission for frequency modulation, with a maximum band width of not over 200 kc., granted upon an experimental basis only, conditionally (B1-LHB-57).

**W8XVH**—WBNS, Inc., Columbus, Ohio.—Granted license to cover construction permit for new high frequency broadcast station, frequency 43000 kc., power 250 watts, special emission for frequency modulation with a maximum band width of not over 200 kc., granted upon an experimental basis only, conditionally (B2-LHB-56).

**WBHP**—Wilton Harvey Pollard, Huntsville, Ala.—Granted authority to determine operating power by direct measurement of antenna power (B3-Z-372).

**WBNX**—WBNX Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit for installation of new transmitter, increase in power from 1 KW to 1 KW night, 5 KW day, move of transmitter, changes in directional antenna, for authority to install new transmitter; frequency 1350 kc., 1 KW, 5 KW day, shares with WAWZ.

**KGFI**—Eagle Broadcasting Co., Inc., Brownsville, Texas.—Designated Commissioner Payne to preside at hearing on the

order revoking the license of Eagle Broadcasting Co., Inc., for operation of Station KGFI, and to change the time and place heretofore fixed for such hearing, and to hear, consider, determine and act upon any and all petitions, motions and other preliminary matters in connection with or pertaining to said proceedings which may arise prior to the date of such hearing.

**WPRR**—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10:00 p. m. to 12:00 midnight AST, April 20 and 27, 1940, in order to broadcast dance music from the Escambron Beach Club at San Juan and to operate from 9:00 a. m. to 11:00 a. m. and from 2:00 p. m. to 6:00 p. m. AST, April 21 and 28, 1940, in order to broadcast athletic activities from the municipal stadium, only (B-S-932).

## APPLICATIONS FILED AT FCC

### 560 Kilocycles

**NEW**—Edward Tom O'Brien, David Shepard, Howard S. Johnson, and John W. Boler, d/b as Brainerd-Bemidji Broadcasting Co., Brainerd, Minn.—Construction permit for a new broadcast station to be operated on 560 kc., 500 watts night, 1 KW day, unlimited time. Amended to give transmitter location as site to be determined, Brainerd, Minn. Requests Class III-B station.

### 610 Kilocycles

**WCLE**—United Broadcasting Co., Cleveland, Ohio.—Construction permit to install directional antenna for day and night use; install new transmitter; change frequency and power from 610 kc., 500 watts, to 640 kc., 1 KW, time from daytime only to daytime (local sunset, Calif.); move transmitter from Village of Seven Hills to Cleveland, Ohio; requests Class II station and facilities of station WHKC.

### 640 Kilocycles

**WHKC**—United Broadcasting Co., Columbus, Ohio.—Construction permit to install directional antenna for day and night use; change frequency from 640 to 610 kc., power and time from 500 watts limited to 1 KW unlimited time; request Class III-B station; move transmitter and requests facilities of station WCLE.

### 710 Kilocycles

**KMPC**—KMPC, The Station of the Stars, Inc., Beverly Hills, Calif.—Construction permit to increase power from 1 KW; 5 KW day to 5 KW day and night, move transmitter from 1418 E. 81st., Los Angeles, Calif., to Branford Ave., Van Nuys, Calif., and install directional antenna for day and night use. Amended: changes in direction antenna.

### 770 Kilocycles

**WBBM**—Columbia Broadcasting System, Inc., Chicago, Ill.—Extension of special experimental authority to operate synchronously with KFAB from sunset at Lincoln, Nebr., to 12 midnight, period ending 8-1-40.

**KFAB**—KFAB Broadcasting Co., Lincoln, Nebr.—Extension of special experimental authority to operate synchronously with WBBM, from local sunset at Lincoln, Nebr., to midnight CST, period from 5-1-40 to 8-1-40.

### 780 Kilocycles

**NEW**—Pan-American Broadcasting System, Inc., Hollywood, Fla.—Construction permit for a new station to be operated on 1240 kc., 250 watts, unlimited time, transmitter and studio to be located at 1655 Polk St., Hollywood, Fla. Amended to request 780 kc. and make changes in antenna.

**WMC**—Memphis Commercial Appeal Co., Memphis, Tenn.—Modification of license to change corporate name of licensee to Memphis Publishing Co.

### 900 Kilocycles

**KHJ**—Don Lee Broadcasting System, Los Angeles, Calif.—Construction permit to increase power from 1 KW night, 5 KW day to 5 KW day and night, install directional antenna for day and night use, make equipment changes and move transmitter locally. Requests Class III-A station.

## 920 Kilocycles

- KFEL—Eugene P. O'Fallon, Inc., Denver, Colo.—Construction permit to install new transmitter and increase power from 1 to 5 KW. Amended: to install directional antenna for day and night use. Request Class III-A Station.
- WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Construction permit to install a new transmitter.

## 970 Kilocycles

- WCFL—Chicago Federation of Labor, Chicago, Ill.—Authority to determine operating power by direct measurement of antenna power, for auxiliary transmitter.

## 1010 Kilocycles

- WNOX—Scripps-Howard Radio, Inc., Knoxville, Tenn.—Construction permit to install directional antenna for night use, increase power from 1 KW night 5 KW day to 5 KW day and night.

## 1040 Kilocycles

- KTHS—Hot Springs Chamber of Commerce, Hot Springs, Ark.—Extension of special experimental authority to operate on 1060 kc. simultaneous with WBAL from 6 a. m. to local sunset, daily, suspend until 8 p. m., and limited time from then until midnight, period 4-1-40 to 5-1-40. Amended to change requested period to 5-1-40 to 8-1-40.

## 1060 Kilocycles

- WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Extension of special experimental authority to operate simultaneous with KRLD unlimited time on 1040 kc., using directional antenna night, for period 5-1-40 to 8-1-40.

## 1120 Kilocycles

- WDEL—WDEL, Inc., Wilmington, Del.—Construction permit to install directional antenna for night use and increase power from 250 watts night, 1 KW day to 1 KW day and night. Amended: to request Class III-A station.

## 1140 Kilocycles

- WAPI—Alabama Polytechnic Institute, University of Alabama & Alabama College (Board of Control of Radio Broadcasting Station WAPI), Birmingham, Ala.—Extension of special experimental authority for unlimited time, using directional antenna after sunset at Tulsa, Okla.
- KVOO—Southwestern Sales Corp., Tulsa, Okla.—Extension of special experimental authority to operate unlimited time using directional antenna for night for period from 5-1-40 to 8-1-40.

## 1200 Kilocycles

- KGDE—Charles L. Jaren, Fergus Falls, Minn.—License to cover construction permit (B4-P-2267) for installation of new transmitter.
- WJBW—Charles C. Carlson, New Orleans, La.—License to cover construction permit (B3-P-2549) to make changes in equipment and increase power.
- WSKB—McComb Broadcasting Corp., McComb, Miss.—License to cover construction permit (B3-P-2676) to make changes in transmitting equipment, and increase power.
- NEW—Western Radio Corp., The Dalles, Ore.—Construction permit for a new broadcast station to be operated on 1200 kc., 100 watts night, 250 watts day, unlimited time. Requests Class IV station.

## 1210 Kilocycles

- WGRM—P. K. Ewing, Grenada, Miss.—Authority to install automatic frequency control.
- WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Voluntary assignment of license from Fountain of Youth Properties, Inc., to Fountain of Youth Broadcasting Company.
- NEW—J. W. Birdwell, Knoxville, Tenn.—Construction permit for a new broadcast station to be operated on 1210 kc., 100 watts night, 250 watts day, unlimited time; Class IV station.

## 1220 Kilocycles

- WDAE—Tampa Times Co., Tampa, Fla.—Construction permit to change frequency from 1220 to 740 kc.; increase power

from 5 KW (5 KW granted on construction permit) to 10 KW; install new transmitter and new directional antenna for night use and move transmitter from Tampa to Thonotassassa, Fla. (Request made upon the No. American Regional Broadcast Agreement becoming effective and operative.)

## 1250 Kilocycles

- WAIR—C. G. Hill, George D. Walker and Susan H. Walker, Winston-Salem, N. C.—Modification of license to change frequency and hours of operation from 1250 kc. daytime to 1310 kc. unlimited time, using 250 watts power (contingent on WSJS being granted 600 kc.; B3-P-2814).

## 1270 Kilocycles

- NEW—The Brockway Co., Watertown, N. Y.—Construction permit for station WCAD to change frequency from 1220 to 1270 kc.; change hours from specified to daytime; install new transmitter and antenna and move transmitter from Canton to Watertown, N. Y., and studio from Canton to Watertown, N. Y. (contingent on granting B1-AL-118). Amended to request construction permit for new station (instead of construction permit for WCAD) to be operated on 1270 kc., 500 watts, daytime, and equipment changes.

## 1280 Kilocycles

- KFBB—Buttrety Broadcast, Inc., Great Falls, Mont.—Modification of license to increase power from 1 KW; 5 KW day to 5 KW day and night.

## 1310 Kilocycles

- KARM—George Harm, Fresno, Calif.—Construction permit to install new transmitter; change frequency from 1310 to 1430 kc.; increase power from 100 watts to 1 KW. Amended to change name from George Harm to Gilbert H. Jertberg, Executor of Estate of George Harm, Deceased.
- KMYR—F. W. Meyer, Denver, Colo.—Modification of construction permit (B5-P-2067) for a new station for approval of antenna and transmitter site at 17th at Broadway, Denver, install new transmitter and change studio same as transmitter site.
- WCMI—Ashland Broadcasting Co., Ashland, Ky.—Construction permit to install new antenna and move transmitter from Ashland to Catlettsburg, Ky. Amended: to change location of transmitter from Catlettsburg to Ashland, Ky., and make change in antenna.
- WFBG—The Gable Broadcasting Co. (Lessee), Altoona, Penna.—Construction permit to make changes in equipment and increase power from 100 to 250 watts. Amended re equipment.

## 1320 Kilocycles

- KGHF—Curtis P. Ritchie, Pueblo, Colo.—License to cover construction permit (B5-P-2450) as modified for installation of new antenna and move of transmitter.
- KGHF—Curtis P. Ritchie, Pueblo, Colo.—Authority to determine operating power by direct measurement of antenna power.
- NEW—J. C. Kaynor, Ellensburg, Wash.—Construction permit for a new broadcast station to be operated on 1310 kc., 250 watts, unlimited time.

## 1370 Kilocycles

- WAGF—John T. Hubbard, Julian C. Smith & Fred C. Moseley, d/b as Dothan Broadcasting Co., Dothan, Alabama.—construction permit to move transmitter from Southeast Alabama Fair Grounds, Dothan, Alabama, and install new antenna.

## 1380 Kilocycles

- KOH—The Bee, Inc., Reno, Nevada.—Modification of construction permit (B5-P-2279) to install new transmitter. Directional antenna for night use, change frequency from 1380 to 630 kc., power from 500 watts to 1 KW, and move transmitter, further requesting installation of new transmitter.

## 1390 Kilocycles

- NEW—Champlain Valley Broadcasting Corp., St. Albans, Vt.—Construction permit for a new broadcast station to be operated on 1390 kc., 1 KW, daytime (request facilities WQDM).

### 1420 Kilocycles

- NEW—Kokomo Broadcasting Corp., Kokomo, Ind.—Construction permit for a new broadcast station to be operated on **1420 kc.**, 250 watts, unlimited time, requests Class IV Station.
- KFIZ—Reporter Printing Co., Fond du Lac, Wis.—Authority to determine operating power by direct measurement of antenna power.
- NEW—Chattanooga Broadcasting Corp., Chattanooga, Tenn.—Construction permit for a new broadcast station to be operated on **1420 kc.**, 250 watts, unlimited time. (Contingent on B3-P-1939, facilities of WAPO, when vacated). Amended, re antenna and give transmitter site as corner 5th and Citico Ave., Chattanooga.

### 1440 Kilocycles

- NEW—Glover Weiss, tr. as Glover Weiss Co., Jacksonville, Fla.—Construction permit for a new broadcast station to be operated on **1500 or 1120 kc.**, 250 watts, unlimited time, requests Class IV station. Amended: To change frequency to **1440 kc.**

### 1490 Kilocycles

- NEW—Fairfield Broadcasting Corp., Lancaster, Ohio.—Construction permit for a new broadcast station to be operated on **1490 kc.**, 250 watts, unlimited time. Class IV station.

### 1500 Kilocycles

- NEW—Atlantic Broadcasting Corp., Miami, Fla.—Construction permit for a new station to be operated on **1500 kc.**, 250 watts, unlimited time. Amended: To request **1420 kc.**, change location of transmitter and studio to 801 Venetian Way, Miami, Fla., changes in antenna and omit request for facilities of WKAT.
- WTMV—Mississippi Valley Broadcasting Co., Inc., East St. Louis, Ill.—Construction permit to install new transmitter and new antenna, change frequency from **1500 to 1540 kc.**, increase power from 250 watts to 500 watts; 1 KW day, move transmitter from 5th and Broadway, East St. Louis, Ill., to Golden Gardens, near E. St. Louis, Ill. (request Class II station).
- KDB—Santa Barbara Broadcasting Ltd., Santa Barbara, Calif.—Modification of license to increase power from 100 watts; 250 day to 250 watts day and night.

### MISCELLANEOUS

- KEIV—Nichols & Warinner, Inc., Long Beach, Calif.—License to cover construction permit (B5-PRE-337) which authorized increase in power and changes in equipment.
- KAQY—Don Lee Broadcasting System, Los Angeles, Calif.—Modification of construction permit (B5-PRE-297) for a new relay broadcast station, requesting extension of commencement and completion dates from 12-10-39 & 6-10-40 to 6-10-40 and 12-10-40, respectively.
- KEGN—Don Lee Broadcasting System, San Francisco, Calif.—Modification of construction permit (B5-PRE-289) to install new equipment, requesting extension of commencement and completion dates from 11-27-39 and 5-27-40 to 5-27-40 and 8-27-40, respectively.
- NEW—The Farmers and Bankers Broadcasting Corp., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on **1606, 2022, 2102, 2758 kc.**, 40 watts, emission A-3, area of Wichita, Kansas.
- NEW—WDAY, Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on **133030, 134850, 136810, 138630 kc.**, power 1 watt, special emission for frequency modulation, area of Fargo, North Dakota.
- W9XEN—Zenith Radio Corp., Chicago, Ill.—Construction permit to increase power from 1000 to 50000 watts, move transmitter locally and make equipment changes.
- NEW—The Yankee Network, Inc., N. of Alpine, N. J.—Construction permit for a new high frequency broadcast station to be operated on **43000 kc.**, 5000 watts, special emission for frequency modulation. Amended: To request **43300 kc.**
- W1XTG—Worcester Telegram Publishing Co., Inc., Holden, Mass.—Modification of construction permit (B1-PHB-78) as modified for new high frequency broadcast station, requesting extension of completion date from 5-6-40 to 6-6-40.
- NEW—Hildreth & Rogers Co., Andover, Mass.—Construction permit for a new high frequency broadcast station to be

operated on **42800 kc.**, 1000 watts, special emission for frequency modulation.

- NEW—WOKO, Inc., New Scotland, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **43400 kc.**, 250 watts, unlimited time, special emission for frequency modulation. Amended: To request 1000 watts and make equipment changes.
- NEW—Perkins Brothers Co. (The Sioux City Journal), Sioux City, Iowa.—Construction permit for a new high frequency broadcast station to be operated on **43400 kc.** (commercial basis), 1000 watts, special emission for frequency modulation.
- NEW—World Publishing Co., Omaha, Nebr.—Construction permit for a new developmental broadcast station to be operated on **41000 kc.**, 1000 watts, special emission for frequency modulation.
- NEW—L. B. Wilson, Inc., Crescent Springs, Ky.—Construction permit for a new high frequency station to be operated on **42800 kc.**, 1 KW, special emission. Site to be determined, near Crescent Springs, Ky.
- W3XIR—WCAU Broadcasting Co., Philadelphia, Pa.—Construction permit to change frequency from **42140 to 43000 kc.**, emission from A-3 to special for frequency modulation and make changes in equipment.
- NEW—William F. Maag, Jr., Youngstown, Ohio.—Construction permit for a new high frequency broadcast station to be operated on **42800 kc.**, 1000 watts, special emission for frequency modulation.
- NEW—Durham Radio Corp., near Durham, N. C.—Construction permit for a new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation.
- NEW—The Baltimore Radio Show, Inc., Baltimore, Md.—Construction permit for a new high frequency broadcast station to be operated on **43400 kc.**, 1000 watts, special emission for frequency modulation.
- NEW—The Associated Broadcasters, Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on **1622, 2058, 2150, 2790 kc.**, 15 watts, A-3 emission, area San Francisco, Calif.
- NEW—Champlain Valley Broadcasting Corp., St. Albans, Vt.—License to cover construction permit (B1-P-2837) for a new station.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**Cigar Makers' Federation**—A complaint has been issued charging a group of New York manufacturers and dealers with misrepresentation in the sale of cigars, tobacco products, pipes, razor blades and other merchandise.

Respondents are Edwin Cigar Company, Inc., trading also as Cigar Makers' Federation, 100 East Sixteenth St.; House of Westminster, Ltd., trading also as Westminster Pipe Company, Westminster Steel Blade Company, and Westminster Steel Company, 191 Fourth Ave.; Max Rosenblum, Mrs. Max Rosenblum, Jules M. Cole, and Leonard R. Edwin, individually and as officers and directors of the two corporate respondents, 34 Union Square; and Fredi Mannara and John Schwab, of New York, Charles Grothe and Ruth Hess, York, Pa., and Park G. Shaw, Dallastown, Pa., employees of the respondents, trading as Cigar Makers' Federation, 35 R. Irving Place.

Acting in cooperation the corporate and individual respondents are alleged to have sponsored newspaper, magazine and mail order advertising in which they represented, among various other things,



that certain cigars selling for 3 cents each are made of "Genuine Imported Havana Tobacco," which designation was printed in heavy display type qualified in small illegible type by the phrase: "The finest Conn. shade-grown tobacco blended with"; that cigars offered in a close-out sale for 3 cents each are perfect, hand-made "Lord Edwin Ambassador" cigars which have sold for 35 years at 10 cents each and contain the choicest tobaccos, including Havana, and that cigars priced at 2 cents each or 100 for \$1.96 are perfect cigars, 5¼ inches long, and are fine, handmade blended with Havana and the equal in smoking satisfaction of cigars selling at 10 cents and more.

The complaint alleges, however, that the various cigars sold by the respondent at 3 cents each are all of inferior quality; are not fine, handmade or blended with Havana; that they neither contain any appreciable amount of Havana tobacco nor in any way conform to recognized standards employed by reputable manufacturers in making Havana blended cigars, and are not of 10 cent quality.

It is further alleged that the respondents, among other things, advertised that certain cigars are given "free of charge" when in fact their prices are included in the prices of other merchandise purchased, and that Edwin Cigar Company, Inc., occupies a large building in New York, owns tobacco plantations and warehouses in Havana, Cuba, and warehouses in Hartford and Suffield, Conn., is a tobacco importer and controls the movement of cigar tobacco from the growing stage until sold as cigars to ultimate consumers, when such are not the facts.

Through use of the corporate or trade name of "House of Westminster, Ltd.," and various pictorial representations of characteristic English scenes, institutions and names, the respondents allegedly exploit the idea that they are an English organization dealing exclusively in English pipes and other smoking accessories, when in fact House of Westminster, Ltd., has never been a British company or the agent of one. House of Westminster, Ltd., also is alleged to be advertised as owning and controlling a steel company or plant for making razor blades for direct sale to the public when in fact this respondent does not manufacture the blades it sells but buys them from a New York manufacturer. (4085)

**Columbia Pencil Company**—Bertram A. Strauss, trading as Columbia Pencil Company, 29 West 17th St., New York, engaged in the sale and distribution of ordinary lead pencils and mechanical or automatic pencils, is charged, in a complaint, with misrepresentation.

In circulars, letterheads and other advertising material distributed throughout the various States, the complaint charges, the respondent has represented himself as a manufacturer of pencils, through the use of such representations as the following:

#### "FAMOUS

#### "COLUMBIA PENCILS

"Direct from the factory at a saving of 33 1/3%.

"Here is our story. We are selling thousands of business concerns throughout the country, and we want you to become one of our customers. It is our notion that a straight line is the shortest, quickest, and most economical route from the factory to the ultimate consumer. Every time a product makes a detour at a distributor, a special factory representative or dealer, the COST GOES UP—and YOU pay it. Therefore, we have taken the middlemen by the seats of their trousers and tossed them out. We hope you don't mind!

"Columbia Pencil Company, Manufacturers of Pencils for All Purposes."

In truth, the complaint alleges, the respondent does not manufacture any of the pencils sold by him, and, with the exception of his mechanical or automatic pencils, the respondent purchases all of his pencils outright from manufacturers or from wholesalers and jobbers. As to mechanical or automatic pencils, the complaint continues, the respondent purchases the parts from other parties and merely assembles the parts at his place of business. (4083)

**House of Crane**, 124 South Meridian St., Indianapolis, distributor of cigars, tobacco products, candy and other merchandise, has been charged in a complaint, with selling to dealers certain assortments of its merchandise so packed and assembled as to involve the use of a lottery plan when such articles are sold to ultimate consumers.

The complaint alleges that a typical assortment distributed by the respondent company consisted of a number of pieces of candy and additional articles of merchandise, together with a punch board device, and that by means of the punch board, candy or other merchandise was awarded to certain buyers entirely by lot or chance.

It is alleged that the respondent's use of lottery plans is a practice contrary to the established public policy of the Government. (4080)

**Lechler Laboratories**—A complaint has been issued charging Erwin Lechler, trading as Lechler Laboratories, 560 Broadway, New York, with misrepresentation in the sale of soap and cosmetic products.

The respondent allegedly advertised that his "Curl-A-New" soap contains substances which make straight hair curl, "preserve" natural curls, train the hair to curl and bring out curls or waves which "are asleep in the hair," when such are not the facts and when the use of the product will not accomplish any of the other things claimed for it other than what might be expected from use of a good quality of ordinary soap. The respondent also is alleged to have advertised that this soap is a new scientific discovery and is enthusiastically recommended by a host of parents' magazines, when such are not the facts.

The respondent's preparation "Moorish Snow White Pomade" allegedly was advertised as being made by the inventor of "Moorish Strate-Black," the famous combination hair dye and straightener; the product "569 Moorish Strate-Black" as serving to make and keep kinky hair straight and as being safe and harmless; and "Moorish Hair Pencil" as being capable of instantly eliminating the first white hairs. The complaint alleges that the respondent's "Snow White Pomade" is not a hair dye and straightener; that "Moorish Strate-Black" will not straighten kinky hair or keep it straight, and is not harmless for use as recommended because it contains pyrogallic acid, a benzene derivative, and a large proportion of copper salts, and that "Moorish Hair Pencil" will not instantly eliminate the first white hairs, and is not a safe and harmless product because it contains metallic salts which have a corrosive effect upon the skin. (4081)

**William C. Ohlendorf**—Alleging misrepresentation in the sale of a medicinal preparation containing drugs, a complaint has been issued against William Clarence Ohlendorf, trading under the names of W. C. Ohlendorf, Clarence Ohlendorf, C. Ohlendorf and Dr. Ohlendorf, 1924 Blue Island Ave., Chicago.

Advertising "Dr. Ohlendorf's Tonic" in newspapers and periodicals, the respondent allegedly represented it as a cure or remedy and competent and effective treatment for kidney, bladder and nervous disorders, rheumatism, neuritis, diabetes and catarrh of the bladder and bowels, when such were not the facts.

By the same means the respondent allegedly advertised that use of his preparation will be beneficial to the weak and anemic when in fact, according to the complaint, the preparation will have no therapeutic value in treating anemia cases in excess of improving the condition of the blood in those cases where anemia is caused from a deficiency of iron in the blood.

The respondent also is alleged to have represented that its product will tone up the nerves and act as a diuretic to the kidneys, when such are not the facts. (4079)

**Thermalaid Method, Inc.**, and its president, Charles H. McFarland, of Steubenville, Ohio, have been served with a complaint alleging misrepresentation in the sale of "Thermalaid," an electrical device for the treatment of the prostate gland and associated ailments by application of heat. Thermalaid Method, Inc. is a successor to Electro Thermal Company.

In newspaper periodical and circular advertising the respondents are alleged to have represented that use of "Thermalaid" provides a cure or remedy and competent and effective treatment for all prostate gland disorders ranging from milder forms of prostatitis due to irritation to a complete state of hypertrophy (enlargement) or atrophy (hardening) of the gland, when in fact the device does not provide a cure or remedy, and does not offer competent and effective treatment in excess of the benefit that might be expected through the local application of heat in cases of acute or chronic prostatitis in its milder forms. The device has no therapeutic value in treating hypertrophy or atrophy of the prostate gland, according to the complaint.

A further representation alleged to have been made is that use of "Thermalaid" will prolong vigorous years of life and recuperate the vitality and sex virility, when such are not the facts. (4078)

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**Cote Products Company**—See Western Refining Company.

**Fairbanks Tailoring Company**, 2286 Wabansia St., Chicago, has been ordered to discontinue misleading representations in the sale of men's and women's garments.

In the Spring of 1938, the findings relate, the respondent distributed to its salesmen books of samples many of which were described as "all wool" and as "worsted" and prior to January 11, 1937, advertised the material from which certain of its garments were made as "The finest of wool fabrics," "all worsted" and "all wool," when in fact a number of the materials so advertised were not all wool.

Prior to January 11, 1937, the findings continue, the respondent company advertised openings for ambitious men to wear suits and overcoats tailored to measure by the respondent and to act as agents in selling such garments, the respondent representing that inexperienced agents could make up to \$10 a day without canvassing, when such was not a fact. A "Free Suit Offer" was also advertised, when in fact such suits were not free but were earned by the agents through their services, according to findings.

The order directs the respondent to cease and desist from using the words "All Wool," "All Worsted," or other words indicating a fabric composed of wool in its entirety, to describe fabrics the fiber content of which is not composed wholly of wool; provided, however, that such words may be used to describe a fabric composed essentially of wool but containing a small percentage of materials for decorative purposes only, such as silk or rayon, when there is used in connection with the words indicating an all wool fabric words of equal conspicuousness such as "rayon decoration" or "rayon stripe," truthfully designating the decorative material used.

The respondent also is prohibited from using the word "free" to describe garments delivered to its agents as compensation for their services and from representing that inexperienced agents can make up to \$10 a day without canvassing. (3525)

**John F. Jelke Company, Inc.**, 759 South Washtenaw Ave., Chicago, is prohibited in an order from misrepresentation in the sale of "Good Luck Oleomargarine," which it has sold in all but 8 Western and 2 Middle Western States and 1 Southern State.

Through its advertisements, the Commission finds, the respondent company represented its product as being made in or from whole milk, described by the respondent as "fresh pasteurized milk," from which none of the cream or butter-fat content has been removed, when in fact the product is made from skimmed milk.

The findings continue that the respondent's use in advertisements of the words "churn" and "churnery" and its picturization of an old-fashioned dasher butter churn in connection with the words "fresh pasteurized milk" and "milk solids" imply that the respondent's product is made from whole milk or cream taken from whole milk and contains butter fat extracted from whole milk or cream by the churning process used in making butter, when such are not the facts.

The respondent's advertisement that "there is 43.8 per cent more milk solids in Good Luck Margarine than in expensive spreads for bread" is found to imply that the product contains an appreciable quantity of solids, including butter fat extracted from whole milk, and that it contains more of such solids and has more food value than butter, when such are not the facts.

The Commission order directs the respondent corporation to cease and desist from (1) use of the words "churn," "churned," "sunlit churnery" or any derivative of the word "churn," or the picture of an old-fashioned dasher churn, or any words or pictures implying that its product has been churned through the process by which butter is made from milk or cream in describing its product or process; (2) use of the terms "fresh pasteurized milk" or other terms which do not clearly reveal that the milk so designated is not whole milk, to refer to milk used by the re-

spondent in manufacturing its product when the milk so used is other than whole milk; (3) using the word "milk" to describe that part of milk remaining after any part of the cream or butter fat has been removed, unless the word "milk" is qualified by words clearly revealing that the "milk" referred to is not whole milk but "skimmed milk"; and (4) representing that its product contains 43.8 per cent or any other percentage more "milk solids" than butter or than other spreads for bread; that the product contains any appreciable quantity of "milk solids"; that the food value of the product is attributable to the "milk solid" content thereof, or that this content gives it more food value than butter. (3347)

**J. W. Marrow Manufacturing Company**, 3037 North Clark St., Chicago, manufacturer and distributor of cosmetics, has been ordered to discontinue certain misleading representations made in magazine, radio and circular advertising.

The order directs the respondent corporation to cease and desist from representing (1) that its preparations will nourish the skin or prevent, remove or correct lines or wrinkles; (2) that "Marrow Acne Cream" will correct or remove blemishes, pimples or enlarged pores, or that it has antiseptic properties; (3) that "Mar-O-Oil" will revitalize dead hair or correct the cause of excessive oiliness of the hair, and (4) that "Trimal" contains oil or has any effect upon live cuticle or upon the growth of finger nails.

Also prohibited under the order is false representation of the extent to which those who professionally treat the hair or skin have adopted and use the respondent's preparations, and the extent to which scientists or other experts, who supervise and direct makeup in motion picture studios, recommend or specify the use of the respondent's cosmetics. (3626)

**Motex Company**—See Western Refining Company.

**Saks & Co.**, New York, has been ordered to cease and desist from misleading representations in the sale of women's garments.

Newspaper advertisements sponsored by the respondent company were found to have represented certain dresses as "Silk" and as "Ice Smooth Satin," when in fact such garments were made entirely of acetate rayon.

Fur coats of certain lots were found to have been advertised as being worth \$200 each, brand new, and of the latest styles, when in fact such coats had been purchased at a wholesale price of from \$42.50 to \$44 each, and were worth not more than \$100 retail value.

Coats advertised as "Black Persian Lamb" and as being brand new, of the latest style and worth \$200, were found not to be "Black Persian Lamb" but were made from cross-breed caracul lamb peltries of types produced in Bagdad, Syria or Iraq; were not brand new, had been made over from previously manufactured coats, and did not have a retail value of \$200.

The Commission order directs the respondent company to cease and desist from (1) using geographical or zoological terms to describe furs or fur products made in whole or in part of fur other than those which truthfully express the true origin of the animal from which the peltries actually have been obtained; (2) representing as the customary or regular values of furs, or fur products made in whole or in part of furs, prices and values in excess of the customary prices and (3) representing that furs or fur products made wholly or partly of old, renovated or remade furs are new (by failure to conspicuously designate that such products are renovated, rebuilt, remanufactured or restyled, as the case may be), or that furs or fur products made wholly or partly of such rebuilt or renovated furs are new or composed of new material.

The order also prohibits use of the unqualified descriptive terms "Satin," "Taffeta," "Crepe de Chine," or "Crepe" or other descriptive terms indicative of silk, to refer to any fabric or product not composed wholly of silk, provided that when such descriptive terms are truthfully used to describe the type of weave, construction or finish, they must be qualified by words of equal conspicuousness accurately naming the fibers or materials from which the products are made.

The order further prohibits use of the term "Silk" or other terms indicative of silk to designate a fabric or product not composed wholly of silk, provided that in the case of a fabric or product composed partly of silk and partly of other materials such terms may be used as descriptive of the silk content when immediately accompanied by language accurately designating such other mate-

rials in the order of their predominance by weight, beginning with the largest single constituent. (3456)

**Western Refining Company, Inc.**—An order prohibiting misrepresentation in the sale of medicinal preparations for use by women has been issued against Western Refining Company, Inc., 16 Robeson St., Lowell, Mass., trading also as The Motex Company and Cote Products Company.

In the sale of preparations known as "Motex", "Motex Pills" and "Cote Pills", the respondent corporation is directed to cease and desist from representing that they constitute safe, competent or scientific remedies for delayed menstruation, or have any value in treating this ailment, or that their use will have no ill effects upon the body.

The respondent is also directed to cease representing that its preparations contain no harmful or dangerous drugs or that use of the product will have no ill effects upon the body (this representation being made through failure to reveal that use of its products may result in serious or irreparable injury to health). (3355)

**Western Novelty Company**—John H. Mulkey, trading as Western Novelty Company, Portland, Ore., is charged in a complaint with misrepresentation in the sale of novelty jewelry.

The complaint alleges that the respondent is in the business of selling novelty jewelry, including finger rings set with hematite, a non-precious crystal, and has many competitors who do not in any manner misrepresent their products or the origin thereof.

In the course of his business, the complaint continues, the respondent distributes circulars to prospective purchasers in various States, advertising his rings with illustrations, upon which appear the following statements: "Alaska Black Diamond", "Genuine Laska Black Diamond", and "Sold at all reliable curio and jewelry stores in Alaska. Watch for this label. There are imitations on the market." On a metal tag customarily attached to the rings appears the statement "Genuine Laska Black Diamonds."

In truth, the complaint alleges, the sets in rings sold by the respondent are not diamonds, or a stone or jewel produced in Alaska but are composed of a non-precious crystal, hematite. Through use of the statement warning prospective purchasers that "there are imitations on the market", the complaint alleges, the respondent imports and implies that rings manufactured by competitors and offered for sale and sold to the public, and containing sets of hematite, as do the respondent's rings, are imitations, and that the respondent's rings contain a "genuine" stone or jewel. (4082)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Allied Petroleum Corporation**, Chicago, Ill., agrees to cease using the word "refineries" as part of the corporate or trade name employed in the advertisement or sale of its commodities and from use of this word in any way tending to convey to purchasers the impression that the corporation engages in business as a refinery or that it owns, operates, or absolutely controls the plant or factory in which are refined the commodities sold by it. The stipulation relates that this corporation was organized in April 1938 as the "Allied Refineries, Inc."; that it continued to sell its oil commodities under the corporate name containing the word "Refineries" until July 1939, when its corporate name was changed to "Allied Petroleum Corporation," and that since that date the respondent corporation, though having registered the change in its corporate name with the Illinois State authorities, has continued to use the name "Allied Refineries, Inc.," on letterheads, invoices and in advertising matter and on some of the cans in which its oil commodities are packed, when in fact the corporation is not engaged in the refinery business. (2724)

**James Bayne Company**, Grand Rapids, Mich., engaged in the manufacture of photographic and printed products, has entered into a stipulation to discontinue certain representations.

In connection with the sale and distribution of its products, the corporation agrees to cease and desist from designating its gelatin printing process or any other collotype or planographic form of printing as "Bayne Gravure," "gravure" or "photogravure," or in any other way using the word or term "gravure" as descriptive of products which are not in fact made of the gravure (intaglio) process as understood and applied by industry and the trade. (2728)

**Joe Bonomo Publications**—Joe Bonomo, trading as Joe Bonomo Publications, 229 West 42d St., New York, agrees to cease representing that use of an elastic product sold by him and designated "Companion Exerciser" will cause a return of pep, vitality, energy or better complexion right from the start or in any specified time; that his course designated "Muscle Tension System" will make the user a real man fast or give brawny strength, burly health or a he-man body; that his course designated "Complete Bonomo System" will enable one to excel in any form of sports or make the user a physical wonder, and that the "Beautify Your Figure" course will cause the user to acquire "inviting contours" quickly or in any specified time. (02535)

**Everett L. Bowers, Inc.**, Buffalo, N. Y., an advertising agency, has entered into a stipulation to discontinue misleading representations in disseminating advertisements of products of the Maritime Milling Company, Inc., Buffalo.

The agency agrees that in disseminating advertisements on behalf of Maritime Milling Company, Inc., it will cease representing that "Bull Brand Dairy Rations" alone will keep herds in better physical condition or milk production at consistently higher levels; that that product is the feed of champions; that "Bull Brand Vitamized Complete Starter Ration" alone builds into chicks increased livability, better feathering or pigmentation, or larger or sturdier bodies, and that the use of the complete "Bull Brand" poultry feeding program assures more eggs, more profit or more money. (02539)

**Gralett Company**—Fred F. Sefton and E. G. Krieg, trading as Gralett Company, Minneapolis, Minn., have stipulated to cease and desist from the sale and distribution of lottery devices.

The respondents agree to desist from supplying to or placing in the hands of others, or mailing, shipping or transporting to agents, distributors or members of the public, punch boards, push or pull cards or other lottery devices so prepared or printed as to enable such persons to sell or distribute any merchandise through use of these devices. They also agree to discontinue selling or otherwise disposing of any merchandise through the use of such lottery devices. (2734)

**Hot Drops Company**—William Orland, trading as Hot Drops Company, 116 Market St., Philadelphia, stipulates that he will cease advertising that his product "Hot Drops" is a competent remedy or effective treatment for coughs or for sore throat; that the preparation has any therapeutic value in treating such ailments in excess of providing a temporary palliative relief for some of the symptoms commonly encountered in colds, and that the preparation gives lasting relief. (02538)

**Melville Shoe Corporation**, 555 Fifth Ave., New York, trading as Thom McAn and selling shoes and hosiery designated "Thom McAn Shoe" and "Thom McAn Hosiery," has entered into a stipulation to cease certain representations in the sale of such products.

The respondent corporation agrees to cease representing that only the top grade of calf skin is used in the manufacture of its shoes, when in fact other grades are used; that its shoes will fit perfectly or afford immediate and instant comfort for everyone without breaking-in, eliminate or correct foot troubles, and prevent foot burning which is not due to ill-fitting shoes.

A further representation which the respondent agrees to discontinue is that any specific numbers of persons purchase the respondent's shoes or hosiery, or that all of its stores in the

aggregate or otherwise sell more hosiery than any single department store, when statistics to verify these representations are not available.

The respondent also agrees to cease advertising that its women's hose are made from pure thread silk, when they contain any material other than silk, even when such other material is used as reinforcement only, in the foot and the garter top, and is plainly visible. (02540)

**Thom McAn**—See Melville Shoe Corporation.

**Quaker State Oil Refining Corporation**, Oil City, Pa., stipulates that it will cease representing that it has definitely ascertained: that most dealers are convinced that "Quaker State Motor Oil" is the purest or safest lubricant available; that this oil gives a definite percentage more of lubrication than all other motor oils, when in fact such definite percentage has not been so ascertained by it; that its product always gives more mileage than

any other motor oil, unless it has been so ascertained, and that Quaker State Motor Oil eliminates the hazards of engine carbon. (02537)

**Wolverine Products, Inc.**, Maccabees Building, Detroit, agrees to cease representing that "Digests," a medicinal product, will overcome or in any way affect halitosis or improve bad breath; will aid, promote or result in improved digestion, and that it is a new product or gives "new relief." The respondent also stipulates that it will cease designating its preparation as "Digests" or by any other name implying that it is a digestive or has any direct effect on digestion. (02536)

#### FTC CASE DISMISSED

Upon final hearing, the Federal Trade Commission has dismissed a complaint charging Gordon Baking Company, 2303 Vernor Highway, East, Detroit, with misleading representations concerning "Silver Cup Bread."



## President Roosevelt Wants Television Competition

President Roosevelt gave the broadcasting industry a pat on the back at his April 12 press conference, and made it plain that he thought television should be developed along similar competitive lines.

When asked about his conference the previous day with Chairman Fly of the FCC, Mr. Roosevelt said that television undoubtedly had a great future. Claims that it would result in employment of millions, however, he said, were exaggerated. More important was the question of monopoly control. The FCC wanted to be certain that in this new art there will be the same kind of competition on three angles that the country now had in radio. The President said that the country didn't want to get into a position where one company could control all sending. Radio had pretty effective competition with national networks, regional and local stations. Any set could pick up any program. The development of television ought to follow the same general lines with the listeners having a choice of stations. Eventually the owner of a television set could even get foreign television programs. All the Commission was doing was working along the line of developing television on a competitive basis with no one organization controlling all the sending and every set in the home being able to pick up any television band. The President predicted all this would be worked out this spring and summer so that sets could be put into production. In response to another question as to how the industry felt, he said that the bulk of the industry wanted television on the same basis as broadcasting.

### TELEVISION HEARING

Friday, April 12

Mr. Elmer Engstrom resumed testimony for RCA. When questioned about a combination television receiver designed to receive the RMA and the DuMont signals, he said that if the set were built to operate best with a frame frequency of 30 that it would not give as good results when switched to the frame frequency of 15, and

that if the set were built for 15 frames it would not function as well on 30. Mr. Engstrom discussed the relative merits of the various standards proposed, and he reiterated his opinion that the RMA standards represented the best engineering compromise between the various factors involved. However, in view of the apparent deadlock on standards, he recommended that they be left flexible until field testing could determine which set of standards to accept. Mr. Engstrom went into a discussion about the additional cost required in a television receiver in order that the receiver might accept signals transmitted over various standards. His estimate ran between three and forty dollars, depending on the combination of standards to be met. In response to questions put to him by Commission Attorney Dempsey he said that he felt that if standards are set that television will go ahead more rapidly. However, he feels that in view of the deadlock on standards, that field tests should be made before setting standards; and it was also his feeling that not less than six months are needed for field tests after the different system stations are in operation in order to determine which set of standards should be used. Mr. Engstrom also commented that if all considerations except engineering could be eliminated, then we could have standards set by the engineers in a conference rather than wait for field testing on the practical basis. He said that he had hoped that this could be done so that standards could be set at an earlier date. Mr. Engstrom was questioned further concerning the proposed RCA television relay system. He said that it was their intention to have two channels each way between Washington and New York, and that these channels could be rented by anyone who so desired to transmit television programs over and that any standards desired could be transmitted over this system. The television hearing was concluded Friday.

Manton Davis, RCA Vice President and General Counsel, made the following statement at the hearing:

The engineers of the Radio Corporation of America subscribe to the majority opinion of the engineers of the radio and television industry that the transmission standards formulated by the Radio Manufacturers Association represent the best set of standards with which to start commercial television operation in the United States. The RCA is using these standards because it believes they incorporate the best features that have been developed in the major

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

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

## PRESIDENT ROOSEVELT WANTS TELEVISION COMPETITION

(Continued from page 4181)

television laboratories of the United States, England, Germany and the rest of the world.

After years of experimentation and practical operation, we believe that television products built under these standards are superior in performance. In our opinion they will give the public a larger measure of satisfaction than if built under any other standards that may be proposed in the present state of the art, within the 6-megacycle channel which the FCC has allocated for television operation.

During the course of the present hearings the suggestion has been made that television receivers be manufactured that would be able to receive from television transmitters operated under other standards as well as under those of the RMA.

The Radio Corporation of America does not believe that the adoption of such a suggestion would prove to be of advantage either from an engineering, economic or public service standpoint. Nevertheless, if the FCC licenses transmitters to broadcast television programs to the public on standards in addition to those now in use, and will specify what such standards are to be, the Radio Corporation of America is prepared now to build television receivers so that they will also receive television programs from such transmitters.

The Radio Corporation of America hopes that this offer will help the Commission to overcome the present deadlock which is retarding the progress of a new and promising industry and thus create employment for idle men and idle money, on a wide, competitive basis.

The DuMont interests issued the following statement:

By providing for flexible reception now and in the future in his television receivers presently coming off the assembly line, Allen B. DuMont, pioneer television manufacturer of Passaic, N. J., believes he has struck the happy compromise between fear of freezing the art on the one hand, and premature obsolescence of receivers on the other, indicated in recent opinions and decisions of the Federal Communications Commission. He states:

"I am the rare exception in upholding the FCC in its television citation of March 23, ordering a leading company to explain its high pressure merchandising of inflexible television receivers. Frankly, I'm not in accord with the widespread criticism of the FCC's action by other television interests and by an obviously misinformed or at least inadequately informed press. It is patent that all the facts in the case are not being considered by those who hasten to accuse the FCC of autocratic handling of television. Hence I am moved at this time to disclose some of the lesser-known points in the involved television situation.

"In insisting on keeping the television art open for any and all developments and improvements, the FCC is working for the best interests of television progress. Present television images are good, to be sure, but they can be made far better. Especially so in reproducing more general scenes so necessary in telecasting news and sporting events. And particularly so if we go to larger screen dimensions, which we must do. To freeze the art now on the basis of present RMA standards of 441-line 30-pictures-per-second would be just as short-sighted as though the automobile industry had standardized on the basis of the low-compression slow-speed engine of fifteen years ago, because gasoline producers then were not ready to supply high-octane gas.

"To me it seems that the television art has got to be kept wide open. Yet the public must not be sold receivers that may become obsolete next month or next year. That simply means that we must have *flexible* television reception to follow any and all refinements that may be made at the transmitting end.

"My own organization, the Allen B. DuMonts Labs., Inc., has probably a broader vision of this television flexibility than is generally the case. We originally started with cathode-ray tubes and oscillographs for the industrial market, taking the erstwhile laboratory curiosity and making it generally available as an everyday tool for the factory, serviceman and others. When television reached the electronic stage, we simply revised our cathode-ray oscillograph designs to weave television images in place of usual graphs.

"To us a television receiver is simply a refined oscillograph. And if the latter is so flexible that it can translate the most intricate electrical phenomena into visual terms, surely the television receiver can be made equally flexible in handling a wide assortment of television signals. To fit the television receiver rigidly to a given television standard is, in my opinion, poor business. It isn't playing fair with our public nor, for that matter, with the telecaster. Both are being chained together and must lockstep together without hope of freedom and progress.

"Proving our point, the DuMont television receivers now coming off our production line are *flexible* receivers. By means of several inexpensive refinements, these receivers can handle any television signal of any number of lines from 400 to 900, and any picture rate from 15 to 30, in any combination. The added cost for such flexibility is ridiculously small.

"These new receivers follow the present RMA standard signals yet, by the mere flip of a switch, they will follow other standards as well.

"It is our opinion, based on a long study and use in our own television station of the RMA standards, that there already exist better ways of synchronizing transmitter and receiver. The DuMont video signal, for example, follows the same general plan as the RMA signal except that in the vertical synchronization pulse interval a 500 kc. sine wave is introduced which is capable of controlling the receiver at any rate required and for any number of lines between 400 and 800.

"A further refinement is our so-called 'memory screen' which, by its persistence characteristic, tides over from one picture to the next, thereby fading from one to the other without noticeable flicker, even down to 15 pictures per second. By halving the RMA repetitive rate, we can cut the usual television band with from 6 to 4 megacycles or less. Thus we can provide more television channels, but our own recommendation is to retain the present 6 MC. band width and utilize the gained ether space for a greater number of lines and better pictorial resolution so essential in larger screen images such as obtained with our latest 20-inch tube.

"Again I repeat, the FCC, based on all the facts in the case, is correct in insisting first on a flexible system in a television art left open for further progress."

## Networks Now Playing New BMI Music

The networks are playing the new BMI tunes.

NBC scheduled four of the new songs for April 17-21, while Columbia scheduled two for April 16-18.

All broadcasters should hear them. The NAB would like to know what use other broadcasters are making of the new music.

The selections and the NBC Blue programs on which they are scheduled are:

"Sagebrush Serenade," April 17, 7:30-8:00 EST—Bill Johnson.

"In the Silence of the Dawn," April 19, 10:45-11:00 a. m. EST—The Novelettes, sung by Frances Adair, directed by Irving Miller.

"In the Silence of the Dawn," April 21, 1:30-2:00 p. m. EST—Al and Lee Reiser.

"We Could Make Such Beautiful Music," April 21, 5:00-5:15 p. m. EST—Yvette.

The selections and the CBS programs on which they are scheduled are:

- “Here In the Velvet Night,” Tuesday, April 16th, 2:00 p. m. EST—Drifting Melodies.
- “We Could Make Beautiful Music,” Thursday, April 18th, 4:00 p. m. EST—Ray Bloch.

Merritt E. Tompkins, vice president and general manager of BMI, announced the policy of BMI with respect to the electrical transcription of the compositions of which BMI owns the copyright.

“The copyright law is clear,” Mr. Tompkins said. “The maximum fee which can be charged for the right mechanically to reproduce the work is 2¢ per composition for each record manufactured, regardless of the form or purpose of the record.

“Music publishers initially succeeded in levying higher rates, which have been imposed upon electrical transcriptions by a threat to restrict the performance of compositions after the time of recordation and before the time of broadcast. The precedent created by these charges has been followed by many persons who have not been aware of its implications.

“BMI is in a position to break away from what I think is an improper precedent. We shall, therefore, charge the statutory fee for the use of our compositions for electrical transcriptions. This will help not only the transcription industry, but also the broadcasters themselves, since transcription costs in the last analysis are paid by the broadcasters.

“In thus aiding the transcription industry,” Mr. Tompkins concluded, “we are also aiding BMI authors as the use of BMI compositions will be enormously stimulated by our adherence to the legal charges.”

The following additions to the BMI staff were announced this week:

**HAVERLIN, CARL—**

With KFI-KECA from 1923 to 1938. Started as publicity man, then covered sports and special events. Was made sales manager in 1927, which post he held until 1938. In 1938 he joined Davis & Schwegler as station relations director and left to become station relations director at BMI. Mr. Haverlin will be in direct charge of all matters pertaining to station relations and in matters concerning staffs of member stations.

**SKINNER, GEORGE DICKSON—**

Graduate of Princeton University and Columbia University Law School, has been a lawyer, teacher and writer. He practiced law in New York City. His writing, published under the name Dickson Skinner, includes both fiction and magazine articles. Much of his article work has been in the field of music. Mr. Skinner will be in the public relations department in charge of magazine article writing and publicity.

**MERRIMAN, DANA—**

Associated with WTIC, Hartford, Conn., as program director from 1924 to 1928, then with the NBC in the program and production department until he went with the World's Fair in charge of music and music copyright. Mr. Merriman will be office manager for BMI.

**RCA GIVES GREEN LIGHT TO VICTOR RECORD USE**

RCA on April 12 notified stations that until further notice they are free to use Victor and Bluebird phonograph

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records for broadcasting purposes. Existing licenses were terminated and license fees refunded. This action was taken on the day appeal briefs were filed in the RCA-Whiteman case and was ascribed to the belief that final determination of the appeals will be delayed longer than RCA had anticipated. Decca and Columbia had previously notified broadcasters they were free to use their records.

NAB has always taken the position that broadcasters are entitled to play phonograph records, and is represented by special counsel in the Whiteman case in support of this view.

**SESAC ADDITIONS**

SESAC on April 8 announced the addition of the following publishers to their list:

- T. S. Denison & Company, Chicago, Illinois
- David Gornston, New York, N. Y.
- Heinrichshofen’s Verlag, Magdeburg
- Frank A. Panella, Pittsburgh, Pa.

**INTERNAL REVENUE BUREAU SAYS FCC EXPENSE DEDUCTIBLE**

In response to the NAB’s inquiry, the Bureau of Internal Revenue has ruled that expenses incurred by broadcasters in connection with applications to the FCC are deductible expenses for Federal income tax purposes for the year in which paid or accrued.

Here is the correspondence:

March 22, 1940

Bureau of Internal Revenue,  
Washington, D. C.

DEAR SIRs:

Because of pertinent inquiries received and its general application to the broadcasting industry, permit me to request an opinion on the question of the deductibility of expenses incurred in connection with applications to the Federal Communications Commission.

Such expenses include legal fees, engineering fees, travel and clerical expenses, etc. Such applications may be for a construction permit for a new station, for an increase in operating power of an existing station or for an increase in hours of operation of an

existing station—in any case, having to do only with the terms of a license from the Commission looking to broadcasting operations on an assigned frequency for a limited period of time. Licenses are at present issued for one year, but may be issued for a maximum of three years, are revocable for cause, and grant no property rights in the frequency assigned.

Is it your opinion that such expenses are ordinary business expenses which may be deducted from income in the year paid or accrued, depending upon whether the taxpayer's books are kept on a cash or accrual basis?

Your opinion on this question will be greatly appreciated.

Very truly yours,

NATIONAL ASSOCIATION OF BROADCASTERS,  
RUSSELL P. PLACE,  
*Counsel.*

RPP/hml

TREASURY DEPARTMENT  
Washington  
Office of  
Commissioner of Internal Revenue

IT:P:T:2  
CP

April 11, 1940,

National Association of Broadcasters,  
Normandy Building,  
1626 K Street, N. W.,  
Washington, D. C.,

Attention: Russell P. Place, Counsel.

SIRS:

Further reference is made to your letter of March 22, 1940 requesting an opinion as to the deductibility for Federal income tax purposes of expenses incurred in connection with applications to the Federal Communications Commission.

The facts, as stated by you, are as follows:

"Such expenses include legal fees, engineering fees, travel and clerical expenses, etc. Such applications may be for a construction permit for a new station, for an increase in operating power of an existing station or for an increase in hours operation of an existing station—in any case, having to do only with the terms of a license from the Commission looking to broadcasting operations on an assigned frequency for a limited period of time. Licenses are at present issued for one year, but may be issued for a maximum of three years, are revocable for cause, and grant no property rights in the frequency assigned."

Section 23(a) of the Internal Revenue Code (53 Stat., Part 1) provides for the deduction from gross income in computing net income for Federal income tax purposes of all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. In order to secure a license to engage in the business of radio broadcasting an individual is required by law (Title 45, Chapter 5, section 308, U. S. Code) to make application to the Federal Communications Commission for a permit. Inasmuch as you state that the licenses are only issued for one year, it is the opinion of this office that ordinary and necessary expenses incurred in connection with securing the licenses constitute deductible expenditures for Federal income tax purposes for the year in which paid or accrued.

Respectfully,

(signed) J. MOONEY,  
*Deputy Commissioner.*

## WAGE AND HOUR ACT

Both Congress and the Wage and Hour Administration are now seriously considering exemption of higher-paid employees from the hours limitations of the Act.

The House is going to take up soon both the Norton (D-NJ) and the Barden (D-NC) amendments. The Norton amendments would exempt employees making more than \$200 a month. The Barden amendments

would set the figure at \$150. In other words, an employee making more than \$200 (or \$150) a month could work any number of hours without payment of overtime unless a union contract provided otherwise. Both the A. F. of L. and the C.I.O. are against both sets of amendments.

The Wage and Hour Administration has been holding hearings on proposals to redefine "executive" and "administrative" in the administration's regulations. The Act provides for exemption of "executive" and "administrative" employees, but the definitions of these in the regulations were so strict that few employees were exempt under them.

The hearings, to date, have been confined to proposals to change the definitions for the wholesale industry. In brief, these proposals called for elimination of that section of the definitions which said a bona fide executive could do no substantial amount of work of the same character as that performed by those under him; and for a minimum wage of from \$25 up. Both the A. F. of L. and the C.I.O. have opposed the redefinitions.

## DATA FOR CONVENTION TOURS AVAILABLE AT NAB

Itineraries for Two-Weeks and Three-Weeks All-Expense Tours to the NAB Convention at San Francisco August 4-7 were mailed April 10 to those members responding to the recent questionnaire. Any others may secure this detailed information by writing to the NAB.

## "POT O' GOLD" PROGRAM CLEARED BY D. OF J.

The Justice Department last week cleared the "Pot O' Gold" and "Mead's Bakery" programs referred to it by the FCC. Chairman Fly received the following letter from O. John Rogge, Assistant Attorney General:

"Reference is made to our letter of February 21, 1940, acknowledging receipt of yours of February 19, 1940, transmitting for such action as the Department may deem appropriate certain information concerning the broadcasting of the "Pot O' Gold" and "Mead's Bakery" programs, both of which are alleged to be in violation of Section 316 of the Communications Act of 1934.

"After a thorough examination of the material submitted and a careful consideration of the facts presented, the Department has concluded that prosecutive action under Section 316 of the Communications Act of 1934 in these two matters should not be instituted."

## Mrs. Selma Seitz

Mrs. Selma Seitz, owner of Station WFAS from 1930 to 1939, died April 7 at her home in White Plains, N. Y. Mrs. Seitz, one of the early woman station-owners, always had as her policy a "local station for a local audience" and concentrated, in programming, on events of special interest to her community. She retired last year because of failing health. Her son, Frank A. Seitz, is still managing director of the station.



## FAR EAST NEWS

The American Council Institute of Pacific Relations, Inc., informs the NAB that it has available for news commentators a great deal of background material "which they could use to explain dispatches from the Far East." The Council says it has furnished material for the "American School of the Air" and other programs. The address is 1795 California Street, San Francisco, or 129 East 52nd Street, New York City.

The NAB does not know whose axe, if any, this outfit has to grind.

### Sales—Promotion

#### PUBLIC LIKES TO LISTEN WHILE IT RIDES

When automobile radios were first introduced city councils solemnly debated for long hours over the question of passing a law against them. But they never did, though escape from restrictive ordinances was achieved, in many cities, by an extremely narrow margin.

The motoring public took to auto radio as a duck takes to water. Today 7,000,000 are on the highways, adding approximately 11,000,000 extra hours of radio set use per day during the heavy motoring months of spring and summer, according to Paul Peter, NAB director of research. Others place the figure at 18,000,000.

Nowadays, objections to automobile radio are relatively few and when they are made it is always possible to show that the attack was entirely unwarranted. When a reader of "The Oregonian," Portland, Ore., "wrote a letter to the paper," the newspaper which operates radio stations KGW and KEX, replied editorially:

#### "Car Radios a Hazard?"

"A reader contends that automobile radios contribute to traffic accidents, consequently should be banned. A single incident was cited in support of the contention, an "accident" which just missed happening. Such incidents are myriad and inconsequential.

"The argument is made that car radios, by distracting the driver's attention, by taking his hand from the steering wheel to dial, by drowning out sirens and other warning sounds, are contributory causes of accidents. But statistics are lacking, and a strong case also can be made that car radios contribute to safety.

"Thus it is very difficult for most people to concentrate continuously on driving. The motions used tend to become automatic, like lacing shoes, or any routine a thousand times repeated. Attention wanders. Day-dreaming takes possession of the mind. Under such circumstances the radio may help. It is less dangerous for a motorist to listen to a radio and keep his eyes on the road than to stare vacantly in a day-dream, seeking something of interest in the landscape or to turning his eyes in conversation with a passenger. Some motorists use their radios as an antidote for drowsiness.

"Some eastern broadcasters during peak traffic hours carry safety programs. Suggestions to have brakes adjusted, to drive carefully, are most effective when they reach the motorist at the wheel. Car radios make announcements of road hazards suddenly arising more effective. Radio stations everywhere have letters from listeners thanking them for warning of a flood, slide or other unsafe condition on a highway they were about to traverse. Organizations interested in traffic safety testify to the value of the radio in

getting warnings to motorists already on the road, and in generally helping their safety campaigns. In Portland not a few motorists have been thankful for warning word coming through the car radio en route to work that ice had formed during the night on some hill or bridge approach."

People like to hear radio programs while they ride. And broadcasters and advertisers are naturally overjoyed that there is such an appreciation of the American program service. Whenever auto radio receives unjust criticism the industry will be served best by a stout defense similar to that taken by "The Oregonian."

#### TWO IDEAS TO BUILD RADIO AUTO LISTENING

Stations in many sections are busy increasing spring and summer listening through the medium of auto radios. Maximum listening naturally occurs when auto sets are in first class operating condition.

In Cleveland where the local chapter of the Radio Servicemen of America has long been a factor in maintaining all sets at a high degree of efficiency, Carl George, program manager, WGAR, is especially active.

At our request he has made two suggestions for special programs which provide a vehicle for service announcements. Since such programs would be heard by auto set owners and non-owners, alike, they might also recite the advantages of being able to "Listen While You Ride." so as to influence increased ownership. Mr. George's suggestions follow:

##### Idea No. 1

"Here is one which not only promotes radio listening by car owners, but also encourages safe driving. For example—here in Cleveland—certain police cruisers could be designated to short wave the license number of a car that they have chosen as being driven safely. This information would be passed on to the studio announcer and he could immediately announce that the driver of the car bearing license number 000 has been recognized by the Police Department as being a safe driver under observation.

"Because of his safe driving he will receive a complete check up on his auto radio by a RSA member with new parts supplied at cost, providing he telephones his identification into the station within ten minutes after the announcement is made.

"While this program is on the air we could also give safe driving hints to all drivers who have car radios tuned into the program."

##### Idea No. 2

"Conduct a daily quiz program for auto radio listeners and have spotters telephone in the license plate numbers of cars that pass a given point. Then the announcer will say: 'if the driver of the car bearing license number LX-157 can answer this question, he will receive a free auto radio check up by a qualified RSA member.'

"This auto radio listener would be required to phone in the correct answer to the question within ten minutes after it is asked on the air, in order to qualify for the prize. This will encourage all auto radio owners to listen to the program and will give the announcer an opportunity to put in a good plug for set repair and proper tune up. License numbers would be chosen at random just like a participant in a studio quiz bee would be picked."

#### GREENSBORO'S MAYOR IS FIRST TO PROCLAIM RADIO FESTIVAL

Preparations for Radio Festivals are already underway in many states, according to letters beginning to drift in at headquarters.

To His Honor Ralph L. Lewis, mayor of Greensboro, North Carolina, goes the distinction of issuing the first proclamation of the event in any city. Official action was taken on April 15 according to Major Edney Ridge, director of WBIG, Greensboro.

On Saturday, April 20, a Radio Festival news bulletin will be sent to all members.

### SALES MANAGERS DISCUSS "MEDIA RECORDS" FOR RADIO

A proposed "Media Records" of radio advertising, and NAB participation in the Convention of the Advertising Federation of America to be held June 23-27 in Chicago, were among the matters discussed by the Steering Committee of the NAB Sales Managers' Division, which met in Chicago, April 15.

The Committee reiterated the need for an accurate yardstick to determine radio advertising activity and trends, especially in the national spot and local fields. The NAB Research Department has had such an index, in the form of a standard unit of measurement, under consideration for several months. The data would be made available to member stations and to interested agencies and advertisers.

Preliminary plans for "Broadcasters' Night" at the forthcoming AFA Convention were discussed and approved by the Committee. Tuesday evening, June 25, will be NAB Night when the broadcasting industry will present a program of broadcasts, specialty acts, music and other entertainment in compliment to the AFA and its members. Chicago stations and networks will form a program committee under William R. Cline, Commercial Manager of WLS and Chairman of the NAB Sales Managers' Division, to line up the necessary talent and work out final details for the evening's entertainment.

For the Convention, the NAB Sales Managers' Division is also planning a panel discussion of industry sales and advertising problems, one session to be open to AFA members.

The activities of the Bureau of Radio Advertising were reviewed by the Committee and the problem of dealer-cooperative advertising discussed at length. Present at the April 15 meeting were the following:

William R. Cline, WLS, Chicago, chairman; Ellis Atteberry, KCKN, Kansas City, Kans.; Craig Lawrence, KSO, Des Moines; Charles Caley, WMBD, Peoria; Barney Lavin, WDAY, Fargo; Samuel J. Henry, Jr., NAB Bureau of Radio Advertising.

Also present were C. E. Arney, Jr., recently appointed assistant to the president of NAB, and Earle Pearson, general manager of the AFA, who was a luncheon guest and who outlined general plans for his Federation's 36th Annual Convention.

### FCC TO INVESTIGATE RADIO ADVERTISING FURTHER

The Radio and Periodical Division of the Federal Trade Commission, established in October, 1918, which examines newspapers, magazines, catalogues and almanacs for false and misleading advertising matter, and which also reviews advertising copy broadcast through radio for the same purpose, has released an analysis of advertisements reviewed by it during 1939. The percentages presented relate only to the initiation of inquiry and are not necessarily representative of any final adverse action taken by the Commission.

Of the total number of commercial radio continuities marked as warranting further investigation during the first half of 1939 (later data not available), the following shows the respective sources thereof:

	<i>Per Cent</i>
Nation Wide Networks.....	23.1
Regional Networks .....	4.2
Transcription Recordings .....	3.9
Individual Low Powered Stations.....	18.1
Individual Medium Powered Stations.....	34.2
Individual High Powered Stations.....	5.9
Individual Clear Channel Stations.....	10.6

### PAYNE RECOMMENDS REVOCATION OF FOUR TEXAS LICENSES

Recommendation that license revocation orders be affirmed in the cases of four Texas radio stations—KTBC, Austin; KNET, Palestine; KRBA, Lufkin, and KGKB, Tyler—is made to the FCC by Commissioner George Henry Payne as a result of hearings which he conducted in that State during March. In his opinion, the charges of hidden ownership made in connection with all four stations "have been fully sustained."

At the same time, Commissioner Payne has signed an order remanding the case of a fifth Texas station, KSAM, at Huntsville, for further hearing.

The March hearings developed that the technique used in securing the licenses of KTBC, KNET, and KRBA and of transferring the rights under them was practically the same. To quote Commissioner Payne's preliminary report:

"First, James G. Ulmer prevailed upon three local men of excellent reputation and financial stability to organize a copartnership for the sole purpose of securing a station license. Next, he directed all the important details . . . and finally had his own lawyer, James H. Hanley, file the papers. . . . Soon after the construction permit had been secured, the partners entered into a contract authorizing Ulmer (or one of his co-workers) to finance, construct and operate the station. Thus, in the early history of the station, did the partners assign their license rights without the knowledge or consent of the Commission.

"The partners made no capital investments and received no income from the station. . . . All, or almost all, of the profits found their way into Ulmer's pockets or the pockets of one of his close associates. The partners had no control of the station's bank accounts, receipts or expenditures. . . . They continued to sign papers because they were the licensees of record in order to deceive the Commission.

"It is clear that the partners were simply puppets manipulated by Ulmer who was the puppeteer. It was Ulmer, or one of his associates, who financed, constructed and operated the station.

It was he who controlled the programs and the station policy. It was he who hired or fired employees and enjoyed the profits.

"The partners signified under oath by their application and associated papers that they would finance and control the station. This they never intended to do, thus perpetrating fraud upon the Commission. In several instances the partners submitted sworn statements showing that the partnerships involved possessed substantial assets, whereas, in fact, such partnerships possessed no assets whatever. Station assets belonged to Ulmer or one of his associates."

Ulmer is also identified with Station KGKB but this case, points out Commissioner Payne, involves a corporation and differs somewhat from the partnership cases. According to the report:

"Here Ulmer gained voting control of the East Texas Broadcasting Company by means of stock purchases, without the knowledge or consent of the Commission. . . . Here, too, the license rights were illegally assigned and illegally exercised by the assignee, who again was Ulmer.

"Ulmer's conduct is reprehensible in more ways than one. He has induced honest and self-respecting men to violate the law and participate in an intricate scheme of deception. Most of these men made themselves parties to Ulmer's machinations through honorable intentions—a desire to serve their communities. Some of them even tried to break through the net in which Ulmer had caught them. But Ulmer's own conduct was prompted wholly by greed. Ulmer has cast a shadow upon the business of broadcasting."

Orders of revocation were issued by the Commission against Stations KTBC, State Capitol Broadcasting Association, Inc., KNET, Palestine Broadcasting Association, and KRBA, Red Lands Broadcasting Association, on February 7; in the case of KGKB, East Texas Broadcasting Co., on February 13, and that of KSAM, Sam Houston Broadcasting Association, on February 8.

### BROADCAST RULES AMENDED

FCC has announced that Sections 3.6, 3.8, 3.9, 3.10, 3.23(c), 3.79, and 3.84 of the Standard Broadcast Rules were amended, effective immediately, providing for a change in the beginning of the broadcast day from 6:00 a. m., local standard time, to local sunrise.

### INTERNATIONAL REBROADCASTS

The FCC has amended its rules and regulations to permit standard and non-commercial educational broadcast stations to pick up and rebroadcast the non-commercial programs of international broadcast stations. It was specified, however, that such rebroadcasting shall be on a non-commercial basis.

Briefly, this means that any broadcast station or a non-commercial educational station in the United States may, upon authority of the station originating the international program, pick up and retransmit the same for the benefit of its listeners. This applies to the program of any international broadcast station, whether it is located within or outside of the United States.

This action was taken on the basis of recommendations by a special committee of the Commission that, where possible, domestic listeners should enjoy the benefits of non-commercial international broadcasts.

## FEDERAL COMMUNICATIONS COMMISSION

### DECISIONS

Federal Communications Commission has entered a final order granting the application of the Martinsville Broadcasting Company for the erection of a new station at **Martinsville, Va.**, to operate unlimited time on **1420 kilocycles**, 250 watts day and 100 watts night. The application of the Patrick Henry Broadcasting Company for the same facilities was denied.

Chairman Fly and Commissioner Craven dissented.

Application of WLAP, **Lexington, Kentucky**, for special experimental authority to rebroadcast over its present broadcast assignment with 250 watts, facsimile transmissions originating over Station WLW, **Cincinnati, Ohio**, has been denied by the Commission.

The Commission found that since the program of research and experimentation proposed by WLAP relate wholly to reception, and applicant has failed to show that the proposed program of research and experimentation has reasonable promise of substantial contribution to the development of facsimile broadcasting service, the granting of the application would not serve public interest.

### PROPOSED FINDING

Federal Communications Commission has announced a proposed finding of fact denying the application of Publix Bamford Theatres, Inc., of **Asheville, N. C.**, for a construction permit for a new station to operate on **1430 kilocycles**, 1000 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral arguments are scheduled to be heard before the Commission for the week beginning Monday, April 22. They are subject to change.

**Monday, April 22**

NEW—West Virginia Newspaper Publishing Co., Morgantown, W. Va.—C. P., 1200 kc., 250 watts, unlimited time.

**Tuesday, April 23**

NEW—Guy S. Cornish, Cincinnati, Ohio.—C. P. for Public Address Relay Station, 310000 kc., 1 watt night, 1 watt LS, Emission A-3, unlimited time.

Tuesday, April 23

To Be Held Before Commissioner George Henry Payne, in Judge Ben Fly's Court Room, Hall of Records, Dallas, Texas.

KAND—Navarro Broadcasting Assn. (J. C. West, Pres.). Corsicana, Texas.—In re: Revocation of Station license of KAND.

Wednesday, April 24

Further Hearing

To Be Held Before Commissioner George Henry Payne, in the County Records Building, Dallas, Texas.

KSAM—Sam Houston Broadcasting Assn. (H. G. Webster, Pres.), Huntsville, Texas.—In re: Revocation of Station license of KSAM.

Thursday, April 25

Oral Argument Before the Commission

REPORT NO. P-5:

NEW—Eddie Erlbacher, Cape Girardeau, Mo.—C. P., 2738 kc., 50 watts, emission A-3, unlimited time. Pts. of Comm.: with vessels on Mississippi and Ohio Rivers.

REPORT NO. B-88:

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 broadcast hearings. They are subject to change.

April 29

To Be Held Before Commissioner George Henry Payne, in the Criminal Court Room, County Courts and Jail Building, Houston, Texas.

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Texas.—In re: Revocation of Station license of KGFI.

June 3

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WPRP—Julio M. Conesa, Ponce, P. R.—Granted amended construction permit requesting installation of new equipment, new antenna, move of transmitter site and change in frequency from 1420 to 1480 kc., power from 250 watts to 1 KW-5 KW LS, unlimited time.

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

The Peninsula Broadcasting Co., Salisbury, Md.—Granted construction permit for new station to operate on 1500 kc., 250 watts, unlimited time. Exact site of transmitter and studio to be determined.

The Delmarva Broadcast Co., Salisbury, Md.—Granted construction permit for new station to operate on 1200 kc., 250 watts, unlimited time. Exact transmitter and studio sites and type of antenna to be determined subject to Commission's approval.

Allen B. DuMont Laboratories, Inc., New York City.—Granted construction permit for a new television broadcast station to be located in New York City and operate on an experimental basis on frequencies 60,000 to 86,000 kc., inclusive, with 1 KW power.

WISE—Harold H. Thoms, Asheville, N. C.—Granted consent to assignment of license for station WISE from Harold H. Thoms to radio station WISE, Inc. (1370 kc., 250 watts, unlimited time).

WWRL—Long Island Broadcasting Corp., Woodside, L. I., N. Y.—Granted modification of license to increase night power from 100 to 250 watts.

KMPC—KMPC, The Station of the Stars, Inc., Beverly Hills, Cal.—Granted construction permit to increase night power from 1 to 5 KW, move transmitter and install directional antenna for day and night use as a Class II station. (B5-P-2804).

WHOM—New Jersey Broadcasting Corp., Jersey City, N. J.—Granted construction permit to increase power from 250 watts, unlimited time to 500 watts night, 1 KW LS; install new transmitter and make changes in antenna. (B1-P-2526).

WBNX—WBNX Broadcasting Co., Inc., New York City.—Granted construction permit authorizing installation of directional antenna and increase in power from 1 KW, 5 KW LS, S-WAWZ on 1350 kc., to 5 KW-N. (B1-P-2238).

WPRO—Cherry & Webb Broadcasting Co., Providence, R. I.—Granted modification of construction permit to make changes in directional antenna system, extend commencement and completion dates, in re application to move transmitter site locally, install new equipment to 5 KW. (B1-MP-938).

WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Granted construction permit to make changes in directional antenna (night and day). (B1-P-2319).

KIRO—Queen City Broadcasting Co., Seattle, Wash.—Granted construction permit to move transmitter site, increase power from 1 KW to 10 KW, and install new transmitter and directional antenna system for day and night use. (B5-P-2437).

### APPLICATION DENIED

WPAY—Chester A. Thompson, Portsmouth, Ohio.—Denied consent to the acquisition by Brush-Moore Newspapers, Inc., of control of the VEE BEE Corporation licensee of station WPAY, operating on 1370 kc., 100 watts, unlimited time.

### DESIGNATED FOR HEARING

WAGA—Norman K. Winston, Atlanta, Ga.—Application for consent of the Commission to the voluntary transfer of control of the Liberty Broadcasting Corp., licensee of Station WAGA, Atlanta, Ga., from Norman K. Winston to James M. Cox, Jr. (1450 kc., 500 watts night, 1 KW day, unlimited time).

WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—Application for construction permit to change transmitter location to Mendota Road, near Delaware Ave. (near) St. Paul; change frequency from 1250 to 710 kc.; increase power from 1 KW, 5 KW LS, to 10 KW; install new transmitter and directional antenna system for night use. (B-4-P-2439)

KSOO—Sioux Falls Broadcasting Assn., Inc., Sioux Falls, S. Dak.—Application for construction permit to change frequency from 1110 to 710 kc., hours of operation from limited to unlimited; move transmitter from west of Sioux Falls to 6.5 miles east of Sioux Falls; and install directional antenna for night use. (B4-P-2667)

### RENEWAL OF LICENSES

Renewal of licenses for the following high frequency broadcast stations were granted for the period ending April 1, 1941:

W2XMN, near Alpine, N. J.; W2XDV, New York City; W8XNU, Cincinnati, Ohio; W9XLA, Denver; W2XAG, Yonkers, N. Y.; W8XNT, Cleveland; W9XBA, Kansas City, Mo.; W5XAU, Oklahoma City; and W1XER, Sargents Purchase, N. H.

The following developmental broadcast stations were granted renewal of licenses for the period May 1, 1940, to May 1, 1941:

W3XDD, Whippany, N. J.; W9XC, Mitchellville, Iowa; W8XO, Mason, Ohio; W10XF, Portable-Mobile (area of New York City); W10XR, Portable-Mobile (area of New York City).

W1XG—General Television Corp., Boston, Mass.—Granted renewal of television broadcast station license for the period ending February 1, 1941.

WBOE—Cleveland City Board of Education, Chas. H. Lake, Supt., Cleveland, Ohio.—Granted renewal of non-commercial educational broadcast station license for the period May 1, 1940, to May 1, 1941.

WNYE—Board of Education, City of New York, Brooklyn, N. Y.—Granted renewal of non-commercial educational broadcast station license for the period May 1, 1940, to May 1, 1941.

### MISCELLANEOUS

- KOH—The Bee, Inc., Reno, Nev.—Granted modification of construction permit which authorized installation of new transmitter, directional antenna for night use, increase in power from 500 watts to 1 KW, and move of transmitter, for authority to install new transmitter; frequency 630 kc., 1 KW, unlimited, directional antenna for night use (B5-MP-960).
- WTAG—Worcester Telegram Publishing Co., Inc., Worcester, Mass.—Granted license to cover construction permit for installation of new transmitter, changes in antenna, and increase in power; frequency 580 kc., 1 KW, 5 KW LS, unlimited time, directional antenna day and night (B1-L-1129); also granted authority to determine operating power by direct measurement of antenna power (B1-Z-376).
- WSMB—WSMB, Inc., New Orleans, La.—Granted license to cover construction permit for increase in power and changes in antenna; frequency 1320 kc., 5 KW, unlimited time (B3-L-1128); also granted authority to determine operating power by direct measurement of antenna power (B3-Z-375).
- WAIX—WJHL, Inc., Portable-Mobile (area of Johnson City, Tenn.).—Granted license to cover construction permit for new relay broadcast station; frequencies 1622, 2038, 2150, 2790 kc., power 40 watts (B3-LRY-198).
- A. Frank Katzentine, Portable-Mobile (area of Miami Beach, Fla.).—Granted construction permit for new relay broadcast station; frequencies 1646, 2090, 2190, 2830 kc., power 50 watts (B3-PRY-207).
- Don Lee Broadcasting System, Portable-Mobile (area of Los Angeles, Calif.).—Granted license for new special relay broadcast station to be used in connection with Television Station W6XAO, Los Angeles, Calif., and Television Relay Station W6XDU; frequencies 1646, 2090, 2190, 2830 kc., power 100 watts, unlimited time, in accordance with Section 4.24, A3 emission, equipment of Station KABB (B5-LRY-175).
- Don Lee Broadcasting System, Portable-Mobile (area of Los Angeles, Calif.).—Granted license for new special relay broadcast station to be used in connection with Television Station W6XAO, Los Angeles, Calif., and Television Relay Station W6XDU; frequencies 1646, 2090, 2190, 2830 kc., power 100 watts, unlimited time, in accordance with Section 4.24, A3 emission, equipment of Station KABD (B5-LRY-176).
- Don Lee Broadcasting System, Portable-Mobile (area of Los Angeles, Calif.).—Granted license for new special relay broadcast station to be used in connection with Television Station W6XAO, Los Angeles, Calif., and Television Relay Station W6XDU; frequencies 1646, 2090, 2190, 2830 kc., power 8 watts, unlimited time, in accordance with Section 4.24, A3 emission, equipment of Station KAOG (B5-LRY-177).
- Don Lee Broadcasting System, Portable-Mobile (area of Los Angeles, Calif.).—Granted license for new special relay broadcast station to be used in connection with Television Station W6XAO, Los Angeles, Calif., and Television Relay Station W6XDU; frequencies 31620, 35260, 37340 and 39620 kc., power 2 watts, unlimited time, in accordance with Section 4.24, A3 emission, equipment of Station KEGQ (B5-LRE-277).
- Don Lee Broadcasting System, Portable-Mobile (area of Los Angeles, Calif.).—Granted license for new special relay broadcast station to be used in connection with Television Station W6XAO, Los Angeles, Calif., and Television Relay Station W6XDU; frequencies 1646, 2090, 2190, 2830 kc., power 10 watts, unlimited time, in accordance with Section 4.24, A3 emission, equipment of Station KEGQ (B5-LRE-276).
- WQDM—Regan & Bostwick, St. Albans, Vt.; and Champlain Valley Broadcasting Corp., St. Albans, Vt.—Referred to Commission en banc the Motion to Stay Further Proceedings in re application of WQDM for renewal of license to operate on 1390 kc., 1 KW, daytime.
- Thumb Broadcasting Co., Brown City, Mich.—Granted motion for leave to amend application for construction permit for new station so as to request frequency 600 kc. instead of 880 kc.
- WBAX—John H. Stenger, Jr., Wilkes-Barre, Pa.—Granted petition requesting extension of time until May 8, 1940, within which to file Statement of Facts in re application for renewal of license for WBAX to operate on 1210 kc., 100 watts, unlimited.
- WWRL—Long Island Broadcasting Corp., Woodside, L. I., N. Y.—Denied motion for extension of time to file proposed findings of fact and conclusions due April 10, in re applications in Dockets 3941, 4029, 4050, 4302, 4331, 4622, etc., and the Commission on its own motion waived default in filing proposed findings.
- Miami Broadcasting Co., Miami, Fla.—Denied motion for 30-day continuance of hearing now scheduled for April 16, on application for new station to operate on 1420 kc., 250 watts, unlimited time.
- WFDF—Flint Broadcasting Co., Flint, Mich.—Granted petition to accept appearance in re application for construction permit to change frequency from 1310 to 880 kc., and power from 100 watts to 1 KW, unlimited.
- Anthracite Broadcasting Co., Inc., Scranton, Pa.—Granted motion to postpone hearing now scheduled for April 15 on application for construction permit to operate on 1370 kc., 250 watts, unlimited time. Hearing to be held June 3.
- WNEL—Juan Piza, San Juan, P. R.—Granted extension of special temporary authority to rebroadcast on a sustaining basis the programs to be received from International Broadcast Stations WNBI and WRCA over Station WNEL, for the period April 11, 1940, to not later than June 1, 1940 (B-S-836).
- W2XVP—City of New York, Municipal Broadcasting System, New York, N. Y.—Granted license to cover construction permit as modified for new high frequency broadcast station; frequency 26100 kc., power 1000 watts; granted upon experimental basis only, conditionally (B1-LHB-54).
- WASQ—The WGAR Broadcasting Co., Portable-Mobile (area of Cleveland, Ohio).—Granted license to cover construction permit for new relay broadcast station; frequencies 132260, 134080, 135480, 135760 kc., power 100 watts (B2-LRE-307).
- WSKB—McComb Broadcasting Corp., McComb, Miss.—Granted license to cover construction permit to make changes in transmitting equipment and increase power to 250 watts; frequency 1200 kc., unlimited time (B3-L-1131).
- KGHF—Curtis P. Ritchie, Pueblo, Colo.—Granted authority to determine operating power by direct measurement of antenna power in compliance with Section 3.54 (B5-Z-378).
- WCFL—Chicago Federation of Labor, Chicago, Ill.—Granted authority to determine operating power by direct measurement of antenna power in compliance with Section 3.54 (B4-Z-379).
- WTRC—The Truth Publishing Co., Inc., Elkhart, Ind.—Granted authority to determine operating power by direct measurement of antenna power in compliance with Section 3.54 (B4-Z-329).
- WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Granted modification of construction permit for increase in power, new equipment, move of transmitter and studio, for new type of transmitter and changes in antenna; frequency 740 kc., 1 KW, daytime (B1-MP-958).
- WKHH—Columbia Broadcasting System, Inc., Portable-Mobile (area of New York, N. Y.).—Granted modification of construction permit for changes in equipment and reduction of power, to extend completion date from April 30, 1940, to July 30, 1940 (B1-MPRE-40).
- KEGN—Don Lee Broadcasting System, Portable-Mobile (area of San Francisco, Calif.).—Granted modification of construction permit for installation of new equipment, to extend commencement date from November 27, 1939, to May 27, 1940, and completion date from May 27, 1940, to August 27, 1940 (B5-MPRE-42).
- KGHF—Curtis P. Ritchie, Pueblo, Colo.—Granted license to cover construction permit as modified for installation of new antenna and move of transmitter; frequency 1320 kc., power 500 watts, unlimited (B5-L-1133).
- WMPC—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted extension of special temporary authority to operate from 9 a. m. to 10 a. m., EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for the period April 18, 1940, to not later than May 17, 1940, or until the Saginaw Broadcasting Co. is in a position to use said time, in order to broadcast special non-commercial educational programs (B2-S-326).
- WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 1 to 3 a. m., CST, on the morning of April 20, 1940, in order to broadcast part of the Purdue Junior Prom only (B4-S-501).
- KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for

the period April 18, 1940, to not later than May 17, 1940, pending the filing of modification of license and completion of arrangements with Station KWLC. (B4-S-519).

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with WGBF with power of 250 watts from 8:30 p. m. to 9 p. m. CST on April 15, 1940, in order to broadcast opening baseball season program (B4-S-624).

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Granted special temporary authority to operate simultaneously with KFRU with power of 250 watts to permit KFRU to broadcast special program (B4-S-490).

WHJB—Pittsburgh Radio Supply House, Greensburg, Pa.—Granted special temporary authority to operate from 8:00 p. m. to 9:00 p. m. EST (or to the conclusion of the address) on Friday, April 19, 1940, in order to broadcast an address only to be delivered by Dr. John W. Studebaker, U. S. Commissioner of Education before the faculty of the State Teachers' College, Indiana, Pa. (B2-R-835).

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate from 7:45 p. m. to completion of program of East Texas County Judge Meeting on April 20, 1940, and on April 21, from 6:45 p. m. to start of Church Service and from 7:45 p. m. on April 22 and 23, to completion of program of East Texas Chamber of Commerce Convention; to operate April 27 from 7:30 p. m. to completion of Band and Orchestra Contest, and May 13 and 14, from 7:30 p. m. to completion of program of Longview Friendly Trek. All time above CST. (B3-S-838).

WAAU—Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to transmit to standard broadcast station WGAR on April 16, 1940, between 10:00 a. m. and 5:00 p. m., EST, program material in connection with the Ohio State World's Fair Women's Committee program.

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted modification of construction permit which authorized antenna changes new equipment, move of transmitter, change in frequency, increase in power and change in hours of operation, for extension of completion date from April 26, 1940, to May 26, 1940; frequency 780 kc., 1 KW, 2½ KW day, unlimited time. (B-MP-963).

KAOY—Don Lee Broadcasting System (area of Los Angeles, Calif.), Portable-Mobile.—Granted modification of construction permit for new relay broadcast station to extend commencement date from December 10, 1939, to June 10, 1940, and of completion date from June 10, 1940, to December 10, 1940. (B5-MPRE-41).

WKBV—Knox Radio Corp., Richmond, Ind.—Granted special temporary authority to remain silent April 16, 1940, from 10 a. m. to 6 p. m. CST, on account of death of Mrs. Wm. O. Knox, wife of president of Knox Radio Corp. (B4-S-487).

W2XWV—Allen B. DuMont Laboratories, Inc., New York, N. Y.—Granted special temporary authority to operate a 50-watt television transmitter on frequencies 60000-86000 kc., at 515 Madison Avenue, New York City, for the purpose of conducting field tests for a period not to exceed 30 days.

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate with power of 250 watts from 7:45 p. m. CST, to completion of services on May 5, 12, 19, and 26, 1940, in order to broadcast church services only. (B3-S-838).

WGRM—P. K. Ewing, Grenada, Miss.—Granted authority to install automatic frequency control. (B3-F-139).

The Associated Broadcasters, Inc. (area of San Francisco, Calif.), Portable-Mobile.—Granted construction permit for new relay broadcast station; frequencies 1622, 2058, 2150, 2790 kc., power 15 watts. (B5-PRY-214).

## APPLICATIONS FILED AT FCC

### 610 Kilocycles

WCLE—United Broadcasting Co., Cleveland, Ohio.—Construction permit to install new transmitter, directional antenna for day and night use, change frequency and power from 610 kc., 500 watts to 640 kc., 1 KW, time from daytime to daytime (local sunset California). Move transmitter from Pleasant Valley Rd., Village of Seven Hills, Ohio to Clinton Rd., Cleveland, Ohio. Class II station. Requests facilities

WHKC. Amended: Request limited time to local sunset California.

### 630 Kilocycles

WPPO—Cherry & Webb Broadcasting Co., Providence, R. I.—Modification of construction permit (File No. B1-MP-831) for equipment changes, changes in directional antenna and increase in power, further requesting changes in directional antenna and extend commencement date to 30 days after grant and completion date 90 days thereafter. Amended: Re antenna.

### 1350 Kilocycles

WBNX—WBNX Broadcasting Co., New York, N. Y.—License to cover construction permit (B1-P-1527) as modified, for changes in D. A., increase power, move transmitter and install new transmitter.

WBNX—WBNX Broadcasting Co., New York, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 1370 Kilocycles

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Modification of construction permit (File No. B-P-1941) as modified, for change in frequency, increase power, change hours of operation, move transmitter, changes in equipment and antenna, requesting extension of completion date from 4-26-40 to 5-26-40.

KFPW—Southwestern Hotel Co., Fort Smith, Ark.—License to cover construction permit (B3-P-2419) as modified for change in frequency, increase power, new transmitter and antenna and move of transmitter.

KERN—McClatchy Broadcasting Co., Bakersfield, Calif.—Modification of construction permit (B5-P-2278) to change frequency, increase power, new transmitter and antenna, move transmitter and studio requesting approval of antenna and transmitter site at Oak at Ming, Bakersfield, Calif., and studio location at present site.

WCNC—Aubrey G. McCabe & Trim W. Aydlett, d/b as Albemarle Broadcasting Co., Elizabeth City, N. C.—Authority to determine operating power by direct measurement of antenna power.

### 1420 Kilocycles

KRBM—KRBM Broadcasters, Bozeman, Mont.—Authority to determine operating power by direct measurement of antenna power.

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Modification of license to increase power from 100 watts, 250 watts day to 250 watts day and night.

## MISCELLANEOUS

NEW—Seaboard Radio Broadcasting Corp., Hillcrest, Pa.—Construction permit for new high frequency broadcast station to be operated on 43800 kc., 1000 watts, special emission for frequency modulation. Location: Cheltenham Twp., Hillcrest, Pa.

NEW—Piedmont Broadcasting Corp., near Salisbury, N. C.—Construction permit for new high frequency broadcast station to be operated on a regular commercial basis, 43400 kc., 1000 watts. Special emission for frequency modulation. Location: Statesville Rd., near Salisbury, N. C.

NEW—Spartanburg Advertising Co., near Spartanburg, S. C.—Construction permit for new high frequency broadcast station to be operated on 43600 kc., 1000 watts. Special emission for frequency modulation. Location: U. S. Highway 176, 1.3 miles north, near Spartanburg, S. C.

NEW—KTRH Broadcasting Co., Houston, Texas.—Construction permit for new high frequency broadcast station to be operated on 43400 kc., 5000 watts. Special emission for frequency modulation. Location: Main and Rusk Sts., Houston, Texas.

W1XCS—Connecticut State College, Storrs, Conn.—Construction permit to change frequencies from 39540, 139960, 300000-400000 kc. to 26300, 139960, 300000-400000 kc.; increase power from 250 watts to 1000 watts; add multiplex emission; changes in equipment; and change corporate name to UNIVERSITY OF CONNECTICUT.

NEW—WODAAM Corporation, New York, N. Y.—Construction permit for new high frequency broadcast station to be

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**L. C. Case & Company, Inc.**—See Sanford Mills.

**Ideal Candy Novelties Co., Inc.**—A complaint has been issued charging Ideal Candy Novelties Co., Inc., 770 Coney Island Ave., Brooklyn, and Abraham and Rose Aronoff, its president and vice-president, with the sale of assortments of candy and other merchandise so packed and assembled as to involve the use of lottery plans when resold to consumers.

The complaint alleges that one assortment sold by the respondents consisted of 150 pieces of caramel candy of uniform size and shape, together with 14 lead pencils and 8 lead pencil sets. It is alleged that some of the caramels were red, some were chocolate, and a majority were vanilla, the color being effectively concealed from purchasers until a purchase was made and the wrapper removed. All of the caramels retailed at 1 cent each.

Without additional cost, a purchaser procuring a chocolate caramel receives a pencil and the purchaser obtaining a red caramel or the last caramel in an assortment, gets a pencil set, wholly by lot or chance, according to the complaint. (4086)

**Macher Watch & Jewelry Company**—A complaint has been issued against Caroline R. and Robert J. Macher, trading as Macher Watch & Jewelry Co. and as Wholesale Watch & Jewelry Co., 15 Maiden Lane, New York, alleging misrepresentation in the sale of watches, jewelry, silverware, electrical appliances and other merchandise.

Catalog and circular advertising of the respondents allegedly represented that they are wholesalers and jobbers and that by reason thereof are enabled to sell merchandise at prices far below the customary retail prices; that the prices they charge represent the wholesale or jobber prices with resulting large discounts and savings to the purchaser; that the respondent's rings are set with genuine rubies and sapphires, and that their business has been in operation for more than half a century.

The complaint alleges that in fact the respondents are not wholesalers or jobbers but retailers; that the prices they represent as customary retail prices are in most instances exaggerated; that the prices they charge are not wholesale but the customary retail prices; that the rings they sell as being set with genuine stones or gems have artificial or synthetic stones of little or no value, and that the respondents have not been in business for 50 years, having begun operations about 1930. (4087)

**National Lacquer Manufacturing Company**—Alleging misrepresentation in the sale of paint and paint products, a complaint has been issued against Jacob Swimmer, trading as National Lacquer Manufacturing Company and as National Titanium Company, 123-131 Eleventh St., Brooklyn.

In advertising literature the respondent is alleged to have represented, among other things, that the regular price of his "Genuine Synthetic Outside White Paint" is \$3.65 a gallon and that is being offered at a sacrifice price of \$1.55, when in fact the customary price is \$1.55; that he maintains warehouses at points other than at his place of business and at places in the vicinity of the solicited prospective purchasers, in which certain specified amounts of his products will be available; that he has been in business for more than half a century; that his product is fresh stock, implying that the ingredients are fresh, unused material, and that the product comes directly from the original paint manufacturer.

- operated on **42400 kc.**, 1000 watts, special emission for frequency modulation. Site to be determined, in or near New York City, N. Y.
- NEW**—New Jersey Broadcasting Corp., Jersey City, N. J.—Construction permit for new high frequency broadcast station to be operated on **43600 kc.**, 1000 watts, special emission for frequency modulation. Location: Foot of Washington St., Jersey City, N. J.
- W3XO**—C. M. Jansky, Jr. and Stuart L. Bailey, d/b as Jansky & Bailey, Georgetown, D. C.—Modification of license to change frequency from **43200 kc.** to **43400 kc.**
- W1XSO**—The Travelers Broadcasting Service Corp., Avon, Conn.—Construction permit to increase power from 1000 watts to 50000 watts and make changes in equipment, operating on a regular commercial basis.
- WEIC**—General Electric Co., Portable-Mobile.—Construction permit to increase power from 15 watts to 50 watts and install new transmitter.
- WOEG**—General Electric Co., Mobile.—Construction permit to install new transmitter.
- NEW**—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Construction permit for a new high frequency broadcast station to be operated on **42400 kc.**, 1000 watts, special emission for frequency modulation.
- NEW**—United Broadcasting Co., Cleveland, Ohio.—Construction permit for a new high frequency broadcast station to be operated on **42600 kc.**, 1000 watts, special emission for frequency modulation.
- KAOW**—Albert S. and Robert A. Drohlich, d/b as **DROHLICH BROTHERS**, area of Sedalia, Mo.—Modification of construction permit (B4-PRE-333 for new relay station), requesting extension of commencement and completion dates from 3-25-40 and 9-25-40 to 7-1-40 and 12-1-40, respectively.
- NEW**—WGN, Inc., Chicago, Ill.—Construction permit for new relay broadcast station to be operated on **133030, 134850, 136810 and 138630 kc.**, 50 watts power, special emission for frequency modulation. Location: 435 N. Michigan Ave., Chicago, Ill.
- NEW**—United Broadcasting Co., Seven Hills Village, Ohio.—Construction permit for a new high frequency broadcast station to be operated on **43400 kc.**, 1000 watts, special emission for frequency modulation.
- NEW**—WDAS Broadcasting Station, Inc., Philadelphia, Pa.—Construction permit for a new high frequency broadcast station to be operated on **42800 kc.**, 1000 watts, special emission for frequency modulation.
- NEW**—KSTP, Inc., St. Paul, Minn.—Construction permit for a new Class II television broadcast station to be operated on **44000-50000 kc.**, 1000 watts visual and aural, emission A3 and A5.
- W9XYH**—Head of the Lakes Broadcasting Co., Superior, Wis.—License to cover construction permit (B4-PHB-75) as modified for a new high frequency broadcast station.
- NEW**—Caribbean Broadcasting Association, Inc., San Juan, P. R.—Construction permit for new broadcast station to be operated on **1500 kc.**, 250 watts power, unlimited time. Studio, Stop 21, Ponce de Leon, Puerto Rico; transmitter to be determined, San Juan, P. R. Amended: for antenna changes and specify transmitter site as Stop 21, San Juan, P. R.
- NEW**—United Broadcasting Co., Columbus, Ohio.—Construction permit for new high frequency broadcast station to be operated on **42600 kc.**, 1 KW power, special emission for frequency modulation. Amended: re transmitter site to be determined, in or near Columbus, Ohio.
- NEW**—Havens & Martin, Inc., near Richmond, Va.—Construction permit for new high frequency broadcast station to be operated on **42800 kc.**, 1 KW power, special emission for frequency modulation.
- NEW**—Courier-Journal and Louisville Times Co., Louisville, Ky.—Construction permit for new high frequency broadcast station to be operated on **42600 kc.**, 1 KW power, special emission for frequency modulation.
- NEW**—Tom M. Bryan, Miami, Fla.—Construction permit for new high frequency broadcast station to be operated on **43200 kc.**, 1 KW power, special emission for frequency modulation.
- NEW**—The Kansas City Star Co., Rural (Johnson County), Kans.—Construction permit for new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special for frequency modulation.

which is the world's largest synthetic paint maker, when such are not the facts.

The complaint alleges that the respondent's product is not fresh stock but is made from waste paint which has been lost in the process of applying the original fresh stock on refrigeration boxes and other surfaces, and which has been recovered and sold to the respondent, who reconditions and redissolves it into the product he sells. The respondent's representations are alleged to be misleading in that they fail to disclose that his product is a reconditioned, redissolved paint product. (4088)

**National Titanium Company**—See National Lacquer Mfg. Company.

**Sanford Mills**, of Sanford, Me., and its subsidiary and exclusive sales agent, L. C. Chase & Co., Inc., 295 Fifth Ave., New York, are charged with misleading representation in the sale of a mohair upholstery fabric, in a complaint.

Through advertising matter, the respondents are alleged to have represented their product "Velmo" as having "a moth-proof guarantee—permanently," as being "moth-proofed at the mill" and as being treated by a process which makes moth trouble "so negligible that the guarantee is given, not for a term of years, but for the life of the fabric—permanently," when in fact their fabric is not permanently moth-proofed and moth-resistant, but is subject to attack and destruction by moths. (4084)

**Wholesale Watch & Jewelry Company**—See Macher Watch & Jewelry Co.

## STIPULATIONS

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

**Beaunit Mills, Inc.**—See Luxuray, Inc.

**Brockman & Schloss, Inc.**, New York, N. Y., agrees to cease representing that it has taken over the handkerchief manufacturing activities of Marshall Field & Co. or of any other organization and to discontinue employing the word "Manufacturing" or similar words in a manner indicating that the respondent manufactures the products it sells or owns and controls the factory in which they are made, when such are not the facts. (2737)

**Consolidated Pinnacle Coal Company**, Denver, Colo., operating mines in Routt County, Colo., has been prohibited from using the word "Pinnacle" in any corporate or trade name, or at all, when the coal sold has not been mined from the Pinnacle Mine at Pinnacle, Routt County, Colorado. The Commission cease and desist order also forbids description of coal not mined from the Pinnacle Mine as being Pinnacle coal.

The term "Pinnacle," as applied to coal, the Commission finds, has been used since 1915 by Victor American Fuel Company, a competitor of Consolidated Pinnacle Coal Company and operating a mine at Pinnacle, Routt County, Colorado. Victor American spent more than \$200,000 in advertising and has built up good will and reputation for its coal under that name, and registered a trade-mark containing the word "Pinnacle" in combination with the phrase "mined and shipped only by the Victor American Fuel Company," the Commission finds.

Use of the name "Pinnacle" by the respondent company tended to confuse purchasers into believing that in buying the respondent's coal, which was mined at Hayden, Routt County, 42 miles from Pinnacle, they were getting the higher grade Victor American Fuel Company's "Pinnacle" coal, according to Commission findings. (3234)

**Victor Eckardt Manufacturing Company, Inc.**, 132 Green point Ave., Brooklyn, agrees to cease and desist from use of the word "Manufacturing" as part of its corporate or trade name in connection with the offering for sale, sale, or distribution of its

boys' carpenter sets, and from use of the word "Manufacturing" or the words "Made by", followed by its corporate or trade name or in any way, the effect of which tends to convey the belief to purchasers that it makes or manufactures tools of which the carpenter sets are composed, or that it actually owns and operates or directly and absolutely controls the plant or factory in which such tools are made or manufactured. The corporation also agrees to cease representing, on containers of its merchandise or in any other way, by use of the words "Made in U. S. A." or similar words, that an assortment of merchandise to which the words refer is composed wholly of American-made products. If the assortment is composed of items made in the United States and in part of an item or items made elsewhere and the letters "U. S. A." are used properly to designate American-made items, there shall be accompanying words printed in equally conspicuous type which indicate clearly that the assortment is not composed wholly of items made in the United States. (2739)

**Hall Hardware Company**, Minneapolis, Minn., in the sale of its "Supermix" varnish and paint products, agrees to desist from the use of the name "Supermix" in a manner implying that its products have been recommended or endorsed by the United States Department of the Interior or by any Federal department or agency, when such as not a fact. The respondent stipulates that it will cease using in advertisements the word or trade name "Supermix" in connection with the statement "Facts You Should Know About Painting—Most of These Facts Are Taken from Bulletin No. 193, U. S. Dept. of The Interior", so as to imply that the products are specifically referred to in that Government bulletin, when such is not a fact. (2736)

**Hedaya Importing Company**—The copartners trading as Hedaya Importing Company, New York, N. Y., stipulate that they will desist from using the word "Manufacturers" as descriptive of their business and from representing that they have plants at Shanghai, Swatow, Wusih and Wenchow or elsewhere, when in fact they are not manufacturers and do not have factories of their own in the cities named. (2741)

**Licourie Sponge Company, Inc.**, San Francisco, Calif., packer and distributor of sponges, agrees to cease representing that it maintains offices or places of business in Chicago or in Tarpon Springs, Fla., or in any other city or locality, or that it has a wharf or packing house at Tarpon Springs or elsewhere, when such are not the facts. The respondent also stipulates that it will desist from use of illustrations or other representations the natural and probable consequence of which may be to mislead buyers into believing that the corporation operates a fleet of sponge fishing boats from which fishing by the diving method is conducted, when in fact it neither operates such a fleet nor carries on sponge fishing by means of divers. A further representation which the respondent agrees to discontinue is that it is a producer of the highest grade of "Rock Island Sponges", or that it is a "producer" of any sponges, when in truth it conducts no sponge fishing operations but buys from others the sponge products which it packs and sells. (2738)

**Luxuray, Inc.**, wholly owned subsidiary of Beaunit Mills, Inc., Fort Plain, N. Y., and Beaunit Mills, Inc., 450 Seventh Ave., New York, each of them engaged in the sale and distribution of women's undergarments, agree to cease and desist from representing, by means of advertising matter, labels or otherwise, that their undergarments, of the type commonly known as "Woolies," or garments made of similar fabrics, are 30 per cent wool and silk, or that they are composed of fibers in any designated proportion other than the correct and accurate ratio thereof. (2749)

**Maxine Company**—Frederick Hoffman, doing business under the trade name of Maxine Company, Fairfax, Okla., in the sale of "Aviola," designed for use in the prevention, treatment and cure of rectal diseases, agrees to cease representing that the preparation is a preventive or competent cure for rectal ailments; that it is sold at a price intended to cover only the cost of manufacture and not to include a profit; is "Guaranteed under the Pure Food and Drug Act"; has been examined or approved by the Federal Government, or that the Federal Government guarantees that it



complies with the law. He also agrees to cease representing that his instructions for enema are free or will enable one to keep the bowels clean and the body healthy. (02541)

**Nasal Filter Company**, 12 North Third St., Columbus, Ohio, agrees to cease representing that "Dr. Weaver's Nasal Filter" will cure hay fever, relieve asthma or sinus trouble, prevent asthma, hay fever, sinus trouble or anthracosis, or that it will provide a defense against colds or prevent all dust from entering the nostrils. (02543)

**Purcell and Company, Inc.**, 11 South Desplaines St., Chicago, distributor of drugs, cosmetics, toilet goods and other beautician supplies, has entered into a stipulation to discontinue certain representations in the sale of its products.

The respondent company agrees to cease furnishing to beauty shop or school operators which it designates as "service members", so-called "membership certificates" representing or implying that the respondent company possesses knowledge enabling it to certify that the "member" or person named in the certificate is informed concerning the chemicals used in the manufacture of beauty preparations, when in fact the respondent corporation is not so informed as to the extent of the knowledge on this subject possessed by such "service members".

Further representations or implications which the respondent corporation agrees to cease making are that it manufactures the products it sells, does chemical research work, maintains a laboratory, employs chemists, or prepares quantitative analyses of preparations submitted to it by its "service members" or others, or that its products have world-wide distribution. (2735)

**Puro Company, Inc.**, 3107 Pine St., St. Louis, has entered into a stipulation in which it agrees to discontinue certain representations in the sale of a moth repellent designated "Puro". The stipulation is supplemental to one accepted by the Commission September 5, 1934.

The respondent company agrees to cease representing that "Puro" will protect upholstery from damage by moths; that it is a brand new and an amazing discovery and contains a secret chemical, or that, by any other terminology, it is new or different from all other moth preventives.

The respondent company also stipulates that it will cease representing that persons selling "Puro" are earning fortunes thereby, or are making \$5 to \$8 a day, and agrees to cease representing, by use of such words as "up to", "as high as" or words or terms of like import, that prospective salesmen, agents or dealers can make earnings or profits within any specified period of time which are in excess of the net average earnings or profits within like periods made by a substantial number of its active full-time salesmen or other representatives in the usual course of business. (0727)

**Rittau Knitting Mills, Inc.**, 11th and Jefferson Sts., Hoboken, N. J., agrees to cease and desist from selling or offering for sale any silk product which contains any metallic weighting, without full and non-deceptive disclosure of the presence of such metallic weighting together with the proportion or percentage thereof, made on the labels, tags or brands attached to the merchandise and in the invoices and all advertising matter, sales promotional descriptions or representations, and also from selling or offering for sale any silk or silk product without disclosure of the fact that such material or product is silk, made clearly and unequivocally in the invoices or labels, tags or brands attached to the merchandise and in whatever advertising, sales promotional descriptions or representations thereof may be used where such non-disclosure has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public. (2750)

**Schultz Surgical Instrument Company**—Jacob Schultz, trading as Schultz Surgical Instrument Company, 17 West 20th St., New York, engaged in the sale and distribution of hospital and laboratory supplies and equipment, including microscopic cover glasses bearing the trade name "Crystal", has agreed, in connection with the sale and distribution of his cover glass products, to cease from use in his advertising matter or trade literature, or otherwise, of the slogan or legend "Made in U. S. A." or other words or terms of similar inference so as to import or imply that the imported

glass of which his products are composed is, or that the products in their entirety are, of domestic origin. (2740)

**Sutton & Hosney**—Joseph M. Sutton and Abraham Husney, trading as Sutton & Husney, 244 Fifth Ave., New York, engaged in the importation, sale and distribution of handkerchiefs, linens and laces, agree to cease and desist from representing that they have or maintain their own office or place of business in China or in any other locality when such is not a fact, or from representing as their own any office or establishment belonging to an independent agency with which they have no more than a contractual relationship. (2744)

## CEASE AND DESIST ORDERS

Following cease and desist orders have been issued during the past week:

**Curtice Brothers Company**, packer and distributor of fruits, vegetables and vegetable products, and which maintains packing plants at Rochester, Bergen, Mount Morris and Wilson, N. Y., with its principal office at 20 Curtice St., Rochester, N. Y., has been ordered to cease and desist from certain price discriminations, in violation of the Robinson-Patman Act, in the sale of its products.

Findings of the Commission are that since June 19, 1936, in the course of its business, the respondent corporation has used three different price lists designated by the letters "R," "A" and "S." The "S" price list is designated for those customers who place a minimum order for 1,000 cases of the respondent's products for shipment in quantities of not less than 250 cases. The "A" price list is designated for those customers who place a minimum order for 300 cases of the respondent's products for shipment in quantities of not less than 50 cases. The "R" price list is designated for customers who place orders for less than 300 cases. The prices at which the respondent's products were and are sold by use of the "A" price list, were and are lower by from 2.5 per cent to 8.3 per cent than the prices at which such products were and are sold by use of the "R" price list, and the prices at which the products were sold by use of the "S" price list were and are lower by from 5.1 per cent to 16.6 per cent than the prices at which the products are sold by use of the "R" price list.

Findings further are that the respondent sold its products at prices specified by the "S" price list to some customers who did not take the required minimum number of 1,000 cases of respondent's products. In practice, the findings continue, the respondent has confined its sales made by use of the price lists to "future orders" for goods to be shipped when harvested and packed.

The Commission also finds that since June 19, 1936, the respondent has been discriminating between different purchasers of its canned fruits, vegetables and vegetable products by paying, granting and contracting to pay certain sums of money to and for the benefit of some of its customers in consideration for advertising services furnished by such customers in connection with the sale or offering for sale of the respondent's products without making such payments or advertising allowances available on proportionally equal terms to all of its customers competing in the sale and distribution of its products. (3381)

**Forson Laboratories, Inc.**, 353 Fifth Ave., New York, engaged in the sale and distribution of a medicament known as "Nu-Myst" and a vaporizer for its use, has been ordered to cease and desist from misrepresentation of the efficacy of the preparation.

The Commission finds that "Nu-Myst" is a liquid composed of common ingredients prescribed by physicians for relieving "colds", and containing menthol, camphor, thymol, oil of pine, eucalyptol, benzyl benzoate and aromatics, with an alcohol base of 87 per cent.

Through radio broadcasts over stations of sufficient power to convey programs to various States, and in advertisements in newspapers, periodicals and trade journals, the respondent corporation is found to have represented that the preparation brings speedy relief to sufferers from colds, hay fever, rose fever, asthma and other nasal and bronchial afflictions.

Findings are that the representations are misleading and untrue; that the diseases named, except colds, are grouped under the so-called "allergies," the causes of which are manifold, and that since there are so many causes it is impossible for a formula such as "Nu-Myst" to bring relief from any of these conditions.

The respondent is ordered to cease and desist from representing that the preparation will destroy or prevent the growth of bacteria; that it is a cure or remedy for colds, whooping cough, hay fever, rose fever or asthma, or that it is an effective treatment or relief for these ailments beyond such temporary relief as may be afforded by the temporary allaying of local irritation. (3361)

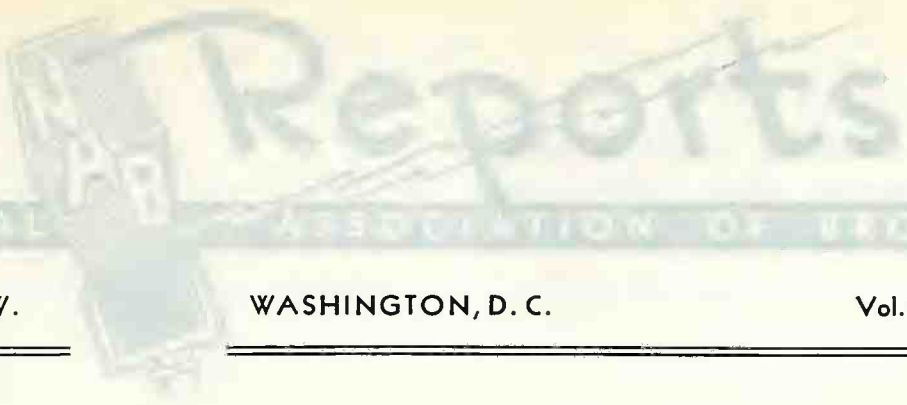
**Michigan Bean Shippers Association**, Saginaw, Mich., a trade association, its officers and members, have been ordered to discontinue activities deemed to be in restraint of price competition in the purchasing of beans and barley from Michigan growers and the resale thereof to canning companies, chain store organizations, foreign importers and other buyers.

Respondent member companies, representative of the association's membership, are: Charles Wolohan, Inc., Birch Run, Mich., jobber; J. P. Burroughs & Son, Flint, jobber; Hammerslag & Tinkham, Inc., and Minor Walton Bean Company, Grand Rapids, jobbers; Michigan Elevator Exchange, East Lansing, jobber and elevator operator; Ryon Grain Company and Stickle-Swift, Inc., Lansing, jobbers; Hart Brothers and Michigan Bean Company, Saginaw, jobbers and elevator operators.

Respondent officers of the association are: L. W. Todd, president, and Asa E. Walcott, secretary-treasurer, and the respondent directors are Claude H. Estee, E. H. Bueschlen, and William R. Neumann. (3937)

**Mills Sales Company of New York, Inc.**, 901 Broadway, New York, and five of its officers, have been ordered to discontinue lottery methods in the sale of cosmetics, shaving and dental creams, drug and household sundries and other articles. The respondent officers are David, Evelyn, Joseph and Walter Jacoby, and Estelle J. Kruger.

The Commission order directs the respondents to cease and desist from (1) selling and distributing merchandise so packed and assembled that sales to the public are to be made by means of a game of chance; (2) supplying to or placing in the hands of others (a) merchandise together with push or pull cards, punch boards or other lottery devices, or (b) such devices either with assortments of merchandise or separately, which devices are to be or may be used in selling any merchandise to the public, and (3) selling or otherwise disposing of any merchandise by means of a gift enterprise or lottery scheme. (3910)



### THE WEEK IN WASHINGTON

ASCAP's jokes about BMI's six songs will be heard no longer. BMI this week acquired performing rights for the entire M. M. Cole catalogue, effective January 1, 1941. The Cole catalogue, including between 2500 and 4000 songs, is best known for its hillbilly music, cowboy tunes and folk ballads, although it also includes a number of recent hits. Its acquisition will prove to be especially valuable to the smaller stations.

Meantime BMI has announced the release of seven more popular numbers, including a waltz, a "hot" rhythm tune, foxtrots and ballads. The networks and other stations are continuing to make use of the first six numbers released several weeks ago.

The printing trade unions are trying to drum up support among newspaper and magazine publishers for a united front against radio, but they are apparently making little headway. A program of harassing legislation is being contemplated by the unions.

Again the Supreme Court has sounded a note of warning to those who would set up a Government censorship of the media of free discussion. In its decision declaring unconstitutional an Alabama State anti-picketing law this week, the Court said "it is not the sporadic abuse of power by the censor but the pervasive threat inherent in its very existence that constitutes the danger to freedom of discussion."

William J. Dempsey and William C. Koplovitz, FCC general counsel and assistant general counsel, have resigned to go into private practice together in Washington. It is expected that they will leave the Commission within a few weeks.

Stations throughout the country are preparing to take part in the National Radio Festival promoted by the NAB.

**BMI Buys Cole Catalogue;  
Seven New Songs Ready**

A long-term contract for the exclusive performing rights to all the music in the catalogue of the M. M. Cole Pub-

lishing Company of Chicago and affiliated companies was closed Wednesday by Broadcast Music, Inc. It becomes effective on January 1, 1941.

At present the Cole music is controlled by SESAC and until January 1, 1941, only SESAC licensees may play it. The catalogue includes from 2,500 to 4,000 songs.

The catalogue includes the publications of M. M. Cole Publishing Company, Belmont Music Company, Calumet Music Company, Happy Chappies, Ltd., Moderne Publications, Moderne Edition, Hearst Music Publishing Co., Ltd. (Canada), Vincent, Howard & Preeman, Ltd. (Los Angeles), Vincent & Howard, Ltd., and Morse M. Preeman.

The Cole catalogue is perhaps best known for its hillbilly music, cowboy tunes, and folk ballads, although it also includes such recent hits as *Mexicali Rose*, *Strawberry Roan*, and *Silver-Haired Daddy*. Other important and popular songs will fall into this catalogue shortly. It is a catalogue that is extensively performed on broadcasts originated locally as well as on the networks.

Merritt Tompkins, general manager of BMI, expressed satisfaction that this agreement works out to the great benefit of independent stations as well as of all others. In common with the rest of the BMI organization, Mr. Tompkins feels that this event is concrete evidence of the fact that BMI is working for the whole broadcasting industry.

"The acquisition of the Cole catalogue for the BMI licensees is of importance to the broadcasting industry and all other commercial users of music," said Mr. Tompkins, "to all who love American music, and to the whole musical public. BMI has scored."

Seven new songs will soon be ready for release to the 290 BMI member stations. In selecting the songs, Mr. Tompkins said, the BMI editorial board endeavored to pick a group appealing to many different tastes and included a waltz, and a "hot" rhythm number, as well as foxtrots and ballads. The additions to the list were:

- "Give Me Music," waltz, music by Malcolm Reid, lyrics by Robert Sour and Don McCray, arranged by Helmy Kresa.
- "I'll Be Goin'," foxtrot, music by Lee Wainer and lyrics by Robert Sour, authors of "What Good's the Moon?"
- "Keep An Eye On Your Heart," music by Henry Manners, lyrics by Milton Leeds.



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

Neville Miller, *President*

Edwin M. Spence, *Secretary-Treasurer*

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

## BMI BUYS COLE CATALOGUE; SEVEN NEW SONGS READY

*(Continued from page 4195)*

"What's The Matter My Darling?" ballad, words and music by Charlie Beal, swing pianist and a protege of John Hammond, international swing authority. This number has been arranged by Sam Grossman.

"You Mean So Much To Me," music by Edgar "Puddinhead" Battle and lyrics by Ken Byron. "Puddinhead" Battle was formerly featured trumpet with Willie Bryant's swing orchestra, and is now actively engaged in arranging and composing for leading orchestras.

"Boogie Woogie To You," rhythm "Jump" number, with music by Ernest Gold and lyrics by Don McCray, authors of "Here In The Velvet Night," is being arranged by Jimmy Mundy, formerly arranger with Bennie Goodman. It is believed to be the first successful effort of a composer schooled in the Viennese tradition to write a "jump" song in the American idiom.

"Please Don't Tell Her I Told You," music by Irving Wallman and lyrics by Max Wartell.

The BMI Board of Directors will meet at 580 Fifth Avenue at 10:30 a. m. next Tuesday, April 30.

The BMI band wagon can never be overcrowded but it is certainly getting well filled. The boys are climbing aboard even from outside the broadcasting industry.

That, of course, is as it should be. The ASCAP monopoly has its clutching fingers on the throat of every commercial user of music. With BMI acting as a cross between a munition plant and a recruiting station, the broadcasters are leading the fight but other interests are coming in as allies and sending their troops.

Last week in Chicago, the National Council of State Liquor Dealers Associations, meeting in convention, joined the allies. The convention heard speeches from various members who have been making an active fight against ASCAP on behalf of the places of entertainment represented by the member associations. These include hotels, restaurants, night clubs and other places where the tactics of the ASCAP agents and the demands of the organization have often resulted in making it impossible for the proprietor to afford an orchestra for the entertainment of his guests.

To those who attended the convention, it was plain that the members of these groups are really up in arms against ASCAP.

A resolution was presented at the convention giving

expression to this attitude. In support of this resolution, John Fetterman, legal adviser to the Buckeye Liquor Dealers Association of Ohio, urged members of the Council to give their full cooperation to BMI.

"The fight has begun and it is to every tavern owner's interest to back it to the limit," Mr. Fetterman declared. "Our field of activity has suffered great hardships at the hands of ASCAP. Under the strong, sincere leadership of Broadcast Music, Inc., we have affiliated interests on our side who will help us battle this unfair monopoly."

The resolution as finally adopted, read as follows:

Whereas, under the United States copyright laws, the American Society of Composers, Authors and Publishers, commonly called "ASCAP," is permitted to and in fact does levy arbitrary and unreasonable "fees" upon users of copyrighted musical works, proprietors of entertainment places, restaurants, inns, cafes, hotels, theatres, radio stations and other establishments wherein are operated amusements and entertainments involving the use of copyrighted musical works, and

Whereas, there is at present no statutory limit to the "fees" which may be charged by the American Society of Composers, Authors and Publishers for the use of copyrighted musical works, and

Whereas, the affiliated associations of this council are in accord with the premise that the author of a copyrighted musical work should receive proper and adequate compensation, and

Whereas, it is the belief of this Council that the fairest method of insuring such proper and adequate compensation to the author would be the establishment of an equitable system of fees to be paid in compensation for the use of copyrighted musical works, and

Therefore Be It Resolved that the House of Delegates of the National Council of State Liquor Dealers' Association instruct the Chairman of this Council to appoint a committee of three with instructions to make a complete study of the inequities above mentioned and to formulate plans to remedy such inequities, and

*Be It Further Resolved that this Committee be given full authority to act in its own judgment and in its own discretion and full power to become affiliated, in the name of this Council, with any group or organization formed for the purpose of relieving users of copyrighted musical works from the imposition of such arbitrary "fees".*

The committee named, included James Donovan of Cleveland, Vice Chairman of the National Council, as Chairman, and Mr. Fetterman as Counsel. Inasmuch as Mr. Fetterman made such a strong speech in behalf of BMI, it is understood that the new committee will lend its full cooperation and support to BMI.

Another large and important group who have declared war on the side of the Allies are the operators of coin operated machines. At the time of the New York convention of the Automatic Phonograph Manufacturers Association, clear evidence was given of their support in the fight against ASCAP. Arrangements between them and BMI are pending and their full cooperation is expected.

The coin operators have been lucky. Because of the wording of the 1909 Copyright Law, they have been the only large group of commercial users of music from whom the ASCAP gang has not been able to exact tribute. Under the proposed revision of the Copyright Law which is now pending in Congress, they will no longer be protected. ASCAP in pushing for the passage of the new act, is motivated in large measure by the desire to hook

the coin operators. It has been stated by an official of ASCAP that ASCAP expects to collect a minimum of \$5 a month for each machine. At that rate they expect to take about \$12,000,000 per year from the coin machine industry. It is not strange that the operators are ready to join forces with the broadcasters and to give their support to BMI music. This is of great importance to BMI. Next to the radio itself the coin-operated phonograph is probably the best medium for the popularization of music.

Meanwhile the ranks of the broadcasting industry itself grow daily more solid. Merritt Tompkins received the following letter from a small independent station:

"You will undoubtedly be interested to know that as one station to receive ASCAP's "belated blessing" we are totally unimpressed. We are of the opinion that the only plan that will ever be acceptable is a per use basis. Until we can exercise the right of determining the amount of patronage we wish to extend to ASCAP, and pay on the basis of that use of their commodity, we shall steadfastly refuse to sign any agreement or commit ourselves in any manner."

The music publishing industry was thrown into consternation by the announcement that BMI intended to observe the law.

Copyright law provides a fee of two cents for the use of a composition for the making of a transcription. The practice for a number of years has been to collect twenty-five to fifty cents for each commercial broadcast of a transcription. When Mr. Tompkins made the announcement that the policy of BMI would be to adhere to the statutory rate, *Variety* ran three column head-lines. Mr. Tompkins said:

"This will help not only the transcription industry, but also the broadcasters themselves, since transcription costs in the last analysis are paid by the broadcasters. In thus aiding the transcription industry, we are also aiding BMI authors as the use of BMI compositions will be enormously stimulated by our adherence to the legal charges."

It has come to BMI's attention that ASCAP's Paine, in a moment of unwonted inspiration gave a description of BMI which, except for one detail, is surprisingly accurate considering its source. He described BMI as "a puppet organization that is to be the Moses to lead the broadcasters out of the bondage of Egypt; ASCAP being Egypt." Mr. Paine has apparently not read his Bible for some time. Moses was hardly a puppet; neither, of course, is BMI. Otherwise the description is perfect. We'll take the "Moses" and let the "puppet" go.

The article called "What is ASCAP" written by E. C. Mills, Chairman of the ASCAP Administrative Committee, is printed on the back of sheet music published by ASCAP houses and reprinted at every opportunity. It seems to have become an official platform. The arguments, based on a distortion of facts and aided by cork-

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screw reasoning are so misleading that they call for a detailed reply. Such a reply has been drafted for the purpose of submission to all trade papers which from time to time print the Mills article.

Because the ASCAP arguments are made to sound so plausible until they are refuted by the facts, we give you here the main portions of the reply to Mr. Mills. If any of the readers encounter people who have been taken in by the ASCAP claims, this detailed rebuttal may be useful.

Mr. Mills says: "at the inception of radio broadcasting, the broadcasters . . . maintained that it was quite sufficient compensation to the composers if they were 'honored' and 'glorified' and their songs 'advertised' by being performed on the air. . . . 'The butcher, the baker, the candlestick maker' cannot be paid with honors and glory. They demand money. Composers and authors are human beings . . ."

The truth is: It was in 1923 that the radio became a regular income-producing medium for commercial advertising, and since 1923 the broadcasters have paid for the music they used. At present they are paying at the rate of about \$5,000,000 a year. Radio fees make approximately two-thirds of ASCAP's total income.

Mr. Mills cannot name a commercial broadcaster in the country who does not wish the composers and authors to receive full and just compensation. The broadcasters are working in a practical way through their new organization, Broadcast Music, Inc., to give a fair chance to the many composers whose way has hitherto been blocked by ASCAP itself.

Mr. Mills says: "With the advent of radio broadcasting . . . Composers and authors were almost economically destroyed . . . Sales of sheet music and of photograph records rapidly declined . . . With the drying up of normal sources of revenue it became economically necessary for the Society to increase the rates charged for licenses issued to commercial users of music in public performance for profit."

The Truth is: ASCAP's total income for 1923 was less than half a million; for 1939 it was nearly seven million. The increase was steady. Only in one year was its income less than in the preceding year. ASCAP took \$2,004,496 in 1931 as against \$2,043,791 for 1930. Otherwise, through good times and bad, it has multiplied its income year by year. *In 1939 it received from sources other than radio more than six times as much as it received before the advent of radio broadcasting. This, according to Mr. Mills, is economic destruction!*

Mr. Mills says: "Our Society seeks the most practical means of making it possible for them (composers and authors) to live comfortably—by protecting them in their lawful rights and collecting for them their infinitesimal portion of the enormous profits made by commercial users of their products in enterprises, which but for the availability of music, could not be successfully operated."

The Truth is: Music makes up less than 22% of the commercial radio time from which the broadcasters receive their income. Ac-

ording to an independent estimate made by the magazine *Variety*, the new demands made by ASCAP are "tantamount to half of the networks' profits." That is what Mr. Mills calls an "infinitesimal portion"!

Mr. Mills says: "The revenue which it (ASCAP) collects for licenses issued to commercial users of music in public performances, after the expenses of operation have been deducted is entirely divided each three months amongst the members of the Society and the foreign societies with which ASCAP is affiliated."

The truth is: In the period from 1921 to 1939 less than one third of ASCAP's income went to American composers and authors.

After operating expenses and payments to the foreign societies are deducted, the balance is distributed half to the publishers and half to the composers and authors. The distribution of the writers' share, however, is governed partly by seniority and other matters which have nothing to do with the use made of each man's work.

When ASCAP payments to its members were published one year, they showed that a writer credited with more than 16,000 performances received \$60.00 and one with 45,000 performances received \$200.00 while two with 4,778 and 8,644 performances respectively received \$7,000.00 each. And a publisher got \$80,000.00!

Thus does ASCAP divide its revenue among the composers for whom the great heart of Mr. Mills beats so tenderly.

Mr. Mills says: "The membership of the entire group (ASCAP and the foreign societies with which it is affiliated) exceeds forty-five thousand of the men and women who write most of the music which the world enjoys."

The truth is: On the list of its members published by ASCAP in 1939 there are 131 names of publishers and 1511 names of composers and authors, including 126 estates of deceased writers and a number of men listed under two or three names. ASCAP represents less than 1385 living American writers and less than one third of these are in any way active. In 1938 only 411 of them published anything at all; only 228 published as many as three works.

About 10% of ASCAP's income goes to its foreign affiliates, who presumably make up the rest of Mr. Mill's "forty-five thousand."

In spite of Mr. Mills's effort to boost the count by bringing in all of Europe, it is a very small group who write most of the current popular music which America enjoys and for which ASCAP collects most of its fees—not 45,000 but about 200!

Mr. Mills says: "The Society is the sole hope and refuge of the indigent, aged, or ailing composer and author in our country.

"It is dedicated to the principle that no man or woman in the United States who writes successful music, or anyone dependent upon them, shall ever want."

The truth is: No man or woman would ever be kept from want by the payments ASCAP makes to most of its members.

One of its most prominent members and staunchest defenders can say only this: "A large percentage of the members draw quarterly royalties of at least \$100, and the average is probably higher than this." A few old-timers in the inner circle who have produced nothing in years get their thousands and their tens of thousands; the powerful publishers get their hundreds of thousands; and the average composer is saved from want by a figure that is "probably" somewhat over \$400 a year!

But the cruelest sophistry in the ASCAP claim lies in the fact that, whatever it does or does not do for its own members, ASCAP has made it practically impossible for anyone else to achieve any success at all in music. ASCAP is a barrier and a menace to every composer who is not among its members.

Under the circumstances created by the ASCAP licensing policy, only the music covered by the ASCAP license has been played enough to have any chance of becoming popular. To secure membership in ASCAP a writer has to have five songs published—"successful works," says Mr. Mills, "of a type such as are performed in establishments licensed by the Society."

The new writer could get his works into the ASCAP catalogue only by having them issued by one of the publisher members of the Society. But these publishers want only "established" writers. That may be sound business so far as the publishers are concerned. But when the ASCAP organization and the most influential publisher-members have created this situation, it is sheer gall for Mr. Mills to imply that ASCAP is concerned with "the most practical way in which to encourage the composition of worthwhile music."

The implication that ASCAP is the guardian angel of American composers in general is at once the most heartless and the most shameless piece of hypocrisy that has come from a responsible man in American public life in years.

## ASCAP—NETWORK FREE HOURS

It is generally the opinion of radio lawyers that ASCAP's claim for percentage payments on free-hours to the networks has no basis in law. NAB is in full agreement.

## ASCAP TRIAL COMPLETED

Retrial of the ASCAP suit testing the constitutionality of the Florida law has been completed. The court granted 30 days for filing of briefs and the decision is not expected until summer.

The witnesses were:

1. For ASCAP, Mills and Paine
2. The principal witnesses for the State were Walter Tison (WFLA), Spencer Mitchell (WDAE), both of Tampa; Tom Belviso, Director, Music Department, NBC; Jerry Maulsby, Production Manager, CBS; James W. Baldwin, former Managing Director, NAB; William Richardson, Lawyer-Accountant. Six other clerical witnesses on tabulations were used.

After everything was over the Court authorized the introduction into testimony of any testimony taken in connection with the Nebraska suit. Whereupon ASCAP put in the testimony of Gene Buck, Sigmund Spaeth, and a couple of minor witnesses, and we introduced the testimony of John Gillin, Edwin H. Morris and the President of the Nebraska Dance Hall Association.

The attorneys for the State were Thomas J. Ellis, Assistant Attorney General, Lucien H. Boggs and Andrew W. Bennett. The attorneys for ASCAP were Manley Caldwell, Frank Wideman, Louis D. Frohlich and Herman Finkelstein.

## "NEW MUSIC IN THE AIR"

"There's New Music In the Air" was the subject of an address given by Neville Miller, April 22, before the radio forum of the National League of American Pen Women in Washington.

## LITTLE SUPPORT APPARENT FOR UNION'S ANTI-RADIO DRIVE

Although the printing trades unions are trying to drum up support among newspaper and magazine publishers for a united front against radio, they are apparently making little headway.

At both the Associated Press and A. N. P. A. meetings in New York this week, there was evidence that a substantial majority of the newspaper publishers wanted to work with rather than against radio.

The A. P. membership meeting voted to broaden the organization's policy covering the use of its news services for sponsored radio programs. Details were left to the board of directors.

At the A. N. P. A. meeting, the radio committee's report stated that one-third of all radio stations now were newspaper owned or controlled.

The committee's report, presented by its chairman, J. S. Gray, of The Monroe (Mich.) Evening News, declared that while radio as a medium had become "a powerful commercial entity, an inevitable gravitation associates it increasingly, and in many of its best uses, with newspaper operation." The moderate cost of the new frequency modulation system, the report added, offered inducement for the establishment of stations in smaller communities.

Paul Bellamy, editor of The Cleveland Plain Dealer, said: "But I am ready to accept them, the gentlemen of the radio, as partners," when he presented the report of his committee on cooperation of press, bar and radio. He added:

"We can agree on pretty much everything except the use of cameras and microphones in court. It remains to be seen what can be done about that."

Furthermore, *Editor & Publisher* said editorially that the printing trades unions were making the wrong approach to the problem. It was up to the newspapers to show that they were the better advertising media, it said, and not to try to cripple radio.

The letter which the printing trades union sent to the publishers follows:

INTERNATIONAL ALLIED PRINTING TRADES  
ASSOCIATION

WASHINGTON, D. C.

*Office of the President*

April 15, 1940.

GENTLEMEN:

The officers and members of the Printing Trades Unions have noted, during the past few years, the ever increasing diversion of Advertising from Magazines and Newspapers to other forms of media.

The Board of Governors, at their last meeting, appointed a committee to investigate this matter and, if possible, to prepare some constructive plan to protect the job opportunities of Printing tradesmen, which means also to protect and to promote the continuance of Magazines, Newspapers and other printed publications dependent upon Advertising.

For the year 1939, the gross sales of Radio Time amounted to \$171,113,813, while the gross volume of National Magazine Advertising was \$151,484,530. The Radio Advertisers not only paid this sum of \$171,113,813 to the Radio Stations but, in addition thereto, they paid many additional millions of dollars for Music, Entertainers, Royalties, etc. While Newspaper Advertising in 1939 increased 1.5% over 1938, Magazine Advertising increased 9.1% over 1938, National Farm publications advertising increased 2.6% over 1938, Radio Station and Radio Chain Advertising increased 15.9% over 1938.

Magazines and Newspaper plants represent large and substantial investments and provide employment for many thousands of organized workers while Radio stations, in most cases, represent but a small investment for physical equipment and provide employment for a relatively small number of persons.

While Radio Broadcasting licenses are issued by our Government, without cost to the holders thereof, through the reports of the Federal Communications Commission, we note that the present value of these licenses represent vast amounts of money.

The following citations, only a few of the many available, are illustrative: Station A—the new owners paid \$1,826,125 for 70.6% of the stock of a station the replacement cost of the fixed assets of which were \$286,507.90. Station B—the new owners paid \$300,000 for a station the replacement value of the fixed assets of which were \$77,106.38, and Station C—the new owners paid \$450,000 for a station the replacement value of the fixed assets of which were \$163,327.03. Yet, the Securities and Exchange Commission has recently stated that the value of a Radio Station is dependent on the license issued by the Governmental Agency.

We believe this is a highly important subject to every person sincerely interested in the welfare of the Printing and Publication industry and appreciating your interest in promoting and enlarging the Printed Publication field we would greatly appreciate knowing what plans, if any, have been considered or what plans may be considered to correct this situation which has already proven most harmful to the best interests of printing trades workers and their employers.

Trusting that you will favor us with a prompt response and with such suggestions as you deem advisable.

Very truly yours,

JOHN B. HAGGERTY,

JBH/MH

*Chairman, Board of Governors.*

It is understood that these unions contemplate support of anti-radio legislation in the future.

The NAB is keeping an eye on developments and will take appropriate action.

## Supreme Court Scores Existence of Censorship

The Supreme Court says, "It is not the sporadic abuse of power by the censor but the pervasive threat inherent in its very existence that constitutes the danger to freedom of discussion."

This statement was included in the Court's decision this week, declaring unconstitutional an Alabama state anti-picketing law (*Thornhill v. State of Alabama*).

The state had contended that *Thornhill* could not complain of the deprivation of any rights but his own under the anti-picketing law, but Mr. Justice Black, who wrote the opinion, waved that contention aside, and added:

"There is a further reason for testing the section on its face. Proof of an abuse of power in the particular case has never been deemed a requisite for attack on the constitutionality of a statute purporting to license the dissemination of ideas. *Schneider v. State*, 308 U. S. 147, 162-165 [5 LRR 332]; *Hague v. C.I.O.*, 307 U. S. 496, 516 [4 LRR Man. 501]; *Lovell v. Griffin*, 303 U. S. 444, 451. The cases when interpreted in the light of their facts indicate that the rule is not based upon any assumption that application for the license would be refused or would result in the imposition of other unlawful regulations (Note No. 10). Rather it derives from an appreciation of the character of the evil inherent in a licensing system. The power of the licensor against which John Milton directed his assault by his "Appeal for the Liberty of Unlicensed Printing" is pernicious not merely by reason of the censure of particular comments but by reason of the threat to censure comments on matters of public concern. It is not the sporadic abuse of power by the censor but the pervasive threat inherent in its very existence that constitutes the danger to freedom of discussion. See *Near v. Minnesota*, 283 U. S. 697, 713. One who might have had a license merely for the asking may therefore call into question the whole scheme of licensing when he is prosecuted for failure to procure it. *Lovell v. Griffin*, 303 U. S. 444; *Hague v. C.I.O.*, 307 U. S. 496 [4 LRR Man. 501]. . . ."

## NEW YORK LIBEL LAW

On April 17, Governor Lehman of New York approved an amendment (Chapter 561, Laws 1940) of the New York law concerning libel.

Section 1345 of the Penal Law now reads as follows:

"Section 1345. Publishing a true report of public official proceedings. A prosecution for libel can not be maintained against any person, firm or corporation, for the publication of a fair and true report of any judicial, legislative or other public and official proceedings, or for any heading of the report which is a fair and true headnote of the statement published."

Section 337 of the Civil Practice Act now reads as follows:

"Section 337. Privileges in action for libel. A civil action cannot be maintained against any person, firm or corporation, for the publication of a fair and true report of any judicial, legislative or other public and official proceedings, or for any heading of the report which is a fair and true headnote of the statement published.

"This section does not apply to a libel contained in any other matter added by any person concerned in the publication; or in the report of anything said or done at the time and place of the public and official proceedings which was not a part thereof."

## GOLDSTEIN BILL (NY) APPROVED

The Goldstein Bill in New York banning untrue, deceptive or misleading advertisements over radio stations was approved April 21 and takes effect on September 1. The Act (c. 639, Laws of 1940) follows:

"AN ACT to amend the penal law, in relation to advertising. The People of the State of New York, represented in Senate and Assembly, do enact as follows:

"Section 1. Section four hundred and twenty-one of the penal law, is hereby amended to read as follows:

"Section 421. Untrue and misleading advertisements. Any person, firm, corporation or association, or agent or employee thereof who, with intent to sell or in any wise dispose of merchandise, real estate, securities, service, or anything offered by such person, firm, corporation, or association, or agent or employee thereof, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper, magazine or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag, or over any radio station or in any other way, an advertisement, announcement or statement of any sort regarding merchandise, securities, service or anything so offered to the public which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor.

"Section 2. Section four hundred and twenty-one-a of the penal law, is hereby amended to read as follows:

"Section 421-a. Advertisements. Any person, firm, corporation or association, or agent or employee thereof, hereinafter called person, who, being engaged in the business of dealing in any property, makes, publishes, disseminates, circulates or places before the public or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, any advertisement respecting any such property, in any newspaper, magazine, or other publication, or over any radio station, unless it is stated in any such advertisement that the advertiser is a dealer in such property or from the context of any such advertisement it plainly appears that such person is a dealer in such property so offered for sale in any such advertisement; or when placing or causing any such advertisement to appear in any newspaper, magazine or other publication or radio station as described in this section, if requested by the publisher of any such newspaper, magazine or other publication or owner or operator of such radio station or any agent or representative thereof to file with such owner or

operator, publisher, agent or representative thereof his true name, or where he is transacting business under a name other than the true name pursuant to law, then the name under which such business is transacted, and each business address wherein any business is transacted by him, in the class of property advertised or to be advertised for sale in such advertisement, shall make any false statement in relation to any of such items; or if requested by the publisher of any such newspaper, magazine or other publication or owner or operator of such radio station or any agent or representative thereof to file with such owner, operator, publisher, agent or representative thereof a statement showing whether he is causing such advertisement to appear or is offering to make such sale or disposition or transaction, as herein set forth, as principal or agent, and if as agent, to set forth such information as is specified in this section, in relation to his principal as well as in relation to himself, shall make any false statement in relation to any of such items; is guilty of a misdemeanor."

## RADIO "COURTS"

A new statute (Chapter 251, Laws 1940) has been enacted in New York to endeavor to prevent the public being deceived as to the nature of the so-called "radio courts".

In a recent decision (Matter of Blake, New York Law Journal, December 1939) one of the New York Supreme Court judges took occasion to say the following:

"I have listened to a number of such programs on the air, and the ignorance of those in charge of the commonest principles of law was appalling. Atrocious advice has been given to poor, ignorant people which could serve only to multiply the trouble they have brought to these mountebank 'courts'. In the beginning a few men learned in the law permitted themselves to be used in connection with this 'swing time justice' until they realized the iniquity of the scheme. Today, no judge or self-respecting lawyer will lend himself to the capitalization of human misery. Outstanding members of the laity, flattered by the temporary prominence given them, and fancying themselves no little in the role of a 'Solomon come to justice', served in capacities for which they have no qualifications or training. Certainly, no good is accomplished for the poor litigants who are beguiled into making their troubles entertainment for the world, and, assuredly, much harm is done. These 'courts' have no ability, no responsibility and no authority and should, as a matter of public interest, be discouraged."

NAB is in receipt of a communication from Mr. Edwin M. Otterbourg, Chairman of the American Bar Association's Standing Committee on Unauthorized Practice of the Law, with reference to this statute, saying in part:

"I think that all of the radio stations, particularly in New York State of course, should be apprised of this law and should take steps to have removed from their programs any broadcasts which either in the letter or in the spirit violate what the Legislature is trying to prevent.

"In view of the very fine effort at cooperation that is being made between radio broadcasters and the bar, it seemed to be far more appropriate to send this to you so that you may take such action thereon as you see fit, rather than for me to communicate directly to the radio stations."

The pertinent provisions of the Act are:

"Section 3. Use of term "court" prohibited. No person, firm, association or corporation shall hereafter use or employ the term "court" as part of or in connection with the name of any body, board, bureau, association, or organization or corporation, or in referring to any body, board, bureau, association, organization or corporation, in such manner as to be calculated reasonably to lead to the belief that the body, board, bureau, association, organization or corporation is vested with judicial power or is a part of the judicial system of the state; the use of such term being expressly limited by this section for reference to a court of record or a court not of record, duly organized and existing under the laws of the state as a part of the judicial system of the state."



## Promotion

To all Station Managers:

*Radio Festival is a grass roots promotion.*

*You can take it whole or piece meal, as desired. It is good medicine in any amount. We invite you to write your own ticket, some kind of a ticket, large or small.*

*There is plenty of time to get started.*

\* \* \*

*Don't overlook the NAB \$100 cash award for the best essay on the American System of Broadcasting. The best essay can be in your area.*

\* \* \*

*I'll be glad to pass on any challenge you gentlemen may care to make other members as to your chances for getting this money away from me. Edney Ridge and Ralph Brunton have come up with pretty good plans, but the money is still in the bank.*

*Let's give them some real competition!*

*Sincerely yours,*

ARTHUR STRINGER.

### MORE STATIONS MAKE PLANS FOR NATIONAL RADIO FESTIVAL

With the addition of KSL, Salt Lake City, and KQW, San Jose, Calif., to the list of stations which have announced their decision to participate in National Radio Festival, all of the country is within the scope of operations.

Three Nebraska stations will also participate. Cliff Johnson, their program director made the announcement by wire: "KOIL (Omaha) KFAB and KFOR (Lincoln) behind you with Radio Festival. Nebraska will know about it."

In Nashville, Tenn., according to information received at headquarters, the stations in "The Athens of the South" are to have a Radio Festival in which all stations will pool their ideas and efforts. This is the same practice which Pittsburgh and Richmond broadcasters have decided best meets their needs. Nashville stations are: WLAC, WSIX and WSM.

In San Jose, Ralph Brunton, president of KQW, has completed arrangements with Superintendent of Schools, Walter Bachrodt by which 10,000 boys and girls will be brought within the radio circle. For five consecutive Saturdays, beginning with May 4, the operation of KQW will be turned over to San Jose students, and the city's entire student body will have their finger in the radio pie in some fashion or other.

After certain preliminaries, students of a different school will take over the station's operation each Satur-

day. They will handle sustaining and commercial schedules and will produce shows of their own including remotes from the schools featuring student talent.

Up to last Monday, phases of station operation assigned to students included: continuity writing, production, music, transmitter operation and maintenance, sales traffic, sales promotion and publicity, announcing and sound effects. The KQW staff will act in an advisory capacity.

"The entire plan", says Mr. Brunton, "is being coordinated with the National Association of Broadcasters' National Radio Festival in order that the students may be better equipped to enter the essay contest on "The American System of Broadcasting—Why It Is Best for Americans."

### Says Earl Glade

In a letter to headquarters, Earl J. Glade, executive vice president of KSL, wrote: "Thank you sincerely for your constructive suggestions regarding the Radio Festival. We shall work right along with you, and are happy to get this fine material."

In Greensboro, N. C., where Major Edney Ridge, manager, WBIG, is running up a record in the number of Mayoralty Radio Festival proclamations, the members of the Senior High School will present "Are you There" on May 3. "High Life," full newspaper size school publication carried a two column picture with complete story. Other plays are to be given at a later date.

In the Radio Festival bulletin, dated April 20, twenty stations and two transcription companies were reported as having made preliminary plans for engaging in the spring-summer industry promotion. Those stations were:

Atlantic City, N. J.—WBAB  
Charlottesville, Va. —WCHV  
Greensboro, N. C. —WBIG  
Kansas City, Mo. —KMBC  
New Orleans, La. —WWL  
Pittsburgh, Pa. —KDKA, KQV, WWSW  
WJAS. WCAE  
Quincy, Ill. —WTAD  
Richmond, Va. —WMBG, WRNL, WRTD, WRVA  
Roanoke, Va. —WDBJ  
Rock Island, Ill. —WHBF  
Wheeling, W. Va. —WWVA  
Wilmington, Dela. —WILM, WDEL  
NBC Transcriptions  
World Broadcasting System

### "LISTEN WHILE YOU RIDE"

It looks like a big summer for auto radio listening.

Active station executives in various parts of the country have already scheduled announcements designed to increase the hours of such listening and/or the number of auto radio installations.

Reports of auto radio promotion have reached head-

quarters from Boston to San Francisco. In the former city John Shepard, III, president of the Yankee Network, is lending aid, and in the latter city, Ralph Brunton, president of KJBS, is actively engaged in making the listeners of northern California auto radio and new set conscious.

Three fifteen minute programs per week over the Brunton stations, KJBS, San Francisco, and KQW, San Jose, also discuss new home sets with ample attention given to console models.

KDKA, Pittsburgh, has scheduled three announcements per week straight through the summer. They have been on for two weeks, according to James R. Luntzel, director of publicity.

The KRGV, Weslaco, Texas, campaign was of the intensive type, covering the period of April 21 through the 27. Station Manager Ken Lowell Sibson preceded it with the following letters to all radio dealers and motor car dealers:

"Dear Mr. —

"LISTEN WHILE YOU RIDE!

"Listen While You Ride' will not only increase your spring and summer car set sales but, of course, will lift our set population. Estimates have it that there are 11,000,000 hours of auto radio listening now, based on the 7,000,000 sets in use.

"I am attaching a sample of three of the announcements, in order that you might get the gist of them.

"Let's boost the listening habit and set population by tying in with this 'Listen While You Ride' campaign."

And from WDW, Tuscola, Ill., came this note from Program Director Hank Fisher:

"We will run the auto radio announcements that you forwarded to us. Thanks for your cooperation in the past, and please don't fail to call upon us in the future for anything that we can do for you."

WGAR, Cleveland, is running auto radio announcements at regular intervals over several weeks. In addition the station will build special features for broadcast which call attention to the use of auto radios.

In the interest of more and better listening KVI, Tacoma, Washington, scheduled a service meeting in the ballroom of the Olympic Hotel, Seattle, on April 25. It was held in cooperation with Northern Radio Company and the Hygrade Sylvania Corporation, tube manufacturers of Emporium, Pa. Their Engineer, George C. Connor, was guest speaker.

## NATIONAL EMPLOYMENT WEEK

The President has signed a proclamation designating the first week in May as "National Employment Week." Full text of the proclamation follows:

Both the State and Federal Governments have been especially concerned with the problems of older workers, many thousands of whom, despite their persistent efforts, still lack a place in industry. Among these are a considerable number of World War Veterans, men who now average 47 years of age, and who, I feel, have a particular appeal to our national sense of responsibility.

Our public employment service—a Nation-wide network of 1,600 offices now operated jointly by the State and Federal Gov-

ernments—has made special efforts in behalf of workers past 40 years of age, including veterans. We know from the facts gathered by this Agency that men and women in middle life possess abilities and skills which would fit them for employment in nearly every line of work. We know further that these older workers, when given an opportunity, demonstrate a seasoned experience and a mature application to their tasks which in many callings outweigh the physical advantages of youth.

A year ago with these considerations in mind, I designated a National Employment Week during which I asked that all our citizens give particular and active attention to the problem of older workers who lack employment. During the month in which the special week occurred, over a third of a million jobs—a third more than during the same month of the previous year—were filled through the public employment offices, and a quarter of a million of these placements were in private industry. Moreover, placements proceeded at an accelerated rate in the month following the week set aside. Because of the concerted efforts of government, many public-spirited groups, and particularly of employers throughout the land, thousands of workers past 40, among them veterans, shared beneficially in this fine result.

I am grateful for the wholehearted response to my first appeal; and as President, I desire to encourage a continued Nation-wide interest in this persistent problem.

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby declare the week beginning May 1, 1940, as National Employment Week, and Sunday, May 5, 1940, as National Employment Sunday. I urge all churches, civic organizations, chambers of commerce, boards of trade, veterans' organizations, industry, labor, public-spirited citizens, radio, and the press throughout the United States to observe that week as National Employment Week, to the end that interest in the welfare of all the unemployed, and especially the worker over 40, may be stimulated and employment be extended to them.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

FRANKLIN D. ROOSEVELT

## ALL-EXPENSE CONVENTION TRIPS NOW BEING ARRANGED

If you are one of those who expressed interest in the All-Expense Tours to the Convention, we urge you to return to headquarters the form mailed you with the itineraries. Simply indicate the route you prefer so that we can make plans. Please do it NOW! You do not commit yourself, but it is important that we get some idea NOW as to the route you wish to travel.

It is probable that enough will choose some one route each way to warrant a special train and personally conducted train on that route, resulting in a saving of several hours time in all probability. Furthermore, if enough want to travel on other routes we can arrange for special cars for personally conducted tours on those routes.

We are endeavoring to please YOU and make your convention trip a memorable one. But you must let us know your wishes. Please do it NOW!

Russell Place, NAB counsel, who is handling arrangements for these trips, received the following letter this week from Harry R. Spence, KXRO, Aberdeen, Washington:

"Congratulations on the splendid way in which you have worked out the proposed all-expense tours to the convention in San Francisco. These tours are very complete and are certainly flexible and they should meet with the approval of everyone. The outline indicates a great deal of thought and work and I feel sure that the plans will prove so attractive that we will have a splendid representation in San Francisco. I hope that a great many of our people will decide on going North from San Francisco as we here in the Pacific Northwest are particularly anxious that our Eastern friends should see what a great country we really

have. Don't let any of them tell you that buffalos roam the streets of Seattle and that Indians are still stopping transcontinental trains."

## WILDER THANKS INDUSTRY

Harry C. Wilder, Director of District 2, wishes to thank the entire industry for the expressions of sympathy he and Mrs. Wilder received after the death of his son, Harry, Jr., recently. Mr. Wilder is president of Station WSYR in Syracuse.

## DEMPSEY, KOPLOVITZ RESIGN

William J. Dempsey and William C. Koplovitz, FCC General Counsel and Assistant General Counsel, respectively, have submitted their resignations, to engage in private law practice jointly at Washington, D. C. The resignations are effective "at the convenience of the Commission."

In making public the impending separation, Acting Chairman Thad H. Brown commented:

"It is with genuine regret that the Commission has received the resignations of General Counsel Dempsey and Assistant General Counsel Koplovitz. They are able, industrious, and conscientious young men with an exceptionally high regard for public service. Their going is a distinct loss to the Commission."

Chairman James Lawrence Fly, who is absent from the city, wired:

"The Commission is sorry to lose such valuable services to private practice."

He credited Messrs. Dempsey and Koplovitz with expediting and simplifying Commission procedure, and particularly complimented them for their unbroken record of favorable decisions for the Commission in 7 cases before the United States Supreme Court and in 29 cases before the Court of Appeals.

Mr. Dempsey and Mr. Koplovitz have "teamed" in Government service since 1933. Before joining the Federal Communications Commission legal staff, they were counsels to the Federal Power Commission and, before that, the Public Works Administration.

## FCC AMENDS RULES

The FCC, upon consideration of the petition filed by Mayor Fiorello H. LaGuardia, New York, New York, requesting amendment of Rules 3.94(a) and 4.10, Docket No. 5450, and as a result of study of the general problems involved and after consideration of the record made during the hearing in this matter, and the report of the Committee of the Commission submitted on April 4, 1940, made the following changes in Parts 3 and 4 of its Rules and Regulations, effective immediately:

Section 3.94(c) is hereby made Section 3.94(d), and Section 3.94(d) is made Section 3.94(e), and the following is inserted as Section 3.94(c):

"Section 3.94(c). The licensee of a standard broadcast station may, without further authority of the Commission, rebroadcast on a noncommercial basis a noncommercial program of an international broadcast station, provided the Commission is notified of the call letters of each station rebroadcast and the license certifies that express authority has been received from the licensee of the station originating the program."

Section 4.10(d) is deleted; Section 4.10(c) is made Section 4.10(d), and the following is inserted as Section 4.10(c):

"Section 4.10(c). The licensee of a noncommercial educational broadcast station may, without further authority of the Commission, rebroadcast the noncommercial programs of a standard broadcast station or an international 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."

The words "or noncommercial educational" are stricken from Section 4.10(b).

## HOW TO GET A LICENSE

The FCC this week issued the following statement on procedure necessary to establish a radio broadcast station:

Because radio frequencies are limited, it is necessary to license broadcast stations to serve the "public interest, convenience, or necessity."

The rules of the Commission do not contemplate licensing any new radio station, the purpose of which is to engage in broadcasting for reception by the general public, to operate with a power of less than 100 watts. This is the minimum power capable of rendering appreciable public service, and it is allowable only on frequencies allocated for local service (1200, 1210, 1310, 1370, 1420 and 1500 kilocycles).

Likewise, in the public interest, the Commission has not licensed stations to broadcast recordings only.

The approximate cost of constructing a 100-watt broadcast station is, roughly, between \$5,000 and \$8,000.

Any person, firm or corporation legally qualified may apply to the Commission for radio broadcast facilities in any locality. Formal application for construction permit is submitted in duplicate direct to the Commission on Form 301 (Application for Standard Broadcast Station Construction Permit or Modification Thereof), which is obtainable on request.

Each construction permit will specify a maximum of 60 days from date of grant thereof as the time within which construction of the station shall begin, and a maximum of six months thereafter as the time within which construction shall be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case.

The time required for an application for a new broadcast station to go through the necessary routine varies with individual cases. In the case of a purely local station, where no interference is involved, the time can be as short as four to six weeks, providing that the application is accurately and completely filled out and all the required exhibits are appended. However, where interference and formal objection by other stations enter, a longer time is necessary.

Where the Commission, upon examination of a particular application, is unable to reach determination that a grant will serve the public interest, the case is designated for formal hearing upon specific issue, and all persons having an interest in the matter are given opportunity to be heard. Under present procedure, after a hearing has been held the parties are permitted 20 days in which to file supporting statements. The Commission then issues its "Proposed Findings of Fact and Conclusions," and the parties are allowed 20 days thereafter to file exceptions and to request oral arguments before final decision is rendered. In the event that no exceptions or requests for oral argument are received, the Commission issues an order adopting and making effective its proposed decision. This is the final determination unless there is court action.

Upon completion of construction of a radio station the permittee is authorized to test the equipment for a period not to exceed 10 days. The Inspector in Charge of the district in which station is located, as well as the Commission, are notified 2 days in advance of the beginning of equipment tests. When construction and equipment tests are completed, and after application for station license has been filed with the Commission on Form 302 (Application for

Regular Broadcast Station License) and Form 306 (Application to Determine Operating Power of Broadcasting Station by Direct Measurement of Antenna Power), showing transmitter to be in satisfactory operating condition, the permittee is authorized to conduct service or program tests for a period not to exceed 30 days, again advising the Commission and Inspector in Charge 2 days in advance of the beginning of such tests.

Broadcast station licenses are denied corporations "of which any officer or director is an alien or of which more than one-fifth of the capital stock of record is owned or voted by aliens or their representatives."

Broadcast stations are licensed for a period of one year. Request for renewal of license is made on Form 303 (Application for Renewal of Regular Broadcast Station License).

The Government exacts no fee or other charge in connection with radio licensing.

In order to provide broadcast service to the varying population densities found throughout the United States, it has been found necessary to establish four general classes of broadcast stations:

*Class I*—which operates on a clear channel, is intended to serve a large center of population besides serving, particularly at night, the remote rural areas.

*Class II*—which also operates on a clear channel, renders secondary service over a primary service area limited by interference from Class I stations.

*Class III*—which operates on a regional channel shared by several similar stations, serves a center of population and its adjacent rural area during the daytime, and at night similarly serves the center of population but gives a lesser service to the rural region because of interference from other stations on the same channel.

*Class IV*—which operates on a local frequency shared by many similar stations elsewhere, serves a small center of population both day and night.

If an applicant for a radio station asks a special call letter assignment, whenever possible the Commission grants this request. Otherwise call letters are selected by the Commission.

Unlike telephone and telegraph, a radio broadcast station is not deemed a "common carrier" under the Communications Act. No standard tariffs apply. While certain prohibitions are imposed by the Act, the Commission is given no general censorship powers over radio broadcast programs.

Useful in connection with broadcast applications are the following publications obtainable from the Superintendent of Documents, Government Printing Office, Washington, D. C., at the prices indicated: "Rules Governing Standard Broadcast Stations" (Part 3), 5 cents; "General Rules and Regulations" (Part 2), 10 cents; "Rules of Practice and Procedure" (Part 1), 10 cents, and the Communications Act of 1934 with amendments thereto, 15 cents.

## FROM THE FCC MAIL BAG

The warden of a State prison wants local radio stations to cooperate in broadcasting emergency information regarding escaping prisoners. The Commission has advised that, though the law prevents standard broadcast stations from being used for routine police work, there is no bar to news flashes containing information about escaping prisoners which may be of interest or concern to the general public.

Amateurs in a certain New Jersey city complain that local authorities charge for the privilege of "ham" operations in that locality. The Commission, which itself exacts no fee for licensing amateurs or other radio operators or stations of any kind, is inquiring as a matter of information but, of course, cannot interfere in such local matters.

The Commission still receives inquiry as to a "license for the operation of radio receivers." The answer, of course, is that no such federal license is required.

A New Yorker asks about Commission "regulations relative to rates which may be charged by standard broadcast stations for the use of their facilities." The Communications Act stipulates that stations engaged in program broadcasting are not common carriers. They are not subject to rate regulation as are common carriers such as the telephone and telegraph. Hence, the matter of charges is one resting between the stations and the sponsors.

Frequently, the Commission is asked to help locate a radio operator or a radio station employee. The Commission does not require or maintain a complete, continuing record of the whereabouts of each radio operator. It has no jurisdiction over other personnel of the broadcasting industry, and keeps no tabs on individual employees.

A recent letter suggests "the danger from X-rays to which the public will be subjected in the use of television receiving sets."

According to the best available information, the efficiency of X-ray generation at the voltages employed in cathode-ray television systems is extremely low, and any X-rays so produced are of such low penetrating power as to be completely absorbed by the glass walls of the tube. Not only is this true of cathode-ray tubes in television receiving sets, but also of the tubes used in transmitters. In neither case do engineers consider there is any danger from X-radiation.

A CCC camp in Nevada wants to establish point-to-point radio communication between its main camp and a branch camp. The Interdepartment Radio Advisory Committee advises the President with regard to the assignment of frequencies to Government stations and the Federal Communications Commission has no jurisdiction over such assignments. Consequently, if the proposed operation is for Government business with Government equipment and conducted by Government employees, the application is one for the Interdepartment Radio Advisory Committee to handle, but if, on the other hand service is to be privately owned, both station and operator license applications should be made to the Commission.

The Commission makes frequent reply that it is not authorized to assist individual inventors promote their radio inventions, or expedite patents thereon. Nor can it help individuals copyright or market radio programs or musical selections, or obtain positions for radio operators or performers.

By the same token, and one which the Commission has often reiterated, it cannot censor individual radio programs, or "rule" individuals either on or off the air. Therefore, it is unable to deal with a Maryland man's complaint about a program discussing the birth of babies, a magician's protest about airing the secrets of his profession, a Cleveland man's resentment at manner in which classic music is rendered by so-called "swing bands," the desire of a Massachusetts man to put all international broadcasts in Esperanto or a Philadelphia Parent Teacher Association's criticism of the character of programs presented for children between 4 and 8 p. m.

Every so often the Commission has to point out that small radio frequency devices used as transmitters to distribute programs within buildings are capable of radiating considerable power and consequently can cause interference to radio communication in the immediate vicinity. The Commission has established regulations which permit the operation, without license, of low-powered radio frequency devices for remote control receivers, for connecting record players with receivers, and for similar applications so long as the field radiated does not exceed a predetermined value and no interference results.

Among aircraft radios recently licensed was that of Borrah Minevitch, of Beverly Hills, California. However, it may be difficult for him to sound his new call signal, KHDQH, on his famous harmonica!

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings are scheduled before the Commission in broadcast cases during the week beginning Monday, April 29. They are subject to change.

Monday, April 29

NEW—West Virginia Newspaper Publishing Co., Morgantown, W. Va.—C. P., 1200 kc., 250 watts, unlimited time.

Monday, April 29

To Be Held Before Commissioner George Henry Payne, in the Criminal Court Room, County Courts and Jail Building, Houston, Texas.

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Texas.—In re; Revocation of station license of KGFI.

## FUTURE HEARINGS

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

May 9

Oral Argument Before the Commission

REPORT No. P-5:

NEW—Eddie Erlbacher, Cape Girardeau, Mo.—C. P., 2738 kc., 50 watts, emission A-3, unlimited time. Pts. of Comm.: With vessels on Mississippi and Ohio Rivers.

REPORT No. B-88:

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

June 3

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 250 watts, unlimited time.

NEW—World Peace Foundation, Abraham Binneweg, Jr., Oakland, Calif.—C. P., 1614, 2398, 6425, 8655, 9135, 17310, 12862.5 kc., 250 watts, emission A, A-1, A-2, A-3, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

There was no meeting of the Commission this week.

### MISCELLANEOUS

North Side Broadcasting Corp., New Albany, Ind.—Granted motion for leave to amend petitioner's application for modification of license (Docket No. 5811), so as to request additional authority to move transmitter location from McCullough Pike, near Silver Creek, New Albany, Ind., to a site to be determined, Louisville, Ky.; directed hearing now scheduled for April 19, 1940, on said application be continued without date.

WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted construction permit to install new transmitter, frequency 920 kc., 500 watts, daytime (B1-P-2835).

WGRM—P. K. Ewing, Greenwood, Miss.—Granted license to cover construction permit for move of studio and transmitter from Grenada, Miss., to Greenwood, Miss.; 1210 kc., 100 watts, 250 watts LS, unlimited (B3-L-1019).

Central States Broadcasting Co. (area of Omaha, Nebr.), Portable-Mobile.—Granted construction permit for new relay broadcast station, frequencies 1606, 2022, 2102, 2758 kc., power 2 watts (B4-PRY-208).

Central States Broadcasting Co. (area of Omaha, Nebr.), Portable-Mobile.—Granted construction permit for new relay broadcast station, frequencies 1606, 2022, 2102, 2758 kc., power 2 watts (B4-PRY-210).

Central States Broadcasting Co. (area of Omaha, Nebr.), Portable-Mobile.—Granted construction permit for new relay broadcast station, frequencies 1606, 2022, 2102, 2758 kc., power 2 watts (B4-PRY-209).

WKAR—Michigan State College, E. Lansing, Mich.—Denied petition to intervene in the hearing on the application of WFDF, Flint, Mich., to change frequency from 1310 to 880 kc., increase power from 100 watts to 1 KW, and the application of WJHL, Johnson City, Tenn., to change frequency from 1200 kc. to 880 kc., and increase power from 250 watts to 1 KW. (Exception to ruling noted by counsel for petitioner.)

WGBI—Scranton Broadcasters, Inc., Scranton, Pa.—Denied petition to intervene and enlarge issues in re application of WJHL, referred to above. (Exception to ruling noted by counsel for petitioner.)

Miami Broadcasting Co., Miami, Fla.—Dismissed without prejudice the application for a new station to operate on 1420 kc., 250 watts, unlimited time, and hearing cancelled.

Black River Valley Broadcasts, Inc., Watertown, N. Y.—Granted petition for leave to amend application for construction permit to request frequency 1210 kc. instead of 1420 kc., night power of 250 watts instead of 100 watts, and make changes in equipment.

KEIV—Nichols & Warinner, Inc. (area of Long Beach, Calif.), Portable-Mobile.—Granted license to cover construction permit for changes in equipment of relay broadcast station and increase in power to 10 watts (B5-LRE-308).

KRBM—KRBM Broadcasters, Bozeman, Mont.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-361).

WCNC—Aubrey G. McCabe & Trim W. Aydlett, d/b as Albermarle Broadcasting Co., Elizabeth City, N. C.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-381).

KTOK—Oklahoma Broadcasting Co., Inc., Oklahoma City, Okla.—Granted authority to determine operating power by direct measurement of antenna input (B3-Z-374).

WJBW—Charles C. Carlson, New Orleans, La.—Granted license to cover construction permit for changes in equipment and increase in power to 250 watts; frequency 1200 kc., unlimited (B3-L-1130).

WNBH—E. Anthony & Sons, Inc., New Bedford, Mass.—Granted modification of construction permit for installation of new transmitter, increase in power from 100 watts, 250 watts day, to 250 watts day and night, move of transmitter, site to be determined, install vertical antenna, for approval of antenna and of transmitter site at Crow Island, Fairhaven, Mass.; 1310 kc., 250 watts, unlimited (B1-MP-924).

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 2 p. m. to 3 p. m., EST, on April 27, May 4, 11, 18 and 25, 1940, in order to broadcast programs as follows: 2 to 2:10, Newscast; 2:10 to 2:30, Matinee Moods; 2:30 to 3, Suggestions in Symphony; to operate from 2 to 3 p. m., EST, April 28, May 5, 12, 19 and 26 in order to broadcast programs as follows: 2 to 2:15 p. m., Newscast; 2:15 to 2:30 p. m., Tune Travels; 2:30 to 2:45 p. m., Sabbath Mediations; 2:45 to 3 p. m., ¼ Hour in ¾ Time (provided WSVS remains silent) (B1-S-879).

KAQY—Farmers & Bankers Broadcasting Corp., Wichita, Kans.—Granted special temporary authority to use the relay broadcast equipment formerly licensed to the KANS Broadcasting Co., under call letters KDEA, on Sunday, April 21, 1940, between the hours of 1:00 and 5:00 p. m. for the purpose of broadcasting a golf match at the Wichita Country Club.

WTAW—Agricultural and Mechanical College of Texas, College Station, Tex.—Granted special temporary authority to operate simultaneously with Station WJBO from 10:00 p. m. to 11:00 p. m., CST, April 26, 1940, in order to broadcast Barnyard Frolic of Agricultural Engineering Society (B3-S-394).

WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Granted license to cover construction permit for increase in power from 1 KW to 1 KW, 5 KW day, install new transmitter, and make changes in antenna and move transmitter; 1350 kc., shares with WAWZ (B1-L-1135). Granted authority to determine operating power by direct measurement of antenna input (B1-Z-383).

Everett L. Dillard, tr/as Commercial Radio Equipment Co., Kansas City, Mo.—Granted special temporary authority to operate high frequency broadcast station W9XA on a frequency of 26,300 kc., using maximum power of 1000 watts, special emission (frequency modulation) in cooperation with the licensee of high frequency broadcast station W2XJI, for a period not to exceed 30 days, to conduct and determine the extent of mutual sky-wave interference existing between two stations operating with 1 KW on 26,300 kc., employing frequency modulation, and to determine to what field strength contour of the desired station the interfering station whose transmissions are received via sky-wave will interfere with program reception of the desired station in its own coverage area.

Edwin H. Armstrong, New York, N. Y.—Granted special temporary authority to operate frequency modulated transmitter with power of 10000 watts on 43 mc. at the site of the transmitter of Station W2XMN, Alpine, N. J.; to be operated simultaneously with Station W2XMN (40 KW on 42.8 mc.), in order to secure data on adjacent channel operations and to complete certain tests outlined in letter dated March 22, 1940; authority is for period beginning May 1, 1940, and ending not later than May 30, 1940.

WJHO—Yetta G. Samford, G. S. Shealy, Thomas D. Samford, Jr., and J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala.—Granted modification of construction permit for new broadcast station, for approval of studio and transmitter, installation of new equipment, and approval of antenna (B3-MP-940).

KGDE—Charles L. Jaren, Fergus Falls, Minn.—Granted license to cover construction permit for installation of new transmitter;

frequency 1200 kc., 100 watts, 250 watts LS, unlimited (B4-L-1134).

KFPW—Southwestern Hotel Co., Forth Smith, Ark.—Granted license to cover construction permit as modified for change in frequency, increase in power, installation of new transmitter and new antenna, and move of transmitter; frequency 1370 kc., 250 watts, unlimited (B3-L-1137); also granted authority to determine operating power by direct measurement of antenna input (B3-Z-386).

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Granted license to cover construction permit as modified for erection of new broadcast station; 950 kc., 1 KW, daytime operation (B1-L-1136); also granted authority to determine operating power by direct measurement of antenna input (B1-Z-384).

WSYR-WSYU—Central New York Broadcasting Corp., Syracuse, New York.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-385).

WSVS—Elmer S. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Granted special temporary authority to operate from 8:30 a. m. to 10:00 a. m. and 2:00 p. m. to 3:00 p. m., Eastern Daylight Saving Time, instead of Eastern Standard Time, for the period beginning April 28, 1940, to not later than 3:00 a. m., EST, August 1, 1940 (provided WBNY remains silent) (B1-S-225).

The Farmers & Bankers Broadcasting Corp., Portable-Mobile. (area of Wichita, Kans.).—Granted construction permit for new relay broadcast station; frequencies 1606, 2022, 2758 kc.; power 40 watts (B4-PRY-215).

KAOW—Albert S. & Robert A. Drohlich, d/b as Drohlich Bros. (area of Sedalia, Mo.), Portable-Mobile.—Granted modification of construction permit for new relay broadcast station, to extend commencement date from March 25, 1940, to July 1, 1940 and completion date from September 25, 1940 to December 1, 1940 (B4-MPRE-43).

W1XTG—Worcester Telegram Publishing Co., Inc., Holden, Mass.—Granted modification of construction permit for new high frequency broadcast station, to extend completion date from May 6, 1940 to June 6, 1940 (B1-MPHB-56).

W8XAD—WHEC, Inc., Rochester, N. Y.—Granted license to cover construction permit for new high frequency broadcast station; frequency 42600 kc., power 1000 watts, special emission, granted upon an experimental basis only, conditionally (B1-LRE-52).

KRSC—Radio Sales Corp., Seattle, Wash.—Granted modification of construction permit for changes in equipment, move of transmitter to site to be determined, Seattle, Wash., and increase in power from 250 watts to 1 KW, for approval of antenna, approval of transmitter and studio sites at 4th South and Hanford St., Seattle, Wash., and change type of transmitter; frequency 1120 kc., 1 KW, unlimited time (B5-MP-948).

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Modification of construction permit (B2-P-2578) for new transmitter, install new antenna, increase power, and move transmitter, further requesting approval of antenna and giving transmitter site as present location, East of Valley Pike, 5 miles south of Harrisonburg, Va.

### 570 Kilocycles

WNAX—WNAX Broadcasting Co., Yankton, S. D.—Transfer of control of corporation from South Dakota Broadcasting Corporation to Iowa Broadcasting Company, 1500 shares of Class A and 500 shares Class B stock.

WSYR-WSYU—Central New York Broadcasting Corp., Syracuse, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 600 Kilocycles

NEW—Thumb Broadcasting Co., Brown City, Mich.—Construction permit for new broadcast station to be operated on 880 kc., 1 KW, daytime. Amended to change frequency requested to 600 kc., and power to 250 watts.

### 620 Kilocycles

WSUN—City of St. Petersburg, Florida. St. Petersburg, Fla.—Construction permit to increase power from 1 KW, 5 KW day,

to 5 KW day and night; changes in directional antenna for night use. Amended to change name of applicant from St. Petersburg Chamber of Commerce to City of St. Petersburg, Florida.

### 800 Kilocycles

WBAP—Carter Publications, Inc., Fort Worth, Tex.—Authority to install automatic frequency control.

WFAA—A. H. Belo Corporation, Dallas, Tex.—Authority to install automatic frequency control.

### 860 Kilocycles

WABC-WBOQ—Columbia Broadcasting System, Inc., New York, N. Y.—Construction permit to install new antenna and transmitter. Move transmitter from Vincent St., ½ mile from Wayne, N. J. to Little Pea Island, New Rochelle, N. Y.

### 880 Kilocycles

KFKA—The Mid-Western Radio Corp., Greeley, Colo.—Authority to make changes in automatic frequency control.

### 940 Kilocycles

NEW—Atlantic Broadcasting Corp., Miami, Fla.—Construction permit for new broadcasting station on 940 kc., 500 watts night, 1 KW day, unlimited time. Amended: change type of transmitter.

NEW—Atlantic Broadcasting Corp., Miami, Fla.—Construction permit for new broadcast station to be operated on 1420 kc., 250 watts, unlimited time. Amended to change frequency to 940 kc., increase power to 500 watts night, 1 KW day, change antenna and request Class III-B station.

### 950 Kilocycles

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—License to cover construction permit (B1-P-1332) as modified, for a new station.

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 1050 Kilocycles

KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—License to cover construction permit (B4-P-1865) as modified for new equipment, antenna and move transmitter and studio.

KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—Authority to determine operating power by direct measurement of antenna power.

### 1150 Kilocycles

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

### 1200 Kilocycles

WMFR—Radio Station WMFR, Inc., High Point, N. C.—Transfer of control of corporation from Wayne M. Nelson, E. Z. Jones and R. Hoy Whitlow to J. E. Lambeth, Helen McAuley Lambeth and J. E. Lambeth, Jr., 100 shares common stock.

WTHT—The Hartford Times, Inc., Hartford, Conn.—Modification of construction permit (B1-P-2240) for increase in power, move of transmitter to site to be determined, Hartford, Conn., install new transmitter, changes in antenna, further requesting approval of antenna change in type of transmitter, increase power from 100 watts night, 250 watts day to 250 watts day and night, approval of transmitter site at NE corner of Talcott Road and S. Quaker Lane, West Hartford, Conn. Amended to give transmitter location as 983 Main St. (present location), Hartford, Conn., using present antenna and make changes in equipment.

### 1210 Kilocycles

WLOK—The Fort Industry Co., Lima, Ohio.—Authority to determine operating power by direct measurement of antenna power.

WJW-WENI-WENJ—WJW, Incorporated, Akron Ohio.—Authority to transfer control of corporation from Wm. F. Jones,

Ruth Rubin and Edw. S. Sheck to William M. O'Neil, 237½ shares common stock.

#### 1310 Kilocycles

NEW—Keys Broadcasting Co., Key West, Fla.—Construction permit for new broadcast station on 1310 kc., 250 watts, unlimited time. Amended to change studio location from Duval St. at Fleming to foot of Duval St., Key West, Fla.

#### 1370 Kilocycles

NEW—Central Broadcasting Corp., Sanford, Fla.—Construction permit for new broadcast station to be operated on 1550 kc., 1 KW, unlimited time, Class III. Amended to change frequency to 1370 kc. and power to 250 watts, changes in antenna and request Class IV station.

WRPT—C. P. Edwards and Howard Long, d/b as Kingsport Broadcasting Company, Kingsport, Tenn.—Modification of construction permit (B3-P-2616) for a new station, requesting approval of antenna and approval of studio site at Commerce St., Kingsport, Tenn., and transmitter site at Kingsport, Tenn.

NEW—Central Broadcasting Corp., Sanford, Fla.—Construction permit for new broadcast station on 1370 kc., 250 watts, unlimited time. Amended to change location of transmitter to Seminole Blvd. at San Juan Ave., Sanford, Fla.; change type of transmitter and antenna changes.

WECA—Evansville on the Air, Inc., Evansville, Ind.—Construction permit to make changes in transmitting equipment.

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—License to cover construction permit (B1-P-2246) as modified for a new station.

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Authority to determine operating power by direct measurement of antenna power.

#### 1420 Kilocycles

NEW—Pan-American Broadcasting System, Inc., Hollywood, Fla.—Construction permit for new broadcast station to be operated on 780 kc., 250 watts, unlimited. Amended to change frequency to 1420 kc., and changes in antenna.

NEW—Carl Sholtz, Fort Pierce, Fla.—Construction permit for new broadcast station to be operated on 940 kc., 250 watts, unlimited time. Amended to change frequency to 1420 kc., and changes in antenna.

KATE—Albert Lea Broadcasting Co., Albert Lea, Minn.—Authority to determine operating power by direct measurement of antenna power.

KMYC—Marysville-Yuba City Broadcasters, Inc., Marysville, Calif.—Modification of construction permit (B5-P-2551) for a new station, requesting approval of antenna and transmitter site at 2 miles southeast of Marysville at intersection of Riverside Ave. and Island Road, Marysville, and change location of studio to same as transmitter.

KLBM—Harold M. Finlay and Mrs. Eloise Finlay, La Grande, Ore.—Voluntary assignment of license and construction permit from Harold M. Finlay and Mrs. Eloise Finlay to Harold M. Finlay.

#### 1460 Kilocycles

KSTP—KSTP, Inc., St. Paul, Minn.—Modification of construction permit (B4-P-1828) as modified for move of transmitter, installation of new equipment and directional antenna, and increase in power, requesting extension of completion date from 5-8-40 to 7-8-40.

#### 1500 Kilocycles

NEW—Robert V. Lee, Bradenton, Fla.—Construction permit for new broadcast station on 1120 kc., 250 watts, unlimited time. Class IV. Amended: To change frequency from 1120 to 1500 kc. and changes in antenna.

#### MISCELLANEOUS

NEW—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Construction permit for a new relay broadcast station on 30820, 33740, 35820, and 37980 kc., 2 watts, A-3 emission, Portable-Mobile, in area of Fairbanks, Alaska.

NEW—William G. H. Finch, New York, N. Y.—Construction permit for a new high frequency broadcast station to be located at 1819 Broadway, New York, New York, to be operated on 117910 kc., 1 KW power, unlimited time. Special emission. Amended: To request 43000 kc.

W8XAD—WHEC, Inc., Rochester, N. Y.—License to cover construction permit (B1-PHB-81) as modified, for new high frequency broadcast station. Amended: Re: tubes in last stage of equipment.

W8XVC—The Cincinnati Times-Star Co., Cincinnati, Ohio.—Modification of construction permit (B2-PFB-15) as modified for new facsimile broadcast station, requesting extension of commencement and completion dates from 5-6-40 and 11-6-40 to 11-6-40 and 5-6-41 respectively.

NEW—World Publishing Co., Omaha, Nebraska.—Construction permit for new developmental broadcast station (formerly B4-PEX-31) on 41000 kc., 1000 watts, special emission for frequency modulation. Amended: To change type of station to high frequency broadcast, 42600 kc.

WENS—Radio Station WSOC, Inc., area Charlotte, N. C.—Construction permit to make changes in equipment.

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

NEW—WICA, Inc., Ashtabula, Ohio.—Construction permit for new high frequency broadcast station on 43000 kc., 1 KW, special emission for frequency modulation.

NEW—The Pulitzer Publishing Co., St. Louis, Mo.—Construction permit for new high frequency broadcast station on 42600 kc., 250 watts, special emission for frequency modulation.

NEW—L. B. Wilson, Inc., Portable-Mobile (area Cincinnati, O.).—Construction permit for new relay broadcast station to be operated on 1646, 2090, 2190, 2830 kc., 25 watts, A-3 emission.

NEW—Southeastern Broadcasting Co., Inc., Macon, Ga.—Construction permit for new high frequency broadcast station to be operated on 43400 kc., 1000 watts power, emission A-3-special. Amended: Emission: Special for frequency modulation.

NEW—L. B. Wilson, Inc., Portable-Mobile (area Cincinnati, O.).—Construction permit for new relay broadcast station to be operated on 1646, 2090, 2190, 2830 kc., 250 watts power, A-3 emission.

W9XAO—The Journal Co. (The Milwaukee Journal), Milwaukee, Wis.—Construction permit for increase in power from 1000 watts to 50000 watts, install new transmitter and operate on a regular commercial basis.

NEW—Evansville On The Air, Inc., Evansville, Ind.—Construction permit for new high frequency broadcast station to be operated on 43000 kc., 250 watts, special emission for frequency modulation.

NEW—General Electric Co., area Schenectady, N. Y.—License for new special relay broadcast station to be used in connection with International Broadcast Stations WGEA and WGEO, when same program is not being broadcast by station WGY. Frequencies: 31220, 35620, 37020 and 39260 kc. Power 2 watts. A-3 emission. Equipment of relay station WEIA.

WGRC—North Side Broadcasting Corp., New Albany, Ind.—Formerly B4-ML-905, modification of license to move main studio from New Albany, Ind., to Louisville, Ky. Amended to change application to construction permit and move of transmitter from New Albany, Ind., to site to be determined, Louisville, Ky., and make changes in antenna.

NEW—Standard Broadcasting Co., Los Angeles, Calif.—Construction permit for new high frequency broadcast station on 42600 kc., 250 watts, A-3 emission. Amended to change frequency to 43200 kc., 250 watts power, and 117190 kc. with 50 watts power. Special emission for frequency modulation.

NEW—General Electric Co., area Schenectady, N. Y.—License for new special relay broadcast station same as B1-LRE-309 above except equipment of relay station WEIB.

NEW—Rensselaer Polytechnic Institute, Troy, N. Y.—Construction permit for new high frequency broadcast station on 42800 kc., 250 watts, special emission for frequency modulation.

NEW—WJIM, Inc., Lansing, Mich.—Construction permit for new high frequency broadcast station on 43200 kc., 1000 watts special emission for frequency modulation.

W8XVH—WBNS, Inc., Columbus, Ohio.—Construction permit to increase power from 250 watts to 10000 watts; move transmitter locally to 1035 Barnett Road, Columbus, Ohio; new equipment and operate on regular commercial basis.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Candy & Sales Company**—See Blue Ribbon Candy Co., Inc.

**Blue Ribbon Candy Company, Inc.**, also trading as American Candy and Sales Company, 124 Tenth St., N. E., Atlanta, is charged with distributing to wholesale dealers, jobbers and retail dealers, assortments of candy so packed and assembled as to involve the use of games of chance or lottery schemes in their sale to ultimate consumers. Certain assortments, the complaint alleges, are composed of bars of candy of uniform size together with a device commonly called a push card. Concealed within disks on the card are numbers ranging from 0 to 3 inclusive, and the purchaser pays 1 to 3 cents, or nothing, according to the disks punched, the price of the candy being determined wholly by lot or chance. 4091

**Capital City Candy Company**—R. L. Jackson, trading as Capital City Candy Company, 506-508 Decatur St., S. E., Atlanta, is charged with distributing to wholesale dealers, jobbers and retail dealers assortments of candy and also push cards, which, when punched, determine the prices of the bars of candy, wholly by lot or chance. 4092

**Chicago Technical College**, 118 East 26th St., Chicago, distributor of home-study courses in drafting, air-conditioning, refrigeration and building, is charged, in a complaint with misrepresentation.

In advertisements in newspapers and magazines, and in radio broadcasts, the respondent is alleged to have represented, among other things, that "This certificate is issued to ..... and will be accepted by the Chicago Technical College as payment in full for the complete course, 'Inside Facts on Drafting', provided that this certificate is accompanied by his enrollment for the college home study courses in drafting"; that employment and consultation services are offered free to students and graduates; that Chicago Technical College is an accredited school and the leading school for builders, and that the home-study training in air-conditioning and refrigeration will qualify one for the top-ranking positions in the air-conditioning and refrigeration field. 4089

**Federal Compress & Warehouse Company**—Alleging a combination or conspiracy tending to restrain competition and create a monopoly in the compressing and storing of cotton and in the interstate sale of jute or burlap bagging and steel bands used in compressing cotton, a complaint has been issued against Federal Compress & Warehouse Company, Memphis, Tenn., R. L. Taylor, chairman of its board of directors, other of its officers and agents, and four cotton ginning companies which it directly or indirectly owns or controls through the respondent Taylor.

Other respondents are Valley Gin Company, Blytheville, Ark.; Mississippi Valley Gin Company, Jackson, Miss.; Tensas Parish Gin Company, Newellton, La.; Madison Parish Gin Company, Inc., Tallulah, La.; Binford Hester, Memphis, president of Federal Compress & Warehouse Company; E. F. Wade, Little Rock, Ark., and Winston E. Cheairs, Memphis, its vice presidents, and W.

Dennis Brown and Fred Schneider, of Lake Providence, La., agents.

Federal Compress & Warehouse Company, either directly or indirectly through the respondent Taylor, owns and operates 80 compress plants in Arkansas, Louisiana, Tennessee, Mississippi, Missouri and Texas and cotton ginning subsidiaries in Mississippi, Louisiana and Arkansas, according to the complaint.

Through a combination or conspiracy among the respondents, the complaint alleges, Federal Compress & Warehouse Company and R. L. Taylor have erected and operated cotton gins, charging fees for ginning which are below the prevailing fees of competitors in the same territory and below actual operation cost, for the purpose and with the effect of driving competitors out of business and of obtaining the cotton so ginned for the respondents' various compress plants, and to enable Federal Compress & Warehouse Company, at its compress plants, to sell the jute or burlap bagging and steel bands or ties sold and used in connection with the compressing of such cotton.

The complaint alleges that through its officers and agents, the individual respondents Hester, Wade, Cheairs, Brown and Schneider, Federal Compress company attempted to acquire the stock held in competing compress enterprises by cotton growers and independent gin operators through threats that their stock would decline in value and become worthless as a result of the Federal Compress company's competitive ginning activity; that the respondents threatened to erect gins and to gin cotton below cost or free of charge in competition with such independent ginners unless they shipped their ginned cotton to Federal Compress company in preference to competitive compress plants, and that by such threats the respondents caused cotton gin owners to ship the cotton ginned by them to Federal Compress plants in preference to the competitive plants in which they were financially interested. 4090

**Wholesale Liquor Distributors' Ass'n of N. C.**—A complaint has been issued charging the Wholesale Liquor Distributors' Association of Northern California, Inc. and the Liquor Trades' Stabilization Bureau, Inc., both of San Francisco, their officers, directors and members, and 16 corporations selling liquor at wholesale in northern California and western Nevada, with restraint of trade through maintenance of a price fixing policy and discrimination against certain classes of dealers.

Respondent liquor companies are: Rathjen Bros., Inc., Parrott & Co., Haas Bros., Tonkin Distributing Company, Schenley Distillers, Inc., and Coffin-Redington Company, all of San Francisco; Somerset Importers, Ltd., McKesson & Robbins, Inc., Browne Vinters Company, Inc., Seagram Distillers Corporation, Fleischmann Distilling Corporation, and National Distillers' Products Corporation, all of New York; Gooderham & Worts, Ltd., and Hiram Walker & Sons, Inc., both of Detroit; Brown-Forman Distillers Company, Inc. and Frankfort Distilleries, Inc., both of Louisville, Ky. Those companies having headquarters in cities other than San Francisco maintain branches there.

Respondent officers and directors of the Wholesale Liquor Distributors' Association of Northern California, Inc. are: J. M. Tonkin, San Francisco, president; J. F. Ferrari, Bakersfield, Calif., vice president; Max Sobel, San Francisco, secretary-treasurer; Sante Quattrin, San Francisco, executive secretary, and A. M. Berberian, Fresno, Calif., Chas. Bigley, San Jose, Calif., H. L. Hanson, and J. J. Bottaro, both of Sacramento, Thomas Lenehan, R. F. Jose, C. L. Sauer and Sherwood Coffin, all of San Francisco, Floyd Trombetta, Santa Rosa, Calif., Andrew Rosaia, Eureka, Calif., and John Pingree, Oakland, Calif., directors.

The complaint points out that McKesson & Robbins Inc., Haas Brothers, Rathjen Bros., Inc., Tonkin Distributing Company, and Coffin-Redington Company are members of the Wholesale Liquor Distributors' Association and representative of its numerous members. The respondent Liquor Trades' Stabilization Bureau, Inc. is composed of distillers, importers, distributors and retailers, among whom are the respondents, who are representative of its membership.

The complaint alleges that the respondents, collectively and through the association and the bureau, conspired to suppress competition in the wholesale liquor trade in the "Northern California Territory" (northern California and western Nevada) by preventing cooperative buying associations, small jobbers, wholesalers and others classified by them as "irregular" distributors, from obtaining alcoholic beverages. This allegedly was accomplished by refusal to sell to such dealers, boycotting and threatening boycott of the products of those who did sell to them, and disseminating or threatening to disseminate information to the trade concerning the dealers so boycotted or threatened with boycott for selling to "irregulars." 4093



## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**John B. Canepa Company**—In the case of John B. Canepa Company, 30 West Grand Ave., Chicago, manufacturer of macaroni and spaghetti products, it has been found that prior to July 12, 1938, the respondent had caused booklets and other advertising matter to be distributed in the various States, containing such advertisements as: "I hate to brag, but only the finest macaroni is made long", and "I hate to brag, but only the finest spaghetti is made long". Since that time the advertisements have been modified to "I hate to brag, but genuine macaroni is made long", and "I hate to brag, but genuine spaghetti is made long."

It was found that such statements and representations are misleading and unfair, and that in fact genuine macaroni and spaghetti products of the finest quality are made in both long and short lengths, and that macaroni and spaghetti of the finest quality are in some instances first made in long lengths and thereafter cut into short lengths, the length being no criterion of the quality of the product.

The respondent corporation is ordered to cease and desist from further representing that the length in which macaroni or spaghetti products are manufactured or sold by the respondent or any of its competitors is in any way indicative of the genuineness or quality of such products. (3744)

**Eileen-Joy Fashions, Inc.**—See Teen-Frocks, Inc.

**General Distilleries Corporation**, 77-79 Homestead Ave., Hartford, Conn., has been ordered to cease and desist from misuse of the word "distilleries."

General Distilleries Corporation was organized in 1934, and its officers are Abraham Abrahamson, president, Julian Shoor, treasurer and manager, and David L. Abramson, secretary. While its charter is sufficiently broad to permit it to engage in almost any phase of the liquor business, the Commission finds, until September 26, 1938, it was engaged solely in the blending of whiskies, wines, gins and other spirituous beverages and their sale at wholesale. In September, 1938, it was granted a distiller's basic permit authorizing it to produce brandy by distillation, since when it has produced, bottled and sold brandy produced in a distillery which it leases in Burlington, Conn.

Of the whiskies purchased by it in bulk from distillers, the findings continue, it bottles some straight without alteration, and other whiskies after blending or rectifying. The gin manufactured by it through the process of redistillation of purchased alcohol over juniper berries and other aromatics, is bottled and sold to the trade and constitutes approximately 15 per cent of the volume of its business. The whiskies, both straight and blended, constitute 50 to 60 per cent of its trade and the brandy which it produces constitutes the balance. The Commission finds that the respondent never has produced or manufactured distilled spirits except the brandy produced since 1938. The rectification of alcoholic spirits by the respondent in the production of gin does not make or constitute it a distiller or a distilling company as defined by Section 3247 of the Revised Statutes of the United States regulating Internal Revenues, according to findings.

The Commission orders that the respondent, General Distilleries Corporation, in connection with the offering for sale, sale and distribution of whiskies, gins or other spirituous beverages (except brandies actually distilled by it, and except gins produced by it through a process of rectification whereby alcohol purchased but not produced by the respondent is redistilled over juniper berries and other aromatics) forthwith cease and desist from representing, through the use of the word "Distilleries" or any other word of like import, in its corporate name, on its stationery, advertising, or labels attached to the bottles in which its products are sold and shipped, or in any other way (a) that the respondent is a distiller of such whiskies, gins or other spirituous beverages; or (b) that the whiskies, gins or other spirituous beverages were by it manufactured through a process of distillation; or (c) that the respondent owns, operates or controls a place or places where any such products are by it manufactured by a process of original and continuous distillation from mash, wort or wash, through continuous closed pipes and vessels until the manufacture thereof is

completed, unless and until the respondent shall actually own, operate or controls such a place or places. (2445)

**Heifler & Jackson**—Rose Heifler and Fred Jackson, doing business as Heifler and Jackson, 740 Bergen St., Brooklyn, engaged in selling and distributing a preparation for treatment of the scalp and hair under the trade name of "Morgan's Pomade," have been ordered to discontinue certain representations concerning their product.

In advertising material, circulars and pamphlets, the Commission finds, the respondents represented: "Undoubtedly the finest remedy for gray or faded hair is *Morgan's Pomade*. This is not a dye, but a special compound which when massaged into the roots of the hair, nourishes it back to its original color and luster \* \* \*."

The Commission finds that the preparation is a lead and sulphur dye which, when applied to gray hair, dyes the exterior of the hair shaft. Use of the preparation does not supply to the hair shaft the color pigments, a deficiency of which material causes gray hair. The advertisements, the findings continue, contain no statements to the effect that application of the preparation to a tender skin, or to skin on which there are lesions which have broken the continuity of the integument, may be injurious.

The respondents are ordered to cease and desist from disseminating any advertisements representing that the preparation is not a tint or dye; that its application causes the hair to change its color without dyeing; that its use will restore the original color to gray hair or prevent hair from falling out; that it penetrates into the roots of the hair and enriches the hair, or any advertisements which fail to reveal that the application of "Morgan's Pomade" to tender, injured or broken skin, may result in serious injury to the health of the user. (3893)

**Indian River Medicine Company**, La Follette, Tenn., engaged in compounding, selling and distributing a medicinal preparation designated "Scalf's Indian River Tonic," has been ordered to cease and desist from certain representations concerning its product.

In advertisements in newspapers, periodicals, and through broadcast continuities, the Commission finds, the respondent has represented, among other things, that the preparation will prevent and cure colds and build up resistance to other minor ailments; that it is a competent and effective treatment for rheumatism, asthma, sleeplessness, ailments of the liver, kidneys and stomach, and that it affords positive or certain relief from chronic ailments.

Findings are that the tonic will not perform the things claimed for it and will not afford positive or certain relief for any ailment.

The respondent corporation is ordered to cease and desist from representations that the preparation will prevent or cure colds; build up resistance to other ailments; has any therapeutic value in the treatment of sleeplessness, nervousness, indigestion, liver, kidney or stomach disorders, asthma, or aches or pains in the head or joints; is composed of natural vegetable ingredients; will increase weight, restore strength or build up the health of users, or that it affords positive or certain relief for any ailment. (3940)

**Ladies Aid Company**—See Progressive Medical Company.

**Lenoir Solvent Company**—See Lenoir Woodfinishing Company, Inc.

**Lenoir Woodfinishing Company, Inc.**, Lenoir, N. C., and Arthur G. Spencer, individually and trading as Lenoir Solvent Company, have been ordered to cease and desist from unfair business practices in the payment of money and things of value to officials and employees of their customers, without the consent of the customers.

Lenoir Woodfinishing Company, Inc., has, since 1938, been engaged in the manufacture of paints, varnishes, stains and various wood finishing products, and in their sale to woodfinishing concerns and furniture manufacturers. Prior to the time of incorporation of Lenoir Woodfinishing Company, Inc., Arthur G. Spencer, now its president and sales manager, was engaged in the manufacture and sale of similar wood finishing materials under the trade name Lenoir Solvent Company.

The Commission finds that in the conduct of their businesses the respondents have given substantial sums of money and other things of value to certain officials and employees of their customers

or prospective customers, without the knowledge or consent of the customers, for the purpose of inducing the officials or employees to purchase or recommend the purchase of the respondents' products. In some instances, the findings continue, certain employees of customers were given 7 or 10 per cent of the purchase price of all materials purchased from the respondents by such customers.

The respondents are ordered, in connection with the sale of their products, to cease and desist from giving sums of money and other things of value to officials and employees of the respondents' customers or prospective customers, without the knowledge or consent of the customers, for the purpose of inducing such purchases. (4048)

**Progressive Medical Company**—Blanche Kaplan, trading as Progressive Medical Company and as Ladies Aid Company, 3944 Pine Grove Ave., Chicago, engaged in the sale and distribution of medicinal preparations for delayed menstruation, has been ordered to cease and desist from false and misleading advertisements concerning her products.

In advertisements and by means of booklets, circulars and other printed matter distributed in the various States, the Commission finds, the respondent has represented that her medicinal preparations known and designated as "Ladies' Aid No. 2, Ordinary Strength", and "Ladies' Aid No. 3, Extra Strength", are cures or remedies for delayed menstruation and are non-irritating, mild, efficient and specific treatments therefor.

Last January the Federal Trade Commission was granted a preliminary injunction by the United States District Court for the Northern District of Illinois, Eastern Division, enjoining the respondent from disseminating any advertisement, for the purpose of inducing, or which is likely to induce, the purchase of the preparations, which the petition stated might cause serious and irreparable injury to health if used under conditions prescribed in the advertisements, or under conditions that are customary or usual. The preliminary injunction was effective pending issuance by the Commission of a complaint and final determination of the action under its regular procedure.

The respondent is now ordered by the Commission to cease and desist from disseminating any advertisement for the purpose of inducing or which is likely to induce, the purchase of the preparations, which advertisements represent the preparations as constituting safe, competent, efficient or specific treatments for delayed menstruation, or that their use will have no ill effect upon the human body, and which advertisements fail to reveal that the preparations, when taken under conditions prescribed in the advertisements or under conditions that are customary or usual, may result in serious or irreparable injury to health. (4002)

**Teen Frocks, Inc.**—Prohibiting misrepresentations in the sale of women's wearing apparel, an order has been issued against Eileen-Joy Fashions, Inc., 1375 Broadway, Teen Frocks, Inc., 520 Eighth Ave., New York, and Morris Scharf and Henry Dudkin, individually and as officers of the corporations, who formerly were co-partners trading as Eileen-Joy Fashions.

The order directs the respondents to cease and desist from using the unqualified terms "Satin", "Taffeta", "Crepe de Chine", "Crepe" or any other descriptive terms of similar import indicative of silk, to designate any fabric or product not composed wholly of silk, provided that when such terms are truthfully employed to describe the type of weave, construction or finish, they must be qualified by using in letters of equal conspicuousness words accurately describing the fibers or materials from which the products are made.

Further prohibited, under the order, is use of the unqualified term "Silk", or other similar terms indicative of silk, to designate a fabric or product not composed wholly of silk, provided that in case of a fabric or product made partly of silk and partly of other materials, such terms may be used as descriptive of the silk content when immediately accompanied by words of equal conspicuousness accurately describing such other materials in the order of their predominance by weight, beginning with the largest single constituent.

Use of the phrase "Pure Dye" or other words of similar meaning to describe fabrics not composed wholly of unweighted silk, also is forbidden under the order, provided that in case of a fabric or material composed in part of unweighted silk and in part of other materials, such words may be used as descriptive of the unweighted silk content if there is included in immediate conjunction therewith and in letters of equal size and conspicuousness, words ac-

curately designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent.

The advertisement and sale of fabrics, garments or other products composed in whole or in part of rayon, without clear disclosure of the rayon composition, also is prohibited, and when such fabrics or products are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including the rayon, are to be named in the order of their predominance by weight, beginning with the largest single constituent. (4038)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**American Standard Corporation**, 122 East 42nd St., New York, engaged in selling incandescent lamps, agrees to cease and desist from the use on its stationery and other printed matter or in any other way of the word "Manufacturers" as descriptive of the business conducted by it, and from use of the word "Manufacturers" or any similar words which tend to convey the belief to purchasers that it actually owns and operates or directly and absolutely controls the plant or factory in which its products are made. (2745)

**Atlas Wood Preservative Company, Inc.**, 332 Madison Ave., Memphis, Tenn., distributor of a chemical preparation intended for protection of wood from termites, decay and fungi, has entered into a stipulation to discontinue certain representations.

The respondent agrees to cease representing that its preparation, "Xter-Mite," when applied as directed to woods, will embalm or adequately preserve and thoroughly penetrate them, prevent decay and also attacks by termites or insects, prevent their return, and increase the strength of the wood, and to discontinue use of the coined word "Permanize" or words of similar meaning implying that "Xter-Mite" remains permanently in or on the wood and will not dry out or lose its effectiveness.

Other representations which the respondent agrees to discontinue are that "Xter-Mite" has received the approval of leading architects, engineers, the Federal Housing Administration or others, when such is not a fact; that termites or other wood boring insects cause serious damage in four to six months, will practically ruin a structure before their presence is discovered, and are in all wood; that termites became established throughout the United States in 1936 or any other year, unless there is scientific or other accepted authority for this claim; that there are 44 species of destructive termites in the United States or that one female termite lays 80,000 eggs a day; that termites or the termite "civilization" are superior to the human race, and that many or all States have enacted laws under which termite eradicating operators are licensed, when such is not a fact.

The respondent also stipulates that it will desist from use of the word "guarantee in connection with the advertisement or sale of its products, unless whenever used, clear disclosure be made of exactly what is offered by way of security, as for example, refund of purchase price. (2747)

**Felder Brothers, Inc.**, 583 Broadway, New York, distributor of leather and imitation leather goods and novelties, has entered into a stipulation in which it agrees to cease employing the phrase "Genuine Leather Composition" as descriptive of any article not composed of genuine leather, and from use of the words "Genuine" or "Leather" or words of similar import in a manner tending to deceive purchasers into believing that products containing other materials are actually made of leather.

The stipulation points out that the respondent designated certain billfolds as "Genuine Leather Composition, Barkhyde," when in fact they were composed of a paper material with which leather fibers had been combined, sometimes known to the trade as "Compo-lether," and that this material was neither genuine leather nor made from the hide of any animal.

The respondent also stipulates that it will desist from using the word "Barkhyde" as a trade name for its products; from use of the expression "Bark" or of any other trade name, coined name or other word descriptive of a product as being the hide of an

animal which is in fact non-existent and from use of the word "Hyde" or any other word implying that a composition fabric is composed wholly of the hide of any animal. (2753)

**H & L Conversions**—W. M. Houston and M. Logan, trading as H. & L. Conversions, 2112 Addison St., Berkeley, Calif., have agreed to a stipulation to discontinue certain representations in the sale of a mechanical device permitting the use of either fuel oil or gasoline in the ordinary gasoline engine and designated by various names, including "Dies-L-Gas," "Semi Diesel Fuel Oil Conversion Unit," "Des-A-Gas Unit," and "H. & L. Fuel Oil Conversion Unit."

Among other representations, the respondents agree to cease advertising by use of the words "Semi-Diesel" or otherwise, that the "H. & L. Fuel Oil Conversion Unit," when attached to an ordinary gasoline engine, converts it into an engine functioning in the manner of a "Semi-Diesel" engine, or, by use of the words "Des-A-Gas," "Dies-L-Gas" or otherwise, that the conversion unit converts an ordinary gasoline engine into an engine functioning in the manner of a Diesel engine.

The respondents also agree to cease advertising that reliable evidence at present indicates that "Diesel engines will be in our automobiles within a year"; that by use of the respondents' device an ordinary gasoline engine will be capable of delivering as much power or more power per gallon of fuel oil than it ordinarily could do on gasoline without the use of the device, and that with the use of the respondents' product the performance of a motor on fuel oil or on low grade gasoline will be equal to or superior to that of the same motor on a good grade of gasoline. (02542)

**Hook-Fast Specialties, Inc.**, Providence, R. I., dealer in buckles, belts, bracelets and other specialties designated "Hook-Fast Products," has entered into a stipulation in which it agrees to discontinue certain representations in the sale of its products.

The respondent agrees to cease advertising that it sets agents up in business for themselves; that the profits, earnings or income will be big or substantial or will come in daily or increase weekly; that prospective agents can make profits or earnings within a specified time which are in excess of the average net profits or earnings theretofore consistently made in like periods of time by the respondent's active, full-time agents under normal business conditions.

The respondent also stipulates that it will cease employing the words "free" or "without cost" to describe merchandise offered as compensation for distributing the respondent's products, unless all terms and conditions are clearly stated and there is no deception as to price, quality or other features of the merchandise, or as to services to be performed in connection with obtaining such merchandise. (02545)

**International Dress Company, Inc.**—Two New York corporations, one distributing dresses, the other selling silk and rayon dress goods, have entered into stipulations in which they agree to discontinue certain representations in the sale of their products. The respondents are International Dress Company, Inc., and Knickerbocker Textile Corporation, both of 1400 Broadway.

Each respondent corporation agrees to cease selling articles made of rayon without disclosure in advertising matter, forms and literature that the material of which they are composed is rayon. The stipulations provide that if the word "Celanese" is used to designate a product composed of rayon, it shall be immediately accompanied by the word "Rayon" in equally conspicuous type to clearly indicate that the article is rayon; for example, "Celanese Rayon."

International Dress Company, Inc., also stipulates that it will desist from use of the word "Manufacturers" as descriptive of its business. The stipulation points out that this corporation is not a manufacturer of dresses or other products and neither owns, operates nor controls machinery or equipment for making dresses but purchases materials which it turns over to independent contractors operating such plants, for transformation into dresses at stated prices. (2751-2752)

**Knickerbocker Textile Corp.**—See International Dress Co., Inc.

**Lignotite Company**, 2727 Archer Ave., Chicago, manufacturer and distributor of casein glue, has entered into a stipulation in which it agrees to discontinue, in connection with the sale and distribution of its product, from use on its invoices or other printed or advertising matter, or otherwise, of the word "waterproof" or of any other word or words of similar meaning or implication as descriptive of its glue product, which is not, in fact, waterproof, and from use of the word "waterproof" in any way so as to import or imply that the product is impervious to water or its effects. (2754)

**Juliette Marglen Products Company**, 6638 Sunset Blvd., Hollywood, Calif., engaged in selling a line of toilet preparations for use on the fingernails, known as "Juliette Marglen Seal-O-Wax," "Juliette Marglen Nail-O-Wax," "Juliette Marglen Wax-O-Namel," "Juliette Marglen Creme-O-Wax," and "Juliette Marglen Nail-O-Wax Remover," has agreed to cease and desist from use of the word "Wax" as part of the trade name or designation for any of the products, and from use of the word "Wax" in any way to imply or convey the belief to purchasers that the products are composed of wax, or of any statements or representations tending to convey the belief that they contain wax in such amount as to form a continuous wax coating such as would afford protection to the nails to which applied, or of any representations that the products will afford any appreciable aid in keeping the cuticle soft and pliable, or that their use will encourage the growth of stronger or thicker nails, or have a stimulating effect on the nails, or prevent cracking, breaking or splitting of the nails of the user. (2748)

**J. W. Oneal Chemical Company**—John W. Oneal, trading as J. W. Oneal Chemical Company, Martins Ferry, Ohio, in connection with the sale and distribution of "To-He-To Ointment," has agreed to cease use in advertising matter or otherwise of representations implying that the product is a competent or effective remedy for colds, headaches, sore throat, croup, pneumonia, chafed hands, itching piles, sore muscles, chilblains, bruises, rheumatism or hay fever, or that it will do more than serve as a palliative in connection with certain of these conditions. The respondent also agrees to discontinue use of the word "Chemical" as part of his trade name or otherwise to imply that he is a chemist or employs chemists in the compounding or manufacture of the product, when these are not the facts. (2742)

**Emil J. Paidar Company**, 1120 North Wells St., Chicago, in connection with the sale of chromium plated steel furniture, agrees to desist from the use of the trade designations or brands "Chrometube" or "Chromedtube" as descriptive of products not composed throughout of chromium metal, and from use of the words "Chrome" or "Chromed" or any similar coined word as descriptive of the metal content of a product not chromium throughout. The stipulation provides that if, in referring to products made of steel which is merely coated or covered with chromium, the words "Chrome" or "Chromed" or words of similar import are used as descriptive of the coating or covering, such words are to be immediately accompanied by another word such as "plated" so as to indicate clearly that the products are not composed throughout of chromium. (2757)

**Presto Company**—Maurice A. Goodman, trading as The Presto Company, 197 Lexington Ave., New York, engaged in the sale of furniture and of a cleaning fluid designated "Presto", has agreed to cease representing or implying by use of the word "makers" or any similar words, that he actually owns, operates or controls the plant in which the product is prepared, and to discontinue employing the statements "Presto Cleans Clean", "Removes all stains quickly and permanently", or any other similar statements, when in fact the use of the product will not return to their original appearance all kinds of fabric materials regardless of the nature of the stain or marking to which the materials have been subjected. The respondent also agrees to cease use of the term "non-inflammable" or any similar words as descriptive of the cleaning fluid. (2743)

**Sempray Jovenay Company**, 650 Turner Ave., N. W., Grand Rapids, Mich., has entered into a stipulation in which it agrees to cease certain representations in the sale of "Sem-Pray Jo-Ve-Nay", a cosmetic preparation.

The respondent agrees to desist from the representation that its product is a complete beauty treatment; that it will smooth away or remove lines from the skin or change the normal texture of the skin to make it seem finer; that the preparation will keep the skin young and that it is a competent treatment for blackheads and will remove all traces of foreign matter from the pores. (02544)

**Stafford Publishing Company**, 87 Walton St., Atlanta, Ga., engaged in the sale and distribution of books, including two sets of encyclopedias has agreed to discontinue use of the word "Publishing" as part of its corporate or trade name or in any way tending to convey the belief that the business conducted by it is that of a printer or publisher, or that it actually owns, operates or controls the plant in which the publications distributed by it are printed and published. The respondent also agrees to cease use of the trade name "Publishers Credit Syndicate" on its stationery or otherwise for the purpose of making collections of delinquent accounts of customers who have subscribed for the encyclopedias when in fact no such collection agency exists or is employed by the corporation, and to discontinue use of the word "free" or any other term of similar implication as descriptive of products offered by the corporation in connection with the sale of its "deals," when in fact the products are not given free or as a gratuity, but the cost thereof is included, either in whole or in part, in the price of the "deals." (2746)

**Wellington Manufacturing, Inc.**, 28 West 25th St., New York, distributor of men's haberdashery, has entered into a stipulation in which it agrees to cease certain representations in the sale of its products.

The respondent agrees to discontinue using the word "Manufacturing" as part of its corporate or trade name, the word "Manufacturers" as descriptive of its business, and any other words implying that it manufactures the products it sells or owns and operates a factory in which they are made, when such are not the facts.

The respondent also agrees to cease representing by means of tags, advertising matter or oral presentation, that fabrics of domestic manufacture are "Imported Fabrics"; to cease employing the words "Pure Silk of Heavy Quality" or "Silk" independently or as part of or in conjunction with other words in trade designations,

advertisements or otherwise, to describe fabrics or merchandise not made of silk; to desist from offering for sale any product made of rayon without clear disclosure of such rayon composition; from branding or otherwise designating a product as all wool when its fiber content is not wool throughout; from describing neckties or other products not made or fashioned according to the craft of a tailor as "Hand Tailored"; and from representing that the goods it sells are available to the purchaser at manufacturer's prices or at manufacturer-to-consumer prices, or otherwise implying that its customers save a middleman's profit at the prices quoted. (2755)

**Western Mills, Inc.**, 912 First St., Sioux City, Iowa, has entered into a stipulation to discontinue certain representations in the sale of stock feeds.

The respondent corporation, a manufacturer, agrees to cease using the word "Meat", either alone or in connection with the words "Scraps" or "Meal", in the trade name for a product which is not composed wholly of meat, meat scraps or meat meal, unless, if the product is composed in substantial but less than a predominant part of meat or meat products, and the word "Meat" is used to refer to such meat content, it shall be made to appear clearly that the product does not consist entirely or in predominant part of meat or meat products or meat meal. (2761)

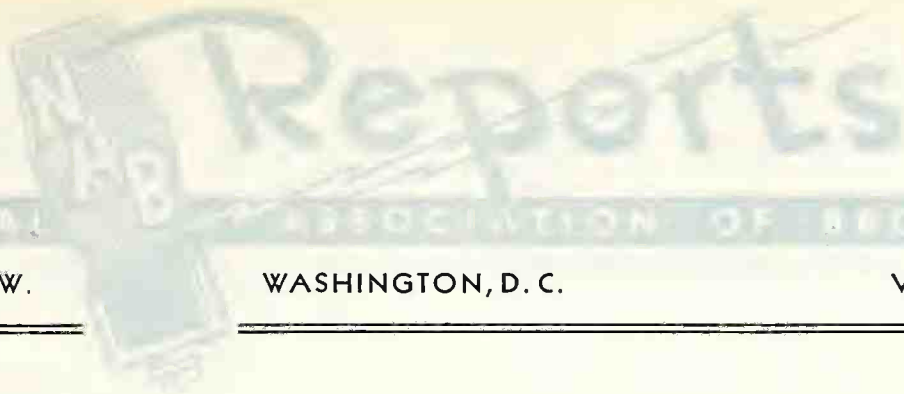
**Wigder Manufacturing Company**, 26 Wickliffe St., Newark, N. J., agrees to cease advertising that its manicuring instruments are "rust proof", or, by use of the term "rust proof" or any other expression of similar import, that articles which have not been scientifically processed in a manner that will absolutely prevent the rusting thereof, are rust proof. (2756)

#### FTC CLOSES CASE

The Federal Trade Commission has closed without prejudice its case against Floral Art Card Company, Inc., 110 Wooster St., New York, which had been charged with violation of the Federal Trade Commission Act in the sale of greeting cards.

The closing order recites that the respondent is out of business and the corporation dissolved.

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



## BMI Developments

At ASCAP's annual dinner last week, Gene Buck took down the old blunderbuss and got in a little target-practice. He was, as usual, aiming at the broadcasters and, as usual, no hits were registered.

According to *Variety* he "defied the broadcasters to produce a single instance where any American industry was able to purchase the raw material, on which it lives, anywhere 'for such a ridiculously low percentage of its gross earnings as that requested from radio by the Society.'"

The broadcasters might in turn ask Mr. Buck to produce any other instance of an American industry which is being forced by a monopoly to buy raw material which it does not need and cannot use.

A recent, widely circulated magazine article showed that 84% of daytime network programs are non-musical. Yet they are all taxed by ASCAP for "raw material" that is not used.

Approximately 22% of commercial time makes use of Mr. Buck's "raw material." On that ground his organization demands an amount estimated by *Variety* to be approximately 50% of the networks' profits. "Ridiculously low percentage!" wails Mr. Buck.

Mr. Buck is actually a man of unflinching nerve. In his speech that night he charged that the radio receipts, on which the broadcasters had agreed to pay 5%, during 1939 were about \$130,000,000 and that the broadcasters had nevertheless paid only about \$4,000,000.

The statement took the nerve of a Baron Munchausen. It is phony on its face. If it were true, of course, ASCAP would file suit for its extra \$2,500,000 instead of twiddling its thumbs in despair while Gene Buck does his Demosthenes impersonation.

The answer is that every radio station paid its 5% as agreed and Buck is simply grouching because the contracts were not made stiffer than they were.

Carl Haverlin, BMI's station relations director, has made a statistical analysis of the position of BMI and the results are a cause of great enthusiasm. He finds that a large majority of the broadcasting industry is solidly behind the company. Commercial stations, making up 53.2% of the total number and doing more than 80% of the dollar-volume of business are now committed to the enterprise.

This total includes 73.7% of all CBS stations, 68.1% of NBC, 45% of Mutual, 39.4% of the independents.

Arthur H. Gutman has joined the staff of BMI as director of arrangements and publication. He is one of the best known arrangers in the country and an outstanding composer. The list of songs he has arranged reads like a section from a list of the leading hits of the last eighteen years—"What'll I do?"—"Always"—"All Alone"—"Russian Lullaby"—"Underneath the Harlem Moon"—"Yes, Sir, That's My Baby!"—and so on into the hundreds.

He was head arranger for ten years for Irving Berlin, Inc., for four years for Crawford Music Co., and for the past four years with Local 802, the important New York unit of the American Federation of Musicians.

Under a pen-name he himself has written many popular numbers and under his own name he has produced notable symphonic works. His Third Symphony is to be played by the New York Philharmonic under Frieder Weissman at the Lewisohn Stadium in New York this summer; his string suite will be broadcast by an orchestra under Howard Barlow on the Everybody's Music program during the summer; and his Second Symphony will be played by the Pittsburgh Orchestra under Fritz Reiner next November.

Mr. Gutman is a living embodiment of the present trends of progress in American music. The old idea that "popular" music was not "good" or that good music could not be popular is going the way of Prohibition, mah-jong, and jokes about Haile Selassie. America is swinging around to the point where people will question whether music is "good" unless it is also popular. One evidence of that trend is that the same men write and play both for dance-bands and for symphony orchestras. Benny

Neville Miller, *President* Edwin M. Spence, *Secretary-Treasurer*

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

### BMI DEVELOPMENTS

(Continued from page 4213)

Goodman plays Mozart at New York's Town Hall. Arthur Gutman arranges BMI songs for dancing.

BMI steps into the lead in the progress of American music.

CBS issued another memorandum to its affiliated stations on the ASCAP situation last week. Herbert V. Akerberg, vice president in charge of station relations signed the letters.

Mr. Akerberg's letter:

DEAR MR. \_\_\_\_\_:

Since Mr. Klauber's letter of April second, the situation on the music front is proceeding entirely satisfactorily. Broadcast Music, Inc., has secured the Cole catalogs and has closed other deals, and current releases of new popular numbers are now being made available to us. Our own efforts in the past three weeks have resulted in substantial elimination of ASCAP numbers on our network sustaining programs.

You will also be interested to know that, in spite of the fact that no response was requested to Mr. Klauber's letter, a large number of stations have voluntarily written expressing their appreciation and endorsement of Columbia's position. Other stations to whom we talked since this letter was received by them have also taken the same position. No station has indicated any disposition to accept the ASCAP bait.

As many have expressed it to us, this unanimous reaction is conclusive proof of the complete failure of the old ASCAP tactics of "divide and rule." This first, and perhaps decisive, battle having been won, we are even more convinced of the ability of broadcasters to break the ASCAP strangle hold on our industry.

If you have not already written us, I would certainly appreciate hearing from you and getting your reaction.

E. C. Mills, chairman of the administrative committee of ASCAP, confirmed reports that the society had paid royalties amounting to \$5,099,302 to its members during the last year, and \$33,187,440 since it first began to realize an actual income in 1921. The figures were given out by Gene Buck, president of the society, at the annual fifteen wired music corporations and closed dinner on April 24.

Mr. Buck's report also showed that during 1939 the society had issued licenses to 14,836 theaters, 678 commercial radio stations, 9,991 restaurants, 1,852 hotels, 2,895 dance halls, 2,257 miscellaneous commercial establishments.

From these licensees the society received a gross income of \$6,565,592.18, which, after being reduced by 19 per

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cent for administrative overhead and another 10 percent for the foreign affiliates of the society, was distributed among the members. The first royalties which the society gave out, in 1921, amounted to \$81,883, as compared to the present \$5,099,302. Of the royalties for 1939, approximately \$4,000,000 came from radio, the report stated.

The BMI board met April 30, but made no statement after the meeting.

### ORCHIDS TO DORSEY

The correspondence which we print below speaks volumes on the broadcasting of phonograph records. The artists need radio's plugs. That goes for the songwriters, too. Orchids to Tommy Dorsey for being a realist! Here are the letters:

"April Twenty-fourth, 1940.

Mr. Neville Miller  
 National Association of Broadcasters  
 Washington, D. C.

DEAR NEVILLE:

I know that all stations are delighted with the trend the phonograph record situation has taken. I have felt all along that if a sufficient number of stations discontinued the playing of records that the manufacturers would soon realize the advantage of this promotion and understand fully that they could not "hornswaggle" the stations into paying for the privilege of selling their commodity.

For your files, I am enclosing copy of a letter from Mr. Jack Egan, Public Relations Manager for Tommy Dorsey. This clearly indicates the value the recording artist places on the publicity given their records by radio stations.

Sincerely yours,

E. K. CARGILL,  
*President-Manager,*  
 RADIO STATION WMAZ."

"DEAR SIR:

. . . It has always been our desire to cooperate with those who help in the promotion of Tommy Dorsey and his band and wish to offer any cooperation I might be able to give in this respect at this time.

Naturally, we'd like to see you use Tommy's records on some of your wax shows and assure you there will be no complaint from this quarter as long as it's okay with the Victor people for the stations to play the recordings of their artists. . . .

Trusting we may find our way to your turntables again in the Victor-Bluebird packages and with many thanks for your kind favors, I remain,

Cordially,

JACK EGAN,  
 Public Relations for Tommy Dorsey."

"April 29, 1940.

Mr. E. K. Cargill, President  
 Radio Station WMAZ  
 Macon, Georgia

DEAR E. K.:

Many thanks for your letter enclosing copy of letter from Jack Egan. I believe that the last few months have proved conclusively what we all knew, i.e., that the playing of records on the radio really is beneficial to the artists and the record companies.

With kindest regards, I am,

Very truly yours,

NEVILLE MILLER."

## Promotion

### RADIO FESTIVAL PLANNING UNDER WAY EVERYWHERE

Radio Festival planning is getting into high gear with more stations reporting activity and progress, east, west, north and south.

From one end of the "Father of Waters" to the other, from the Atlantic to the Pacific and in-between, station executives and their staffs are hard at work to insure a job well done.

Governor Payne Ratner, of Kansas, was the first state chief executive officially to proclaim National Radio Festival. Date for observance of the event in Kansas was announced, on May 1, for the week of May 20-25, on account of the early closing of schools. Ben Ludy, manager, WIBW, Topeka, personally, made arrangements with Governor Ratner.

The first Mayor to proclaim a municipal Radio Festival Week, as previously reported, was Mayor Ralph L. Lewis, of Greensboro, N. C. Major Edney Ridge, manager, WBIG, who negotiated this deal, has secured similar proclamations from the Mayors of Burlington, Reidsville, High Point, Gibsonville and Asheboro.

Date for every Radio Festival, may we repeat, is to be determined by the station executive. The date need not agree with that named in a state proclamation. This is repeated because the date for closing schools is the chief factor influencing the timing of Radio Festival Week; and it has been noted that in adjacent counties the closing dates sometimes vary as much as ten days or two weeks.

WHIZ, Zanesville, Ohio; KGVO, Missoula, Mont.; WICC, Bridgeport, Conn.; WDRC, WTHT and WTIC, Hartford; WNBC, New Britain; WELI, New Haven; WNLC, New London, and WBRY, Waterbury, have prepared truly outstanding plans for impressing their youngsters and oldsters with reasons for the existence and continuance of the American System of Broadcasting.

Fairly complete accounts of their plans were mailed to members on April 30, because it was believed that they contain helpful suggestions which may have a bearing on the problems of others.

Short accounts of various Radio Festival plans not previously reported follow:

#### BECKLEY, W. VA.—WJLS

Manager Jce L. Smith, Jr., writes: "A thing like this (Radio Festival) we want to do well, and it is only by giving the proper amount of planning that we find we are able to do so. We will keep you informed as we progress."

#### CONNECTICUT STATIONS—Week of June 3-8.

WATERBURY	WBRY	HARTFORD	WDRC
NEW LONDON	WNLC	HARTFORD	WTHT
NEW HAVEN	WELI	HARTFORD	WTIC
NEW BRITAIN	WNBC	BRIDGEPORT	WICC

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At a joint meeting stations decided to hold National Radio Festival the week of June 3-8.

Dr. Alonzo Grace, state commissioner of education, will carry the torch in the Essay Contest. He will deliver, by radio, the basic information for students who enter the competition.

The first essay broadcast is scheduled over WTIC, 7:45-8:00 p.m., on May 7, by Dr. Grace. On subsequent days, over the other stations, will be played his recording which is to be made at the time of the WTIC broadcast. Assistance of other educators in the state school system insures maximum participation.

Radio sets for all winners from the sixth grade through high school have been provided for award to Connecticut students. Other plans are in the making, with James F. Clancy, WTIC's sales promotion manager, sitting in the slot.

An additional prize of \$100, provided by WTIC, will compensate for entries received from the station's service area outside of Connecticut in Western Massachusetts, Vermont and New Hampshire.

#### DURHAM . . . WDNC . . . Week of June 3-8.

When Robert J. Stratton, program director, received news of Radio Festival, he and the staff immediately went to work to produce an outstanding celebration. As a result of their planning the Durham interpretation will greet the public during the week of June 3-8.

The essay contest will be conducted in the city schools. All essays will be received at WDNC by May 27. Adequate prizes are provided.

The police department has been tied into Radio Festival through a two-way police radio demonstration which will be broadcast.

Windows in the business district will carry appropriate displays and in the station's large studio there will be a week's showing of products from local mercantile establishments.

#### EL PASO . . . KTSM.

Plans are under way in El Paso Manager Karl O. Wyler said: ". . . you can expect some information on our activities within a short time."

#### FORT WORTH, TEXAS . . . WBAP.

Harold Hough, general manager, is looking after Radio Festival. Pre-Radio Festival promotion should be under way in the immediate future according to word just received.

#### MIAMI . . . WQAM.

Norman MacKay, advertising director, writes that WQAM's participation is set for the early part of June. "Congratulations on your aggressiveness."

#### MINNESOTA.

Minneapolis and St. Paul.

#### WCCO, WDG, WLB, WTCN, KSTP, WMIN.

All Twin City broadcasters, at an evening meeting, last week, decided to take on what may be billed as an outstanding observance of Radio Festival. Plans are in the making. Without knowing a single detail, it's a safe bet that the whole Northwest

will know about this industry-wide event. Earl H. Gammons, general manager, WCCO, is to report progress.

MISSOULA, MONT. . . . KGVO . . . May 12-18.

Because of early school closings, Missoula's Radio Festival is scheduled for May 12-18 with the last three grammar school grades, high schools and Montana State University cooperating.

Two significant programs are the PTA sponsored show which will discuss: "Using the Radio as a Means of Making the Home the Center of Family Culture, Entertainment and Education," and the University's special Radio Festival thirty minute broadcast on which President George Finlay Simmons will detail: "What Radio Has Done and Is Doing for Montana State University."

The Mayor of Missoula will proclaim the event. Merchants will decorate their windows and there will be special displays of local and nationally advertised products. The city and county schools are even now engaged in the Essay Contest.

Another contest will be conducted in the State "U" by Program Director James Alden Barber. It will concern dramatic scripts with the winner to be produced by and cast with college students; and broadcast by KGVO.

Several special shows, straight across the board, will be broadcast during the week. Grammar school youngsters will appear in "Citizens of Tomorrow," in which they will be interviewed. Those to appear before the microphone will be selected by their classmates.

Outlying high school students will appear daily on the "Man on the Street" show.

On another quarter hour series persons from various walks of life will give the answers to what radio means to them.

A lengthy five-minute series will be devoted to service talks by the station's engineer, selected service men and radio dealers.

The station itself will sponsor a show along the lines of CBS' "Americans at Work." The struggle to launch a commercial program through all stages, from the time of its inception, is the theme selected.

One of the city's newspaper editors has been booked to discuss: "The Freedom of Radio and the Press."

The university chorus and orchestra will appear on the half hour show with President Simmons. Invitations to visit the station, both written and over the air, will be extended listeners by A. J. Mosby, president, KGVO.

Institutional posters placed in downtown store windows will explain that advertising is the economic base of the American System of Broadcasting; that merchants using time help support the many hours of radio entertainment available every day.

NEW ORLEANS . . . WDSU, WJBW, WNOE, WSMB, WWL.

Henry Dupre, special events, WWL, writes that a meeting of all New Orleans broadcasters has been called to iron out other plans for National Radio Festival.

The ceremonies centered about the opening of WWL's new studios, on or about May 6, will also be tied in the Radio Festival, according to Mr. Dupre. He has been assured that the Governor of Louisiana and the Mayor of New Orleans will proclaim National Radio Festival Week.

PHILADELPHIA . . . KYW, WCAU, WDAS, WFIL, WHAT, WIP, WPEN, WTEL, WIBG.

Says Joseph Connolly, of WCAU: "There is a meeting here Tuesday (April 30) of the representatives of all local stations at which time plans for cooperative promotion will be laid. Each station will also handle individual promotions, too. We hope to match last year's performance."

PITTSBURGH . . . KDKA, KQV, WJAS, WWSW, WCAE.

Pittsburgh broadcasters are almost ready to announce final plans. Tentative plans are most imposing. They're even talking of a "giant radio ball" as a part of Radio Festival, "in which the orchestra from each of the stations would play . . . in addition there would be a floor show made up of talent of radio, stage and screen stars."

QUINCY, ILL. . . . WTAD . . . Week of May 27.

Examinations in public schools necessitate setting of WTAD's National Radio Festival celebration for the week of May 27.

C. Arthur Fifer, general manager, has arranged for the demonstration-talk to be given before six (6) civic organizations. The basic information for public school essay contestants will be broadcast on May 28, 29 and 30. Thank you, Mr. Rothschild and Mr. Fifer.

ROSWELL . . . KGFL.

Manager W. E. Whitmore will bring National Radio Festival to the listeners of Roswell and Hobbs, N. M. The demonstration-talk, from Edward A. Allen, president, WLVA, Lynchburg, will be given before the civic clubs in both cities. Other events are being planned. Preliminary information indicates that Mr. Whitmore will receive the state Radio Festival proclamation from the Governor.

WASHINGTON.

Seattle . . . KIRO, KRSC, KXA, KOMA, KJR.

Tacoma . . . KVI.

Representatives of the above six stations had their first joint meeting some ten days ago and decision was made to get behind National Radio Festival. Special station programs are now being planned, according to word from Peter Lyman, director of public relations, KOMO and KJR, and Dorothy Doernbecher, promotion, KVI.

TOPEKA . . . WIBW . . . May 20-25.

In accordance with Governor Payne Ratner's proclamation, naming May 20-25, National Radio Festival week, Ben Ludy, manager, WIBW, is busy with plans for the event. On one of the special programs, the Governor will undoubtedly appear.

Mr. Ludy sparks to the job search idea. On Sunday, May 19, on the "I Want a Job" program, participants will consist entirely of students. "This is just one angle that we are working on to date. I will keep you fully advised as to developments," he said.

ZANESVILLE . . . WHIZ . . . May 13-20.

The Mayor of Zanesville will officially open Radio Festival week in that Ohio city on Monday, May 13, during a full hour broadcast over WHIZ, in accordance with firm arrangements completed by Allen Haid, program director. A choir of 350 voices and other smaller groups will also appear on the opening broadcast.

The city's twelve public schools have been tied in with the event and at least 750 of the more than 6,000 boys and girls will appear before the microphone. Big blocks of time, a minimum of one hour, will be utilized every day.

Coincident with Radio Festival, the Zanesville Board of Education will hold a series of meetings for teachers and educators of Zanesville and vicinity to discuss the possibilities and eventualities of education by radio.

Radio merchants, servicemen and distributors are participating at station's invitation. Its management is keenly aware that this group is basically important if a station is to render maximum service.

Following the opening hour show on Monday, Radio Festival observation will be shifted to a full hour in the afternoons, except on Friday when it will be extended an additional thirty minutes. On Friday evening WHIZ will also carry the banquet program arranged by the Institute for educators and townspeople.

Dr. James Roland Angell, former Yale president and NBC's Educational Counselor, will deliver the main address. The cream of the school talent which will have appeared during the previous days will surround Dr. Angell's talk with a musical setting.

## Sales

### ADVERTISING BUREAU RELEASES SIXTH SUCCESS STORY

The NAB Bureau of Radio Advertising has issued the sixth in its series of "Results from Radio" studies. Vol. 1, No. 6 is on the subject of Garden and Field and tells the case history of "The Old Dirt Dobber", a participating program heard daily for six years over WLAC, Nashville, Tenn.

The four sponsors, all of whom report unusual sales results from the informal, low-cost program of gardening advice and information, are Eason-Morgan (Paint-Glass), H. J. Grimes (Dry Goods), Boyd Nursery (Plants), and Nashville Electric Service (Light & Power).



The Bureau's series of radio success stories are available to advertisers, agencies and member stations on request.

### REAL ESTATE AND BUILDING FIELD SALES MANUAL READY

A 42-page compendium of program ideas, success stories, promotion plans and other aids in selling more real estate and building trades advertising has been released to all members by the NAB Bureau of Radio Advertising.

Entitled "Building Field Sales Manual," the loose-leaf folder was produced in cooperation with the Federal Housing Administration, who provided detailed facts and figures on the FHA Insured Mortgage Plan for new, low-cost home financing.

Housing experts predict 1940 will see large-scale production of the \$2,500 home, which has recently been developed to answer the widespread public demand for a small, but well-built dwelling, to be purchased through a moderate 5% to 10% down payment and monthly installments averaging less than a dollar a day. Here, it is believed, is the *mass* housing market, and the Bureau of Radio Advertising for some time has felt that radio is the ideal medium to carry this story of the \$2,500 home to the entire public on behalf of the builders, contractors, and many other types of business concerns who will benefit thereby.

The Building Sales Manual is an attempt to gather, all under one cover, the successful ideas and experiences of radio stations and other media in developing real estate into an important field of local advertising. Extra copies of the manual are available without charge to NAB member stations.

### FREE OFFERS

Bert Nevins Publicity Offices in New York City have a new angle on the old game of "trying to get something for nothing" from radio stations. Representing Fierman & Kolmer, manufacturers of women's coats, they would like broadcasters to make an air survey to find out just what sort of coats women will buy next fall. They offer listeners merchandise prizes, and in return for the broadcasters' assistance in donating free time, etc., Nevins "are giving stations an opportunity to entice mail response and test their audience . . ."

The Bureau of Radio Advertising has urged them to withdraw their request rather than endanger the goodwill and reasonable cooperation of the broadcasting industry. The Bureau has also sent the usual letter to the following firms, who have recently sought free time for commercial purposes:

- Fox Feature Syndicate—Transcriptions of "The Blue Beetle" Comic Feature
- Hal Roach Studios—Special Deal on "1 Million B. C." Movie

Metro-Goldwyn-Mayer—Weekly Radio Script Service  
Lawrence H. Selz Organization—Scripts on behalf of manufacturers of insulting materials.

### COST-PER-INQUIRY

The percentage advertising proposals are almost as numerous, and twice as persistent, as the free offer boys. Although H. W. Kastor Advertising Agency reported to the Bureau that they have withdrawn their recent "30% of sales" proposition on behalf of Pazo, similar offerings have come from three other agencies:

- Barron Advertising Company, Kansas City, Mo. (on behalf of National Protective Insurance Company)
- Burton G. Feldman & Associates, Chicago, Ill. (on behalf of a perfume account)
- C. J. Ollendorf Advertising, Chicago, Ill. (on behalf of M-G Laboratories).

The Bureau of Radio Advertising has written these concerns, stating the industry's position on such contingency offers, and inviting them and their clients to use radio at card rates for best results. At the same time, the Bureau has pointed out what it believes to be a short-sighted attitude on the part of these agencies in trying to place business on a percentage basis, since such propositions would tend to break down radio's rate structure, thus eventually eliminating agency commissions. (If all advertising were bought on a per-inquiry basis, there would be little need for agency advice and services, since results would be automatically guaranteed or there would be no cost to the advertiser. NAB and its members, however, would prefer not to see the agency eliminated from the advertising picture, and for that reason, among others, are definitely opposed to cost-per-inquiry.)

### ATTENTION: SALES MANAGERS

All sales managers should read that section of this week's **REPORTS** dealing with the Wage and Hour Act and local advertisers on this page. Local advertisers might have been confused by the newspaper editorial mentioned, and should be set straight.

## Labor

### WAGE AND HOUR ACT

Col. Philip B. Fleming, Wage and Hour Administrator, and his legal advisors say that broadcasters are not safe in following Social Security tax procedure in determining whether talent charges should be lumped with staff salary in determining an overtime rate.

The Wage and Hour Administration's Interpretative Bulletin No. 13 (Section 17) says, in part:

"An employee may work 40 hours for Company A and 15 additional hours during the same week on a different job for Company B. In this case it would seem that if A and B are acting independently of each other with respect to the employment of the particular employee, both A and B, in ascertaining their (overtime) obligations under the Act, would be privileged to disregard all work performed by the employee for the other company. If, on the other hand, the employment by A is not completely disassociated from the employment by B, the entire employment of the employee for both A and B should be considered as a whole for the (overtime) purposes of the statute. Whether the employment by A and B are completely disassociated depends, of course, upon the facts in the particular case."

Col. Fleming told Joseph L. Miller, NAB Labor Relations Director, last week that he did not consider the employment of, say, an announcer by an advertiser as "completely disassociated" from employment by the station unless the advertiser hired, paid, and fired the announcer *directly*.

A long list of arguments against this interpretation failed to move either Col. Fleming or his lawyers.

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The NAB has asked the *New York Herald-Tribune* to correct an editorial statement (April 26) that "if a local business advertises over a radio station heard outside its state it has been construed to be in interstate commerce within the meaning of this grotesque statute."

Local advertisers might take the *Herald-Tribune's* statement to mean that advertising by radio would automatically bring the advertisers' employees under the Wage and Hour Act. This is not so.

Joseph L. Miller, NAB Labor Relations Director, sent the following radiogram to the newspaper:

The broadcasting industry certainly would appreciate a correction of the statement in your editorial entitled "Wage and Hour Absurdities" this morning that "If a local business advertises over a radio station heard outside its state it has been construed to be in interstate commerce." In an opinion on this question given us last November 27, Joseph Rauh, Assistant General Counsel of the Wage and Hour Division, U. S. Department of Labor, stated that "The mere fact that the employer uses the facilities of radio broadcasting to advertise his products would not ordinarily make his entire business subject to the coverage of the Act." The broadcasting industry has had its troubles under the Wage and Hour Act despite the fact that its average weekly wage of \$45.20 is one of the highest in the country. However, the prospective radio advertiser whose employees are at present exempt from the Act need not fear that advertising by air will bring those employees under the Act.

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Chances for amendment of the Wage and Hour Act at the current session of Congress are slim.

Even if the Senate approves the amendments that the House likely will pass this week, they face a Presidential veto. But the Senate probably won't pass them.

### KGCU PROCEEDINGS SETTLED

The National Labor Relations Board today announced approval of a consent decree to be presented to the

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Eighth United States Circuit Court of Appeals settling the issues involved in proceedings involving Mandan Radio Association, Inc. (KGCU), Mandan, North Dakota.

The decree provides that the company will cease discouraging membership in the International Brotherhood of Electrical Workers (A. F. of L.), by discharging or refusing to reinstate any employee because of union activities.

The consent decree also provided for the payment by the company of \$300 to Paul M. Edwards in full satisfaction of amounts he would have earned from March 21, 1939, to the present day.

On May 2, 1939, the Board issued a complaint against the company, operator of radio station KGCU, alleging certain unfair labor practices. Subsequently, after an Intermediate Report by the Board's trial examiner, the parties entered into a stipulation providing for the entry of an order by the Board and further providing for a consent decree to be entered upon the basis of that stipulation.

The Board today announced approval of the stipulation and also approved of the consent decree to be entered by the Court.

## Legal

### RADIO IN THE COURT

On Friday, April 26, the Special Committee on Cooperation between Press, Radio and Bar met in New York at the office of Mr. Arthur Hays Sulzberger, President and Publisher of the *New York Times*. A draft of a summary statement of principles to serve as a guide in relations between the three interested groups was submitted in behalf of the Chairman, Mr. Giles Patterson, Jacksonville attorney, who was absent on account of illness. Discussion of the draft centered chiefly around the use of cameras and microphones in the courtroom. Committee members will study the proposal and submit their views at a later date. It is worthy of mention that radio in all respects is accorded equality of treatment with the press in the draft statement.

A subcommittee was appointed to serve as a conference committee on any cases which may arise requiring cooperative action. The conference committee is composed of: Mr. Giles Patterson, representing the American Bar Association; Mr. Neville Miller, representing Radio; Mr. Paul Bellamy, representing the American Newspaper Publishers Association; Mr. Stuart H. Perry, representing the American Society of Newspaper Editors.

The radio members of the committee in attendance were: Neville Miller, Frank M. Russell, Harry C. Butcher.

Russell P. Place, Louis G. Caldwell, and Philip M. Loucks. Other members attending were:

American Bar Association:

Mr. John G. Jackson—Jackson, Fuller, Nash & Brophy, New York City.

Mr. Alfred A. Cook—Cook, Nathan, Lehman & Greenman, New York City.

Judge Oscar Hallam—Dean, St. Paul College of Law, St. Paul Minn. (formerly Associate Justice, Minn. State Supreme Court).

American Newspaper Publishers Association:

Mr. Paul Bellamy—Cleveland Plain Dealer—Chairman.

Mr. Richard W. Clark—New York News.

Mr. W. F. Wiley—Cincinnati Enquirer.

Mr. Arthur Hays Sulzberger—The New York Times.

American Society of Newspaper Editors:

Mr. Stuart H. Perry—Adrian (Michigan) Telegram—Chairman.

## CONTEMPT OF COURT

Recent cases have highlighted the conflict of public interests involved in comment by the press on court cases and judges. They apply with equal force to comment by radio.

In California, the Los Angeles Times was adjudged guilty of contempt of court for editorials held tending to interfere with the administration of justice in two cases which were still pending. In affirming the judgments, the upper court followed the Bridges case holding unconstitutional the California statute providing that comment not made in the presence of the court shall not be deemed contumacious. The United States Supreme Court on April 8 decided to review the Bridges case. Their decision, it is expected, will resolve the conflict between the inherent power of the court to punish for contempt, and freedom of speech, press and radio.

In St. Louis the editor of the *Post-Dispatch* was recently adjudged in contempt for criticizing a judge after the case was over. Missouri has a statute banning criticism of a judge after a case is closed. Appeal has been taken.

## STATE LEGISLATION

MISSISSIPPI:

H. 1137 (Patterson) PRIVILEGE TAX CODE—To revise the privilege code and to repeal Chapter 20, Laws of the Extraordinary Session of 1935, and amendments thereto. Referred to Committee on Ways and Means.

## Miscellaneous

### EDUCATIONAL BROADCASTING INSTITUTE HOLDS BANNER MEETING

Featured by the largest attendance of commercial broadcasters in its history, the Eleventh Institute for Education by Radio held a three-day session in Columbus, Ohio, this week.

Among the 500 persons present were representatives of some 60 commercial radio stations.

The affiliates of NBC and CBS held closed meetings. There was also a general meeting of stations, under the auspices of the NAB, to discuss problems of public service broadcasting. Ed Kirby, Director of Public Relations, and Joseph L. Miller, Director of Labor Relations, represented the Association.

William J. Dempsey, retiring General Counsel of the Federal Communications Commission, addressed the dinner session on April 30.

The list of awards for the Fourth American Exhibition of Recordings of Educational Radio Programs was announced as follows:

#### I. Network, National Organization, or Clear-Channel Station

a. *For general use by adults. Lecture, talk, speech.*

FIRST AWARD. "What Makes an American." From the series "Meet Mr. Weeks." Planned and produced by the National Broadcasting Company.

HONORABLE MENTION. "Frances Scott Key." From the series "Pilgrimage of Poetry." Planned and produced by the National Broadcasting Company.

HONORABLE MENTION. "The Movable Feast of Thanksgiving." From the series "The Story Behind the Headlines." Planned and produced by the American Historical Association.

HONORABLE MENTION. "Elmer Davis and the News." Broadcast of March 11, 1940. Planned and produced by the Columbia Broadcasting System.

b. *For general use by adults. Demonstration or participation program.*

FIRST AWARD. "Tour of Palomar Telescope." A special broadcast. Planned and produced by Station KFI, Earle C. Anthony, Inc., Los Angeles.

c. *For general use by adults. Dialog, round-table conversation, interview, debate, question and answer.*

FIRST AWARD. "Propaganda." From the series "University of Chicago Round Table." Planned and produced by the National Broadcasting Company and the University of Chicago.

HONORABLE MENTION. "What Are the Real Issues in the European War?" From the series "America's Town Meeting of the Air." Planned and produced by the National Broadcasting Company in cooperation with Town Hall, Inc.

d. *For general use by adults. All forms of dramatization.*

FIRST AWARD. "Abraham Lincoln." From the series "Cavalcade of America." Planned and produced by the E. I. duPont de Nemours & Co., Inc.

HONORABLE MENTION. "Seems Radio Is Here to Stay." From the series "So This Is Radio." Planned and produced by the Columbia Broadcasting System.

HONORABLE MENTION. "Johnny Got His Gun." From the series "Arch Oboler's Plays." Planned and produced by the National Broadcasting Company.

HONORABLE MENTION. "My Client, Curly." From the series "Columbia Workshop." Planned and produced by the Columbia Broadcasting System.

e. *For general use by children. Any type of out-of-school children's program.*

NO FIRST AWARD.

HONORABLE MENTION. "Rapunzel." From the series "Let's Pretend." Planned and produced by the Columbia Broadcasting System.

f. *For use in school by primary children (approximately Grades I-III).*

FIRST AWARD. "Mind the Signs!" From the series "Let's Sing." Planned and produced by the Prairie Farmer, Station WLS.

- g. *For use in school by elementary children (approximately Grades IV-VI).*

FIRST AWARD. "Animals in Our Pattern of Life." From the series "New Horizons, American School of the Air." Planned and produced by the Columbia Broadcasting System.

HONORABLE MENTION. "Current Events." A special broadcast of March 22, 1940. Planned and produced by Station KEX, Radio Service of the Oregonian.

- h. *For use in school by junior and/or senior high-school pupils (approximately Grades VII-XII).*

FIRST AWARD. "Where We Live." From the series "This Living World, American School of the Air." Planned and produced by the Columbia Broadcasting System.

FIRST AWARD. "Square Dances." From the series "Folk Music of America, American School of the Air." Planned and produced by the Columbia Broadcasting System.

- Special Class. Distinguished productions containing educational values.*

FIRST AWARD. "Pursuit of Happiness." Broadcast of December 31, 1939. Planned and produced by the Columbia Broadcasting System.

## II. Local and Regional Station or Organization

- a. *For general use by adults. Lecture, talk, speech.*

FIRST AWARD. "Talk by Thomas Mann: 'The Problem of Freedom'." From the series "University of Minnesota Convocations." Planned and produced by University of Minnesota Radio Station WLB.

- b. *For general use by adults. Demonstration or participation program.*

FIRST AWARD. "The School of Modern Miracles." From the series "Know Your Schools." Planned and produced by the Spokane Public Schools.

FIRST AWARD. "Adventures in Music." A special broadcast. Planned and produced by the Municipal Broadcasting System, Station WNYC.

- c. *For general use by adults. Dialog, round-table conversation, interview, debate, question and answer.*

FIRST AWARD. "Student Council and Student Government." From the series "Student Opinion." Planned and produced by the Radio Council of the Chicago Public Schools.

HONORABLE MENTION. "Diplomas and Jobs." From the series "Careers in Public Service." Planned and produced by New York University.

- d. *For general use by adults. All forms of dramatization.*

FIRST AWARD. "Civil Liberties in Wartime." From the series "Accent on Liberty." Planned and produced by Station WOSU.

HONORABLE MENTION. "Guam and the Naval Appropriations Bill." From the series "Following Congress." Planned and produced by Wisconsin State Station WHA.

- e. *For general use by children. Any type of out-of-school children's program.*

NO FIRST AWARD.

HONORABLE MENTION. "World of Music." From the series "World of Choral Music." Planned and produced by the Wayne University Broadcasting Guild.

HONORABLE MENTION. "The Three Dwarfs." From the series "Children's Theatre of Junior League of Roanoke." Planned and produced by Station WDBJ.

- f. *For use in school by primary children (approximately Grades I-III).*

NO FIRST AWARD.

HONORABLE MENTION. "Feeling Phrases." From the series "Rhythmic Activities." Planned and produced by the Cleveland Public Schools.

- g. *For use in school by elementary children (approximately Grades IV-VI).*

NO FIRST AWARD.

HONORABLE MENTION. "Upper Lakes Region." From the series "This Land of Ours." Planned and produced by Wisconsin State Station WHA.

- h. *For use in school by junior and/or senior high-school pupils (approximately Grades VII-XII).*

FIRST AWARD. "Senator Borah Died Last Friday." From the Series "Living History." Planned and produced by Wisconsin State Station WHA.

- Special Class. Distinguished productions containing educational values.*

FIRST AWARD. "America Calling." A special broadcast. Planned and produced by Station KSTP, Minneapolis.

## NAB CITED AS OUTSTANDING TRADE ASSOCIATION

A certificate of merit for the NAB was presented to Neville Miller last week by the American Trade Association Executives.

The NAB was cited "for its achievement in instituting a system of self-regulation designed to make further Government regulation or control unnecessary, and which would deserve and earn public confidence. Its code included industrial regulation requirements as to the broadcasting of controversial public issues, religious and current news broadcasts, and the types of advertising acceptable. The self-imposed restraint caused some loss in revenue, but won wide public approval."

## MILLER CONGRATULATES McCARRENS

Neville Miller congratulated John S. McCarrens of the Cleveland *Plain Dealer* last week upon his reelection as president of the American Newspaper Publishers Association.

In a letter to Mr. McCarrens, Mr. Miller said:

"I think that radio and the newspapers have much in common, especially during times such as these, and I hope that if any matters come up at any time concerning which you believe I could be of help to you, that you will not hesitate to call upon me."

## INSTITUTE OF PACIFIC RELATIONS

The Institute of Pacific Relations says that it has no hidden motive in offering broadcasters material about the Far East. The Institute says it is financed for the most part by research foundations, including the Rockefeller. (See NAB REPORTS, p. 4185.)

## FRED M. SHELDON

Charles Lee Harris, business manager of WGRC, Louisville, Ky., wants to know the whereabouts of Fred M. Sheldon.

## Engineering

## CHANGE IN FREQUENCY BROADCASTS

Important changes in the broadcasting of standard frequency signals by the National Bureau of Standards,

Department of Commerce, were announced this week by D. J. H. Dellinger, Chief of the Bureau's Radio Section.

The new service differs from that heretofore available as follows: (a) the frequency of 20 megacycles per second is replaced by 15 megacycles per second; (b) announcements will be given by voice only, not by telegraphic keying; (c) the announcements during the broadcasting of the standard musical pitch will be given every 5 instead of every 10 minutes; (d) the ionosphere bulletins are to be discontinued.

For some time the Bureau has broadcast standard frequencies and other services from its radio station WWV at Beltsville, Maryland, near Washington, D. C. The services include standard radio frequencies, standard time intervals in the form of pulses accurately spaced one second apart, a standard audio frequency, and a standard of musical pitch. The last named is on a frequency of 440-cycles per second and is broadcast continuously day and night.

This service makes generally available the national standard of frequency which is of value in scientific and other measurements. Any desired frequency may be measured in terms of any of the standard frequencies either audio or radio. This may be done by aid of harmonics and beats with one or more auxiliary oscillators.

Those desiring to utilize this service should write to the National Bureau of Standards, Washington, D. C., for a copy of Letter Circular LC591 "Standards of Frequency and Musical Pitch Broadcast by National Bureau of Standards." Copies will be sent without charge to those having a real need for them.

## The Commission

### FROM THE FCC MAIL BAG

During the past three months the FCC had to write nearly 600 letters to individuals who complained about particular radio programs. In the vast majority of these cases, the Commission had to explain that it had no jurisdiction in the matter.

These complaints ran the gamut from objecting to radio advertising to protesting certain performers or their utterances. Many complaints had to do with the dropping of certain radio programs. In the case of one speaker, 129 letters were received in his behalf.

Most of this correspondence seems to be due to a mistaken idea that the Commission has authority to pass judgment on radio artists and programs. It is expressly prohibited by law from censoring individual radio programs. It can take action only in cases involving use of obscenity and lotteries.

The determination as to who shall appear on programs is a matter resting solely with the particular broadcast station. Broadcast stations have the duty of serving public interest, convenience, and necessity. In carrying out this obligation they have the duty of making provision for well-rounded rather than one-sided discussion of public questions. However, the duty of serving the public interest does not imply any requirement that the use of broadcast facilities shall be afforded any individual or group. The Communications Act declares that a broadcast station is not a common carrier, hence the station may refuse or permit the use of its facilities as it sees fit. By the same token, the station can give free time or charge for time. No standard tariffs apply to broadcast stations.

The Communications Act expressly provides that "no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication." The Commission has promulgated no regulation and imposed no condition which might circumvent this prohibition.

This statutory provision, of course, does not imply that all who may wish to do so must be given the right to speak over the air. The number of hours available in the day over the limited number of broadcast stations which physically may be set up in the various communities would make such a requirement impossible of fulfillment. The selection of who may use broadcast facilities, and the conditions with respect to time, charges and other stipulations are under the American system of broadcasting, left to the discretion of the broadcasters.

The Communications Act provides equal opportunities to legally qualified candidates for public office, providing the licensee allows the use of its station to any such candidate, but imposes no obliga-

tion upon the licensee to allow his station to be used for this purpose.

Apart from this stipulation, there is no Federal statute or Commission regulation dealing expressly with the matter of controversial subjects on the air. However, the broadcasters themselves have adopted a code of ethics which is often mistaken as part of the Commission's rules and regulations. Adopted last July, this code governs the National Association of Broadcasters, a private organization composed of persons engaged in the broadcast business, including many of those licensed by the Commission to operate broadcast stations. The code sets forth certain standards of conduct for broadcasters which the association believes are conducive to the best interests of the industry. The Commission has no say in the code's enforcement. However, adoption of this code or voluntary acceptance of its provisions does not in any way alter the duties and responsibilities of broadcasting stations under the existing law.

Since the Commission has no jurisdiction in the matter of individual programs and artists, complaints and other comment should be sent direct to the station or the network involved. Such "fan" mail wields considerable influence in broadcasting policies.

### "PIRATE" RADIO STATION LOCATED

The FCC Inspector in Charge at New York reports tracing and locating, at Passaic, N. J., an unlicensed radio station which had been a nuisance to and interfered with authorized broadcast programs.

The operation of this outlaw station was unique, in that it used frequencies assigned to regularly licensed stations and, in an attempt to make detection more complex, faked the call letters of regular stations using these channels. At one time it operated on 900 kilocycles, the frequency allocated WBEN at Buffalo, and employed those call letters. More recently it usurped the call letters of the Hartford Times radio station—WTHT, 1200 kilocycles, at Hartford, Conn.

In general, this "pirate" station broadcast phonograph recordings. Such unauthorized operation was quickly detected, and there was early complaint, but the task of tracing the culprit took a little time. The usual methods of detection were employed, that is, records were made of the illegal programs and subsequent bearings and measurements of the field strength eventually brought the investigators to an address on Monroe Street, in Passaic.

By this means the Commission feels that it has obtained sufficient evidence to secure indictment for violating Sections 301 and 318 of the Communications Act.

### FCC FUNCTIONS

The FCC announces that the work, business and functions of the Commission for the month of May have been assigned as follows:

Commissioner Thompson	Designated to determine, order, report or otherwise act upon all applications or requests for special temporary standard broadcast authorizations.
Commissioner Craven	Designated to hear and determine, order, certify, report or otherwise act upon; (a) except as otherwise ordered by the Commission, all motions, petitions or matters in cases designated for formal hearing, including motions for further hearing, excepting motions and petitions requesting final disposition of

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

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral arguments are scheduled to be heard by the Commission for the week beginning Monday, May 6. They are subject to change.

### Monday, May 6

WRD—Times Dispatch Radio Corp., Richmond, Va.—C. P., 590 kc., 1 KW, unlimited time (DA night). Present assignment: 1500 kc., 100 watts, unlimited time.

### Thursday, May 9

Oral Argument Before the Commission

Report No. P-5:

NEW—Eddie Erlbacher, Cape Girardeau, Mo.—C. P., 2738 kc., 50 watts, Emission A-3, unlimited time; Pts. of Comm.: With vessels on Mississippi and Ohio Rivers.

Report No. B-88:

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

### FUTURE HEARINGS

During the past week the Commission has announced the following tentative date for a broadcast argument. It is subject to change.

### May 16

Oral Argument Before the Commission

Report No. B-95:

NEW—Neptune Broadcasting Corp. (A. Harry Zoog, Pres.), Atlantic City, N. J.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### RENEWAL OF LICENSES

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

WCOC, Meridian, Miss.; WFMD, Frederick, Md.; WLBL, Stevens Point, Wis.; and WMFJ, Daytona Beach, Fla.

Licenses for the following stations were further extended upon a temporary basis only, until June 1, 1940, pending determination upon applications for renewal of licenses:

KFAR, Fairbanks, Alaska; KFDM, Beaumont, Texas; WMC and auxiliary, Memphis, Tenn.; WGST and auxiliary, Atlanta, Ga.

WSM—National Life and Accident Ins. Co., Nashville, Tenn.—Special experimental authorization to operate a regular broadcast transmitter for experimental transmission of facsimile signals, was further extended for a period of one month, ending June 1, 1940.

KSUB—Leland M. Perry, Cedar City, Utah.—Further extended until June 1, the special temporary authorization to Leland M. Perry, surviving partner of Johnson & Perry, to operate station KSUB on a temporary basis only, subject to whatever action may be taken on formal application for regular authorization that may be submitted with respect to station KSUB.

KWJB—Sims Broadcasting Co., Globe, Ariz.—Further extended until June 1, the special temporary authorization to Bartley T. Sims, remaining partner of Sims Broadcasting Co., to operate station KWJB on a temporary basis, subject to whatever action may be taken upon application for renewal.

KGBU—Alaska Radio & Service Co., Ketchikan, Alaska.—Present license further extended upon a temporary basis only, pending determination upon application for renewal, for the period ending June 1, 1940.

KXO—E. R. Irely, F. M. Bowles, El Centro, Calif.—Present license further extended upon a temporary basis until June 1, subject to whatever action may be taken upon pending application for renewal.

KTHS—Hot Springs Chamber of Commerce, Hot Springs Natl. Park, Ark.—Present license further extended upon a temporary basis until June 1, pending determination upon application for renewal.

W1XCS—Conn. State College, Storrs, Conn.—Granted renewal of developmental broadcast station license for the period ending May 1, 1941.

W9XOK—The Star Times Pub. Co., St. Louis, Mo.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1941.

W1XEH—Travelers Broadcasting Service Corp., Avon, Conn.—Granted renewal of high frequency broadcast station license for the period ending April 1, 1941.

W2XDR—Radio Pictures, Inc., Long Island City, N. Y.—Granted renewal of television broadcast station license for the period ending Feb. 1, 1941.

W9XSP—Star-Times Pub. Co., St. Louis, Mo.—Present license for facsimile broadcast station further extended on a temporary basis only, for the period ending June 1, 1940, pending determination upon application for renewal of license.

W9XG—Purdue University, W. Lafayette, Ind.—Present television broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W9XK—State University of Iowa, Iowa City, Iowa.—Present television broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W8XWJ—The Evening News Assn., Detroit, Mich.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W2XDA—General Electric Co., Schenectady, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W2XOY—General Electric Co., Albany, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

W2XQO—Knickerbocker Broadcasting Co., Inc., Flushing, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only, for the period ending June 1, 1940, pending receipt and/or determination on application for renewal.

### EXPERIMENTAL AUTHORIZATIONS

The Commission has announced that it had extended until August 1 the special experimental authorizations of nine radio stations listed below, and at the same time advanced the effective date of Section 3.32(3) (b), which prohibits the broadcasting of

commercial programs on experimental authorizations, to the August date:

- WTIC—Travelers Broadcasting Service Corp., Hartford, Conn.—Special experimental authority to operate simultaneously with KRLD, unlimited time, on **1040 kc.**, DA-N.
- KRLD—KRLD Radio Corp., Dallas, Tex.—To operate simultaneously with WTIC, unlimited time, on **1040 kc.**, 50 KW, DA-day and night.
- KTHS—Hot Springs Chamber of Commerce, Hot Springs, Ark.—To operate on **1060 kc.**, simultaneously with WBAL from 6 a. m. to local sunset, suspend operation from local sunset until 8 p. m., and operate unlimited time from 8 p. m. to midnight.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—To operate simultaneously with KTHS on **1060 kc.** from 6 a. m. to local sunset at Hot Springs, Ark., and operate from local sunset at Hot Springs to 9 p. m., EST, on **1060 kc.**, and operate synchronously with WJZ on **760 kc.**,  $2\frac{1}{2}$  KW, using DA from 9 p. m., EST.
- WAPI—Alabama Polytechnic Institute, Birmingham, Ala.—To operate unlimited hours on **1140 kc.**, simultaneously with KVOO at Tulsa, using DA after sunset at Tulsa.
- KVOO—Southwestern Sales Corp., Tulsa, Okla.—To operate unlimited hours on **1140 kc.**, with 25 KW, using DA at nighttime.
- WWL—Loyola University, New Orleans, La.—To operate unlimited time on **850 kc.**, 50 KW, employing DA both day and night.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—To operate synchronously with WBBM from local sunset at Lincoln, Neb., to midnight, CST.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—To operate synchronously with KFAB from local sunset at Lincoln, Neb., to midnight, CST.

All outstanding broadcast licenses are being made to expire August 1 as a preliminary to reallocation of frequencies under the recently ratified North American Regional Broadcasting Agreement.

#### MISCELLANEOUS

- WGEO—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to conduct 2-way communications with Stations KRTA, KRTC and KRTK of the Byrd Antarctic Expedition between 12 midnight and 2 a. m., EST, from April 26, 1940, to not later than 3 a. m., EST, November 1, 1940.
- W2XOY—General Electric Co., Schenectady, N. Y.—Granted extension of special temporary authority to relay through high frequency station W2XOY the frequency modulated programs of high frequency station W2XMN from April 27, 1940, to not later than 3 a. m., EST, June 1, 1940 (provided this authority to terminate immediately upon the withdrawal of consents by either the Columbia Broadcasting System, Inc., or Edwin A. Armstrong).
- W2XNB—General Electric Co., Schenectady, N. Y.—Granted extension of special temporary authority to relay through television broadcast station W2XNB the television programs to be received from the NBC, Inc., transmitter, call letters W2XBS, located atop the Empire State Building, from April 27, 1940, to not later than 3 a. m., EST, February 1, 1941 (provided this authority to terminate immediately upon the withdrawal of consent by the National Broadcasting Co., Inc.).
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate from 2 to 3 p. m., CST, on May 1, 2, 7, 8, 9, 14, 15, and 16, 1940, in order to broadcast special educational programs (provided KGGF remains silent), to remain silent from 7:15 p. m. to 9:15 p. m., CST, on May 21, 23, 28, and 30 and from 8:15 p. m. to 9:15 p. m., CST, on May 22 and 29, 1940, during University examinations, and to remain silent from 7:15 p. m. to 9:15 p. m., CST, on May 7, 1940, in order to permit KGGF to broadcast an address by Governor Phillips (B3-S-464).
- Midnight Sun Broadcasting Co., Portable-Mobile (area of Fairbanks, Alaska).—Granted construction permit for new relay broadcast station; frequencies **30820, 33740, 35820, 37980 kc.**, power 2 watts (B-PRE-344).
- WOEG—General Electric Co., Portable-Mobile (area of Schenectady, N. Y.).—Granted construction permit to install new transmitter (B1-PRY-216).
- WEIC—General Electric Co., Portable-Mobile (area of Schenectady, N. Y.).—Granted construction permit to increase power from 15 watts to 50 watts and install new transmitter (B1-PRE-346).
- West Virginia Newspaper Pub. Co., Morgantown, W. Va.—Granted motion to dismiss without prejudice the application for new station to operate on **1200 kc.**, 250 watts, unlimited time.
- Riverside Broadcasting Co., Riverside, Calif.—Granted petition to intervene in the hearing on the application of Worcester Broadcasting Corp. for a new station in San Diego, Calif., to operate on **1420 kc.**, 250 watts, unlimited time.
- WWRL—Long Island Broadcasting Corp., Woodside, Long Island, N. Y.—Granted extension of effective date to 30 days from April 29, 1940, of Provision (3) of Commission Order of December 5, 1938, re temporary license to operate on time previously utilized by Station WMBQ.
- KGGF—Hugh J. Powell Coffeyville, Kans.—Granted special temporary authority to remain silent during above periods in order to permit WNAD to broadcast special educational programs; to operate from 7:15 p. m. to 9:15 p. m., CST, on May 21, 23, 28, and 30 and from 8:15 p. m. to 9:15 p. m., CST, on May 22 and 29, 1940, in order to fill WNAD's time during University examinations (provided WNAD remains silent); to operate from 7:15 p. m. to 9:15 p. m., CST, on May 7, 1940, in order to broadcast an address by Gov. Phillips (provided WNAD remains silent) (B4-S-710).
- KAQY—The Farmers & Bankers Broadcasting Corp., Abilene, Kans.—Granted special temporary authority to operate equipment described in application (File No. B4-PRY-215) from 4 to 5 p. m., CST, on April 29, 1940, at Anthony, Kans., and from 5 to 6:30 p. m., CST, on May 1, 1940, at Winfield, Kans., on **1606, 2022, 2102, 2758 kc.**, power 40 watts, in connection with the Good Will Tour of the Wichita Chamber of Commerce (B4-S-507).
- WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted special temporary authority to operate from 8:00 p. m. to 8:30 p. m., EST, on May 21, 1940, in order to broadcast special Wilmington Day Celebration.
- WRCA—National Broadcasting Co., New York, N. Y.—Granted special temporary authority to operate Station WRCA on **9670 kc.**, with parallel antennas as described in application B1-MLIB-33, for a period not to exceed ten days, in order to attempt to overcome the interference reported in letter dated April 22 and telegram of April 19, and to attempt to retain priority for the United States to this frequency.
- KSTP—KSTP, Inc., St. Paul, Minn.—Granted modification of construction permit as modified for move of transmitter, installation of new equipment and directional antenna, and increase in power, for extension of completion date from May 8, 1940, to August 8, 1940; frequency **1460 kc.**, power 50 KW, unlimited time (B4-MP-968).
- L. B. Wilson, Inc., Portable-Mobile (area of Cincinnati, Ohio).—Granted construction permit for new relay broadcast station, frequencies **1646, 2090, 2190, 2830 kc.**, power 25 watts (B2-PRY-218).
- WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit for increase in power from 1 KW, 5 KW day, to 5 KW day and night, changes in directional antenna, for further changes in directional antenna and change in type of transmitter (B1-MP-970).
- WEOA—Evansville on the Air, Inc., Evansville, Ind.—Granted construction permit to make changes in transmitting equipment, frequency **1370 kc.**, 250 watts, unlimited time (B4-P-2851).
- WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Granted special temporary authority to operate from 10:00 p. m. to 12:00 p. m., AST, on May 4, 11, 18, and 25, 1940, in order to broadcast dance music from the Escambron Beach Club at San Juan; to operate from 9:00 a. m. to 11:00 a. m. and from 2:00 p. m. to 6:00 p. m., AST, on May 5, 12, 19, and 26, 1940, in order to broadcast amateur baseball games from the municipal stadium.
- WPAA—A. H. Belo Corp., Dallas, Tex.—Granted authority to install automatic frequency control apparatus (B3-F-140).
- WBAP—Carter Publications, Inc., Fort Worth, Tex.—Granted authority to install automatic frequency control apparatus (B3-F-141).
- KFKA—The Mid-Western Radio Corp., Greeley, Colo.—Granted authority to make changes in automatic frequency control.

L. B. Wilson, Inc., Portable-Mobile (area of Cincinnati, Ohio).—Granted construction permit for new relay broadcast station, frequencies **1646, 2090, 2190, 2830 kc.**, power 250 watts (B2-PRY-217).

WGN, Inc., Chicago, Ill.—Granted construction permit for new relay broadcast station, frequencies **133030, 134850, 136810, 138630 kc.**, power 50 watts (B4-PRE-347).

WSXVC—The Cincinnati Times Star Co., Cincinnati, Ohio.—Granted modification of construction permit for new facsimile broadcast station, to extend commencement date from May 6, 1940 to November 6, 1940, and completion date from November 6, 1940 to May 6, 1941 (B2-MPFB-7).

General Electric Co. (area of South Schenectady, N. Y.), Portable-Mobile.—Granted license for new special relay broadcast station to be used in connection with International Broadcast Stations WGEA and WGEO, when the same program is not being broadcast by Station WGY; frequencies **31230, 35620, 37020 and 39260 kc.**, power 2 watts (B1-LRE-309).

WENS—Radio Station WSOC, Inc. (area of Charlotte, N. C.), Portable-Mobile.—Granted construction permit to make changes in equipment (T3-PRE-348).

KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Granted authority to make changes in automatic frequency control equipment (B4-F-143).

Neptune Broadcasting Corp., Atlantic City, N. J.—Scheduled oral argument on May 16, 1940, in re application for construction permit for new broadcast station to operate on **1420 kc.**, 100 watts night, 250 watts local sunset, unlimited time (B-95).

WLWO—The Crosley Corp., Cincinnati, Ohio.—Granted special temporary authority to operate the old transmitter of International Broadcast Station WLWO on **6060 kc.**, for a period not to exceed 30 days, pending adjustments to be made on new transmitter before other frequencies licensed for the use of that station can be employed over the new transmitter.

KYOS—Merced Broadcasting Co., Merced, Calif.—Granted special temporary authority to operate from 7:00 p. m., May 7, until 2 a. m., PST, May 8, 1940, for the purpose of broadcasting election returns only.

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 7:00 p. m. to 9:00 p. m., CST, on May 3, 1940 and from 7:00 p. m. to 9:00 p. m., CST, on May 4, 1940, and from 4:00 p. m. to 5:00 p. m., CST, on May 5, 1940 in order to broadcast Gala Week activities on Purdue Campus.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to operate on May 3, 1940, from 8:00 p. m. to 9:00 p. m., EST, in order to broadcast speeches of U. S. Senators Tydings and Radcliffe of Maryland, only; to operate on May 6, 1940 (LS May 7:15 p. m.), from 7:15 p. m. to midnight, EST, in order to broadcast the State of Maryland primary election returns only.

WOCB—Harriet M. Alleman and Helen W. MacLellan, d/b as Cape Cod Broadcasting Co., near Hyannis, Mass.—Granted modification of construction permit for new station, for extension of completion date from May 1, 1940, to July 1, 1940; frequency **1210 kc.**, power 250 watts, unlimited (B1-MP-961).

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Granted license to cover construction permit for new station to operate on **1370 kc.**, 250 watts, unlimited time (B1-L-1139). Also granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (B1-Z-389).

WLOK—The Fort Industry, Co., Lima, Ohio.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54.

WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate from 8:15 p. m. to 10:00 p. m., EST, May 2, 1940, for the purpose of broadcasting a political speech by Senator Neely of West Virginia, only.

WSAZ—WSAZ, Inc., Huntington, W. Va.—Granted special temporary authority to operate unlimited time on the evening of May 14, 1940, in order to broadcast election returns.

#### APPLICATIONS FILED AT FCC

##### 580 Kilocycles

WDBO—Orlando Broadcasting Co., Inc., Orlando, Fla.—License to cover construction permit (B3-P-2650) for changes in auxiliary transmitter.

May 3, 1940

##### 610 Kilocycles

WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Modification of construction permit (B2-P-1927) for increase in power, new transmitter and directional antenna for day and night and move of transmitter, further requesting changes in equipment and move transmitter from E. Brooklawn, N. J., to Creek Road, Bellmawr, N. J. Extend commencement date 10 days after grant and completion 120 days thereafter.

##### 780 Kilocycles

NEW—Atlantic Broadcasting Corp., West Palm Beach, Fla.—Construction permit for new broadcast station to be operated on **780 kc.**, 500 watts night, 1 KW day, unlimited time. Studio: Geo. Washington Hotel, Flagler Drive at First St., West Palm Beach, and transmitter at the SW 400' Square, corner of Sec. 16, Twp. 43 S. Range 43 E, West Palm Beach, Fla. Class III-B Station.

##### 920 Kilocycles

NEW—Seaboard Broadcasting Corp., Tampa, Fla.—Construction permit for new broadcast station to be operated on **880 kc.**, 250 watts, unlimited time. Amended to change frequency to **920 kc.**, increase power to 500 watts night, 1 KW day, antenna changes and request Class III-B Station. Also change type of transmitter.

WSPA—Virgil V. Evans, tr/as The Voice of South Carolina, Spartanburg, S. C.—Voluntary assignment of license and construction permit (B3-P-2716 for auxiliary transmitter) to Spartanburg Advertising Company.

##### 940 Kilocycles

WICA—WICA, Inc., Ashtabula, Ohio.—Construction permit to make changes in equipment and increase power from 500 watts to 1 KW.

##### 1060 Kilocycles

WBAL—WBAL Broadcasting Co., Baltimore, Md.—Construction permit for new transmitter, directional antenna for night use, change hours of operation from S-WTIC to unlimited, increase power from 10 to 50 KW, and move transmitter to near Reisterstown, Md. Amended to make changes in directional antenna and designate station as Class I-B and **1090 kc.** under the North American Regional Agreement.

KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Construction permit for new transmitter; directional antenna for night use; change frequency from **1040 kc.** to **1060 kc.** (Class I-B and **1090 kc.** under North American Regional Agreement); increase power from 10 to 50 KW and 250-watt amplifier; change hours from share KRLD to unlimited; move transmitter. Amended: changes in directional antenna.

##### 1190 Kilocycles

WSAZ—WSAZ, Inc., Huntington, W. Va.—Construction permit for new transmitter, directional antenna for day and night; change frequency from **1190 kc.** to **900 kc.**; change hours from limited to unlimited; move transmitter from Pleasant Heights, W. Va., to near Burlington, Ohio.

##### 1200 Kilocycles

WLOF—Hazlewood, Inc., Orlando, Fla.—Modification of construction permit (B3-P-2394) for new station requesting approval of antenna and transmitter site at Texas Ave. & Winter Garden Rd., Orlando, Fla., change Studio to No. 7 N. Orange Ave. and install new transmitter.

##### 1210 Kilocycles

NEW—Black River Valley Broadcasts, Inc., Watertown, N. Y.—Construction permit for new broadcast station on **1420 kc.**, 100 watts night, 250 watts day, unlimited time. Amended to change frequency requested to **1210 kc.**, power to 250 watts day and night, and make equipment changes.

##### 1310 Kilocycles

WFIG—J. Samuel Brody, Sumter, S. C.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.



WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

WAWZ—Pillar of Fire, Zarepath, N. J.—License to cover construction permit (B1-P-2731) for equipment changes.

### 1330 Kilocycles

KSCJ—Perkins Brothers Co. (The Sioux City Journal), Sioux City, Iowa.—Modification of construction permit (B4-P-2290) to install directional antenna for night use and increase power, requesting changes in directional antenna.

### 1340 Kilocycles

KGNO—Dodge City Broadcasting Co., Inc., Dodge City, Kans.—Authority to make changes in automatic frequency control equipment.

### 1350 Kilocycles

KTSM—Tri-State Broadcasting Co., Inc., El Paso, Tex.—Modification of construction permit (B3-P-1871) for change in frequency, increase power, change hours, new transmitter, change antenna and move transmitter, further requesting authority to change type of transmitter, approval of antenna and transmitter site at On First Ave., 0.3 miles South U. S. Highway 80, El Paso, Tex.

WBNX—WBNX Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit (B1-P-2238) for changes in directional antenna, increase in power, requesting authority to make changes in directional antenna and change type of transmitter.

### 1370 Kilocycles

NEW—R. B. Terry, D. A. Rawley, C. M. Waynick and H. A. Cecil, d/b as High Point Broadcasting Co., High Point, N. C.—Construction permit for new broadcast station on **1120 kc.**, 250 watts, unlimited. Amended to change frequency requested to **1370 kc.**, power 100 watts, change transmitter, give site as corner North Main St. and Sheraton Sts., High Point, N. C.

### 1420 Kilocycles

NEW—Middle Georgia Broadcasting Co., Macon, Ga.—Construction permit for new broadcast station to be operated on **1420 kc.**, 250 watts, unlimited time. Transmitter and studio sites to be determined, Macon, Ga. Class IV station.

### 1430 Kilocycles

KGNF—Great Plains Broadcasting Co., North Platte, Nebr.—Modification of license to change hours from daytime to unlimited, using 1 KW day and night. Amended to request change in frequency from **1430 kc.** to **1380 kc.**

## MISCELLANEOUS

NEW—Midland Broadcasting Co., Kansas City, Mo.—Construction permit for new television broadcast station on **50000-56000 kc.**, 1000 watts visual and 500 watts aural, A5 and A3 emission. Amended: Form 318 submitted to request Class I station.

KGEE—General Electric Co., San Francisco, Calif.—Modification of license to add **9670 kc.** to present authorized frequencies.

KLS—S. E. & E. N. Warner d/b as Warner Brothers, Oakland, Calif.—Construction permit to increase power from 250 watts to 1 KW, new transmitter and change antenna. Amended: request Class III-B Station.

W1XOJ—The Yankee Network, Inc., Paxton, Mass.—License to cover construction permit (B1-PHB-39) as modified for new high frequency broadcast station.

W2XVT—Allen B. DuMont Labs., Inc., Passaic, N. J.—Construction permit for changes in equipment; increase power to 5000 watts (aural and visual); frequencies **78000-84000 kc.** Amended to request frequencies Channels 1 to 19, delete Special emission. Form 318 submitted to specify Class I station.

NEW—Missouri Broadcasting Corp., St. Louis, Mo.—Construction permit for new high frequency broadcast station on **43400 kc.**, 1000 watts, special emission for frequency modulation.

NEW—Columbia Broadcasting System, Inc., Chicago, Ill.—Con-

struction permit for new high frequency broadcast station on **43200 kc.**, 1000 watts, special emission for frequency modulation.

W6XDA—Columbia Broadcasting System, Inc., Los Angeles, Calif.—Construction permit to change frequency from **42300 kc.** to **43200 kc.**; increase power from 100 watts to 1000 watts; change emission from A3 to Special for frequency modulation and install new equipment.

NEW—Gilbert H. Jertberg, Executor of the Estate of George Harm, deceased, area of Fresno, Calif.—Construction permit for new relay broadcast station on **30820, 33740, 35820, 37980 kc.**, power 10 watts. Emission A3.

NEW—Gilbert H. Jertberg, Executor of the Estate of George Harm, deceased, area Fresno, Calif.—License to cover construction permit (B5-PRE-350) above for new relay station.

W3XMC—McNary & Chambers, Washington, D. C.—Construction permit to move transmitter to 2701 14th St., N.W., Washington, D. C.

NEW—Allen B. DuMont Labs., Inc., Washington, D. C.—Construction permit for new television broadcast station on **44000-50000 kc.**, aural and visual power 1000 watts, Emission A3 and A5. Amended re equipment and to request Class II (Form 318).

W2XWE—WOKO, Inc., Albany, N. Y.—Construction permit to move transmitter locally to State Office Bldg., Swan St., Albany, N. Y.

John Shepard, Jr., Boston, Mass.—Transfer of control of The Winter Street Corp. (parent corp. of The Yankee Network, Inc.) from John Shepard, Jr., to John Shepard, 3rd, and Geo. R. Blodgett, Trustees of the John Shepard, 3rd, and The Robert F. Shepard Trusts.

WENJ—WJW, Inc., Vicinity Akron, Ohio.—Construction permit to install new transmitter.

NEW—Columbia Broadcasting System, Inc., E. of Wheaton, Md.—Construction permit for new high frequency broadcast station on **43200 kc.**, 1000 watts, special emission for frequency modulation.

WLWO—The Crosley Corp., Mason, Ohio.—License to cover construction permit (B2-PIB-17) as modified which authorized increase in power to 50 KW and new equipment.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Hosiery Mills**—See American Mills.

**American Mills**—Philip Adler, Jr., Indianapolis, Ind., trading as American Mills, American Hosiery Mills, and American Silk Hosiery Mills, is charged, in a complaint issued by the Federal Trade Commission, with misrepresentation.

The complaint alleges that the respondent, in magazines, periodicals and other publications, inserted, among other things, a picture showing two silk hose on a wearer, opposite which is the following wording:

"If you agree to show your friends I'll send you actual sample snag-proof silk hose FREE! And show you how to earn up to \$22.00 in a week. Just show FREE ACTUAL SAMPLE amazing new kind of Snag-Proofed Chiffon Hosiery!

"NO EXPERIENCE—NO MONEY NEEDED. Just show FREE ACTUAL SAMPLE OF SNAG-PROOFED HOSE, and make good money—up to \$22.00 in a week—even in spare time."

Through these and other advertisements, the complaint alleges, the respondent has represented that he will give a sample pair of silk hose free to anyone agreeing to demonstrate their quality to friends; that he will pay up to \$22 a week for demonstrating silk hosiery; that valuable demonstrating equipment will be sent and

given free of cost to persons requesting it; that his chiffon silk hose are "snag-proofed" and will not under any circumstances snag; that he operates a large factory, pictured in an advertisement, which is devoted exclusively to the manufacture of silk hosiery, and that purchasers of the respondent's hose deal directly with the respondent without intervention of any middleman.

The complaint alleges that these representations are false and misleading. (4109)

#### **American Silk Hosiery Mills—See American Mills.**

**Louis Baskind & Company, Inc.**—Alleging misrepresentation in the sale and distribution of shirts, a complaint has been issued against Louis Baskind and Company, Inc., 1220 Broadway, New York.

Representations attached to the respondent's products allegedly indicated that they are "fully pre-shrunk"; that the buttons on the shirts are genuine ocean water pearl buttons, and that the shirts are of superior grade or quality. The complaint alleges that these representations were misleading because the respondent's shirts will shrink appreciably when subjected to ordinary laundering; the buttons are not genuine ocean water pearl buttons but are fresh water pearl buttons, which are of lower quality, and the shirts are not of superior grade or quality.

The respondent also is alleged to have used the term "Silken-spun" to designate its shirts, when in fact they contain no silk but are made entirely of cotton. (4095)

**Hiram Carter, Inc.**, and S. Fred Griffin, president and principal owner of the corporation, 5706 Hoffman Drive, Elmhurst, Long Island, N. Y., engaged in the sale and distribution of medicinal preparations designated "Old Surgeon's," "Old Surgeon's Remedy" and "Old Surgeon's Double Duty Remedy," are charged in a complaint with misrepresentation.

In circulars, pamphlets and other printed and written matter distributed throughout the States, the complaint alleges, the respondents have disseminated, among other things, pictures of a dejected, haggard, worried-looking man, followed by pictures, apparently of the same man, in robust health and in a bright, gay and cheerful mood, with the following statements directly underneath:

"He's listless and low, sleeps poorly, nerves on edge, bothered with indigestion and sundry aches and pains, but worst of all his strength seems to have ebbed away so he's only half the man he used to be."

"Back on the job again feeling tip top. Hard work means nothing now—and after a good day's work he feels like going out evenings for a good time. Life is worth living once more. He tells all his friends about Old Surgeon's and he's sending his photograph and testimonial for the benefit of others who need the same kind of help. His message is 'Go thou and do likewise.'"

Through these and other representations, the complaint charges, the respondents have represented that their preparations are a cure or remedy for impotence or lost energy, indigestion, rheumatism, asthenia, neurasthenia, gout, sciatica, general debility, neuritis and arthritis, and that the price at which the preparations are offered is a special or reduced price much less than that at which they are customarily offered for sale. (4101)

**Julian S. Cohn**, 260 Fourth Ave., New York, engaged in the sale and distribution of handkerchiefs, is charged in a complaint with misrepresentation.

The complaint alleges that the respondent has represented, in the solicitation of orders for his handkerchiefs, that he is a "manufacturer of handkerchiefs." Use of the term or of the word "manufacturer," the complaint charges, is a representation that the respondent owns, operates or controls a factory or mill wherein the product which he offers for sale or sells is made or manufactured, when in fact he does not make or manufacture any of his products, but has them made elsewhere under contracts. The complaint points out that there is a common belief among purchasers that they save the middleman's profit and obtain other advantages by purchasing directly from the manufacturer. (4106)

#### **Chocolate Confections Company—Merrick National Company.**

**Evans Candy House**—William C. Evans, trading as Evans Candy House, 309 Marietta St., Atlanta, engaged in the sale and

distribution of candy to dealers, is charged with the distribution to dealers of certain assortments of candy so packed and assembled as to involve the use of a game of chance or lottery scheme when the product is sold or distributed to ultimate consumers. One of these assortments, the complaint charges, consists of a number of bars of candy together with a device commonly called a push card. The complaint alleges that each purchaser selects and removes a numbered disc from the push card, paying in cents the amount of the number contained in the disc, and receives a bar of candy. Each bar allegedly has a retail value greater than many of the prices to be paid therefor, and the amounts to be paid for the candy are thus determined wholly by lot or chance. (4102)

**Globe-Union, Inc.**—Charging price discrimination in violation of the Robinson-Patman Act in the sale of radio volume and tone controls a complaint has been issued against Globe-Union, Inc., 900 East Keefe Ave., Milwaukee, manufacturer of storage batteries and radio accessories.

The complaint alleges that the respondent corporation sold its radio tone and volume controls at widely varying prices, discriminating in price between certain radio manufacturers and accessory jobbers.

It is alleged that the respondent sold controls to Belmont Radio Corporation and Wells-Gardner & Co., Chicago radio set manufacturers, at prices ranging from 10 to 20 cents each, and that it charged radio accessory jobbers for products of like grade and quality prices varying from 36 to 72 cents per control.

The jobbers, it is alleged, then sold the Globe-Union, Inc., tone and volume controls to dealers (radio repairmen) at prices ranging from 60 cents to \$1.20.

It is alleged that Belmont Radio Corporation and Wells-Gardner & Co., who sell radio sets to Montgomery Ward & Co., Inc., resold the controls they purchased from the respondent corporation to the Chicago mail order house at prices ranging from 12 to 24 cents a control, and that Montgomery Ward & Co., Inc., distributed these products in the same territories and places as, and in competition with, dealers who purchased the respondent's controls from jobbers.

The effect of the discriminations, according to the complaint, has been and may be to destroy and prevent competition with Montgomery Ward & Co.

The complaint points out that during 1938 the respondent company sold more than 2,600,000 tone and volume controls to radio manufacturers for original equipment of radios, and in excess of 500,000 tone and volume controls for replacement or original equipment. (4103)

**Hills Brothers Company**—Alleging a combination and conspiracy to restrain trade and create a monopoly in the sale in the United States of dates grown in the Kingdoms of Iraq and Iran a complaint has been issued against several foreign and American importers, distributors and agents.

Respondents are: Hills Brothers Company, 110 Washington St., New York, importer of Iraq dates which it sells under the trade name of "Dromedary"; T. A. Suren, proprietor of E. Suren, an English private company selling and distributing dates, with headquarters in London, England; Hund Steinharter and Lester Nordlinger, trading as Steinharter & Nordlinger, 99 Hudson St., New York, United States agents for E. Suren; Joseph Essaye, 99 Hudson St., New York, agent for E. Suren; United Africa Company, Ltd., an English private company, London, England, importer and distributor; W. A. West and Balfour, Guthrie & Co., Ltd., 67 Wall St., New York, agents for United Africa Company, Ltd.; Persian Gulf Products Company, 67 Wall St., New York (wholly owned subsidiary of Lebanon Trading Company, Ltd., Freetown, West Africa, which in turn is owned and controlled by United Africa Company, Ltd.), and Andrew Weir, proprietor of Andrew Weir & Co., an English private company, London, England.

The complaint points out that Iraq produces about 80 per cent of the world's supply of dates, including approximately 83 per cent of those consumed in the United States in the last four or five years, and that most of the remainder originate in Iran (Persia) and in California. From 700,000 to 900,000 cases of dates, averaging in weight about 70 pounds per case, the complaint continues, have been imported into the United States yearly for several years, and of this quantity the respondent Hills Brothers Company has imported and sold annually about 200,000 cases, or 14,000,000 pounds, and the respondents E. Suren, and United Africa Company, Ltd., have imported and sold most of the remainder.

The complaint alleges that early in 1939 the Kingdom of Iraq entered into a five-year agreement with the respondent Andrew Weir & Co., London, which provided, among other things, that the respondent should have the exclusive right to purchase all dates grown in Iraq for export, and that that firm in turn should buy from the growers in Iraq a specified quantity of dates at specified prices for export.

It is alleged that, pursuant to an understanding, agreement and conspiracy entered into by the respondents in May, 1939, the respondent Andrew Weir & Co. sells specified quantities of Iraq dates at specified prices exclusively to the respondents E. Suren, United Africa Company, Ltd., and Hills Brothers Company for United States importation and distribution, and refrains from selling dates to others to fill United States demands; and that the respondents E. Suren, United Africa Company, Ltd. and Hills Brothers together fix the price at which they will sell Iraq dates in the United States to the wholesale and retail trade and the general public.

It is further alleged that, through mutual agreement, Hills Brothers Company, United Africa Company, Ltd., and E. Suren, since May 15, 1939, have purchased Iraq dates from Andrew Weir & Co. for sale in the United States only upon the condition that the Weir firm sell dates exclusively to them for the United States trade, and that they have agreed with Weir and amongst themselves that they will not import into the United States dates grown in Iran.

The complaint also alleges that the respondents, by their own and their representatives' acts, have brought about within the United States certain results forbidden by United States laws; that there is no longer any competition in the sale of Iraq dates in the United States, and that the prices are fixed at arbitrary levels. (4105)

**Imperial Knife Company, Inc.**—Complaints have been issued against seven cutlery manufacturing corporations alleging that they have sold pocket knives of such design and appearance that, when marked or labeled by use of the word "Scout," "Boy Scout," or other marks or insignia characteristic of The Boy Scouts of America, the tendency is to induce buyers to believe that the respondents' products have been endorsed by that organization and are a part of its standard equipment.

Respondent manufacturers are: Imperial Knife Company, Inc., and Colonial Knife, Company, Inc., Providence, R. I.; Utica Cutlery Company, Utica, N. Y.; Schrade Cutlery Company, Walden, N. Y.; W. R. Case & Sons Cutlery Company, Bradford, Pa.; Robeson-Rochester Corporation, Rochester, N. Y., and H. Boker & Co., Inc., New York.

The complaints point out that while The Boy Scouts of America supervises and licenses the manufacture of certain equipment which is marked or labeled by use of words such as "Boy Scout," "Scout," or "Scouting," it has not taken such action with respect to the respondents' pocket knives nor has it endorsed or sponsored them. (4115-4116-4117-4118-4119-4120-4121)

**Robert A. Johnston Company**, 4023 West National Ave., Milwaukee, which maintains a branch office at 437 Eleventh Ave., New York, is engaged in the manufacture and sale of candy. The complaint alleges that the respondent sells to dealers certain assortments of candy so packed and assembled as to involve the use of a game of chance or lottery scheme when sold or distributed to ultimate consumers.

The plan is alleged to be as follows: One of the assortments consists of a number of boxes or packages of candy, with an additional article of merchandise, together with a device commonly called a punch board. The board bears statements or legends informing purchasers and prospective purchasers that the person selecting a certain designated number receives a basket of candy; that persons selecting certain other designated numbers receive boxes of candy of varying sizes, and that the person selecting the last number on the board receives the additional article of merchandise. Purchasers who do not punch the designated numbers receive nothing for their money. The numbers are effectively concealed from purchasers until slips of paper have been punched or removed from the board, and the fact as to which package or box of candy the purchaser is to receive, if any, is thus determined wholly by lot or chance. (4104)

**Merrick National Company**—Montague L. and Edna H. Merrick, trading as Merrick National Company and Chocolate Confections Company, 617 Washington Ave. North, Minneapolis, engaged in the sale and distribution of candy to dealers, are charged

with selling to dealers assortments of candy so packed and assembled as to involve the use of a game of chance, gift enterprise or lottery scheme when the candy is sold to ultimate consumers. One assortment allegedly consists of a number of small pieces of candy of uniform size, a number of bars of candy and a giant loaf of candy. A majority of the smaller pieces of candy have centers of a certain color, a minority having centers of a different color. The colors are alleged to be concealed from purchasers until a purchase is made and the piece of candy broken open. Purchasers of the differently colored pieces receive, without additional charge, the larger bars of candy, and the buyer of the last piece of candy obtains the giant loaf, according to the complaint. The respondents are also charged with distributing assortments of candy together with a push card by means of which prizes are allotted. (4097)

**Milford Rivet & Machine Company**, Milford, Conn., Judson L. Thomson Manufacturing Company, Waltham, Mass., and Tubular Rivet & Stud Company, Boston, have each been served with a complaint alleging violation of the "exclusive dealing" section of the Clayton Act (Section 3).

The complaints point out that these corporations manufacture and lease and license the use of rivet-setting machines, and manufacture tubular and bifurcated rivets. It is alleged that the Thomson company manufactures approximately 40 per cent of the rivet-setting machines and about 30 per cent of the tubular and bifurcated rivets entering interstate commerce; that the Tubular Rivet company makes approximately 35 per cent of the rivet-setting machines and about 25 per cent of the tubular and bifurcated rivets, and that the Milford company is also an important member of the industry.

It is further alleged that each respondent company leased and licensed its rivet-setting machines on and with the condition, agreement or understanding that the lessees or licensees thereof would use such respondent's rivet-setting machines only for setting rivets manufactured by that respondent company or sold under its authority, and on the further condition, agreement or understanding that the lessees or licensees allow such respondent or its agent to inspect the machines at all reasonable times.

The effect of the provisions in the license and lease agreements, it is alleged, may be to substantially lessen competition or tend to create a monopoly in each respondent in tubular and bifurcated rivets in interstate commerce. (4110-4111-4113)

**P. R. Mitchell Company**, 2201 Spring Grove Ave., Cincinnati, engaged in manufacturing, selling and distributing pillows, bedding and like products, is charged in a complaint with misrepresentation.

In pamphlets, circulars, advertising folders and other material circulated throughout the United States, the complaint charges, the respondent has made representations such as:

"FINE DOWN PILLOWS

SPECIAL \$4.99—size 21" x 27"

Here's the pillow you've always wanted—soft luxurious snow white goose down—at a price you can't afford to pass by."

"\* \* \* not just 'Down', but the finest quality, to give you years of comfort and service \* \* \*"

"Best of all, you can have these superb pillows, not for the \$9.00; \$8.00 or \$7.00 you've always expected to pay for such a luxury product, but for \$4.99 complete, if you act now, to take advantage of this special sale."

"GUARANTEE

This Pillow Contains

ALL NEW DOWN"

"With our process the down is so purified and Sterilized it is soft and fluffy and will give maximum comfort."

The complaint charges that the respondent's pillows contain a large percentage of goose feathers and chicken feathers; that the filling is not composed entirely of white goose down, and that the price of \$4.99 at which the respondent sells the pillows is not a reduced or special price, but is the usual, regular and customary retail selling price of the pillows at all times. (4100)

**Oak Lane Candy Company**, York, Pa., sellers and distributors of candy and peanuts to dealers, are charged with distributing assortments of candy together with push cards. Persons selecting

certain designated numbers allegedly receive pieces of candy which have retail values in excess of the amounts to be paid for them. (4099)

**Rogers Redemption Bureau**—See Rogers Silverware Exchange.

**Rogers Silverware Exchange**—Misleading and deceptive representations in the sale to retail merchants of promotion plans, consisting of gift cards, advertising material and silverware are alleged in a complaint issued against J. L. Ramsay and G. P. Masters, trading as Rogers Silverware Exchange and as Rogers Redemption Bureau, St. Louis.

Use of the trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" constituted a deceptive representation that the respondents' business was connected with Oneida, Ltd., manufacturer of "Wm. A. Rogers Silverware," when such was not a fact, according to the complaint.

The complaint also alleges that the respondents or their agents represented that by means of their sales stimulator plan as sold to retail merchants the respondents were conducting an advertising campaign for the makers of Rogers silverware, when in fact the plan was not sponsored by Oneida, Ltd., but was used solely by the respondents as a means of selling their so-called gift cards.

Under written contracts obtained by the respondents from retail merchants in connection with the sales stimulating plan, it is alleged, agreements were made that the merchants would purchase gift cards at \$4 a thousand for distribution to their own customers buying merchandise; that the respondents would redeem specified numbers of such cards by sending to a merchant's customer a designated number of Rogers silverware pieces packed in units of six pieces; that when 25 per cent of a merchant's consignment of gift cards had been forwarded for redemption the respondents would make a cash refund to the merchant at the rate of \$4 a thousand cards so forwarded, and that the respondents would supply the merchant without cost a 26-piece silverware set to be used for display purposes and to remain as the merchant's property.

The complaint charges that the provisions of the written contract with respect to the number of cards required for obtaining silverware were couched in ambiguous and deceptive language which enabled the respondents and their agents to deceive prospective purchasers of gift cards; that in many instances the respondents failed to redeem the gift cards in silverware; that in many instances they did not forward to the holder of such cards a unit of six pieces of silverware but required the forwarding of six times the designated number of cards; that in many instances they failed to supply dealers with silverware sets as promised, and that they did not make to dealers the cash refunds provided for in the contracts. (4094)

**Royal Metal Manufacturing Co.**, 175 North Michigan Ave., Chicago, engaged in the manufacture, sale and distribution of household, office and trade furniture, with a factory located at Michigan City, Ind., is charged, in a complaint, with misrepresentation concerning its products.

In magazines and other publications, the complaint charges, the respondent, in describing its products, makes use of the following terms, and others of similar nature and import: "Chrome," "Chromium" and "Chromium Steel." The terms "Chrome" and "Chromium," the complaint alleges, are generally understood by the purchasing public to be applicable solely to a steel alloy made by combining carbon steel with chromium. Chromium (or chrome) steel, the complaint points out, is a much more expensive and valuable product than plain carbon steel, and combines intense hardness with a high elastic limit, while possessing unusual wearing qualities. In truth, the complaint charges, the respondent's furniture is not made of the steel alloy commonly known as chromium steel or chrome steel, but, on the contrary, is made of plain carbon steel with only a plating of chromium. (4107)

**C. H. Stallman & Son, Inc.**, 31 West Philadelphia St., York, Pa., engaged in the sale and distribution of cigars, candy and other merchandise, is charged with selling to dealers assortments of merchandise, together with devices commonly called punch boards and push cards. One of the assortments allegedly consists of a number of cigars together with a punch board which bears a legend informing purchasers and prospective purchasers that persons select-

ing certain designated numbers receive 10 cigars each. Purchasers of other numbers, it is alleged, receive 1, 3 or 5 cigars, but those not successful in selecting one of the designated numbers receive nothing for their money. (4096)

**Stiefel Medicinal Soap Company**—Misrepresentation is charged in a complaint against Stiefel Medicinal Soap Company and August Stiefel, Preston Hollow, N. Y., sellers and distributors of medicinal soaps.

The complaint alleges that August Stiefel, president of the corporation, was, until 1936, the exclusive sales agent in the United States of J. D. Stiefel, Offenbach-on-the-Main, Germany, manufacturer of medicinal soaps which have been imported into the United States and sold extensively to members of the medical profession and the purchasing public. After the sales agency was withdrawn from the respondent, August Stiefel, in 1936, the complaint continues, the respondent organized the Stiefel Medicinal Soap Company, formerly located at Montclair, N. J., and entered into the sale and distribution of soaps other than those produced by the German concern.

In advertisements in trade journals and other periodicals, and by means of circulars, price lists and other advertising material, the respondent is alleged to have represented, among other things—

"Domestic manufacture, with most modern methods and equipment, coupled with the elimination of import duties and foreign exchange disadvantages, permits us to reduce our prices, effective with this issue of our price list.

"The traditionally high quality of our products, which the Medical Profession of the United States has relied on for over half a century, has been fully maintained in our domestic products. In order to avoid substitution, please specify STIEFEL'S Medicinal Soaps always when ordering from your wholesaler."

In addition to these and other representations, the complaint continues, the respondents package and sell their products in cartons and with labels similar in size, color and printed matter to the cartons and labels used by the J. D. Stiefel concern of Offenbach-on-the-Main, Germany.

Through the use of these representations and practices, the complaint charges, the respondents represent that their business is a part of or is connected with the German firm, and that the products distributed by them are the products of the German manufacturer and are identical in character and quality. In truth, the complaint alleges, the respondent corporation is in no way connected with the German concern, and aside from a small quantity of soaps which August Stiefel had on hand when the sales agency was withdrawn from him, the respondents have sold none of the J. D. Stiefel soaps since 1936, but obtain their products from other sources. (4098)

**Judson L. Thomson Mfg. Co.**—See Milford Rivet & Machine Co.

**Tubular Rivet & Stud Company**—See Rivet & Machine Co.

**Wamill Quilt Factories**—Walter L. Miller, trading as Wamill Quilt Factories, is charged in a complaint with misrepresentation.

The respondent, with office and place of business at 1026 Seventeenth St., Denver, Colo., is engaged in the business of manufacturing, selling and distributing quilts, comforts, bedding and like products.

Through various advertising mediums, the complaint charges, the respondent has represented, among other things:

"Wamill Feather and Down Quilts—50% finest Goose Down, 50% finest Feather Down (quills out). Regular price \$37.50; sale price, 2 for \$37.50 \* \* \* \$37.50 for 2, \$18.95 for one."

"Research work \* \* \* testing, surveying \* \* \* for years was secretly carried on to find the elements that could possibly combine to form the ideal."

"This work necessitated developing special manufacturing processes and machines; raw materials were tried, changed, discarded for others. Finally all these elements essential to the ideal quilt were developed."

The complaint points out that "down" means the under coating of water fowl, consisting of the light, fluffy filaments growing from one quill point, but without any quill shaft. It is alleged that there is no such thing as "feather down"; that the respondent does not maintain a laboratory fully equipped with facilities for

experimenting with and testing quilts and like products; that the quilts are not filled with 50 per cent goose down and 50 per cent feather down; that they are not extra large in size, light of weight and extra warm, or free from lint, and that the quilts have never had the usual, customary and regular retail sales prices of \$37.50, the purported introductory half-price of \$18.95 being in fact the usual, regular and customary retail selling price of the respondent's quilts at all times. (4108)

### CEASE AND DESIST ORDERS

Following cease and desist orders have been issued during the past week:

**Kaufmann Bros. & Bondy, Inc.**, West New York, N. J., distributor of smoking pipes and other merchandise, has been ordered to discontinue lottery methods in the sale of its products.

The Commission order directs the respondent to cease and desist from (1) selling and distributing merchandise so packed and assembled that sales to the public are to be made by means of a game of chance; (2) supplying to or placing in the hands of others (a) merchandise together with push or pull cards, punch boards or other lottery devices, or (b) such devices either with assortments of merchandise or separately, which devices are to be or may be used in selling any merchandise to the public, and (3) selling or otherwise disposing of any merchandise by the use of such lottery devices. (3881)

**McKinley-Roosevelt College of Arts and Sciences**, Chicago correspondence school, has been ordered to cease and desist from certain unfair competitive methods and deceptive practices in the sale of home study instruction courses in education, writing, psychology, chemistry, business and other subjects.

The order directs the respondent McKinley-Roosevelt College of Arts and Sciences to cease and desist from using the words "College" or "University" in its corporate or trade name, and from representing, through use of such words in its official name or in advertising literature or otherwise, that its business is that of a university, college or institution of higher learning. The respondent also is directed to desist from representing, through use of symbols indicating academic degrees or by any other means, that members of its faculty are educators duly qualified by higher education, when the degrees so indicated are not the result of study pursued in residence at recognized colleges or universities duly authorized to grant the respective degrees indicated, or when the symbols used do not represent degrees actually granted by such institutions to the respondent's faculty members, or when the persons receiving such degrees are not teachers, educators, or persons of high educational attainment. (3571)

### STIPULATIONS

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

**Absorene Mfg. Co.**, 1609 North 14th St., St. Louis, stipulates that it will cease representing its product "Abso Crystals" as being capable of whitening clothes perfectly or naturally, as giving longer life to fabrics, as making clothes whiter with less washing or rinsing, as being superior to soap or soap powders, and as being the most powerful water softener ever discovered by chemists and the most effective or economical cleanser or cleaner for all house cleaning, laundry and bath. The respondent also agrees to cease representing that "Absorene" sanitizes the atmosphere for healthful cleaning or that it does not crumble. (02548)

**Bowey's, Inc.**, 401 West Superior St., Chicago, has entered into a stipulation in which it agrees to cease certain representations in the sale of its "Dari-Rich Syrup."

The respondent agrees to discontinue advertising that a drink prepared by dairies and others from its "Dari-Rich" chocolate flavored syrup, is made of milk, or otherwise representing that it is made of whole milk. The stipulation does not inhibit Bowey's,

Inc., from representing the finished drink to be milk or made of whole milk in localities where whole milk is used by dairies and others in the preparation of the respondent's product.

Under its stipulation, the respondent also agrees to cease representing that the drink prepared by dairies and others from its syrup is a chocolate drink or is chocolate milk; that it is an aid to so-called "beauty diets" and that it contains 100 per cent more energy value than other beverages, unless a direct comparison is made with a beverage specifically mentioned, the energy value of which has been determined scientifically.

The respondent also agrees to desist from advertising that the drink will not lessen mealtime appetite if consumed between meals, and that it is a health-building drink. (02550)

**Brigham Oil Burner Company**—See Diagraph-Bradley Stencil Machine Co.

**Diagraph-Bradley Stencil Machine Corporation**, trading as Brigham Oil Burner Company, 3745 Forest Park Blvd., St. Louis, has entered into a stipulation in which it agrees to cease certain representations in the sale of oil burners of the so-called "blue flame" type for installation in stoves and ranges.

In its advertising matter, the respondent corporation, according to the stipulation, represented its product as a "new invention" which "burns 96 per cent air, 4 per cent of a cheaper variety of oil obtainable everywhere" and provides "cheaper heat without coal," and "quick, clean violent heat \* \* \* 3 times hotter than coal, and cheaper."

The stipulation points out that the respondent's device is not new; that the greater proportion of air to oil consumed in the device is not of substantial, if any, difference from the proportion of air to oil generally consumed in other oil burners, and that the fuel oil consumed in the device is not cheaper in all sections of the country.

Under its stipulation, the respondent agrees to cease the foregoing representations and to discontinue advertising that there is scientific basis for its claims; that all features of its device, including lighting, are automatic; that exclusive trade territory is reserved to each of the respondent's agents, and that its agents or salesmen can make profits or earnings within a specified time which are in excess of the average net profits or earnings of the respondent's full-time agents under normal conditions in a like period of time. (2766)

**Eagle Pencil Company, Inc.**, 703 East 13th St., New York, has entered into a stipulation in which it agrees to cease certain representations in the sale of pens.

The respondent stipulates that it will discontinue use of the descriptive designation "Iridoid" as applied to pen points, and will cease use of this word or any other coined or fictitious expression the effect of which is to imply that the pen points so designated are made of or tipped with any purported substance having special or exceptional qualities.

The stipulation points out that certain of the respondent's pen points advertised as being equipped with "Spherical Iridoid Tip" were in fact made of chromium steel or stainless steel alloy; that there is no substance known to science or industry as "Iridoid," and that the tips of the pens thus designated did not contain any added valuable ingredient as implied. (2762)

**Earnshaw Knitting Company**, Newton, Mass., distributor of hosiery and garments, including diapers known by the trade name "Vanta," stipulates that in the sale of its packaged products, it will cease use on its cartons or in advertising matter of the word "Sterilized" or any other word of similar implication as descriptive of products which are not in a state of sterility at the time of their removal from the package by the purchaser, and from use of such word in any manner tending to convey the idea that the products are free from pathogenic bacteria and other micro-organisms at the time of their removal from the package by the purchaser. The stipulation points out that diapers sold by the respondent had been subjected to sterilization processes at the plant but had not been so packaged and treated as to remain sterile or free from bacteria at or until the time of their removal from the package by the purchaser. (2760)

**Falls Rubber Company of Akron, Inc.**, Findlay, Ohio, manufacturing and distributing automobile tires, has entered into a

stipulation in which it agrees to desist, in connection with the sale or distribution of certain of its tires, from marking, stamping, branding or labeling such tires with either the phrase "Silent Safety Six" or "Heavy Duty 6," or with any other phrase of similar implication tending to convey the belief that the tires so referred to are composed, constructed or equipped with six plies. The corporation also agrees to cease and desist from use on its tires or the wrappings thereof, or in connection with the advertisement, sale or distribution of such tires, of any mark, stamp, brand or label which imports or implies that such tires contain more plies in their construction than they actually contain. (2770)

**Elam G. Hess, Manheim, Pa.**, in the sale of "Kano", a food product previously known as "Pecano," agrees to cease advertising that a comparison of the number of calories contained in his product with that contained in other foods is a correct basis for comparison of their respective nourishing values; that the food value of "Pecano" or "Kano" is to any extent greater than that of other specified food, when such comparison is not based on measurable units; that the product supplies more nourishing value than does either beefsteak, eggs, whole milk or fish; that it costs less than other specified foods, unless such representation is accompanied by a complete statement of the basis for the purported price comparison; that it is the best source of tissue building material, and revitalizes or recleanses one's body, and that it is effective in treating malnutrition in all cases or in cases which may be due to causes other than a deficiency of the food elements supplied by this product. (02546)

**Hodges Candy Company**—See Klotz Confection Company.

**Klotz Confection Company**—F. C. Klotz, Jr., trading as Klotz Confection Company, 731 Brent St., Louisville, Ky., Mark D. Hodges, trading as Hodges Candy Company, Milledgeville, Ga., and Gorton Cigar and Candy Company, Flora, Ill., a dealer in candy, pipes and cigarettes, have agreed to cease using lottery methods in the sale of their products.

Under their stipulations the respondents agree to cease and desist from (1) selling or distributing their merchandise so packed and assembled that sales to the public are to be or may be made by means of a lottery scheme or gift enterprise; (2) supplying to or placing in the hands of others (a) assortments of their merchandise together with push or pull cards, punch boards or other lottery devices, or (b) such devices either with assortments of merchandise or separately, which devices are to be or may be used in selling such merchandise to the public, and (3) selling or otherwise disposing of any merchandise by means of such lottery devices. (2765-2768-2769)

**Lilly Products Company, Inc.**, Attleboro, Mass., insecticide manufacturer, has entered into a stipulation in which it agrees to cease certain representations in the sale of its arsenical preparation "Ant Cups," designed for use as an ant and roach eliminator.

The respondent company agrees to cease selling its insecticides placed in containers simulating the dress or appearance of containers in which similar merchandise is sold by a competitor, with a tendency to deceive purchasers into believing that its merchandise is that of a competitor.

The stipulation recites that Lilly Products Company, Inc., sold its "Ant Cups" in packages similar in dress and appearance to those containing "Ant Buttons" sold by Harris Products Company, Miami, Fla., and that the resulting tendency was for purchasers to confuse the two products. The Miami company's product, in its characteristic container, had become well identified in the public mind and had been on the market for several years prior to the appearance of the Lilly company's preparation, according to the stipulation. (2764)

**Magic Iron Cement Company**—Herman J. Reich and A. W. Render, trading as Magic Iron Cement Company, Cleveland, Ohio, in the sale of their "Magic" casein glue, agree to cease employing in advertising matter the word "Waterproof" or any words of similar meaning or implication as descriptive of their glue which is not waterproof, and to desist from the use of such word in any manner conveying the impression that their product is impervious to water or its effects. (2773)

**Mystic Laboratories, Inc.**, 257 Cornelison Ave., Jersey City, N. J., in the sale of "Mystic Cream," stipulates that it will cease representing that the product is an amazing or scientific development, or that, when rubbed on the hands, it will cause them to be as soft or as white as the hands of a child, or that it will cause any immediate transformation in the condition of the skin. The respondent also agrees to desist from representing that the product has any other than a temporary effect upon the skin unless used regularly, or unless such representations are limited to rough, red or chapped hands. (02547)

**New York Handkerchief Manufacturing Company**, 1015 West Adams St., Chicago, agrees to desist from the use, directly or indirectly, of the terms "Pre-Shrunk" or "Shrunk" or representations of like effect as descriptive of its goods when they are not shrink-proof or non-shrinkable, or have not been fully shrunk or pre-shrunk to the extent that no residual shrinkage is left remaining in them. The stipulation provides that if the terms "Pre-Shrunk" or "Shrunk" are used properly to indicate that such goods have undergone a shrinkage process and have been shrunk to a substantial extent but there remains some residual shrinkage, then such term or word shall be accompanied by an explanatory statement of the percentage of residual shrinkage remaining in both the warp and the filling, or in the warp or the filling, whichever has the greater residual shrinkage; for example, "Pre-Shrunk (or shrunk)—will not shrink more than —%". The percentage of residual shrinkage so designated is not to be less than the percentage shown under recognized and reliable test methods such as Commercial Standard CS59-39. (2759)

**Nu-Enamel Corporation**, Cleveland, Ohio, stipulates that it will desist from representing that "Nu-Enamel Enamelized Paint" is the first basic improvement in house paint in more than 400 years; that the respondent corporation was the first to discover the process for using tung oil as a base for paint, enamel and varnish; that "Nu-Enamel Enamelized Paint" will last three times as long as lead and oil paints; that lead and oil paint, or "even the best grade" thereof, produces a "shocking" appearance or that the three basic ingredients of Nu-Enamel possess certain distinct virtues not found in ordinary lead and oil paint. (2767)

**Perry-Field Tire & Rubber Company**, 2328 South Michigan Ave., Chicago, and Herman M. and Alfred A. Bilski and Wolf Levy, have entered into a stipulation to discontinue certain representations in the sale of used automobile tires.

The respondents agree to discontinue using the word "reconditioned" or any other word of similar import, without qualification, or the picturization of tires purportedly equipped with treads simulating those of new tires, or of such picturization in connection with the unqualified word "reconditioned", the effect of which may convey the belief to purchasers that tires to be furnished them will be equipped with treads like those on new tires, or that the treads of such tires will be of such sound condition as the pictured treads, namely, the treads on new tires. The stipulation points out that the treads of tires sold in numerous instances by the respondents had not been restored to new tire condition or to the condition as portrayed in the advertising.

Other representations to be discontinued are use of any statement or so-called agreement purporting to assure a continuity of service from tires which is improbable, and use of the phrase "for a limited time only" or words of similar meaning in connection with an alleged gift offer of merchandise, when in fact such gift offer is an ordinary and usual one, made in the normal course of business.

The respondents agree to cease requiring customers who seek to avail themselves of an advertised 12-months service, to ship their tires to the respondents' Chicago office for inspection and pay the transportation costs, unless the fact that such conditions are imposed and such charges made is clearly set forth in the advertisement. (2763)

**Pioneer Publications, Inc.**, R.K.O. Building, Rockefeller Center, New York, sells books entitled "Eugenics and Sex Harmony" and "New Birth Control Facts." The stipulation recites that in its advertising this corporation represented that the method outlined in "New Birth Control Facts" is dependable as a means of avoiding and of causing conception, and that the book contains a table of periods during which conception is impossible. In its

stipulation the respondent admitted that as to a substantial number of persons the method outlined is not effective, and that for a substantial number there is at present no way of exactly computing the periods in which conception is impossible. The respondent agrees to cease representing that the method outlined is dependable in bringing about or avoiding conception, and that the book contains a table or information, which, if followed, enables all users to compute a safe period. (02549)

**Rothenberg and Schloss Cigar Company**, Kansas City, Mo., in connection with the sale and distribution of its cigars, tobacco and pipes in commerce, has agreed to cease and desist from supplying to or placing in the hands of others, cigars, tobacco and pipes or other merchandise, together with punch boards, push or pull cards or other lottery devices, which devices are to be or may be used in selling or distributing such merchandise to the general public; supplying to or placing in the hands of others punch boards, push or pull cards or other lottery devices either with cigars, tobacco and pipes or other merchandise, or separately, which lottery devices are to be or may be used in selling or distributing such merchandise to the general public, and selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme. (2771)

**Sabbagh Brothers, Inc.**, 230 Fifth Ave., New York, a distributor of decorative linens and handkerchiefs, agrees to cease using the word "Manufacturers" as descriptive of its business and to discontinue representing that it has factories in Chefoo, Swatow, or Shanghai, China, or elsewhere, when such is not a fact. (2758)

**A. Zaphirio & Company**—Peter Zaphirio, trading as A. Zaphirio & Co., Chicago, Ill., engaged in the sale and distribution of cigarettes under his private brand of "Zaphirio," agrees to cease and desist from (a) use of the word "Manufacturers" as descriptive of his business, or of the legend "Fac. No. 335, 2nd Dist. N. Y.," in a manner importing or implying that such factory is his own, and from use of any other words of similar implication tending to convey the belief that he makes or manufactures the products sold by him, or that he actually owns and operates or directly and absolutely controls the plant or factory in which such products are made or manufactured; (b) representing that the cigarettes sold by him are "blended from our own direct importation of choice Turkish tobacco," or in any other way representing that he is an importer of such tobacco or of any other

commodity, and (c) representing that he has branch places of business in New York or in Cavalla, Macedonia, or elsewhere. (2772)

## FTC CASES CLOSED

The Federal Trade Commission has closed without prejudice its case against Tanen Shirt Company, Inc., 596 Broadway, New York, charged with misleading representations in the sale of men's shirts.

The closing order recites that the respondent has discontinued the unfair practices alleged in the Commission's complaint and has agreed to accept and abide by the rules of fair trade practice concerning shrinkage of woven cotton yard goods promulgated by the Commission June 30, 1938.

Closing of the case was ordered without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.

The Commission has also dismissed a complaint charging Paul S. Hervey, trading as Aldine Dental Stationers, Des Moines, Iowa, with misleading representations in the sale of stationery.

The Commission also has dismissed a complaint issued against the late Daniel A. Brennan, who had maintained an office at 10 South LaSalle St., Chicago, and Acco Products, Inc., 39th Ave. and 24th St., Long Island City, N. Y., paper fastener manufacturer, who had been charged with a combination and conspiracy tending to suppress competition and create monopoly in the sale of paper fasteners.

The Commission has made findings as to the facts in the case, based on the respondents' acts and practices up to the time of the death of the respondent Brennan on February 15, 1940, and has concluded that these acts and practices had a tendency to prevent competition and restrain interstate trade in paper fasteners.

Commission findings are that the respondent Brennan, who had been a Chicago patent attorney and also an inventor, had obtained patents for certain paper fasteners and licensed Acco Products, Inc., to manufacture and sell paper fasteners under his patents, and that under an agreement entered into between the respondent Brennan and Acco Products, Inc., they had cooperated and conspired in circularizing other paper fastener manufacturers and retailers, by means of letters in the respondent Brennan's name, threatening suit for infringement of patents owned by Brennan. The findings are further that such letters had not been written in good faith; that the respondent Brennan had never instituted any such infringement suits, and that the purpose of the letters had been to enhance the sale of the Acco company's products and to harass Acco's competitors.





## BMI Developments

Don Searle notified Neville Miller this week that Stations KOIL, Omaha, and KFAB and KFOR, Lincoln, were subscribing to BMI.

Station WWJ, Detroit, and WPID, Petersburg, Va., are other recent subscribers.

Appointment of George Marlo as professional manager of Broadcast Music, Inc., was announced May 7 by M. E. Tompkins, general manager of BMI. Mr. Marlo is at present manager of the Crawford Music Corporation and was recently elected president of the newly organized Music Publishers Contact Employes Union, an affiliate of the American Federation of Labor. Mr. Marlo will take up his new duties on Monday, May 13th.

In making the announcement Mr. Tompkins said: "This is the appointment the amusement industry has been waiting to hear. Mr. Marlo knows the popular music business as few other men in the country. He is respected by the music industry, composers, and performing artists alike."

Mr. Marlo began his career with De Sylva, Brown & Henderson in 1928. Two years later he organized his own publishing house, Marlo Music. In 1932 he was with the Paramount group for a short time before going to Warner Brothers in charge of the Remick catalogue, where he remained until 1936 when he revived Marlo Music. In 1937 he sold Marlo Music to the Dreyfuss interests and went with them in charge of Chappell Music Co. He has been with these companies ever since in different capacities, most recently as manager of Crawford Music.

In discussing his affiliation with Broadcast Music, Mr. Marlo said: "What I think of BMI is indicated by the fact that I am joining its staff. I know it is going to be a success or I wouldn't wish to be associated with it."

"BMI represents a new idea in the song publishing world," he continued, "— that of giving a break to the unknown or little known composer. Most of the older publishing houses want the work of 'established' writers. They work on the theory that because a man has written

a lot of songs and has produced a number of hits, because he has been well known for ten years, he's likely to produce a more successful song. Actually the exact opposite is frequently true. The man who has been writing for years is the more likely to go stale.

"The newcomer has a freshness in his music, a new appeal—if he can get a hearing. Of course there are old-timers who can turn out hits, but the publishing house that gives a chance to the newcomer is seizing a golden opportunity that the older houses have been passing up.

"Only a good song can make a hit. BMI is going to succeed because it is tapping new sources of good songs. Once you have a good song, of course there is no medium that does so much to popularize it as the radio.

"My talks with men in the other publishing houses have convinced me," he said, "that the music publishing industry looks upon BMI as a new house that is offering them fair competition and thus giving a stimulus to business. I am very glad to be a part of it."

Charles E. Lawrence has been appointed Comptroller of BMI and took up the work of that office on Monday, May 6th.

Mr. Lawrence was born in Philadelphia and studied at Temple University. He has been engaged in the work of accounting and auditing for the past twenty years. Since 1932 he has been with the American Home Products Corporation. For two years he was Comptroller of various subsidiaries of that company in Chicago. In 1934 he was transferred to the New York offices and since 1937 has been General Auditor.

Previously he was with Merritt-Chapman & Scott Corporation and with Franklin Baker Company and associated companies.

The Great Atlantic and Pacific Tea Company was one of the most important radio advertisers until June, 1937, when it went off the air entirely. Now it is planning to return to the air with a program which will incidentally feature BMI.

The Musico program, sponsored by National Tea Company from WGN in Chicago, was a sort of musical bingo. The music played was not announced. The listeners



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WASHINGTON

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Neville Miller, *President*

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

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

## BMI DEVELOPMENTS

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guessed at the titles by marking cards containing twenty-five squares, five to a row, a song title in each. When a listener had filled in a row correctly, he became eligible for a prize.

The program was so successful for National Tea that A & P is now trying it out—but with a variation. The new cards contain in each row of five squares only four titles. The fifth square is blank. In that blank the listener may suggest a title for a new song—one new song to be played on each program. The winner gets \$100 plus 50% of any royalties on the new song. All the new songs are to be compositions that have not been published at the time of the broadcast. Immediately after the broadcast each new number is to be submitted to Broadcast Music, Inc.

All proceeds from the sale of the new song written by Frank Luther in memory of Will Rogers will go to the Will Rogers Memorial Fund. This has been agreed by Mr. Luther and the BMI officers.

The song, *Our Old Friend Will*, has already been performed on the air by the composer himself. It will soon be released by BMI.

In a preface to the song, Mr. Luther says:

Will Rogers was a second father to me.

I once made a concert tour with him—one-night stands all over the United States. . . . He was the only man I've ever known who practiced the American principle that all men are created equal. He never looked down on a newsboy, and he never looked up to a king. . . .

I've written this song to try to say in my humble way what I feel about the greatest man I've ever known.

Did you ever see a man step on his own toes—and blame the shoemaker? Look at one of the ASCAP officers.

He is Irving Caesar, ASCAP's Assistant Treasurer who once thought he wanted to debate with BMI's President or General Counsel. Last Tuesday he got his feet so tangled that it was hard to tell which way he was heading. There were moments when he was right in step with BMI. And of course BMI welcomes all recruits—even if they come from the ASCAP camp.

On Tuesday Mr. Caesar, speaking as President of the Songwriters' Protective Association, complained that too few songs are plugged on the air—songs by too few writers. One of the worst aspects of the very situation created by ASCAP itself which BMI, to the great distress of the ASCAP organization, is trying to remedy! If Mr. Caesar would only take his right foot off his left foot, perhaps the bunions wouldn't bother him so much.

The point at issue is an indirect result of the ASCAP policies which have kept all the opportunities for song-success in the grip of ASCAP's cherished few. Mr. Caesar was objecting to the attention given to the weekly "most-played" lists and the tendency to build up huge figures for the first ten or fifteen numbers on those lists with consequent discouragement for other writers. That is really the whole ASCAP situation reflected in miniature.

Is it possible that Mr. Caesar, an ASCAP officer and director, is beginning to understand how the difficulty of getting a song before the public can discourage a writer? Has he really caught the picture of what happens when the music that gets a chance for popularity comes from an ever-narrowing circle of writers rather than from a widening one?

Those questions are still matters of some doubt, but at least Mr. Caesar has discovered one thing that all people except the High Priests of ASCAP have known for years—namely, the plugging power of radio and the fact that the writers need radio more than radio needs any particular group of writers. As reported in *Variety*, he said, "It's got so that people remark, 'That tune must be a hit because I hear it so much.'"

The item might be included in a biography called "The Education of Irving Caesar."

*Variety* adds:

"Another twist to the discouraging element mentioned by Caesar is reflected in the report that the SPA, whose members are virtually 100% ASCAP-affiliated, fears that if many of the older writers don't start getting breaks on the air they may be inclined to place some of their manuscripts with Broadcast Music, Inc."

Such gems of argument suggest that a debate with Mr. Caesar at one end of the platform might afford a rather amusing evening.

Or perhaps there won't be any need for debate. On the particular point he raised, Mr. Caesar was making the same plea that BMI is making and the effect of his speech was to support the aim and effort of BMI.

## Television and FM

### FLY DISCUSSES TELEVISION, FM

Within the next week or two, the FCC expects to clear up the television situation in "satisfactory shape", James Lawrence Fly, Chairman, told a press conference the latter part of last week.

Chairman Fly told the newsmen that there must be healthy competition in the industry, but whether or not standards should be set up at this time is one of the questions to be decided by the Commission, he said. The Chairman stated that as he recalled it the engineers appearing before the Commission were practically unanimous in the opinion that standards should not be fixed at the present time but he did not indicate the possible action of the Commission.

Chairman Fly was not very clear in discussing limited commercialization of television, but there was an intimation in his statement that when the Commission acts it is possible that there might be full commercialization rather than limited.

The Chairman stated that when the Commission considers television it will necessarily have to consider frequency modulation at the same time, but he was very clear in his statement that the Commission will announce its television policy before it announces its policy on FM and he stated that any announcement on frequency modulation would probably come along about a week after its decision on television. In connection with the television situation Mr. Fly told the correspondents that after all is said and done "the engineers are going to write the ticket."

Chairman Fly stated that he expects the monopoly report to be in the hands of the Committee within the next few days, but he made no mention about when the Committee would be able to report to the Commission proper.

### LUNDEEN PROTESTS DELAY

On May 6, Senator Lundeen (FL-Minn) made a lengthy speech in the Senate, protesting "against the delay in the matter of the FCC decision on television." (Congressional Record, May 6, p. 8573).

### RCA AND DUMONT BRIEFS

RCA and Allen B. DuMont Laboratories, Inc., debated today in briefs filed with the FCC the question of engineering standards for television broadcasting.

DuMont accused RCA of seeking to "freeze" standards. It argued for flexibility.

RCA asserted that "the motion picture interests, which are financing DuMont laboratories, have a much greater financial stake in the 'movie' industry than they have in television."

"Their recent interest in television is primarily for the purpose of 'protecting' their larger interest in the 'movie' and theater industry and not to develop the new art of television," the RCA brief added. "Therefore, they desire the adoption of systems and methods which would make television inferior rather than superior to motion pictures." . . .

RCA favors the transmission standards formulated by

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the Radio Manufacturers Association, but has said it was prepared to build television receivers so that they would also receive programs from other transmitters.

DuMont said that the commission "has had adequate opportunity to learn that standards must be set by governmental authority and not by commercial agreement."

"It is suggested that it is now clear that the key to the situation is the compulsory requirement of the high-frequency DuMont type pulse which can be installed in a few hours for minimum expenses by any transmitting station," DuMont said.

It added that the "record shows that the cost to somebody of the reconstruction of fixed type small-sized non-retentive screen receivers so as to adopt them to the progress possible in the immediate future with flexible standards would be between \$30 and \$70, including change of screen."

### SARNOFF'S VIEWS

At the annual RCA stockholders meeting in New York Tuesday, David Sarnoff, RCA president, said:

If I were asked to name the most significant factor in the progress of RCA during the past decade, I would unhesitatingly say research and technical development. Ten years ago we were largely dependent on the electrical companies then associated with us. Today RCA itself has over 600 technical specialists in its laboratories and engineering departments engaged in this important work.

Research has directly contributed to our income and earnings; it has enabled us to expand the scope and variety of our products and services; and today promises even greater expansion in new fields.

As the result of RCA research, three new services now beckon those who seek to expand radio's usefulness. They are: Facsimile, Frequency Modulation, and Television.

*Radio Facsimile* is the transmission of pictures and printed matter through the air. It is now bringing photographs from many parts of the world for prompt use in daily newspapers. Its development will include services for the home, as well as for the press. The latest type of RCA Facsimile Receiver is on exhibition in this room today and we cordially invite your inspection.

*Frequency Modulation (F.M.)* holds much promise for the future. The growth of Frequency Modulation in broadcasting

services will probably be gradual. Only time can determine the extent of its full development.

RCA's research engineers have done pioneering work in this field and in the development of uses for the ultra high frequency spectrum, where F.M. has its most advantageous applications. Our laboratory tests and field experiments have been extensive. Many fundamental inventions have been made by our engineers during the course of this work. RCA has valuable patent rights in these developments and has granted licenses under them to practically the entire radio industry.

F.M. represents an important forward step in the broadcasting of sound. The Federal Communications Commission now has under consideration the subject of authorizing frequency-modulation on a commercial basis.

Television, on the other hand, adds sight to sound, and stands today on the threshold of public service. In time, television is bound to revolutionize the broadcasting industry just as the addition of sound to sight revolutionized the motion picture industry.

RCA's laboratory achievements, its field tests and its experimental program service have been fully reported at every stage of development.

The position of the Corporation with respect to placing television on a commercial basis has been stated fully during recent hearings before the Federal Communications Commission and the Interstate Commerce Committee of the United States Senate.

The Federal Communications Commission is now considering the testimony presented by RCA as well as by others in the industry.

While television will provide a new service for the home, it will be useful also in theaters and other public places. Developments in large screen television, which we will demonstrate to you today, will enable you to form your own judgment as to its future possibilities. No one can foresee all the future uses to which television may ultimately be put. But this much is clear: the addition of sight to sound in radio will be of vital importance to industry, education and entertainment.

RCA is proceeding on three fronts in television. Our research laboratories are continuing to develop new processes and new equipment; our manufacturing and sales people are exploring new markets; and our broadcasting company is proceeding with its development of television programs.

Television offers new opportunities for the employment of men and money, for the expansion of entertainment and other services, and for the creation of a new medium of advertising for American industry and business.

The Corporation's policy in respect to its inventions and patent rights, including its developments in television, is well known. RCA has licensed the radio industry under its patents. While this Corporation has pioneered in television, we are not alone in this field. There is no monopoly in radio, nor is one possible in this highly competitive industry.

## REPUBLICANS WELCOME TELEVISION

Television will take its place in the front row at a national political convention for the first time in history next June.

John Hamilton, chairman of the Republican National Committee, announced this week that two National Broadcasting Company television units, and that of the Philco Radio and Television Corporation, will televize the proceedings of the 1940 Republican National Convention at Philadelphia beginning next June 24.

Hamilton said he took "a peculiar pleasure" in making the announcement.

"The Republican Party," he said, "is the party of private enterprise and welcomes this chance to provide an opportunity for a new industry to stride forward in honest American fashion.

"It was but a few days ago that the New Deal, through its dominated Federal Communications Commission, struck viciously at this very industry by bluntly commanding it to cease its efforts at merchandising.

"We of the Republican Party sincerely hope that the public interest accruing to television by reason of its use at the 1940 Republican convention will more than offset the setback given this new industry by the New Deal."

## Radio Festival

**TO ALL STATION MANAGERS:  
WANTED  
FOR HANGING  
RADIO FESTIVAL PHOTOS**

*We have the space. All that's needed to complete a section of NAB's picture gallery are good black and white gloss prints of Radio Festival events.*

*Most Radio Festival participants will make at least a partial pictorial record of Radio Festival for their own use. One good print, action shot preferred, will get a permanent hanging if it's sent.*

*Please autograph the photo in india ink.*

*Sincerely yours,*

*Arthur Stringer.*

Radio Festival is going over big!

It works—with intense satisfaction to participants. That, after all, is the acid test.

There is something that every station can do to impress listeners with the importance of radio, with the contributions which radio makes to the pleasure and betterment of everyday living. What you do helps keep radio out in front!

Reports from several cities follow:

### BELLINGHAM . . . KVOS.

Though the first of the month found KVOS engaged in a civic promotion enterprise, President Rogan Jones wrote that the folks of Bellingham and vicinity are going to have their Radio Festival. While plans are not yet complete, he has booked advance speaking dates for the demonstration-talk, born at WLVA, Lynchburg, Va., and distributed by NAB through the courtesy of Edward A. Allen, the station's president.

Mr. Jones is taking in "civic and service clubs, church groups, grange groups, Chambers of Commerce, veteran organizations, etc." And in conclusion, he wrote: "You are doing a splendid work, and I trust you will keep it up."

### CHARLOTTE, N. C. . . WBT and WSOC.

Charlotte's two stations, WBT and WSOC, are busily engaged in planning their Radio Festival festivities. Paul W. Norris, sales promotion manager of the latter station, and Program Director Charles Crutchfield, WBT, have direction of plans for their respective stations. Date is June 3-8.

### RALEIGH . . . WPTF

Richard H. Mason, manager, WPTF, has likewise selected the June 3-8 period to bring Radio Festival to Raleigh and surrounding territory.

### OTHER NORTH CAROLINA CITIES

"Dick" Mason is also president of the North Carolina Association of Broadcasters and he reports enthusiastic support for the spring promotion by the industry. An exchange of correspondence between state broadcasters and President Mason indicates that most of the stations will observe the early June dating.

Plans of Manager Robert J. Stratton, WDNC, Durham, were reported in the weekly bulletin of May 3. With a large number of other state stations staging Radio Festivals, it is apparent that North Carolina's broadcasting industry will surpass previous records.

WBIG, Greensboro, completed its Radio Festival celebration Saturday. Thousands of visitors were entertained at studios and transmitter. Greensboro public schools presented twelve separate

programs during the week. There were programs from schools in eight counties, besides programs from the University of North Carolina; Woman's College of the University of North Carolina; Greensboro College; A. and T. College; Lutheran Emanuel College; Bennett College and Guilford College.

#### DANVILLE, ILL. . . . WDAN

"Duke" Richardson, manager, WDAN, "The Community Station," has Radio Festival celebration under way. We don't know what he is planning this year, but it's a reasonable assumption that an open house will play a part. Last spring WDAN had over 7,000 visitors in three nights, between seven and ten. Two thousand five hundred roses were given to as many women guests before the supply ran out.

He staged audience participations, interviews and quiz programs with dollar bill give-aways. Radio stores, all over town, erected displays in their windows for the entire week, and five of the station's sponsors featured radio week windows. A local men's wear shop used figures and microphones to represent their broadcast over the station.

#### JAMESTOWN, N. Y. . . . WJTN

Program Director Marshall B. Shantz, Jr., wrote on May 6 that "This station is planning on entering wholeheartedly into National Radio Festival, June 3 to 8.

"This event has a double significance for a small station such as WJTN. Not only will it be of great assistance to us in that ever present question of public promotion, but we hopefully expect that the greater cooperation in this city between the public and radio—which should result from this Radio Festival—will be of great help in absorbing the many 'growing pains' attendant upon our ever present expansion."

(Read statement by President Alfred J. McCosker of WOR which also discusses this same subject of industry solidarity.)

Mr. Shantz has worked out plans for an outstanding celebration with everybody entered in the Essay Contest. He believes that Jamestown youngsters are smart enough to collect the NAB \$100 grand award. Luck to you, Mr. Shantz.

Simon Goldman, acting manager, a day or so later, reported that the Mayoralty proclamation has been arranged with "Hiz Honor." "We are all enthused about our participation in the Radio Festival and know it will be very successful," Mr. Goldman concluded.

#### HOBBS, N. M. . . . KWEW

#### ROSWELL, N. M. . . . KGFL

Governor John E. Miles in official proclamation has proclaimed "the week of May 12 as Radio Festival Week throughout the State of New Mexico, and I urge our citizens everywhere to participate in the observance of the event by listening to the special programs and visiting the studios."

W. E. Whitmore, head man of KWEW and KGFL, prevailed upon the Governor to bring New Mexico officially within the nation-wide industry celebration.

Mayors of both Roswell and Hobbs have both issued city proclamations. During the week there will be broadcasts by prominent citizens, including the Superintendent of Schools and faculty members of the New Mexico Military Institute. Copies of "Radio's Riches" will be distributed. Youngsters in the public schools will compete in the Essay Contest.

#### NEW YORK CITY . . . WOR

Alfred J. McCosker, president, WOR, lost no time in getting into the subject of his station's participation when he announced initial plans in a letter last Monday.

"I should like to assure you", he wrote, "of WOR's participation in the National Association of Broadcasters' National Radio Festival. We have set aside the week of June 3-8 and plans have already been drawn up for promotion, publicity and programming."

Mr. McCosker's next paragraph is also quoted because it expresses so clearly the advantages which accrue to the broadcasting industry when individual units deliberately and publicly join hands. He said:

"It is a pleasure to be able to cooperate with the work you are doing, as I feel that *the more radio makes the public conscious of its efforts as a solidified industry*, the more we, within the industry, will be able to do in mutually evaluating our problems and our subsequent gains."

Some of the ideas which WOR contemplates are:

1. "Transmitter Open House—This would be open to children accompanied by parents who would write in for visiting tickets. At the time the tickets were sent, a mimeographed instruction sheet would also be sent. A different host would be on hand on different days, viz. Bob Emery, Irving Caesar, Bill Slater and Uncle Don.

We are also considering an occasional day-time interview from the transmitter with our host talking to one or two of the visiting children.

2. "AN ESSAY CONTEST—The probable subject would be: 'What WOR Means to Me.' The best letter each day for a week would be read over the air during our five minute program preview period, and a daily prize of \$10.00 offered.

3. "I REMEMBER—Spotting of WOR's ten-year veterans for interviews on various programs during the week, pointing up the tradition and continuity of radio. Personalities would be Uncle Don, John Gambling, Roger Bower, Jack Poppele and others.

4. "SHUT-INS—An all-request program dedicated to shut-ins. We are evaluating an idea in this respect by asking superintendents of hospitals to write in for radio sets if their hospital has none. We believe we can secure a reasonable number of reconditioned sets from the Radio Servicemen of America.

5. "BLOW-UP TELEGRAMS—signed by various WOR personalities to be displayed in telegraph offices, calling attention to the week and the Festival.

6. "Presentation of WOR's Credo of policy which has recently been written. It is a brief but eloquent statement of all we are doing and trying to do in serving the public. This would be released to trade papers, and we are considering offering it to Gabriel Heatter for discussion on one of his programs.

7. "A radio serviceman will be spotted as a guest on a variety program for an interview.

8. "We will ask Miss Pegeen Fitzgerald, our very clever fashion designer and commentator, to design a festival "radio hat". This would be tied in with a special department store window with equipment as a background showing its historical improvement."

#### QUINCY, ILL. . . . WTAD.

C. Arthur Fifer, general manager, has augmented his original plans. We've shipped him the last thousand copies of the first printing of "Radio's Riches" which he plans to distribute during Radio Festival.

#### WILKES-BARRE, PA. . . . WBAX.

H. A. Seville, general manager, WBAX, is the first to announce an Amateur Photographic Contest as a part of National Radio Festival. Wilkes-Barre department stores and those in other cities within the station's service area have agreed to display the entries along with appropriate captions and posters.

The Mayor of Wilkes-Barre, Chamber of Commerce officials and the Wyoming Valley High School Conference of some twenty schools are all tied in with the week's program. Special programs of the activities will fill the airplanes for the entire week.

#### THE YANKEE NETWORK

R. L. Harlow, vice president, Boston, among other things said: ". . . You have already received notifications of cooperation in the Radio Festival.

"We are definitely planning to do something along similar lines in Providence with Station WEAN. . . ."

### FAIR'S RADIO DAY JULY 4

The NAB has accepted the invitation of the New York World's Fair to develop a suitable celebration of a day set aside in honor of the broadcasting industry. Following consultation with NAB, the day designated was July 4.

The President will be invited to participate in the exercises, along with Neville Miller, president of the NAB, and a committee representative of all elements in the broadcasting industry, including the heads of the major networks. Distinguished men and women from all walks of life will be invited to witness and bear testimony to the importance of the event. The central section of the ceremonies is tentatively scheduled to be broadcast, while re-broadcasting privileges are being requested for non-network stations. Arrangements are to be worked out by Ed Kirby, NAB Director of Public Relations, in collaboration with industry people and representatives of the New York World's Fair.

On this occasion the NAB plans to dramatize the expression and the ideal "freedom of radio" which has long since taken its place alongside the concepts of the terms "freedom of the press" and "freedom of religion."

### DENTISTS PROTEST ADS

Headquarters has received the following resolution from the Radio Broadcasting Committee of the American Dental Association:

"To the Board of Trustees of the American Dental Association:

"At a special meeting of the Board of Trustees of the Pennsylvania State Dental Society, held March 31, 1940, it was unanimously voted that the American Dental Association, through proper channels, contact the Federal Radio Communications Board in regard to control and limitation of radio programs of advertising dentists and other commercial dental programs on the air."

### CONSUMER STUDY

Continuing the NAB inquiry into the effect of the consumer movement might have on radio advertising, Neville Miller met Wednesday with the committee of Consumer Relations in Advertising in New York. Kenneth Dame-ron, the director, made a complete report on the activities of the committee's staff and the meetings he had attended. He also outlined plans for the future. The following members of the committee were present:

John Benson, A.A.A.A., Chairman of the Committee (representing advertising);

Julius Adler, *New York Times* (representing newspapers);

William Raydel, Newell Emmett, member of the A.A.A.A. (representing advertising);

Fred Healy, Curtis Publishing Company (representing magazines);

Chester LaRoches, Young & Rubicam (representing advertising);

Neville Miller, NAB (representing radio).

### PACIFIC ADVERTISING CLUBS

The Pacific Advertising Clubs convention is slated for July 7-10, in Vancouver, B. C. It has been suggested that some members might like to attend the convention, then take a three weeks' vacation in the West before the NAB convention in San Francisco, August 4.

### TEACHING BY RADIO

Radio has a more than two-to-one edge over textbooks as a method of learning school lessons, as far as some junior high school students are concerned.

In a questionnaire answered by seventh and eighth grade pupils of Bronxville, New York, 45 per cent said they found it easier to learn by radio than from books. Thirty-five per cent decided it made no difference and only 20 per cent voted for books as the easier medium.

The study was made by the Evaluation of School Broadcasts at Ohio State University, Columbus, Ohio.

The pupils who found it easier to learn by radio said the broadcasts gave better explanations and held their interest better. They declared that the radio programs left out

the dull, boring parts—in short, that the radio method was more amusing and "more fun."

Pupils who said it was harder to learn by radio felt that not enough facts were given on the broadcasts. They preferred books because they could go back and re-read their lessons several times, while on the radio information was given only once. And some said they found it hard to understand the radio speakers and actors, because they didn't speak distinctly.

### WINDOWS ARE OPEN

Spring is here; summer is just around the corner; and people are beginning to keep their windows open day and night.

All of which means that this is the season of the year in which the NAB receives all sorts of letters and resolutions from people who somehow believe that the broadcaster is responsible should the sounds of music waft across the court from a neighbor's apartment in the wee small hours.

Last year one or two letters indicated that the writers felt the radio station was responsible for the volume of sound emanating from neighbors' loudspeakers, one letter suggesting that the stations ought to "reduce the power after ten o'clock at night."

In each case, the NAB points out that the broadcaster cannot be responsible for the failure of a person to consider the comfort of his neighbor. However, it does believe that an occasional friendly reminder on the air might build goodwill all the way around, placing the station in the position of being concerned with those who wish to exercise their right to listen late at night, and also with those who wish to quit listening at an earlier hour.

### LEGISLATIVE COMMITTEE

The NAB Legislative Committee met yesterday at headquarters. The Logan-Walter Bill to improve administrative procedure and judicial review of administrative proceedings was considered by the Committee, but no action was taken. Those present were John A. Kennedy, Chairman, Harry Butcher, John Elmer, Frank M. Russell, Theodore C. Streibert and Neville Miller.

### FEDERAL LEGISLATION

H. R. 9665 (Clason, R., Mass.) COPYRIGHT—To reduce the amount of damages for infringement of copyright of musical compositions in certain hotels and other places. Referred to the Committee on Patents.

H. R. 9703 (McGranery, D., Penna.) COPYRIGHT—To amend the Copyright Act of 1909, and for other purposes. Referred to the Committee on Patents.

### CONVENTION RESERVATIONS POUR IN FROM WHOLE COUNTRY

With requests for NAB convention room-reservations pouring in from all parts of the country, Howard

Land, KFBK, has appointed Lincoln Dellar, KSFO, chairman of the convention housing committee. The number of requests for reservations indicates that broadcasters from the east, south, and midwest will attend the convention in full force. Many are taking their families with them and are combining the convention with a West Coast vacation trip.

Ralph Brunton, KJBS, is chairman of the Treasure Island entertainment committee and is making extensive plans for entertaining the delegates at the Fair.

Ward Ingram, KFRC, is chairman of the golf committee which is making arrangements for the annual NAB Tournament for the *Broadcasting* trophy, to be played Sunday, August 4.

Again the NAB urges those broadcasters interested in an all-expense trip to communicate with Russell Place, NAB counsel. Raymond Whitcomb, Inc., has been engaged to act as agent for the NAB in arranging the details of these all-expense trips.

### FCC APPROVES NAB LOG

The NAB is sending to member stations, this week, a "Program Log Recommendation" designed to aid members comply with Rule 3.90A of the FCC Rules and Regulations Governing Broadcast Stations, and approved by the FCC. The report was prepared by the NAB Research Department for the Accounting Committee and submitted to the FCC for its review, March 30, 1940. The following letter was addressed to the Commission:

March 30, 1940.

Mr. T. J. Slowie, Secretary,  
Federal Communications Commission,  
Washington, D. C.

Dear Mr. Slowie:

There is attached a copy of a Program Log Recommendation prepared by the Accounting Committee of the National Association of Broadcasters. The recommendation is designed to aid stations to comply with Rule 3.90A of the revised Rules and Regulations Governing Broadcast Stations, issued by the Federal Communications Commission last August. Many stations appealed to the NAB for assistance in preparing a suitable form for the keeping of a Program Log and in interpreting the detail of information to be recorded on the form.

In the work of preparing the Program Log Recommendation for the NAB Accounting Committee, the Secretary-Treasurer and the Research Director of the Association consulted with a sub-committee of the Commission's Rules Committee. NAB is grateful for the splendid cooperation of Mr. Porter of the Law Department, Mr. Sutton and Mr. Utter of the Accounting Department, Mr. Massing of the License Bureau and Mr. Ring of the Engineering Department, Chairman, who comprised the sub-committee. Their aid was invaluable in preparing the recommendation.

We ask you to submit the Program Log Recommendation to the Commission to ascertain whether it complies with the requirements of Section 3.90A of the Rules. Paragraph three of the first page of the recommendation points out that minimum requirements to comply with the Rule are set forth in the recommendation. We do not seek to establish a standard form since the Program Log can serve station management beyond Commission requirements by the inclusion of additional data. As an example, the form can be used, with some revision, as a "proof of performance" record for commercial programs and employed as a Journal for billing.

In mailing this recommendation to stations we would like to be able to say that the Commission is in accord, that it fulfills the requirements of the Program Log Rule and thus render the recom-

mendation of maximum value to the Commission and the industry. We trust that this can be accomplished without the necessity of formal Commission action.

Should there be any questions concerning the recommendation, we will be glad to answer them.

Very sincerely yours,

s/EDWIN M. SPENCE,  
Secretary-Treasurer.

The reply to the NAB letter was as follows:

May 8, 1940.

National Association of Broadcasters,  
1626 K Street, N. W.,  
Washington, D. C.

Gentlemen:

This will reply to your letter of March 30, 1940, submitting for review a proposed "Program Log Recommendation" dated March 22, 1940, with attached log form and "Instructions—Program Log."

The Commission has determined that the log form submitted by you makes provision for the keeping of log entries as required by the Rules now in effect applicable to standard broadcast stations, and that the instructions submitted by you for keeping the log are appropriate under the Rules.

Very truly yours,

s/T. J. SLOWIE,  
Secretary.

The FCC's official report No. 928 (B)—"Decisions of the Commission," dated May 8, 1940, which reports the action of the Commission en banc on May 7, includes the following note on the NAB Program Log Recommendation:

#### NAB PROGRAM LOG FORM

The Program Log Form submitted by the National Association of Broadcasters, was held to be in keeping with program log requirements under Sec. 3.90(a) of the Commission's rules and regulations.

#### APPEALS FROM FCC

In *Evans*, doing business as the Voice of South Carolina, v. *Federal Communications Commission*, decided April 29, the Court of Appeals for the District of Columbia by extension of the reasoning of the Pottsville case (— U. S. —, decided January 29, 1940), held that it was without power to interfere with the functioning of the FCC with respect to an application for modification of a contested construction permit, which application had been filed by one of the parties to the appeal during pendency of the appeal. In denying appellant's (the existing station's) motion for a stay order against Spartanburg Advertising Agency, holder of the contested C. P., the court said: "The limited function which this court plays in its appellate review, therefore, is crystallized by it in no 'vested right' as against the power of the Commission to consider other applications, whether for the same or competing facilities and the rights of others to have their applications considered. The court's decision has in it, of course, an element of finality; but within the principle of the Pottsville decision, it has no finality as against the power of the Commission to make a proper allocation of facilities as required by 'public interest, con-

venience and necessity,' whether upon applications involved in the appeal or others, so long as its doing so does not involve disregarding the court's decision upon the questions of law determined in the appeal. This is clearly so as to applications of third persons not involved in the appeal. The Principle is equally applicable to new applications filed by one of the parties to the appeal, but not involved in it."

Having concluded that if the appeal had been determined, the Commission would have jurisdiction to consider the application for modification within the rule laid down by the Pottsville decision, the court took another step and decided the Commission had jurisdiction while the appeal was pending. "To hold otherwise," the opinion states, "would be in direct contradiction of the administrative purposes and procedure created by the statute with a view, among other things, to prompt and efficient disposition of the Commission's business and the conflicting claims presented to it."

In respect of appellant's contention that failure to secure the stay would render the appeal moot, the court stated: "If the Commission's action renders the appeal moot, we will be powerless to prevent it; insofar as it does not do so, the appeal retains full vitality; insofar as it may raise new appealable issues, they must be presented upon another appeal and another record in any event. These alternative possibilities may not involve the technical finality characteristic ordinarily of the judgments and decrees of courts. But they will bring more quickly and as fairly to a conclusion the entire controversy among the parties, a result more obviously in accord with the purposes of administrative action than the observance of merely technical conceptions evolved in and characteristic of another process."

### TOBEY ASSAILS FCC

Senator Tobey (R-NH) assailed the FCC this week for failure to make its "monopoly" report. The Senator sent the following letter to the Commissioners:

May 3, 1940.

\_\_\_\_\_, Commissioner,  
Federal Communications Commission,  
Washington, D. C.

DEAR MR. \_\_\_\_\_:

In November 1938, Chairman McNinch stated to the House Appropriations Committee that the Radio Monopoly Report of the Commission would be submitted to the Congress within sixty days.

In June 1939, as Chairman of the Federal Communications Commission, you appeared for the Commission, before the same Congressional Committee, and said that the report would be ready for Congress within sixty days.

In November 1939, Commissioner Fly of the Federal Communications Commission appeared and stated before the Congressional Committee that the Commission would make its report and recommendations within sixty days.

It is now eighteen months since Congress was officially told by the Commission that its Radio Monopoly Report and recommendations would be "ready in about sixty days."

I submit to you that, in the light of these facts, these assurances would seem to be nothing but a mockery. As a member of the

May 10, 1940

Senate, interested in this matter, I ask you now as to the reasons for this delay and what you, as a member of the Commission, can do to have the report submitted to the Congress at once. An early reply will be appreciated.

Sincerely yours,  
/s/ CHARLES W. TOBEY.

### TELFORD TAYLOR APPOINTED GENERAL COUNSEL OF FCC

The FCC has appointed Telford Taylor as general counsel, to succeed William J. Dempsey upon the latter's entering private practice. Mr. Taylor, who is a special assistant to the Attorney General, will join the Commission's legal staff immediately as special counsel. Mr. Dempsey will remain with the Commission for several weeks.

Born at Schenectady, N. Y., on February 24, 1908, Mr. Taylor attended local schools and was graduated from Williams College in 1928 with an A.B. degree. He taught history and political science at Williams for two years, receiving his M.A. degree in 1932. In that year he was graduated from Harvard Law School with the degree of LL.B. cum laude, having served on the editorial board of the Harvard Law Review. He was appointed law secretary to Judge Augustus N. Hand of the Circuit Court of Appeals, New York, from 1932 to 1933, when he became assistant solicitor of the Department of the Interior.

From 1934 to 1935 he was senior attorney of the Agricultural Adjustment Administration and handled much of its legislative work. For four years he served as associate counsel of the sub-committee of the Senate Committee on Interstate Commerce, investigating railroads and railroad finances. Since October, 1939, Mr. Taylor has been head of the Court of Claims section of the claims division of the Department of Justice.

Mr. Taylor has appeared in cases in the District of Columbia Court of Appeals and also in the United States Supreme Court. He is married.

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Joseph L. Rauh, Jr., was appointed general counsel, to succeed William C. Koplovitz. Mr. Rauh has resigned as assistant general counsel of the Wage and Hour Division of the Department of Labor to assist Telford Taylor who, on May 6, was announced to become general counsel of the Commission, vice William J. Dempsey, who will enter private practice with Mr. Koplovitz.

Mr. Rauh was born at Cincinnati, Ohio, on January 3, 1911. Entering Harvard College in 1928, he was graduated therefrom magna cum laude in 1932. He enrolled at Harvard Law School, from which he was graduated at the head of the class of 1935. He was on the Harvard Law Review.

From 1935 to 1936, Mr. Rauh was a member of the legal staff of the Securities and Exchange Commission, participating in litigation involving the constitutionality of the Public Utilities Holding Company Act. In 1936 he



became law secretary to Associate Justice Benjamin N. Cardozo of the United States Supreme Court, serving in that capacity until the death of the Justice in 1938.

Joining the legal staff of the National Power Policy Committee, Mr. Rauh was thus engaged from July, 1938, to January, 1939, when he became law secretary to Associate Supreme Court Justice Felix Frankfurter. In March, 1939, Mr. Rauh became associated with the Wage and Hour Division of the Labor Department. As that division's assistant general counsel, he had charge of all interpretive work and the drafting of all findings in wage order cases and from time to time represented the Administrator in the courts. Mr. Rauh is married.

### ST. LOUIS CHANGES

Serious and long standing problems involving radio stations in the St. Louis area are near solution as a result of a series of orders issued today by the Federal Communications Commission.

The stations concerned are KSD, KFUE, KXOK, WGBF, KFRU and KWK. The Commission took the following action:

1. Granted application of KSD, St. Louis, to operate unlimited hours on 550 kilocycles, with power of 5 kilowatts day, 1 kilowatt night, effective not later than July 1, 1940, KSD's application for 630 kilocycles was dismissed.

2. Granted application of KFUE, St. Louis, to change from 550 kilocycles to 830 kilocycles, 1 kilowatt day and night, local sunrise to sunset at Denver, Colo., effective not later than July 1, 1940.

3. Granted application of KXOK, St. Louis, for construction permit to change from 1250 kilocycles to 630 kilocycles, 5 kilowatts, unlimited hours, with directional antenna.

4. Granted application of WGBF, Evansville, Ind., for construction permit to change from part time on 630 kilocycles to 1250 kilocycles, unlimited hours, 5 kilowatts day, 1 kilowatt night, with directional antenna.

5. Granted application of KFRU, Columbia, Mo., for construction permit to change from 630 kilocycles part time to 1370 kilocycles unlimited hours, 250 watts.

6. Granted petition of KWK, St. Louis, to reinstate application for permission to operate unlimited hours with 5 kilowatts on present frequency, 1350 kilocycles, and granted construction permit to cover directional antenna system subject to approval by the Commission. KWK's application for change to 630 kilocycles has been designated for hearing.

The action was taken as a result of negotiations by the Commission with interested parties, in order to bring to a close long and continued administrative proceedings and court litigation.

### RAILROAD YARD EXPERIMENT

Experiment in radiotelephone communication between the central control tower of a railroad freight yard and locomotives therein is proposed by the Central Railway Signal Company, of Proviso, Ill., which today received authorization from the Federal Communications Commission for that purpose. The company was issued construction permits for two Class II experimental stations at Proviso, each to operate with 15 watts power, A3 transmission. One will use 300,000 to 400,000 kilocycles, and the other 35,460, 37,140, 39,140 and 39,540 kilocycles.

### BYRD PICTURES BY RADIO

Pioneer use of radiophotograph transmission from the antarctic, to relay pictures from Little America to the United States, is involved in the special temporary authorization granted Press Wireless, Inc., to communicate with the Byrd antarctic expedition. A1 (continuous wave telegraphy) and A2 (modulated continuous wave telegraphy) type emission will be used to control the pictures by air from the expedition base radio station, KTRK, to the Press Wireless point-to-point station at Hicksville, N. Y. The experiment is authorized for one month.

### INTERNATIONAL BROADCAST STATIONS

FCC this week approved a notice to be sent all licensees of international broadcast stations relative to the power and antenna requirements of such stations.

### FTC INDEX

Because of lack of interest on the part of most members, the annual index of Federal Trade Commission orders will not be published this year. An index is on file at the NAB, however, and inquiries about particular cases will receive prompt attention.

### LABOR NOTES

Field forces of the Wage and Hour Division, U. S. Department of Labor, were instructed today by Colonel Philip B. Fleming, Administrator, to take immediate action against employers who have failed to keep true and adequate records as required by law.

"Incomplete wage and hour records are the most serious hurdle confronting our inspectors," Colonel Fleming declared.

"This is true in all of the 15 regions into which the country has been divided for enforcement purposes. I have directed that employers violating the law in this respect be prosecuted. The law has been in effect 18 months and no one can plead ignorance of the record-keeping regulations. Any employer, therefore, who does not keep these records is properly suspect."

Regulations issued under the Act merely require listing of the name of each employee, home address, hours worked each work day and each work week, hourly rates of pay, total wages paid and date of payment. In some instances violators have falsified or destroyed records.

Thurman Arnold has lost his second case under the anti-trust laws against labor unions, and the A. F. of L. is jubilant.

Indictments against labor unions and labor leaders for "illegal" union activity have been thrown out in St. Louis and Washington, D. C.

In commenting on the Washington decision, A. F. of L. counsel emphasized that "the broad question of whether labor unions are exempted from prosecution under the Sherman Act by the Clayton Act was not involved in this case and was not passed upon by the Court."

### 826 STATIONS

The FCC issued operating licenses to four stations and granted three permits for the construction of new stations during the month of April, 1940. A comparative table by months follows:

	May 1	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	April 1	May 1
Operating .....	734	735	735	738	739	743	751	755	765	769	771	775	779
Construction .....	38	38	43	56	59	57	58	57	49	48	51	48	47
	772	773	778	794	798	800	809	812	814	817	822	823	826

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following oral argument is scheduled before the Commission in a broadcast case during the week beginning Monday, May 13. It is subject to change.

Thursday, May 16

Oral Argument Before the Commission

REPORT NO. B-95:

NEW—Neptune Broadcasting Corp. (A. Harry Zoog, Pres.), Atlantic City, N. J.—C. P., 1420 kc., 100 watts, 250 watts LS, unlimited time.

### FUTURE HEARINGS

During the week the Commission has announced the following tentative dates for hearings and oral arguments in broadcast cases. They are subject to change.

May 23

Oral Argument Before the Commission

REPORT NO. B-96:

W6XKG—Ben S. McGlashan, Los Angeles, Calif.—Renewal of license; 25950 kc., 1000 watts, emission A-3, unlimited time, according to Rule 983 (a).

May 10, 1940

W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Renewal of license; 88000, 120000, 240000 and 500000 kc., 500 watts, emission A-3, unlimited time according to Rule 983 (a).

May 28

WRD—Times Dispatch Radio Corp., Richmond, Va.—C. P., 590 kc., 1 KW, unlimited time (DA-night). Present assignment: 1500 kc., 100 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WIOD-WMBF—Isle of Dreams Broadcasting Corp., Miami, Fla.—Granted construction permit to install new equipment and directional antenna system for day and nighttime operation; increase power from 1 KW to 5 KW; and move transmitter site locally; frequency 610 kc. (B3-P-2476).

KTAR—KTAR Broadcasting Co., Phoenix, Ariz.—Granted construction permit to install new transmitter, directional antenna for day and night use; increase power from 1 KW to 5 KW, unlimited time; frequency 620 kc. (B5-P-2632).

KOB—Albuquerque Broadcasting Co., Albuquerque, N. Mex.—Granted construction permit to make changes in equipment and increase power from 10 KW, unlimited time, to 50 KW, unlimited time; frequency 1180 kc. (B5-P-2783).

WTAQ—WBBY, Inc., Green Bay, Wisc.—Granted modification of construction permit to make changes in directional antenna system (B4-MP-952).

Lakeland Broadcasting Co., Willmar, Minn.—Application for construction permit to erect a new station, already in hearing docket, amended so as to request 1310 kc., 100 watts, unlimited time. Exact transmitter site to be determined (B4-P-2370).

WBAB—Press-Union Publishing Co., Atlantic City, N. J.—Granted modification of license to increase night power from 100 watts to 250 watts, operating on frequency 1200 kc. (B1-ML-968).

WFBL—Onondaga Radio Broadcasting Corp., Syracuse, N. Y.—Granted construction permit to increase night power from 1 KW to 5 KW, install directional antenna for nighttime, operating on frequency 1360 kc. (B1-P-2654).

WMAN—Richland, Inc., Mansfield, Ohio.—Granted modification of license to change hours of operation from daytime to unlimited, using 250 watts power on 1370 kc. (B2-ML-947).

KBKR—Louis P. Thornton, Baker, Ore.—Granted modification of license to increase night power from 100 watts to 250 watts; frequency 1500 kc., 250 watts day, unlimited (B5-ML-951).

KEEN—KVL, Inc., Seattle, Wash.—Granted consent to the assignment of license from KVL, Inc., to Evergreen Broadcasting Corp.; frequency 1370 kc., 100 watts, shares time with KRKO (N5-AL-271).

WPIT—Westinghouse Electric & Mfg. Co., Saxonburg, Pa.—Granted construction permit to move International Broadcast Station WPIT to Hull, Mass.; increase power from 40 KW to 50 KW and make changes in equipment; station operates on frequencies 6140, 15210, 21540 kc., unlimited time, shares time with WBOS on 9570 kc., shares time with WLWO on 11870 kc., and shares time with WNBI on 17780 kc. (B1-PIB-23).

WRCA—National Broadcasting Co., Inc., Bound Brook, N. J.—Granted special experimental authority for International Broadcast Station WRCA to operate an additional 35 KW power amplifier in parallel with the regular 35 KW power amplifier, the additional amplifier to feed a separate directive antenna, making an effective operating power of 70 KW; station operates on 9670 kc. and 21630 kc., unlimited time (B1-MLIB-33).

WENL—Station WIS, Inc., Portable-Mobile (area of Columbia, S. C.)—Granted consent to assignment of license of portable relay broadcast station WENL from Station WIS, Inc., to The Liberty Life Insurance Co.; frequencies 30820, 33740, 35820, 37980 kc., power 2 watts (B3-ALRE-23).

KDAC—Gilbert H. Jertberg, Executor of the Estate of George Harm, Portable-Mobile (area of Fresno, Calif.)—Granted

consent to involuntary assignment of license of relay broadcast station KDAC from George Harm, deceased, to Gilbert H. Jertberg, Executor of the Estate of George Harm; frequencies 1622, 2058, 2150 and 2790 kc., power 25 watts (B5-ALRY-10).

- National Broadcasting Co., Inc., Portable-Mobile (area of New York, N. Y.).—Granted construction permit for new portable-mobile television broadcast station to operate on 312000-324000 and 282000-294000 kc., 15 watts aural and visual power, A3 and A5 emission (B1-PVB-54).
- Columbia Broadcasting System, Inc., Portable-Mobile (area of New York, N. Y.).—Granted construction permit for new television relay broadcast station; frequency 336000-348000 kc., power 25 watts (B1-PVB-46).
- W1XCS—Connecticut State College, Storrs, Conn.—Granted construction permit to change name to The University of Connecticut; change frequencies from 39540, 139960, 300000-400000 kc. to 26300, 139960, 300000-400000 kc.; increase power from 250 to 1000 watts; change emission to A3 and special for FM; change equipment.
- KORN—Nebraska Broadcasting Corp., Fremont, Nebr.—Granted modification of license to increase power from 100 watts night, 250 watts day, to 250 watts day and night; frequency 1370 kc.; unlimited time. (B4-ML-960)
- WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted modification of license to increase hours of operation from all hours except 8:30 a. m. to 10 a. m. and 2 p. m. to 3 p. m. EST, daily, to all hours except 8:30 a. m. to 10 a. m. Mondays through Fridays, contingent on granting of modification of license for WSVS (B1-ML-962).
- WSVS—Elmer S. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Granted modification of license to change hours of operation from 8:30 a. m. to 10 a. m. and 2 p. m. to 3 p. m. EST, daily, to 8:30 a. m. to 10 a. m. EST, Mondays through Fridays (B1-ML-963).
- KTOH—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—Granted modification of construction permit as modified for increase in night power from 100 watts to 250 watts, and extension of commencement date to 60 days after grant and completion date to 180 days thereafter; frequency 1500 kc., 250 watts day, unlimited time (B-MP-917).

## RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the period June 1 to August 1, 1940:

KDYL and auxiliary, Salt Lake City; KFIO, Spokane; KGGF, Coffeyville, Kans.; KLS, Oakland, Calif.; KOL, Seattle; KPAC, Port Arthur, Texas; KRGV, Weslaco, Texas; KTFI, Twin Falls, Idaho; KTMS, Santa Barbara, Calif.; KUOA, Siloam Springs, Ark.; KWSC, Pullman, Wash.; KYA and auxiliary, San Francisco; KXOK, St. Louis, Mo.; KATR, Waterbury, Conn.; WAVE, Louisville, Ky.; WBRC, Birmingham, Ala.; WCSH, Portland, Me.; KFBB, Great Falls, Mont.; KFOX, Long Beach, Calif.; KGBX, Springfield, Mass.; KOIL, Omaha, Neb.; KIT, Yakima, Wash.; KOIN, Portland, Ore.; KRSC, Seattle; KVOA, Tucson, Ariz.; WCAD, Canton, N. Y.

## DESIGNATED FOR HEARING

- Arlington Broadcast Corp., Arlington, Va.—Application for construction permit for a new station to operate on 1420 kc., 250 watts, unlimited time. Exact transmitter site and type of antenna to be determined with Commission's approval (B2-P-2466).
- WHIP—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Application for construction permit to make changes in directional antenna system and increase time of operation from specified hours, employing directional antenna, using 5 KW on 1480 kc., to unlimited time, employing directional antenna system for both day and nighttime operation (B4-P-2399).
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to remain silent from 2 to 3 p. m. CST on May 21 and 22, 1940, in order to permit WNAD to broadcast special educational programs; to remain silent from 7:15 p. m. to 9:15 p. m. CST, May 21, as licensed.
- WNAD—University of Oklahoma, Norman, Okla.—Granted temporary authority to operate during the above period from 2 to 3 p. m. (provided KGGF remains silent) in order to broadcast educational programs; to operate as licensed from 7:15 to 9:15 p. m., May 21.

- KGNF—Great Plains Broadcasting Co., North Platte, Nebr.—Granted special temporary authority to operate from 8 p. m. to 10 p. m. CST, May 13, 1940, in order to broadcast the parade and festivities in connection with the celebration "Days of '69," sponsored by the North Platte Community and Union Pacific Railroad Co., the highlight of this program to be the arrival of the radio comedy team "Burns and Allen."
- KNX—Columbia Broadcasting System, Inc., Los Angeles, Calif.—Granted special temporary authority to rebroadcast over station KNX, a program picked up from short wave transmitter WNJC, licensed to the National Park Service on Government assigned frequency 2496 kc., from 10:30 to 11 p. m. EDST, May 17, 1940, in order to broadcast a program from a small boat on the Colorado River, near Phantom Ranch, Grand Canyon; the rebroadcast to be a part of Robert Ripley "Believe It or Not" program carried by the Columbia Network.
- WANZ—Pillar of Fire, Zarepheth, N. J.—Granted license to cover construction permit for changes in equipment; frequency 1350 kc., 1 KW power; shares time with WBNX; directional antenna day and night (B1-L-1140).
- W3XMC—McNary and Chambers, Washington, D. C.—Granted construction permit to move transmitter from Pennsylvania Avenue and 18th Street, N. W., Washington, D. C., to 2701 Fourteenth St., N. W., Washington, D. C. (B1-PHB-225).
- W2XWE—WOKO, Inc., Albany, N. Y.—Granted construction permit to move transmitter from east side Central Avenue, opposite Tremont St., Albany, N. Y., to State Office Bldg., Swan St., Albany, N. Y.
- WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Granted special temporary authority to operate with power of 250 watts from 8:30 p. m. to 9 p. m. CST, May 11, 1940, in order to broadcast the University of Kentucky State Musical Festival.
- WSUI—State University of Iowa, Iowa City, Iowa.—Granted special temporary authority to reduce hours of operation from unlimited time to a minimum of eight and one-half hours daily for the period beginning May 20, 1940, and ending not later than June 8, 1940, in order to observe the examination and vacation period between regular University sessions.
- WTAW—Agricultural and Mechanical College of Texas, College Station, Tex.—Granted special temporary authority to operate simultaneously with Station WJBO from 11 p. m. to 12 p. m. CST, May 10, 1940, in order to broadcast the Senior Ring Dance.
- WKST—WKST, Inc., New Castle, Pa.—Granted special temporary authority to operate from sunset (May 7:30 p. m. EST) to 11 p. m. EST, May 9, 1940, in order to broadcast a banquet and dance of the American Legion Posts in the 26th district of Pennsylvania only.
- W2XWG—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate with A-4 emission on 42600 kc. on May 6 and 7, 1940, in order to make a test of performance capabilities of a new pre-production model facsimile receiver manufactured by the R.C.A. Manufacturing Co. containing in one chassis the recorder, standard broadcast band receiver and facsimile receiver covering the bands 25-27 and 42.54-44 mc.
- WAGF—John T. Hubbard, Julian C. Smith, & Fred C. Hoseley, d/b as Dothan Broadcasting Co., Dothan, Ala.—Granted construction permit to move transmitter and install new antenna; frequency 1370 kc.; power 250 watts, daytime (B3-P-2829).
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted license to cover construction permit for installation of new equipment; frequency 770 kc.; power 50 watts; simultaneous day, shares with KFAE night (B4-L-1142).
- Gilbert H. Jertberg, Executor of the estate of George Harm (deceased), Portable-Mobile (area of Fresno, Calif.).—Granted construction permit for new relay broadcast station; frequencies 30820, 33740, 35820, 37980 kc.; power 10 watts (B5-LRE-350). Also granted license to cover construction permit (B5-LRE-311).
- WRTD—Times Dispatch Radio Corp., Richmond, Va.—Granted motion for continuance of hearing now scheduled for May 6 to a date to be fixed by Secretary's Office, in re application for construction permit to change frequency from 1500 kc. to 590 kc., and increase power from 100 watts to 1 KW; unlimited time, DA night.

- KFSD—Airfan Radio Corp., San Diego, Calif.—Granted petition to intervene in the hearing on the application of Worcester Broadcasting Corp. for a new station in San Diego to operate on **1420 kc.**, 200 watts, unlimited time.
- Burlington Broadcasting Co., Burlington, N. C.—Granted petition for leave to amend application for new station to request **1310 kc.** instead of **1420 kc.**, and unlimited time instead of daytime.
- W6XKG-W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Scheduled for oral argument on May 23, 1940, the proposed findings of the Commission on the application for renewal of license for high frequency broadcast (experimental) station.
- WEHJ—WJW, Inc., Portable mobile (Area of Akron, Ohio).—Granted construction permit to install new transmitter in relay broadcast station (B2-PRE-351).
- WDAY, Inc., Portable-Mobile (area of Fargo, N. D.).—Granted construction permit for new relay broadcast station, frequencies **133030, 134850, 136810, 138630 kc.**, power 1 watt, special emission (B4-PRE-345).
- General Electric Co., Portable-Mobile (area of South Schenectady, N. Y.).—Granted license for new special relay broadcast station to be used in connection with International Broadcast Stations WGEA and WGEO, when the same program is not being broadcast by Station WGY; frequencies **31220, 35620, 37020** and **39260 kc.**, power 2 watts, A3 emission (B1-LRE-310).
- WSPA—Virgil V. Evans, tr/as The Voice of South Carolina, Spartansburg, S. C.—Denied special temporary authority to operate from sunset (May 7:30 p. m., June 7:45 p. m.), EST, to conclusion of baseball games on the following days: May 7, 8, 9, 13, 14, 17, 18, 22, 23, 25, 29, 30, 31; June 5 and 6, 1940, in order to broadcast the home games of the Sally League Baseball Team only.
- WHAM—Stromberg-Carlson Telephone Manufacturing Co., Rochester, N. Y.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (B1-Z-382).
- KGVO—Mosby's Inc., Missoula, Mont.—Granted petition of KGVO to dismiss petition for rehearing in the matter of the application of KHSL, Chico, Cal., for a construction permit to install new equipment, increase power from 250 watts, unlimited time to 500 watts night, 1 KW day, on the frequency **1260 kc.**
- William F. Huffman, Wisconsin Rapids, Wis.—Granted motion of applicant requesting that Commission reconsider its action of October 24, 1939, in designating for hearing his application for a new station to use **1310 kc.**, 100 watts night, 250 watts LS, unlimited hours, and granted the application, subject to selection of approved transmitter site and antenna system.
- Hazlewood, Inc., Orlando, Fla.—Denied motion of Hazlewood, Inc., requesting dismissal of the application of Radio Corp. of Orlando, for a new station in Orlando, Fla., to operate on **1200 kc.**
- WBHP—Wilton Harvey Pollard, Huntsville, Ala.—Denied motion of WBHP to dismiss the application of The Huntsville Times Co., Inc., for a new station in Huntsville, Ala.
- Kentucky Broadcasting Corp., Louisville, Ky.—Ordered that the order be discharged directing the Kentucky Broadcasting Corp. to show cause why construction permit issued them should not be recalled, and order granting application for new station be set aside on grounds that applicant is not financially qualified to construct and operate station. Satisfactory showing as to financial qualifications has now been shown.
- KMPC—Radio Station KMPC, Los Angeles, Calif.—Issuance of construction permit covering move of transmitter site, increase in power to 5 KW, and installation of directional antenna system for day and night time operation, will be withheld, pending the selection by applicant of a site satisfactory both to the CAA and the Commission.
- WGPC—Albany Broadcasting Co., Albany, Ga.—Denied protest and request for hearing in the matter of the application of E. D. Rivers, Valdosta, Ga., for a construction permit to erect a new station to operate on **1420 kc.**, 100 watts night, 250 watts day, unlimited time, which was granted by the Commission without hearing on February 7, 1940.
- KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—Granted license to cover construction permit which authorized installation of new equipment and new antenna, and move of transmitter and studio; frequency **1050 kc.**, power 5 KW, limited time (B4-L-1138). Also granted authority to determine operating power by direct measurement of antenna power (B4-Z-388).
- WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—Granted modification of construction permit as modified which authorized construction of a new broadcast station to make changes in equipment; frequency **1500 kc.**, power 100 watts, unlimited time (B1-MP-975). Granted license to cover construction permit (B1-L-1143). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-391).
- WCLO—Gazette Printing Co., Janesville, Wisc.—Granted authority to determine operating power by direct measurement of antenna power (B4-Z-390).
- W9XYH—Head of the Lakes Broadcasting Co., Superior, Wis.—Granted license to cover construction permit as modified for new high frequency broadcast station, frequency **43000 kc.**, power 1000 watts, special emission, granted upon an experimental basis only, conditionally (B4-LHB-58).
- WLWO—The Crosley Corp., Mason, Ohio.—Granted license to cover construction permit as modified which authorized increase in power to 50000 watts and installation of new equipment (B2-LIB-11).
- KFRC—Don Lee Broadcasting System, San Francisco, Calif.—Granted modification of construction permit which authorized increase in power for approval of antenna and of site subject to the condition that the station will be required to reduce power or select another site and install a directional antenna system when Executive Agreement Series No. 136 is made effective (B5-MP-913).
- WIP—Pennsylvania Broadcasting Co., Philadelphia, Pa.—Granted modification of construction permit which authorized increase in power from 1 to 5 KW, installation of new transmitter, and directional antenna for day and night use, and move of transmitter, for changes in type of transmitter and move transmitter from east of Brooklawn, N. J., to Creek Road, Bellmawr, N. J., extend commencement date 10 days after grant and completion date 120 days thereafter (B2-MP-974).
- W1XOJ—The Yankee Network, Inc., Paxton, Mass.—Granted license to cover construction permit as modified for new high frequency broadcast station; frequency **43000 kc.**; power 50000 watts; special emission; granted upon an experimental basis only, conditionally (B1-LHB-59).
- WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Adopted final order denying the application for a construction permit to install a new transmitter and a directional antenna for nighttime use, to change frequency to **1270 kc.**, and to operate with power of 1 KW, unlimited time.
- Caribbean Broadcasting Association, Inc., San Juan, Puerto Rico.—Denied petition to set aside the order of the Commission of March 12, 1940, granting the application of Puerto Rico Advertising Co., Inc., for a new station in San Juan, to operate on **1500 kc.**, with 250 watts, unlimited time, reconsider said application and designate the same for consolidated hearing with the application of Caribbean Broadcasting Association, Inc., for the same facilities.
- KSAN—Golden Gate Broadcasting Corp., San Francisco, Cal.—Denied petition for rehearing in the matter of the application of Marysville-Yuba City Broadcasters, Inc., to erect a new station at Marysville, Cal. to use frequency **1420 kc.**, with 100 watts power, unlimited time, which was granted by the Commission without a hearing on January 17, 1940.
- WTAL—Florida Capitol Broadcasters, Inc., Tallahassee, Fla.—Denied petition requesting reconsideration by Commission of its action in designating for hearing the application of WTAL for renewal of license.
- WOL—American Broadcasting Co., Washington, D. C.—Dismissed, upon request of applicant, the petition for rehearing in the matter of the application of Lawrence Heller, for a new station in Washington, D. C.
- WAOV—Vincennes Newspapers, Inc., Vincennes, Ind.—Granted modification of construction permit for new broadcast station for approval of antenna, change type of transmitter, approval of transmitter site at 6th St., U. S. Highway No. 41, and studio at 320 Busseron St., Vincennes, Ind. (B4-MP-731).
- WDBO—Orlando Broadcasting Co., Inc., Orlando, Fla.—Granted license to cover construction permit which authorized changes in auxiliary transmitter; frequency **580 kc.**; power 1 KW; auxiliary purposes only (B3-L-1141).
- KWBG—The Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—Granted modification of construction permit which

authorized increase in power, changes in equipment and antenna system, and move of transmitter, for extension of completion date from June 17, 1940 to August 20, 1940; frequency 1420 kc., 250 watts, unlimited time (B4-MP-977).

KAXM—Radiomarine Corp. of America, New York, N. Y.—Granted extension of special temporary authority to operate ship radiotelephone station KWBL with special emission on frequencies 4422.5, 8820, 8840, 13200, 13220, 17610 and 17680 kc., and as a special relay broadcast station on frequencies 6425, 9135, 12862.5, 17310 kc. for the period May 15, 1940, to not later than June 13, 1940, to transmit programs to the National Broadcasting Co. in connection with series of educational programs on sociological conditions in the Pacific South Sea Islands.

WBAA—Purdue University, W. Lafayette, Ind.—Granted special temporary authority to operate from 5 p. m. to 6 p. m. CST, May 10, 14 and 24, 1940, and from 4 p. m. to 5 p. m. CST, May 11 and 25, 1940, in order to broadcast the Purdue Baseball Games.

WAGM—Aroostook Broadcasting Corp., Presque Isle, Maine.—Granted special temporary authority to operate on Daylight Saving Time from May 9, 1940, to not later than August 1, 1940.

KTSM—Tri-State Broadcasting Co., Inc., El Paso, Tex.—Granted modification of construction permit for approval of antenna system, approval of transmitter site, change in type of transmitter; frequency 1350 kc., 500 watts (B3-MP-972).

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Tex.—Reopened for further hearing, to be held in Washington, D. C., on May 22, 1940, the order of revocation of license of Eagle Broadcasting Co., Inc. (KGFI).

#### APPLICATIONS FILED AT FCC

##### 550 Kilocycles

KFUO—Evangelical Lutheran Synod of Missouri, Ohio and other States, Clayton, Mo.—Modification of license to change frequency from 550 to 830 kc., increase power from 500 watts night, 1 KW day to 1 KW day and night, change hours from share with KSD to from local sunrise to sunset at Denver, Colorado.

KSD—The Pulitzer Publishing Co., St. Louis, Mo.—Modification of license to change hours from share with KFUE to unlimited time. Requests facilities of KFUE.

##### 770 Kilocycles

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—License to cover construction permit (B4-P-2496) for new equipment.

##### 780 Kilocycles

KFQD—Anchorage Radio Club, Inc., Anchorage, Alaska.—Transfer of control of corporation from R. E. McDonald to Wm. J. Wagner, 332 shares common stock.

##### 940 Kilocycles

NEW—Park Cities Broadcasting Corp., Dallas, Texas.—Construction permit for new broadcast station on 940 kc., 500 watts, unlimited time, Class III-B Station. Studio: Petroleum Tower Bldg., Dallas, Texas. Transmitter to be determined, Dallas, Texas.

WHA—State of Wisconsin, University of Wisconsin, Madison, Wis.—Modification of license to change frequency from 940 to 830 kc.

##### 1120 Kilocycles

WTAW—Agricultural & Mechanical College of Texas, College Station, Tex.—Modification of license to change specified hours to daily except Sunday: 6 to 8 a. m., 11:30 a. m. to 12:30 p. m.; daily except Saturday, 3 to 6 p. m.; Saturday only, 2:30 to 5:30 p. m. (contingent on KTBC license being revoked. Amended to request daily except Sunday, 6 to 8 a. m., 11:30 a. m. to 12:30 p. m.; daily except Saturday, 3 to 6 p. m., February through September; 2:30 to 5:30 p. m., daily except Saturday, October through January, and 2:30 to 5:30 p. m. Saturday only.

NEW—J. M. West, J. Marion West and P. M. Stevenson, near Austin, Tex.—Construction permit for new broadcast station on 1120 kc., 1 KW, specified hours, Class III-B, studio and

transmitter sites to be determined near Austin, Tex. (applicant requests consideration only if KTBC's license is revoked). Amended to change name of applicant to J. M. West, J. Marion West, T. H. Monroe and P. M. Stevenson, and to request facilities of KTBC.

##### 1200 Kilocycles

NEW—Albert Joseph Meyer, Powell, Wyoming.—Construction permit for new broadcast station on 1500 kc., 250 watts, unlimited. Amended re antenna changes and requesting change of requested frequency to 1200 kc.

WCLO—Gazette Printing Co., Janesville, Wis.—Authority to determine operating power by direct measurement of antenna power.

##### 1370 Kilocycles

WMAN—Richland, Inc., Mansfield, Ohio.—Authority to transfer control of corporation from George Satterlee to Monroe F. Rubin, 93 shares of common stock.

##### 1400 Kilocycles

WLTH—Voice of Brooklyn, Inc., New York, N. Y.—Modification of license to change name to WLTH—NEW YORK, INCORPORATED.

##### 1420 Kilocycles

KWBG—The Nation's Center Broadcasting Co., Inc., Hutchinson, Kans.—Modification of construction permit (B4-P-2521) for increase in power, changes in equipment and antenna, move transmitter, requesting extension of completion date from 6-17-40 to 8-20-40.

WMVA—Wm. C. Barnes and Jonas Weiland, d/b as Martinsville Broadcasting Co., Martinsville, Va.—Modification of construction permit (B2-P-2226) for a new station, requesting approval of antenna system, change transmitter, approval of studio site at Hotel Henry, Church St., Martinsville, Va., and transmitter site near Martinsville, Va.

##### 1450 Kilocycles

WSAR—Doughty & Welch Electric Co., Inc., Fall River, Mass.—Modification of license requesting designation as Class III-A station.

##### 1500 Kilocycles

WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—Modification of construction permit (B1-P-2100) as modified for a new station, requesting changes in equipment.

WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—License to cover construction permit (B1-P-2100) as modified for new station.

WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—Authority to determine operating power by direct measurement of antenna power.

#### MISCELLANEOUS

NEW—Hughes Productions Division of Hughes Tool Co., Junipero Serra Peak, Monterey County, Calif.—Construction permit for new relay television broadcast station on 319.25 and 323.75 mc., power 25 watts, emission A5 and special for frequency modulation.

NEW—Hughes Productions Division of Hughes Tool Co., Copernicus Peak, Santa Clara County, Calif.—Construction permit for new relay television broadcast station on 307.25 and 311.75 mc., power 25 watts, emission A5 and special for frequency modulation.

NEW—Hughes Productions Division of Hughes Tool Co., Los Angeles, Calif.—Construction permit for new high frequency broadcast station on 43200 kc., 1000 watts, emission special for frequency modulation.

NEW—Hughes Productions Division of Hughes Tool Co., San Francisco, Calif.—Construction permit for new high frequency broadcast station on 43200 kc., 1000 watts, emission special for frequency modulation.

NEW—Hughes Productions Division of Hughes Tool Co., Los Angeles, Calif.—Construction permit for new Class II television broadcast station on 66000-72000 kc., 10 KW visual and aural, emission A3 and A5. Form 318 received requesting Class II.

NEW—Hughes Productions Division of Hughes Tool Co., San Francisco, Calif.—Construction permit same as above except

location to be San Francisco, Calif. Form 318 received requesting Class II television broadcast station.

NEW—Hughes Productions Division of Hughes Tool Co., Portable-Mobile.—Construction permit for a new portable television broadcast station on **301.25** and **305.75 mc.**, power 25 watts, A5 and special for frequency modulation. Portable, area of California.

NEW—Hughes Productions Division of Hughes Tool Co., Frazier Peak, Ventura County, Calif.—Construction permit for new relay television broadcast station on **307.25** and **311.75 mc.**, power 25 watts, emission A5 and special for frequency modulation.

NEW—The Louisville Times Co., Louisville, Ky.—License for new high frequency broadcast station on **25300 kc.**, 500 watts, emission A-3 (using transmitter of Facsimile Station W9XWT). Amended to change name of applicant to Courier-Journal and Louisville Times Company.

NEW—Hampton Roads Broadcasting Corp., Newport News, Va.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, A3-special emission for frequency modulation. Amended: Emission special for frequency modulation.

NEW—A. J. Fletcher, Raleigh, N. C.—Construction permit for new high frequency broadcast station on **43400 kc.**, 1000 watts, emission special for frequency modulation.

WEIX—Memphis Commercial Appeal Co., Area of Memphis, Tenn.—Construction permit to increase power from 5 watts to 22 watts and install new equipment.

NEW—Larus & Brothers Co., Inc., Richmond, Va.—Construction permit for new high frequency station on **43200 kc.**, 1000 watts, special emission for frequency modulation.

NEW—Radio Station WSOC, Inc., Charlotte, N. C.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation.

W3XGN—Berks Broadcasting Co., area Reading, Pa.—Construction permit to increase power from 1 watt to 2 watts and install new transmitter.

W8XVH—WBNS, Inc., Columbus, Ohio.—Construction permit to install new equipment.

NEW—Pensacola Broadcasting Co., Pensacola, Fla.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation.

W9XH—South Bend Tribune, South Bend, Ind.—Modification of license to change frequency from **26050** to **42380 kc.**

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Cord & Webbing Company**—Max Krauss, trading as American Cord & Webbing Company, 394 Broadway, New York, engaged in the sale and distribution of cloth tape or web used in connection with Venetian blinds, upholstery and other articles, is charged in a complaint with misrepresentation.

The complaint alleges that in advertisements in trade journals, and other advertising material, the respondent represents, among other things, that "Vat Dyes are the Fastest dyes known to science—made to resist the color destroying action of sunlight, washing, dry cleaning, etc."

Through use of the foregoing representation and others of similar import, the complaint continues, the respondent represents that all colors in his products are produced by means of vat dyes.

The complaint alleges that in truth two of the colors portrayed in the respondent's advertising material are not "vat dye" colors, one of them being produced by a process known as the naphthol process, and the other by the sulphur process.

As illustrative of the purported fastness and durability of the dyes used to color his products, the complaint alleges, the respondent has caused to be inserted in certain of his advertising material charts or tables showing purported "Tests made on colors most likely affected by sunlight", through use of a "Comparative Fade-Ometer."

Through the use of such charts and tables the respondent is alleged to represent that the colors of his products are superior in fastness and durability to other colors used for similar purposes, when such is not a fact in all cases, and that his products have been subjected over designated periods of tests which demonstrate that the colors will not fade or change, when in fact the colors of his products fade appreciably when subjected to authentic tests for periods much shorter than those designated by the respondent.

A further practice of the respondent, the complaint continues, is use of the trade names "Lintex" and "Siltex" to designate certain of his products. Through use of these words, it is charged, the respondent alleges that his products are composed of linen or silk, when such are not the facts. (4112)

**Cheshill Manufacturing Company**—Edward Shill and Sanford C. Chesick, trading as The Cheshill Manufacturing Company, 501 Seventh Ave., New York, engaged in the sale and distribution of chain door locks equipped with so-called safety bells, which are sold under the name "Safety Bell Chain Locks," are charged with misrepresentation in a complaint.

In advertising matter printed on letterheads, billheads and on cartons containing their products, and by other means, the complaint alleges, the respondents have falsely represented that they are the manufacturers of the Safety Bell Chain Locks and other patented protective devices.

The complaint alleges that respondents have sold and distributed locks with the legend "Pat. Pend." stamped or braised in raised letters on metal bases of the locks.

In truth, the complaint continues, the respondents are not holders of letters patent on the locks or any other protective devices, and have not applied for nor do they have pending a patent for their Safety Bell Chain Locks or any of their parts. The complaint also charges that the respondents do not own, operate or control any factory, and that they are in no sense the manufacturers of the locks sold by them. (4123)

**Food Display Machine Corporation**, and M. J. Kulikowski, Mrs. M. J. Kulikowski and George H. Hardt, 620 North Michigan Ave., Chicago, are charged in a complaint with misrepresentation.

The respondents M. J. Kulikowski, Mrs. M. J. Kulikowski and George H. Hardt are the officers and principal stockholders of the corporation, which is engaged in the sale and distribution of machines designed for cooking potato chips, corn chips and doughnuts. The respondents use the trade names "Vita-Seald" in connection with their potato chip machines, "King Korn Company" and "King K Company" with respect to the corn chip machines, and "Brown Bobby Company" in connection with the doughnut machines.

In advertisements in magazines and periodicals, and other material, the respondents allegedly have represented, among other things, that "Only \$2.50 investment in raw materials brings back \$10 in cash at wholesale"; "Your machine is capable of turning out 10 lbs. of chips every hour—80 lbs. in an 8 hour day. If sold in 5¢ size bags . . . that should give you a total profit of \$21.60 on your 80 lbs. of chips"; "Sensational New Business That May Sweep You to Riches," and "Experts estimate and tests show that the first year's requirements should be about 12,000,000 lbs. You make 32¢ net profit on every pound that passes through your hands."

These and other statements, the complaint alleges, represent that tremendous incomes and profits may reasonably be expected by purchasers and users of the respondents' machines; that with little effort and small investment or expense one can start a business that will rapidly accumulate riches for himself, and that the respondents' machines present in themselves the most amazing money-making opportunity offered by any business in America.

In truth, the complaint continues, the respondents' claims as to the actual or potential markets available are grossly exaggerated, misleading and deceptive, and the actual market is supplied by strong, well-financed, experienced operators from whom an inexperienced operator with one or more of the respondents' machines would be unable to acquire or divert substantial trade and custom. To accumulate the profits or earnings at the rate and in the amounts represented by the respondents, the complaint alleges, would require the steady operation of such machines at full capacity. (4122)

**Junior League Lingerie, Inc.**, 152 Madison Ave., New York, is charged in a complaint with misrepresentation.

The respondent corporation is engaged in the sale and distribution of women's apparel, including slips and other lingerie. In the course of its business, the complaint charges, the respondent has falsely represented that its products are sponsored or approved by the Junior League, such representation being made by means of tags and labels attached to its products, and by letters, circulars and other advertising material distributed among prospective purchasers.

The name "Junior League," the complaint continues, has long been associated in the minds of a substantial portion of the purchasing public with the organization, to such an extent that the use of it to describe articles of merchandise, particularly women's apparel, causes the public to believe that the articles so designated are sponsored or approved by the Junior League.

In truth and in fact, the complaint alleges, none of the respondent corporation's products is sponsored or approved by the Junior League, and the respondent is not connected in any way with the organization and has no authority from the organization to use its name to designate its products. Use by the respondent of the words "Junior League," the complaint charges, as a part of its corporate name, constitutes within itself a false and misleading representation that the respondent is connected with the Junior League and that the respondent's products are sponsored or approved by the organization. The respondent has also, the complaint continues, placed directly in the hands of uninformed or unscrupulous dealers a means and instrumentality whereby such dealers have been and are enabled to mislead and deceive members of the purchasing public. (4124)

**Liberty Candy Company**—See McAfee Candy Company.

**McAfee Candy Company**—Joe B. Hill and C. O. McAfee, trading as McAfee Candy Company and Liberty Candy Company, 651 Poplar St., Macon, Ga., manufacturers of candy distributed to jobbers and wholesale and retail dealers, are charged, in a complaint with use of lottery methods in the distribution of their products.

Certain of the assortments distributed by the respondents, the complaint charges, are so packed and assembled as to involve use of games of chance or lottery schemes when sold to ultimate consumers. The respondents also are alleged to furnish various push cards for use in the sale and distribution of their products by means of a gift enterprise or lottery scheme. Through use of these plans, the respondents allegedly supply to and place in the hands of others the means of conducting lotteries in the sale of their products. (4114)

## STIPULATIONS

Following stipulations have been entered by the Commission:

**American Royal Products Company**—Edna Foster, trading as American Royal Products Company, 931 Ashland Ave., St. Paul, in connection with the sale and distribution of "Riteway" Corn and Callous Remover, agrees to cease representing that the product is amazing, new, marvelous, sensational, or different; is superior to other products; that it is "\$1,000 Guaranteed"; that agents or vendors may make \$2 to \$3 an hour, or earn profits in excess of the average net profits consistently made by full time salesmen; that a charge of 10 cents or other amount is intended merely "for mailing and handling" of a sample package, when in fact such sum covers the full price for which the commodity is regularly sold and delivered, and that E. L. Fox is the president of American Royal Products Company, or otherwise representing that her business is incorporated or extensive in size and operation. (2775)

**Cassell Products, Inc.**, 131 West 33d St., New York, in the sale of a toilet vinegar, agrees to desist from use on its wrappers, tags, or other advertising matter of the word "British", alone or in connection with any other words or pictorial or other representations, the effect of which may convey the impression that the prod-

uct is of English origin or that it is made in the British Isles. According to the stipulation, the respondent's preparation is of domestic manufacture. (2777)

**Cleo-Pax**—Jay P. Walk, trading as Cleo-Pax, 416 South Dearborn St., Chicago, manufacturer of so-called wrinkle plasters sold under the name "Cleo-Pax", agrees to cease using any statement directly asserting or implying that the use of the products will check or prevent the formation of wrinkles, lift up sagging facial lines, or cause such lines or wrinkles which result from age to fade away or become shallower, and agrees to desist from advertising that use of these products will rejuvenate aged or aging skin or eradicate facial lines or wrinkles. (2780)

**Colonial Lumber Specialties, Inc.**, 30 Church St., New York, engaged in the sale and distribution of red cedar shingles, agrees:

To cease representing that the "Early American Brand" of hand split red cedar shingle is "Guaranteed 20 years against fire", or designating or referring to a limited vendor's warranty as "an unconditional guarantee," and from use of the word "Guarantee" or the word "Guaranteed" or words of similar meaning in connection with the advertising, offering for sale, sale or distribution of its products, unless whenever used, clear and unequivocal disclosure be made in direct connection therewith, of exactly what is offered by way of security, and also any qualifying restrictions, limitations or provisos.

(b) To discontinue representing, by use of expressions such as "This guarantee does away with all uneasiness in reference to the fire hazard," or in any other way, that there is no danger from fire where the hand split red cedar shingles sold by it are used, or that they will not ignite, and to cease representations of any kind tending to convey the belief that untreated wooden shingles have been rendered fireproof.

(c) To desist from use on its trade stationery of the words "Mills in British Columbia, West Virginia" or other designated locality, or from words of similar implication tending to convey the belief that it makes or manufactures the products sold by it, or that it actually owns, operates or directly and absolutely controls a plant or mill in which such products are made or manufactured. (2782)

**Dated Cream Company**—Theresa H. Boyer and Ann Bray, trading as Dated Cream Company, Evansville, Ind., agree to cease representing that their preparation "Dated Cream" has healing properties or penetrates the skin; that it will go down deep into the pores and cleanse them of all foreign matter or will stimulate the pores to normal action, or that the preparation activates the sebaceous glands or does more than to cleanse the surface. The respondent co-partners also stipulate that they will cease representing that their preparation will vitalize the skin or remove wrinkles, prevent or restore sagging muscles, or restore a substance natural to the skin. (2785)

**Dickey Eye Water Company**—James J. Durr, doing business as Dickey Eye Water Company, Montgomery, Ala., engaged in selling a medicinal preparation designated "Dr. J. A. Dickey's Eye Water," agrees to cease representing that the preparation is superior in beneficial qualities to any other preparation used for the same purposes; that it is recognized as a standard preparation for the eyes, and that the preparation is a remedy or is capable of curing or healing. (02551)

**Ulric C. Jones Advertising Agency**—Ulric C. Jones, trading as Ulric C. Jones Advertising Agency, Hurt Building, Atlanta, has entered into a stipulation in which he agrees to desist from certain representations in the dissemination of advertisements with respect to 15 poultry, dairy and hog feeds sold by J. Kendley Martin, trading as Standard Milling Company, Atlanta. Among the feeds so advertised were "Super Quality" pullet, starting, laying, breeding and supplement mash, "Standard 18% Hog Feeds" and others.

In the stipulation, Ulric C. Jones agrees to discontinue disseminating or causing to be disseminated, any advertisements which represent directly or by implication that any of the feeding plans or feeds of J. Kendley Martin, or any ingredients in such feed, will "insure" or "assure" for the user any result which may not be expected to follow under every condition of use or which

is not entirely dependent on such feeding plan, feed, or ingredients in the feed, for its accomplishment.

Among other representations which the respondent agrees to discontinue are that any of the Martin feeds are perfectly balanced or incorporate every new feeding discovery of value in a poultry or livestock ration; that "Super Quality Coccidiosis Control Mixture," when used in connection with proper sanitary measures, will prevent coccidiosis in baby chicks or do more than aid in its prevention; that this preparation is completely medicated or will help prevent infectious diseases, unless, where it does so only because of its nutritive qualities, such reason is clearly indicated; that any of the hog feeds sold by Martin will afford the highest profit or grow and develop swine at the lowest feeding cost, or that the various feeds distributed by J. Kendley Martin are sold entirely direct to the purchasing public. (02552)

**Kaiser Baking Company**, trading also as Frantz Home Bakers, East Liverpool, Ohio, agrees to cease selling or otherwise disposing of bread or other products by means of a game of chance, gift enterprise or lottery scheme. The stipulation recites that the respondent company conducted a lottery and advertised "20 Free Trips to the New York World's Fair" through weekly drawings in which the winners were determined wholly by lot or chance. (2784)

**Van de Mark Advertising, Inc.**, Cincinnati, and Claude Efnor, vice president, engaged in the sale and distribution of advertising material consisting of cuts, mats, and material for promoting the sale by others of goods and commodities, have agreed to discontinue representations concerning "Riteway" Corn and Callous Remover similar to a number of those stipulated to be discontinued by Edna Foster, trading as American Royal Products Company. (2776)

**Standard Milling Company**—See Ulric C. Jones Advertising Agency.

**Standard Refining Company, Inc.**, 500 Palisade Ave., Jersey City, N. J., and Eleanor G. Rudiger and Joseph H. Rudiger, president and vice president of the corporation, distribute molasses, syrups and honey. In their stipulation the respondents agree to cease using the phrase "Extra Fancy Barbados Molasses" as a mark, stamp or brand for a product not composed wholly of molasses originating in the Islands of Barbados. They also agree to cease employing the word "Barbados," alone or in connection with other words or in any way as descriptive of molasses other than Barbados molasses. The stipulation provides that if the product is composed of a blend having Barbados molasses in substantial quantity as an ingredient and also having ingredients other than Barbados molasses, and the word Barbados is used to refer to such Barbados molasses content, then the word Barbados shall be accompanied by other words in equally conspicuous type to indicate clearly that the product is not composed wholly of Barbados molasses but is a blended product in which Barbados molasses is but one of two or more ingredients. (2778)

**United Factories, Inc.**, 1302 McGee St., Kansas City, Mo., engaged in the sale and distribution of oil burners for installation in stoves and furnaces, agrees to cease representing:

(a) That the device sold by it is a new, cheap type oil burner or that it burns cheap oil in a new way, or, by the use of similar terms or phrases, representing that the heating process employed in its open pool or pot type oil burners is an innovation or involves any new principles, or, inferentially or otherwise, that such burners operate satisfactorily with grades of oil inferior to or cheaper than the grades which should be used therein.

(b) That the oil burners it sells furnish twice the heat rendered by coal or wood, either at half the cost or at smaller cost, or at all, or representing without due regard to circumstances and environment that the heat from such burners is greater or cheaper than that from coal or wood.

(c) That any article is given "free" or as a gratuity, when the receipt of such article is contingent upon any consideration, terms or condition, as payment of money or rendering of services.

(d) Representing, by statement or inference, that exclusive trade territory is or may be given, allotted or reserved either "free" or

for a consideration or otherwise, to any person, or that agents or salespersons are designated for any territory or district with exclusive agency or selling rights therein. (2774)

**C. E. Woodling Chemical Works**—C. E. Woodling, trading as C. E. Woodling Chemical Works, 127 South Jefferson St., Allentown, Pa., engaged in selling a chemical designated "Odorene," to be sprayed in rooms for deodorizing them, agrees to cease representing that the product is instant in action and will banish, end or kill odors, or implying that it is permanent in effect; that there is no competition in selling the product; that the product is new in any territory, unless there have been no previous sales in the locality referred to; that the financial opportunities afforded in selling the product are unparalleled, and that the product is effective for all odors. (02553)

## CEASE AND DESIST ORDERS

The Commission has issued the following cease and desist orders:

**Chapman Health Products Company**, 4618 Euclid Ave., Cleveland, and John W. and Nellie C. Chapman, individually and as officers of the corporation, have been ordered to cease and desist from further dissemination of advertisements for the purpose of inducing the purchase of medicinal preparations sold and distributed by them under the designations "N.A.R. Tablets", and "Faid" (otherwise known as "Daintee").

Upon application of the Federal Trade Commission, the United States District Court for the Northern District of Ohio last December issued an order restraining The Chapman Health Products Company from further dissemination of false advertisements concerning the preparation designated "Faid" or "Daintee", pending the issuance of a complaint under its regular procedure by the Commission.

Findings of the Commission are that the respondents represented "N.A.R. Tablets" as a cure or remedy for rheumatism, neuritis and arthritis, when in fact the preparation possesses no therapeutic value in the treatment of those ailments except so far as the analgesic properties might afford temporary relief.

The preparation designated "Faid" (otherwise known as "Daintee") was represented as a cure or remedy for obesity and as being a competent, safe and scientific treatment, its use having no ill effect upon the human body. In truth, the Commission finds, the preparation contains powdered extract phytolacca berries, sodium bichlorate, berberine hydrochloride, apocynoid and desiccated thyroid. These drugs, according to findings, are present in quantities sufficient to cause serious and irreparable injury to health if used under conditions prescribed in the respondents' advertisements or under such conditions as are customary and usual.

The respondents are ordered to cease and desist from the dissemination of any advertisements for the purpose of inducing the purchase of the preparations or any medicinal preparations composed of substantially similar ingredients, whether sold under the same name or any other name, and which advertisements, when referring to the product "Faid", fail to reveal that its use may result in serious or irreparable injury to health, or which advertisements represent "N.A.R. Tablets" as a cure or remedy for rheumatism, neuritis or arthritis, or that the preparation "Faid" (otherwise known as "Daintee") is a cure or a competent, safe or scientific treatment for obesity. (4004)

**Ehrhart Conrad Company**, 106 Carlisle St., Hanover, Pa., engaged in the sale and distribution of food products to retail dealers, is found by the Commission to have sold and distributed to dealers a so-called "Plee-zing Treasure Chest" device for use in the sale of the products to the consuming public, in a manner involving the operation of a game of chance. The "Plee-zing Treasure Chest" consists of a card with a seal, and 100 small trade "receipts", with spaces provided on the card on which the receipts are to be pasted. After the blank spaces on the card are filled, the prizes designated under the seal become available to the holder of the card. The food products or cash awards so designated under the seals vary in value in accordance with each card, the prizes or awards thus being distributed to the purchasing public wholly by lot or chance, according to findings. (4068)



**Erwin Feather Quilt Company**—Herbert S. and Mabel T. Erwin, trading as Erwin Feather Quilt Company, 1598 East Livingston Ave., Columbus, Ohio, have been ordered to cease and desist from misrepresentations concerning their products.

Findings of the Commission are that the respondents have circulated to purchasers and prospective customers throughout the United States advertising folders, pamphlets and other literature, which contain false and misleading statements concerning the value and price of their products. Among such statements are: "Return this card at once for our SPECIAL OFFER FOR THIS WEEK ONLY", and "FALL AND PRE-HOLIDAY PURCHASE PLAN. One week only is the limit—we must place on our special offer to let you personally examine these exceptional quilts and see for yourself their beautiful colors—attractive designs, and know the comfort that comes from these warm light-weight feather quilts."

Findings are further that upon inquiry received from prospective purchasers as a result of the advertisements, the respondents, in person and through agents, would get in touch with the prospective purchasers and sell them quilts, pillows, bed spreads and other products at the prices quoted which were represented to be reduced and special prices, limited as to time.

In truth, the Commission finds, the respondents' quoted special or reduced prices were not special reduced prices for a limited time, and the products advertised have never had a usual, regular or customary retail sales price greater or other than the price quoted.

The respondents are ordered to cease and desist from representing that the prices at which they offer for sale and sell their products constitute a discount to the purchaser, or that such prices are special or reduced prices or introductory prices or are applicable for a limited time only, when in fact they are the usual and customary prices at which respondents sell such products in the normal and usual course of business. (4011)

**Fascination Candy Company**, Chicago, the Commission finds, manufactures packaged chocolate candy exclusively, its annual sales aggregating between \$260,000 and \$300,000. In 1936 and 1937, it was found, the company sold assortments of candy suitable for distribution by the use of punch board and push card devices. With some of the assortments push cards were packed by the respondent in containers along with the candy, and in other assortments the candy was sold by the respondent without the cards. When requested by the customer, the Commission finds, the respondent had the push cards or punch boards sent direct to the customer from the manufacturer of such cards and boards. The sales by respondent with which such cards or boards were furnished aggregated between \$2,000 and \$3,000 annually. The Commission finds that the respondent, by furnishing such cards and boards, or either type of device, with the candy and articles of merchandise sold by it, supplied to and placed in the hands of others a means by which games of chance, gift enterprises and lotteries have been conducted. (3321)

**Le Flor Company**—Leland F. Benham, trading as Le Flor Company, 620 North Orleans St., Chicago, engaged in the sale and distribution of a medicinal preparation for the treatment of obesity, has been ordered to cease and desist from misrepresentations concerning his product.

The medicinal preparation is described as "Le Flor Weight Reduction Tablets," and is sold under the name of "Le Flor Method." Prior to August, 1937, the respondent conducted his business under the trade name Dixie Products Company.

In advertisements in newspapers and periodicals, the Commission finds, the respondent represented that his treatment for obesity, described as the "Le Flor Method," consisting of "Le Flor Weight Reduction Tablets" and a so-called "deficient element" diet, is a cure or remedy for obesity which does not contain any dehydration drugs, and that the price of \$1 per box or 6 boxes for \$5 at which the product was being offered for sale, was a special price, and that the regular and customary price was \$2 per box.

The Commission finds that the tablets are not a cure or remedy for obesity and have no therapeutic value beyond that of a cathartic or laxative; that they contain dextrose, phenolphthalein, powdered extract of bladderwrack, and talc, the drug phenolphthalein being a dehydration drug, and that the price of \$1 per box or 6 boxes for \$5 at which the respondent offers them for sale, is not a special or reduced price but the regular customary and usual price.

The respondent is ordered to cease and desist from representing that his preparation is a cure, remedy or effective treatment for obesity or overweight; that the combination of the respondent's

preparation and diet constitute a cure, remedy or effective treatment for obesity; that the preparation contains no dehydration drugs, and that the price at which the respondent offers for sale and sells his preparation constitutes a discount to the purchaser, or that such price is a special, reduced or introductory price or is applicable for a limited time only, when in fact it is the usual and customary price at which the respondent sells his preparation in the normal and usual course of business. (4031)

**Oxol Laboratories**—William S. McClymonds, trading as Oxol Laboratories and Western Research Laboratories, 1046 Santa Fe Drive, Denver, Colo., engaged in compounding, selling and distributing a medicinal preparation, has been ordered to cease and desist from misrepresentations concerning his product.

Findings of the Commission are that the product, designated "Quinox Capsules," is intended for use by women suffering from delayed menstruation. In newspapers and periodicals and other printed and written matter, the Commission finds, the respondent has represented that the preparation is a cure or remedy for and constitutes a competent and effective treatment in cases of delayed menstruation. Findings are that these representations are misleading and untrue, and that the preparation is without any substantial therapeutic value aside from its effect as an ordinary laxative.

The respondent is ordered to cease and desist from representing that the preparation is a cure or remedy or a competent or effective treatment for delayed menstruation, or will relieve or have any beneficial effect thereon, or that the preparation possesses any substantial therapeutic value aside from its effect as an ordinary laxative. (4035)

**Prudential Sales Corporation**, 230 East Ohio St., Chicago, distributor of dry shavers, wrist watches and other merchandise, has been ordered to cease and desist from the use of lottery methods and misrepresentation in the sale of its merchandise.

Findings of the Commission are that, besides furnishing to dealers devices such as push cards which involve games of chance in the sale of its products to ultimate consumers, the respondent represented certain electric dry shavers to have a value of \$15, when in truth they were of a lower quality and had a retail value of substantially less than that amount. The respondent also is found to have placed on the face of push cards the picture of an electric dry shaver, and beneath or to the side of the picture, in bold type, the word "Packard," while beneath the word "Packard," in small letters, were the words "Combination pen and pencil," the words and picture being so arranged that buyers received the erroneous impression that the electric shaver referred to was a genuine \$15 Packard Lectro-Shaver."

The respondent is further found to have advertised blankets by use of the unqualified word "Wool" in bold type and so set out as to attract attention of purchasers, while the statement "Guardsmen has over 80% wool content guaranteed," was in small inconspicuous type, and is found to have used the word "Elkskein" to designate sports jackets, such word serving as a representation that the jackets were actually made from elkskin, when they were not made from elkskin and did not possess its desirable qualities.

The Commission order directs the respondent to cease and desist from supplying to or placing in the hands of others, merchandise together with lottery devices, or such devices together with merchandise or separately, for use in selling or distributing merchandise to the public; from representing fictitious and excessive prices as the customary or regular prices or values of electric shavers; from using the trade name "Packard" or other trade name in connection with the picture of an electric shaver, or separately, so as to indicate that the respondent is offering an electric shaver bearing such trade name, when in fact the respondent uses such name to refer to an article other than an electric shaver; from using the word "Wool" or any other word or term descriptive of wool to designate any fabric or product which is not wholly composed of wool, provided, however, that in the case of fabrics or products composed in part of wool and in part of other fabrics, such words may be used as descriptive of the wool content if there is used in immediate conjunction therewith in letters of at least equal size and conspicuousness words truthfully describing and designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent; from using the word "Elkskein" or any other simulation of the word "Elkskein" to describe sports jackets not made from the skin of an elk, tanned by the chrome process, and from using the word "free" or any other term of similar meaning to describe or refer to articles regularly included in a combination offer with

other articles, or which are given as compensation for services. (3839)

**Roxanna Canning Company**, manufacturer and distributor of dog foods, with its office in Lebanon, Ohio, and manufacturing plant in Dodds, Ohio, has been ordered to cease and desist from misrepresentations concerning its products.

Findings of the Commission are that the respondent, in the course of its business, has made statements that are deceptive and misleading concerning the ingredients of the various brands of dog foods it manufactures and sells. Typical of these, according to findings, is a representation that "Blackspot," one of its products, is a scientifically balanced ration containing beef by-products, cereal composed of wheat, corn, oats and soy bean products, ground beef bone, beef, carrots, salt, and cod liver oil prepared in broth, and that it is guaranteed to contain not less than 8 per cent protein, 2 per cent fat, and not over 2 per cent fiber. The ingredients of "Harty," another product, are represented as being virtually the same.

The Commission finds that these representations are false and misleading, and that the foods do not contain beef by-products, ground beef bone or beef, and are not scientifically balanced rations or scientifically balanced beef rations.

The respondent is ordered to cease and desist from using the terms "beef by-products," "ground beef bone," or "beef" or any other term of similar import or meaning, to designate or describe any ingredients of such products which ingredients are not in fact, respectively, beef by-products, ground beef bone, or beef, and from representing that such products are scientifically balanced beef rations. (3904)

**Conrad Schickerling Research Laboratory**—Conrad Schickerling, trading as Conrad Schickerling Research Laboratory, 589 Central Avenue, Orange, N. J., seller and distributor of various types of incandescent lamps for use in connection with photography, has been ordered to discontinue certain representations concerning his products.

The respondent has sold and distributed various types of incandescent lamps, known as "Schickerling Mushroom Bulb Photo Flood Lamps," sometimes known as "Schickerling Full Sun Spectrum Photo Flood Krypton Lamps," "Schickerling Photo Enlarging Lamps," "Schickerling '1000 Flash' Photo-Flash-Flood-Lamps," and "Schickerling '200 Flash' Photo Lamps."

The Commission finds that the respondent has conducted his business under the name of the Conrad Schickerling Research Laboratory and has caused these words to be used in advertisements, although in fact he does not own, control or direct a laboratory where such research work is conducted, and has not at any time been engaged in the direction, control or conduct of such research work.

The respondent is directed to cease using the words "research laboratory" or the word "laboratory" or any other similar word, words or phrases in his trade name or in connection with his business, when the respondent does not own and operate or directly and absolutely control an appropriately equipped laboratory where research work in connection with his business is conducted by trained technicians. (4042)

**Standard Brands, Inc.**—Part of cease and desist order and findings issued in June, 1939, against Standard Brands, Incorporated,

New York, and its subsidiary, Standard Brands of California, San Francisco, has been modified.

The original order prohibited price discriminations in violation of the Robinson-Patman Act in the sale of bakers' yeast of like grade and quality but dismissed the Commission's complaint in so far as it applied to the sale and distribution of foil yeast, the kind sold in small cakes for individual use.

The modified order does not alter the provisions prohibiting discrimination in the sale of bakers' yeast but vacates the dismissal of the allegations concerning foil yeast, restates the findings in regard thereto and specifically forbids certain discriminations in the sale of foil yeast.

The modified findings are that the respondents sold in commerce immediately prior to April 1, 1940, foil yeast according to the following price scale: 300 pieces and up per month, 27 cents a dozen; under 300 pieces per month, 30 cents a dozen. The respondents are found to have sold foil yeast to units of corporate, voluntary and cooperative groups at 27 cents a dozen regardless of the quantity delivered during any one month to any one unit, and to independent retailers taking more than 300 pieces per month. Members of the groups are found to have been competitively engaged with the independent retailers who did not receive the lower prices but who purchased comparable quantities.

Findings are that the differentials in price did not make only due allowance for differences in cost of sale and delivery resulting from the differing quantities in which the foil yeast was sold, as required by the Robinson-Patman Act, and that the differential amounted to substantial sums annually so that some preferred purchasers obtained substantial savings annually over other purchasers not receiving the benefit of the differential.

Subsequent to March 31, 1940, the findings continue, the respondents have sold foil yeast to the afore-mentioned groups and to those competing independent retailers taking more than 300 pieces a month, at 28½ cents a dozen, and to competing retailers taking less than 300 pieces per month, at 30 cents a dozen. Such differential in price now makes only due allowance for the differences in cost of sale and delivery resulting from the differing quantities sold and delivered, as provided in the act.

The Commission order directs that the respondents, in the sale of foil yeast, cease discriminating in price between different purchasers of this product of like grade and quality, either directly or indirectly, by selling it at different prices such as the following: 300 pieces per month and up, 27 cents a dozen; under 300 pieces a month, 30 cents a dozen. (2986)

**Western Novelty Company**—Max Levin, trading as Western Novelty Company, 1729 Lawrence St., Denver, Colo., engaged in the sale and distribution of knives, cameras, razors and other merchandise, was found to have sold and distributed certain assortments of merchandise so packed and assembled as to involve use of a game of chance when sold to ultimate consumers. One of the assortments, findings are, consisted of a punch board with a number of articles of merchandise attached. The punch board contained a number of small sealed tubes containing slips of paper and numbers. Holders of certain specified numbers were entitled to receive amounts up to \$2.50 in cash on a 5-cent sale, and holders of certain other numbers were to receive the articles of merchandise attached to the board, according to findings. (4055)

**Western Research Laboratories**—See Oxol Laboratories.



## ASCAP Again Tries to Split Broadcasters United Front

Neville Miller today made the following reply to ASCAP's latest effort to "divide and conquer":

"I disagree emphatically with the statements contained in John Paine's May 13 letter to broadcasters. The letter is but another attempt on the part of ASCAP to drive a wedge into the industry for the benefit of ASCAP at the expense of broadcasters.

"The enthusiastic support BMI is at present receiving is the best possible answer to Mr. Paine's statement that stations are anxious to sign the new contracts. Today, 292 stations, representing 70% of the revenue ASCAP derives from radio, are members of BMI, with additional stations joining each week. All indications are that the broadcasters are united and are determined once and for all to end ASCAP monopolistic control of music.

"All who have followed this controversy know that any contract requiring broadcasters to pay ASCAP on news broadcasts, sports broadcasts, and other programs which either contain non-ASCAP music or no music at all will be objectionable to broadcasters.

"The broadcasters for years have demanded a per-use character of contract and I am sure have not changed their minds over night, nor will they voluntarily accept ASCAP proposal which curtly dismisses this demand as 'uneconomical and unscientific'.

"All broadcasters are aware that the proposed ASCAP contract perpetuates ASCAP's monopoly and are fully aware of the result of such a monopoly, which was accurately described by Justice Black when he said ASCAP was "a price fixing combination that actually wields the power of life and death over every business . . . dependent upon copyrighted musical compositions for existence. Such a monopolistic combination's power to fix prices is the power to destroy".

"Recent events in Europe have made us accustomed to fifth column activities, and the landing of parachute troops behind the lines. Therefore, I am sure that broadcasters will not be misled by the kind and benevolent interest in their behalf expressed by Mr. Paine, but in their minds will stand out the cold facts that without consultation with the industry, ASCAP has seen fit to demand an increase of approximately 100% in payments, that radio today is contributing two thirds of ASCAP's entire revenue, and that any continuation of the present form of contract will only end in strengthening ASCAP's monopoly.

"Broadcasters would naturally welcome an 'end of difficulties between broadcasters and the authors and composers,' but that end can only be reached by the establishment of free competition in the music field and not by a surrender to ASCAP."

### JUSTICE DEPARTMENT SUBPOENAS ASCAP RECORDS; HEARING SET

The anti-trust division of the Department of Justice is investigating ASCAP to determine whether it exercises an illegal monopoly or restraint in the field of popular music.

Proceeding quietly, the Department of Justice has served a grand jury subpoena upon the society requiring it to produce its records for Federal scrutiny. The society,

through Gene Buck, its president, responded by moving to quash the subpoena. Argument on this motion will be held May 22, before Judge Henry W. Goddard in United States District Court in New York.

The anti-trust division is proceeding along criminal lines. Victor Waters, Special Assistant Attorney General in charge of the inquiry, told newspapermen in Washington that a grand jury investigation of ASCAP was under way. He refused to comment.

Herman Finkelstein of the law firm of Schwartz & Frohlich, 1450 Broadway, which represents ASCAP likewise refused comment to newspapermen. He indicated, however, that it was the society's view that the government might be trying to get new evidence with which to revive a civil action which it brought against the society and disputed allied associations in August, 1934. That action, in which the government sought an injunction to restrain the defendants from alleged monopolistic practices, was tried in 1935 only partly and never finally decided.

### BMI DEVELOPMENTS

Louis Katzman has joined the BMI staff in charge of public-domain and tax-free music of the standard, salon, and classical type. He will be associated with Milton Rettenberg, BMI's Music Editor, in presenting copyrighted music of the standard and ballad type.

Mr. Katzman will make it his particular task to explore the needs of each member station, individually, in accordance with the station's report to him as to its musical facilities. He will then be in a position to recommend tax-free theme songs, tax-free music to be used as background or incidental material for dramatic sketches and similar purposes. He will also be charged with getting such music out in suitable form for station use.

For music for small string ensembles, simfoniettas, and so forth, he will hold the position that Mr. Marlo holds in the field of popular music.

Mr. Katzman's experience equips him for this work in a remarkable way. Born just fifty years ago in Russia, he has devoted his whole life to music in various capacities. He has been performer, arranger, conductor, composer, associated with the recording and radio industries

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

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

## BMI DEVELOPMENTS

(Continued from page 4251)

from their early years. He was first trumpet at the Edison Recording Company in 1919, later was under contract for three years with the Witmark Company as staff arranger, and for two years was chief recording director for the Brunswick Company. For the past five years he has been chief musical director for Hearst Radio, Inc., and he will continue in that capacity in addition to carrying on his work for BMI.

He was conductor as well as arranger and director of the Whittall Anglo-Persians, the second large commercial show on the air in the days of radio's infancy. He conducted his Anglo-Persians in the stage show for two weeks at the opening of the Roxy Theatre in New York. He was the first to introduce "symphono-jazz" and trademarked the name. He was music director of the first Fred Allen show and served in the same capacity for George Gershwin's air show.

He is credited with discovering and developing more young artists and composers than any other music director in the business.

This long and unusual experience enables Mr. Katzman to put himself in the position of the staff of a radio station and to understand their problems and identify himself with them whether the station works on 100 watts or 50,000.

George Marlo, BMI's professional manager, has picked three songs for special promotion. The work of a contact man requires him to exercise a neat judgment as to the tunes which are most likely to have strong popular appeal. The music in which he has the greatest confidence is the music he can most successfully promote. It is the confidence which singers, band leaders, and other performers have in his judgment that persuades them to take an interest in the music that he puts before them. Out of the songs already in the BMI catalogue, Mr. Marlo has chosen *Here in the Velvet Night*, *In the Silence of the Dawn*, and *Practice Makes Perfect*. (The last is in the shop but not yet released.)

May 17, 1940

BMI is making serious efforts to open the doors for the trained and competent composer who has not previously been able to get a hearing. M. E. Tompkins, General Manager, has written to music schools, conservatories, the music departments of universities, and also to the locals of the American Federation of Musicians, which number in their ranks many professionals of experience who have been blocked in their efforts as composers no less than the most ignorant amateur.

In writing to the officer of one of the locals, Mr. Tompkins said in part:

As a publisher of music BMI is unique because it is able to assure its writers that their work will have a wide public hearing. The stockholders of the company are exclusively the owners and operators of radio stations which are licensed to play BMI music—nearly 300 of them at present, including most of the major network stations. They will give that music a nationwide audition through the most effective medium in existence, the radio.

In your group there must be men who have music in them that the world would learn to love, granted a hearing of it. Perhaps some of them would already have won wider recognition if they had been given the chance to put their music before the public favorably. BMI can give them that chance.

Of course the needs of the dance bands create the greatest demand for a steady stream of new numbers. We are interested in all music, however, whether or not it is suitable for dancing. The most popular writers are being drawn increasingly from the ranks of trained and competent musicians. It is in groups such as yours that the composers will be found who will write America's outstanding musical works of the future—symphonic works and also the song-and-dance hits. BMI, as the instrument of the broadcasting industry, is grateful for the part it will play in the molding of those careers.

We ask that your members send to use the pick of their manuscripts. The professional musician is well aware of the type of music that appeals to the mass radio audience. That is our immediate need.

The response has shown that, in this respect as well as in so many others, BMI is meeting a great and widespread need.

"Man-Bites-Dog" is the old newspaper formula for news. This week *Variety* shows what it considers the unusual and the striking. HIT IS MADE WITHOUT BIG AIR BUILD-UP, it announces in headlines. The tune in question has been played on the air. All that stirred *Variety's* interest was the fact that it "got there with a minimum of radio plugging. . . . For the past several weeks it has averaged but eight network plugs a week."

That says as plainly as any editorial could say, "It is radio which makes a song into a hit. When a hit is made without being plugged on the air—boy, that's news!"

BMI tunes start off with a better chance to become hits than any other songs. Every BMI baby is born with a silver spoon in its mouth.

The following letter appeared in *The Beverage Times* for May 6, 1940:

To the Editor:

Would you be kind enough to tell me what to do? For the last four years I paid to the ASCAP \$30 a year, for two nights'

music, three pieces, a week. Now this year they ask \$60 a year for one night a week, three pieces playing. Do you think this is fair? I think this new rate will put many musicians out of work. What is your opinion? I think it is going to be a racket and should be stopped. I wish your paper would publish this fact.

HARRY C. SEIFFERT,  
Brightwaters, L. I.

(We suggest that you get in touch with Franklin Nichols, president of the Suffolk Restaurant Liquor Dealers' Association, Nichols Hotel, Patchogue, L. I. Association heads are currently working on a plan to escape payment of heavy fees to ASCAP.—Ed.)

This little personal note is a strong demonstration of the circumstances which are sweeping all commercial users of music into eager cooperation with BMI.

## Fly Compliments Broadcasters On War Coverage

"Broadcasters of the United States are doing a whale of a job on reporting war news," FCC Chairman James Lawrence Fly said at a press conference early this week.

The Chairman told newsmen that he has listened to a great number of broadcasts, both from commentators in America and foreign broadcasts, and is of the impression that the broadcast industry is doing an excellent job and "keeping us well informed." Chairman Fly said that the news broadcasts are preserving a balanced perspective and are using discretion in giving their news sources.

"Broadcasters," he said, "are doing an intelligent job and are evaluating their reports." Mr. Fly said that he is favorably impressed with the war news broadcasts and with the methods that are being used and broadcasters are doing "a real public service."

The Chairman called attention to the fact that some time ago there was a serious question regarding the sanctioning of war news but the broadcasters and Commission reached an agreement and the broadcasters are "consistently following the rule laid down." In his remarks Mr. Fly said that of course he was not making any reflection on the excellent work of the regular news service.

Chairman Fly told the newspapermen that he hopes that the Commission will be able to make public its television policy over the next weekend.

### DISTRICT MEETINGS

In line with the NAB bylaws, members in eight of the seventeen districts will hold meetings within the next few weeks. The principal business to be transacted at these meetings is the election of directors for a two year term. A staff representative from NAB will attend all the meetings except the one at Los Angeles. Distance and the fact that Sixteenth District members will have

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the opportunity to meet the staff at the August convention led to this decision.

Carl Haverlin, recently appointed stations relations director of Broadcast Music, Inc., will attend all of the meetings including the one at Los Angeles. The following dates have been definitely set:

- June 1-2—District 4—Greensboro, North Carolina.
- June 8—District 10—St. Louis, Missouri.
- June 10—District 12—Wichita, Kansas.
- June 12—District 14—Salt Lake City, Utah.

The dates for the Second, Sixth, Eighth, and Sixteenth Districts have not as yet been agreed upon and will be announced later.

### JUSTICE DEPARTMENT CLEARS FIVE PROGRAMS REFERRED BY FCC

The Justice Department has cleared five more programs referred to it by the FCC.

They are "Musico," broadcast by station WGN, Chicago; "Songo," broadcast by WIP, Philadelphia; "Especially for You," broadcast by WFIL, Philadelphia; "Sears' Grab Bag," broadcast by WISE, Asheville, N. C., and "Dixie Treasure Chest," broadcast by KRLD, Dallas, Texas.

Previously the Justice Department had cleared the "Pot o' Gold" and "Mead's Bakery" programs.

### McGRANERY COPYRIGHT BILL BAD FOR BROADCASTING

Preliminary analysis of the McGranery Copyright Bill (H. R. 9703) shows it to be a compromise between many interests including the performing artists and labor, particularly the A. F. of M. It does not make any concessions to radio and is very definitely directed at the recording interests. Among the outstanding changes the Act would create, are the following:

1. It abolishes the compulsory license clause for recordings.
2. It makes it a violation of law to broadcast a copyrighted rendition or performance without the consent of the owner of the rendition or performance.

3. It prevents the use of the sound track of a picture apart from the visual part of the film.

4. It makes a recorded rendition of a work susceptible of copyright.

5. It extends copyright to the authors of all countries parties to the International Copyright Convention, subject to certain protection for acts already done with respect to works which may go from public domain to copyright as a result of such provision.

6. It preserves the manufacturing clause and provides that all phonograph records must be recorded and manufactured in the United States.

7. It provides for a fifty-six year term of copyright with no valid assignment of rights or grant of interest to be operative longer than the first twenty-eight years.

8. It introduces the right of the author to object to modifications of the work prejudicial to his honor or reputation.

9. It requires any licenses or grants of any right in a copyright to be in writing.

10. It provides that any performer of a rendition which has been recorded shall be deemed to be the author of the rendition, and that in cases of joint renditions, a conductor or leader shall be deemed to be an author.

11. It authorizes the President to take all steps necessary to make the United States a member of the International Copyright Convention.

It is obvious that this bill would be disastrously disadvantageous to all broadcasters. On the face of it, it would appear to be introduced at the request of NAPA. Representative Kramer (D-Calif.), Chairman of the House Patents Committee, has advised the NAB that it is not contemplated at this time to have the Committee on Patents give consideration to this measure.

## Promotion

### RADIO FESTIVAL

Here are some additional broadcasters who are taking part in National Radio Festival. Observe that they are cutting the coat to fit their particular needs. There's some productive plan for everybody.

We hope to hear from other members as soon as their plans are perfected.

#### IOWA

Out where the tall corn grows listeners of KRNT and KSO, Des Moines, are to have at least a month-long Radio Festival including a KSO-KRNT Radio Festival Picnic; tentatively scheduled for Saturday, June 8.

Radio Festival is tied-in with the Radio Gift Man. He will give away one radio set every day to some listener who is tuned to either of the two stations when he calls.

"We're tying him up with the Radio Festival for at least a month, and possibly more, beginning May 13," said Craig Lawrence, commercial manager of KSO-KRNT.

"The Radio Gift Man will call in different section of Des Moines, the various towns around Des Moines and in the rural areas at a different time each day—it may be early in the morning, mid-morning, noontime, late afternoon but whatever time he calls, it will be completely unannounced. He will carry his gift radio right with him and tell the person upon whom he calls about the Radio Festival and present them with the radio. Naturally, we will have publicity on this tied up with the Radio Festival in the radio columns of the Des Moines Register and the Des Moines Tribune.

"To climax the Radio Festival, both stations will give a big picnic at Riverview Park in Des Moines. This is the amusement park here and it is quite large for a town of this size and very well operated. We will have a lot of free rides, free shows, fireworks, a baseball game and lots of special attractions for the people who come out. It will be entirely free to them and we will feature it as a KSO-KRNT Radio Festival Picnic. Naturally,

this will also get strong promotion on the stations and in the newspapers. We have this currently scheduled for Saturday, June eighth.

"All in all, it's going to be a big month for turning the spotlight on radio here in Iowa and the listening public will know plenty about it."

#### UTAH

Arch L. Madsen, manager, KOVO, "The Voice of Central Utah," has set Radio Festival in Provo for the week of June 3-8.

"KOVO will cooperate in every way in the promotion of National Radio Festival . . . we have studied your plan and intend to follow it very closely, with variations necessitated by local conditions . . . Congratulations on your fine work," he wrote.

#### WEST VIRGINIA

From Clarksburg, W. Va., G. C. Blackwell, director, WBLK, writes that "WBLK will join the other stations of the West Virginia Network to observe National Radio Festival, the week of June 10-15, inclusive." Other West Virginia Network stations are WCHS, Charleston; WSAZ, Huntington; and WPAR, Parkersburg.

West Virginia stations previously reporting on Radio Festival were WJLS, Beckley and WWVA, Wheeling.

"Tentatively," Mr. Blackwell said, "it is planned to engage the facilities of our local auditorium for the broadcast of several of our local programs in an 'open house' manner.

"It may be that local radio and allied product dealers will cooperate in the showing and demonstration of radio receivers, etc.

"City Manager Late B. Davisson will proclaim observance of the week in Clarksburg. It is understood that the Governor of West Virginia will issue a state Radio Festival proclamation."

#### CALIFORNIA

Harry W. Witt, president of the Southern California Broadcasters Association, and sales manager of KNX, Los Angeles, has plenty of ideas on the fire leading to a great sectional observance of Radio Festival.

#### SMOKE IN LOUISIANA

Where there's smoke, there's fire. And final Radio Festival plans in Louisiana, still in the smoke stage, are about to burst into flame. It looks as though the state will do "a Connecticut," "a North Carolina" or "a West Virginia" where practically all of the stations went Radio Festival. The will to cooperate is there.

#### CONNECTICUT

The "nutmeg" boys are doing an outstanding job of industry promotion in connection with Radio Festival. For one thing they're distributing hundreds of copies of "ABC of Radio" to students who are hearing various broadcasts and who wish to enter the essay contest.

So far books have been expressed to WDRC, Hartford; WELI, New Haven; WICC, Bridgeport; WNBC, New Britain; WNLC, New London; and WTIC, Hartford.

WTIC ran a full page ad in Hartford Newsdaily on Radio Festival May 13. During the remainder of the week a force of men called on the elementary and high schools with copies and posted them on the school bulletin boards.

Even while pre-Radio Festival promotion was under way Connecticut stations carried on a more circulation campaign via auto radio as reported in another column.

#### NEW YORK

WHEC, Rochester, is head over heels in plans for an outstanding Radio Festival celebration. The staff is at work under direction of Manager Gunnar Wiig, and the advance schedule of broadcasts sent by Charlotte Edwards, continuity director, indicates the wide scope of activities contemplated.

They have brought into the picture the youngsters, associations, men and women. On some days there are as many as five Radio Festival broadcasts scattered throughout the afternoon and evening build up.

One series of programs will be conducted with the cooperation of the Parent-Teachers Association. The subject for discussion will be "Using the Radio as A Means of Making the Home the Center of Family Culture, Entertainment and Education."

A job hunt for several deserving high school seniors will be conducted in cooperation with the Rochester Chamber of Commerce.

There will also be a student-selection of one of their number to appear on the big civic opening of the Festival as the representative of all the girls and boys in the city.

A newspaper editor will discuss "The Freedom of Radio and the Press."

Outstanding department stores will display products and photographs of radio of interest to the public.

A transcription will be made of one of the weekly assemblies in a large high school and then played back when the students can hear it.

Short biographical sketches of men who have helped to make radio will be incorporated into various programs.

Saluting radio as a contributor to safety via automobiles will feature the station's own safety programs.

The man on the street programs, with theater tickets as giveaways, will be based on propounding questions concerning radio celebrities, programs and sponsors.

The Mayor of Rochester will proclaim Radio Festival Week. Additional plans will be completed on May 20.

## AUTO RADIO

Millions of hours of added daily listening are assured this year due to the efforts of individual stations to popularize auto radio and to induce present auto set owners to keep their receivers in good repair.

Several suggested announcements will be mailed stations within the next few days. Below are listed some of the stations which began the increased listening campaign early:

### "LISTEN WHILE YOU RIDE" ON WLOK

"Listen While You Ride" announcements started on WLOK, Lima, Ohio, on April 1 and have been continued since that time. So reported Howard Donahoe, program director, on May 11. There are two announcements per day back of new auto radio sets.

### WSPD COOPERATES WITH RSA

Russell Gohring, program director, WSPD, Toledo, reports highly satisfactory experience with the Toledo Chapter, Radio Servicemen of America. The station is the medium through which the public and the servicemen are brought together. He says:

"We sincerely feel that WSPD and RSA in Toledo and vicinity can mutually profit by cooperation, and we are very happy to render every assistance. Joe Marty (RSA secretary) has been most cooperative and we feel very kindly toward this organization."

### AND IN CONNECTICUT

The month of April found Connecticut broadcasters engaged in suggesting to auto-set owners that their sets be put in thorough repair so that they would bask in their share of the nation's 11 million to 18 million extra hours of radio listening per day.

To James F. Clancy, sales promotion manager, WTIC, we're indebted for the following summary of happenings throughout the state in connection with the campaign:

WBRY, Waterbury, gave fine cooperation, and, in a letter received a few days ago, they state that the announcements will be continued until May 15.

WNLC, New London, and WELI, New Haven, both booked the campaign for the entire month of April. There were several plugs every day.

WICC, Bridgeport, cooperate on a long range basis with their local servicemen's group (RSA) with an established headquarters and a central telephone number from which point service calls were handled. The station is very aggressive.

WNBC, New Britain, used the auto-radio service announcements several times daily all through the month of April.

WDRS, Hartford, as always, did a good job, while we at WTIC used the announcements throughout the day and evening whenever the opportunity afforded.

### WNEW, NEW YORK CITY

This station began a serious effort to improve servicing throughout a metropolitan New York on Saturday, May 11. WNEW's Promotion Manager, Halsey Barrett, is cooperating with the eight metropolitan chapters, Radio Servicemen of America, in the area. They have a central telephone number and calls are dispatched to the nearest member.

## SALES ACTIVITIES

Plans have been completed by the NAB Sales Managers' Division to take part in the Conventions next month of the Advertising Federation of America and of the National Retail Dry Goods Association. The AFA meeting will be held at the Sherman House, Chicago, June 23-27, while the NRDGA will meet at the Palmer House, June 17-20.

Transcripts of the NRDGA meeting in January, devoted to the use of radio by department stores, are now available at \$1.50 per copy from Joseph Hanson, Sales Promotion Manager, National Retail Dry Goods Association, 101 West 31st Street, New York City.

Ed Kirby, NAB Public Relations Director, and Samuel J. Henry, Jr., of the NAB Bureau of Radio Advertising, attended this week's Convention of the American Association of Advertising Agencies in New York.

## TOBEY ASSAILS FCC, RADIO

Senator Tobey (R-NH) made the following speech in the Senate on May 15:

In June 1938, the House of Representatives voted on a resolution which provided for a committee of the House to inquire into and investigate allegations and charges that a monopoly or monopolies existed in radio broadcasting; the resolution further provided that the committee should make a thorough investigation of these charges and the effect which such monopoly or monopolies may have on the character of radio programs, the rates charged advertisers and the general effect which such monopolies have on the public.

Up to a period shortly preceding the day of this vote, it was the general belief, on the part of the members of the House, that the resolution would go through without material opposition. Then the pressure was applied on members of the House to vote against the resolution. Chairman O'Connor of the Rules Committee spoke of this monopoly situation, as follows:

"I have never in my life seen such lobbying against the resolution, from high places and from low places, from part of the leadership of the House and from the page boys of the House and even the colored boys in the other places. I have been here so long that I can smell what is going to happen in this House. \* \* \* You can walk out in that lobby tonight and you will find difficulty in getting through the lobby because of the crowd of radio lobbyists from New York and all over the country and from every department of the government.

"This is the situation we face. The Committee on Rules instructed me, after holding hearings for two years, to bring in this resolution to investigate the radio monopoly. I know all the pressure that has been put on my friends; I know all the pressure that has been put on the members of this House."

The resolution calling for this investigation by the House was defeated and one of the main arguments presented by the opponents of the resolution was that the Federal Communications Commission itself was investigating alleged monopolistic conditions in the radio industry and, therefore, there was no need for the Congress to take duplicate action.

Bearing on this situation, I wrote a letter, under date of May 3, 1940, to each of the seven members of the Federal Communications Commission, which reads as follows:

"In November 1938, Chairman McNinch stated to the House Appropriations Committee that the Radio Monopoly Report of the Commission would be submitted to the Congress within sixty days.

"In June 1939, Commissioner Brown of the Federal Communications Commission appeared for the Commission, before the same Congressional Committee and said that the report would be ready for Congress within sixty days.

"In November 1939, Commissioner Fly of the Federal Communications Commission appeared and stated before the Congressional Committee that the Commission would make its report and recommendations within sixty days.

"It is now eighteen months since Congress was officially told by the Commission that its Radio Monopoly Report and recommendations would be 'ready in about sixty days.'

"I submit to you that, in the light of these facts, these assurances would seem to be nothing but a mockery. As a member of the Senate, interested in this matter, I ask you now as to the reasons for this delay and what you, as a member of the Commission, can do to have the report submitted to the Congress at once. An early reply will be appreciated."

This letter was simple, direct, and to the point. I fully expected to get prompt and adequate responses from the members of the Commission. Three replies have been received and they read as follows:

(Date) May 7, 1940.

"My dear Senator Tobey:

"Your letter of May 3 has been received. I am not familiar with the progress of the 'Radio Monopoly Report' of the Commission. Under Chairman McNinch's regime a committee consisting of Commissioners Sykes, Brown and Walker with McNinch as Chairman was appointed by the Commission to investigate network chains, etc. They have held extensive hearings. Commissioner Sykes has resigned and Commissioner Thompson took his place on the Committee. Chairman McNinch has resigned and no one has taken his place on the Committee.

"Meantime, I have been Chairman of the Committee on Superpower and the WLW matter in that connection, which reported long ago to the Commission. I was also a member of the Committee on Television which reported on that matter last fall to the Commission. As I am not a member of the so-called Monopoly Committee I do not know how far they have progressed toward their report.

"Further, may I say that I have been ill since the 20th of February confined to my bed with pneumonia, pleurisy and phlebitis. The first two are well over; the last still keeps me on the bedroom floor of my house. Therefore, I am not as familiar as I otherwise would be with what has been done at the Commission.

"With warm personal regards,

"Sincerely yours,

(Signed) NORMAN S. CASE,  
*Commissioner*"

Under date of May 7, 1940, I received the following letter:

"Dear Senator Tobey:

"Receipt is acknowledged of your letter of May 3, 1940, relative to the so-called 'Monopoly Report' of the Commission.

"As you know, the hearing, as well as the report on the evidence, was entrusted to a committee of the Commission. This Committee is now composed of Commissioner Thad Brown, Chairman, Commissioner F. I. Thompson, and Commissioner Paul A. Walker. Although the hearing to ascertain the facts has been completed for some time, the Committee has not yet submitted its report to the Commission. Recently, upon inquiry of the other Commissioners who were not members of the Committee, the report was promised in a short time.

"In view of your letter, at the next regular meeting of the Commission I shall press for the report and recommendations of the Committee. Any action taken thereon by the Commission with appropriate recommendations will be forwarded to Congress if the same are found to be necessary.

"Very truly yours,

(Signed) T. A. M. CRAVEN,  
*Commissioner*"

A letter dated May 5, reads as follows:

"My dear Senator Tobey:

"Only yesterday, I returned from several weeks of revocation hearings that I was holding in Texas, so I had no time to look into the monopoly report as to its standing as of today.

"Over a month ago, I brought the matter up at meeting of the full Commission. I stated that, while I was not a member of the subcommittee on the Radio Monopoly Hearing, I felt that the report had been so long delayed that all the members of the Commission would very properly be charged with neglect if the subcommittee were to continue to withhold the report. Two of the members of that subcommittee, Commissioners Thompson and

May 17, 1940

Walker, assured me that they had been trying to have the report forwarded to the full Commission. The third member of the subcommittee is Commissioner Brown, who is also chairman of the subcommittee.

"Personally, I am glad that you have taken the action that you have, and at the next meeting of the Commission I shall formally move that the report be submitted to the Commission and submitted to Congress as you request.

"Very sincerely yours,

(Signed) GEORGE HENRY PAYNE"

Men who have closely followed the activities of the Federal Communications Commission have advised that orders have been given against public releasing of the report and that this is in marked contrast to the way other similar matters have been treated. The subcommittee which conducted the superpower and television studies were permitted to make known their findings at the time they were turned in to the full membership.

It has been said that the President of the United States has given assurance that he will not allow the report to be made public without his approval. It is pointed out that much of the data compiled in the report will be out of date by the time it is released.

I am advised by several sources that it is the intention of the subcommittee to render its report without any recommendations whatever.

Here we have a situation where the Congress, two years ago, was urged not to conduct an investigation on the ground it would be a duplication of the activities of the Federal Communications Commission. Eighteen months ago, and twice since that time, members of the Commission have assured Congress that the report would be ready within sixty days. The whole thing has been a mockery. A simple and reasonable question was put to each member of the Commission two weeks ago as to what each member would do to get the report presented to the Congress at once. A majority of the members of the Commission did not choose to answer or acknowledge this letter. This unusual delay, in light of the assurances of the Commissioners, indicates very strongly that the report is being deliberately held up.

I have presented the facts of this situation in order that the record may be clear and the Congress may know to what extent the members of the Commission are proving themselves free from influence in dealing with this vital matter of importance to the people.

Mr. President, I ask to have printed in the Record, at this point, an article appearing in the May 8 issue of "Variety" with regard to this matter.

## UNLICENSED OPERATOR CONVICTED

Following an investigation by inspectors of the FCC of the operation of unlicensed radio stations on Long Island, N. Y., Edward Mathes was indicted for violation of Sections 301 and 318 of the Communications Act of 1934, as amended.

The defendant was arraigned in the United States Court for the Eastern District of New York on May 6, and pleaded guilty to charges of operating an unlicensed radio station and operating a radio station without an operator license. The court suspended sentence and placed the defendant on six months' probation.

## ASKS MORE MONEY FOR FCC

President Roosevelt this week asked Congress for \$142,000 more for telephone work of the FCC.

He sent to Congress the request for this amount of money and in explanation the following letter from Harold D. Smith, Director of the Budget in connection with the additional request:

I have the honor to submit herewith for your consideration a supplemental estimate of appropriation for the Federal Com-



munications Commission, amounting to \$142,000, for the fiscal year 1941, as follows:

#### FEDERAL COMMUNICATIONS COMMISSION

Salaries and expenses: For an additional amount for salaries and expenses, Federal Communications Commission, fiscal year 1941, including the objects and subject to the limitations specified under this head in the Independent Offices Appropriation Act, 1941, except that the limitation of \$1,246,340 which may be expended under this head for personal services in the district of Columbia is hereby increased to \$1,365,460 (47 U. S. C. ch. 5; 50 Stat. 213, 329; act, approved Apr. 18, 1940, Public Act No. 459, 76th Cong., 8) . . . \$142,000

For the fiscal year 1941, an appropriation of \$2,051,340 is made available for salaries and expenses of the Federal Communications Commission. The Commission has completed and transmitted to Congress its final report on the telephone investigation. Based upon facts developed during the investigation, the Commission has determined the procedure to be followed in order to provide adequate regulation of the telephone industry in accordance with the Communications Act of June 19, 1934. In order to carry out the proposed plan for expanded regulations, additional funds are needed for developing effective methods of determining the reasonable costs of apparatus and equipment, the allocation of expenses, division of interstate toll revenue, determination of depreciation rates, and for the development of cooperative machinery between the Federal Communications Commission and State commissions. The \$142,000 submitted herewith will enable the Commission to initiate the proposed program.

The foregoing supplemental estimate of appropriation is required to meet a contingency which has arisen since the transmission of the 1941 Budget and its approval is recommended.

#### INTERNATIONAL BROADCASTING

FCC has sent following announcement to all licensees of international broadcast stations:

The attention of all licensees of international broadcast stations is called to the provisions of Section 4.45 which provides that no international broadcast station will be licensed for operation with a power less than 50 kilowatts after July 1, 1940. Any station not having a power of 50 kilowatts should immediately file the necessary application to install a 50 kilowatt transmitter.

Your attention is likewise called to Section 4.43(c) which provides that the antenna shall be so designed and operated that the signal (field intensity) toward the specific foreign country or countries served shall be at least 3.16 times the average effective signal from the station (power gain of 10). The Commission will soon require the filing of proof of performance showing compliance with this section.

#### NEW FCC RULE

The FCC has adopted the following rule to become Section 4.12 of the Rules Governing Broadcast Services other than Standard Broadcast:

"Section 4.12 (a) The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation of the station shall be posted so that all terms thereof are visible in a conspicuous place in the room in which the transmitter is located, provided:

1. If the transmitter operator is located at a distance from the transmitter pursuant to Section 4.9, the station license shall be posted in the above-described manner at the operating position.

2. If the station is licensed for portable-mobile operation, the station license or a photo copy thereof shall be affixed to the equipment or kept in the possession of the operator on duty at the transmitter. If a photo copy is used the original license shall be available for inspection by an authorized government representative.

(b) The license of each station operator(s) shall be conspicuously posted at the operating position, provided:

1. If the station at which the operator is on duty is licensed for portable-mobile operation, the operator's license may be kept in his personal possession.

#### FROM THE FCC MAIL BAG

The Commission has received several letters objecting to war news over the radio, or criticizing it as "biased." An Indiana man wants the "Government radio station" in Washington, D. C., to give daily war news broadcasts. A New Jersey man offers his services to the Commission as "a commentator on European news events." A New Yorker would "like to get in touch with the Commission's television casting director." A Cincinnati man requests "forms for approval of broadcast programs." Obviously, the Commission has to reply that it has no jurisdiction in such matters.

#### "RADIO BROADCASTING EXPLAINED"

(By the FCC)

At some time or other you have observed, from a distance, a man chopping wood. You noticed that the sound of his axe reached your ears AFTER your eyes had witnessed the actual impact. By the same token, a person at a radio receiving set thousands of miles away can hear a broadcast sound BEFORE a person seated far back of the microphone yet within earshot of the actual proceedings.

This is because radio emissions travel with the speed of light—186,000 MILES a second—as compared with only 1,120 FEET a second for sound. Thus, it requires just about 1/60th of a second for a voice from Europe to be electrically wafted to your home receiving set!

Here is how a standard broadcast station works:

A person talks into the microphone as if it were a telephone. His voice sets up varying vibrations in the microphone. The lower the pitch the slower the vibration. These vibrations have various "intensities" and "frequencies." "Intensity" means the degree of sound, and "frequency" refers to the number of sound waves which can be transmitted in a given length of time.

In the studio these vibrations are converted into electrical current having the same "frequency" and "intensity" characteristics as the sound delivered into the microphone. After being checked and double checked at the studio, these electric impulses are sent over leased telephone wires to the individual transmitting station (usually some miles distant), or to other radio stations carrying the same broadcast. This is the method used in so-called "network" broadcasting.

These electrical vibrations which represent the voice or music in the studio are sometimes called the "audio wave." They are greatly amplified in intensity—sometimes 10,000,000 times—before they are imposed upon the "carrier wave" at the transmitter. The carrier wave is the one assigned to the radio station by the Federal Communications Commission—that to which the dials on the radio receiver must be tuned in order to hear the station.

The intensity and the frequency of this wave are constant, and all by itself it cannot transmit any music or speech. In order to do this it must be varied in some way in accordance with the fluctuations of the audio waves. This is called "modulation." In the standard broadcast band the audio waves are imposed on the carrier wave in such a way as to cause its frequency to remain constant and its "amplitude" (or power) to vary in accord with the audio waves. This is called "amplitude modulations."

These modulated radio waves are then put on the air by the transmitting antenna. They radiate from the antenna tower like waves moving with the speed of light. They emerge in the same fashion that ripples do in a calm body of water disturbed by a thrown stone. However, these radiations move out in ALL directions. Some of them follow the contour of the ground and are called "ground waves." Others dart upwards and are called "sky-waves." The former give the best daytime reception. At night, however, the "skywaves" are forced back to earth by a ceiling of electrical particles which science calls the "ionosphere." This nightly rebound gives the listener a choice of more distant stations.

Radio waves pass through buildings and other objects subject, of course, to absorption and interference. As in the case of artificial ripples on water, radio vibrations weaken with distance. Seasonal disturbances and sunspot periods can also disrupt and throw them off their course.

Standard broadcast stations in this country transmit 550,000 to 1,600,000 waves a second. They are known as "long wave" stations because the waves they transmit are actually long. At 550,000 waves a second, the distance between the crests is 1,800 feet. This is known as "wave length." A station transmitting 550,000 waves a second is said to have a frequency of 550,000 "cycles." This corresponds to 550 "kilocycles" (one kilocycle

equals 1000 cycles) which, for the sake of convenience, is the usual marking on your receiving set dial. ("Kilo" means one thousand, and "cycle" refers to a complete swing of an electric vibration. Thus, "kilocycle" is a short way of denoting a thousand of these vibrations or oscillations a second. By the same token, a "megacycle" is equivalent to 1000 kilocycles.)

The so-called "short wave" broadcast stations transmit from 6,000,000 to 25,000,000 waves per second. These waves are sent out one after the other so rapidly that the distance between their crests is only from 50 to 150 feet. It is a paradox that "short waves" go farther than "long waves." That is why international broadcasts are on "short waves."

Unknown to most people, radio transmission goes out in three simultaneous waves. The fundamental frequency or carrier wave, is accompanied by two other waves, one immediately above and the other immediately below the main carrier. These are called "side bands." The distance separating the main frequency and its companion frequencies is known as the "modulation frequency."

The modulated radio wave from the radio station transmitter is picked up by the home receiving antenna. That is to say, it sets up in the receiving antenna modulated radio frequency current having the same frequency and the same varying intensity as the radio frequency currents in the transmitting antenna. The receiving set changes these impulses back into sound which is amplified so that the human ear can hear. In the receiver the carrier wave and the audio waves, of which the modulated wave is comprised, are separated by a device called a "detector" or "demodulator". The carrier wave is shunted off into the ground. Having done its job it is no longer needed. The audio waves, however, are sent to the loud speaker or "telephone head set" where they are transformed back into sound waves.

Radio waves occupy only a portion of what science calls the "electromagnetic spectrum." Imagine the latter as a ruler marked off in kilocycles (which means frequencies) for eight different classes of electric radiation. The radio part of it ranges from 10 to more than 400,000 kilocycles (or frequencies). Not all of this is useful at the present time. But into the useful portion, at varying intervals and in various widths, are crowded many types of radio services.

The number of frequencies available for standard broadcast service are limited, so there is international agreement as to their use. This is necessary to prevent broadcasts in one country from "colliding" with broadcasts in another country. Thus, though the same frequencies have to be used throughout the world, they are shared in such manner as to minimize interference.

Standard broadcast occupies from 550 to 1600 kilocycles (or frequencies). This is known as the standard broadcast "band". This band was adopted for broadcasting because a score of years ago, when broadcasting began, the lower frequencies were used by other radio services, ships at sea, Government stations, and by radiotelegraph stations employing code signals. Very little attention was given to the higher frequencies in those early days. It was believed that they were not suitable for broadcasting since it was known that their ground waves were much more highly absorbed and weakened than those of the longer waves. They turned out to be the only ones possible for broadcasting to great distances, such as to foreign countries, because of the sky waves which bounce back to earth as previously explained.

Today the development of FM (frequency modulation) and television bids to make the ultra-high frequencies (above 30,000 kilocycles) also very useful. The FM development on the ultra-high frequencies is interesting because it promises more natural reproduction of music and speech than is obtainable on the lower frequencies and greater relief from static and noise. In the FM wave it is the amplitude or power which remains constant instead of the frequency as in the standard AM (amplitude modulation) wave, and it is the frequency which varies with the audio wave instead of the amplitude when the carrier and audio waves are superposed.

To prevent interference and confusion, it is necessary to apportion broadcast frequencies into "channels." In our standard broadcast band there are 106 such channels, each 10 kilocycles wide. A broadcast channel can be used by a number of stations if the stations are adequately separated to prevent interfering with one another or are protected by directional antenna systems.

A standard broadcast channel, in effect, means the path assigned to the emission of a particular station. The broadcast station's carrier wave, plus its two "side bands," must keep within the channel. The side band is the range of frequencies required for the audio program (music or speech).

A broadcast station is assigned 10 kilocycles of the spectrum for its omissions to travel in. It is permitted a certain amount of "swing" or deviation. However, its carrier must operate within 20 cycles of the assigned frequency.

Hearings differ, but the perceptible range of sound to humans is from about 16 cycles to 16,000 cycles a second. A new dog whistle emits sound which does not register on the human ear. A piano keyboard sets up vibrations of from some 27 to 4,000 cycles a second. The high-pitched piccolo has a frequency of about 8,000 cycles per second. Standard broadcast has a range of from about 60 to 5,000 cycles a second. The new FM (frequency modulation) system advocates a maximum of 15,000 cycles a second.

A broadcast channel may be likened to a modern highway, with the dividing white line of the latter representing the assigned radio carrier frequency, and the side bands symbolic of the adjacent traffic lanes. A broadcast station program travels the etherway with identifying call letters akin to license plates of an auto traversing a land highway. Both must keep in their assigned lanes to prevent "colliding" with traffic in adjacent lanes. Such "collisions" are responsible for the squeaks or rumbles often heard when you attempt to listen to distant stations.

A "regional channel" is one in which several radio stations can operate with individual station power not in excess of 5 kilowatts. A "local channel" is one in which several stations may operate with individual power not in excess of 250 watts.

The Federal Communications Commission licenses broadcast stations to operate with 100 watts to 50,000 watts of power. These are the minimum and maximum standards held by the Commission to be in the public service. "Watt" typifies radio power just as "horsepower" represents power in mechanics. The two hardly permit comparison but, roughly 746 watts are equivalent to one horsepower.

In order to provide broadcast facilities to varying population densities, the Commission licenses four general classes of broadcast stations. A Class I station, which operates on a clear channel, uses 10,000, 25,000, or 50,000 watts power to serve remote rural areas as well as a large center of population. A Class II station, which also operates on a clear channel, uses 250, 500, 1000, 5000, 10,000, 25,000, or 50,000 watts, renders secondary service over a primary service area. A Class III station, which shares a regional channel with several similar stations, uses 500, 1000 or 5000 watts, and serves a center of population and adjacent rural area consistent with interference from other stations on the same channel. A Class IV station operates on a local frequency (shared by similar stations elsewhere) and uses 100 to 250 watts for such local service.

"Primary service" area means the area in which the ground wave is not subject to objectionable interference and fading. "Secondary service" area means an area served by the skywave without objectionable interference but subject to intermittent variations in intensity. "Intermittent service" area means the area receiving service from the ground wave beyond the primary service area and subject to some interference and fading.

## FEDERAL COMMUNICATIONS COMMISSION

### DECISIONS

The FCC has adopted as the final findings of the Commission the Proposed Findings of Fact and Conclusions dated March 13, 1940, and entered a final order DENYING without prejudice the application of C. T. Sherer Co., Inc., Worcester, Mass., for a new station to operate unlimited time, using the frequency 1200 kilocycles, with daytime power of 250 watts, nighttime power of 100 watts.

The FCC has announced adoption of an order GRANTING the application of L. J. Duncan, Leila A. Duncan, Josephine A. Keith, Effie H. Allen, and Aubrey Gay, doing business as Valley Broadcasting Co., West Point, Ga., for construction permit for new radio-broadcast station to operate on 1310 kilocycles with power of 250 watts, un-

limited time, upon the condition that permittee shall file an application for modification of construction permit specifying the exact transmitter location and the antenna to be employed within two months after the effective date of this Order.

### FINDINGS OF FACT

The FCC announced its Proposed Findings of Fact and Conclusions, proposing to GRANT the application of the Radio Voice of Springfield, Inc., for a construction permit to erect a new broadcast station in Springfield, Ohio, to operate on the frequency 1310 kilocycles, with power of 100 watts, unlimited time.

In its conclusions the Commission finds:

1. Station WLBC and the one proposed herein are classified, under the Commission's rules and standards, as Class IV stations and, as such, normally may be expected to render interference-free service during the daytime to the 0.5 millivolt per meter contour. It is plain that in the instant case it would not be in the public interest to deny the application for the proposed station in order that the relatively few people now receiving service from Station WLBC who would be affected thereby could continue to receive service from that station, since to do so would mean that the City of Springfield would be deprived of a local radio service, and the relatively large number of people who would be served by the proposed station would not receive the benefit of such service. Particularly is this true where as here those who would no longer receive service from station WLBC already receive service from several other stations.

2. Upon consideration of all the facts of record, the Commission concludes that the granting of the instant application will serve public interest, convenience and necessity.

In a proposed finding of fact and conclusions FCC announced, concludes that the "public interest, convenience and necessity" will be best served by renewing the license of radio station KVOs, Bellingham, Wash., and denying the application of the Bellingham Broadcasting Company for a new station seeking the facilities of KVOs in the same place.

The Commission holds the Bellingham Broadcasting Company "not financially qualified" to operate its proposed station. It adds:

"Very little information is furnished as to the type and character of program service to be furnished. It is essential in a proceeding such as this that the Commission not only be informed of the service which the applicant corporation would furnish the Bellingham community but also advised in such a manner that a comparison may be made between such service and that which the applicant seeks to supplant."

KVOs, which is the only station offering primary service to the Bellingham area, is declared to now be "legally, technically, and financially qualified to continue." The Commission points out that prior to July, 1937, the licensee "conducted its station in such manner generally as to encourage strife and discord in the community" and, subsequently "instances were presented . . . of the continuance to some degree of doubtful practices, particularly with respect to the treatment of candidates for public office." The Commission explains:

"The evidence suggests, but is not conclusive, that 'equal opportunity' was not afforded . . . and that censorship of candidates'

speeches may have been imposed. However, determination of the question of censorship involves consideration of whether the material was libelous as a matter of law (a subject not within the jurisdiction of this Commission) and whether, if libelous, a licensee possesses the legal right to expunge from a proposed broadcast a libelous statement. In any event, in the light of this record, we do not feel called upon to pass upon these questions."

The Commission continues:

"The licensee has promulgated regulations since the cessation of the 'Newspaper of the Air' program designed to prevent a recurrence of that type of broadcasting. It has afforded use of its facilities for religious, civic and educational purposes. Its program service as a whole indicates that for the past year and more a wide variety of acceptable programs have been furnished. Recent instances indicate the maintenance of an unbiased attitude on the part of the station's management. Former questionable practices have now been discontinued."

Station KVOs operates on 1200 kilocycles, with 250 watts, unlimited time.

All parties will have 20 days within which to file exceptions and request oral argument on the proposed report and exceptions.

The FCC has announced its Proposed Findings of Fact and Conclusions, proposing to DENY the application of C. L. Weathersbee, W. H. Nichols, C. L. Pickler and E. M. Thompson, d/b as Albemarle Broadcasting Station, for a new station in Albemarle, North Carolina, to operate on the frequency of 1370 kilocycles with power of 100 watts, daytime only.

In its conclusions the Commission finds:

1. The applicants have failed to sustain the burden of showing that they are financially and otherwise qualified to construct and operate the proposed station, and that a grant of the application would serve public interest, convenience and necessity.

The evidence in the record relating to the financial qualifications of the individual applicants, and of the partnership, fails to show that they are presently possessed of sufficient means to pay the cost of construction and the expense of initial station operation, or resources from which necessary funds may be secured and made available. They have no definite or certain plan or arrangement for securing necessary additional finances. The record fails to show definitely that there is sufficient commercial support available to defray the estimated operating expense of the proposed stations.

None of the applicants has had experience in the operation of a regular radiobroadcast station, and no definite arrangement has been made by them for the employment of sufficient qualified personnel to insure efficient operation of the proposed station, nor have they any well defined plan for rendering broadcast service to the listeners in the area proposed to be served.

2. The granting of this application would not serve public interest, convenience and necessity.

All parties will have 20 days within which to file exceptions and request oral argument on the proposed report and exceptions.

The FCC has announced its Proposed Findings of Fact and Conclusions proposing to AFFIRM the recommendations of Commissioner Payne to revoke the licenses of three Texas radio broadcast stations—KTBC, State Capital Broadcasting Assn. Inc., Austin, KNET, Palestine Broadcasting Assn., Palestine, and KRBA, Red Lands Broadcasting Assn., Lufkin.

Upon consideration of all the facts of record, the Commission concludes in its Proposed Findings, that original

construction permits and licenses for these stations were issued by the Commission upon misleading representations on the part of the respondents. Applicants failed to make full disclosures to the Commission concerning the financing of station construction and operation, as well as the ownership, management and control thereof, in violation of the Communications Act, and that had the actual facts in this connection been made known to the Commission it would have been warranted in refusing to license these stations.

All parties will have 20 days within which to file exceptions and request oral argument on the proposed report and exceptions.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral arguments are scheduled before the Commission for the week beginning Monday, May 20. They are subject to change.

### Monday, May 20

NEW—Worcester Broadcasting Corp., San Diego, Calif.—C. P., 1420 kc., 250 watts, unlimited time.

### Wednesday, May 22

Further Hearing Before Commissioner George Henry Payne

KGFI—Eagle Broadcasting Co., Inc., Brownsville, Tex.—In re: Revocation of Station License of KGFI.

### Thursday, May 23

Oral Argument Before the Commission

Report No. B-96:

W6XKG—Ben S. McGlashan, Los Angeles, Calif.—Renewal of license, 25950 kc., 1000 watts, emission A-3, unlimited time acc. Rule 983 (a).

W6XRE—Ben S. McGlashan, Los Angeles, Calif.—Renewal of license, 88000, 120000, 240000 and 500000 kc., 500 watts, emission A-3, unlimited time acc. Rule 983 (a).

### FUTURE HEARINGS

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

### June 11

NEW—The Kaw Valley Broadcasting Co., Inc., Topeka, Kans.—C. P., 1500 kc., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WSM—The National Life and Accident Ins. Co., Nashville, Tenn.—Granted extension of special experimental authority to transmit facsimile signals over standard broadcast station WSM (650 kc., 50 KW, unlimited time), between the hours of 12 and 6 a. m., for the period ending August 1, 1940.

KFSD—Airfan Radio Corp., Ltd., San Diego, Calif.—Granted construction permit to move transmitter site locally, install new equipment and vertical radiator, and increase power from 1 KW to 5 KW, unlimited time, on 600 kc.

KVI—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—Granted modification of license to increase night power from 1 KW to 5 KW, unlimited time, on 570 kc.

WELL—Enquirer News Co., Battle Creek, Mich.—Granted construction permit to install new transmitter, change antenna, and increase power from 100 watts to 250 watts, unlimited time, on 1420 kc. Also granted consent to voluntary assignment of license of station from the Enquirer-News Company to Federated Publications, Inc. (Federated Publications, Inc., the new licensee, heretofore held all the stock of the Enquirer News Co., the old licensee. The grant of the application for construction permit at the same time as the Commission gave its consent to the assignment of license in this case is not to be considered a precedent for the grant of additional facilities to an assignor of a broadcast station license in any case where the new licensee was not previously the sole stockholder of the licensee corporation.)

KSUB—Harold Johnson and Leland M. Perry, d/b as Johnson and Perry, Cedar City, Utah.—Granted voluntary assignment of license for station KSUB from Johnson and Perry to Southern Utah Broadcasting Co.

KSUB—Leland M. Perry, Cedar City, Utah.—Granted renewal of license for station KSUB to operate on 1310 kc., 100 watts, unlimited time, for the period ending August 1, 1940.

W3XO—Jansky & Bailey, Georgetown, D. C.—Granted modification of high frequency broadcast (FM) license to change frequency from 43200 to 43400 kc.

WGTC—Greenville Broadcasting Co., Greenville, N. C.—Granted modification of construction permit (B3-P-2053), as modified, to increase hours of operation from daytime to unlimited on 1500 kc., using 250 watts.

KOTN—Universal Broadcasting Corp., Pine Bluff, Ark.—Granted construction permit to change transmitting equipment and increase power from 100 to 250 watts, unlimited time, on 1500 kc. (B3-P-2673).

KDAL—Red River Broadcasting Co., Inc., Duluth, Minn.—Granted modification of license to increase power from 100 watts night to 250 watts day, to 250 watts, unlimited time, on 1500 kc. (B4-ML-940).

KEUB—Eastern Utah Broadcasting Co., Price, Utah.—Granted construction permit to make changes in equipment and increase power from 100 to 250 watts, unlimited time, on 1420 kc. (B5-P-2682).

WHDL—WHDL, Inc., Olean, N. Y.—Granted modification of license to change frequency from 1400 kc. to 1420 kc. and time of operation from daytime to unlimited, using 250 watts power (B1-ML-929).

WSAI—The Crosley Corp., Cincinnati, Ohio.—Granted modification of construction permit to make changes in directional antenna system; station operates on 1330 kc., 5 KW DA, unlimited time (B2-MP-953).

WSAV—WSAV, Inc., Savannah, Ga.—Granted modification of license to increase power from 100 to 250 watts, unlimited time, on 1310 kc. (B3-ML-953).

WSOY—Commodore Broadcasting, Inc., Decatur, Ill.—Granted modification of license to increase night power from 100 to 250 watts, unlimited time, on 1310 kc., using 250 watts day (B4-ML-758).

WJPF—Orville W. Lyerla, Herrin, Ill.—Granted modification of construction permit for new transmitter, approval of antenna, studio and transmitter site, and change power to 250 watts day and night on 1310 kc. (B4-MP-926).

WRAW—Reading Broadcasting Co., Reading, Pa.—Granted construction permit authorizing new transmitter and increase in power from 100 to 250 watts, unlimited time, on 1310 kc. (B2-P-2153).

McDowell Service Company, Welch, W. Va.—Granted construction permit for new Class IV station to operate on 1310 kc., with 250 watts, unlimited time. Exact transmitter and studio sites to be determined with Commission's approval; also antenna system (B2-P-2816).

KFXM—Lee Brothers Broadcasting Co., San Bernardino, Calif.—Granted construction permit to install new transmitter, new antenna, move transmitter, and increase power from 100 to 250 watts, on 1210 kc. (B5-P-2638).

Tri-County Broadcasting Co., DuBois, Pa.—Granted construction permit to erect a new station to operate on 1200 kc., 250 watts, unlimited time. Exact antenna system and trans-

mitter and studio locations to be determined with Commission's approval (B2-P-2665).

## DESIGNATED FOR HEARING

- WBT—Columbia Broadcasting System, Inc., Charlotte, N. C.—Application for construction permit to install directional antenna for night use; station operates on 1080 kc., with 50 KW, unlimited time.
- KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Application for construction permit to install new transmitter and directional antenna for night use; change frequency from 770 kc. to 1080 kc.; increase power from 10 KW to 50 KW; and move transmitter to 18 miles east of Lincoln, Nebr.
- WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Application for modification of license to change hours of operation from simultaneous day, share KFAB night, to unlimited time, on 770 kc. (contingent on KFAB changing frequency to 1080 kc.).
- WJAG—The Norfolk Daily News, Norfolk, Nebr.—Application for construction permit to install vertical radiator, change frequency from 1060 kc. to 770 kc., and time of operation from limited to WBAL and WTIC, to daytime (applicant requests frequency of KFAB).
- WMBI—The Moody Bible Institute, Chicago, Ill.—Application for modification of license amended to request change in hours of operation from limited, S-WBT, to limited WBT and KFAB, contingent on the granting of WCBD's application to change to 830 kc. and KFAB's application to change to 1080 kc. (WMBI now operates on 1080 kc., with 5 KW, day and night—limited S-WCBD.)
- WCBD—WCBD, Inc., Chicago, Ill.—Application for modification of license to change frequency from 1080 kc. to 830 kc. and hours of operation from limited time, sharing with WMBI, to daytime.

## RENEWAL OF LICENSES

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

KFSG, Los Angeles; KFWB, Los Angeles; KGCU, Mandan, N. Dak.; KGGM, Albuquerque; KLCN, Blytheville, Ark.; KMBC and auxiliary, Kansas City, Mo.; KQW, San Jose, Cal.; KRKD, Los Angeles; KROW, Oakland, Cal.; WAAT, Jersey City, N. J.; WAIR, Winston-Salem, N. C.; WCAE and auxiliary, Pittsburgh, Pa.; WCOP, Boston; WNAC, Boston; WNAD, Norman, Okla.; WNBZ, Saranac Lake, N. Y.; WNEL, San Juan, P. R.; WNEW, New York City; WOL, Washington, D. C.; WRC, Washington, D. C.; WTAW, College Station, Tex.; WTNJ, Trenton, N. J.; WXYZ and auxiliary, Detroit, Mich.; KFDM, Beaumont, Tex.

## MISCELLANEOUS

- KFRU—KFRU, Inc., Columbia, Mo.—Denied special temporary authority to operate simultaneously with Station WGBF with power of 250 watts from local sunset, for the period ending not later than May 16, 1940, in order to broadcast special war bulletins.
- WGBF—Evansville on the Air, Inc., Evansville, Ind.—Denied special temporary authority to operate simultaneously with Station KFRU as above in order to broadcast special war bulletins.
- KQW—Pacific Agricultural Foundation, Ltd., San Jose, Calif.—Granted special temporary authority to rebroadcast impromptu interview between members of U. S. Army traveling flying cadet examining board and station announcer from U. S. Army plane Type B 18 cruising over San Jose, using Army transmitter on Army frequency 4595 kc., from 3:30 p. m. to 4 p. m., PST, on May 11, 1940, or 2:30 p. m. to 3 p. m., PST, on May 13, 1940.
- WINS—Hearst Radio, Inc., New York, N. Y.—Denied special temporary authority to operate from local sunset at Albuquerque, N. Mex., to 2 a. m., EDST, for the period May 11, 1940, to not later than May 21, 1940, in order to broadcast news bulletins concerning the current European war crisis.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Denied special temporary authority to operate on 1060 kc. simultaneously with Station KTHS from 9 p. m. to 6 a. m. daily, EST, for a period of ten days, in order to broadcast regular network programs from NBC, subject to interruption for

news bulletins, and to broadcast other sustaining programs during such periods as news bulletins are not being broadcast.

- Publix Bamford Theatres, Inc., Asheville, N. C.—Adopted final order (B-93) denying the application for construction permit for new broadcast station, to install a directional antenna for nighttime use, and to operate on frequency 1430 kc., power 1 KW, unlimited time.
- Knoxville Broadcasting Co., Knoxville, Tenn.—Granted petition to dismiss without prejudice the application for construction permit for new station to operate on 1210 kc., 250 watts, unlimited time.
- WMFD—Richard Austin Dunlea, Wilmington, N. C.—Granted special temporary authority to operate from 10 p. m. to 11 p. m., EST, May 24, 1940, in order to furnish facilities for a State Wide Political Network to be used by the W. P. Horton Campaign Headquarters of the W. P. Horton for Governor Campaign.
- WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to operate from 9:00 a. m. to 12:30 p. m. EST, on May 18, 1940, in order to broadcast Moving-up Day Exercises of St. Lawrence University.
- Columbia Broadcasting System, New York, N. Y.—Granted special temporary authority to rebroadcast the various parts of a scheduled program originating at amateur stations taking part in the simulated emergency broadcast from 8:00 to 8:30 a. m. EST May 12, 1940, for release on the Columbia Broadcasting System; the amateur stations taking part in this program are W8CNA, W8AVD, W8RRS, W8PUZ, W8EUI, W8EA, W8ITS, W8QJP, W8DEC, W8VI, W8CHR, W8BKT, W3WX, W3GKM, W3UA, W3ZD, and W3QV.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 7:00 p. m. to 9:00 p. m. CST, Sunday, May 12, 1940, for the purpose of broadcasting the program of the Civic Music Festival at Naperville, Ill.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 7:00 p. m. to 9:00 p. m. CST, on May 20, 1940, for the purpose of broadcasting an educational and Patriotic Program from Geneva, Ill.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from 7:00 p. m. to 9:00 p. m. CST on May 26, 1940, for the purpose of broadcasting the Annual Music Festival of the two local high schools at Aurora, Ill.
- WGOV—E. D. Rivers, Valdosta, Ga.—Granted modification of construction permit for new broadcast station for approval of transmitter and studio sites at E. Park Avenue, Valdosta, Ga., and approval of vertical antenna; station operates on 1420 kc., 100 watts, 250 watts LS. unlimited time. (B3-MP-946).
- KTRB—Thomas R. McTammany & Wm. H. Bates, Jr., Modesto, Calif.—Granted special temporary authority to operate from 9 p. m. PST, May 16, 1940, to completion of opening soft ball game at Modesto; program to also include a band concert by local Stanislaus Co. Boys' Band and appearance of prominent local citizens; to operate from 9 p. m. PST, June 1, 1940, to completion of junior college track meet at Modesto; to operate from 7:30 p. m. PST (Sunset June, 7:30 p. m.), June 13, 1940, to conclusion of the Commencement address at the exercises of the Modesto Junior College.
- WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Granted special temporary authority to operate simultaneously with Station KTHS on 1060 kc. from 9 p. m. to 6 a. m. daily, EST, for a period of ten days starting May 10, 1940, in order to broadcast complete news service direct from International News, United Press and the networks, only.
- KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—Granted special temporary authority to operate until 9 p. m., CST, or until the conclusion of an address to be delivered by the President on May 10, 1940.

## APPLICATIONS FILED AT FCC

### 610 Kilocycles

- NEW—West Publishers, Inc., Houston, Texas.—Construction permit for new broadcast station on 610 kc., 250 watts night, 1 KW day, unlimited time. Class III-B. Transmitter and studio to be determined, Houston, Texas.

### 770 Kilocycles

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Modification of license to use old licensed transmitter as auxiliary transmitter.

### 780 Kilocycles

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—License to cover construction permit (B-P-1941) as modified for change of frequency, increase in power and hours of operation and move of transmitter, changes in equipment and antenna.

### 890 Kilocycles

KARK—Arkansas Radio and Equipment Co., Little Rock, Ark.—License to cover construction permit (B3-P-2570) for increase in power and install new transmitter.

### 920 Kilocycles

KOMO—Fisher's Blend Station, Inc., Seattle, Wash.—Construction permit to install directional antenna for night use increase power from 1 KW night, 5 KW day to 5 KW day and night, change frequency from 920 to 950 kc., contingent on No. American Regional Agreement. Amended: To omit request for change in frequency.

WORL—Broadcasting Service Organization, Inc., Boston, Mass.—License to cover construction permit (B1-P-2835) for new transmitter.

### 950 Kilocycles

WHAL—Harold F. Gross & Edmund C. Shields, Saginaw, Mich.—Modification of construction permit (B2-P-936) for new station, for approval of antenna and studio and transmitter site at 211 N. Washington Ave., Saginaw, Mich., and install new transmitter.

### 1040 Kilocycles

KTHS—Hot Springs Chamber of Commerce, Hot Springs Natl. Park, Ark.—Construction permit for new transmitter, directional antenna for night use, change frequency from 1040 to 1060 kc., increase power from 10 to 50 KW and hours from shares KRLD to unlimited, move transmitter to Plum Bayou, Ark., install 250 watt amplifier. Amended: To decrease power of signal amplifier from 250 watts to 100 watts night, 250 watts day.

### 1070 Kilocycles

KJBS—Julius Brunton & Sons Co., San Francisco, Calif.—Construction permit to change frequency from 1070 to 860 kc., increase power from 500 watts to 1 KW, change hours from limited to unlimited, new equipment. Contingent on No. American Agreement becoming effective. Requests Class II station.

### 1130 Kilocycles

WJJD—WJJD, Inc., Chicago, Ill.—Construction permit to change frequency from 1130 to 1040 kc., change power and hours from 20 KW, limited time to 10 KW night, 20 KW day, unlimited time, and install directional antenna for night use. Amended: To omit request for change in frequency and power, make changes in directional antenna to be used from sunset at Salt Lake City, Utah to sign-off.

### 1200 Kilocycles

KPHO—M. C. Reese, Phoenix, Ariz.—Modification of construction permit (B5-P-2182) for new station, for approval of transmitter and studio at 24th Ave. and Buckeye Rd., Phoenix, Ariz., approval of antenna, and increase power to 250 watts day and night.

### 1250 Kilocycles

WNEW—WODAAM Corporation, New York, N. Y.—Construction permit to install auxiliary transmitter, using 1 KW power, for emergency use only. Amended re equipment.

### 1260 Kilocycles

WNBX—Twin State Broadcasting Corp., Keene, N. H.—Modification of construction permit (B1-P-2415) for changes in

directional antenna for day and night use, move transmitter and studio, further requesting changes in directional antenna; install new transmitter; increase power to 5 KW; extend commencement and completion dates. Amended to request 1 KW night, 5 KW day, using directional antenna day and night, and to request Class III-B station.

### 1280 Kilocycles

WTNJ—WOAX, Inc., Trenton, N. J.—Modification of license to increase power from 500 watts to 1 KW day, 500 watts night; change hours from share with WCAM and WCAP to unlimited. Requests facilities of WCAM and WCAP. Amended to request 500 watts day and night.

### 1310 Kilocycles

WLBK—The Bowling Green Broadcasting Co., near Bowling Green, Ky.—Modification of construction permit (B2-P-2194) as modified for new station, requesting extension of commencement and completion dates from 12-31-39 and 7-1-40 to 2-29-40 and 9-1-40 respectively.

KGEZ—Donald C. Treloar, Kalispell, Mont.—Construction permit for new transmitter, increase power from 100 watts to 1 KW, change frequency from 1310 kc. to 1380 kc. Amended to request 1430 kc.

WTEL—Foulkrod Radio Engineering Co., Philadelphia, Pa.—Construction permit to make changes in equipment and increase power from 100 to 250 watts, change frequency from 1310 kc. to 1500 kc.; also to change hours from share with WHAT to unlimited. Amended re antenna.

### 1360 Kilocycles

WGES—Oak Leaves Broadcasting Station, Inc., Chicago, Ill.—Construction permit for new transmitter and antenna; increase power from 500 watts to 500 watts night, 1 KW day; change hours from share WSBT to unlimited; move transmitter. Contingent on WSBT going to 930 kc. Amended to increase power requested to 1 KW day and night and request Class III-A station.

### 1370 Kilocycles

WATW—WJMS, Inc., Ashland, Wis.—License to cover construction permit (B4-P-2160) as modified for a new station.

WATW—WJMS, Inc., Ashland, Wis.—Authority to determine operating power by direct measurement of antenna power.

WPAY—Vee Bee Corporation, Portsmouth, Ohio.—Construction permit to change equipment, antenna, increase in power from 100 to 250 watts, move transmitter ¼ mile from 821 Chillicothe St. to 1009 Gallia St., Portsmouth, Ohio. Amended re antenna.

### 1420 Kilocycles

WAGM—Aroostook Broadcasting Corp., Presque Isle, Maine.—Modification of license to change hours from specified (daily 11 a. m. to 1 p. m. and 4 p. m. to 7 p. m.) to unlimited.

### 1430 Kilocycles

WMPS—Memphis Broadcasting Co., Memphis, Tenn.—Authority to transfer control of corporation from Memphis Press-Scimitar Co. to Memphis Commercial Appeal Company, 200 shares common stock.

### 1440 Kilocycles

KDFN—Donald Lewis Hathaway, Casper, Wyo.—Construction permit to increase power from 500 watts to 1 KW; make changes in equipment. Requests Class III-A station.

### 1470 Kilocycles

KGA—Louis Wasmer, Spokane, Wash.—Construction permit for new transmitter; change in antenna; increase power from 5 to 10 KW; move studio and transmitter locally. Amended to install directional antenna for night use.

### 1500 Kilocycles

NEW—Delta Broadcasting Co., Escanaba, Mich.—Construction permit for new broadcast station on 1500 kc. (1490 kc. when North American Regional Agreement is effective), 100 watts, unlimited time. Class IV.

NEW—The Marion Broadcasting Co., Marion, Ohio.—Construction permit for new broadcast station on **1500 kc.**, 250 watts, unlimited. Transmitter and studio to be determined at or near Marion, Ohio.

#### 1550 Kilocycles

WQXR—Interstate Broadcasting Co., Inc., New York, N. Y.—Modification of construction permit (B1-PSB-13) for new equipment, increase in power, and move of transmitter, requesting approval of antenna and transmitter site at 56th Rd. and 49th St., Long Island City, N. Y. Amended to give transmitter location as South of Grand St., between 49th and 51st St., Long Island City, N. Y.

NEW—West Publishers, Inc., Dallas, Tex.—Construction permit for new broadcast station on **1550 kc.**, 5 KW, unlimited. Class III-A. Transmitter and studio to be determined, Dallas, Tex.

#### MISCELLANEOUS

NEW—WTAR Radio Corp., Norfolk, Va.—Construction permit for new high frequency broadcast station on **43400 kc.**, 1000 watts, unlimited. Special emission for frequency modulation.

NEW—Times-Dispatch Radio Corp., Richmond, Va.—Construction permit for new high frequency broadcast station on **43200 kc.**, 1000 watts, special emission for frequency modulation.

NEW—Ashbacker Radio Corp., Muskegon, Mich.—Construction permit for new high frequency broadcast station to be operated on regular commercial basis on **43600 kc.**, 1000 watts, special emission for frequency modulation.

NEW—The Metropolis Co., Tallahassee, Fla.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation.

NEW—Gazette Printing Co., Janesville, Wis.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation.

NEW—Banks of Wabash, Inc., Terre Haute, Ind.—Construction permit for new high frequency broadcast station on **43200 kc.**, 1000 watts, emission special for frequency modulation.

NEW—E. Anthony & Sons, Inc., New Bedford, Mass.—Construction permit for new high frequency broadcast station on **43400 kc.**, 1000 watts, special emission for frequency modulation at New Bedford, Mass. Amended re site to be Crow Island, Fairhaven, Mass.

W1XG—General Television Corp., Boston, Mass.—Construction permit to install audio transmitter to use with video transmitter, 500 watts, A3 emission.

NEW—The Metropolis Co., Tampa, Fla.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation.

NEW—The Metropolis Co., Orlando, Fla.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation, location to be determined, Orlando, Fla.

NEW—The Metropolis Co., West Palm Beach, Fla.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation, location to be determined, West Palm Beach, Fla.

NEW—The Metropolis Co., Miami, Fla.—Construction permit for new high frequency broadcast station on **43000 kc.**, 1000 watts, special emission for frequency modulation, location to be determined, Miami, Fla.

NEW—Metropolitan Television, Inc., New York, N. Y.—Construction permit for new high frequency broadcast station on **117670 kc.**, 1000 watts, special emission for frequency modulation. Amended: Exact site to be determined, New York, N. Y.

NEW—District Broadcasting Co., Washington, D. C.—Construction permit for new high frequency broadcast station to be operated on regular commercial basis on **43400 kc.**, 1000 watts, emission special for frequency modulation, site to be determined, Washington, D. C.

WMC-WEIX-WABG—Memphis Commercial Appeal Co., Memphis, Tenn.—Authority to transfer control of corporation from Memphis Press-Scimitar Co. to The E. W. Scripps Co., 3000 shares common stock and 3000 shares Class A Common Stock.

WEIX—Memphis Commercial Appeal Co., area Memphis, Tenn.—Modification of license to change corporate name from Memphis Commercial Appeal Co. to Memphis Publishing Co.

WABC—Memphis Commercial Appeal Co., area Memphis, Tenn.—Modification of license to change corporate name from Memphis Commercial Appeal Co. to Memphis Publishing Co.

WENS—Radio Station WSOC, Inc., area Charlotte, N. C.—License to cover construction permit (B3-PRE-348) for changes in equipment.

NEW—Badger Broadcasting Co., Madison, Wis.—Construction permit for new high frequency broadcast station on **42600 kc.**, 1000 watts, special emission for frequency modulation.

NEW—World Peace Foundation, Abraham Binneweg, Jr., Oakland, Calif.—Construction permit for new developmental broadcast station on **1614, 2398, 6425, 8655, 9135, 17310, 12862.5 kc.**, 250 watts, A1, A2, A3 emission. Amended: change power requested to 10 watts and change from fixed location to portable.

NEW—Royal Oak Broadcasting Co., Royal Oak, Mich.—Construction permit for new high frequency broadcast station to be operated on regular commercial basis on **43200 kc.**, 1000 watts, special emission for frequency modulation.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**Drucquer & Sons**—John Drucquer, trading as Drucquer and Sons, 2201 Shattuck Ave., Berkeley, Calif., engaged in manufacturing cigarettes made of blended tobacco, and in advertising, selling and distributing the products, is charged in the complaint with packaging his products in cartons, wrappers and containers upon which are placed various pictorial representations, scrolls, words and phrases descriptive of their alleged origin and quality. One representation is a picture of a lion rampant, holding a cross of St. George in its right forepaw, accompanied by a scroll upon which is printed "Per Ardua." The statement "Manufactured by Drucquer and Sons of London, England," is in large type, according to the complaint, and in small type, hardly discernible, is printed "Late of The Strand and Regent Street, London."

The complaint charges that the respondent's business is not located in London, and that his products are manufactured, blended and processed at his place of business in Berkeley, Calif. (4125)

**London Tobacco Company**—Jacob Moss, trading as London Tobacco Company, 132 Hanover St., Boston, manufacturer and distributor of cigarettes, is charged, in a complaint, with packing and selling his products in cardboard boxes, on the top of each box appearing:

"LONDON

Special

(Crest, simulating the British  
Royal Coat of Arms.)

CIGARETTES

London Tobacco Company"

Circulars used by the respondent to advertise his cigarette feature a pictorial representation which simulates the British Royal Coat of Arms, and carry the following price representations:

"FORMERLY 25¢ pkg.  
REDUCED TO 15¢ pkg."

Through use of the word "London" as part of his trade name, and the word "English" in his advertising matter, the complaint charges, the respondent represents that his is an English concern;

that his "London Special Cigarettes" are manufactured or blended in England or of British tobacco, and that they have recently been reduced in price from 25 cents a package to 15 cents a package. The complaint alleges that these representations are untrue and misleading; that the respondent London Tobacco Company is not a British concern; that the respondent's cigarettes are manufactured in this country and that their price has not recently been reduced as advertised. (4126)

**Manchester Silver Company**—Alleging violation of the Federal Trade Commission Act in the pricing of silver flatware sold to wholesalers, jobbers, retailers, department stores and the public, a complaint has been issued against Manchester Silver Company, 49 Pavilion Ave., Providence, R. I., and Frank S. Trumbull, Franz S. Tideman and Edward B. Palmer, officers of the corporation.

For many years, the complaint alleges, the respondents have circulated among retailers, wholesalers and jobbers a price list known as a "Pink List," purporting to show the usual and regular retail prices or values of the respondents' silver flatware. Many retailers, particularly large department stores, the complaint continues, in conducting special sales of the respondents' products, used the Pink List to show the so-called regular prices of those products as compared with the special sales prices. The "Sales Prices," in some instances, were as much as 33 per cent off the Pink List prices, according to the complaint.

About January 1, 1939, the complaint continues, the respondents devised a plan for use by retailers to promote the sale of the respondents' products at special sales, pursuant to which they issued a "Blue List" which had the words "Wholesale List" printed thereon. The prices shown in the Blue List for identical articles were substantially higher than the "Pink List" prices long in use and were wholly fictitious, according to the complaint.

The respondents allegedly recommended that retailers, in their special sales advertisements, quote the Blue List in connection with so-called half-price and comparative price sales and represent the Blue List prices as being the regular and customary prices. The complaint alleges that use of the fictitious Blue List prices enabled dealers to represent that purchasers at retail could obtain as much as 50 per cent off the regular list price of the respondents' flatware, whereas when the "Pink List" was used retailers were unable to represent that purchasers could obtain discounts off the list price in excess of 33 per cent.

It is alleged that the respondents granted to certain large retail dealers special discounts to induce them to participate in the respondents' Blue List plan. (4133).

**Petalskin Toiletries, Inc.**, 67 West 44th St., New York, engaged in the sale and distribution of toilet preparations designated as "Petalskin Face Cream," "Petalskin Face Tonic," "Petalskin Cream Pastelle," "Petalskin Face Powder" and "Petalskin Hand Cream," are charged, in a complaint with misrepresentations concerning their products.

By means of circulars and other printed matter distributed in various States, the complaint alleges, the respondent represented, among other things, that "Petalskin Face Cream" is "Rich in Vitamin F," and that "this emulsified, deep pore cleanser and tissue cream has unusual penetrating as well as nourishing qualities."

Through these and other representations, the complaint declares, the respondent also represents that its face cream contains Vitamin F; that the face tonic will close and refine the pores; that "Petalskin Cream Pastelle" works its way into the pores of the skin and refines it, and that the hand cream counteracts aging and will penetrate the skin.

The complaint alleges that there is no recognized vitamin now designated as Vitamin F, and that use of the respondent's preparations will not supply vitamins by absorption through the skin, nourish the skin, refine the pores or counteract aging of skin. (4128)

**J. R. Pharmacoal Company**—J. R. Olney, Sr., and J. R. Olney, Jr., trading as J. R. Pharmacoal Company, 2011 Edgmont Ave., Chester, Pa., are charged, in a complaint with misrepresentation in connection with the sale and distribution of a medicinal preparation designated "J. R."

In advertisements in newspapers and periodicals the respondents have represented, the complaint charges, that their preparation assures a cure for all cases of athlete's foot; that it gives immediate relief from athlete's foot, itching toes, ringworm, and raw, inflamed feet, and that it is endorsed by leading health institutions.

The complaint alleges that these representations are misleading and untrue, except that the product may be of value in alleviating symptomatic itching associated with such conditions. (4127)

**Post Institute, Inc.**, a corporation, 105 East 16th St.; Post Institute, a corporation, 9 East 40th St., both of New York; Louis J. Stern, individually trading as Post Institute and as officer of Post Institute, Inc., and Post Institute, corporations, and Helmuth M. Kiesewetter, individually and as officer of Post Institute, corporation, are charged, in a complaint with misrepresentation in the sale and distribution of preparations for hair and scalp treatment.

The complaint alleges that in advertisements in newspapers and periodicals, by radio continuities and by circulars, pamphlets and other advertising literature, the respondents, who are engaged in the sale and distribution of preparations known as "Ultrasol Hair Bath," "Ultrasol Pituitary Fluid," and "Ultrasol .33," recommended for use in combination as "Ultrasol Scalp Treatment," have represented that the preparations, used either singly or in combination, will revive the growth of hair and are cures for baldness; will stop abnormal loss of hair; cause fuzz to develop into mature hair; cause dull, faded hair to become brilliant; check premature graying, and restore the natural color to the hair, and that they are effective in removing and curing dandruff.

These claims, the complaint alleges, are exaggerated, misleading and untrue.

The respondents have further represented, the complaint continues, that formation of keratinized epidermal wastes obstructs the hair follicle and restricts growth of hair; that other causes of loss of hair and hair troubles are insufficiency of pituitary secretion at the hair roots, and that their preparations have therapeutic value in correcting such conditions.

The complaint alleges that these representations are misleading; that these products have no effect in the process of keratinization, and that there is no scientific basis for the assumption that pituitary or other substances applied to the scalp will penetrate to the hair roots and stimulate hair growth.

Through use of the word "Institute" in their trade or corporate names, the complaint alleges, the respondents represent that they are a scientific organization formed for the purpose of promoting research and learning. It is further alleged that they have represented, among other things, "The ethics of the Institute preclude exaggerated claims," and "By a costly process, Post Institute isolates from whole gland pituitary body a special extract." As an additional means of furthering such representations, the complaint declares, the respondents place on their various advertising a replica of a seal, by means of which they represent that their products have been certified, tested or approved by some scientific organization or some State, city or federal board of health. In truth, the complaint continues, Post Institute is not a scientific organization formed for the purpose of promoting learning and research, and its products have not been certified, tested or approved by any scientific organizations, boards of health, or any department of the federal government. (4129)

**Stanley Laboratories, Inc.**, Portland, Ore., and Edward A. Bachman, trading as Stillman Products Company and as Stanley Laboratories, who is also president of the corporation Stanley Laboratories, Inc., are charged, in a complaint with misrepresentation in the sale and distribution of drug products for feminine hygiene.

The respondents designate their products as "M.D. Medicated Douche Powder," "Contra-Jel," "Femeze," and "M.D. Supercones."

In advertisements in newspapers and other printed matter, the complaint charges, the respondents have represented that "M.D. Medicated Douche Powder" is a recent development of scientific research, endorsed by leading physicians and surgeons, and is a competent and effective contraceptive; that it is an antiseptic and germicide which will combat any form of bacteria, and that the preparation has competent remedial qualities for use on cuts, burns and sores; that "Contra-Jel" gives immunity from the pregnancy, protection from venereal diseases, and has germicidal and antiseptic properties; that "M.D. Supercones" constitute an effective contraceptive which has powerful antiseptic properties, and that "Femeze" is an effective treatment for functional pains and cramps accompanying menstruation.

In truth, the complaint alleges, none of the products distributed by the respondents constitute competent or effective contraceptives; none constitutes an adequate prophylactic; none will give protection from venereal diseases, and the product "Femeze" is not effective in treating the pains accompanying menstruation.



In addition, the complaint charges, the respondents make false and misleading representations to the effect that their products are prescribed or compounded by physicians and bear the endorsement or recommendation of the medical profession, by means of the use of the letters "M.D." in designating their products and by including in their advertising matter likenesses of nurses and doctors with the figure of a cross in simulation of the Red Cross emblem. The complaint alleges that in truth the products are not prescribed or compounded by physicians and have not received the endorsement or recommendation of the medical profession.

Use of the term "Laboratories" in their corporate and trade names and in advertising literature, the complaint continues, is also misleading, as the respondents neither own nor control any factory, plant or laboratory wherein their medicinal preparations are compounded or wherein any research activities are conducted, but are merely distributors of products compounded and manufactured by other concerns. (4130)

**Stillman Products Company**—See Stanley Laboratories, Inc.

**Western Confectioners Association, Inc.**, San Francisco, a trade association, its officers, directors and trustees, and 49 member manufacturers engaged in the sale and distribution of candies in Western States, have been served with a complaint alleging a combination to restrain price competition, establish uniform prices and to stabilize the discounts allowed.

The complaint alleges that the respondent company members constitute a large and influential position in the candy manufacturing business in California, Washington, Oregon, Montana, Nevada, Utah, Wyoming, Colorado, Arizona and New Mexico. They would be in free and active competition with one another, the complaint continues, except for the unlawful conspiracy, agreements and practices with which they are charged.

Pursuant to their agreements and understandings, the complaint alleges, the respondent manufacturers and the association and its officers and members cooperatively enforced their merchandising policy for eliminating price competition by the following means: (1) the respondent manufacturers adopted a minimum price, based on figures obtained by the association, for the association members' products, and (2) adopted arbitrary cost figures, while pretending to act under the California "Fair Trade Act" and "Unfair Practice Act"; (3) the respondent association made arbitrary classifications designating purchasers of respondents' products as "wholesalers", "jobbers", and as other dealers; specified standard and uniform discounts to be allowed purchasers in each classification, and the respondent manufacturers adopted such classifications and allowed the discounts; (4) the respondent manufacturers, upon demand by the association, revised price lists to make them uniform, and (5) filed with the association advance notices of price changes; (6) the respondent association, through its officers and the respondent manufacturers, made threats to institute, and aided and abetted in instituting, court proceedings against manufacturers selling at prices below the costs arbitrarily fixed, and (7) disseminated threats among association members and other manufacturers that any manufacturer who sold below the cost figures adopted would be prosecuted under the California "Fair Trade Act" or "Unfair Practice Act."

The respondents' practices are alleged to have placed in them the power to control and enhance prices and to have increased the prices paid by the purchasers and by the public for their products, thereby unreasonably restraining trade in violation of the Federal Trade Commission Act. (4132)

**A. W. Wilson Company**—Alfred W. Wilson, trading as A. W. Wilson Company, North Hollywood, California, engaged in the sale and distribution of coin-operated vending machines and candy, is charged in complaint with misrepresentation.

In advertisements in newspapers and periodicals, the complaint alleges, the respondent represented that purchasers of his machines would be given exclusive rights to operate within certain designated territories; that locations for the machines would be obtained by the respondent prior to delivery of the machine to the purchaser; that the machines would be personally installed by the respondent's salesmen or agents; that a certain quantity of candy to be dispensed by the machines would be supplied free by the respondent; that the respondent's business is nation-wide in scope; that net profits of not less than \$30 per week are usually and customarily derived by purchasers; and that the machines would be repurchased by the respondent at the original price, less the net earnings, if at the end of 90 days operation the machines had not earned for the

purchaser profits equal in amount to the original price of the machine.

The complaint charges that these representations are false and misleading. (4131)

## CEASE AND DESIST ORDERS

Following cease and desist orders have been issued during the past week:

**Dermagell, Inc.**—See Research Associates, Inc.

**Research Associates, Inc.**—Two Washington, D. C. corporations, Research Associates, Inc., and Dermagell, Inc., have been ordered to cease and desist from certain misrepresentations.

Commission findings are that Dermagell, Inc., 52 O St., N. W., Washington, D. C., prior to 1938, was engaged in the sale and distribution of an organic soap compound designated "Dermagell". Research Associates, Inc., 3400 Nebraska Ave., N. W., Washington, D. C., until May 1938, controlled the activities of Dermagell, Inc. On May 11, 1938, it divested itself of a large part of the stock of Dermagell, Inc., by sale to parties not named as respondents in this proceeding. At the present time it owns no stock of Dermagell, Inc., and does not control or direct its business policies, practices and activities.

While its activities were under the control of Research Associates, Inc., Dermagell, Inc., the Commission finds, caused false advertisements containing representations and claims with respect to the properties of the compound "Dermagell" to be disseminated. The Commission finds that in newspapers and by other means, the respondents represented, among other things, that "DERMAGELL is a 3-purpose Cleansing Cream and Shampoo—so efficient—so utterly different from anything heretofore obtainable that authorities proclaim it 'the discovery of the century'"; that "DERMAGELL soothes and heals as it penetrates the innermost recesses of the tender pores without unpleasant reaction", and that "it actually protects your skin. Dermagell prevents and cures many skin disorders."

The Commission finds that the product is not substantially different from any other products or soaps designed for a similar use, and that its ingredients are well known and have been known and used for many years in the preparation of soaps and similar products. The Commission further finds that "Dermagell" possesses no special soothing or healing properties, and that other claims made for it are false and misleading.

The respondents are ordered to cease and desist from representing that the compound formerly known as "Dermagell" is the discovery of the century; that it soothes and heals or penetrates the innermost recesses of the pores of the skin; that its use will leave the skin and scalp youthfully fresh and invigorated; that its use will give any woman a soft, clear, smooth complexion or beautiful hair; that the benefits obtained from its use are distinct and lasting; that it actually protects the skin, or that it prevents or cures skin disorders. (3651)

**F. B. Washburn Candy Corporation**, Brockton, Mass., stipulates that it will desist from representing that its candy bars are equal in food value to either two eggs, two baked potatoes, two lamb chops or a glass of milk. The stipulation points out that the respondent's candy bars, although they contain a source of energy and a small amount of protein and mineral salts, do not also contain the other minerals, vitamins and the quality and quantity of protein to be found in the foods with which such candy is compared. (2803)

**Howard Woodward & Company**—Howard Woodward, trading as Howard Woodward & Co., 277 East Long St., Columbus, Ohio, in the sale of luggage and leather goods, agrees to cease using in his wholesale catalogs or in any other way, list prices which are not the prices at which the products are actually sold to retail dealers. (2792)

**F & K Yarn Company**—Joseph A. Keller, trading as F. & K. Yarn Company, stipulates that he will desist from representing

that his knitting yarns are composed of fibers or materials other than those which they actually contain; from using the words "Cashmere" or "Cashiere" or any other word simulating "Cashmere" to designate a product not composed wholly of the hair of the Cashmere goat, and from using the words "Silk" or "Crepe" as descriptive of a product not composed of silk.

The respondent also agrees to cease employing the word "Tweed" as descriptive of a product not composed of wool; provided that, if the product is composed in substantial part of either Cashmere, Silk or Tweed, and the words "Cashmere", "Silk" or "Tweed" are used properly to describe the contents designated by those names, then such names shall be immediately accompanied by other words in equally conspicuous type accurately describing each other constituent fiber or material of which the product is composed, in the order of its predominance by weight, beginning with the largest single constituent.

The respondent also agrees to discontinue employing the phrase "Pure Boucle" as descriptive of a product composed of rayon, or otherwise to advertise or sell an article composed wholly or partly of rayon without clearly disclosing such rayon content. The respondent also stipulated that when a product is composed partly of rayon, it will not fail to disclose each constituent fiber or material in the order of its predominance by weight, beginning with the largest single constituent.

The respondent, not a manufacturer, also agrees to cease using the word "Factory" as descriptive of his business. (2802)

**S. C. Sales Company**—Samuel Cohen, doing business as S. C. Sales Company, 126 West Baltimore St., Baltimore, engaged in selling a medicinal preparation designated "Mag-Net-O Balm", agrees to cease representing that the preparation is a remedy or competent treatment for varicose veins or leg swellings; that, alone or used in connection with the application of heat, rubbing or exercise, it is a remedy or competent treatment for sciatica pain, rheumatic pain, lumbago pain, lame back, stiff neck, headache, chest colds, earache, or simple sprains, or that the preparation has any therapeutic value in their treatment in excess of a rubefacient and counterirritant; that the preparation penetrates to congested or otherwise affected parts or is an aid in the treatment of deep-seated congestion, and that the preparation, alone or used in connection with the application of heat, rubbing or exercise, is a new method of treatment for varicose veins or leg swellings. (02557)

**Textile Laboratories**—Harry Teichlauf, trading as Textile Laboratories, 264 West 40th St., New York, in the sale of "Textilene" cleaning fluid, agrees to desist from use of the statement "Removes all stains", or any representation of similar implication, when in fact the use of the product will not return to their original appearance all kinds of fabric materials, regardless of the nature of the stain or marking to which the materials have been subjected.

The respondent also stipulates that he will cease employing the statement "It will not leave spots, rings or discoloration" or any similar representation the effect of which is to convey the impression that this preparation, when applied only to the spot sought to be removed from certain fabrics, as weighted silks, will leave no ring or will not cause a resultant discoloration. The stipulation points out that application of the fluid only to the spot to be removed will not prevent formation of a ring.

The respondent also agrees to cease employing the word "Laboratories" as part of his trade name or in any way, when in fact he does not own or control a laboratory in which his product is made. (2796)

**Van Sant, Dugdale & Co., Inc.**, Court Square Building, Baltimore, in connection with advertisements disseminated by it concerning "Bliss Native Herbs Tablets", sold by Alonzo O. Bliss Medical Company, Washington, D. C., agrees to desist from representing that these tablets give immediate relief for, or relieve all cases of, upset stomach, gas bloating pains, acid risings, lost appetite, sour stomach and headaches, due to constipation or other causes; that the product will flush the bowels or kidneys, stimulate the liver, cause faster elimination of kidney wastes, or that the product is a treatment for the stomach, unless the representation is limited to such influence as it might have as a stomachic. (02558)

**Volume Sales Promotion Company**—R. Thomas Lincoln and Henry Thompson, trading as Volume Sales Promotion Company,

Denver, Colo., engaged in the sale and distribution of a sales promotion plan known as "Swap for Cash", agree to cease and desist from selling or distributing sales promotion cards or any other device so designed that their use by retail dealers may constitute the operation of a game of chance, gift enterprise or lottery scheme; supplying or placing in the hands of others cards, plans or schemes which may be used without alteration or rearrangement to conduct a lottery, game of chance or gift enterprise when distributed to the consuming public; or representing that prospective agents, salesmen or other representatives can make profits or earnings in excess of the average net profits which have been consistently made in like periods of time by its active, full-time agents, salesmen, distributors, dealers or other representatives in the ordinary and usual course of business and under normal conditions and circumstances. (2804)

**Noble Refining Company**—Carl L. Ficken, trading as Noble Refining Company, 12910 Taft Ave., Cleveland, in the sale of paint and oil products, agrees to cease using (1) the word "linseed," alone or in connection with the word "blended" or with other words, as descriptive of a product not composed of pure linseed oil or a blend of pure linseed oils; or (2) the word "turpentine," alone or with the word "blended" as descriptive of a product not consisting of pure turpentine or a blend of pure turpentines. The respondent also agrees to cease employing the word "Refining" as part of his trade name and to cease use of the words "Refining" or "Producers" or words of similar implication, when in fact the respondent does not own or control the refinery or factory in which the products he sells are produced or refined. (2801)

**B. Ontra Company, Inc.**, trading as Reggie's Hosiery Mills, agrees to cease using the word "Mills" as part of its trade name and to discontinue using that word or any word of similar implication in a manner conveying the impression that the corporation owns and operates the factory in which its products are made, when such is not a fact. (2800)

**Charles Dallas Reach Company**—Charles Dallas Reach, trading as Chas. Dallas Reach Company, 58 Park Place, Newark, N. J., conducting an advertising agency which disseminated advertisements for a hand lotion designated "Frostilla Fragrant Lotion," on behalf of The Frostilla Company, Inc., Elmira, N. Y., has agreed to discontinue disseminating or causing to be disseminated any advertisements representing that the ingredients in "Frostilla Fragrant Lotion" are more costly than those employed in competitive lotions generally, when that fact is not definitely known, and that competitive lotions in general leave a sticky or gummy residue. The respondent also agrees to cease advertising that "Frostilla Fragrant Lotion" accomplishes certain results where other lotions fail; prevents the nail cuticle from becoming rough or ragged; is "the" perfect hand lotion; keeps hands young looking, or is most always preferred where hand lotions are tested side by side. (02554)

**Ribbon Seam Binding Company**—See Arrow Seam Binding Company.

**Roth, Saltzman & Co., Inc.**, 147 West 29th St., New York, in the sale of furs, furriers' supplies and silk goods, stipulates that it will discontinue employing on letterheads, invoices or in other ways the phrase "Importers and Manufacturers," alone or in connection with other words as descriptive of its business activities, and that it will cease representing, through use of the word "Importers," that it imports products it sells, or through use of the word "Manufacturers," that it actually owns or controls the plant in which its merchandise is made, when such are not the facts. (2794)

**Louisville Novelty House**—Charles Barash, trading as Louisville Novelty House, 1860 Alfresco Place, Louisville, Ky., in the sale of Indian pattern blankets, cedar chests, electric clocks, wrist watches, floor lamps, and women's wearing apparel, stipulates that he will desist from selling or distributing such articles so packed and assembled that sales to the public are to be or may be made by means of a lottery scheme; from supplying to or

placing in the hands of others such merchandise together with push or pull cards, punch boards or other lottery devices, or such devices with the merchandise or separately, the devices to be used in selling the articles to ultimate consumers.

The respondent also agrees to desist from use of the phrase "Pure Dye" or the term "Satin" as applied to any fiber or fabric unless composed exclusively of pure silk without other fiber, weighting, excess finishing or dyeing materials, or loading or adulterating materials. If according to the stipulation, the phrase "Pure Dye" is truthfully used as descriptive of the silk content of a mixed fabric, it shall be accurately disclosed in connection therewith that such term or phrase is used as applying only to the silk content of such mixed fabric; for example, "Rayon and Pure Dye Silk."

Also, the respondent stipulates that he will desist from branding, labeling or selling any products composed of rayon and other kinds of fiber or substances without full and nondeceptive disclosure of the rayon and other content by accurately designating each constituent fiber in the order of its predominance by weight, beginning with the largest single constituent and giving the percentage of any fiber present in less than a substantial proportion. (2795)

**Louisville Novelty Manufacturing Company**—Agreeing to discontinue supplying devices the use of which may result in the sale of merchandise to ultimate consumers by means of lottery methods, six dealers have entered into stipulations.

Respondents are: Archie and Bessie Jacobstein, trading as Louisville Novelty Manufacturing Company, 330 East Breckenridge St., Louisville, Ky., distributors of novelty merchandise, including lottery devices; Briarcraft, Inc., 347 Fifth Ave., New York, pipe manufacturer; Leo Pevsner, 5 South Wabash Ave., Chicago, dealer in jewelry, novelty goods and premium merchandise; Nashville Roller Mills, Nashville, Tenn., engaged in the blending, sale and distribution of flour and feedstuffs; Morton J. Friedman, Merchandise Mart Building, Chicago, engaged, under the name of Traders Syndicate, in the sale of distressed or close-out stocks of merchandise, and Dainty Foods Manufacturers, Inc., 666 West Randolph St., Chicago, distributor of a concentrated compound or powder designated "North Pole Ade" for the making of summer beverages.

According to their stipulation, Archie and Bessie Jacobstein, trading as Louisville Novelty Manufacturing Company, sold to retail merchants certain trade stimulators called "jar deals" consisting of glass jars containing a large number of tickets with concealed numbers. The stipulation recites that the plan involved a lottery in the sale of cigarettes by a jar deal designated "Pick-A-Pack."

The respondents agreed to cease supplying to or placing in the hands of others, jar deals or other lottery devices either with assortments of cigarettes or other merchandise, or separately, such devices to be used in selling such cigarettes or other merchandise to the public.

Nashville Roller Mills agreed to cease supplying to or placing in the hands of others premium flour, or other merchandise, to be used to conduct a lottery in the sale of flour or other products, and to discontinue supplying lottery devices, either with assortments of flour or other merchandise, or separately, such devices to be used in selling such flour or other merchandise to the public.

The various other respondents agreed to cease supplying to or placing in the hands of others their commodities, together with lottery devices, or lottery devices with such merchandise or separately, such devices to be used in the sale of such merchandise to the public.

Except for the jar deals and premium flour used by the above mentioned Louisville and Nashville respondents, and prize drawing cards in two instances, the lottery devices commonly employed were push or pull cards and punch boards.

Morton J. Friedman, dealer under the name Traders Syndicate in distressed or close-out stocks of merchandise, also agrees to discontinue use of the word "Syndicate" as descriptive of his business, or of any similar term implying that the respondent's individual proprietorship is an association or group of persons combining in a financial, industrial or commercial enterprise. He also agrees to cease quoting a fictitious price of any article or quoting a figure purporting to be its actual value which is in excess of the customary price at which it can be obtained. (2779-2781-2783-2786-2787-2788)

**Hollander, Inc.**, Brockton, Mass., agrees to cease selling or distributing candies, confections or other merchandise so packed

and assembled that its sale to the public is to be or may be made by means of a lottery or gift enterprise; to discontinue supplying to others confections, candies or other merchandise, together with push or pull cards, punch boards or other lottery devices, or such devices with the candy or merchandise, or separately, the devices to be used in the sale of such products to the public. (2798)

**Mrs. Greta J. Leskovar**, 507 East 73d St., New York, engaged in selling a medicinal preparation designated "Lesko Herbs Tea." has agreed to cease representing that the preparation is a competent treatment or effective remedy for retarded, suppressed, irregular or sick monthly periods, is an aid for the relief of the pain or discomfort attending irregular menstruation, or will relieve the cramps or colic of troublesome or irregular menstruation due to exposure or cold or any other cause. (02556)

**New England Products, Inc.**, 1601 Payne St., Evanston, Ill., engaged in selling a medicinal preparation designated "Peacock's Garlic Capsules," agrees to discontinue representing that the preparation is rich in calcium, potassium or phosphorus, or provides alkaline properties for the human system; that it is of value in the treatment of colon irritation or indigestion, except through any value it may have as a carminative, or in treating high or low blood pressure, except for certain temporary benefits; that it is of value in treating rheumatism, bronchitis, or other respiratory infections, or is antiseptic or has germ-killing powers when taken internally. (02555)

**Carolina Hosiery Mills**—Trading as Carolina Hosiery Mills, Max Kaufman, 120 West 42nd St., New York, has entered into a stipulation in which he agrees to discontinue certain representations in the jobbing and the retail sale of hosiery.

Among the representations which the respondent agrees to discontinue are use of the word "Mills" as part of his trade name and the word "Manufacturer" as descriptive of his business, when in fact he is not a manufacturer; use of fictitious designations to indicate that his place of business is at Hickory, N. C., or that his New York office is a sales branch thereof, when in fact his New York office is his only place of business, and representations that he sells men's hosiery "at mill prices" or "Direct from Mill to Consumer," thereby eliminating middlemen's profits, or that he distributes "our" mills' production to "the many large organizations throughout the entire United States."

Further representations which the respondent agrees to discontinue are use of the word "Silk" to describe products not made wholly of that substance; branding of products composed of rayon and other fibers without full disclosure of the rayon and other content, and certain representations as to prices. (2789)

**O. R. Chemical Company**—See L. B. Allen Company, Inc.

**E. E. Forbes & Sons Piano Company, Inc.**, 403 North 20th St., Birmingham, Ala., engaged in the retail sale of pianos and other musical instruments, in connection with the sale and distribution of its products, agrees to cease and desist from the use in its advertisements and advertising matter of whatever kind or description of the statement "No Money Down," when in fact a down payment generally is required and insisted upon in the sale of such instruments, and from the use of such words or other words of similar implication which tend to convey the belief to prospective purchasers that the instruments offered for sale under such representations may be purchased without the making of any down payment. (2797)

**Ted Brooks Clothing Company, Inc.**, 91 Fifth Ave., New York, N. Y. stipulates that it will cease representing any garments which it sells as being "custom tailored," when in fact they are not made to order for the persons buying them, and that it will discontinue representing any garment only partially finished by hand as being "hand tailored throughout." The respondent also agrees to discontinue selling any product made of rayon without clear disclosure in all advertising literature, invoices and other forms of the rayon composition. The stipulation provides that if the word "Celanese" is used to designate a product composed of rayon, such word shall be immediately accompanied by the word "Rayon" in equally conspicuous type to indicate clearly

that the article is rayon. If the word "Satin" is properly employed as descriptive of the construction of a fabric composed of rayon, such word shall be accurately and non-deceptively qualified by the word "Rayon" in equally conspicuous type; for example, "Celanese Rayon Satin." (2799)

**Buhach Producing & Manufacturing Co.**, 37 East Channel St., Stockton, Calif., in selling an insecticide designated "Buhach", stipulates that it will cease advertising that the preparation is effective in killing all species of moths or all insect pests, and that it will discontinue representing, by use of the words "get rid of", "banish", or other words of similar meaning, that Buhach, when spread across the trails of ants or roaches, kills or repels all of such pests. (02559)

**Carnegie-Illinois Steel Corporation**, Pittsburgh, has entered into a stipulation in which it agrees to discontinue certain practices in the sale of copper-steel sheets used in the manufacture of articles such as grave vaults and caskets.

The respondent corporation agrees to cease using in its advertising matter or in the advertising supplied to others for their use, statements representing or implying (1) that its copper-steel sheets retain the same degree of resistance to deterioration which is caused by rust, corrosion, or pitting, resulting from their burial in soils generally, as they possess when subjected only to atmospheric conditions above ground; (2) that burial vaults or caskets made of copper-steel sheets are more durable or more resistant to rust, corrosion or pitting (when submerged in the soils), than vaults or caskets made of plain steel sheets of like weight and thickness buried in soils of similar chemical nature or action.

Other representations which the respondent corporation agrees to discontinue are that it has on file records of numerous disinterments which show copper-steel vaults to have been in excellent condition after many years underground; that copper-steel vaults have been completely proved by performances of hundreds of vaults now in use, and that the records show that "U. S. S. Copper Steel Vaults" were still in good condition when disinterred after from 17 to 21 years interment, (2790)

## STIPULATIONS

During the week the Commission has entered the following stipulations:

**L. B. Allen Company, Inc.**, trading as O. R. Chemical Company, 6719-6733 Bryn Mawr Ave., Chicago, in the sale of casein glue, agreed to desist from the use on its labels or in any other way of the word "waterproof" or of any other words of similar import as descriptive of a glue which is not, in fact, waterproof,

and from use of this word in any way which tends to convey the impression that the product is impervious to water or its effects. (2805)

**American Television & Radio Company**, 300 East 4th St., St. Paul, Minn., engaged in manufacturing a specialized line of electrical goods consisting of vibrators, vibrator-operated and rectifier power supplies, agrees to discontinue, in connection with the sale of its products, stating or representing in its advertisements and advertising matter that it is the "World's Largest Manufacturer" of the most complete line of electrical goods and supplies above-named, and to desist from the use of the words "World's Largest Manufacturer" or of any words of similar implication which may tend to convey the belief that there are no other manufacturers who make or who are now equipped to make as complete a line of such merchandise as that manufactured by the American Television & Radio Company. (2793)

**Arrow Seam Binding Company**—Reuben Berman, trading as Arrow Seam Binding Company and Ribbon Seam Binding Company, 590 Eighth Ave., New York, is in the business of cutting fabric materials into binding ribbons which, after they have been carded or wound on spools or bolts, are sold in interstate commerce. The respondent agrees to cease representing that any of his products is composed of fibers or materials other than those of which it actually is made, and to discontinue employing the word "Taffeta" to designate a product not composed of silk. The stipulation provides that if the article is composed in substantial part of silk, the word "Taffeta", if used to designate the silk content, shall be immediately accompanied by other words in equally conspicuous type which indicate clearly that the product is not composed wholly of taffeta or silk, and which also accurately describe each other constituent fiber or material in the order of its predominance by weight, beginning with the largest single constituent.

The respondent also agrees to desist from invoicing, labeling, branding or advertising those of its products composed in part of rayon without clear disclosure of such rayon content, and, when such products are made in part of rayon, from failing to disclose each constituent fiber or material, including rayon, by name, in the order of its predominance by weight, beginning with the largest single constituent. (2791)

**I. S. Assin & Company**—Isaiah S. Assin and Mac Ancona, trading as I. S. Assin & Co., 9 East 38th St., New York, N. Y., agree to desist from use of the word "Manufacturers" as descriptive of their business. They also agree to desist from use of any other word or words of similar implication the effect of which is to convey the impression that they manufacture the handkerchiefs they sell or own or control the plant in which they are made, when such are not the facts. (2806)



## FCC Approves Commercial FM Broadcasting

The FCC gave the green light this week to commercialized FM broadcasting. The television report is still in the mill, but Chairman James Lawrence Fly said he hoped it would be out within a week or ten days.

By three orders (67, 68 and 69) issued May 22, the Commission set aside forty channels in the band 42,000-50,000 kc. for FM broadcasting; dismissed without prejudice existing FM applications; and cancelled existing FM experimental licenses as of January 1, 1941.

Applications for regular (commercial) FM licenses are to be received as soon as the rules, regulations and forms are ready. Meantime, according to Nathan David, assistant to the FCC chairman, FM stations now operating with an experimental license cannot "go commercial" until they receive regular licenses.

Here are the texts of the Commission's FM report (unanimously adopted) and the memorandum on frequency reallocation in connection with FM:

Before the

**FEDERAL COMMUNICATIONS COMMISSION**

Washington, D. C.

May 20, 1940.

**Docket No. 5805**

In the Matter of AURAL BROADCASTING ON FREQUENCIES ABOVE 25,000 KILOCYCLES PARTICULARLY RELATING TO FREQUENCY MODULATION

### Report on Frequency Modulation

By the Commission:

Frequency modulation is highly developed. It is ready to move forward on a broad scale and on a full commercial basis. On this point there is complete agreement amongst the engineers of both the manufacturing and the broadcasting industries. A substantial demand for FM transmitting stations for full operation exists today. A comparable public demand for receiving sets is predicted. It can be expected, therefore, that this advancement in the broadcast art will create employment for thousands of persons in the manufacturing, installation and maintenance of transmitting and receiving equipment and the programming of such stations.

Experimental stations have been operating over a number of years on frequencies above 25,000 kilocycles for the development of such frequencies for rendering a regular broadcast service. A number of these stations employed frequency modulation and

others employed amplitude modulation. After extensive hearings and investigations, the Commission has concluded that frequency modulation has advanced to the stage where broadcasting on a commercial basis is desirable in the public interest. The Commission believes that this is one of the most significant advances that has been made in aural broadcasting in recent years.

Briefly the basic differences between amplitude and frequency modulation are as follows: Modulation is a process of imparting sound or other signal (intelligence) to a transmitted radio wave. The radio wave has two defining characteristics—amplitude and frequency. With amplitude modulation the sound controls the amplitude of the radio wave transmitted, while the frequency remains constant. In contrast, frequency modulation varies the frequency of the radio wave while the amplitude remains constant.

Up to the present, amplitude modulation has been used exclusively for regular as distinguished from experimental radio communication. The principle of frequency modulation has long been known but its practical use was not demonstrated until recently.

The hearing yielded a vast amount of information as to the use of frequency modulation in broadcasting on high frequencies. Each interested party agreed that frequency modulation is superior to amplitude modulation for broadcasting on frequencies above 25,000 kilocycles. The record leaves no doubt of the fact that a regular broadcast service can safely be initiated on high frequencies using frequency modulation.

The use of a wide band of frequencies makes possible a reduction of noise to a greater extent than attained with amplitude modulation. Man-made electrical and atmospheric noises consist primarily of amplitude variations and therefore frequency modulated signals have an inherent advantage in discriminating against noise. Experimental operations assured another advantage for frequency modulation, namely, that broadcasting stations could be operated on the same channel without objectionable interference with much less mileage separation than is possible with amplitude modulation. FM has the ability completely to exclude all except the strongest signal.

The opening of the new band for commercial broadcast will help to correct numerous defects and inequalities now existing in the standard broadcast band. These inequalities result from the scarcity of frequencies, their technical characteristics and the early growth of broadcasting without technical regulation. There is today a lack of stations in some communities and other communities do not have sufficient choice of program service. The establishment of the new broadcast band in the higher frequencies will enable many such communities to have their own broadcast stations. The licensing of classes of stations in the same area with different frequencies and different power has resulted in a wide disparity in the extent of service to the public. The system of classification now employed in the standard broadcast band will not be used for licensing FM stations. In the rules and regulations and engineering standards to be issued in the near future information will be provided whereby applicants may apply for facilities to serve a specified area. Stations will be rated on the basis of coverage rather than power. Competitive broadcast stations in the same center of population will in so far as possible be licensed to serve the same area.

The service range of the new stations while limited will, in many cases, be greater than that obtained from the primary service area of comparable standard broadcast stations. Stations a relatively short distance apart will not create mutual interference of a type that has rendered allocation problems both national and international so difficult in the standard broadcast band.

The coverage will be substantially the same day and night. The present situation of certain stations in the standard broadcast band having large daytime coverage and restricted nighttime coverage



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## FCC APPROVES COMMERCIAL FM BROADCASTING

(Continued from page 4269)

on duplicated channels will be avoided. However, FM stations have not demonstrated the long distance coverage properties such as obtain with present high powered clear channel stations. Accordingly, amplitude modulation stations in the standard broadcast band may be required indefinitely for the purpose of giving wide-spread rural coverage. For coverages of centers of population and trade areas, the new class of station offers a distinct improvement.

Experimental FM stations rendering program service have employed a channel of 200 kilocycles. There is testimony to the effect that a band width of less than 200 kilocycles can be used, but this entails a reduction of the noise-discriminating quality which has been established by experimental operations utilizing a channel width of 200 kilocycles. Testimony advocating a narrower band width was not supported by experience in program service. Moreover, the narrower band width would make less feasible multiplexing of facsimile and binaural transmissions on the same channel. In addition, the Commission believes that a regular program service should begin on a 200 kilocycle band basis which can be conveniently reduced if technical developments warrant.

A further question at the hearing was the possible future effect on the service rendered by standard broadcast stations should an additional broadcast band in the high frequencies employing frequency modulation be established. There was agreement that the new and additional service would not supplant the service of standard broadcast stations generally and that, therefore, this service will not make obsolete the receivers now in use. Standard broadcasting is on an entirely different frequency band from that to be occupied by frequency modulation. FM will not interfere with it. Present standard broadcasting will continue, and certainly for a number of years will render full service. The extent to which in future years the listeners will be attracted away from the standard band cannot be predicted. Testimony at the hearing indicated that the manufacturers will provide receiving sets capable of receiving both standard and the FM broadcasts.

The record is clear that the frequency space heretofore allocated to high frequency broadcasting is not sufficient to establish a wide-spread service employing wide band frequency modulation. The testimony indicates that advantages are to be had by the use of a continuous band for high frequency broadcast stations which includes non-commercial educational stations. Therefore, the Commission deems it in the public interest to allocate a continuous band that will suffice for both commercial and educational stations.

The frequency band of 41,000 to 42,000 kilocycles is now allocated to educational stations on a regular broadcast basis, and most of the activity of experimental stations using frequency modulation has been in the band between 42,000 and 44,000 kilocycles.

There is testimony to the effect that commercial broadcast stations employing frequency modulation should be permitted to operate in the frequency band between 42,000 and 50,000 kilocycles principally for the reason that this band is particularly suited for rendering an FM broadcast service. The effect of sky wave interference will not be known until additional stations are placed in operation in various parts of the country. If later developments should favor the use of higher frequencies, the Commission will consider the facts at that time. In any event, the record of the hearing clearly indicates that this particular band offers the best solution of the allocation problem at this time.

Therefore, the Commission is making available for regular high frequency broadcast stations and educational stations the frequency band 42,000 to 50,000 kilocycles, in which band forty 200-kilocycle channels are available. Adequate provision will be made

for television service as pointed out in our statement on allocations accompanying Commission Order 67.

The channels made available by Order 67 to FM broadcast stations, including the multiplexing of facsimile transmission simultaneously with aural broadcasting, are assigned to services as follows:

### Non-Commercial Educational Broadcast Stations

42,100  
42,300  
42,500  
42,700  
42,900

### High Frequency Broadcast Stations

43,100	45,100	47,100	49,100
43,300	45,300	47,300	49,300
43,500	45,500	47,500	49,500
43,700	45,700	47,700	49,700
43,900	45,900	47,900	49,900
44,100	46,100	48,100	
44,300	46,300	48,300	
44,500	46,500	48,500	
44,700	46,700	48,700	
44,900	46,900	48,900	

Under the foregoing allocation for FM broadcast stations, the same number of frequencies previously allocated to educational stations has been retained, the only change being that the band for such stations has been placed 1,000 kilocycles higher in the spectrum. This arrangement provides for educational channels in the regular high frequency broadcast band and thus permits the same receiver to be used for the two services. The 1,000 kilocycles set aside in the lower part of the band allocated to commercial broadcast stations for educational stations not only places the educational stations on an entirely independent basis but also gives them the benefit of the developments in the service rendered by the commercial stations.

The few existing non-commercial educational broadcast stations employ amplitude modulation. It is contemplated that they may continue so to operate with the same equipment in the new frequency band 42,000-43,000 kilocycles. It is not contemplated, however, that applications for new educational broadcast stations proposing amplitude modulation will meet the Commission's requirements in the absence of a showing of special necessity for the use of amplitude modulation.

The bands 25,000-27,000 kilocycles and 116,000-118,000 kilocycles will not hereafter be assigned to FM domestic broadcasting.

There are pending a number of applications for high frequency broadcast stations on an experimental basis, which were filed pursuant to existing rules and regulations. None of these applications is sufficient for the authorization of a regular broadcast station on a full commercial basis nor are any of them sufficient for the limited experimental service to be authorized. Therefore, these applications will be dismissed, but without prejudice to the filing of new applications for either experimental or regular FM broadcast stations. Rules and regulations for both regular and experimental service will be promulgated by the Commission in the near future.

It also follows that authorizations for existing high frequency experimental broadcast stations which contemplate service to the public should be terminated not later than January 1, 1941, without prejudice to the filing of new applications for either type of service.

Applications for FM broadcast stations will be accepted by the Commission when the new rules and regulations for FM broadcast stations, including standards of good engineering practice, and application forms are issued. This will be done promptly.

## FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

May 20, 1940.

In re FREQUENCY ALLOCATIONS CONTAINED IN ORDER 67

By the Commission:

As a result of the recent hearings on television, Docket No. 5806, and Aural Broadcasting on Frequencies above 25,000 kc., Docket No. 5805, it became apparent that adequate frequencies for high

frequency broadcasting and television could be provided only by instituting a thoroughgoing study of the use of all frequencies between 25 and 300 Mc. In making the study the Commission has been greatly assisted by the Interdepartment Radio Advisory Committee. This Committee, which is composed of representatives of thirteen Federal agencies, advises the President under the provisions of Section 305 of the Communications Act of 1934, as amended, regarding frequencies for Federal Government operations.

To those who are familiar with the existing allocations, the problem of selecting suitable frequency bands to accommodate frequency modulation and television is immediately apparent. It will be recalled that lengthy hearings were held in June, 1936, and June, 1938, to consider the allocation to services of frequencies in the bands above 25,000 kc. The hearings were widely publicized and were attended by representatives of the various departments of the Federal government, state and municipal government representatives, and persons and organizations representing all classes of radio services and the radio industry generally. As a result of these earlier hearings the Commission amended its Rules and Regulations so as to provide specific channels for each of the recognized services. The exact allocations heretofore in effect appear in Appendix B to the General Rules and Regulations of the Commission.

The frequencies which are assigned to the Government departments appear in the Commission's list for information purposes only. These frequencies are assigned for the use of government stations by executive order of the President.

In considering the needs of high frequency broadcasting and also the needs of television, the Commission decided that 40 channels should be allocated to the broadcasting service between 40 and 50 Mc, and 7 channels for television service below 108 Mc. A continuous band is provided for frequency modulation thus assuring a degree of uniformity in the quality of the different frequency modulation channels and tending toward simplicity and economy of frequency modulation receiving sets. It was further decided that wide band frequency modulation channels of 200 kc. in width should be adopted as standard. This will achieve a high standard of high fidelity aural broadcasting and incidentally accommodate the simultaneous multiplexing of facsimile transmissions. On this basis, a total band of 8 Mc is required for FM broadcasting which includes 1 Mc (5 FM channels), for non-commercial educational broadcast stations and 7 Mc (35 channels), for commercial FM broadcast stations. An extensive study has been made by the Commission's engineering staff and by the Interdepartment Radio Advisory Committee—numerous conferences and meetings were held.

The foregoing allocation plan was finally arrived at after thorough consideration of more than a score of allocation possibilities. The following arrangement between the Commission and the Interdepartment Radio Advisory Committee is a part of the plan of allocation as a whole:

(1) Non-federal services are to have priority rights between 60 and 66 Mc and 118-119 Mc instead of the Federal government services. A reasonable length of time will be required for the Government to vacate these frequencies; consequently, January 1, 1941 has been set as the date for unlimited operation in these bands by Non-federal services.

(2) The Federal Communications Commission agreed to the relinquishment to the Federal government services of the frequency bands 41-42 Mc and 132-140 Mc. It was further agreed that unlimited operation in these bands by Federal government stations will not be authorized prior to January 1, 1941.

In addition, the Commission decided to discontinue television service in the present television channels Nos. 1 and 8; i.e., 44-50 Mc, and 156-162 Mc. Accordingly, since old television channel No. 1 is discontinued, television channel No. 2 will be renumbered television channel No. 1; and a new channel to be known as television channel No. 2, will be assigned from 60 to 66 Mc. There is thus no loss of total space assigned to television below 66 Mc., and there will remain a total of 7 television channels below 108 Mc. Former television channel No. 8, 156-162 Mc, together with frequencies between 116 and 119 Mc, will be used to replace the assignments in the band 132-140 Mc.

Under these arrangements, the new allocations will become effective immediately on a limited basis. After January 1, 1941, the Commission may authorize unlimited time operation for all stations affected by Order No. 67. The new allocations are as follows:

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Frequencies (Mc)	Service (Appendix B, General Rules & Regulations)
25-41	No change.*
41-42	Government.
42-43	Non - commercial Educational Broadcasting Stations. Frequencies: 42,100, 42,300, 42,500, 42,700, and 42,900 kc. New stations will be expected to use wide band frequency modulation which may include multiplex transmission of facsimile programs simultaneously with aural broadcasting. Existing stations will be authorized to continue their operation without change except as to frequency which will be approximately 1 Mc higher than at present.
43-50	Broadcasting. Regular commercial service will be authorized employing wide band FM which may include the multiplexing of facsimile transmissions simultaneously with aural broadcasting. The following are the exact frequencies to be assigned:
	43,100 46,100
	300 300
	500 500
	700 700
	900 900
	44,100 47,100
	300 300
	500 500
	700 700
	900 900
	45,100 48,100
	300 300
	500 500
	700 700
	900 900
	49,100 300
	500
	700
	900
50-56	Television channel No. 1.
56-60	Amateur. (No change.)
60-66	Television channel No. 2.
66-72	Television channel No. 3. (No change.)
72-116	No change.

\* The bands 25000 to 27000 kc. and 116000 to 118000 kc. will not hereafter be assigned to FM domestic broadcasting.

<i>Frequencies (Mc)</i>	<i>Service (Appendix B, General Rules &amp; Regulations)</i>
116-119	See Note 1.*
119-132	No change.
132-140	Government. <sup>1</sup>
140-156	No change.
156-162	See Note 1.
162-300	No change, except for renumbering of the television channels. This is due to the discontinuance of former television channel No. 8, 156-162 Mc, for television service. The new numbering of television channels in this range of frequencies is as follows:
	162-168 Mc    Tel. Chan'l No. 8
	180-186    "    "    "    "    9
	186-192    "    "    "    "    10
	204-210    "    "    "    "    11
	210-216    "    "    "    "    12
	234-240    "    "    "    "    13
	240-246    "    "    "    "    14
	258-264    "    "    "    "    15
	264-270    "    "    "    "    16
	282-288    "    "    "    "    17
	288-294    "    "    "    "    18

<sup>1</sup> The frequency bands 116-119 Mc. and 156-162 Mc. will be used as replacement frequencies for the services now operating in the band 132-140 Mc. No commercial licenses as distinguished from experimental, will be authorized within the band 116-119 Mc. prior to January 1, 1942.

Under the foregoing arrangement the Commission has been able to maintain seven television channels below 108 Mc and at the same time provide an adequate number of channels for frequency modulation. In addition, these and other services will benefit by the changes.

Sky wave interference on frequencies immediately below 50 Mc is known to be greater than on the higher frequencies. While it is likewise recognized that the effects of shadows and fading become more pronounced as the frequency increases, it is, nevertheless, believed that such factors are not substantially different on frequencies in the vicinity of 60 Mc. Furthermore, it is generally conceded that the problem of diathermy interference is now most acute on frequencies immediately below 50 Mc. Thus by allocating 60 to 66 Mc instead of 44-50 Mc to the television service, a good balance has been achieved between the effects of sky wave and diathermy interference on the lower frequencies and the effects of shadows and fading on the higher bands.

Considerable testimony was adduced at the hearing regarding the relative merits of wide band as against narrow band frequency modulation. Additional data were also filed in the briefs submitted by the various parties to the hearing. In weighing the claims and counter-claims regarding the relative value of the two methods of modulation, the Commission decided that the public interest will best be served at this particular stage of development of the art by the assignment of wide channels, thereby affording full opportunity to use the 200 kc band for multiplexing both aural and facsimile transmissions. Should it later appear that channels of lesser width will provide superior service, the Commission can then reopen the matter. By adopting wide band FM channels at this particular time, it will be possible for the public to continue the use of receivers designed for wide band reception even though narrower channels may later be authorized.

The miscellaneous radio services now assigned frequencies between 132 and 140 Mc will benefit by the changes in that 9 Mc are allocated where formerly only 8 Mc were available. Assuming that a 100 kc channeling system is adopted between 116 and 119 Mc and a 150 kc system between 156 and 162 Mc, the miscellaneous services will receive 70 channels as compared with 57 channels in the past. The change has the further advantage of providing frequencies for experimentation with different propagation characteristics in two large blocks.

In considering these changes it was necessary to weigh the particular needs and problems of the various non-federal services as well as the Government's requirements, analyzed above, and to determine the permissibility of the allocations under our international undertakings; also to have regard for the future of radio operation in the services involved, from an international standpoint, so far as could be foreseen. The changes should result in improved service for all stations which are affected by the Com-

mission's order and will fully meet the varied situations presented of a national and international character. Rules and regulations and standards of good engineering practice will be promulgated at an early date. Meanwhile, all stations will be continued as at present.

Finally, the Commission wishes to express its appreciation to the Government departments and agencies concerned and to the members of the Interdepartment Radio Advisory Committee and to the Chairman of that Committee, its own Chief Engineer, for the splendid cooperation and assistance rendered in helping to solve this difficult problem. This task required the shifting of assignments for many thousands of Government stations. Without such assistance and the thoroughgoing studies made of every conceivable factor affecting both government and non-government operation, the final plan could not have been worked out with such satisfactory results and uniform concurrence.

## MEMBERSHIP CAMPAIGN

NAB is launching—starting Monday next—May 27—an intensive pre-Convention membership campaign. Every broadcaster in every district is going to be propositioned to join up. Each Director is going to do his part by sending out a personally signed invitation. Forty-three of our members in 48 states have been appointed by the Directors and have agreed to serve as State or area Membership Chairmen. They will do their part. We have prepared what we believe to be an effective and appealing series of copy to go out to the non-member broadcasters. If—during the weeks immediately ahead every member of NAB, in every city and every state will make it a part of his every day duty to “put the bee” on some non-member broadcaster it will help a lot. The NAB needs the active support of every member in getting new members.

## AMENDMENT OF BY-LAWS

The attention of all NAB members is directed to the provision of the By-Laws respecting proposed changes. This reads as follows:

### “Article XIII—Amendments

“Section 1. These By-Laws may be amended, repealed, or altered, in whole or in part, by a two-thirds vote at any annual meeting of the Association provided the proposed change is submitted by mail to the last recorded address of each member at least thirty days before the time of the meeting which is to consider the change.”

Should any members desire to submit proposed amendments for consideration of the membership, they should be sent in immediately in order that the notice provided may be given the membership of the Association.

## BMI Developments

BMI has bought the Hinds, Hayden & Eldredge catalogue. The bill of sale is dated May 21, 1940. The catalogue contains a number of well known songs and a great wealth of material suitable for them, background, and mood music: Some of this material, in arrangements



designed for such purposes, will be made available to stations in the near future.

Among the songs acquired by this purchase are *When Your Ship Comes In*, by Lily Strickland, and George Gartlan's *Land o' Romance* and *The Lilac Tree*. Dr. Gartlan is Director of Music in the New York City Public school system and a former president of the Music Educators National Conference.

The catalogue also includes numbers by Frank H. Grey, Victor Young, Robert Braine, and other prominent composers.

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A new name which has been added to the BMI list of composers represents a great European reputation and is as new to the man who bears it as it is to BMI.

Bruno Grant, who has joined the BMI staff, spent his life as Bruno Granichstaedten until he changed his name legally after coming to this country in February. In Europe the name Granichstaedten ranks among those of the leading writers of musical comedies and operettas. His first show, *Bub oder Mädel (Boy or Girl)*, opened the new Johann Strauss Theater in Vienna in 1910 and made such a success that it was brought to New York two years later under the name of *Rose Maid*. From that time to the present Mr. Grant's operettas have held a prominent place on the stages of Europe. The latest one, *Sonily*, opened in Luxembourg last October and went from there to Brussels. As far as Mr. Grant has been able to learn, it was still playing in Brussels at the time of the German invasion two weeks ago.

He wrote *Bachusnacht* for Richard Tauber, now of the Metropolitan Opera in New York, who introduced it in Vienna in 1922. It was produced at the Theater an der Wien, the classic operetta house of Vienna, where for years Mr. Grant's music was first presented to the public.

One of his greatest successes was *Orloff*. It ran for more than 700 performances in Vienna in 1925 and 1926, was produced in London in 1931, and also in Paris, where it was revived for the season of 1938-9. During that revival it reached its 500th Paris performance.

Mr. Grant came to America for the first time in 1931 and went to Hollywood to do the score for a musical picture produced by Samuel Goldwyn. At the end of a year in Hollywood he returned to Europe to do the musical scores for sound pictures being made on the Continent.

He continued also to work on musical shows for the stage. In addition to *Sonily* he did the music for a play based on the life of Mozart, which was scheduled for production in the fall of 1938 in the government-owned Akademie Theater in Vienna. After the occupation of Austria by Hitler troops in March of that year, this plan was cancelled. In September Mr. Grant left Austria, his very considerable fortune having been entirely confiscated

by the Nazis. He arrived in America in February, 1940, and has already applied for citizenship papers.

Through BMI, new songs of this distinguished composer will soon be given to the American public. It is hoped that full-length stage productions with music by him may also be added to the list.

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Frank Luther, BMI composer, whose song in memory of Will Rogers has already been mentioned in these columns, begins a new series of programs over the NBC Red Network on July 14th. The programs, which will be heard Mondays and Fridays at 7:15 p. m., Eastern Daylight Saving Time, will trace the history of America in song. Mr. Luther has made the American folk-songs a special field of his own, and he has had great success with them.

His career has been as characteristically American as the music he sings—and writes. It began on a Kansas cattle ranch on August 4, 1907. He exhibited cattle and horses at State Fairs, sang and played on Chautauqua circuits, conducted evangelistic campaigns, studied, boxed, and played football at four colleges, and at the age of twenty-one was minister of a church of a thousand members. He made a concert tour with the De Reszke Singers, a male quartette singing classical music, and another tour with Will Rogers. He has played in musical comedy in New York and London, made nine movies, 2000 phonograph records, and appeared on some 1800 commercial network programs. In the last two years he has written about thirty songs—and in his spare time he does some radio scripts.

This career is typically American, not because many Americans have similar careers, but because it could not happen anywhere except in America and because Mr. Luther seems to wrap up in himself about a dozen different people, all of them as American as corn pone or a dunked doughnut.

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If Mr. Grant and Mr. Luther indicate the extent to which BMI is bringing together the best of widely different types of music, the mention of another composer will add still another color to the picture.

Franklin Delano Roosevelt, Jr., in collaboration with Kenrick Sparrow, wrote a song for the University of Virginia show which BMI will publish within about two weeks. The title is *The Rest of My Life*.

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The importance of ending the ASCAP monopoly is being appreciated more clearly every week throughout the entire musical and industrial world. Composers and executives who pay the bills for radio advertising, tavern proprietors and advertising agencies, would ordinarily make strange bedfellows. ASCAP, however, has driven them all under the same blanket.

Now the union musicians are joining them. Recently one large union group sent out a circular letter which expressed the opinion that the ASCAP activities and its exorbitant fees have deprived musicians of employment. The letter asked those who employ musicians to give their cooperation in combating the ASCAP plague.

And that, of course, means more strength for BMI.

## Promotion

### RADIO FESTIVAL

From the Old Dominion, New York City and Philadelphia to California more cities and more stations report Radio Festival activities and successes.

In Rock Island, Illinois, and Davenport, Iowa, and neighboring cities the broadcasters are engaged in a Festival program dedicated to free speech.

Goldsboro, N. C., comes in. Louisiana's new fighting Governor proclaims National Radio Festival Week and New Orleans plans big things.

New York listeners will get a good going over as will those in Philadelphia. Sacramento, Calif., is all prepared to launch its Radio Festival on Sunday. Below are the details.

#### *Davenport, Rock Island and Five Other Cities*

WHBF, Rock Island, Illinois, and WOC, across the Mississippi, in Davenport, Iowa, have arranged a National Radio Festival with the free speech theme uppermost. Radio Festival proclamations will be read by the mayors of Davenport and Bettendorf, Iowa, and by the mayors of Rock Island, Moline, East Moline, Silvis and Milan, Illinois, Monday, June 3, in the first of a series of seven joint broadcasts.

Arrangements were reported by Ivan Streed, WHBF production manager, who said that he and J. Buryl Lottridge, general manager, WOC, "expect to make the people in our listening area really conscious of one of the greatest gifts ever enjoyed by the American public . . . FREE RADIO AND FREE SPEECH ON THE RADIO."

Excerpts of the Constitution of the United States will be used in introducing each of the programs. In addition to the programs outlined below, WHBF and WOC will ask the Women's clubs to use Radio Festival as topic for their discussions. Posters will be placed in the windows of business establishments which have used radio. These will call attention to the fact that the management believes in and helps maintain the American System of Broadcasting. Appropriate stickers will be furnished all merchants to paste on delivered parcels.

"Freedom of Expression—Radio and Press" is the program set for Tuesday, June 4. The speaker will be selected by publishers of the four leading newspapers, *The Dispatch*, *The Argus*, *The Times* and *The Democrat*. This program is intended to impress the newspapers with the fact that "curbing free speech on the radio is only a step from restraining freedom of the press and (they) should accept this gesture from the stations as an opportunity to unite in a common cause."

On Wednesday comes "American Radio in Review." This is to be a fast moving show in the March of Time manner reviewing the services that radio stations have given the area.

"Free Speech and Free Press" is a round table discussion planned for Thursday. Panel members will be selected from among the cities' leading attorneys, "who value their birthright of free speech and who, at the same time, are capable of raising the points for discussion that are so often pointed to by propagandists, unfriendly to the American System of Broadcasting."

Students of Augustana College, Rock Island, and St. Ambrose College, Davenport, have the stage on Friday night. Dramatic

staffs from the colleges will present "Contrasting American Radio to That of Foreign Countries." The drama will originate in the broadcasting studios of the respective schools. They will be prepared by the students under the direction of the two stations. This broadcast will also point out the close relationship existing between commercial broadcast stations and American educational institutions.

"Efficiency in American Radio" is the Saturday night program. Citations will be made of the progress of radio in America where keen competition stimulates development. Highlights in the last twenty years will be portrayed. The climax will be a "stunt" broadcast of two-way police radio which will include the actual dispatching of squad cars to various parts of the cities to "apprehend" criminals and prevent crimes.

"American Radio and the Churches" is the Sunday theme. In addition, all churches will be asked to observe the week in some way. The local ministerial alliance will select one of its members to deliver an appropriate sermon over the air.

#### *Goldsboro*

Mrs. John R. Morris, program director, WGBR, will bring National Radio Festival to Goldsboro and environs the week of June 3-8. Talent is occupied rehearsing special programs for an outstanding Radio Festival week.

"We are sponsoring the essay contest suggested by NAB and there is very enthusiastic interest among the high school students in the contest," wrote Mrs. Morris.

#### *Louisiana and New Orleans*

No more smoke in Louisiana as reported in this publication last week. The flame is burning brightly. On May 20, reports Henry Dupre, of WWL, came confirmation from newly elected Governor Jones, that National Radio Festival Week would officially cover June 3-10, inclusive. "With assurance of cooperation from all Louisiana stations, we are ready to ride," said Mr. Dupre.

New Orleans' Mayor Maestri has also proclaimed the date as National Radio Festival Week.

#### *New York City*

From Halsey V. Barrett, promotion director, WNEW, on May 21:

"With regard to Radio Festival, we are going ahead in this New York area of 12,000,000 people to do our share in showing the value of radio as a public service and a major source of amusement and diversion for contemporary America. . . ."

#### *Philadelphia*

Radio Festival in Philadelphia has the name "Radio Open House Week" and all of the transportation companies and department stores, Western Union, radio stores, etc., are helping publicize the week with literature, placards, signs, banners and so on, according to Joe Connolly, promotion director, WCAU.

"Each station is concocting its own particular brand of brew and keeping very quiet about plans, but they're all going to be good," he said.

#### *Richmond*

Plans for Richmond's 4-station National Radio Festival celebration, to be begun on Sunday, June 2, are now perfected, according to D. S. Freeman, vice president, WRNL. In every sense of the word it looks like a big week throughout the "Old Dominion."

Stations involved in the Richmond promotion are: WMBG, WRNL, WRTD and WRVA. The essay contest will soon be under way as express shipments of "ABC of Radio" have already been made.

#### *Sacramento*

KROY, the Royal Miller station, Sacramento Hotel, Sacramento, California, will begin National Radio Festival celebration, Sunday, May 26, according to a short note from Will Thompson, Jr., station manager. It will continue throughout the week.

#### *Missoula OK's Festival*

National Radio Festival Week in Missoula and at KGVO was pronounced eminently successful by Manager Art Mosby of the station.

"With the theme 'A Salute to Youth,' some 200 young people ranging in age from 6th graders to university seniors appeared in special programs on the station during the week. Winning

entrants in the NAB essay contest appeared on the air to read their essays and receive their awards.

"Jimmy Barber, program director of the station, conducted more than 100 interviews with young people during the special programs, 'Citizens of Tomorrow,' and 'Man on the Street,' during the week.

"Fifteen outstanding civic leaders and business men were heard in talks on various phases of radio in modern life.

"Merchandising tie-ups and special window displays in all downtown business houses contributed to the success of the event.

"Every department of the station was tied into the celebration, and cooperated in the production of the special events of the week."

Just in case the bulletin, "More Activity on the Radio Festival Front," dated May 18, escaped your notice, the following shortened reports will be interesting to members:

#### Denver

Governor Ralph L. Carr and Mayor Benjamin F. Stapleton declared May 19-25 National Radio Festival Week in Colorado. Whereupon KVID, KFEL and KOA reallocated Pikes Peak. Essay contest, talks, special windows, stunts, cooperation of the radio jobbers, dealers and servicemen, displays of sets, etc., and visitations to the studios of the three NAB Denver members were all included in the week's activities.

#### Huntington

William J. Adams, program director, WSAZ, Huntington, is all set for the week of June 10-16.

#### Louisville

Col. Bob Kennett, WHAS, Col. George Patterson, WAVE and Col. S. A. Cisler, WGRC, all of Louisville, after winning the Derby, are giving their attention to National Radio Festival. Will be held the week of June 2.

#### Miami

Martin S. Wales, WIOD manager, got Radio Festival off to a flying start on May 25 with a breakfast broadcast from the roof garden of the Alcazar Hotel. Seven hundred attended, though demands for tickets were doubled a few days after the broadcast was announced.

#### Roanoke

Jack Weldon, program director, WDBJ, has the Roanoke youngsters, parents, teachers and citizens generally all steamed up with the essay contest, preliminary to the Radio Festival proper, June 3-8.

The Mayor, newspaper, merchants are cooperating. Window displays plans are completed. Studio is prepared to handle big crowds of visitors. Special programs for afternoons and evenings.

#### Connecticut

Participation of every Connecticut station in National Radio Festival establishes a new high record of industry cooperation. These stations are:

WATERBURY	WATR		
WATERBURY	WBRY	HARTFORD	WDRG
NEW LONDON	WNLC	HARTFORD	WHTT
NEW HAVEN	WELI	HARTFORD	WTIC
NEW BRITAIN	WNBC	BRIDGEPORT	WICC

#### Zanesville

"Ohio's Biggest Little Radio Station," WHIZ, Zanesville, completed National Radio Festival celebration on May 12. Program Manager Allen Haid said:

"The week was truly a big success. In many different ways the Festival impressed our listening audiences with the important part radio plays in their daily lives. It also turned in a comprehensive selling job on the virtue of the American System of Broadcasting."

### "RADIO'S RICHES"

Five hundred copies of NAB's "Radio's Riches," supplied by Major Edney Ridge, director, WBIG, Greensboro, will be distributed at the dedication of the Univer-

sity's radio studio, which WBIG helped promote, at Chapel Hill, N. C., Sunday, May 26, at 5:30 p. m., EST.

FCC Chairman James Lawrence Fly is to dedicate the new radio facilities. The ceremonies will be broadcast over Mutual Broadcasting System and, by special arrangement, by WBIG.

### WLS PLUGS AUTO-RADIO

Listeners in the populous WLS territory are learning how to increase their radio pleasure by the use of auto-radio sets. According to Harold A. Safford, program manager, "WLS has been using the NAB Auto Radio Announcements regularly and will continue to use them throughout the summer season."

### "GOOD NEIGHBORS"

"When the late evening hours roll around, may we suggest you lower the volume of your radio? That's one way of being a good neighbor."

"Why risk disturbing the folks next door? Why not lower the volume of your radio a little during the late evening hours?"

These are two of the various announcements which F. O. Sharp, program manager, WFBM, Indianapolis, is now using to "educate" his listeners.

Each year when windows are raised to admit the cooling zephyrs, if any, there are always night owls in the neighborhood with their radios going full blast.

Stations frequently get the blame instead of the thoughtless individual and that is what Mr. Sharp is guarding against.

## Sales

### AFA CONVENTION PLANS

William R. Cline, commercial manager, WLS, Chicago, who is national chairman of the NAB Sales Managers' Division, has announced the committee of Chicago members to arrange final details for "Broadcasters' Night" Tuesday, June 25, at the thirty-sixth annual convention of the Advertising Federation of America. An elaborate radio cabaret entertainment is planned as NAB's contribution to the AFA Convention, scheduled for the Hotel Sherman, Chicago, June 23-27.

The program committee is as follows:

Jules Herbeveaux, NBC, Chairman  
Stuart Dawson, CBS  
Harold Safford, WLS  
Bradley R. Eidmann, WAAF  
(WGN representative to be selected.)

The program promotion committee is as follows:

Orrin Weaver, CBS, Chairman  
E. C. Carlson, NBC

Arthur F. Harre, WAAF  
Don Kelley, WLS  
(WGN representative to be selected.)

The committee met May 21, when Mr. Cline outlined preliminary plans for NAB Night. In addition to several actual broadcasts to originate from the convention, all Chicago members and the networks will contribute talent, variety acts and special features.

Radio departments, under the auspices of the NAB Sales Managers' Committee, will be held as usual the mornings of June 24 and 25, starting at 9:15 a. m.. One session will be open to AFA members. The proposed agenda includes discussion of the Unit Plan for measuring radio advertising volume, dealer-cooperative advertising, and other activities of the Bureau of Radio Advertising.

### DEPARTMENT STORE ACTIVITY

The National Retail Dry Goods Association has tentatively set Thursday morning, June 20, as the date for its "Radio for Retailers" panel discussion, when prominent representatives of both the radio and retailing industries will again discuss department store radio advertising in a frank, "heart-to-heart" forum. The occasion is the semi-annual convention of NRDGA, scheduled for June 17-20 at the Palmer House, Chicago.

The NAB Bureau of Radio Advertising is cooperating with the NRDGA in arranging an entertaining and effective meeting, to which broadcasters will be welcome. The theme of the radio forum will be "More broadcaster-retailer cooperation for better radio results".

The complete printed transcript of last January's "Radio-Retailer" session is now available to radio stations at \$1.50 a copy. Members should write to Joseph E. Hanson, Manager, Sales Promotion Division, National Retail Dry Goods Ass'n., 101 West 31st, New York City, for this interesting and informative discussion of department store radio advertising.

Member stations who have not yet returned the completed questionnaire on department stores sent out May 15th are requested to do so at once, in order that the information may be tabulated and published as early as possible. In this connection, the NRDGA has recently questioned its several thousand store members on radio, and reports excellent returns. These will be coordinated with the NAB data in a complete report which should be highly effective in further developing this important field of local advertising. Fill out your form and return it *now* to the NAB Research Department.

### AAAA OFFICERS

The following new officers and members of the Executive Board were elected (for one-year terms except where noted otherwise) at the Twenty-third Annual Meeting of the American Association of Advertising Agencies, held at the Waldorf-Astoria, New York, May 16:

Chairman of the Board—Atherton W. Hobler, President, Benton & Bowles, Inc., New York.  
President—John Benson (reelected for 4 years).  
Vice-President—Guy C. Smith, Executive Vice-President, Brooke, Smith & French, Inc., Detroit.  
Secretary—David M. Botsford, President, Botsford, Constantine & Gardner, San Francisco.  
Treasurer—E. DeWitt Hill (reelected), Vice-President, McCann-Erickson, Inc., New York.  
Frederic R. Gamble continues as Executive Secretary.

## Distinguished Service Awards For Radio Stations

Designed to give educational recognition for public service by radio, and honoring a distinguished American, the George Foster Peabody Awards were last week established by the Board of Regents of the University System of Georgia. The Awards were set up with the approval and active cooperation of the National Association of Broadcasters.

These awards are designed to provide the field of radio with the same stimulus and incentive to public service that the Pulitzer Awards give to newspapers and literature. They will be administered by the Henry W. Grady School of Journalism of the University of Georgia in Athens, in the same way that the Pulitzer awards are handled by the School of Journalism at Columbia University.

The plans are an outgrowth of a series of conferences participated in by Dr. S. V. Sanford, Chancellor of the University System, Marion Smith, chairman of the Board of Regents; Dr. Harmon W. Caldwell, president of the University; Mrs. Marjorie Peabody Waite, Saratoga Springs, N. Y., daughter of Peabody; John E. Drewry, director of the Henry W. Grady School of Journalism; Lambdin Kay, director of public service for WSB, Atlanta, and Harry Hodgson, Athens, personal friend of the late Peabody.

Several years ago Mr. Kay was appointed to head a committee for the NAB to investigate possibilities of providing national educational recognition for public service in radio. At a meeting early this spring in Atlanta, with Ed Kirby, NAB Director of Public Relations; Dr. John E. Drewry, Director of the Henry Grade School of Journalism of the University of Georgia, and Mr. Kay, plans for the Peabody Awards received the wholehearted cooperation of the industry.

The first awards will be made in 1941, probably at the annual Georgia Press Institute.

The resolution providing for these Peabody Awards reads as follows:

A PLAN WHEREBY THE OLDEST CHARTERED STATE UNIVERSITY WOULD RECOGNIZE AND ENCOURAGE THE SOCIAL RESPONSIBILITIES OF THE YOUNGEST OF THE MEDIA OF COMMUNICATION—AND ALSO HONOR A DISTINGUISHED AMERICAN:

Recognizing that the radio is an important medium of information, entertainment and public service, comparable to the press, the University of Georgia (chartered 1785), through the Henry W. Grady School of Journalism and a Board of Advisers, will confer annually, beginning in 1940, THE GEORGE FOSTER PEABODY RADIO AWARDS for the most distinguished and meritorious service rendered by each of three American radio stations, representing the three major types of stations (local, regional and clear channel), and also by a national broadcasting chain, said awards to be given to perpetuate the memory of George Foster Peabody, benefactor and life trustee of the University of Georgia and friend of educational progress everywhere.

These awards will be announced and bestowed publicly by the Regents of the University System of Georgia, upon recommendation of the Advisory Board set up and maintained jointly by the University of Georgia, through the Henry W. Grady School of Journalism, and the National Association of Broadcasters.

The membership of this Advisory Board shall consist of the Chancellor of the University System of Georgia, and eleven other outstanding American citizens who have demonstrated in a notable degree their interest in public affairs, and who also by position and achievement are prepared to evaluate in an impartial and detached manner the contributions of radio stations and chains in connection with this award. The Board is to be self-perpetuating, subject to the approval of the Board of Regents. Nominations for membership are to be made through the office of the Director of the Henry W. Grady School of Journalism. (The initial personnel of the Advisory Board will be submitted for approval by the Board of Regents in a separate resolution, this month.)

Nominations of candidates for these awards shall be made in writing to the Director of the Henry W. Grady School of Journalism, the University of Georgia, Athens, Georgia. Each nomination must be accompanied by complete and self-evident data setting forth clearly the claim to consideration for one of these awards. Program subjects, program outlines, program transcripts, recordings, letters and other pertinent data should be so presented as to comprise an exhibit which will be a faithful record of the station's particular contribution to public service offered for consideration in this connection.

Competition for one of these awards will be limited to work done during the calendar year ending December 31 next preceding. The first award will be made in 1941, based on public service programs of 1940.

The closing date for entries will be January 15.

In commenting upon the announcement of the Peabody Award, Lambdin Kay, veteran broadcaster and now Director of Public Service of WSB, Atlanta, Georgia, said:

Broadcasting has been too busy growing up to acquaint the world with its indispensability in preserving democracy through true public service.

Evolving the technology, economy, sociology and destiny of mankind's mightiest power for human betterment in two turbulent decades has preoccupied the builders of the industry.

Its typically American way of private, independent competitive operation for profit has overshadowed its incalculably greater significance and potentialities in fostering the lives, liberties and happiness of a free people.

Broadcasting stands alone today as the personification of the real meaning of free speech. It is impartial because sovereignty of the air remains with the people. It is all-powerful because it reaches more people more directly than any other mode of expression.

May the George Foster Peabody Radio Awards hasten public acceptance of broadcasting's status as America's basic bulwark and safeguard to Democracy.

When informed of these awards, Neville Miller, president of the NAB, made the following statement:

"American broadcasters are honored that under such distinguished and impartial auspices, annual awards will be bestowed for the most outstanding contributions rendered in the public interest which they are dedicated to serve.

"Without question, the George Foster Peabody Radio Awards to be selected by a group of outstanding Americans representing a cross section of the religious, cultural and economic life of the nation, will become a new and noteworthy standard by which the public service contributions of the broadcasters will be gauged and measured.

"We welcome this new and wholesome influence in broadcasting. Our thanks go out to those individuals and to the University of Georgia whose public spiritedness has combined to bring about this worthy means through which to further perpetuate the noble memory of a great American, George Foster Peabody."

## Labor

Broadcasters who have carefully cooperated with the NAB Labor Relations Department in building up the labor contract service are amazed when they find that all members have not filed all their contracts.

Every broadcaster who has dealt with a labor union appreciates the importance of having at his command the information from other contracts with the same union. Only if he has this information can the broadcaster deal with the union on equal terms, for the union has it.

For many years, the American Newspaper Publishers Association has maintained a complete contract pool for its members. Newspaper publishers think this is one of the ANPA's most valuable services. The NAB wants to give just as complete and valuable service in this respect. To do that, however, the Labor Relations Department must have the cooperation of every member.

Members should talk this over at the coming district meetings.

The June meeting of the International Labour Organization has been postponed indefinitely, owing to the war. One of the items on the program was a proposal to define performers' rights in broadcasting and recording.

The Labor Relations Board has ordered a hearing June 3 on charges that Station WCOV, Montgomery, Ala., had engaged in unfair labor practices. The charges were brought by the International Brotherhood of Electrical Workers (A. F. of L.). The hearing will be held in Montgomery.

Samuel R. Rosenbaum, WFIL, has another union problem on his hands—nothing new to Mr. R.

The Robin Hood Dell summer concert series, which Mr. Rosenbaum manages, will open June 18 with a 90-piece symphony orchestra playing Tchaikovsky's "1812 Overture" with the incidental cannon firings included by the composer in his score.

The orchestra association arranged for the loan of three anti-tank cannon from the Pennsylvania National Guard for the performance, whereupon A. Rex Riccardi, secretary of A. F. of M. Local 77 informed Mr. Rosenbaum that "we will require that the cannon be played by a member of Local 77."

Mr. Rosenbaum replied: "Under the circumstances we shall arrange to hold auditions among members of the

local who may apply for the position, in order to select a performer who can play the cannon with due regard for its musical value. Applications should be addressed to us for the position of Symphony Bombardier."

### EXTENDING LICENSES

The reallocation under the Havana Treaty was scheduled for August 1, however, it appears now as if this date cannot be met. If the date is extended to December 1 (the date now being considered) or some other time, then the FCC will automatically extend broadcast station licenses until that date without requiring that renewal applications be filed.

### FROM THE FCC MAIL BAG

A letter from Waterloo, Iowa, asks the Commission to order the discontinuance of war dramas on the radio. A New Yorker wants the Commission to impose restrictions on the amount of advertising talk on the air. A Portsmouth, Va., woman would confine Sunday broadcasts to programs "appropriate to the Sabbath".

Under the law, the Commission is without authority in such matters, being expressly denied the power of censorship over program material. On the other hand, the Commission advises an Ellet, Ohio, resident that there is no provision in the Communications Act or the Commission's own rules and regulations to prohibit a church-sponsored program from soliciting gifts and contributions from the listening public.

The Commission is without jurisdiction to handle complaint of a Mineola, N. Y., man that his radio receiving set is unable to operate in accordance with the representations made for it, so it has transmitted his communication to the Federal Trade Commission. Likewise, the Commission cannot itself help a Waterbury, Conn., man protect the contents of a broadcast program, but suggests procedure through the Copyright Division of the Library of Congress. It also notifies a New York music publisher that it has no say in the relations existing between the radio and music industries.

An enterprising Beverly, Mass., man is told that his plan to organize and sell a radio program service via amateur stations would violate the prohibition against amateur stations being used to broadcast any form of entertainment.

### BROADCAST MEASUREMENTS

During the month of April, FCC officials measured 723 broadcast stations leaving 95 not measured.

Six hundred and fifty-eight stations showed a maximum deviation within 0-10 cycles; 53 stations within 11-25 cycles; 12 stations within 26-50 cycles; no stations showed a deviation of over 20 or 50 cycles.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings are scheduled before the Commission in broadcast cases for the week beginning Monday, May 27. They are subject to change.

Monday, May 27

Further Hearing

WNYC—City of New York, Municipal Broadcasting System, New York, N. Y.—Modification of license, 810 kc., 1 KW, specified hours (6 a. m. to 11 p. m., EST), DA daytime. Present

assignment: 810 kc., 1 KW, daytime-WCCO, directional antenna.

Tuesday, May 28

WRD—Times Dispatch Radio Corp., Richmond, Va.—C. P., 590 kc., 1 KW, unlimited time (DA night). Present assignment: 1500 kc., 100 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

- Birney Imes, Columbus, Miss.—Granted construction permit for new station to operate on 1370 kc., with 250 watts, unlimited time. Exact transmitter site and antenna system to be determined subject to Commission approval.
- Middle Georgia Broadcasting Co., Macon, Ga.—Granted construction permit for new station to operate on 1420 kc., 250 watts, unlimited time. Exact transmitter and studio sites and antenna system to be determined subject to Commission's approval.
- WSPA—Virgil V. Evans, trading as The Voice of South Carolina, Spartanburg, S. C.—Granted voluntary assignment of license and construction permit (for auxiliary transmitter) from Virgil V. Evans, d/b as the Voice of South Carolina, to the Spartanburg Advertising Company, for a consideration of \$30,300. Station operates on 920 kc., with 1 KW, daytime only.
- KGEE—General Electric Co., San Francisco, Calif.—Granted modification of international broadcast station license to add frequency 9670 kc. to the present licensed frequencies—6190, 9530 and 15330 kc., 20 KW, sharing time on 6190 and 9530 kc. with WGEO and 15330 kc. with WGEA.
- KSRO—The Press Democrat Publishing Co., Santa Rosa, Calif.—Granted consent to assignment of license of station KSRO from The Press Democrat Publishing Co. to Ernest L. Finley, for a consideration of \$30,399. Station operates on 1310 kc., 250 watts, unlimited time.
- WFOY—Fountain of Youth Properties, Inc., St. Augustine, Fla.—Granted consent to voluntary assignment of license of station WFOY from Fountain of Youth Properties, Inc., to Fountain of Youth Broadcasting Company. Station operates on 1210 kc., 250 watts, unlimited time.
- WALA—W. O. Pape, tr/as Pape Broadcasting Co., Mobile, Ala.—Granted modification of construction permit extending commencement date to June 8, authorizing move of transmitter site locally, installation of vertical radiator, and increase in night power from 500 watts to 1 KW; the completion date remains September 8, 1940.

### RENEWAL OF LICENSES

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

WDBJ and auxiliary, Roanoke, Va.; WDAY, Fargo, N. Dak.; WDEL, Wilmington, Del.; WEBC, Duluth, Minn.; WEBC, auxiliary; WELL, New Haven; WFBM, Indianapolis; WFVA, Fredericksburg, Va.; WGNV, Newburg, N. Y.; WHBF, Rock Island, Ill.; WHBI, Newark, N. J.; WHIO, Dayton, Ohio; WHN and auxiliary, New York City; WIBA, Madison, Wis.; WISN and auxiliary, Milwaukee, Wis.; WJAS, Pittsburgh, Pa.; WJBO, Baton Rouge, La.; WJDX, Jackson, Miss.; WKAQ, San Juan, P. R.; WKST, New Castle, Pa.; WMRO, Aurora, Ill.; WNOX, Knoxville, Tenn.; WOOD, Grand Rapids, Mich.; WTOG, Savannah, Ga.; KFJZ, Fort Worth, Tex.; KTRH, Houston, Tex.; WASH, Grand Rapids, Mich.; WFBR, Baltimore; WFBR, auxiliary; WORC, Worcester, Mass.; KUSD, Vermillion, S. Dak.; WREC auxiliary, Memphis, Tenn.

KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted renewal of license on a temporary basis only, for the period ending August 1, 1940, subject to whatever action may be taken upon pending application for renewal of licenses of KGCA and KWLC, and the pending application of KGLO.

**KWLC**—Luther College, Decorah, Iowa.—Granted renewal of license on a temporary basis only, for the period ending August 1, 1940, subject to whatever action may be taken upon pending application for renewal of licenses of KGCA and KWLC, and the pending application of KGLO.

**WCAM**—City of Camden, Camden, N. J.—Granted renewal of license on a temporary basis only for the period ending August 1, 1940, subject to whatever action may be taken upon pending application for renewal of license.

### DESIGNATED FOR HEARING

God's Bible School and College, Cincinnati, Ohio.—Application for construction permit for a new International Broadcast station to operate on frequency 11710 and 21610 kc., 60 KW, A-3 emission, three hours per day on 11710 kc., unlimited on 21610 kc.

### MISCELLANEOUS

**WMPC**—The First Methodist Protestant Church of Lapeer, Lapeer, Mich.—Granted extension of special temporary authority to operate from 9 a. m. to 10 a. m. EST, Monday, Tuesday, Wednesday, Thursday, Friday and Sunday mornings, for the period May 18, 1940, to not later than June 16, 1940, or until the Saginaw Broadcasting Co. is in a position to use said time, in order to broadcast special non-commercial educational programs; authority to terminate upon commencement of program tests by station WSAM.

**KFDY**—South Dakota State College, Brookings, S. D.—Granted special temporary authority to operate from 2 p. m. to 4:15 p. m. CST on May 18, 1940, in order to broadcast the South Dakota Collegiate Track Meet and on May 25, 1940 in order to broadcast the N. Conference Track Meet; to operate from 7:15 p. m. to 9:15 p. m. CST on June 3, 1940, in order to broadcast State College Graduation Exercises.

**WLAW**—Hildreth and Rogers Co., Lawrence, Mass.—Granted special temporary authority to rebroadcast a program to be received from High Frequency (Experimental) Broadcast Station W1XOJ from 1:15 p. m. to 1:30 p. m. EST on May 17, 1940, in connection with a special frequency modulation talk and demonstration for the Lion's Club of Lawrence, Mass.

**WLBK**—The Bowling Green Broadcasting Co., near Bowling Green, Ky.—Granted modification of construction permit as modified which authorized construction of new broadcast station, for extension of commencement date from December 31, 1939 to February 29, 1940, and completion date from July 1, 1940 to September 1, 1940; assignment, 1310 kc., 250 watts, unlimited time. (B2-MP-978)

**WQDM**—E. J. Regan and F. Arthur Bostwick, d/b as Regan & Bostwick, St. Albans, Vt.—Denied special temporary authority to operate from 7:15 p. m. to 9:30 p. m. EST, May 18, 1940, in order to broadcast a Music Festival in the City Hall.

**KGCA**—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent for the period May 18, 1940, to not later than June 16, 1940, pending the filing of modification of license and completion of arrangements with station KWLC.

**KTRB**—Thomas R. McTammany and Wm. H. Bates, Jr., Modesto, Calif.—Granted special temporary authority to operate from 9 p. m. PST, May 17, 1940, to the completion of opening soft ball game at Modesto and program in connection therewith, only, instead of on May 16, 1940, as authorized by grant of May 11, 1940.

**KGDM**—E. F. Pepper, Stockton, Cal.—Granted motion to dismiss application for modification of license to change frequency from 1100 kc. to 1530 kc., and hours of operation from daytime only to unlimited, using 1 KW.

Grant Union High School District, North Sacramento, Calif.—Dismissed petition to intervene and consolidate hearing in re application of KGDM for modification of license.

**WSPR**—WSPR, Inc., Springfield, Mass.—Granted special temporary authority to operate from 7:45 p. m. to 8:30 p. m. EST on May 20, 1940, in order to broadcast WPA program featuring Mrs. Roosevelt, Administrator Carmody, and Col. Harrington.

**KWLC**—Luther College, Decorah, Iowa.—Granted special temporary authority to operate from 3:30 p. m. to 4:30 p. m. and from 5:30 p. m. to 6:30 p. m. CST or until the conclusion of baseball games on May 20, 25, and 27, 1940, and from 1:45 p. m. to 2:30 p. m. and from 3:30 p. m. to 4:30

p. m. CST on May 30, 1940, in order to broadcast baseball games only (provided KGCA remains silent).

**WTAW**—Agricultural and Mech. College of Texas, College Station, Tex.—Granted special temporary authority to operate simultaneously with Station WJBO from 10:30 p. m. to 11:30 p. m. CST on May 31, 1940, in order to broadcast program in connection with the Final Ball of the A. & M. Cadet Corps.

**W10XEL**—RCA Manufacturing Co., Inc., Chicago, Ill.—Granted special temporary authority to portable mobile Class I experimental station W10XEL to operate in the frequency band 112-116 mc. for the purpose of displaying newly developed television viewing tubes, camera pick-up unit, receivers, transmitters and associated gear designed for 600 kc. band spread television emission developed especially for the amateur trade, to set up a complete system and operate it as a part of the RCA Exhibit at the "Board of Trade Show" in Chicago, Ill., for the period June 6, 1940 to not later than June 16, 1940.

**WJMC**—Walter H. McGenty, Rice Lake, Wisc.—Granted special temporary authority to operate from 7:30 p. m. to 12 midnight CST on May 29, 1940, in order to broadcast the annual Military Ball of the Rice Lake unit of the National Guard.

**WSPR**—WSPR, Inc., Springfield, Mass.—Denied special temporary authority to operate from 8:45 p. m. EDST, until conclusion of games on May 14, 15, 16, 17, 21, 22, 23, 24, 27, 28, 29, and 31, 1940, and from 9 p. m. EDST until conclusion of games on June 3, 4, 5, 6, 7, 11, and 12, 1940, in order to broadcast the baseball games of the Springfield team of the East League when they are played at night. (B1-S-886)

**WCMI**—Ashland Broadcasting Co., Ashland, Ky.—Granted construction permit to move transmitter from WCMI Bldg., Ashland, Ky., to 53rd and Ohio River, Ashland, Ky., and install new antenna; 1310 kc., 250 watts, unlimited time (B2-P-2742).

**KFDY**—South Dakota State College, Brookings, S. D.—Granted special temporary authority to remain silent on May 30, 1940, in order to observe Memorial Day.

**KFRO**—Voice of Longview, Longview, Texas.—Granted special temporary authority to operate with power of 250 watts from 7:45 p. m. CST to the conclusion of a Junior Chamber of Commerce lecture on May 27, 1940, in order to broadcast said lecture only.

**WLBI**—State of Wisconsin, Dept. of Agriculture, Stevens Point, Wisc.—Granted special temporary authority to operate specified time 8:00 a. m. to 4:15 p. m. CST daily for a period not to exceed thirty days, pending completion of plans being made for additional station personnel to permit full daytime operation.

**KAXZ**—United Air Lines Transport Corp.—Granted special temporary authority to operate already licensed aircraft radio transmitter, aboard plane owned by United Air Lines Transport Corp., call letters KHAZT as a relay broadcast station, on the frequency 2790 kc., to relay broadcast program in connection with the official opening of the San Francisco World's Fair to Radio Station KGO and an NBC network, from 8 p. m. to 9 p. m. PST on May 25, 1940.

**WMAZ**—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate from 9 p. m. to 9:15 p. m. EST on May 20, 1940, in order to broadcast a special WPA program in celebration of National WPA Achievement Week.

**WBBM**—Columbia Broadcasting System, Inc., Chicago, Ill.—Granted modification of license to use old licensed composite transmitter as an auxiliary transmitter; 770 kc., 50 KW, auxiliary purposes only (B4-ML-991).

**WLTH**—Voice of Brooklyn, Inc., New York, N. Y.—Granted modification of license to change name of licensee from Voice of Brooklyn, Inc., to WLTH-New York, Inc. (B1-ML-990.)

**WPAB**—Portorican American Broadcasting Co., Inc., Ponce, P. R.—Granted modification of construction permit for a new station for approval of antenna, approval of transmitter site, and approval of studio site; 1340 kc., 1 KW, unlimited time (B-MP-956).

**WATW**—WJMS, Inc., Ashland, Wisc.—Granted license to cover construction permit as modified for new station; frequency 1370 kc., power 100 watts, unlimited time (B4-L-1145). Also granted authority to determine operating power by direct measurement of antenna power (B4-Z-392).

Chester A. Thompson, Transferor, and The Brush-Moore Newspaper, Inc., Transferee.—Set for Oral Argument before a quorum of the Commission, the petition requesting oral

- argument in re application for consent to transfer voluntary control of Vee Bee Corporation, licensee of Station WPAY, Portsmouth, Ohio, the argument to be held at 10 a. m., Thursday, June 6, 1940.
- WMVD—Delmarva Broadcast Co., Salisbury, Md.—Granted request for cancellation of construction permit authorized on April 13, 1940, for a new station to operate on **1200 kc.**, 250 watts power, unlimited time, call letters WMVD. Application will be retired to closed files and call letters deleted.
- WLTH—Voice of Brooklyn, Inc., Brooklyn, N. Y.—Discharged Order to show cause why the license of WLTH should not be revoked, which was issued by the Commission on July 26, 1939. It appears that the interference conditions existing at the time the order was issued have now been eliminated.
- KTOH—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—Granted license to cover construction permit as modified for new broadcast station; frequency **1500 kc.**, 100 watts, 250 watts local sunset, unlimited time (B-L-1149).
- WNEW—Wodaam Corp., New York, N. Y.—Granted construction permit to install auxiliary transmitter for emergency use only, using 1 KW power; **1250 kc.**
- Everett L. Dillard, tr/as Commercial Radio Equipment Co., Kansas City, Mo.—Granted extension of special temporary authority to operate high frequency broadcast station W9XA on a frequency of **26300 kc.**, using maximum power of 1000 watts, special emission (frequency modulation), in cooperation with the licensee of high frequency broadcast station W2XJI, for a period not to exceed 30 days, to conduct and determine the extent of mutual sky-wave interference existing between two stations operating with 1 KW on **26300 kc.**, employing frequency modulation, and to determine to what field strength contour of the desired station the interfering station whose transmissions are received via sky-wave will interfere with program reception of the desired station in its own coverage area.
- KARK—Arkansas Radio & Equipment Co., Little Rock, Ark.—Granted license to cover construction permit for increase in power and installation of new transmitter; **890 kc.**, 1 KW, 5 KW local sunset, unlimited time, directional antenna night (B3-L-1146).
- WMVA—Wm. C. Barnes and Jonas Weiland, d/b as Martinsville Broadcasting Co., Martinsville, Va.—Granted modification of construction permit for new station for approval of antenna and change in type of transmitter and approval of studio site and transmitter site; **1420 kc.**, 100 watts night, 250 watts day, unlimited (B2-MP-976).
- KMTR—KMTR Radio Corp., Los Angeles, Calif.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-394).
- WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted license to cover construction permit for installation of new transmitter; **920 kc.**, power 500 watts, daytime (B1-L-1148).
- WCAP—Radio Industries Broadcast Co., Asbury Park, N. J.—Granted renewal of license on a temporary basis only for the period ending August 1, 1940, subject to whatever action may be taken upon pending application for renewal of license.
- W3XP—Philco Radio & Tel. Corp., Philadelphia, Pa.—Granted special temporary authority to operate relay television (experimental) station W3XP on frequencies **234-246 mc.** (Group 14 and 15) with double side band transmission and as a portable relay rather than a fixed station, for the period May 21, 1940, to not later than June 18, 1940, in order to conduct experiments pending action on application for modification of license.
- W2XBU—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate the equipment described in construction permit (File No. B1-PVB-54) on **288 mc.** (channels 18 and 19), in order to conduct a series of transmission tests from May 21, 1940, to not later than June 20, 1940, pending the filing and consideration by the Commission of appropriate construction permit modification application to permit said construction permit to conform with a revised program of research and experimentation.
- WRTD—Times Dispatch Radio Corp., Richmond, Va.—Continued without date the hearing now scheduled for May 28, 1940, on the application for construction permit to change operating assignment of the station from **1500 kc.**, 100 watts power, unlimited time, to **590 kc.**, 1 KW power, unlimited, using directional antenna at night.
- KRRV—Red River Valley Broadcasting Corp., Sherman, Tex.—Granted modification of construction permit for change in frequency from **1310 to 880 kc.**; increase in power from 250 watts to 1 KW; change in hours from daytime to unlimited; install new transmitting equipment and directional antenna for both day and night use; and move of transmitter, for authority to install new type transmitter and make changes in directional antenna system and extend commencement date to 30 days after grant and completion date 180 days thereafter (B3-MP-951).

## APPLICATIONS FILED AT FCC

### 560 Kilocycles

- WIS—The Liberty Life Insurance Co., Columbia, S. C.—Construction permit to make changes in directional antenna system and increase power from 1 KW night, 5 KW day to 5 KW day and night.

### 570 Kilocycles

- KVI—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—Authority to transfer control of corporation from Laura M. Doernbecher, Executrix of Estate of Edward M. Doernbecher, deceased, to Laura M. Doernbecher, 966 shares common stock.
- KMTR—KMTR Radio Corp., Los Angeles, Calif.—Authority to determine operating power by direct measurement of antenna power.

### 860 Kilocycles

- WHB—WHB Broadcasting Co., Kansas City, Mo.—Construction permit to install new transmitter, directional antenna for day and night use; move transmitter from N. Kansas City, Mo., to 1.75 miles east U. S. 71 on County 10S, Hickman Mills, Mo.; change frequency from **860 to 710 kc.**; increase power from 1 to 5 KW and hours of operation from daytime to unlimited time. Class II.

### 880 Kilocycles

- KLX—Tribune Building Co., Oakland, Calif.—Modification of license to request classification of station as III-A.

### 890 Kilocycles

- WJAR—The Outlet Co., Providence, R. I.—Construction permit to increase power from 1 KW night, 5 KW day to 5 KW day and night and make changes in directional antenna (DA day and night). Amended: to move transmitter from junction Newport and Ferris Aves. to Wamapnoag Trail, E. Providence, R. I.

### 970 Kilocycles

- WIBG—Seaboard Radio Broadcasting Corp., Glenside, Pa.—Construction permit to install new transmitter, increase power from 100 watts to 1 KW, change hours from day to limited, transmitter site to be determined, Hill Crest, Pa. Amended: to request limited time to WCFL, Chicago, and 1 KW power day and night.

### 990 Kilocycles

- WBZ—Westinghouse Elec. & Mfg. Co., Boston, Mass.—Modification of construction permit (B1-P-2161) as modified for new transmitter, directional antenna for day and night use, and move of transmitter, requesting extension of completion date from 6-30-40 to 9-30-40.

### 1120 Kilocycles

- WISN—Hearst Radio, Inc., Milwaukee, Wis.—Authority to determine operating power by direct measurement of antenna power, for main and auxiliary transmitters.

### 1200 Kilocycles

- NEW—West Virginia Radio Corp., Morgantown, W. Va.—Construction permit for a new broadcast station to be operated on **1200 kc.**, 250 watts, unlimited time, Class IV, site to be determined, Morgantown, W. Va.



WMOB—S. B. Quigley, Mobile, Ala.—Modification of license to increase power from 100 to 250 watts.

#### 1210 Kilocycles

WINN—Kentucky Broadcasting Corp., Louisville, Ky.—Modification of construction permit (B2-P-1809) as modified, for a new station to install new transmitter, change in type of antenna, and extend commencement and completion dates from 12-2-39 and 6-2-40 to 2 days after grant and 60 days thereafter respectively.

KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Modification of license to increase power from 100 watts night, 250 watts day to 250 watts day and night.

#### 1220 Kilocycles

WDAE—Tampa Times Co., Tampa, Fla.—License to cover construction permit (B3-P-2554) for changes in equipment, install directional antenna for day and night use, and increase power.

WDAE—Tampa Times Co., Tampa, Fla.—Authority to determine operating power by direct measurement of antenna power.

#### 1230 Kilocycles

NEW—Trent Broadcast Corp., Trenton, N. J.—Construction permit for a new broadcast station to be operated on 1230 kc., 1 KW, unlimited time, Class III-B, directional antenna day and night use. Studio: Hotel Stacy Trent, State St., Trenton transmitter: W. side of U. S. 206, N. side of Crosswicks, White Horse, N. J.

#### 1250 Kilocycles

WHBI—May Radio Broadcast Corp., Newark, N. J.—Authority to determine operating power by direct measurement of antenna power.

#### 1260 Kilocycles

WHL D—The Niagara Falls Gazette Publishing Co., Niagara Falls, N. Y.—License to cover construction permit (B1-P-2210) as modified for a new broadcast station.

WHL D—The Niagara Falls Gazette Publishing Co., Niagara Falls, N. Y.—Authority to determine operating power by direct measurement of antenna power.

#### 1270 Kilocycles

KWLC—Luther College, Decorah, Iowa.—Modification of license to change hours from daytime, shares KGCA to daytime. Requests facilities of KGCA.

KVOR—Out West Broadcasting Co., Colorado Springs, Colo.—Authority to determine operating power by direct measurement of antenna power.

#### 1310 Kilocycles

WLAK—Lake Region Broadcasting Co., Lakeland, Fla.—Authority to determine operating power by direct measurement of antenna power.

KUIN—Southern Oregon Broadcasting Co., Grants Pass, Ore.—Construction permit to make changes in equipment and increase in power from 100 to 250 watts.

#### 1320 Kilocycles

WADC—Allen T. Simmons, village of Tallmadge, Ohio.—Modification of construction permit (B2-P-2495) as modified, for installation of directional antenna, increase in power and move studio and transmitter, further requesting authority to install new transmitter and change studio from State Road No. 8, RFD, N. of Akron, Ohio to Cuyahoga Falls Road, Village of Tallmadge, Ohio (present licensed site of studio).

#### 1340 Kilocycles

WFNC—W. C. Ewing and Harry Laymon, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Modification of construction permit (B3-P-1926) as modified, for a new station, requesting authority to install new type equipment and approval of studio site at 216 N. Water St., Fayetteville, N. C., and extend completion date from 5-20-40 to 6-20-40.

#### 1370 Kilocycles

NEW—Harbenito Broadcasting Co., Cameron County, Texas.—Construction permit for a new broadcast station to be operated on 1370 kc., 250 watts, unlimited time, transmitter and studio sites to be determined, Cameron County, Texas. Amended: To specify studio site as 104 East Van Buren St., Harlingen, Texas.

KERN—McClatchy Broadcasting Co., Bakersfield, Calif.—Modification of construction permit (5-P-2278) to change frequency, increase power, install new transmitter and antenna, and move studio and transmitter, requesting approval of antenna and transmitter site at Oak at Ming, Bakersfield, Calif., and studio location at present site. Amended: To install new transmitter.

#### 1420 Kilocycles

NEW—W. Montgomery Harison, Augusta, Ga.—Construction permit for a new broadcast station to be operated on 1420 kc., 250 watts, unlimited time. Site to be determined, Augusta, Ga. Class IV station.

KLBM—Harold M. Finlay & Mrs. Eloise Finlay, LaGrande, Ore.—License to cover construction permit (B5-P-2662 for changes in equipment.

WCHV—Community Broadcasting Corp., Charlottesville, Va.—Authority to transfer control of corporation from Mrs. Marcia Arrington to Charles Barham, Jr., 2448 shares common stock.

#### 1430 Kilocycles

KGNF—Great Plains Broadcasting Co. (a Corp.), North Platte, Nebr.—License to cover construction permit (B4-P-2684) for changes in equipment.

#### 1450 Kilocycles

WSAR—Doughty & Welch Electric Co., Inc., Fall River, Mass.—Voluntary assignment of license from Doughty & Welch Electric Co., Inc., to The Fall River Broadcasting Co., Inc.

#### 1500 Kilocycles

KVWC—R. H. Nichols, W. H. Wright, & Stewart Hatch, d/b as The Northwestern Broadcasting Co., Vernon, Texas.—Voluntary assignment of license from R. H. Nichols, W. H. Wright & Stewart Hatch, d/b as The Northwestern Broadcasting Co. to The Northwestern Broadcasting Co.

KTOH—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—License to cover construction permit (B-P-1970) as modified for a new station.

WOLF—Civic Broadcasting Corp., Syracuse, N. Y.—Modification of license to increase power from 100 watts to 250 watts.

#### MISCELLANEOUS

NEW—WSMB, Inc., New Orleans, La.—Construction permit for a new high frequency broadcast station to be operated on 42800 kc., 1000 watts, special emission for frequency modulation, location: to be determined, in or near New Orleans, La.

NEW—Isle of Dreams Broadcasting Corp., Miami, Fla.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts, special emission for frequency modulation (to be operated on regular commercial basis), location 600 Biscayne Blvd., Miami, Fla.

NEW—Don Lee Broadcasting System, Los Angeles, Calif.—Construction permit for a new high frequency broadcast station to be operated on 42600 kc., 1000 watts, special emission for frequency modulation, location: On top Mt. Lee, Hollywood Hills, Los Angeles, Calif. Amended: Change power to 50 KW and type of equipment.

NEW—Don Lee Broadcasting System, San Diego, Calif.—Construction permit for a new high frequency broadcast station to be operated on 42800 kc., 1000 watts, special emission for frequency modulation, location: To be determined, San Diego, Calif.

NEW—Santa Barbara Broadcasters, Ltd., Santa Barbara, Calif.—Construction permit for a new high frequency broadcast station to be operated on 43000 kc., 1000 watts special emission for frequency modulation, location: To be determined, Santa Barbara, Calif.

NEW—Don Lee Broadcasting System, San Francisco, Calif.—Construction permit for a new high frequency broadcast

- station to be operated on **42600 kc.**, 50000 watts, special emission for frequency modulation, location: To be determined, San Francisco, Calif.
- NEW—Rock Island Broadcasting Co., Moline, Ill.—Construction permit for a new high frequency broadcast station to be operated on **436 kc.**, 1000 watts, special mission for frequency modulation, location: E½ of W½ Sec. 2 Twp. 17N, Range 1W of the 4th PM, Moline, Ill.
- NEW—Westinghouse Radio Stations, Inc., Washington Twp., Ft. Wayne, Ind.—Construction permit for a new high frequency broadcast station to be operated on **42600 kc.**, 1 KW, special emission for frequency modulation, location: Junction Routes 33 and 30, Washington Twp., Ft. Wayne, Ind.
- NEW—McNary & Chambers, Portable-Mobile.—Construction permit for a new developmental broadcast station to be operated on **550 to 1600 kc.**, 100 watts, Emission A-O.
- NEW—McNary & Chambers, Portable-Mobile.—License to cover construction permit (B-PEX-33) for a new developmental broadcast station.
- NEW—Rene Canizares, Havana, Cuba.—Authority to transmit programs to CMCK, Havana, Cuba, from 64 Broad St., New York, N. Y., 15 minutes daily, except Sundays.
- NEW—Monumental Radio Co., Baltimore, Md.—Construction permit for a new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation, location: 811 W. Lanvale St., Baltimore, Md.
- W3XPY—Bell Telephone Laboratories, Inc., Whippany, N. J.—License to cover construction permit (B1-PEX-29) for new developmental broadcast station. Amended: corrected geographical figures.
- NEW—Adirondack Broadcasting Co., Inc., New Scotland, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation, location: Stovepipe Rd., New Scotland, N. Y.
- NEW—Hagerstown Broadcasting Co., Portable-Mobile (area of Hagerstown, Md.).—Construction permit for a new relay broadcast station to be operated on **1622, 2058, 2150, 2790 kc.**, 100 watts, Emission A3.
- KAQY—The Farmers and Bankers Broadcasting Corp., Portable-Mobile (area of Wichita, Kans.).—License to cover construction permit (B4-PRY-215) for new relay broadcast station.
- NEW—WHP, Inc., near Paxtang, Pa.—Construction permit for a new high frequency broadcast station to be operated on **43000 kc.**, 1000 watts, special emission for frequency modulation, location: Swatara Twp., near Paxtang, Pa.
- WLWJ—The Crosley Corp., Portable-Mobile (area of Cincinnati, Ohio).—License to cover construction permit (B2-PRY-213) for a new relay broadcast station.
- NEW—Dalton Broadcasting Corp., Dalton, Ga.—Construction permit for a new broadcast station to be operated on **1200 kc.**, 250 watts, unlimited time, site to be determined, Dalton, Ga. Amended: transmitter location as River Bend Rd., Dalton, Ga.
- NEW—WIBM, Inc., Ann Arbor, Mich.—Construction permit for a new high frequency broadcast station to be operated on **42600 kc.**, 1000 watts, special emission for frequency modulation, location site to be determined. Amended: site to be determined, Ann Arbor, Mich.
- NEW—Joe L. Smith, Jr., Beckley, W. Va.—Construction permit for a new high frequency broadcast station to be operated on **42600 kc.**, 1000 watts, special emission for frequency modulation, location: Teel Road, 1.5 miles northwest of Beckley, W. Va.
- NEW—Courier-Journal and Louisville Times Co., Louisville, Ky.—Construction permit for a new relay broadcast station to be operated on **133030, 134850, 136810, 138630 kc.**, 50 watts, special emission for frequency modulation, location: 300 W. Liberty St., Louisville, Ky.
- NEW—Philco Radio & Television Corp., Philadelphia, Pa.—Modification of license to change frequency from **204000-210000 kc.** to **234000-246000 kc.**, and change from a fixed location to a portable relay television station to be used with Television Station W3XE.
- WEHH—Columbia Broadcasting System, Inc., Portable-Mobile.—Modification of construction permit (B1-PRE-281) as modified, which authorized changes in equipment and reduction in power to 15 watts, requesting increase in power to 30 watts and equipment changes.
- NEW—The Hartford Times, Inc., Hartford, Conn.—Construction permit for a new high frequency broadcast station to be operated on **43100 kc.**, 1000 watts, special emission for frequency modulation, location: 983 Main St., Hartford, Conn.
- NEW—Long Island Broadcasting Corp., Woodside, N. Y.—Construction permit for a new high frequency broadcast station to be operated on **42100 kc.**, 1000 watts, special emission for frequency modulation, location: Woodside, N. Y.
- NEW—The Cincinnati Times-Star Co., Cincinnati, Ohio.—Construction permit for a new high frequency broadcast station to be operated on **43400 kc.**, 1000 watts, special emission for frequency modulation, location: between Highland Ave. and Reading Rd. and Dorchester St., Cincinnati, Ohio. Amended to request 50000 watts and equipment changes.
- KEGE—A. H. Belo Corp., Portable-Mobile.—Construction permit to install new transmitter and decrease power from 3 watts to 2 watts.
- NEW—The Metropolis Co., Portable-Mobile, area Jacksonville, Fla.—Construction permit for new relay broadcast station to be operated on **2150, 2758, 2830, 2790 kc.**, 40 watts, emission A3. Amended to request **1622, 2058, 2150, 2790 kc.**
- WEKT—St. Petersburg Chamber of Commerce, Portable-Mobile.—Consent to assignment of license from St. Petersburg Chamber of Commerce to City of St. Petersburg, Fla.
- NEW—Carter Publications, Inc., Fort Worth, Tex.—Construction permit for a new high frequency broadcast station to be operated on **42600 kc.**, 1000 watts, special emission for frequency modulation, location: 307 W. 7th St., Fort Worth, Tex.
- KSFQ—The Associated Broadcasters, Inc., Portable-Mobile, area San Francisco, Calif.—License to cover construction permit (B5-PRY-214) for new relay broadcast station.
- W1XEQ—E. Anthony & Sons, Inc., New Bedford, Mass.—Construction permit to move transmitter from Atlas Tack Corp., Fairhaven, to Crow Island, Fairhaven, Mass.
- NEW—WDZ Broadcasting Co., Portable-Mobile, area of Tuscola, Ill.—License for a new relay broadcast station using equipment licensed to relay station WELQ, **1622, 2058, 2150, 2790 kc.**, 2 watts, A3 emission.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**Ball Company**—See Champion Battery Company.

**Champion Battery Company**—D. J. Bortz and Edith Bortz, trading as Champion Battery Company and as The Ball Company, are charged, in a complaint, with misrepresentation. The respondents, with their principal office and place of business in the Morgan Building, Detroit, are engaged in the sale and distribution to retail dealers of so-called sales promotional plans, including the sale and distribution of "advertising gift checks", "gift certificates", and various articles of merchandise, novelty gifts and premiums.

The complaint alleges that the respondents, under the respective trade names Champion Battery Company and The Ball Company, through their salesmen and agents, in connection with their sales promotional plans, represent that Champion Battery Company is a representative of or is putting on an advertising campaign for the Champion Spark Plug Company, Toledo, Ohio, and similarly represent that The Ball Company is connected with Ball Brothers Company, Muncie, Ind., manufacturers of glass fruit preserving jars. In truth, the complaint continues, the respondents are not

representatives of or connected in any way with the Champion Spark Plug Company or Ball Brothers Company.

The respondents allegedly represent that gift checks purchased by dealers for distribution to their customers as they purchase the respondents' merchandise may be redeemed in "free" premiums by such customers after they have bought a specified amount of merchandise and that upon such redemption of gift checks by their customers dealers will be reimbursed for the amounts they paid for such checks. However, it is alleged that dealers are not so reimbursed; customers do not receive "free" merchandise; purchasers of flash light bulbs and batteries pay a sum which not only covers the value of the batteries and bulbs but that of the premiums received, and purchasers of dinnerware pay 39 cents with each gift certificate returned to the respondents for redemption, such amount covering not only the value of the ware but representing a substantial profit to the respondents.

In selling dinnerware under the name of The Ball Company, the respondents allegedly represent that they are introducing a new line of colored chinaware of high grade and celebrated type known as "Fiesta," when in fact it is not genuine "Fiesta" ware, but only cheap milk-white glassware of a type found in five and ten cent stores.

Batteries sold by the respondents, the complaint alleges, are not manufactured by Champion Spark Plug Company, although the word "Champion" is placed upon the labels of the batteries, and dinnerware products sold in connection with use of the word "Ball" are not manufactured by Ball Brothers Company. (4134)

**Standard Distributing Company**—Philip Harry Koolish and Sarah Allen Koolish, trading as Standard Distributing Company, are charged, in a complaint with use of lottery methods in the sale of merchandise to ultimate consumers. The respondents, whose place of business is at 2222 Diversey St., Chicago, and who formerly were located at 6227 Broadway, Chicago, are engaged in the sale and distribution of flashlights, electric mixers and other merchandise.

The complaint charges that the respondents, in connection with the sale of their merchandise, have furnished various devices and plans of merchandising involving the operation of games of chance, gift enterprises or lottery schemes, and have distributed to the purchasing public literature and instructions, including push cards, order blanks and circulars explaining their plan of selling merchandise and allotting it as premiums or prizes. The complaint alleges that the respondents thus supply to and place in the hands of others the means of conducting lotteries. (4135)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Academy of Hawaiian Music**—Eleanor Moore, trading as Academy of Hawaiian Music, 18 South 17th Ave., Maywood, Ill., has entered into a stipulation in which she agrees to discontinue certain representations in the sale of a "Home Study Course for the Hawaiian Guitar."

The respondent agrees to desist from the representation that her course is a new method of instruction for learning to play the Hawaiian guitar; that no talent, or special talent, is required to learn to play this instrument, or that all pupils can, through the respondent's instruction, learn to play the Hawaiian guitar.

A further representation which the respondent agrees to discontinue is that a pupil can learn to play the Hawaiian guitar from regular piano music or any other kind of sheet music, unless such representation is qualified to explain that such music must include a separate score upon which the melody notes are written and upon which a chord designation is printed above each bar.

The respondent also stipulates that she will cease advertising that a pupil can learn to play regular songs after receiving and studying the first lesson of the course and that she will desist from using the word "Academy" or any other term of like import as part of her trade name or to describe the business of selling a correspondence course in music. (02560)

**American Landscape School**—The stipulation of American Landscape School, whose offices are in the Plymouth Building, Des Moines, is supplemental to one accepted by the Commission

in March, 1939, in which the respondent agreed to discontinue various representations concerning its courses. In the supplemental stipulation American Landscape School agrees to cease representing that the number of positions open in landscape architecture and gardening greatly exceed the number of persons qualified and available to fill them; that the respondent daily receives letters from prospective employers offering its students and graduates opportunities for employment in landscape architecture and gardening, or that opportunities for employment are greater than is actually the case. (02349)

**Battle Creek Dietetic Supply Co.**, 16 Court St., Battle Creek, Mich., engaged in selling cosmetics, food supplements and medicinal preparations designated "Health House Brand Hormone Cream," "Health House Brand Vitamin F Cream," "Health House Brand Yeast Vitamin Tablets," "Health House Brand Vegetable Mineral Broth," "Health House Brand Vegetable Tablets," "Health House Brand Wheat Germ," "Health House Brand Vitamin E Capsules," and "Health House Brand Cough Syrup with Vitamins A, B, D, and G," agrees among other things to desist from representing that vitamins tend to normalize weight or that vitamins will help reduce obese persons to normal weight; or that vitamins will help underweight persons to attain normal weight, except where such condition is due to vitamin deficiency. The Battle Creek Dietetic Supply Co. also agrees that where any of its products contain any fatty acids, it will cease and desist from designating such acids as "Vitamin F." (02564)

**Chief Two Moon Herb Company, Inc.**, Waterbury, Conn., engaged in selling "Chief Two Moon Bitter Oil," "Chief Two Moon Cough Elixir," "Chief Two Moon Skin Cream," "Chief Two Moon All-Herb Stomach Relief," "Chief Two Moon All-Herb Kidney Relief," "Chief Two Moon All-Herb Nerve Remedy," "Chief Two Moon All-Herb Female Tonic," "Chief Two Moon All-Herb Rheumatism Relief," "Chief Two Moon All-Herb Tonic Relief," "Chief Two Moon All-Herb Asthma Relief," and "Chief Two Moon All-Herb Liver Relief," has agreed to discontinue representing that Chief Two Moon was the "world's greatest herbist"; that the remedies are "Indian remedies" or are "herb remedies," except where the major portion of the active ingredients are herbs; that they have brought relief and restored health and happiness to thousands of sufferers, or that they are effective treatments for stomach trouble, tumors, rheumatism, kidney and liver ailments, nervousness and asthma.

In addition to discontinuing claims for each of the remedies, the corporation also agrees to cease use of the words "Nervine," "Nervine Tea," "Nerve Remedy," "Asthma Tea" or "Asthma Relief" to designate any of its products, and further agrees to cease and desist from the circulation and dissemination of a booklet entitled "Chief Two Moon Herbs for Health," containing many claims, representations and testimonials concerning the alleged benefits which have been and are to be derived from use of the preparations. (02563)

**V. G. Fernandez**, trading as Wonder Laboratory, Chicago, Ill., stipulates that he will desist from advertising his preparation "Anticalvez" as being a new discovery and as being capable of eliminating dandruff, stopping falling hair, giving to the hair the vigor and luster of youth, improving the hair or scalp, preventing baldness or gray hair and causing one to have an abundant growth of hair. The respondent agrees to cease representing, by use of the word "Laboratory" or any abbreviation thereof as a part of his trade name, or by any other means, that he maintains a laboratory, unless he owns, operates or controls, under direct supervision of a qualified scientist, a properly equipped laboratory where scientific analysis, tests and experiments are conducted. (02562)

**C. G. Ives**, trading as Ives Drug Company, Glenwood Drug Company and Ives Druggist, Minneapolis, Minn., agrees to cease representing that "Ives Wonder Pile Remedy" is an effective remedy or a competent treatment for hemorrhoids or piles; that its use will avoid an operation, or that it has any therapeutic value in the treatment of piles in excess of a mild, temporary palliative for the itching, burning, and similar irritations that are usually due to, or associated with, the superficial symptoms of some types of piles. The respondent further agrees to cease employing the word "Remedy" or any term of like import as part of a trade name used to describe the preparation. (02561)

**Moreo By-Products Company**—Sigvart Sivertson, doing business as The Morco By-Products Company, 1758 Lunt Ave., Chicago, engaged in selling an anti-freeze solution designated "Security Anti-Freeze," agrees to desist from representing that the demand for "Security Anti-Freeze" is in any definite amount not in accordance with the facts; that its sales exceed those of any other automobile anti-freeze; that tests upon objects in a container represent the tests which would be performed in a laboratory; that the product has a freezing point not in accordance with the facts, or that a constant anti-freeze strength or freezing point is maintained by it. The respondent also agrees to cease representing that the product will not foam in the automobile radiator; that it is harmless to the radiator or motor of an automobile and will not corrode the parts with which it comes in contact; that it is the only type of anti-freeze known as "non-evaporating" or as "requiring only one filling a season," or has the same qualities as anti-freeze containing ethylene glycol. (02567)

**National Social Club**—The stipulation of Belmont Lindsey, trading as The National Social Club, 3453 Brooklyn St., Kansas City, Mo., recites that in the sale of lists of names of purported members of the club, the respondent made various representations in advertising matter, among which were: "Win a Wealthy Sweetheart, helpful friends, or ideal mate! Confidential! FREE information and descriptions."—"Successful business man, . . . college education; . . . Does not drink or smoke. Owns considerable real estate, and is proprietor of a successful drug business . . ."

In his stipulation, the respondent agrees to cease advertising that The National Social Club or its plan or service are unique; that results are guaranteed to members, and that free information or free descriptions can be obtained by persons answering advertisements.

The respondent also agrees that, in the absence of some reasonable investigation to determine the truth or falsity of statements made by persons named in the lists, he will cease advertising that his representations as to the financial or other standing, education, character, age, occupation or profession of those so named are other than the mere statements of the persons themselves. He also stipulates that he will desist from representing that any offer is special unless it is actually less in price than the usual or regular price and is limited in time. (02565)

**Nestle-LeMur Company**, 111 Eighth Ave., New York, engaged in selling a hair dye designated "Nestle Colorinse," and a hair shampoo designated "Nestle Shampoo," agrees to cease representing that "Nestle Colorinse" is not a dye; that it improves the natural color of the hair or in any manner imparts youth to the hair or recaptures the youthfulness of the hair, or that it is a vegetable compound. It also agrees to cease representing that "Nestle Shampoo" adds a natural sheen to the hair or that its use helps overcome or is a corrective or cure for dandruff, aids in stopping or checking falling hair, or that the use of "Nestle Shampoo" alone will minimize excessive hair loss due to scurfed or sluggish scalp. (02566)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Anheuser-Busch, Inc.**, St. Louis, has been ordered to discontinue certain price discriminations in violation of the Robinson-Patman Act in the sale of bakers' yeast.

Commission findings are that:

The respondent corporation sold bakers' yeast to its customers under a schedule of prices ranging from 25 cents a pound for monthly requirements up to 150 pounds, to 14 cents a pound for monthly requirements of 50,000 pounds or more. These prices did not necessarily depend upon the quantities actually purchased from the respondent but upon the monthly requirements of yeast of the respective customers. For example, a customer whose monthly requirements might be 1,400 pounds and who purchased all of it from the respondent, would pay, according to scale, 20 cents a pound. However, if the customer bought only part of his requirements from the respondent he would still pay 20 cents a pound, regardless of what portion of his requirements he so purchased.

Discriminations in price were made between different purchasers by deviating from this schedule, as follows:

(1) Discrimination in price between customers who purchased all of their requirements and those who bought part of their requirements from the respondent. For example, a customer whose monthly requirement was 4,500 pounds and who bought this entire amount from the respondent, paid, according to scale, 18 cents a pound, but another customer, whose monthly requirements was 7,500 pounds and who purchased 4,500 pounds from the respondent, paid only 16 cents a pound for the 4,500 pounds so bought.

(2) Discrimination between different customers who purchased some but not all of their requirements from the respondent. For example, a customer whose requirements were 4,500 pounds a month and who bought 500 pounds of this from the respondent, paid, according to scale, 18 cents a pound for the 500 pounds, while another customer, whose requirements were 1,000 pounds a month and who bought from the respondent only 500 pounds, paid the respondent 20 cents a pound for the 500 pounds because his requirements were only 1,000 pounds a month.

(3) Discrimination between certain customers within a definite quantity bracket by selling to some customers at so-called "off-scale" prices. For example, if the customer took all of his requirements of yeast from the respondent and should pay, according to the scale, a certain price, the respondent would sell him that quantity at a lower price.

(4) Discrimination brought about by the respondent through selling its customers on the basis of total consumption or purchases irrespective of the number or quantity of the individual deliveries. By this method of selling yeast, independent dealers operating a single plant were obliged to pay a great deal more for yeast than large chains operating several bakeries and who, with a plant in the same area as an independent, might have received the same quantity of yeast at that particular branch as the independent dealer received. Different prices for the same quantities of yeast were paid by the respective customers in this instance because the price was not based upon the quantity delivered to the particular branch of the large customer but upon the total quantity delivered to all branches of the large customer.

By selling bakers' yeast in accordance with its price scale and by deviating from prices in the manner set forth, large bakeries and chains have been enabled to make substantial savings which may be reflected in many different ways in lessening or injuring competition. Inasmuch as these savings can be used for periodic reductions in price in the sale of bread and allied products, sales effort and sales appeal are increased, all of which operate to the disadvantage of the customers against whom these discriminations are employed.

The effect of the respondents' discriminations is and may be to substantially lessen competition and tend to create monopoly in the sale and distribution of bread and allied products in the respective lines of commerce in which the respondent and its customers, receiving the benefit of such discriminatory prices, are engaged, and to injure, destroy or prevent competition with customers receiving the benefit of such discrimination, in violation of Section 2 (a) of the Robinson-Patman Act.

The Commission order directs the respondent to cease and desist from the various types of price discrimination above described. (2987)

**B & T Sales Company**—See S. M. Laboratories Company.

**Globe Rummage Mart**—Louis Goldman, trading as Globe Rummage Mart, 3238 South State St., Chicago, engaged in the sale and distribution of second-hand clothing and other merchandise, has been ordered to cease and desist from certain misrepresentations.

In catalogs distributed throughout the various States by the respondent, and through other advertising matter, the Commission finds the respondent has represented that the merchandise sold by him is only slightly used; that all articles listed in his catalog are reclaimed or slightly used, but are in good saleable condition; that such articles are seasonable merchandise and are the most popular styles and latest creations; that complete assortments are available, and that any merchandise not entirely satisfactory may be returned for replacement.

The findings are that the respondent buys his merchandise in the open market from other second-hand dealers, from junk dealers and at rummage sales, and that when an order is shipped to a customer the package frequently contains merchandise that is old,

out of style, dirty, worn out, unsaleable, valueless and of different size, color, age, quality, style and condition from the merchandise ordered by the respondent's customers.

The respondent is ordered to cease and desist from representing, directly or indirectly, (1) that wearing apparel purchased from junk or other second-hand dealers, which is old and out of style, is seasonable and saleable merchandise of the latest or currently popular style; (2) that wearing apparel purchased from junk or other second-hand dealers, which is old, dirty, badly worn or generally unsaleable, is saleable merchandise in good condition, or is only slightly used merchandise; (3) that the respondent has complete assortments of wearing apparel available, and (4) that he will make replacements or refunds when merchandise is not satisfactory, when such is not the fact. (4016)

**Jobbers Produce Company, Inc.**—See Mississippi Sales Company, Inc.

**Mississippi Sales Company, Inc.**—Prohibiting unlawful payment and acceptances of brokerage fees, in violation of the Robinson-Patman Act, an order has been issued against Mississippi Sales Company, Inc., a general merchandise brokerage house, and Jobbers Produce Company, Inc., a produce jobber, both of Meridian, Miss., and against three sellers.

Commission findings are that:

Through the medium of Mississippi Sales Company, Inc., orders were placed for a substantial quantity of foodstuffs by Jobbers Produce Company, Inc., of the same Meridian address as Mississippi Sales Company, Inc. Such orders were placed with American Fruit Growers, Inc., Pittsburgh; Dow Fruit Company, Wenatchee, Wash., and E. O. Muir Company, Salt Lake City, Utah, and other sellers. These firms and other sellers transmitted to the Mississippi Sales Company, Inc., substantial brokerage fees on the basis of an agreed percentage (usually 3 to 5 per cent) of the amount of each purchase by Jobbers Produce Company, Inc.

During all these transactions, S. O. Scott was president and director of both the Mississippi Sales Company, Inc., and Jobbers Produce Company, Inc., owning 98 per cent of the capital stock of each corporation, and the business of each company was conducted from the same offices by the identical personnel under the direct and active supervision of the respondent Scott.

The Commission concluded that in connection with these purchases, Mississippi Sales Company, Inc., was subject to the control of and acted in fact for Jobbers Produce Company, Inc.

The Commission further concluded that the payment of brokerage fees or commissions to, and the receipt thereof by, the Mississippi Sales Company, Inc., upon purchases of the Jobbers Produce Company, Inc., when the principal party at interest in each of the two corporate respondents was S. O. Scott, principal officer and stockholder of each company, was in fact a payment of brokerage fees or commissions to, and receipt thereof by, the respondent Jobbers Produce Company, Inc., in violation of the brokerage paragraph of the Robinson-Patman Act. The Commission also concluded that no selling services were or could have been in law rendered to sellers in connection with the purchases of Jobbers Produce Company, Inc.

The Commission order directs the respondents American Fruit Growers, Inc., Dow Fruit Company, and E. O. Muir Company, in connection with the sale of commodities to Jobbers Produce Company, Inc., to cease and desist from paying or granting to Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., or S. O. Scott, any brokerage fee or commissions, or any allowance or discount in lieu thereof.

The order directs Mississippi Sales Company, Inc., and Jobbers Produce Company, Inc., in connection with the purchase of commodities by Jobbers Produce Company, Inc., to cease receiving or accepting from sellers any brokerage fees or commissions or allowances or discount in lieu thereof.

The order further directs S. O. Scott to desist from receiving or accepting brokerage fees or commissions, or any allowance or discount in lieu thereof, either directly or indirectly as stock dividends or distribution of profits, or otherwise, in connection with the purchase of commodities in interstate commerce by Jobbers Produce Company, Inc. (3511)

**Theodore Radin, Inc.**, 18-20 East 41st St., New York, engaged in the sale and distribution of certain medicinal preparations designated "Glycirenin," "Glycirenin-Forte," "Jodirenin," "Inhalerin-

Compositum" and "Aerizon," recommended as treatments for asthma, hay fever, sinus discomfort and bronchial irritations, in connection with a device designated "Atmozon Aerifier" for administering the preparations, has been ordered to cease and desist from misrepresentations.

The Commission finds that advertisements in newspapers and periodicals, and in other statements, all of which purport to be descriptive of the remedial, curative or therapeutic properties of the preparations, the respondent has represented they are cures or remedies for the ailments enumerated and that the preparations are absolutely harmless, no matter how often used.

The Commission finds that these representations are misleading and untrue, that the preparations do not constitute competent and effective treatments for the ailments, in excess of furnishing certain temporary relief, and that by reason of the existence of epinephrine and ephedrine in the preparations, their use over a long period of time may produce such prolonged vasoconstriction as to cause tissue damage from anoxemia, with secondary inflammatory reactions.

The respondent is ordered to cease and desist from causing to be disseminated any advertisements likely to induce the purchase of the preparations or of preparations composed of substantially similar ingredients, or which advertisements represent directly or through implication that such medicinal preparations are cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma and other bronchial ailments, or that they constitute competent and effective treatments therefor in excess of furnishing temporary symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchial irritations and sinus discomforts. The order also prohibits the representation that the respondent's preparations are absolutely harmless no matter how often used, or that use of the preparations will prevent attacks of asthma and hay fever or the recurrence thereof. (3992)

**Rayson Service Bureau**—Prohibiting misrepresentations in the sale of correspondent courses in forestry and of other courses preparatory for Civil Service examinations, a cease and desist order has been issued against Ray Rennison, Denver, Colo., who sells such correspondence courses under the name Rayson Service Bureau. The order also names as a respondent Martha A. Rennison, who formerly was associated with Rennison in the business.

Commission findings are that representations of these respondents implied that they were an agency of or connected with the United States Government, when such was not the fact. Among such representations according to findings, were use of the word "Bureau" in their trade name and description of the building in Denver where they conduct their business as the "United States National Building," when in fact it is the "United States National Bank Building."

The respondent Ray Rennison, according to findings, was represented as "Director" of the "Bureau," as having "personally worked in the mail service" or Government service, and as having "forestry experience and a vast knowledge of wild life." However, findings are that his employment by the United States Government had consisted of temporary appointment for a brief period in a post office sub-station in a Denver department store, which was not sufficient to qualify him as a Civil Service expert. It was further found that he is not a graduate of any school of forestry or of any college and that he is not an expert in forestry.

Commission findings are that the respondents advertised "Forest jobs available \$125-\$175 month"; that "The Rayson Service Bureau welcomes the opportunity to analyze forestry and conservation problems," and that " \* \* \* The demand for qualified workers in this larger field has steadily increased and it is to assist men in qualifying for such positions that our course in forestry has been especially designed."

The respondents' advertising matter was found to create the impression that their course in forestry was intended for and adapted to preparing students for examinations and positions in State and Federal forestry services, when in fact only graduates with degrees in forestry from recognized institutions having full four-year courses in that subject are eligible for such positions, a fact which the respondents did not reveal to applicants. Certain minor positions in such service also have requirements as do education or experience that are not fulfilled by the training offered by the respondents.

The Commission order directs discontinuance of the respondents' representations implying connection or association with the Federal Government. The order further prohibits the use of representations that the respondent, Ray Rennison, is a Civil Service or forestry expert, and that the respondents' forestry course affords adequate preparation for State and Federal forestry ex-

aminations and positions. It also prohibits the representation, through use of a money-back agreement, or otherwise, that United States Civil Service positions or examinations therefor are available immediately or within a reasonable time. (3452)

**S. M. Laboratories Company**, Seattle, and **B & T Sales Company**, Indianapolis, have been ordered to discontinue misleading representations in the sale of medicinal preparations advertised as treatments for delayed menstruation.

Under the Commission order, **S. M. Laboratories Company** is prohibited from disseminating advertisements which represent that "Neofem Liquid," "Neofem Capsules" and "Cerene" are cures or remedies for painful or delayed menstruation; that they constitute safe, competent or effective treatments therefor, or that use of these products will provide safe or sane ways of self-medication in obtaining relief from this ailment.

Failure to reveal in advertisements that use of the respondent's preparations may result in serious and irreparable injury to health, also is forbidden. The Commission's findings are that these products contain the drugs ergot, oil of savin and aloin in quantities sufficient to cause serious and irreparable injury if used under conditions prescribed in the advertisements or under customary or usual conditions.

Findings are that the practices prohibited under the order occurred prior to March 28, 1940. (4062)

The order against the Indianapolis firm, which is composed of **Howard L. Brewer and Albert L. Tribbett**, trading as **B & T Sales Company**, prohibits advertisements representing that their preparation "Menstru-Eze" is a cure or remedy for delayed, difficult, painful or irregular menstruation or that it has therapeutic value in the treatment of such conditions or in relieving incidental pain. (4057)

**Dr. Van Vleck Company**, Jackson, Mich., engaged in the sale and distribution of medicinal preparations known as "Dr. Van Vleck's Ointment," "Dr. Van Vleck's Muco Cones," and "Dr. Van Vleck's Pills," represented as remedies for piles, has been ordered to cease and desist from misrepresentations concerning the preparations.

The Commission finds that in advertisements in newspapers, periodicals and other printed matter, the respondent has represented, among other things, that: "There is no doubt that Dr. Van Vleck's Ointment and Muco Cones will usually relieve the acute pain of piles without any further treatment, but Dr. Van Vleck was not satisfied with what many would call real relief. He believed it was his duty to bring about a substantial relief and for that purpose included in his Treatment his pills. These are taken internally. The result is that Dr. Van Vleck has indeed brought immeasurable happiness into a suffering world."

Through the use of these statements and other representations, the respondent has represented, the Commission finds, that the

preparations, used conjointly, are an effective and scientific cure and remedy for, and an effective treatment of, piles; that application of the preparations conjointly constitutes an "Absorption Treatment" which removes piles without surgical aid; that their use insures immediate and lasting relief with no return of suffering, and will remove or correct the cause of piles.

In truth, the findings continue, the preparations are not cures or remedies for piles, nor do they constitute a competent or effective treatment therefor, other than to give some small degree of relief by means of the analgesic properties thereof and the prevention of constipation.

The respondent is ordered to cease and desist from further representations that the preparations, whether used separately or conjointly, are cures or remedies for piles or constitute competent or effective treatments therefor; that they have any therapeutic value in the treatment of piles in excess of the relief obtained through the prevention of constipation and the use of a mild analgesic; that they will bring immediate or lasting relief, or will correct or remove the cause of piles, or will absorb, remove or eradicate protruding external or internal hemorrhoidal protuberances without surgical aid. (3988)

## FTC DISMISSES COMPLAINTS

Federal Trade Commission has dismissed its complaint charging **The Penny Stores, Inc.**, Meridian, Miss., **the Buckley-Young Company**, York, Ala., **Pacific Fruit & Produce Company**, Seattle, and **William and Hunt Henderson and Christ and Fred Gamble**, trading as **William Henderson Sugar Refinery**, New Orleans, with violation of the brokerage section of the **Robinson-Patman Act**.

The Commission found that with respect to the allegations of the complaint concerning the payment of brokerage to, and the receipt thereof by, the **Mississippi Sales Company, Inc.**, of Meridian, Miss., upon the purchases of the Penny and the Buckley-Young companies, the **Mississippi Sales Company, Inc.**, had not acted for or in behalf or subject to the control of either of these companies.

It also did not appear that the four individuals trading as **William Henderson Sugar Refinery** had made brokerage payments to **Mississippi Sales Company, Inc.** The **Pacific Fruit & Produce Company** had neither filed answer to the Commission's complaint nor entered any appearance, and the record contained no evidence of its corporate identity.

In a press release issued for morning newspapers of Monday, May 20, concerning an order to cease and desist issued against the **Mississippi Sales Company, Inc.**, and other companies and the **Mississippi company's** principal officer, there was an omission of the names of the Penny, Buckley-Young, Pacific Fruit and **William Henderson Sugar Refinery** firms, concerning all of whom the complaint in the proceeding had been dismissed.

The Commission has also ordered that a complaint issued against **Goldblatt Bros., Inc.**, 3932 South Lincoln St., Chicago, sports goods distributor, charged with unfair methods of competition, be dismissed.



## FCC Bans Commercial Television Operation

No commercial television until "the engineering opinion of the industry is prepared to approve any one of the present competing television systems."

That was the heart of the FCC report this week on television. It was unanimous. The text follows:

The Commission's report:

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

May 28, 1940.

In the Matter of:

ORDER NO. 65 SETTING TELEVISION  
RULES AND REGULATIONS FOR } Docket No. 5806  
FURTHER HEARING

REPORT

By the Commission:

On April 8, 1940, a hearing was begun by the Commission to obtain information relative to certain problems connected with television broadcasting which had arisen subsequent to the promulgation by the Commission on February 29, 1940, of its revised rules and regulations governing television broadcast stations. The issues which are at this time presented for Commission determination are those involved in that hearing. In the main they involve questions as to the wisdom (1) of selecting and setting at this time a single uniform system of standards for television transmitting equipment and (2) of continuing television broadcast licenses on an experimental as distinguished from a commercial basis. These issues can be adequately considered only against the broader background of the Commission's functions in relation to the development of television.

The Commission, in addition to being charged with the duty of licensing radio transmission stations, has the obligation to promote experimentation in radio, encourage its wider use and "regulate the kind of apparatus to be used" by sound and television stations. These powers are set forth in Section 303 of the Communications Act which provides:

"The Commission, from time to time as public interest requires, shall

"Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest; . . .

"Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein; . . .

"Make such regulations not inconsistent with law as it may deem necessary to carry out the provisions of this Act."

No party to the proceeding has challenged the Commission's jurisdiction in this matter. On the contrary, Manton Davis, Gen-

eral Counsel of the Radio Corporation of America, the chief protestant of the action of the Commission, conceded its jurisdiction by the following statement at the April hearing:

"Most certainly we do not challenge the jurisdiction of the Commission to fix any standards with respect to transmission of broadcasting, television, or any other transmission signals. Moreover, we do not challenge the jurisdiction of the Commission to make any investigations or to collect or correlate any facts that might be helpful to them in that endeavor."

From the duty to regulate the kind of apparatus to be used by broadcasting stations stems the duty to fix transmission standards of such stations. Transmission standards may be simply defined as engineering rules governing the characteristics of the radio signal transmitted by the operation of radio apparatus. Such standards as a practical matter must require a fair degree of efficiency and assure to the public in basic outline a single uniform system of broadcasting which will enable every transmitting station to serve every receiver within its range.

In its regulation of television in the public interest, the Commission, in the light of the evidence before it, has set as its goal unfettered technical development and engineering advance. In dealing with the problem of setting television transmission standards the Commission has, therefore, sought to avoid action which would freeze the state of the art at an unsatisfactory level of performance. As a necessary corollary it has sought to avoid action which might result in the freezing of standards by the industry itself. Hence, as evidence bearing on the issues at the hearing, the Commission has considered the effect which a widespread distribution to the public of television receiving equipment currently available will have on the future improvement of television transmitting systems.

### *Previous Commission Action with Regard to Television*

The art of television has been under development for more than a decade. During this time the Commission has issued a number of licenses for experimental purposes looking toward the development of the science to the point where the Commission could be reasonably assured of television's readiness for a competitive public service upon a sound technical basis and upon a single uniform system.

Throughout this period the Commission has carefully observed and studied television's technical advancement and problems and has kept abreast of engineering developments in the field. On September 10, 1938, there was submitted for the Commission's consideration a proposed set of television transmission engineering standards which had been adopted by the Radio Manufacturers' Association, a trade association of radio manufacturers.

On January 3, 1939, the Commission appointed a committee, consisting of Commissioners Craven, Brown and Case, known as the Television Committee, which was charged with the duty of investigating and submitting recommendations with regard to the fixing of television broadcasting standards by the Commission and the disposition of a number of pending applications for television experimental licenses.

In order to secure information as to the nature of the proposed standards, and the effect of such standards upon the future development of television as a service in the interest of the public, the Television Committee met with representatives of the industry, visited various television laboratories, and conferred with several organizations concerned with the development of television from both the manufacturing and operating standpoint. The results of the Committee's studies were embodied in a public report dated May 22, 1939, in which particular emphasis was laid upon the



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1626 K St., N. W.

WASHINGTON

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Neville Miller, *President*

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

## FCC BANS COMMERCIAL TELEVISION OPERATION

(Continued from page 4287)

vital questions of public interest which were inherently connected with the Commission's duty to prescribe uniform transmission standards in the television broadcasting field. The bearing of the peculiar "lock and key" relationship between television transmitter and receiver upon the Commission's duty to set uniform transmission standards was sharply manifested in these words:

"However, a serious question of public interest would arise in the future if the Commission should specify external transmitter performance capabilities differing from the operating capabilities of receivers in the hands of the public. This is because of the resultant possibility that the public's receivers would be incapable of receiving programs emanating from transmitters licensed by the Commission."

The Committee's studies disclosed that technical advancement of the art had not progressed to the point where it would be in the public interest to adopt any transmission standards for television broadcasting. In the light of the demonstrated fluidity of the art and its current movement toward a higher level of efficiency, it was recognized that the acceptance of any fixed set of standards would entail the undesirable consequences of checking or retarding meritorious research. It was, therefore, the Committee's recommendation that pending further studies upon the progress of television experimentation and research, no standards be adopted by the Commission.

On November 15, 1939, a second report submitted to the Commission by its Television Committee was made public. In this report, the Committee noted that certain progress had been achieved in television experimentation since the date of its previous report. It was felt by the Committee that although the television industry had not advanced beyond the experimental stage, it had arrived at the point where more rapid progress could be expected by the licensing of a class of station to render sponsored programs to the public on a limited basis. A revision of the Commission's rules to make this proposal effective was recommended. It was the conviction of Commissioners Craven, Brown and Case, in making this recommendation, however, that the development of television was still in a rapid state of flux and the Committee asserted that, therefore,

"No interests should be permitted to raise public hopes falsely, nor to encourage public investments where the state of scientific or economic development leaves any doubt that such hopes and expenditures are justified for the use of the public property in the radio spectrum."

On December 22, 1939, the entire Commission tentatively adopted the rules recommended in this second report of the Television Committee, with minor modifications, and on the same date, all interested parties desiring to be heard with respect to these proposed rules were invited to participate in a public hearing on January 15, 1940, before the Commission.

Pursuant to the Commission's invitation, leading concerns engaged in experimentation and research in the television field appeared and gave evidence upon the matters under investigation. Included among the parties who submitted evidence at this hearing were the Radio Corporation of America, a company engaged in the development, production and sale of radio and television transmitting and receiving apparatus and the licensing of such production pursuant to its patents, and in conducting sound and television broadcasting through its wholly owned sub-

siary, the National Broadcasting Company; Philco Radio and Television Corporation, a company engaged in the development and production of radio and television receiving apparatus and in the operation of an experimental television broadcast station in Philadelphia, Pennsylvania; Allen B. DuMont Laboratories, Inc., a company engaged in the development and production of television apparatus, and in television broadcasting; Farnsworth Television and Radio Corporation, a radio and television manufacturing organization; Zenith Radio Corporation, a manufacturer of radio and television apparatus; Columbia Broadcasting System, Inc., and Don Lee Broadcasting System, broadcasting concerns in the radio and television fields; and numerous other manufacturers and broadcasters in the radio and television fields.

The January hearing extended over a period of eight days. The voluminous evidence presented by the parties included an expression of the views of different members of the industry with respect to the Commission's proposed rules, and extensive testimony of the industry's leading television engineers concerning the technical status of the television art, and the desirability of the adoption of television transmission standards by the Commission.

### *Differences of Engineering Opinion Within the Industry*

The hearing revealed a serious conflict of engineering opinion upon the question of standards among the representatives of various responsible elements in the industry engaged in important research and experimental work in the television field. Dissatisfaction with standards which had been submitted by the RMA on September 10, 1938, was expressed by Zenith Radio Corporation, and also by the Allen B. DuMont Laboratories and the Philco Radio and Television Corporation who were engaged in research on alternative proposals for which marked advantages were claimed. Defense of the RMA standards was assumed chiefly by the Radio Corporation of America and the Farnsworth Television and Radio Corporation, who claimed superiorities for the RMA system over other known alternatives. It is important to note that both DuMont and RCA hold patents covering the proposals which they respectively supported.

In order to make clear the nature of the controversy within the industry, a brief explanation of the basic television methods employed and of the terms used is necessary. A complete scene cannot be transmitted instantaneously by presently developed television methods. Therefore, it is necessary to transmit the picture by small successive elements, in a manner comparable to the eye reading the printed page of a book. This procedure of breaking the scene down is begun at the television camera by a process known as scanning. The picture at the receiver is made up of a single dot, caused by a stream of electrons, moving very quickly and continuously across the screen to form lines. The entire process is so rapid that the resultant mosaic is perceived as a complete picture because the eye retains or carries over the original impression caused by each position of the dot.

Increasing the number of elements and scanning lines on the television picture increases the detail and distinctness. The detail capability of the television system is therefore in part dependent upon the number of lines transmitted.

The "memory" of the human eye is, however, limited and therefore it is necessary to scan each scene completely in a fractional part of a second and in rapid repetition in order that the eye may perceive the series of individual pictures as a single continuous flickerless picture with continuous motion. The rate at which the complete scanning of a scene is accomplished is called the "frame frequency", and means merely the number of times the complete scene is scanned per second. If the frame frequency is too low, the reproduced picture will have flicker and the motion will be jerky; if the number of lines is too small, the picture lacks clarity and detail. In general, it may be said that an increase in the number of lines can be made within a given band width of frequencies only by reducing the frame frequency.

Two of the important television problems outstanding are to develop (a) a better picture with more detail and greater clarity and (b) a larger picture. If the screen is enlarged with a given frame and line frequency, the quality of detail and clarity diminishes. An increase in the number of scanning lines is the only known method of satisfactorily accomplishing either of the desired ends. This could be most easily accomplished by increasing the band width of frequencies employed by each station. Each of such stations, however, already requires a large segment of the radio spectrum, a band of 6000 kilocycles which is 600 times the width of that necessary for a standard broadcast station. The number of radio frequencies being severely limited, it is regarded as essential to explore all possibilities of improving performance within



the present 6000 kilocycle band assigned. Since within any given channel an increase in the number of lines entails a lower frame frequency—fewer pictures per second—the problem of flicker and jerky motion is raised.

Considerable research has been carried on in recent years to accomplish a lowering of frame frequency without injury to the quality of the picture. Screens with “memory”, or a chemically retentive quality, have been developed to a substantial but not to a satisfactory degree. Progress has been made but no one yet claims the answer.

In the transmission of the picture units it is essential that the receiver follow the scanning process at the transmitter so that the picture elements reproduced will have the same relative position. In order to keep the receiver locked to the transmitter, it is necessary for the transmitter to transmit keying or synchronizing radio signals in order to maintain the relationship of the transmitted picture units. These signals are known as synchronizing pulses and enable the receiver to be synchronized with the transmitter. In the development of television a number of different pulses have been under study. It is the synchronizing pulse which is the foundation of the lock and key relationship between television transmitter and receiver.

The dispute brought into light at the January hearing centered mainly around proposals regarding frame frequencies, numbers of lines and the character of the synchronizing pulse of transmission. A further difference of opinion involves polarization and is related to the type of antenna to be used.

Upon the question of frame and line frequencies, the RMA proposal of a frequency of a fixed system of 30 frames per second and 441 lines per frame was attacked upon the grounds that it does not permit of sufficient picture detail, that pictures so produced are unsatisfactory for public use, that the development of larger pictures is precluded by such a standard and that the scheme lacks flexibility. Alternate proposals suggested by the critics of this proposed standard involved (1) a flexible frame frequency range of from 15 frames to 30 frames and a range of between 441 lines and 800 lines per frame, and (2) a frequency of 24 frames per second with 500 lines or more per frame. Proponents of the RMA proposals on this question characterized the foregoing alternatives as unsatisfactory for the reason that low frame frequencies create the problem of flicker and smear in reproduction. It was admitted, however, that an increased number of lines produces more desirable picture detail but that an increase in the number of lines to as much as 625 lines necessarily requires reduction in the number of frames to 15 per second with its concomitant problem of flicker and smear. The admitted advantages of increased number of lines and testimony to the effect that further research was in progress towards the development of retentive screens designed to eliminate objectionable flicker and smear, indicated the desirability that the fixing of standards should await the results of such research.

Upon the question of synchronizing pulses DuMont contended that the RMA pulse would not permit automatic reception by receivers of increases or decreases in frame frequencies, which might be found desirable for varying types of programs. He urged as the fundamental essential of flexibility a synchronizing pulse having characteristics enabling automatic adjustment by receivers to various frame frequencies being transmitted. The evidence on this question indicated to the Commission that research directed towards the achievement of such flexibility should go forward.

Philco Radio and Television Corporation opposed the RMA recommendation of horizontal polarization. Many advantages were claimed by Philco for the system of vertical polarization on which research and experimentation were still being conducted. Enough was said in evidence to convince the Commission that further research upon the matter of polarization was necessary.

Although a divergence of engineering opinion existed with respect to the merits and demerits of the various systems in question, the members of the industry appearing before the Commission were in substantial unanimity on the need for the possibilities of improvement in these basic aspects of the television art.

#### *Report of February 29, 1940*

On February 29, 1940, the Commission issued a report embodying its conclusions upon the problems raised during the January hearings. In making this report, the Commission adopted with few changes the rules which it had previously approved tentatively. Sponsored program service for one class of stations (Class II) on a limited basis was to begin on September 1, 1940.

The keynote of the Commission's report and the policy underlying the Commission's rules was that television broadcasting was

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still in an experimental stage and that in view of evidence revealing a substantial possibility of significant improvements in the art, “research should not halt” and “scientific methods should not be frozen in the present state of the art.” The Commission expressed the belief that the crystallization of standards at the current level of the art, by whatever means accomplished, would inevitably stifle research in basic phases of the art in which improvement appeared promising.

Recognizing the danger that research in television might be unduly retarded by immediate promotional activities for a single fixed system prior to the Commission's establishment of standards for this new art, the Commission's unanimous report of February 29, 1940, urged restraint in such activities in order to avoid consequences inimical to the public interest. The report stated:

“The issuance or acceptance of transmission standards by the Commission, especially in combination with the more extensive experimental program service which will in all probability develop under these rules, would have a tendency to stimulate activity on the part both of manufacturers and the public in the sale and purchase of receivers for home use. It is inescapable that this commercial activity inspired and then reinforced by the existence of Commission standards would cause an abatement of research. To a greater or less extent the art would tend to be frozen at that point. . . .

“The same considerations which demonstrate the unwisdom of the Commission's promulgating standards at this time dictate the undesirability of the industry itself attempting to impose such a code on all points. The Commission therefore recommends that no attempt be made by the industry or its members to issue standards in this field for the time being. In view of the possibilities for research, the objectives to be attained, and the dangers involved, it is the judgment of the Commission that the effects of such an industry agreement should be scrupulously avoided for the time being. Agreement upon standards is presently less important than the scientific development of the highest standards within reach of the industry's experts.”

#### *The Position of the Industry on Setting Standards*

The objectives outlined in the February 29 report were a reflection of the almost unanimous opinion of the industry as expressed at the January hearing that standards should not be fixed if research was to go forward and the science developed in the public interest.

The Radio Corporation of America appeared to be in accord with these objectives as is demonstrated by the testimony of E. W. Engstrom, its chief engineering witness and the statements of its counsel, F. W. Wozencraft. Engstrom testified as follows:

“I, as an engineer, *am not recommending that standards be frozen* in the term that I believe has been discussed at this hearing. I think that everyone should have an opportunity to work through the systems in which they are operating.”

Wozencraft stated,

“I am advocating only that the Commission permit applicants to proceed experimentally using certain standards which the Commission will permit the applicant to use. I think the

Commission's position should be kept entirely flexible and I . . . As far as RCA is concerned, we don't ask that the standards be frozen or that the Commission approve the standards in a way which will make it more difficult for anyone else who has other standards at any time", and added

"We have no desire to recommend to the Commission that everybody have to conform to the RMA standards, or have to show that everybody who is operating under RMA standards should have to change to another set of standards because a new applicant wants to use a new set of standards. \* \* \* I don't see why an applicant should have to bear the burden and we do not suggest anything which makes it hard for anybody who thinks he can promote television and render service in that field and serve public interest." \* \* \*

From the foregoing the Commission felt assured that no attempt would be made to freeze the standards by any means. The statements to the Commission, the record shows, were with the knowledge and approval of the RCA president, David Sarnoff.

Yet, on February 29th a letter carefully drafted and reviewed by the Radio Corporation's officials including its president, was signed by Engstrom and delivered to a meeting of the RMA Subcommittee on Television Standards at the Hotel New Yorker, New York City. That letter stated:

"Since television transmission service and the sale of television receivers to the public have already begun on the basis of RMA approved standards, proposals involving changes in transmission standards must necessarily be considered from the point of view of their superiority, if any, over existing standards. *The proponents of changes in these approved standards must, of necessity, bear the burden of proof that such changes would effect a substantial improvement in the service to the public and that a change under the circumstances above referred to is warranted.*"

In April, Engstrom testified as to RCA's meaning in the use of the phrase "burden of proof" as follows:

"*Chairman Fly*: Well, tell me just what you mean by 'burden of proof?'"

"*The Witness*: I mean by that, the kind of activity in the RMA group where one man or one organization brings to that group the experience that he has in a particular line, it is usually up to him—and it always was up to us when we brought such information—to demonstrate to the other members that there was merit in his suggestion. That is what I mean.

"*Chairman Fly*: Yes. But, now, wait a minute. Now, wait a minute. The notion that one member would come in with such a single proposition, and then, would take the burden of demonstrating to your satisfaction—"

"*The Witness*: Not to mine, sir.

"*Chairman Fly*: Well, to the satisfaction of the association.

"*The Witness*: Yes, sir.

"*Chairman Fly*: —carries the implication that there is a status quo there, does it not?"

"*The Witness*: That is correct, but there is an established procedure for changing any standard at any time.

"*Chairman Fly*: And, of course, there would be no need for changing any standard that was not, in effect, fixed?"

"*The Witness*: Yes, that is right."

Meanwhile, on February 8, 1940, at a highly controversial meeting of the RMA Board of Directors, Sarnoff had opposed a proposal by Philco that before any commercialization were undertaken, the RMA standards should be reopened for consideration in the light of pending research and development on other alternatives. Sarnoff stated:

"If that is the point of view, I am sure the *Radio Corporation does not belong around this table, and the quicker it resigns from membership and the quicker it gets out of the RMA and runs its own business in the best way that it thinks it can run it, the greater freedom we shall all have to follow whatever course we wish to follow without any arguments or contentions or oppositions.*"

Following Sarnoff's announcement at this meeting of RCA's proposed commercial activities the following colloquy occurred between W. H. Grimditch of Philco and Sarnoff on the subject of the possible effect of such activities:

"Mr. Grimditch: I am afraid if you would sell 25,000 sets in a year within a short time that would mean there would be

\$10,000,000 worth of obsolete apparatus in the hands of the public.

"Director Sarnoff: *We live on obsolescence, don't we, in this industry? I think it rather silly to argue about obsolete apparatus under those circumstances.* \* \* \* So far as we are concerned, there is no use discussing with us, inside or outside of the RMA, any program the purpose of which is to delay the commercialization of television."

RCA did not carry out the threat to resign from the Association but at the meeting on February 29, when the Engstrom "burden of proof" letter was presented, Philco itself withdrew from the Television Standards Committee, announcing that the Committee could serve no further purpose since the widespread sale of equipment by RCA would make consideration of any standards other than those of RMA futile. At the same meeting, all the members except RCA and Farnsworth voted in favor of considering new proposals as against the suggestion that the RMA standards be reaffirmed, but there is no record of any further action being taken on any new proposals.

The persistent determination of RCA to move forward commercially is thus seen as independent of industry opinion and of the Commission's attitude on standards and commercialization. Announcement of RCA's plans had been made to the industry on February 8 and reiterated on February 29th both prior to the Commission's decision of the latter date. The determination was persisted in despite both industry opposition then and the Commission's decision later. The Commission's report was clear and no misunderstanding of it can be assumed. The record shows moreover that on the day following the announcement of the Commission's report, Bond Geddes, Executive Vice President of the RMA, addressed to Sarnoff and the other members of the RMA a telegram reading in part as follows:

"Federal Communications Commission announced decision to permit limited commercial television operations September first authorizing advertising charges covering cost sponsored programs. *Commission did not fix standards but stated that television quote should not be frozen in the present state of the art unquote.*"

#### Further Hearing of the Commission

Yet, on March 20, 1940, pursuant to RCA's earlier announced intentions to the industry, an intensive promotional campaign was launched by the Company the effect of which if continued and successful would in the opinion of the Commission tend toward the freezing of television broadcasting standards to the single system. Although regular program service by RCA's broadcasting subsidiary, NBC, was promoted and emphasized in extensive and varied public announcements, no mention was made of the experimental character of television broadcasting operations, or of the fact that only the NBC station was on the air in New York City, that such station operated a program service irregularly for two or three hours per day but not on all days of the week, or that future stations employing alternative systems of transmission might not be received by the sets offered for sale.<sup>1</sup>

All of the foregoing factors are of concern to this Commission not because of any question of fair trade practices, but because of the possible impact of RCA's whole course of conduct upon television broadcasting standards. It was apparent to the Commission that it was necessary to reinquire into the situation in order to ascertain whether the rules which it had adopted on February 29, 1940, were contributing toward a result contrary to their fundamental purpose of maintaining fluidity in the art in order to promote its advance and to avoid the premature crystallization of transmission standards, the result against which both the Commission and the industry had warned. Indeed, action in the light of these facts was compelled by the Congressional mandate under which the Commission serves. It would be a violation of its statutory obligations for the Commission to disregard any facts which might foreclose a proper exercise of its duty to fix transmission standards for a single uniform system of television broadcasting. Moreover, the Commission cannot ignore its duty to "encourage the larger and more effective use of radio" and close

<sup>1</sup> Thomas F. Joyce, head of the RCA Sales Department, had testified as follows at the January hearing:

"Q. \* \* \* You can't contemplate the type and character of a change that would make the set obsolete, and whether the cost incident to adjusting it would be greater or smaller, is a question of degree, but it might be rendered obsolete, I assume.

"A. That is correct.

"Q. You further feel that the public should be told about this contingency?"

"A. Yes, I do."

its eyes to activities impending technical progress in the television art.

Accordingly, on March 22, 1940, the Commission scheduled a further hearing to begin April 8, to determine whether any revisions of the rules adopted on February 29 should be made or other action taken by the Commission, and whether the effective date for the beginning of limited commercial operations should be postponed.

The hearing was begun before the full Commission on April 8, 1940, and extended over a period of five days. The parties who appeared and submitted evidence at these hearings were, with few exceptions, the same as those who participated in the Commission's January hearing. Upon request of the parties, opportunity was given for the filing of briefs. Briefs were filed between May 1, and May 7, 1940 by Radio Pictures, Inc., a licensee of a television experimental station, RCA, Don Lee Broadcasting System, DuMont, Philco, Farnsworth, and Columbia Broadcasting System.

#### *Industry Views on Dangers Inherent in Widespread Distribution of Equipment*

The position taken by RCA in the RMA meetings in February was not disclosed to the Commission until its April hearing. Up to that point it had been assumed by the Commission from the testimony given at the January hearing that the position of the entire industry, including RCA, was to avoid a freezing of standards at this time, whether this be accomplished by Commission action or by the commercial activities of the industry itself. Nevertheless, it is difficult to avoid the conclusion that the "burden of proof" agreement which RCA urged upon the Association, combined with the reiteration of forcefully worded assertions of plans for sales promotion, the influence of those plans on the other manufacturers, and the promotional activities themselves, would have had the practical effect of crystallizing television transmission standards to the RMA proposals and of causing a curtailment of research on other proposals. Indeed, recognizing that "Certain companies presumably will proceed with receiver sales," W. R. G. Baker, Director of the RMA Engineering Department, remarked in a letter dated February 27, 1940, to Mr. A. S. Wells, President of the RMA, that "If enough sets are sold the standards may be formulated by reduction to practice."

This conclusion is regarded as inevitable by various other parties to the Commission's hearings. Philco has stated in its brief submitted after the second hearing:

"The Commission's power to fix transmission standards for television broadcasting is clear under Sec. 303(e) of the Communications Act. It is equally clear that, if the Commission refrains from exercising this power and if commercialization (particularly the sale of receivers to the public) proceeds, transmission standards will be fixed by a portion of the industry . . . The public outcry that would result from any later change in standards rendering receivers obsolete will effectively deprive the Commission of its statutory power."

According to the testimony of a Philco witness at the April hearing, the Commission's decision to permit limited commercialization and the announced plans of RCA to engage in active sales of receivers caused it, after March 1, 1940, to abandon all of the research work upon which it was then engaged outside of the RMA standards and to confine such research within those standards. As a result of these circumstances, its research staff was reduced to two-thirds of its former size, and its efforts were directed to the production of receivers.

The testimony of David B. Smith of Philco was as follows:

"Q. Beginning your account at that point, will you state the reasons for abandoning research in these fields other than vertical polarization?"

"A. Well, when we received the Commission's order we, naturally, studied it. There were numerous conferences between our employees and our executives. We were "pleased that the Commission seemed to agree with us that further improvement in the standards were necessary, but we were very much disappointed that they had, apparently, not understood or had not seen fit to take notice of our warning about commercialization. We felt that, while the Commission undoubtedly desired these improvements to be continued, there was a grave danger that the industry would go ahead with the commercialization that we anticipated that they would, and for that reason we felt that the standards we were considering, at least, could not be brought into the art, and, therefore, there was no point in trying to continue that line of research."

"*The Witness:* Our position, sir, was that in order to do research that would be definitely outside of the present standards, the only condition under which that could be done would be with, let's say, a reasonable hope that these improvements could be brought into the standards. As we stated in January, and we would like to repeat right now, that if the standards are actually frozen by the commercial activity of the industry, you cannot reasonably expect one to go ahead and do research outside of those standards."

Witnesses of other companies engaged in research outside of the RMA standards testified that the same considerations would require a discontinuance or curtailment of such research if commercial activities continued on a wide scale.

DuMont Laboratories, Inc., for example, stated in its second brief that if commercial activities in the sale of receivers capable of receiving only 441 line—30 frame pictures continued, "it too would have been obliged to diminish or abandon its research program", and that "there would have been a burden upon any other manufacturer, including DuMont, to prove the superiority of existing and available tested transmission methods under most adverse circumstances."

U. A. Sanabria, an associate of Lee de Forest in American Television Laboratories, which is engaged in general television research and in particular upon a system of interlaced scanning designed to reduce flicker in pictures, testified that there would be no incentive for him to continue his researches in television if a large number of sets operating on present systems were distributed.

Dr. de Forest, long a leader in the radio field, who was unable to appear before the Commission at the second hearing, submitted a statement in writing on April 26, 1940, expressing the view that if commercial activities on the part of the industry continued, he had "no doubt that the present, indisputably half-baked 'standards' in Television would soon be so effectively deep-rooted in the American Television market that further evolution of this infant art would have been rendered economically and actually almost impossible."

It is obvious that the industry as a whole does not share the RCA view of forging ahead regardless of the untested possibilities of improvement on the horizon. It further appears that the industry was not prepared to accept Sarnoff's premise of "We live on obsolescence" as a basis for justifying a heavy public investment at current levels of efficiency.

Indeed, these conclusions reached by a preponderant portion of the industry interested in television's further improvement are inevitable in view of the very nature of television and its operation. In general, it may be said that television transmission will reach satisfactorily only sets designed to receive the number of lines and frames and the type of synchronizing pulse transmitted. Due to this lock and key relation of television transmitter and receiver, substantial changes in transmitters in respect to lines and frames, the retentive quality of screens, and synchronizing pulses, cannot be brought about after widespread distribution of receivers operating on a different combination of these factors. Thus widespread public distribution of sets of a system operating on present levels will undermine incentive for further advance in television broadcasting and the Commission will be confronted with the accomplished fact of frozen transmission standards.

It is this consideration that distinguishes the development of television from that of sound radio. At the time of the initial widespread distribution of sound radio receiving sets to the public, these sets were capable of receiving all types of radio transmission then being considered. General public use and improvement in radio transmission and reception could, therefore, go forward together without any substantial risk that the distribution of receiving sets would result in freezing transmission standards to the then levels. However, since television receiving equipment adequate to receive transmission on one system would often be incapable or inadequate to receive transmission by another system, the widespread distribution of such receiving equipment would tend to cause the particular system of transmission to which it is geared to become a firmly rooted and immobile standard.

#### *Conclusions*

The rules adopted by the Commission on February 29, 1940, were intended to provide for a more rapid development of television by permitting programming experiments concurrently with necessary technical research leading to establishment of transmission standards by the Commission. Subsequent events, however, have demonstrated that commercial television broadcasting without the complete cooperation of the manufacturing industry,

is irreconcilable with the necessary objectives of further technical research and experimentation.

The positions of the different companies on this whole problem cannot be viewed with total disregard of the patent interests of competing manufacturers which find expression in a desire to lock the scientific levels of the art down to a single uniform system based in whole or in part upon such patents. The functions of this Commission are not to be usurped and utilized as a means of monopolizing this important industry either through this or other devices.

It is essential to the program of television that there be not a mere semblance of competition, but that there be a genuine and healthy competition within an unfettered industry. The American system of broadcasting has been established by the Congress on a competitive basis. Television will be an important part of that system. Now, if ever, television is at the crossroad of monopoly or a healthy progressive competition. There can be no doubt as to the direction in which the Commission should, within its powers, attempt to guide it.

The fluid state of the television art and the desirability and need for further technical research before transmission standards are prescribed by the Commission were once again clearly manifested at the Commission's most recent hearing. Engineering opinion on many of the basic problems is still divided at this time. The industry now is no less anxious to continue further engineering improvements on basic aspects of the science than it was at the time of the Commission's earlier hearing. RCA's own engineering expert, for example, testified that his preference was for a system using 507 lines and 30 frames rather than the existing RMA standard of 441 lines and 30 frames. And in fact the very basic problem of what channel width or band of frequencies television shall employ must be regarded as a question not yet closed.

Contrary to the experience of other industries which have found that technical improvements were stimulated by large public use, in the television field a major portion of the industry takes the view that successful promotional activities at this time can act only as an anchor on experimental efforts to go forward. Premature crystallization of standards will, as has thus been pointedly illustrated to the Commission, remove the incentive for technical research toward higher levels of efficiency. If technical research having this goal is retarded or halted, the Commission's duty to fix transmission standards with due regard for considerations of public interest will have been, for all practical purposes, nullified.

It is, therefore, the conclusion of the Commission that in order to assure to the public a television system which is the product of comparative research on known possibilities, standards of transmission should not now be set. It has further been decided that there should be no commercial broadcasting with its deterring effects upon experimentation until such time as the probabilities of basic research have been fairly explored. The Commission agrees with the industry that the earlier plan for arriving at commercial operations by an intermediate half step of partial commercialization to be taken next September cannot be relied upon to serve a useful purpose. The provisions in the rules for Class II stations will be eliminated. As soon as the engineering opinion of the industry is prepared to approve any one of the competing systems of broadcasting as the standard system the Commission will consider the authorization of full commercialization. That a single uniform system of television broadcasting is essential—so far as basic standards are concerned—must also be amply clear. The public should not be inflicted with a hodgepodge of different television broadcasting and receiving systems.

It may be expected that industry opinion will insist upon such standards as will give definite assurance of satisfactory performance and of continuity of service for the public comparable to the continuity of service displayed in the past history of the radio industry. At the same time these basic standards—the standard gauge they may be termed—should afford within their limits reasonable flexibility for future advances in the science of television broadcasting. With the view to encouraging research and experimentation on a wholly flexible basis, the Commission is prepared to authorize broader, experimental operations by existing stations and by a number of additional stations.

Action will be taken promptly upon a number of pending applications for television experimental stations. These will be apportioned among various parts of the country with the view of forestalling any concentration of facilities in particular centers of population to the exclusion of the rest of the country. At the same time this will serve to provide further experimentation on the different systems on a comparative basis. Among the addi-

tional cities under consideration for such facilities are San Francisco, Los Angeles, Chicago, Washington, Albany, Cincinnati, Boston, and others. Each station will be utilized for the predominant purpose of advancing the science of television broadcasting in its engineering aspects. The Commission invites other responsible individuals or companies who are prepared to carry on this work to apply for a license.

Certain basic policies in the licensing of these experimental operations will be followed. A substantial job of research must be done by each station. The channels available are strictly limited, and they must be utilized in the public interest. The radio spectrum is public domain—development in television must be undertaken and advanced in order that this domain be devoted to the best public use. There is no room for squatters and there can be no preemption in this field. Monopoly must be avoided. Free competition is to be promoted and preserved. Accordingly the Commission deems it to be in the best interests of the public that there be a strict limitation on the number of authorizations to any one licensee for television broadcast stations which as a part of the experimentation may take programs to the public. In addition, rules for the regulation of television stations engaged in chain broadcasting will be promulgated at an appropriate time.

No time limit can now be set for the adoption of standards. The progress of the industry itself will largely determine this matter. The Commission will continue its study and observation of television developments and plans to make a further inspection and survey in the early fall. Meanwhile the Commission stands ready to confer with the industry and to assist in working out any problems concerned with television broadcasting.

Revised rules designed to carry into effect the conclusions reached herein will be issued in the near future.

## DISTRICT MEETINGS

Final arrangements have been made for meetings in all of the Districts required under the By-Laws to meet this year for the bi-annual election of Directors. In addition, Sales Managers groups in at least two of the Districts have scheduled meetings in connection with the District meeting.

Following is the schedule with the name of the Director and the Sales Manager Chairman who will preside:

District 2—Director, Harry C. Wilder, WSYR, Rochester, New York, Sagamore Hotel, June 22. Sales Manager Chairman, Charles F. Phillips, WFBL, June 21 (Friday evening).

District 4—Director, John A. Kennedy, WBLK, Greensboro, N. C., Sedgfield, Country Club, June 1-2.

District 6—Director, Edwin W. Craig, WSM, Peabody Hotel, Memphis, Tenn., June 20.

District 8—Director, John E. Fetzer, WKZO, Election of Director held at District meeting, December 6, 1939.

District 10—Director, John J. Gillin, Jr., WOW, Chase Hotel, St. Louis, Mo., June 8.

District 12—Director, Herbert Hollister, KFBI, Farmers & Bankers Insurance Building, Wichita, Kans., June 9.

District 14—Director, Eugene P. O'Fallon, KFEL, Hotel Utah, Salt Lake City, Utah, June 12.

District 16—Director, Donald W. Thornburgh, KNX, June 17.

The NAB Executive Committee, meeting Tuesday in New York, adopted the following resolution about the Code:

"RESOLVED, that the Executive Committee believes the Code has created greater public confidence than ever before enjoyed by the industry, and that the Executive Committee approves the work and actions of the Code Committee and directs the Code Committee to continue to carry on educational work with the membership in District Meetings and at the annual meeting."

The BMI Board met in New York the same day.

## INSURANCE COMMITTEE

The NAB Insurance Committee will meet Wednesday, June 5, at the Ritz Tower, New York. Roger W. Clipp, WFIL, is chairman.

### IMPORTANT NOTICE!

All present broadcast station licenses expire on August 1 and it is necessary to file an application for renewal 60 days prior thereto. The article on page 4278 of last week's NAB REPORTS might be erroneously construed by the reader as meaning that renewal applications did not need to be filed for the August 1 expiration date.

### ALL-EXPENSE TOURS

Members planning to travel to and from the NAB Convention at San Francisco on the Official All-Expense Tours should note the following. The number of rooms with twin beds at the Biltmore Hotel in Los Angeles is limited. Twin bedded rooms will be assigned by the Biltmore in order of application as long as the supply lasts. It's necessarily a case of "first come, first served." Those booking early will get the preferred accommodations. Nuf ced!

Those taking the Three-Weeks Tour will leave San Francisco August 8 for Portland and Seattle, thence homeward by way of the Canadian Rockies or Glacier National Park or Yellowstone Park, as they choose. Because the equipment on the "Cascade Limited" out of San Francisco is somewhat limited, such members are urgently requested to send in their reservations at once. Those booking late cannot be assured accommodations on the "Cascade Limited."

Everything possible is being done by NAB and Raymond-Whitcomb to provide a grand and glorious trip to the Convention and return. To insure smooth operation and freedom from inconvenience, the cooperation of the NAB membership is vitally necessary. Time is getting short! Bookings should be made at once. All reservations and requests for information should be addressed to Raymond-Whitcomb, Inc., 414 North Charles St., Baltimore, Md.

### BMI Developments

All the BMI stations have received a letter dated May 22, 1940, from George M. Marlo, BMI's Professional Manager, asking their cooperation in giving special attention to two of the BMI songs during the period from May 27 to June 9 inclusive.

This is an important part of the work of selling BMI music. We are on a schedule of 30 songs a month. The greatest success for the catalogue will be achieved if plugging efforts are concentrated on only a few songs at a time. Cooperation of all member stations will make these plugs a genuine nationwide campaign that will pro-

duce results. It is planned to list the "plug songs" for each week in these notes. The same songs may be continued for several weeks, being moved from No. 1 and No. 2 down to lower places as new numbers are added to the list for each succeeding week. The length of time during which any particular song is held on the "plug" list will be determined in part by indications of the way it is being received by the listening public.

The naming of songs for special plugging should not, of course, be allowed to work to the detriment of the rest of the catalogue. It is intended only that the songs named should be "aired" with greater frequency and, if possible, with special emphasis and special program attention during the plugging period.

### BMI PLUG TUNES OF THE WEEK

June 1—June 9

HERE IN THE VELVET NIGHT  
IN THE SILENCE OF THE DAWN

BMI now has a representative on the Pacific coast. Richard S. Hartman of Hollywood, formerly business manager for the Society of Composers and Arrangers, resigned from that position to take up the work for BMI.

It was considered important that BMI should be directly represented on the west coast because of the large number of composers who are engaged in staff work for the motion picture companies. Mr. Hartman's experience has given him wide contacts with the creative musicians in that industry and throughout that section of the country.

The first consignment of manuscripts sent by him has just reached the New York office and is in the hands of the editorial staff.

In the near future BMI will publish an album of songs written by Frank Luther—some twenty pieces in one volume. The songs are varied in type, but all of them, like the rest of Mr. Luther's numbers, are characteristically American. They include ballad numbers, novelties, one or two cowboy songs, and several pieces from the Barbary Coast. These latter are really discoveries made by the composer in person. He picked up the music in that famous lurid strip of old California, arranged it and wrote the words.

M. E. Tompkins, BMI's General Manager, announces that by the first of July, BMI will have published more than sixty songs under its own imprint. That is approximately a song for each day of the working week since the first numbers appeared. As a record of production

during the formative period of the working organization, it gives cause for genuine satisfaction.

The BMI directors held a meeting at the New York office on Tuesday, May 28. It was announced that NBC and CBS will each appoint a coordinator whose work will be to arrange for more vigorous plugging of BMI music on the network programs. This is considered a step of major importance in building the popularity of the BMI catalogue. The names of the coordinators will be announced later.

The directors also decided on a formula for the compensation of composers for performance rights in their music. Terms of the formula will be given out after it has been put in definitive form by counsel.

Carl Haverlin, BMI Station Relations Director, has received the following letter from one of the college radio stations:

We are in complete sympathy with the problem of the commercial radio industry. We have felt for many years that ASCAP has been a monopoly,—and as such, should have some serious and aggressive competition. If we can aid in the formation and growth of this competition by becoming members of Broadcast Music, Inc., we shall apply for membership.

Several other non-commercial stations are already BMI subscribers.

## Promotion

### TWO FAIRS TO JOIN HANDS FOR FREE RADIO FETE

Plans for the celebration of America's freedom of radio to be celebrated at the World's Fair have been shifted from the July 4 date to the tentative dates of August 3 or August 7, to coincide with the NAB Convention in San Francisco.

The scope of the event has been considerably enlarged. According to present plans, both the New York and the San Francisco World's Fairs will join hands to convey to the industry the thanks of listeners for the public service rendered by American broadcasters. Exercises on the grounds of both Fairs, as now contemplated, will center around the unveiling of a plaque symbolic of the American system of free radio, which gives American listeners the right to hear as well as the right to be heard. Distinguished representatives of government, religion, education, labor, business, women's organizations, American youth, and the general public will join in the ceremony.

Outstanding radio personalities will take part in an elaborate radio program to be broadcast by the three major networks. The program will also be made available to all non-network stations who desire to participate in

this public tribute to the entire industry. It is anticipated that this special broadcast will require at least a full hour.

In connection with Broadcasting Day at the World's Fairs, NAB has called the attention of Paul Specht, organizer of the "Congress of Radio Events to Commemorate the Twentieth Anniversary of Radio Broadcasting," to the fact that no individual may speak for the industry; that the broadcasters of the country have set up the NAB for that specific purpose.

According to the letterhead of Mr. Specht's committee, this celebration will take place from August 20 to September 15, 1940. According to a story in the May 21 *Christian Science Monitor*, in connection with the proposed ceremonies by this committee, "A bill has been presented to Congress at Washington asking the President to proclaim August 26 as National Radio Day in honor of Dr. De Forest." No request for such a proclamation has been made by NAB.

Last week Mr. Specht addressed a letter to NAB objecting to a story appearing in *The Trade Press* concerning Broadcasting Day at the New York World's Fair. In order to clear up any misunderstanding, we reprint our reply to Mr. Specht, made by Ed Kirby, in whom Mr. Miller has placed responsibility for the industry's institutional promotion.

Mr. Paul L. Specht, Chairman,  
Congress of Radio Events,  
551 Fifth Avenue—Room 1712,  
New York City.

DEAR MR. SPECHT:

Your letter to Mr. Miller, asking the question "How come the announcement of 'Broadcast Day' at the N. Y. World's Fair in Monday's RADIO DAILY?" has been referred to me.

I would have answered your letter sooner, were it not for the fact that I was out of town most of last week.

Your letter requests that we look back over your correspondence and, if possible, "give me a credit line for the thought."

Without going into the fact that there was a broadcasting day at the World's Fair in 1939, immediately following the NAB Convention in Atlantic City, the New York World's Fair has, since the first of the year, been in contact with this office for the purpose of lining up a day set aside in honor of broadcasting. In fact, at one time, serious consideration was given the use of a large building for exhibition and promotional work throughout the entire Fair by the NAB. At no time, to my knowledge, was your name brought up, or any reference made to any plans you had developed.

I am sure you understand that the broadcasters of the country—stations as well as networks—have long since set up the NAB as its central trade body to further the industry-wide interests of broadcasting. If anyone is to speak or to plan for the industry as a whole, it is to be the NAB—not an individual, whether within or without the industry. I am certain you can appreciate the fact that if no such organization did exist, there would be no opportunity for the development of an orderly industry policy and radio would be left to whims of outside, individual exploiters and promoters, however worthy their schemes might be.

Ever since the reorganization of the NAB in 1937, the Public Relations Department which was then instituted has been charged with the duty of promoting radio on all fronts. To further implement the work, an additional man was added to the staff a year ago—Mr. Arthur Stringer. We are currently promoting National Radio Festival—essentially an individual station promotion—to be followed either on the 4th of July or in August on the eve of the NAB Convention, by a broadcast event em-

phasizing America's freedom of radio which parallels freedom of the press, freedom of religion, etc. During the active presidential campaign, radio's role will be emphasized by both political parties who will urge voters to "Listen Before You Vote." Not until late fall, until after the campaign is over, do our plans call for the celebration of radio's twentieth birthday.

These plans have been carefully formulated and follow a logical pattern laid down in 1938-39. They are geared industry-wide. Even should our policy permit, there is no opportunity for us to tie up with any other promotions in the current year. Nor can anyone be permitted to seek government participation, nor to make arrangements in the name of the broadcasting industry. This is the function of the NAB.

I hope this clears up some of the misunderstanding reflected in your letter.

Very truly yours,

EDWARD M. KIRBY,  
*Director of Public Relations.*

## RADIO FESTIVAL

All Oklahoma City stations, KTOK, KOMA, WKY and KOCY; all Pittsburgh stations, KDKA, WCAE, WJAS, KQV and WWSW are set for joint Radio Festival celebration.

Boston's WEEI has completed plans. KABR, Aberdeen, S. D., and WSYR, Syracuse, announce 100 per cent support with details to come. WCAU, Philadelphia, has prepared a veritable radio show. WTAD, Quincy, is completing a fine job. Here's the line up:

### ABERDEEN—KABR

Through KABR, Aberdeen, South Dakota joins the long list of states which will observe National Radio Festival. Comes word from R. Thompson Mabie, production manager: "You may be sure that we will cooperate in Radio Festival in a big way. Details later."

### BOSTON—WEEI

A pair of Open Houses, two contests, a quiz series and an interview series are what WEEI will offer listeners during National Radio Festival week, June 3-8. Here's how L. G. Del Castillo, production manager, has planned it:

- 1—Open House at the studios and transmitter.
- 2—The NAB essay contest.
- 3—A WEEI contest. Prizes to be awarded for the longest list of advertising slogans heard over station.
- 4—An audience-participation studio quiz on the station's daily staff orchestra programs. Cash prize will be given for the correct answers to questions dealing with WEEI and radio history.
- 5—A series of daily interviews with members of staff.

Window displays and publicity will supplement the above program features.

### OKLAHOMA CITY—KOCY-KOMA-KTOK-WKY

"You can count Oklahoma City in on National Radio Festival Week ONE HUNDRED PER CENT! All four station here are together . . . the Governor has issued the proclamation as has the Mayor of Oklahoma City. The 'Week' is to be the one you suggested in the BULLETIN and Oklahoma City is certainly going to be well aware of radio during that week."

W. S. Lukenbill, director of promotion, KOMA, is authority for the above quote. Here's the rest of the story:

- 1—Special 3-hour show at the Oklahoma City Municipal Auditorium, free to the public. One hour of the show will be broadcast by WKY-KTOK-KOMA-KOCY.
- 2—Special newspaper section—Sunday, before National Radio Festival.
- 3—Most prominent "island" window in town to be converted into a news room with AP and UP printers. Announcers from four stations will work in relays. Public address system to be set up for spectators' benefit. Also large displays in windows.
- 4—Special programs and announcements are planned by all stations individually during the week.

In signing off, Brother Lukenbill contributed something which goes to show the warm feeling "folks" have for radio. This

feeling comes from the heart as well as the mind. It makes radio what it is today. The statement is: ". . . we are certainly getting fine cooperation from all concerned. . . ." That makes it possible for Mr. Lukenbill to add enthusiastically: "We expect a tremendous success from this promotion."

### PITTSBURGH—WWSW-KQV-WJAS-WCAE-KDKA

On the last day of Pittsburgh's National Radio Festival, Saturday, June 8, the city's five stations will climax the festivities with a simultaneous broadcast, according to W. B. McGill, sales promotion manager, KDKA. At the concluding meeting of the Pittsburgh broadcasters, on Radio Festival plans, it was agreed that each of the five stations would also broadcast at least three special programs between June 3 and 8.

### SACRAMENTO—KFBK-KROY

Letter of Howard Lane, business manager, KFBK, containing news of National Radio Festival, reached headquarters too late for inclusion in last week's NAB REPORTS though it was written and posted in ample time, normally, to make the headline.

"Radio Festival, May 27-June 1," says Mr. Lane, "promises to be the biggest promotion of this kind that we have ever put on and will cover practically the entire KFBK coverage area."

KFBK and KROY together will launch the opening broadcast for the week, 6:00-6:30 p. m., Monday, with state and city officials among the speakers. Included will be Governor Culbert L. Olsen and California State Superintendent of Public Education W. F. Dexter. The Sacramento Junior College a Capello Choir is scheduled to make an appearance.

KFBK will actually take radio programs to the schools. Special programs will be produced before assemblies of both the Sacramento Senior High School and the McClatchy Senior High School. The program which will be staged on Tuesday and on Friday will include George Breece and the KFBK studio orchestra; vocalist Ruth O'Kane; a talk on "News Used for Radio" by Hugh Gagos, Pacific Coast manager, radio division, United Press; a brief talk and a sample baseball re-creation by Tony Koester, sports announcer; a condensed musical skit, "A Typical Radio Day," to be performed by producer Larry Robertson; and several other acts as yet undetermined.

Personal calls were made on the principals of the five Sacramento Junior High Schools and groups of their students will visit KFBK studios. Through the cooperation of State Superintendent Dexter letters were mailed to every school in the Sacramento Valley, calling attention to the purposes of National Radio Festival and inviting classes to visit KFBK studios.

During the week KFBK news broadcasts will originate in the windows of the Eastern Outfitting Company; and baseball re-creation of the Sacramento Pacific Coast League games will be staged in Sears Roebuck Company's window.

Three and possibly more special school musical programs will be aired from KFBK studios during the week.

KROY's Manager, Will Thompson, Jr., whose participation in National Radio Festival was included in last week's REPORTS, has completed additional plans which include the entertainment of thousands of visitors at the studios. Members of the staff will be on hand to greet the visitors and explain what goes on backstage.

The staff also plans to do a job for the American System of Broadcasting during the week. How it works and why it must be continued will be made clear to students, teachers and the parents of the public and parochial school students.

### SYRACUSE—WSYR

WSYR is another station to announce ONE HUNDRED PER CENT SUPPORT for National Radio Festival. Arnold Schoen, service director, wrote: ". . . you can count on WSYR's supporting Radio Festival Week 100%. Just as soon as we finish our plans I will let you know."

### PHILADELPHIA—WCAU

WCAU has announced ambitious plans for "Radio Open House," which is the Philadelphia version of Radio Festival. Here's what's on the docket for the customers of WCAU. (Philadelphia stations have prepared individual plans.)

- 1—Television. A complete RCA unit.
- 2—Facsimile.
- 3—Pennsylvania State Police Teletype Exhibit.
- 4—Aviation Radio Exhibit. Supplied by United Airlines.
- 5—Voice Mirror. From American Tel. & Tel.
- 6—Radio Set Exhibits.
- 7—Exhibits of tubes, early television models, microphones, etc.

8—CBS network programs. Several shows will be brought from New York to be broadcast from WCAU's auditorium during the week.

#### QUINCY—WTAD

In Quincy, Ill., WTAD began the celebration of Radio Festival on Sunday, May 26, with final programs on Thursday. Townspeople, both youngsters and parents, entered into the activities so enthusiastically that the week was an outstanding success from all points of view.

Twenty merchants donated prizes for essay contest winners, one for each school, with a grand prize of a big radio set to the "best" school. Dramatized versions of the basic essay (American system of broadcasting) material were aired by high school students. In addition entire grades listened to information on American radio during school hours.

The Mayor's Radio Festival proclamation was sent early to teachers, including high school and college; to radio dealers, servicemen and other business houses.

Radio dealers set up special displays during the week and reception of visitors at WTAD's studios began well in advance of the week, itself.

C. Arthur Fifer, general manager, accompanied by Francis Wentura, chief engineer, made a succession of talk-demonstrations before civic clubs.

### BEDTIME RADIO

"Last year Memphis radio announcers won a lot of praise from a lot of folks by suggesting that volume be reduced after 9:30 or 10 in the evenings, and we hope they will give an encore on that kindly act this year. . . . Man's inhumanity to man found a new avenue of expression when radio came in, but the most of it comes from lack of thought rather than from definitely evil intent."

The above is part of a May 20 editorial in the *Memphis Commercial Appeal*. The campaign to control night time loudspeaker volume, instituted by individual stations, is striking a responsive cord.

## Sales

### FREE OFFERS

Comes the month of June and free offers blossom forth like the proverbial flowers in spring. As one member expresses it, "it seems that every association from hair-dressers to hotels is having a National Week," and judging from the money and effort expended on the various free offers, it would also seem that the very life or death of these promotions depended on radio. If that is the case, the following organizations ought to be good prospects for regular radio advertising, and the Bureau has invited them to consider buying time:

The American Golf Institute (A. G. Spalding & Bros, Inc.)  
The American Hotel Association  
The Crowell-Collier Publishing Company  
"Life With Father"—Press Department  
Abbott Kimball Company (on behalf of Pamilla Silver Cloth)  
Exercycle Corporation

The Abbott Kimball Agency in reply disclaims any intention of trying to chisel time, adhering to their original premise that Pamilla Silver Cloth has definite news value for radio listeners, but adding "I personally would like to see our client buy time on the air."

### COST-PER-INQUIRY

Member stations also report considerable activity among the percentage boys. The Bureau of Radio Advertising has written the usual admonition to the following, who have recently sought to place time on a contingent basis:

National Classified Advertising Agency, Akron, Ohio (on behalf of Air Conditioning Training Corp.)  
John A. Smith & Staff, Boston, Mass.  
Sam Houston's Life Story Office, Brownwood, Texas  
Quick Meal Cereal Company, Minneapolis, Minn.

National Classified explain that their request was only in the nature of a guaranteed test campaign, since their client is a regular radio advertiser. In reply, the Bureau has pointed out that testing is a legitimate agency function, and that stations should not be asked to assume such risks, when program content, commercial copy and other factors entering into the success of a radio campaign are the agency's responsibility and under its control.

John A. Smith has withdrawn its percentage request on behalf of Graphology, a course in palm-reading, after the Bureau pointed out that their offer was unacceptable on two counts. The agency agrees to make no other approach of this kind in the future. The Quick Meal Company wanted to buy time only to the extent to which stations could create distribution and wholesaler orders in their area. The Bureau has pointed out that broadcasters are not in the business of acting as salesmen for their advertisers, although willing to extend reasonable merchandising cooperation to regular accounts.

### COMING CONVENTIONS

June 6-8—National Federation of Sales Executives, Milwaukee.  
June 13-15—Associated Grocery Manufacturers of America, The Homestead, Hot Springs, Virginia.  
June 17-20—Mid-Summer convention, National Retail Dry Goods Association, Palmer House, Chicago.  
June 17-20—National Association of Retail Grocers, Hotel Pennsylvania, New York City.  
June 23-27—Annual Convention, Advertising Federation of America, Hotel Sherman, Chicago.  
June 24—Republican National Convention, Philadelphia, Pa.  
July 7-10—Annual convention, Pacific Coast Advertising Clubs Association, Vancouver, B. C.  
July 15—Democratic National Convention, Chicago, Illinois.  
August 4-7—Annual convention, National Association of Broadcasters, San Francisco.

## Labor

### APEX DECISION

The Supreme Court said Monday that the Sherman Anti-trust Act could be applied to labor unions to prevent activities which resulted in "restraint upon commercial competition in the marketing of goods and services."

The decision was a blow to both A. F. of L. and C. I. O. Both organizations had contended that the Sherman Act could not be applied to labor unions at all.



In a smaller sense, labor won the case in point, because the court refused to award triple damages to the Apex Hosiery Company of Philadelphia, victim of a 1937 C. I. O. sit-down strike. The purpose of the strike, the court held, was to force union recognition, and not to restrain trade.

## STATE LEGISLATION

### LOUISIANA:

S. 72 (Carbajal) COPYRIGHTED MUSIC—To repeal Act 137 of 1934, which imposes a license tax on copyrighted music, books and records.

### NEW JERSEY:

A. 459 (Palese) CHIROPODISTS-ADVERTISING—To prohibit chiropodists from advertising their products or prices for their work. Referred to Committee on Public Health.

## The Commission

### “RADIO IN A DEMOCRACY”

James Lawrence Fly, FCC Chairman, gave the following talk at the dedication of the Radio Studio of the University of North Carolina, Chapel Hill, N. C. It was carried over MBS from Station WRAL, Raleigh, N. C., and also by CBS Stations WBIG and WBT at Greensboro and Charlotte, N. C., respectively, at 5 p. m. EST, May 26, 1940:

Today it is our privilege to pause in the peace and security of Chapel Hill—to dedicate to the public service this studio of the University of North Carolina.

Seemingly we pause here in the shadow of a mighty conflict of greater import. Yet, on this quiet spot I cannot but feel the spell of an event of real significance to our own democracy.

Contrast of environment carries its own significance. For the peace and security of Chapel Hill are the peace and the security of America.

With the democracies of the Old World in peril, it is well to reflect upon our own democracy—and more particularly—to take stock of the institutions upon which our republic was founded and upon which its future will depend. Kings Mountain is of lasting importance only as an effort to project into the future principles that would endure as the bases of the life of a free people.

It is essential that government be responsive to public opinion—in the main government must *serve*—only as an *agent* does it rule.

President Washington observed that “In proportion as the structure of a government gives force to public opinion, it should be enlightened.”

Washington realized that the democratic form of government, to function properly and achieve its ideals, must depend upon the intelligence and understanding of its peoples. One of his essential admonitions in the Farewell Address was to “promote—as an object of primary importance, institutions for the general diffusion of knowledge.”

Public education and an intelligent, well informed public opinion are basic in our way of life and in our process of self government.

In sharp contrast, under other systems, mental and spiritual subjugation have preceded the subjugation of peoples generally and their eventual alignment with machines which rule by force.

In general it may be observed that rule by force has *not* been accomplished internally where there existed a free educational system and the unfettered means for the reception of information.

Seizure of the radio has been an early step in the process of subjugation.

Our system of public education has come down to us from the days of Washington and has continued to serve the basic purposes he enunciated.

The University of North Carolina is a great progressive public educational institution. In one of our parent states it has brought

down to us the principles of our fathers and has equipped us to effectuate those principles as instruments of public welfare.

More importantly, Chapel Hill is symbolic—the symbol of the whole system of public education which we have inherited as a part of the American system.

The advent of radio presents us with another facility of great import. It has a tremendous influence upon the lives of the peoples, their customs, their pattern of thought.

Recently, the press carried a story concerning the death of a French physicist, Dr. Edouard Branly, who cooperated with Marconi in the development of radio. It is stated that he had frequently expressed his disgust with having had anything to do with the development of an instrument which is now being so frequently perverted for propaganda purposes.

But there is no question as to whether this powerful instrument exerts a great influence—the only question is whether that force is to be used to serve the ends of a few who would dominate or shall function as a servant of the people.

It is well to remember that radio is not an instrumentality for foisting upon the public the particular social, religious or political philosophy of any individual or group of individuals.

My predecessor, that distinguished North Carolinian, has reminded you that the radio serves primarily the millions of listeners and only secondarily the few who speak. I should be happy if it were possible for everyone to use the radio for purposes of free speech. That is impossible. From the very limited nature of the facility it is at once apparent that the paramount interest is not in the single speaker—but in the millions of listeners. A duty would seem to arise, therefore, to recognize and to serve that great public interest, among other ways, by a full and fair dissemination of facts.

But the conclusion rests not merely upon a contrast in the relative numbers of listeners and speakers. The radio spectrum is public domain—not private. A radio frequency is not subject to ownership. Therefore any occupancy of the air waves is charged with a public trust.

As education has long been essential to democracy, a radio system to serve the public interest has now become essential to education.

It should and it can rise to its responsibilities.

Radio is an advancing art. As new forms are developed, and more and better facilities are provided, radio will, if possible, exert a still greater force upon our lives. The Commission has recently authorized the full commercial operation of frequency modulation—which will give an improved radio service and open up a range of frequencies not heretofore in use by radio. Particular care was taken to set aside a number of the FM frequencies to be utilized exclusively by educational stations.

Research and experimentation in television are advancing and in a few years this combination of radio sight and sound may be expected in your homes.

But radio *today* is one of our mightiest forces—it has served and does serve important functions.

In passing, we ought to recognize the great work which the radio broadcasters are doing in the presentation of war news and commentaries, their balanced reporting of general information and their grants of time for the discussion of public issues. Editorial attitudes are seldom displayed by broadcasters. These services lead toward the goal of a well informed public—the best informed public in the world. Under these circumstances the legal right to form an independent judgment upon public issues takes on real substance.

Much time has been given to programs by educational institutions. And this makes possible the effective work of studios such as this of the University of North Carolina.

For a stronger reason this studio and those engaged here are not to serve a selfish end. By this act today, this studio is dedicated to the enduring service of the people. Here indeed is the grant of a privilege to reach into the homes of the millions. But of far greater significance is the attendant responsibility upon you to meet the needs of a free people. The freedom involved is not yours in any peculiar sense—the freedom is that of the people to be served.

One of your problems is to devise programs and methods of presentation which will reach actual listeners. A possible listening public is not sufficient. But, into these questions as to particular programs and techniques, I shall not intrude. It is of greatest importance as a matter of principle that the work done here shall be designed fairly and effectively to promote the informational needs of the people. In that way, the cause of democracy is served. To no greater purpose could we today, in the quiet peace of Chapel Hill, solemnly dedicate this studio.

## TO ELIMINATE DOUBLE CALL-LETTERS

To prevent confusion and in the interests of simplification, the FCC is moving to eliminate the few remaining double call-letter designations retained by standard broadcast stations as a result of past consolidations.

Accordingly, the Commission is writing letters to WIOD-WMBF, the Isle of Dreams Broadcasting Corporation, Miami, Fla., and WSYR-WSYU, Central New York Broadcasting Corporation, Syracuse, N. Y., suggesting that they dispense with one half of their respective combinations, and allowing them to make such choice.

### KWBD CP CANCELLED

The FCC has cancelled a construction permit issued W. B. Dennis on July 12, 1939, for a radio broadcast station at Plainview, Texas.

This action was taken after the permittee admitted, as a result of a show cause order issued March 12 last, that he made misstatements relative to his financial position in applying for the permit. The station, which had been assigned the call letters KWBD, proposed to operate daytime on 1200 kilocycles with 100 watts power.

## FEDERAL COMMUNICATIONS COMMISSION

### DECISION

FCC has adopted as final its Proposed Findings of Fact and entered an order granting the application of Neptune Broadcasting Corp. for a construction permit for a new radio broadcasting station at **Atlantic City, N. J.**, to operate unlimited time, using the frequency **1420 kilocycles**, with power of 100 watts night, 250 watts day, upon the condition that the corporation file an application for modification of construction permit, specifying the exact transmitter location and the antenna system, within two months.

### FINDING OF FACTS

The Commission has announced its Proposed Findings of Fact and Conclusions, proposing to grant the application of Pawtucket Broadcasting Company for a new station at **Pawtucket, Rhode Island**, to operate on the frequency of **1390 kilocycles** with power of 1000 watts, unlimited time, subject to the condition that Paul Oury shall not have any interest in the proposed station or be associated with it as manager or in any other capacity.

In its findings of fact, the Commission concludes:

1. The applicant as now constituted, the capital stock in the corporation formerly held by Paul Oury having been surrendered and the latter having withdrawn from

any connection with the applicant, is qualified to construct and operate the proposed station.

2. The use of the frequency of 1390 kilocycles for operation of a station as proposed by applicant will provide service to Pawtucket and to some extent, particularly in the daytime, to surrounding areas.

3. The frequency specified by the applicant may be employed in the situation presented here to better advantage than any other regional frequency or local frequency which might have been requested, and the proposed use of the frequency subject to the conditions which have been indicated is not inconsistent with the purposes of the Commission's plan of allocation.

The Commission has announced its proposed findings of fact and conclusions (No. B-107), proposing to GRANT the renewal of license for station WAAB, The Yankee Network, Inc., Boston, Mass., for the main and auxiliary transmitters: (station operates on 1410 kc., 1 KW, unlimited time); and DENY the application of The Mayflower Broadcasting Corporation for authority to establish a new station on 1410 kc., 500 watts night, 1 KW day, unlimited time (the facilities of WAAB).

In its conclusions the Commission states:

1. Applicant, the Mayflower Broadcasting Corporation, is not shown to be financially qualified to construct and operate the station proposed by it.

2. Representations made to the Commission in the application, under oath, were not in fact true. Whenever an applicant, such as here, makes material representations in its application which are at variance with the true facts, a serious question is presented and problems arise which affect and, in fact, substantially impede, the progress of the Commission in carrying out its mandate under the statute. Under no circumstances can the Commission excuse or condone action of this sort. A proposed licensee who acts in this manner cannot be entrusted with the burdens imposed by a broadcast license.

3. The granting of the application of the Mayflower Broadcasting Corporation will not serve public interest, convenience or necessity.

The granting of the applications of The Yankee Network, Inc. (WAAB), for renewal of licenses for main and auxiliary transmitters will serve public interest, convenience or necessity.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following hearings and oral argument are scheduled in broadcast cases before the Commission for the week beginning Monday, June 3. They are subject to change.

Monday, June 3

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 250 watts, unlimited time.

NEW—World Peace Foundation, Abraham Binneweg, Jr., Oakland, Calif.—C. P., 1614, 2398, 6425, 8655, 9135, 17310, 12862.5 kc., 250 watts, Emission A, A1, A2, A3, unlimited time.

Thursday, June 6

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

WPAY—Chester A. Thompson (Transferor), and The Brush-Moore Newspapers, Inc. (Transferee), (applicants for consent to transfer control of Vee Bee Corporation, licensee of Station WPAY, Portsmouth, Ohio).—Re: Petition for Rehearing.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Gainesville Broadcasters, Gainesville, Ga.—Granted construction permit for new station to operate on 1210 kc., 250 watts, unlimited time. Exact transmitter site and type of antenna to be determined subject to Commission's approval.

The Valley Broadcasting Co., Steubenville, Ohio.—Granted construction permit for new station to operate on 1310 kc., 250 watts, S.H. (all hours not used by WSAJ, Grove City, Pa.). Exact sites of transmitter and studio location and type of antenna system to be determined by Commission's approval.

Leonard A. Versluis, Grand Rapids, Mich.—Granted construction permit for new station to operate on 1310 kc., 250 watts, unlimited time, Class IV station. Exact transmitter site and type of antenna to be determined subject to Commission's approval.

WLAP—American Broadcasting Corp. of Kentucky, Lexington, Ky.—Granted modification of license to increase night power from 100 to 250 watts, operating unlimited time on 1420 kc.

WARM—Union Broadcasting Co., Scranton, Pa.—Granted modification of construction permit to make changes in antenna, increase night power from 100 to 250 watts, change transmitter site locally, and extend commencement date and completion date to 60 days after grant and 180 days thereafter, respectively.

KSLM—Oregon Radio, Inc., Salem, Ore.—Granted modification of license to increase night power from 500 watts to 1 KW, operating on 1360 kc., unlimited time.

KSCJ—Perkins Bros. Company (The Sioux City Journal), Sioux City, Iowa.—Granted modification of construction permit authorizing changes in directional antenna system.

WJRD—James R. Doss, Jr., Tuscaloosa, Ala.—Granted modification of license to increase night power from 100 to 250 watts, on 1200 kc.

WKAT—A. Frank Katzentine, Miami Beach, Fla.—Granted construction permit to install new transmitter, change frequency from 1500 to 1330 kc., increase power from 250 watts to 1 KW, move transmitter and install new antenna.

WICA—WICA, Inc., Ashtabula, Ohio.—Granted construction permit to make changes in equipment and increase power from 500 watts to 1 KW, operating daytime only on 940 kc.

WIOD-WMBF—Metropolis Publishing Co., Miami, Fla.—Granted consent to transfer control of Isle of Dreams Broadcasting Corporation from Metropolis Publishing Company to Miami Daily News, Inc. Station operates on 610 kc., 1 KW, unlimited time.

WKAR—Michigan State College, East Lansing, Mich.—Granted construction permit authorizing increase in power from 1 KW to 5 KW, operating daytime only on 850 kc.

### DESIGNATED FOR HEARING

George F. Meyer, Medford, Wis.—Application for construction permit for new radiobroadcast station to operate in Medford, Wis., Class IV, on 1500 kc., 100 watts, unlimited time (B4-P-2501).

Capital Broadcasting Co., Washington, D. C.—Application for construction permit for new radio broadcast station to operate in Washington, D. C., Class IV, on 1420 kc., 250 watts, unlimited time (B1-P-2679).

General Broadcasting, Inc., Miami, Fla.—Application for construction permit for new radiobroadcast station to operate in Miami, Fla., Class III-B, on 1330 kc., 500 watts night, 1 KW day, unlimited time (B3-P-2749).

Oscar Kronenberg, Steubenville, Ohio.—Application for construction permit for new radiobroadcast station to operate in Steubenville, Ohio, on 1310 kc., 250 watts, unlimited time (B2-P-2657).

Hobart Stephenson, Milton Edge and Edgar J. Korsmeyer, d/b as Stephenson, Edge and Korsmeyer, Jacksonville, Ill.—Application for construction permit for new radiobroadcast station to operate in Jacksonville, Ill., on 1150 kc., 250 watts, daytime (B4-P-2465). (Docket No. 5779); and

Helen L. Walton and Walter Bellatti, Jacksonville, Ill.—Application for construction permit for new radiobroadcast station to operate in Jacksonville, Ill., on 1150 kc., 250 watts, daytime (B4-P-2623).

Joint hearing on above two cases.

### RENEWAL OF LICENSES

The following stations were granted renewal of licenses for the period June 1 to August 1, 1940:

KFKU, Lawrence, Kans.; KGVO, Missoula, Mont.; KHSL, Chico, Calif.; KSAL, Salina, Kans.; KVOR, Colorado Springs, Colo.; WDAE, Tampa, Fla.; WHA, Madison, Wis.; WICA, Ashtabula, Ohio; WREN, Lawrence, Kans.; WRR and auxiliary, Dallas, Tex.; WTCN, Minneapolis, Minn.; WNBX, Springfield, Vt.

The following stations were granted extension of licenses upon a temporary basis only, to not later than July 1, 1940, subject to whatever action may be taken upon the pending application for renewal of license:

KGBU, Ketchikan, Alaska; KXO, El Centro, Calif.; KTHS, Hot Springs National Park, Ark.; KFAR, Fairbanks, Alaska; KOY, Phoenix, Ariz.; WMC and auxiliary, Memphis, Tenn.; WGST and auxiliary, Atlanta, Ga.; KMA, Shenandoah, Iowa; KTBC, Austin, Tex.; KTW, Seattle, Wash.; WDSU, New Orleans, La.

KWJB—Sims Broadcasting Co., Globe, Ariz.—Granted extension of special temporary authority to Bartley T. Sims, remaining partner of the partnership formerly composed of Bartley T. Sims, W. J. Sims, and John W. Sims, d/b as Sims Broadcasting Co. (Bartley T. Sims, Manager), to operate Station KWJB, upon a temporary basis only, to not later than July 1, 1940, subject to whatever action may be taken upon the application for renewal of the station's license, and upon the further condition that such special temporary authority shall not be construed as a finding by the Commission that the operation is, or will be, in the public interest beyond the express terms hereof.

W2XQO—Knickerbocker Broadcasting Co., Inc., Flushing, N. Y.—Granted renewal of high frequency broadcasting station license for the period ending April 1, 1941.

W9XSP—Star-Times Publishing Co., St. Louis, Mo.—Granted further extension of facsimile broadcast station license, upon a temporary basis only, pending determination upon application for renewal of license, to not longer than July 1, 1940.

W9XG—Purdue University, West Lafayette, Ind.—Granted further extension of television broadcast station license, upon a temporary basis only, pending receipt and determination upon application for renewal of license, to not longer than July 1, 1940.

W9XK—State University of Iowa, Iowa City, Iowa.—Granted further extension of television broadcast station license, upon a temporary basis only, pending receipt and determination upon application for renewal of license, to not longer than July 1, 1940.

The following high frequency broadcast stations were granted extension of licenses upon a temporary basis only, pending receipt and/or determination upon applications for renewal of licenses, to not later than July 1, 1940:

W8XWJ, Detroit, Mich.; W2XDA, Schenectady, N. Y.; W2XOY, Albany, N. Y.

### MISCELLANEOUS

WGAN—Portland Broadcasting System, Inc., Portland, Me.—Granted special temporary authority to operate from 10:45

- p. m. to 11 p. m., EDST, on May 26, 1940, in order to broadcast the complete address of the President.
- WHKC—United Broadcasting Co., Columbus, Ohio.—Granted special temporary authority to operate from 9:45 p. m., EST, to the conclusion of President Roosevelt's defense program speech on May 26, 1940.
- KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Granted special temporary authority to operate from 8:45 p. m. to 9 p. m., CST, on May 26, 1940, in order to broadcast the President's fireside chat.
- WTBO—Associated Broadcasting Corp., Cumberland, Md.—Granted special temporary authority to operate from 8:15 p. m., EST, to the conclusion of President Roosevelt's speech on May 26, 1940.
- WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate from 8 to 9:15 p. m., CST, on June 9, 16, 23, 30; from 9:15 to 9:30 p. m., CST, on June 11, 12, 13, 1940, in order to broadcast special educational programs (provided KGGF remains silent); to remain silent from 7:15 to 9:15 p. m., CST, on June 4 and 6, and from 8:15 to 9:15 p. m., CST, on June 5, 1940, in order to observe beginning of summer school term (B3-S-464).
- WRGA—Rome Broadcasting Corp., Rome, Ga.—Granted special temporary authority to rebroadcast program material to be received from frequency modulated transmitter on Amateur Station W4DCC operating on the five meter band. on June 2, 1940, in order to demonstrate frequency modulation to the assembly at the annual Northwest Georgia Amateur Radio Club "Hamfest."
- KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate with power of 250 watts from 7:45 p. m., CST, to the conclusion of Graduation Exercises on May 30, 1940, in order to broadcast said program only.
- KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to remain silent from 8 to 9:15 p. m., CST, on June 9, 16, 23, 30; from 9:15 to 9:30 p. m., CST, on June 11, 12, 13, 1940, in order to permit WNAD to broadcast special educational programs; to operate from 7:15 to 9:15 p. m., CST, on June 4 and 6, and from 8:15 to 9:15 p. m., CST, on June 5, 1940, in order to permit WNAD to remain silent during beginning of summer school term (provided WNAD remains silent) (B4-S-710).
- WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 8:30 a. m. to 9 a. m. and from 9 a. m. to 10 a. m., EST, on May 30, 1940, in order to broadcast Morning Musicales and Memorial Day tribute respectively; to operate from 8:30 a. m. to 10 a. m., EST, for the period June 17, 1940, to not later than June 28, 1940, except Saturdays and Sundays, in order to broadcast the Morning Musicales from 8:30 to 9 a. m., Favorite Waltzes from 9 to 9:30 a. m., and Tuneful Topics from 9:30 to 10 a. m.; all programs to be sustaining (provided WSVS remains silent).
- WNBW—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate relay broadcast station WNBW on board steamship *Brazil*, using a 500-watt NBC Composite transmitter, type P-500-A, serial No. 1, crystal control, high level modulation with 4 RCA 805 tubes in the last radio stage under the permissive proviso of Sec. 308(a) of the Act, and to operate on additional frequencies 4797.5, 6425, 9135, 12862.5, 17310 ke., in order to relay broadcast Toscanini Concerts and special program material from the *Brazil* bound for east coast South American ports to the NBC network for the period May 30, 1940, to not later than June 28, 1940 (providing no interference caused ship station WSBW).
- WKPT—C. P. Edwards, Jr., and Howard Long, d/b as Kingsport Broadcasting Co., Kingsport, Tenn.—Granted modification of construction permit for new broadcast station, for approval of antenna and approval of studio site at Commerce St., Kingsport, and transmitter site at Kingsport, Tenn.; 1370 ke., 250 watts, unlimited time (B3-MP-965).
- KERN—McClatchy Broadcasting Co., Bakersfield, Calif.—Granted modification of construction permit for change in frequency, increase in power, installation of new transmitter and antenna, and move of transmitter and studio, for approval of antenna and transmitter site at Oak at Ming, Bakersfield, Calif., studio location at present site, and install new transmitter; frequency 1380 ke., 1 KW power, unlimited (B5-MP-964).
- W8XVH—WBNS, Inc., Columbus, Ohio.—Granted construction permit to install new equipment in high frequency broadcast station (B2-PHB-239).
- WBAA—Purdue University, W. Lafayette, Ind.—Granted special temporary authority to operate from 4 p. m. to 6 p. m., CST, June 9, 1940, in order to broadcast the complete Commencement Service of Purdue University only (B4-S-501).
- The Brockway Co. and The St. Lawrence University.—Granted motion to dismiss without prejudice the application of St. Lawrence University, Canton, N. Y. (WCAD), for assignment of license from St. Lawrence University to The Brockway Co.; station operates on 1220 ke., 500 watts, specified hours.
- WTCN—Minnesota Broadcasting Corp., Minneapolis, Minn.—Granted petition for leave to amend its application for construction permit to change frequency from 1250 ke., 1 KW, 5 KW local sunset, to 710 ke., 10 KW, 10 KW local sunset, unlimited time, directional antenna night, with respect to proposed site and directional antenna.
- WWRL—Long Island Broadcasting Corp., Woodside, L. I.—Adopted order extending effective date of Provision (3) of Commission Order of December 5, 1938, for a period of 60 days from May 28, 1940.
- WAGA—Liberty Broadcasting Corp., Atlanta, Ga.—Granted petition to accept amended application substituting the Fort Industry Company as proposed transferee in place of James M. Cox, Jr., reconsidered its action of April 13 in designating the application for hearing, and granted amended application authorizing transfer of control of Liberty Broadcasting Corp., licensee of Station WAGA, from Norman K. Winston to The Fort Industry Co. Station operates on 1450 ke., with 500 watts night, 1 KW LS, unlimited time.
- KWBD—W. B. Dennis, Plainview, Tex.—Adopted an order rescinding action of July 12, 1939, granting a construction permit for a new station to operate on 1200 ke., 100 watts, and cancelled the authorization.
- KGNF—Great Plains Broadcasting Co., North Platte, Nebr.—Granted license to cover construction permit for changes in equipment; 1430 ke., 1 KW power, daytime hours of operation (B4-L-1150).
- KLBM—Harold M. Finley and Mrs. Eloise Finley, LaGrande, Ore.—Granted license to cover construction permit for changes in equipment; 1420 ke., 250 watts, unlimited time (B5-L-1144).
- WISN—Hearst Radio, Inc., Milwaukee, Wis.—Granted authority to determine operating power by direct measurement of antenna input, for main and auxiliary transmitters (B4-Z-395).
- WFNC—W. C. Ewing and Harry Laymon, d/b as Cumberland Broadcasting Co., Fayetteville, N. C.—Granted modification of construction permit to install new type transmitting equipment and approval of studio site, and extend date of completion from May 20, 1940, to June 30, 1940 (B3-MP-982).
- KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate with power of 250 watts from 7:45 p. m., CST, to conclusion of church service on June 2, 9, 16, 23, and 30, 1940, in order to broadcast church services only.
- WLWO—The Crosley Corp., Cincinnati, Ohio.—Granted extension of special temporary authority to operate the old transmitter of International Broadcast Station WLWO on 6060 ke. from May 30, 1940, to not later than June 28, 1940, pending adjustments to be made on new transmitter before other frequencies licensed for the use of that station can be employed over the new transmitter.
- WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted special temporary authority to operate from 7:45 p. m. to 9:30 p. m., EST, June 1, 1940, in order to broadcast an address by the Chief of Staff of the U. S. Army, General George C. Marshall, only.
- W10XMC—McNary and Chambers, Washington.—Granted special temporary authority to use Composite CT, 100-watt transmitter on 1210 ke., for a period not to exceed 30 days, in order to make tests of possible transmitter sites and propagation characteristics in this area on this frequency to more accurately determine the results of operation of proposed station in area of Schenectady, N. Y., pending action on formal application for developmental broadcast station (File No. B-PEX-33).

WNEL—Juan Piza, San Juan, P. R.—Denied special temporary authority to rebroadcast on a sustaining basis the commercial programs to be received from international broadcast stations WNBX and WRCA over WNEL, from June 1 to not later than June 30, 1940.

WENS—Radio Station WSOC, Inc., Portable-Mobile (area of Charlotte, N. C.).—Granted license to cover construction permit for changes in equipment (B3-LRE-312).

KSFQ—The Associated Broadcasters, Inc., Portable-Mobile (area of San Francisco, Calif.).—Granted license to cover construction permit for new relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., power 15 watts (B5-MRY-190).

KFBI—The Farmers & Bankers Broadcasting Corp., Wichita, Kans.—Granted special temporary authority to operate from 8:45 p. m. to 9 p. m., CST, or to conclusion of speech on May 27, 1940, in order to broadcast an address by Thomas E. Dewey.

WADC—Allen T. Simmons, North of Akron, Ohio.—Granted modification of construction permit as modified, which authorized installation of directional antenna for day and night use, increase in power from 1 KW, 5 KW day, to 5 KW day and night, and move of studio and transmitter, for installation of new transmitter and change studio site (B2-MP-980).

KMYC—Marysville-Yuba City Broadcasters, Inc., Marysville, Calif.—Granted modification of construction permit which authorized construction of new broadcast station, for approval of antenna and transmitter site, and change in location of studio; 1420 kc., 100 watts, unlimited time (B5-MP-967).

## APPLICATIONS FILED AT FCC

### 550 Kilocycles

KOAC—Oregon State Agricultural College, Corvallis, Oregon.—Construction permit to install new transmitter, increase power from 1 KW to 5 KW, move transmitter, and install directional antenna for day and night use. Amended: To request 1 KW night and 5 KW day.

### 600 Kilocycles

KFJI—KFJI Broadcasters, Inc., Klamath Falls, Oregon.—Construction permit to install new transmitter, new antenna system, change frequency from 1210 kc. to 600 kc., increase power from 100 watts to 500 watts night, 1 KW day, move of transmitter from Willard Hotel, 215 Main St., Klamath Falls, Oregon to Rocky Pt. Rd., Klamath Falls, Oregon. Class III-B Station.

### 620 Kilocycles

NEW—North Jersey Advertising Co., Elizabeth, N. J.—Construction permit for a new broadcast station to be operated on 620 kc., 250 watts, unlimited time. Class IV Station.

### 880 Kilocycles

WSUI—State University of Iowa, Iowa City, Iowa.—License to cover construction permit (B4-P-2260) to increase power, install new transmitter and directional antenna for day and night use, and move transmitter.

WSUI—State University of Iowa, Iowa City, Iowa.—Authority to determine operating power by direct measurement of antenna power.

### 920 Kilocycles

WWJ—The Evening News Assn., Detroit, Mich.—Construction permit to make changes in transmitting equipment, increase power from 1 KW night, 5 KW day to 5 KW day and night, and install directional antenna for night use. Requests Class III-A Station.

### 1200 Kilocycles

WCOL—WCOL, Inc., Columbus, Ohio.—License to cover construction permit (B2-P-2508) for change in frequency, increase in power, changes in equipment.

### 1340 Kilocycles

KGNO—The Dodge City Broadcasting Co., Inc., Dodge City, Kansas.—Modification of license to increase power from 250 watts night, 1 KW day, to 500 watts night, 1 KW day.

### 1350 Kilocycles

WMBG—Havens & Martin, Inc., Richmond, Va.—Construction permit to install new auxiliary transmitter using power of 1 KW instead of 250 watts, for emergency use only.

### 1360 Kilocycles

WCSC—South Carolina Broadcasting Co., Inc., Charleston, S. C.—Authority to transfer control of corporation from The Liberty Life Insurance Co. to John M. Rivers, 200 shares common stock.

### 1370 Kilocycles

WARM—Union Broadcasting Co., Scranton, Pa.—Modification of construction permit (B2-P-2366) as modified, for a new station, requesting authority to install new type transmitter, and extend completion date 60 days after grant.

NEW—Ralph L. Lewis, Greensboro, N. C.—Construction permit for a new broadcast station to be operated on 1370 kc., 100 watts, unlimited time. Class IV Station. Amended: To specify transmitter site as 101-107 S. Davie St., Greensboro, N. C.

WRJN—Racine Broadcasting Corp., Racine, Wisc.—Authority to determine operating power by direct measurement of antenna power.

### 1500 Kilocycles

NEW—Roanoke Broadcasting Corp., Roanoke, Va.—Construction permit for a new broadcast station to be operated on 1500 kc., 250 watts, unlimited time. Class IV Station.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Crayon Company**, Sandusky, Ohio, and **Binney & Smith Company**, 41 East 42nd St., New York, manufacturers of crayons, chalk, paint sets, educational supplies and allied products, have been served with complaints alleging violation of the Robinson-Patman Act.

It is alleged that the respondents have been discriminating in price between different purchasers by selling their products to some of their customers at lower prices than they sell articles of like grade and quality to other customers competitively engaged one with the other in the resale of such merchandise.

According to the complaints, the respondents sold their products at one list price from which they allowed a 50 per cent trade discount to customers who bought in case lots either for use or for resale. It is alleged that The American Crayon Company designated certain of this class of customers as "Multiple Discount Customers," and to some of them granted additional discounts over and above the regular trade discount ranging from 5 to 15 per cent, while to others of this class it allowed a discount of 10 plus 10 per cent over and above the regular trade discount.

It is alleged that the Binney & Smith Company designated certain of its customers receiving the 50 per cent trade discount as "Competitive Distributors," allowing to some of them an additional discount of 5 per cent over and above the trade discount, and to others of this class a discount of 10 per cent over and above the regular trade discount.

The complaint alleges that the "Multiple Discount Customers" of The American Crayon Company and the customers of the Binney & Smith Company known as "Competitive Distributors," who were granted the discounts over and above the regular trade discount of 50 per cent off list price, are in active competition with others of the respondents' customers who purchase in case lots and who do not receive any discounts over and above the trade discount.

The result in each case is alleged to be a substantial lessening of competition in the sale, distribution, and resale of the respondents' products.

It is further alleged that the respondents have been granting compensation in the form of percentage discounts or allowances to some of their customers designated "Special or Promotional Distributors" in the case of The American Crayon Company and "Special or Promotional Representatives" in the case of the Binney & Smith Company. Such percentage discounts allegedly have been granted to favored customers in consideration for merchandising and selling services furnished in connection with the sale of the respondents' products. The percentage discounts allegedly are deducted from the invoice price and are over and above the regular trade discount of 50 per cent off list price. It is charged that the respondents have granted such percentage discounts to their favored customers without making them available on proportionally equal terms to other customers competing with such favored customers in the sale and distribution of the respondents' products.

The complaints point out that the other customers not receiving the special discounts are able and willing to furnish the respondents the same services and facilities as do the favored customers and have requested that they receive the special compensation but that the respondents have refused to grant it. (4142-4143)

**Binney & Smith Company**—See American Crayon Company.

**Empire Style Designers League, Inc.**—Alleging a price-fixing conspiracy in the fur coat pattern business a complaint has been issued against Empire Style Designers League, Inc., 276 Fifth Ave., New York, and ten New York pattern producers who are members of the league and the dominant factor in the fur coat pattern trade.

Respondent league members are: Sol Vogel, trading as Sol Vogel Fashion Imports, and Octave Golos, both of 330 Seventh Ave.; Alexander Greenstein and Abraham Fessler, doing business as Greenstein Fur Modes, 345 Seventh Ave.; Samuel Handelman, Mendel Levine, and Anthony T. Sozio, all of 333 Seventh Ave.; Lazare T. Sherman, 370 Seventh Ave.; Evangelista Petrocelli, trading as Van-Celli Fur Fashion Company, 127 West Thirtieth St.; Benedict Savio, trading as Savio Fur Modes, 352 Seventh Ave., and Bern Publishers, Inc., trading as American-Mitchell Fashion Publishers, 360 Seventh Ave., all engaged in the creation of styles and the designing and making of patterns for women's fur coats and the grading, copying and sale and distribution of such patterns in interstate commerce.

It is alleged that the respondent members, acting jointly through the league as a clearing house, combined, agreed and conspired in (1) arranging for and fixing uniform prices at which their products were and are to be sold; (2) publishing such prices in lists, newspapers, magazines and other periodicals and circulars, and (3) adhering to the uniform prices as set forth in the issued and published price lists.

According to the complaint, the respondents' practices have resulted in prevention of price competition among themselves; placed in them the power to control and enhance prices of their products, and tended to create in them a monopoly. (4136)

**Farmers Vaccine & Supply Company**—Alleging misrepresentation in the sale of a drug preparation recommended for use in rendering cattle immune to "Bang's Disease," a complaint has been issued against John H. Osterhaus, trading as Farmers Vaccine & Supply Company, 1619 West Sixteenth St., Kansas City, Mo.

The respondent allegedly represented that by one injection of his product "Abortion Vaccine" into each animal of a herd of cattle, the herd and each animal treated is rendered immune to Bang's disease, and will not, although later exposed, become infected.

Among other representations alleged to have been made by the respondent are that one dose of Abortion Vaccine gives lasting protection; that considerable protection is afforded in two weeks time; that these results may be attained in all cases regardless of the animal's age or whether or not infected at the time of treatment, and that all treated females will carry their calves for the full term.

The complaint alleges that the respondent's representations are exaggerated and misleading.

According to the complaint, the respondent recommended the use of his vaccines for cattle of any age, although the United States Department of Agriculture, on May 26, 1938, ordered that

licensed vaccine establishments recommend use of abortion vaccine only for the treatment of calves from four to eight months old. The complaint points out that the respondent, while not a vaccine manufacturer, obtains his product from a licensed manufacturer. (4137)

**General Baking Corporation**—Eight bakery companies, a teamsters' labor union local and its officers and members, all operating in the Omaha, Nebr., and Council Bluffs, Iowa, area, are charged, in a complaint, with restraint of competition in the sale of bread and other bakery products.

It is alleged that the baking companies and the union local combined to prevent the sale of such products by certain peddlers or so-called independent bread men and that the union intimidated and used force against such dealers.

Respondents are:

General Baking Corporation, New York, operating a plant in Omaha; Interstate Bakeries Corporation, Kansas City, Mo., operating the Schulze Baking Company, Omaha, Omar, Inc., Omaha; Quaker Baking Company, Council Bluffs; P. F. Peterson Baking Company, Omaha; Continental Baking Company, Wilmington, Del., operating an Omaha plant; Mose Adler, trading as Adler Bakery, Omaha and Council Bluffs, and Charles W., Charles G. and Lawrence F. Ortman, trading as Ortman Bakery, Omaha.

General Drivers Union, Local No. 554 of the International Brotherhood of Teamsters of Omaha, whose members are bakery truck drivers and salesmen in the Omaha and Council Bluffs area; Walter Karl Stultz, president of the local; Louis Miller, vice president; Alfred Russell, recording secretary; Thomas V. Smith, secretary, and Malcolm G. Love, Alson Jeffries, and Glenn Karch, trustees, all of Omaha, and all named respondents in their official capacities and as representatives of the union's membership as a class.

Pursuant to an understanding, agreement and conspiracy, allegedly entered into on or about July 1, 1939, the respondents agreed to and did prevent certain peddlers and independent bread men from selling bread and other bakery products in the Omaha and Council Bluffs area, and from obtaining such products to sell either at wholesale or retail. According to the complaint, they set apart as a class of approved dealers who could and did sell such products in the area the respondent baking companies and independent bread men and peddlers who had been in business prior to July 1, 1939.

It is alleged that the respondent baking companies, after July 1, 1939, carried out contracts with the teamsters' union local which provided in part that "After this date, within an area of fifty (50) miles from the city limits of Omaha, Nebr. and Council Bluffs, Iowa, it is agreed that no product shall be sold for resale to peddlers or so-called independent bread men other than those to whom products are now sold. \* \* \*"

The teamsters' union local allegedly (1) executed and procured pledges from the signers of the contracts and from bakeries and dealers not signers of the contracts, to adhere to and enforce the provisions of the contract; (2) intimidated and harassed and used force and violence against independent bread men who sought to enter business subsequent to July 1, 1939, to prevent their handling bakery products in the Omaha-Council Bluffs area, and (3) used similar methods against bakeries and dealers who did not sign the contracts in order to persuade and compel them to stop selling their products to peddlers and independent bread men who had not been in business prior to July 1, 1939, and also to prevent their selling to bakeries and dealers who intended selling their products to such peddlers and independents.

These practices, according to the complaint, tended to (1) unlawfully restrain interstate commerce in bread and other bakery products; (2) monopolize the sale of such products in the Omaha-Council Bluffs area in the respondent bakery companies and those independents who had been in business prior to July 1, 1939, and (3) enhance prices and maintain them at artificial levels, in violation of the Federal Trade Commission Act. (4139)

**Monahan's Bakery**—Alleging restraint of competition in the sale of bread and bakery products in the Minneapolis area, a complaint has been issued against 19 bakery companies, a wagon drivers' labor union local and its officers and members. It is alleged that the baking companies and the union local combined to prevent certain peddlers or so-called independent route men or bread men from obtaining such products for resale in the Minneapolis area, and that the union intimidated and used force against such dealers.

Respondents are:

Thomas J. Monahan, trading as Monahan's Bakery, Gust Gustafson, trading as Gustafson Bakery, Zinsmaster Baking Company, Egekivist Bakeries, Inc., Regan Bros. Company, William Blaseck, trading as East Side Bakery, Gladness Bakeries, Inc., George P. Janicke, trading as Janicke Bakery, John Karalias, Fred Karalias and Demetrius Karalias, trading under the firm name of Lakeview Bakery, Excelsior Baking Company, Peoples-Lehman Baking Corporation, Emrich Baking Company, Rafert Baking Company, Independent Grocer Baking Company, Inc., George Chonis, trading as Nicollet Pastry Shoppe, James T. McGlynn, trading as McGlynn's Bakery, and North Side Baking Company, Inc., all of Minneapolis; Purity Baking Company, a subsidiary of Purity Bakeries, Inc., Chicago, and Continental Baking Company, New York, operating baking plants in Minneapolis.

Bakery, Cracker, Pie & Yeast Wagon Drivers' Union Local No. 289, affiliated with the American Federation of Labor and chartered by the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, and its executive board and officers: Harry DeBoer, president; Sam Ash, vice president; Joseph F. O'Hare, secretary-treasurer; Gregory Helwig, recording secretary; Loren Johnson, Chester Ryan, and Mel Edstrom, trustees, all of Minneapolis, and all named respondents in their individual and official capacities and as representatives of the union's membership as a class.

Pursuant to an understanding, agreement and conspiracy, allegedly entered into on or about February 1, 1939, the respondents agreed to and did prevent certain peddlers and so-called independent route men or bread men from obtaining bread and other bakery products to sell either at wholesale or retail in the Minneapolis trade area. According to the complaint, they set apart the respondent baking companies as a class of approved dealers who could and did sell such products in the area.

It is alleged that the respondent baking companies, after February 1, 1939, carried out contracts with the wagon drivers' union local which provided in part that "After this date, it is agreed that no product shall be sold for resale to peddlers or so-called independent bread men and no member shall be permitted to furnish vehicles to be used in the delivery of goods in connection with his employment."

The wagon drivers' union local allegedly (1) executed and procured pledges from the signers of the contracts to adhere to and enforce the provisions of the contracts; (2) intimidated and harassed and used force and violence against peddlers and so-called independent route men or bread men to prevent their delivering bakery products in the Minneapolis area; and (3) used similar methods against bakeries and dealers in order to induce and compel them to stop selling their products to peddlers and so-called independent route men or bread men.

These practices, according to the complaint, tended to (1) unlawfully restrain interstate commerce in bread and other bakery products; (2) monopolize the sale of such products in the Minneapolis area in the respondent bakery companies; and (3) enhance prices and maintain them at artificial levels, in violation of the Federal Trade Commission Act. (4140)

**Pyroil Company**—Dean Ladd Kidder, individually and as executrix of the estate of William V. Kidder, deceased, doing business as Pyroil Company, La Crosse, Wis., engaged in the manufacture and sale of a preparation known as "Pyroil," designed for addition to motor fuels and lubricants, is named respondent in a complaint charging misrepresentation.

The complaint alleges that in advertisements in newspapers and periodicals and in continuities broadcast from radio stations, the respondent has represented, among other things:

"The use of PYROIL, a Super High-Pressure Friction and Heat-Proof Scientific Lubricant, will double the life of a motor. Use PYROIL-lubricated gasoline or simply add PYROIL-A to your gasoline. Also add PYROIL-B to your motor oil, thereby doubling the life of your car and protecting your car investment. PYROIL DOES WHAT OIL ALONE CANNOT DO. PYROIL ACTUALLY MAKES METAL SELF LUBRICATING, AND IS THE LATEST SCIENTIFIC ACHIEVEMENT IN LUBRICATION."

"Would you dare drive your car 745 miles WITHOUT any oil? You would be foolhardy to do so . . . UNLESS you had PYROIL mixed in with your gasoline and your motor had been PYROIL treated. A car drove 745 miles without any oil . . . BUT . . . it had been previously treated with PYROIL."

The complaint alleges that these representations and others made by the respondent are misleading and false, and that the respondent's

product, when added to motor fuels or lubricants, does not effect substantial economy in operation, appreciably prolong the life of an automobile engine, nor penetrate the metal, filling in cracks and crevices, nor does its use enable an automobile to be driven continuously for 700 miles without oil in the crankcase.

The complaint also charges that use of the product does not increase power, add mileage, reduce friction, lower temperatures, eliminate carbon, nor create a smoother, better-running engine, as claimed by the respondent. (4141)

**United States Marble & Granite Company**—Misrepresentation in the sale of marble and granite tombstones and monuments is alleged in a complaint issued against Asa L. Wooten, trading as United States Marble and Granite Company, Oneco, Fla.

In his advertising matter the respondent allegedly represented that his memorials will stand the ravages of time forever; that they are the world's best genuine marble or granite monuments which will always retain their original brightness, and that, through his "Gold Bond Guarantee," purchasers are assured of these lasting qualities and are protected in case the respondent's representations as to durability are not proved to be true.

The complaint alleges that the respondent's representations are misleading and deceptive in that his products will not last forever and retain the other qualities advertised, and that the so-called "Gold Bond Guarantee" in no wise protects purchasers as it is not supported by any fund set aside by the respondent or anyone else for assuring fulfillment of its terms. (4138)

## CEASE AND DESIST ORDERS

No cease and desist orders were issued by the Commission last week.

## STIPULATIONS

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

**Abraham & Straus, Inc.**, of Brooklyn, has entered into a stipulation to discontinue certain representations in the sale of rugs.

The respondent corporation agreed to cease using in advertising matter or as a brand the words "Persian," "Chinese," "Numdah" or other distinctively Oriental names as descriptive of rugs which are not in fact made in the countries or localities designated with all the essential characteristics and qualities of such rugs.

The Brooklyn corporation also stipulated that it will discontinue employing the phrase "Persian Chinese Numdah Reproductions" or otherwise using the word "Reproduction" as descriptive of rugs which are not in fact reproductions of the types named.

The respondent further agreed to discontinue employing the words "Persian," "Chinese," "Numdah" or other distinctively Oriental appellations in connection with rugs which do not contain all the inherent qualities and properties of Oriental and Chinese rugs, unless, when properly used to describe the design or pattern only, the words "Persian," "Chinese" or "Numdah" shall be immediately accompanied by a word such as "Design" or "Pattern" in type equally conspicuous to clearly indicate that only the form delineated on the surface of the rug is a likeness of the type named; for example "Persian Design," "Chinese Pattern."

Further representations which the respondent agreed to discontinue were use of designations such as "Importer's Surplus—Persian, Chinese, Numdah" and "Importer's Close-Out of Gem-Like Reproductions—Chinese, Persians, Numdahs," and of the words "Importer's" or "Imported" in connection with geographic names in any way tending to create the impression that goods actually made in countries other than those named are from the countries named. The stipulation provides that if the word "Imported" or similar term is properly employed to indicate that such goods are not of domestic origin and geographic names are correctly used to describe the type of product imported, then the true country of origin shall be clearly and nondeceptively disclosed in direct connection therewith. The stipulation points out that the rugs so advertised by the respondent were not made in the Orient; had none of the Oriental characteristics except design; were machine-woven, and were imported from Belgium and Italy. (2809)

**Balassa Laboratories**—Joseph Balassa, trading as Balassa Laboratories, 47 Sixteenth Ave., Newark, N. J., engaged in selling a preparation designated "Corn Stick," agrees to cease representing that the preparation will end, mitigate or relieve the pain incident to the condition known as bunions, or that it will take away or remove the diseased condition known as bunions. (02570)

**Blossom Products Corporation**, manufacturer of women's undergarments, and its wholly owned sales subsidiary, Rayon Corporation of America, both of Allentown, Pa., entered into a stipulation in which they agree to discontinue certain representations in the sale of their products.

Among the representations which the respondent corporations agree to cease are: (1) Misstatements of the percentage of any fiber present in any product offered for sale; (2) deceptive concealment of the true fiber content or failure to make full and nondeceptive disclosure of the fiber content of articles purporting to be wool (having the appearance and feel of being wool), and (3) using the unqualified terms "Woolywarms" or "Woolies" or words of similar import as descriptive of garments when their fiber is not composed wholly of wool.

The respondents also agree to cease attaching to merchandise certain brands, labels or other indications bearing the name "Dr. Ames" or other fictitious name or symbol, having a tendency to mislead purchasers as to the origin or sponsorship of such merchandise. The stipulation points out that the respondents designated certain undergarments as "Dr. Ames Woolywarms," when in fact no "Dr. Ames" has been connected with the corporations or has, as implied, designed or sponsored the products bearing such fictitious name. (2807)

**Cra-Tex Corporation**, 1302½ Farnam St., Omaha, Nebr., manufacturer of gauze bandages sold under the name "Cra-Tex," agrees to desist from using the word "Sterilized" or other words of similar implication in advertising matter as descriptive of products which are not in a state of sterility at the time of their removal from the package by the purchaser, and from use of that word in any way the effect of which tends to convey the idea that the products are free from aerobic and anaerobic bacteria and other micro-organisms at the time of their removal from the package by the purchaser. (2817)

**Darling Dimple Company**—John H. Lofquist, trading as Darling Dimple Company, Rock Island, Ill., vendor of a so-called dimple making device, agrees to cease representing that it will produce permanent dimples on the face of the user; that it is the subject matter of a United States or other patent, unless and until such is a fact, and that it was patented or invented by "Dr. J. H. Lofquist" or contains special or scientific features which are the result of medical advice or services. (2815)

**Hobo Medicine Company**, Beaumont, Tex., selling a medicinal preparation designated "Hobo Medicine," has agreed to cease representing that the preparation is a competent treatment for kidney or bladder disorders, is an aid to restoring normal health to those suffering from such disorders or will relieve or aid in correcting them; will help cleanse or remove from the system or blood stream excessive poisons, irritating acid or dangerous poisonous wastes, or have any effect upon the blood stream, or is an aid to lovelier skin, and that men and women have been aided to better health by its use. (02568)

**Hyman & Zaslay, Inc.**—See Yeblon & Co., Inc.

**Imperial China Company, Inc.**—Under a stipulation entered into Imperial China Company, Inc., 4246 Sheridan Road, Chicago, agrees to discontinue certain representations in the sale of table and kitchenware in connection with a sales promotion plan.

Through its salesmen or agents or in any other way, the respondent company agrees to cease representing that it is affiliated with Royal China, Inc., of Sebring, Ohio, or that that corporation owns 80 per cent of the respondent's stock, or that under a working agreement between the two corporations, Imperial China Company, Inc., has taken over and is conducting the business of Royal China, Inc., in Texas or other designated territory and will

supply the requirements of all customers, including those of Royal China, Inc.

A further representation to be discontinued is that Imperial China Company, Inc., will furnish patterns identical to those supplied by Royal China, Inc., and that the respondent owns or controls the pottery in which its table and kitchenware is made.

The stipulation points out that the respondent company's contracts with retail dealers provided, among other things, that "redemption dealers" would purchase and carry the respondent's stock for the benefit of their customers and the customers of certain other dealers in the same locality known as "cooperating dealers."

The respondent company agrees to cease representing that it or its salesmen would obtain a specified minimum number of "cooperating dealers" who would agree to purchase certificates from the respondent and distribute them among their own customers for redemption by "redemption dealers"; that the salesmen would remain in a locality for a sufficient time to properly instruct the "cooperating dealers" in the operation of the plan; or that newspaper advertising and publicity campaigns to assure the success of the plan would be provided or undertaken by the salesmen at the expense of Imperial China Company, Inc., unless such representations actually are fulfilled. (2808)

**Imperial Lingerie Store**—See Linen Mart.

**Linen Mart**—Agreeing to discontinue certain representations in the sale of rugs, Irving Heiney, trading as Linen Mart and as Imperial Lingerie Store, 1223 G St., N. W., Washington, D. C., has entered into a stipulation.

The respondent, in his printed or advertising matter or on window display cards, agreed to refrain from use of the words "Chinese," "Persian," "Sarouk," "Kirman," "Karvan," "Bagad," "Calcutta," "India," "Irak" or other distinctively Oriental names or depictions in connection with the rugs he sells; from use of any words or illustrations implying that such rugs are made of the materials and in accordance with the processes used in manufacturing true Oriental or Chinese rugs, and from employing the phrases "Imported Sarouk Replica," "Imported Persian Replica" or otherwise using the word "Replica" or a similar word implying that the article designated is a replica or duplicate of an original, when the rugs so described are not in fact reproductions of the types named.

Further representations which the respondent agreed to discontinue were use of the names "Chinese," "Persian," "Sarouk," "Kirman," "Karvan," "Smakand," "Bagad," "Calcutta," or other distinctively Oriental appellations in connection with rugs not made in the country or locality designated or implied and which do not contain all the inherent qualities and properties of Oriental or Chinese rugs, unless, when properly used to describe the design or pattern only, such words of Oriental appellation shall be immediately accompanied by a word such as "Design" or "Pattern" in type equally conspicuous to clearly indicate that only the form delineated on the surface of the rug is a likeness of the type named; for example "Persian Design," "Chinese Pattern."

The respondent agreed to discontinue employing designations such as "Imported Sarouk Replica" and "Imported Persian Replica," and to cease using the word "Imported" in connection with geographic names in any way tending to create the impression that goods actually made in countries other than those named are from the countries named. The stipulation provides that if the word "Imported" or similar term is properly employed to indicate that such goods are not of domestic origin and geographic names are correctly used to describe the type of product imported, then the true country of origin shall be clearly and nondeceptively disclosed in direct connection therewith. The stipulation points out that the rugs so advertised by the respondent were not made in the Orient; had none of the Oriental characteristics except design; were machine-woven, and were imported from Belgium or France. (2810)

**Marvan Laboratory, Inc.**, 30 East 3d St., New York, engaged in selling a medicinal preparation designated "Marvan Dermatopathic Salve," agrees to discontinue representing that the product is an effective remedy or competent treatment for eczema, itching, and other skin diseases, or that it has any therapeutic value in the treatment of such ailments or conditions in excess of a temporary relief from the itching, burning and similar irritations often associated with the disorders named; that the product will relieve, stop or remove itching or burning or other irritations immediately,



or will relieve inflammation, allay irritation or will heal, or that the product is anti-pruritic or antiphlogistic. The respondent further agrees to discontinue representing, by use of the word "Laboratory" or any other term of similar meaning or import as a part of its trade name or in any manner, that it conducts or operates a laboratory, when such is not a fact. (02569)

**MM Importing Company, Inc.**, stipulates that it will cease use of the word "Importing" as part of its corporate or trade name or in any other way in connection with the sale of products which it does not actually import. The respondent corporation also agrees to cease employing the word "Importing" as part of the corporate or trade name under which it sells cigarettes made wholly or partly of domestically grown tobacco or which are manufactured in the United States. The respondent also agrees to desist from using the word "Importing" or other words of similar implication, alone or in connection with the words "Turkish Cigarettes," or in any way, the effect of which tends to convey the belief to purchasers that such cigarettes are made wholly or in part of imported tobacco or are manufactured abroad, unless, if the word "Importing" is employed in connection with the sale of cigarettes, which are composed wholly of imported tobacco, but which are made in the United States, then it shall be disclosed clearly on the face of the container of the cigarettes that they are domestically manufactured or are not of foreign manufacture. (2813)

**Morten Laboratories, Inc.**, 308 South Harwood St., Dallas, Tex., until October 25, 1939, when the present corporate name was adopted, operated under the name Hay-No Laboratories, Inc., and sold a medicinal preparation designated "Hay-No." The respondent corporation agrees to cease representing that "Hay-No" or any other preparation of similar ingredients or properties, sold under that or any other name, is a competent remedy or effective treatment for hay fever, or that it has any therapeutic value in excess of affording symptomatic relief for the disease, or that the results to be achieved by the use of the product in the treatment of sinus irritations, head colds, cold-clogged air passages, distress of nose-blowing and sneezing, stuffiness or other symptomatic conditions, are amazing, wondrous or quick, or that the product is a discovery. (02571)

**Num-O-Col Company, Inc.**, 9 South Walker St., Oklahoma City, Okla., has entered into a stipulation in which it agrees to discontinue advertising that its medicinal preparation "Milt's Num-O-Col Ointment" is an effective treatment or competent remedy for pneumonia, influenza or common colds. The respondent company also agrees to cease representing that its preparation is an effective treatment or competent remedy for sore throat or rheumatism, unless the representation is limited to such relief of

symptoms of these conditions as may be afforded by its counter-irritant properties. (02572)

**Power Battery Company**—Norris Ouellette, trading as Power Battery Company, 134 Main St., Richmond, Mich., engaged in the manufacture and sale of storage batteries, has agreed to cease representing that his "Power Cell" or other batteries of similar construction, maintain a high voltage under excessive load, or otherwise representing that the terminal voltage maintained by "Power Cell" is either higher than or more enduring than that of standard competitive batteries on the market, or that "Power Cells" or batteries of similar construction charge fully in one-third to one-half the time required for other batteries, or in any specified comparative time not fully established by competent and reliable scientific evidence. (2811)

**Solvosol Company**—Lionel E. Samuels, trading as Solvosol Company, 38 Park Row, New York, in the sale of "Solvosol," a cleaning fluid, agrees to cease using the word "New," alone or in connection with the word "Entirely" or "Process" or with other words as descriptive of his product, which is not in fact new, and to discontinue use of the phrase "Leaves No Ring" or other representation of similar implication tending to convey the impression that the product will not leave a ring or discoloration when applied only to the spot to be removed from certain fabrics, as for example, weighted silks. (2816)

**Yeblon & Co., Inc.**, and **Hyman & Zaslav, Inc.**, in the sale of their jewelry and other products through Yeblon & Co., Inc., agree to cease using the terms "List Prices," "Discount," "Catalog List Price," or "Subject to Our Regular Distributors Discounts" in catalogs, printed matter or otherwise; or to discontinue representing in any way, directly or inferentially, that the prices at which they sell their merchandise constitute a discount to the purchaser or are wholesale prices, when in fact such prices are the usual and customary prices. (2812)

#### FTC CLOSES CASE

The Federal Trade Commission has closed without prejudice its case against Maurice M. Goldberg and Tetrine Chemical Sales Company, a corporation, 521 Fifth Ave., New York, who were charged with misrepresentation in the sale and distribution of fire extinguishers and chemical fluids.

The closing order recites that it appears the corporate respondent has been dissolved and the practices as charged in the complaint discontinued.

Closing of the case was ordered without prejudice to the Commission's right to reopen it and resume prosecution should future facts so warrant.





## Communist Broadcasts

Before the three major networks carried talks by Earl Browder last Sunday, Neville Miller suggested that recent European developments might require reconsideration of that section of the Federal Communications Act dealing with political broadcasts.

Mr. Miller made the following statement:

"Recent articles in the press have raised the question of the propriety of radio stations carrying broadcasts of the Communist Party's National Convention which is now in session in New York City, especially the speech scheduled for Sunday night by Earl Browder, who has been scheduled because at that time undoubtedly he will be the Communist Party's candidate for the Presidency.

"In these troubled days, when developments abroad reveal the devastating effects of fifth column activities, it is urgent, as the President points out, that we scrutinize the objectives of those in our midst whose only use of our free institutions springs from a desire to destroy them and the liberties of our people.

"In examining the position of radio, it should be remembered that radio stations are governed by the Federal Communications Act, Section 315 of which reads as follows:

'If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.'

"This Section clearly requires radio stations to either exclude the candidates of all parties, or to extend equal facilities to the candidates of all parties. This rule was not made by the radio stations, but was enacted by Congress, and Congress alone has the power to change it. Under it, radio stations do not have the right to pick and choose. Last April, it was thought that it would be in the public interest to carry brief talks by the candidates of all parties at the time each candidate was nominated. The Socialist Party held its convention in April, and Norman Thomas, its candidate for the Presidency, was given time on the radio. Equal opportunity was also given John W. Aiken, the candidate of the Socialist Labor Party, and under the law, the same opportunity must be given to the candidates of all other parties, including the Communist Party.

"Furthermore, it should be noted that under the law the radio station has 'no power of censorship over the material broadcast'. The stations must broadcast the speeches as written by the candidates, with no power to blue pencil the sentiments expressed therein.

"Undoubtedly, in enacting these provisions of the Federal Communications Act, Congress was particularly interested in providing for the protection of freedom of speech, and prohibiting censorship. Recent developments in Europe have brought to our

minds many dangers which then were not realized and which may require a reconsideration of the subject. However, in the meantime, radio stations have no alternative—they must obey the law as written."

On Friday, Senator Wheeler, during a speech on "Civil Liberties" in the Senate, made the following remarks:

"This morning representatives of the National Broadcasting Co. and the Columbia Broadcasting Co., and the head of the organization of all the broadcasters, called at my office. They called my attention to the following statement which they had issued:

New York, N. Y., May 30, 1940.

Gillis, Radio Station WJSV.,

Washington, D. C.:

The Columbia Broadcasting System in response to several inquiries concerning Earl Browder's talk Sunday night, issued the following statement: The radio law requires broadcasters to give the same treatment to all candidates for any public office. In compliance with this law we have arranged to carry on Sunday evening, June 2, a 15-minute talk by Earl Browder on the Communist Party's representation that, at that time he will be the duly nominated candidate for the Presidency. It is obvious that when the Congress enacted the communications law, present conditions and their dangers were not apparent. Columbia is of course obedient to the laws of the United States but it is of the belief that the communications law should be changed so that no broadcaster is compelled to give time to the candidates of any political party if it is proven to be subservient to a foreign power.

In this connection I call attention to the statute. When we passed the communications law some years ago it contained this provision:

SEC. 315. If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: **PROVIDED**, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

The present law was drafted, not in a Democratic administration, but in a Republican administration, to preserve the right of free speech in the United States, and to see to it that each candidate for public office shall have the right to express his views, whether we agree with them or not, and I certainly do not agree with Mr. Browder, the Communist Party, or their theory of government. I think that the law probably should be



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## COMMUNIST BROADCASTS

(Continued from page 4307)

changed, because of the fact that it perhaps goes too far in one respect as the Commission has interpreted it. Today a broadcaster is liable in damages if the speech contains libelous matter. Either the broadcaster should be relieved of liability or libelous matters should not be permitted."

On Sunday, CBS issued a second statement:

Inquiries have been received as to why the Columbia Broadcasting System could not bar Earl Browder from the air under the last sentence of Section 315 of the Communications Act, which reads:

"No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate."  
The forepart of this section reads:

"If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section."

The complete section permits the licensee to decide whether it will carry speeches by all the presidential candidates or none of them. Since the Columbia Broadcasting System proposes as usual to carry speeches by the Democratic and Republican nominees and has already carried the speeches of two other nominees for the presidency, namely, that of Norman Thomas, for the Socialist Party on April 7 and that of John W. Aiken, nominee of the Socialist Labor Party, on April 28, Columbia has already begun to function in this campaign as it and practically all broadcasters always have done in this and previous campaigns, under the first part of the section. Consequently, Columbia considers itself obligated under that part of Section 315 which says that if any licensee shall permit any person who is a legally qualified candidate for any public office to broadcast, it shall afford equal opportunity to all other such candidates for that office. It would be against public policy for a nationwide network such as Columbia, in its efforts to render public service, not to carry speeches by any candidates for the presidency, especially of the major parties.

The law is simple and clear and there is no way in good faith to escape the meaning of its provisions. Either a network or radio station offers its facilities to all candidates, or it cannot, without violating the law, offer its facilities to any candidates for any given office. Thus it may be seen that, if the law is followed in its obvious mandate, barring of the candidate for President of the Socialist Party, the Socialist Labor Party, the Prohibition Party (scheduled for June 19), or the Communist Party would necessitate—unless the law be violated—barring candidates of the major parties.

The network statements led Representative Cox (D-Ga) to renew his suggestion in the House that the "broad-

casting business" should be investigated. (*Congressional Record*, June 3, p. 11179.)

## Labor

### WAGE AND HOUR ACT

How hard a small radio station can be hit for violation of the Wage and Hour Act was well illustrated this week in the case of WJW, Akron, Ohio.

A consent decree entered in the Federal District Court in Cleveland ordered the station to pay 41 employees and former employees a total of \$4,540.29 in back wages and overtime.

The decree also permanently enjoined the station from violating the act.

The violations all were due to misunderstanding of the law on the part of the station's previous management. "Student announcers" and "guest announcers" worked without pay. Overtime was not reported. Wage and hour records did not jibe with log sheets.

Forty-five hundred dollars is a lot of money for a small station to have to pay out in one chunk.

Again, the NAB Labor Relations Department urges all members to make sure that they are complying with the law. Members who have any questions, no matter how trivial they may seem, should send them to the Labor Relations Director.

As a starter, it is suggested that the questions and answers in the NAB REPORTS of February 23, page 4051, should be reviewed.

A southern broadcaster contemplates giving an announcer a raise. He asks whether he can use the raise to protect himself against paying overtime.

Specifically, he is now paying the announcer \$42 for a 42-hour week. The announcer's regular hourly rate is \$1, and his overtime rate is \$1.50. If the announcer is raised to \$46.50, can he work *up to* 45 hours without any overtime payment.

The answer is: No.

However, if the announcer works 45 hours *each week*, his paycheck will be \$46.50 (42 hours at \$1 an hour, and 3 hours at \$1.50 an hour), and the same result will be the same.

It is important that the announcer work his full 45 hours each week. If he works an irregular number of hours, his hourly rate must be determined by dividing his regular weekly salary by the number of hours he works each week. Overtime for each hour above 42 must then be determined by multiplying this hourly rate by one and one-half.

Milton Denbo, chief opinion attorney for the Wage and Hour Administration, gave the NAB this interpretation.

Protests from the NAB and others led the Wage and Hour Administration this week to relax a rule which required records to be kept at transmitters for technicians employed there.

Records may be kept at the central record keeping place of the employer, on condition that such records shall be produced "at the place or places of employment" within 72 hours following notice from a Wage and Hour inspector.

The broadcasting industry got caught in a rule intended for employers who had factories scattered over the country but kept all records at the "home office." With the rule amended it is not likely that a broadcaster will ever have to produce his records at the transmitter, for the inspector easily could obtain access to the records a few miles away.

### AFRA TRANSCRIPTION "CODE"

Representatives of the leading transcription companies are about to start negotiations with the American Federation of Radio Artists on a contract ("Code") to cover actors, singers, announcers and sound effects men. AFRA sent out its proposed contract on May 27.

It cannot be stated accurately at this time just how much the AFRA demands would increase the cost or price of transcriptions.

Section 4 of the "Recording Rules" states: "The producer agrees, on notice by AFRA that any radio station has been declared unfair by AFRA, not to require members of AFRA to perform services in connection with recordings released to such station, not to make available to such station, nor to make available to such station recordings on which AFRA members are used, for the purpose of aiding and abetting such station in continuing its unfair practices."

In brief: if that clause were agreed to, AFRA could declare "unfair" any station which did not have an AFRA contract, and that station then could get no transcriptions from the leading transcription companies.

The NAB labor relations director will keep stations advised of developments.

### BMI Developments

Two new stations join BMI: WTMA of Charleston, South Carolina, and KGNO of Dodge City, Kansas.

*I Could Be a Superman for You* is the title of a song by Chaylie Saxe which will be published by BMI within

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a few weeks. Saxe's story suggests that he had to be something of a superman anyway to write his music and get it published.

For five years he has been laying siege to the offices of music publishers. Always the answer has been the same. Today Chaylie can reel it off rapidly by heart because he has heard it so often. He says:

"They all tell you, 'Sure, the music's good. We'd take it if you had a name. But you're an unknown cluck, so—go on home and teach school.'"

He is a teacher of English and history. This past year he has been doing substitute work in one high school and four junior highs in his home town of New Britain, Connecticut. Born in 1918, graduated from the University of Alabama in 1939, he permits himself no delusions of grandeur because he has at long last sold a song. He loves music but he does not expect to rely upon it for a livelihood. He began to play in childhood and by the age of fifteen he was conducting his own 11-piece band. But it was scholarship that let him earn his way through college and it is in teaching that he plans his career.

The idea for his BMI song came out of the classroom, where he found that he had to confiscate a great many books of the "Superman" comic strip in order to get any work done by his pupils. But that, of course, was only half of the idea. The song was written, he admits, for a "super-girl."

Milton Wolf, who collaborated with Saxe on the lyrics, is a clerk in a New Britain store. He was once runner-up for the intercollegiate welterweight boxing championship.

Saxe and Wolf are excellent illustrations of the freshness of the music sources which BMI is opening to the public. Their story offers the sharpest contrast with the career of such an eminent composer as Bruno Grant (Granichstaedten). That very contrast emphasizes both

the force of the new musical urge in America and the broadly inclusive character of the catalogue which BMI is building.

## BMI FEATURE TUNES

June 10-23

1. WE COULD MAKE SUCH BEAUTIFUL MUSIC
2. WHAT GOOD'S THE MOON?
3. HERE IN THE VELVET NIGHT
4. IN THE SILENCE OF THE DAWN

Transcriptions of BMI music together with names of the recording bands, where these have been announced, are given below under the names of the companies making the transcriptions. It is possible that other companies also have made transcriptions, but for the benefit of broadcasters, such information as BMI possesses is given below:

### *Associated Music Publishers*

Here in the Velvet Night  
Sagebrush Serenade  
We Could Make Such Beautiful Music

### *Langlois-Wentworth*

Here in the Velvet Night—Jean Ellington  
In the Silence of the Dawn—Ray Heatherton  
We Could Make Such Beautiful Music—Ray Heatherton

### *Standard Radio*

(All recorded by Don Allen's Orchestra)

Here in the Velvet Night  
In the Silence of the Dawn  
Sagebrush Serenade  
We Could Make Such Beautiful Music  
What Good's the Moon?

### *NBC Thesaurus*

In the Silence of the Dawn—Joe Sudy  
Sagebrush Serenade—Joe Sudy  
Here in the Velvet Night—Ted Steele and Gwynn Williams  
We Could Make Such Beautiful Music—Ted Steele and Gwynn Williams  
Give Me Music—Al Kavelin  
Keep an Eye on Your Heart—Al Kavelin  
Please Don't Tell Her I Told You—Al Kavelin

### *World Broadcasting*

(All recorded by Vic Arden)

Here in the Velvet Night  
In the Silence of the Dawn  
Practice Makes Perfect  
We Could Make Such Beautiful Music

“Delay ASCAP Forms,” says a headline, announcing that the ASCAP board has postponed for a week the distribution of new contract blanks. Is that news? If recollection serves, ASCAP's original announcement was that it would be ready to negotiate the contracts on April 15, but that date was passed in silence. Of course no one really expected the contracts to be ready then, and it was no surprise either when May 29 was also allowed to pass without the appearance of the contracts.

## W. J. SCRIPPS, WWJ, APPOINTED RESEARCH COMMITTEE CHAIRMAN

Neville Miller announced this week the appointment of W. J. Scripps, Manager of Station WWJ, Detroit, Michigan, as Research Committee chairman. In the original announced appointment of a Research Committee, Mr. H. K. Carpenter, Vice President, WHK-WCLE, Cleveland, Ohio, and WHKC, Columbus, Ohio, was asked to serve in this capacity. However, pressure of business caused Mr. Carpenter to suggest the appointment of another chairman who could devote sufficient time and energy to the task which Mr. Carpenter described as of utmost importance to the industry.

Mr. Scripps has accepted the appointment and will shortly announce a meeting date for the committee. The membership of the Research Committee as now constituted, is as follows: Mr. W. J. Scripps, Manager of WWJ, Detroit, Michigan, chairman; H. M. Beville, Jr., Research Manager of the National Broadcasting Company; Scott H. Bowen, President of Radio Station WIBX, Utica, New York; Arthur B. Church, President of Radio Station KMBC, Kansas City, Missouri; James D. Shouse, Vice President of Radio Stations WLW-WSAI, Cincinnati, Ohio; Dr. Frank N. Stanton, Research Director of the Columbia Broadcasting System; and, Theodore C. Streibert, Vice President of Radio Station WOR, Newark, New Jersey. Neville Miller and Paul F. Peter will serve ex-officio.

## ALL ABOARD FOR SAN FRANCISCO!

You may not realize it but the Eighteenth Annual Convention to be held at the St. Francis Hotel, San Francisco, is less than two months away. All of the members have received outlines of all-expense tours and requests for responses direct to our travel agents, Raymond-Whitcomb, Inc., of 414 North Charles St., Baltimore, Maryland. The response has been gratifying but in order to protect railroad, hotel and sightseeing reservations tentatively made, it is essential that we have immediate responses. We know you will want to go to the San Francisco convention. Don't delay. Put in your reservations now for one of these all-expense tours or a special trip which Raymond-Whitcomb can arrange for you.

The tentative program of the San Francisco convention has been sent to the Directors for examination and approval. In next week's issue of the REPORTS the high points of the program will be covered. Watch for this. It's important. If you have suggestions as to topics or speakers, don't hesitate to send them in. This is your convention and we want it to meet your ideas and cover the problems in which you are interested.

## DISTRICT 4 MEETING

John A. Kennedy, WCHS, was reelected director for the next two years at a District 4 meeting June 1-2 at Sedgefield Inn, Greensboro, N. C.

Guest speakers included Mrs. Dorothy Lewis, national radio chairman of the National Society of New England Women; Dr. J. C. Waldron, United States Office of Education; Carl Haverlin, BMI, and Joseph L. Miller, NAB labor relations director.

Edney Ridge, WBIG, was in charge of arrangements for the meeting.

Those present included:

James C. Howe, WBTM; C. T. Lucy, WRVA; Philip P. Allen, WLVA-WBTM; Endey Ridge, WBIG; H. W. Wilson, WGTM; Allen Wannamaker, WGTM; O. L. Maxey, WRTD; John W. New, WTAR; Bryce P. Beard, WSTP; John J. McAllister, WHKY; Wayne M. Nelson, WMFR; F. C. Todd, WGNC; Pat McSwain, WGNC; John W. Shultz, WSTP; R. P. Jordan, WDBJ; E. J. Gluck, WSOC; F. D. Kesler, WDBJ; Frank V. Becker, WTBO; Norris L. O'Neil, WSJS; J. F. Jarman, Jr., WDNC; Gill Murray, WRAL; George W. Smith, WWVA; Don S. Elias, WWNC; Wilbur M. Havens, WMBG; Robert E. Mitchell, WMBG; A. D. Willard, Jr., WJSV; J. D. Saumenig, WIS; A. E. Joscelyn, WBT; Richard H. Mason, WPTF; R. E. Penny, WBT; J. H. Dodge, WRC-WMAL; Campbell Arnoux, WTAR-WPID; Edward E. Bishop, WGH; W. D. Workman, Jr., WTMA; Edward E. Edgar, WGH; J. C. Waldron, U. S. Office of Education; and Joseph L. Miller, NAB.

## DISTRICTS 10, 12, 14 MEET

Neville Miller and C. E. Arney, Jr., will attend district meetings in St. Louis, June 8; Wichita, Kans., June 9, and Salt Lake City, June 12.

The Sales Managers Committee of the Tenth District scheduled an all day session in St. Louis for Friday, June 7, preceding the Tenth District membership meeting. In the absence of Karl Koerper, KMBC, Kansas City, Craig Lawrence of KSO, Des Moines, was slated to preside.

District Director John Gillin, WOW, has planned a comprehensive program for the membership meeting.

The Twelfth District meeting was moved up one day on account of a conflict with the Kansas Democratic State Convention. Director Herbert Hollister, KFBI, expects a large attendance of Kansas and Oklahoma broadcasters.

The Fourteenth District meeting will be held at the Utah Hotel and Director Gene O'Fallon of KFEL, Denver, has planned an interesting program.

## NEBRASKA BROADCASTERS ASSOCIATION

At the recent annual meeting of the Nebraska Broadcasters Association, comprising all eleven stations in the state, the following officers and directors were elected:

President, W. I. LeBarron, KGNF, North Platte, Nebr.; Vice President, L. L. Hilliard, KGKY, Scottsbluff, Nebr.; Secretary-Treasurer, Art Thomas, WJAG, Norfolk, Nebr.; Director, John J. Gillin, Jr., WOW, Omaha, Nebr.; Director, Vernon H. Smith, KOWH, Omaha, Nebr.

The Association went on record against the new sunrise rule of the Federal Communications Commission and endorsed Neville Miller's remarks on importance of broadcasting service during war time, and appropriated funds to assist in an appeal of the Nebraska anti-ASCAP case to the Conference Court of the United States.

## Sales

### IS THE CONSUMER MOVEMENT "ANTI-ADVERTISING"?

There is and has been a great deal of misconception on that score in many sections and among many groups. The future course and ultimate solution of the consumer problem are not easy to predict. For that reason, the NAB Bureau of Advertising has mailed to all members reprint of an article from *Nation's Business*, entitled "The Case for Distribution." This is an extensive and authoritative study of this complicated subject, and should be of interest to broadcasters in connection with current developments affecting all advertising media.

### DEALERS AND RADIO ADVERTISING

Commercial managers particularly should be interested in the article "Dealers and Radio Advertising," by Samuel J. Henry, Jr., of the NAB staff, which appears in *Broadcasting*, June 1 (p. 62). Radio, says Mr. Henry, has brightened the typical dealer's attitude toward all advertising, because he has been able to see exactly how radio works for him. The article outlines the results of some recent surveys among dealers and wholesalers indicating a consistent preference for radio advertising, especially in the food field. The study points out what must be done to build similar acceptance in other fields, and what is being done to convert a growing dealer demand for radio into new business for stations, with particular reference to cooperative and national spot advertising.

### NRDGA RADIO SESSION JUNE 19

Wednesday, June 19 at 10 a. m. has been definitely set as the date for the "Radio for Retailers" meeting to be held in conjunction with the semi-annual convention of the National Retail Dry Goods Association, Palmer House, Chicago, June 17-20. The Bureau of Radio Advertising is cooperating with NRDGA on the panel discussion, which will have prominent retail advertisers and commercial managers sitting down for a heart-to-heart talk on the problems of department store radio advertising. The theme of the discussion will be "More radio-retailer cooperation for better radio results."

## Promotion

### NINE GOVERNORS PROCLAIM FESTIVAL

Nine Governors of states have issued National Radio Festival proclamations.

Art Stringer will appreciate hearing from members if any names are omitted from the list below:

California—Gov. Culbert L. Olson.  
Colorado—Gov. Ralph L. Carr.  
Kansas—Gov. Payne Ratner.  
Louisiana—Gov. Samuel Houston Jones.  
New Jersey—Gov. A. Harry Moore.  
New Mexico—Gov. John E. Miles.  
Oklahoma—Gov. Leon C. Phillips.  
Virginia—Gov. James H. Price.  
West Virginia—Gov. Homer A. Holt.

### WROK SIGNS POWER COMPANY MONDAY THROUGH SATURDAY

WROK, Rockford, got tired of going without power company business, and decided to do something about it. They thought there was some sense to the statement: "Your power company can be your best local account."

Result: Central Illinois Electric and Gas Company has been on WROK, Monday through Saturday, 9:15 to 9:30 a. m. since April 15 and "the sponsor is very happy."

The program is the "Town Crier" show. According to copy on the 30,000 inserts in customers bills, the townspeople are invited to use the program for making announcements concerning their "religious, fraternal, civic and social organizations."

When William R. Traum, sales promotion manager, took time out to give us the good news he included some spring tonic for us: "We used quotations from your March 1 bulletin in our presentation to the C.I.E.G. company and feel they helped sell the idea."

### WFBM, WENR AND WMAQ USE RADIO PLUGS

WFBM, Indianapolis, WENR and WMAQ, Chicago, are each paying attention to circulation.

Jack Ryan, of the Chicago stations, has sent us some recent announcements which were included in "Radio Fanfare" and Radio Parade. They are always placed in the lead.

"Thanks for the announcements for portable radios, radios as wedding gifts and auto radio service," wrote Lester W. Lindow, acting manager of WFBM. "We shall be glad to use these announcements . . . please be assured of our continued cooperation."

### WBAB HAS FESTIVAL SHOW FOR NATION'S UTILITY EXECUTIVES

Good news for stations without utility business!

Members of the Edison Electric Institute, the trade organization of the power companies, held its annual convention in Atlantic City during Radio Festival week.

The convention attendants and townspeople were invited to a 30-minute broadcast, "Radio," in the huge Atlantic City auditorium on the boardwalk, over WBAB, Friday evening, June 7, 9:30 to 10:00. The host and sponsor of the show was the Atlantic City Electric Company which has been serving south Jersey for forty years. The program was prepared by Norman Reed, station director.

The 30-minute program with a cast of twelve showed the power company officials how radio "ticks". It also explained the workings of the American system of broadcasting. All in all, the whole affair was just about one of the finest pieces of power company-radio promotion that any individual station could desire.

Our private grapevine also brings the news that power company officials in great numbers are giving studied attention to broadcasting as a medium to promote their business.

So far this year member stations have gotten substantial increases in power company business. Non-users of radio facilities have become users; old users have increased their time on the air.

### RADIO FESTIVAL

This is the week that scores of Radio Festival celebrations are being held throughout the United States.

Observance of the event began in May, will continue through June and even into late August. News of the August event came on June 3 from Bill Dean, publicity and promotion director, WDAY, Fargo, N. D.

Bill has already included everything but the kitchen sink in his plans and that is to be incorporated a little later on. Here's his wire:

"Count on WDAY cooperation National Radio Festival with radio week all set for latter part August. Plans yet incomplete though will definitely include: special programs from fair ground studios during Red River Valley Fair biggest event in locality; "Show windows downtown Fargo; educational radio booth at fair grounds; open house at downtown studios, transmitter and fair ground studios; quiz contest with studio and transmitter visits aired; man-on-street devoted to event; special all-talent revue built around American radio; transcriptions made of passers-by and interviews at fair; explanation given during process; do you know your radio program built for purpose of education; advance promotional announcements and newspaper publicity; "Promises to be greatest promotion event in history of WDAY. More details later."

#### WEST VIRGINIA

Gov. Homer A. Holt has proclaimed National Radio Festival in West Virginia, June 10-16. So says Nick Pagliara, WCHS, Charleston.

SEATTLE—KIRO, KJR, KOMO, KRSC, KXA  
TACOMA (and Seattle)—KIRO

These NAB members in the northwest empire took National



Radio Festival to their bosom with joint and individual participations.

Group effort highlight was a special "Radio Week Info Please" program, a take-off on Canada Dry's classic, with Mayor Langlie, of Seattle, doing the Clifton Fadiman. Representatives of the six stations constituted the board of experts.

Unlike the original, this program was written and rehearsed, then transcribed to be used on each participating station one night during the week.

The joint schedule included a series of short call letter spots and thirty to fifty word spots. Some of the sponsored local programs as well as sustaining and participation shows carry mention of Radio Festival Week.

In addition to this group effort, each station produced at least one promotional program on its own facilities and its own place in the general plan of the American broadcasting system.

At KOMO and KJR, according to Peter Lyman, public relations director, was produced a "Washington (state, not D. C.) at Work" program featuring KOMO and KJR at work. This program was one of a weekly series spotlighting leading Washington industries. "KOMO-KJR at Work" ended with a message from Birt F. Fisher, manager.

#### ROCHESTER—WHEC

Residents of Rochester heard of Radio Festival over WHEC and read about it in both of the Rochester daily papers. Gunnar Wiig, general manager, OK'd a column of copy for insertion in both papers which reads:

"RADIO  
FESTIVAL  
May 26 to 31  
A Salute To  
YOUTH"

"WHEC will devote a large part of its broadcasting schedule next week to the school children of the Rochester territory. The purpose of this "Radio Festival" is to instruct and educate these future citizens regarding the American System of Broadcasting, and to instill in them an appreciation of the American Program Service.

"Adult listeners need have no fear that *they* will be slighted as our special programs will have plenty of 'all-age' appeal.

"There will be a proclamation by the Mayor, special musical programs, special 'man-in-the-street' programs, a complete broadcast of assembly at Benjamin Franklin High School, P.T.A. programs, Chamber of Commerce programs, 'job-hunt' programs, discussions of freedom of radio and the press.

"Boys and girls will participate in a number of these broadcasts."

#### ROANOKE—WDBJ

The *Roanoke Times*, Sunday morning, June 2, devoted most of its radio page to the Festival with an eight-column banner, "Station WDBJ to Hold Open House in Celebration of Radio Festival Week."

In addition to news stories there was a 450-line ad with the main display reading: WDBJ, RADIO FESTIVAL WEEK, June 3 to 8.

#### RICHMOND—WMBG, WRNL, WRTD, WRVA

Down in the other part of the "Old Dominion" the Richmond stations were likewise busy. The Hon. James H. Price, Governor of Virginia, proclaimed National Radio Festival Week. The NAB essay contest was a part of the festivities.

All week WMBG conducted interviews with high school students in the studio lobby, decorated for the occasion. Walter Bishop, promotion manager, WRVA, was also a busy man during the week as was D. S. Freeman, vice president, WRNL.

A note from Bernard M. Dabney, Jr., director of sales promotion, WRTD, said that WRTD got under way with Radio Festival Friday night, June 1, with a half-hour broadcast from the final ball of the Thomas Jefferson High School. . . .

For the entire week seven to nine news broadcasts per day were handled by students from the staffs of the publications of the Richmond high schools. This included commercial news programs as well as sustaining shows. Of the several dramatic shows which were scheduled one depicted the "differences between radio in 1921 and radio today."

#### NBC—Red and Blue

Clay Morgan, NBC director of public relations, sent down a batch of scripts showing how Radio Festival had been incorporated into various programs over WEAJ and the Red and WJZ and the Blue. They contributed to an understanding of the fact that

National Radio Festival was a grass roots promotion, with activity built around stations. Thank you, Mr. Morgan.

#### JAMESTOWN—WJTN

During Radio Festival Week, June 3-8, WJTN performed a notable feat in interpreting the City of Jamestown to its citizens.

Result, in the words of Si Goldman, acting manager, "we have obtained the enthusiastic support of the entire city. Already the broadcasts have tied us in solidly with every civic group."

National Radio Festival was announced in a 600 line ad in both Jamestown papers. Because the Jamestown Radio Festival was pointed to civic-mindedness: the program, copied from an advertisement, appears below:

"MONDAY, JUNE 3—7:00 to 7:30 p. m.—OPENING BROADCAST

PLACE—New Jamestown High School Auditorium.

MUSIC—Jamestown High School Band, New York State Champions.

SPEAKERS—Mayor Leon F. Roberts; Fire Chief Rudolph Swanson; City Legal Consultant Anthony Saeli; Superintendent of Schools Clinton Bush; Police Chief Harry Nelson; Rev. Dr. A. E. Randell, formerly of City Hospital Board; Charles Laycock, Secretary of Chamber of Commerce; Julius King, Publicity Director of Chautauqua.

JAMESTOWN TELEPHONE BROADCAST—9:30 to 10:00 p. m.

PLACE—Jamestown Telephone Exchange Building.

"TUESDAY—FIRE DEPARTMENT BROADCAST—8:00 to 8:30 p. m.

PLACE—City Hall Engine House, and Wellman Building, to which there will be a demonstration call.

9:15 to 9:30 p. m.—JAMESTOWN DIVISION ALFRED UNIVERSITY EXTENSION.

"WEDNESDAY—3:00 to 3:30 p. m.—NEWSPAPER BROADCAST.

PLACE—Jamestown Evening Journal.

PARTICIPANTS—Dept. Heads and Newspaper Workers.

8:30 to 9:00 p. m.—CITY ADMINISTRATION BROADCAST.

PLACE—Council Chamber of Jamestown City Hall.

PARTICIPANTS—Mayor Roberts and City Department Heads.

"THURSDAY—8:30 to 9:00 p. m.—JAMESTOWN PUBLIC SCHOOL SYSTEM BROADCAST.

PLACE—WJTN Studios.

MUSIC—Jamestown High School A Cappella Choir.

PARTICIPANTS—Superintendent of Schools Clinton Bush, and Department Heads.

9:30 to 10:00 p. m.—POLICE DEPARTMENT BROADCAST.

PLACE—Demonstration call between police transmitter and prowl car, to be picked up and rebroadcast by WJTN's transmitter; and round-table police discussion in WJTN Studios.

"FRIDAY—8:30 to 9:00 p. m.—CITY HOSPITAL BROADCAST.

PLACE—Jamestown General Hospital.

PARTICIPANTS—Ward and Department Heads.

"SATURDAY—8:30 to 9:00 p. m.—CHAMBER OF COMMERCE BROADCAST.

PLACE—WJTN Studios.

MUSIC BY THE TRUMPETEERS.

PARTICIPANTS—Charles Laycock, Secretary of Chamber of Commerce; and Julius King, Publicity Director of Chautauqua Institution; Charles Brown, Chautauqua Regions."

#### DURHAM—WDNC

"Super crook" Bob Stratton, program director, WDNC, Durham, N. C., matched wits with local police during National Radio Festival and won by two minutes.

It happened during the stolen car demonstration broadcast. The public listened in on the complicated chase as reported via 2-way police radio and WDNC.

"The police were very cooperative," said Mr. Stratton, "and the resulting program was very interesting."

On Friday evening WDNC broadcast an amateur radio demonstration. During the week all types of radio sets were displayed in the large studio.

#### DES MOINES—KSO-KRNT

Twenty-three thousand three hundred (23,300) people attended KSO-KRNT, Des Moines, Radio Festival picnic, Sunday, June 2. 23,300 folks said it was a big success!

The event was publicized for two weeks over the air. In addition, Mary Little's column in the Register and Tribune carried notes and there were regular KSO-KRNT posters on the backs of all street cars.

At the entrance gate each picnicker received a list of the forty prizes for the drawings and tickets for the free rides in the amusement park where the event was held. The picnic began at 10:00 a. m. and ended at 11:00 p. m. with a "fireworks display from across the lagoon."

The stations are continuing Radio Festival through June with a daily give-away of a radio set. "It is having a very decided effect on the general radio listening," according to Craig Lawrence, commercial manager.

#### COLUMBUS—WHKC

WHKC, Columbus, Ohio, "is right on top in National Radio Festival Week" according to Bob French, production manager.

Mr. French wrote:

"Not only is this station carrying out the plans for talks and announcements which you outlined, but we are incorporating several ideas of a purely local nature, which we believe will stack up with the best of them.

"Again may we thank you for your suggestions and assure you of our utmost cooperation in this very worthwhile venture."

#### BRIDGEPORT—WICC

"At the end of this week we will have completed what I feel has been a real effort to sell radio to the public; and especially we have made a great many school children conscious of our industry."

That's the conclusion of Joseph Lopez, supervisor, WICC, Yankee Network, Bridgeport, Conn. In addition he wrote:

"We began last week carrying special programs made up from the various schools of this area to announce the National Radio Festival and are intensifying this project this week. We have been able to get together some very good programs of school groups and have made this open house at our studios. We are showing in the windows of our New Haven building a display built around the Festival. Last night (June 3) I concluded a series of three talks taken from the ABC of Radio which have also been well received.

"About a month ago we began, in cooperation with other Connecticut stations, an essay contest among the children of the 6th, 7th and 8th grades elementary schools, and all grades of high school on the subject: 'The American System of Broadcasting—Why It is Best for Americans.' The booklets, 'The ABC of Radio' were widely distributed among the schools for reference.

"All essays have been submitted to general headquarters for Connecticut at WTIC, Hartford, for judging and awarding of prizes.

"This essay contest not only aroused considerable interest but the booklet has been widely examined and has also created additional interest in radio. This coming Saturday evening (June 8) we are planning to carry a special half hour program from Hartford to present the winners, etc."

#### ATLANTIC CITY—WBAB

The Honorable A. Harry Moore, Governor of New Jersey, was the first Governor of the seaboard states to proclaim National Radio Festival. The event was celebrated during the week of June 3-8.

Norman Reed, managing director of WBAB, Atlantic City, secured Governor Moore's proclamation as well as one by Thomas D. Taggart, Jr., Atlantic City's Mayor.

WBAB maintained Open House throughout the week, presented special musical programs and announcements. A highlight was a 30-minute dramatic presentation on Friday at 9:30 p. m., in which the public was taken behind the scenes in a broadcast station.

## Engineering

### IRE CONVENTION

The Fifteenth Annual Convention of the Institute of Radio Engineers will be held June 27, 28, 29 at Hotel Statler, Boston, Massachusetts. This year's program

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should be of unusual interest to broadcast engineers because about half of the program will be devoted to television, frequency modulation, high-power air-cooled tubes, and ultra-high-frequency transmission.

Several inspection trips of unusual interest have been scheduled. Probably the outstanding trip will be the one to Paxton to inspect the 50 KW FM transmitter of the Yankee Network. Paul deMars, Technical Director of the Yankee Network, will demonstrate frequency-modulated-wave reception and relay transmission and will illustrate the peculiar merits of frequency modulation. Other inspection trips of unusual interest will be made to the new WBZ 50 KW transmitter, Hygrade Sylvania Tube factory, U. S. Coast Guard air base at Salem, Harvard Engineering and Research Laboratories, General Radio, and Massachusetts Institute of Technology.

Eight highly interesting papers will be presented on television. These will be:

"A portable Television Transmitter," by C. D. Kentner, RCA Manufacturing Company; "Small Iconoscopes of Recent Design," by W. H. Hickok, RCA Manufacturing Company; "A New Method of Synchronization for Television Systems," by T. T. Goldsmith, R. L. Campbell, and S. W. Stanton, Allen B. DuMont Laboratories; "A Type of Light Valve for Television Reproduction," by J. S. Donal, Jr., and D. B. Langmuir, RCA Manufacturing Company; "Synchronizing and Deflection Circuits of a Television Receiver," by R. E. Moe, General Electric Company; "Television Radio Relaying," by F. H. Kroger, Bertram Trevor, and J. E. Smith, RCA Communications; "The Influence of Filter Shape-Factor on Single-Sideband Distortion," by J. C. Wilson and H. A. Wheeler, Hazeltine Service Corporation; and "High Oscillation Stability Without Crystals," by S. W. Seeley and E. I. Anderson, RCA License Laboratory.

The subject of Frequency Modulation will be well covered by six timely papers on the subject. These will be:

"Interference Between Stations in Frequency-Phase-Modulation Systems," by Dale Pollack, Cambridge, Mass.; "Interference Between Two Frequency-Modulated Signals," by Stanford Goldman, General Electric Company; "A New Broadcast Transmitter Circuit Design for Frequency Modulation," by J. F. Morrison, Bell Telephone Laboratories; "Frequency-Modulation-Systems Characteristics," by M. L. Levy, Stromberg-Carlson Telephone Manufacturing Company; "National Broadcasting Company's Field Test of Frequency Modulation," by R. F. Guy and R. M. Morris, National Broadcasting Company; "Demonstration of Frequency-Modulated-Wave Broadcast Systems," by E. H. Armstrong and P. A. deMars, Columbia University, and the Yankee Network, respectively.

R. N. Harmon, of Westinghouse, will describe an air-cooled 50 KW transmitter and I. E. Mouromtseff and W. G. Morgan, of Westinghouse, will deliver a paper on large air-cooled tubes for use in 50 KW transmitters.

The papers on ultra-high-frequencies and microwaves will include: "Microwaves—Present and Future," by a Massachusetts Institute of Technology group, led by W. L. Barrow; "Ultra-Short-Wave Transmission Over a Fixed Optional Path," by C. R. Englund, A. B. Crawford, and W. W. Mumford, Bell Laboratories; "Centimeter-Wave-Detector—Measurements and Performance," by E. G. Linder and R. A. Braden, RCA Manufacturing Co.; "A New UHF Tetrode and Its Use in a 1-KW Television Sound Transmitter," by A. K. Wing, Jr., and J. E. Young, RCA; "An Ultra-High-Frequency Dosimeter-Diatherm," by J. D. Kraus and R. W. Teed, University of Michigan; "A Radio-Frequency Bridge for Measurements Up to 30 Megacycles," by D. B. Sinclair, General Radio Company; "The Measurement of Coil Reactance in the 100-Megacycle Region," by Ferdinand Hamburger, Jr., and C. F. Miller, Johns Hopkins University; "The Entrance of Ultra-High-Frequencies Into Air-Transport Communications," by J. G.

Flynn, Jr., American Airlines, Inc.; "Microwave Beams for Instrument Landing of Airplanes," by W. L. Barrow, Massachusetts Institute of Technology, Cambridge, Mass.; and "A Microwave Receiver for Instrument Landing," by F. D. Lewis, Massachusetts Institute of Technology, Cambridge, Mass.

There will be the usual commercial exhibits and annual banquet. A copy of the full program is being sent to each NAB member and further details may be obtained from the Director of Engineering or by writing to Harold P. Westman, Secretary, Institute of Radio Engineers, 330 West 42nd Street, New York City.

## The Commission

### BROWN REAPPOINTED

President Roosevelt this week nominated Col. Thad H. Brown to succeed himself as a member of the FCC. His present term expires on June 30 and the new term is to be from June 30, 1940, to June 30, 1947. The nomination has been referred to the Senate Committee on Interstate Commerce.

### FLY SAYS TELEVISION INTERESTS ARE MOVING FORWARD

FCC Chairman James Lawrence Fly, at a press conference early this week, said that he saw some indications of the industry's getting to work on television and trying to do the job constructively and to move forward. This answer was made by the Chairman to a question as to whether the Commission saw any indication of the television industry getting together.

Mr. Fly told newsmen that the question of the industry's agreement was not the sole question. The prime question, he said, was one of satisfactory performance. The Commission, Mr. Fly stated, was not concerned with an agreement in the sense of commercial interests getting together and agreeing on a scheme to satisfy their own business interests. The Commission will rely on engineering opinion as to efficiency and actual improvement of television standards.

"What we are shooting at," Chairman Fly said, "is a level of performance and looking for engineering opinion on the merits of standards."

Television was not deadlocked, he said. On the contrary it has been put on a basis for engineering advance. The Commission, Mr. Fly said, was ready to make a substantial number of grants which would allow the public to participate in experimentation.

Mr. Fly told the conference that he expected the Monopoly Committee will make its report to the Commission sometime this week, but he said no action has been taken by the Commission itself as to when or if the report will be made public.

## FOREIGN AMATEUR COMMUNICATION BANNED

Immediate ban on amateur radio communication with foreign stations was today ordered by the Federal Communications Commission. There are approximately 55,000 amateurs licensed by the Commission.

This prohibition, however, does not apply to amateur communications between licensed amateur stations in the continental United States and its territories and possessions; nor does it apply to United States citizens authorized to operate amateur stations in the Philippine Islands or the Canal Zone when such persons are communicating with amateurs in the United States.

Order No. 72, pursuant to Section 303 of the Communications Act and in accordance with Article 8, Section 1, General Radio Regulations (Cairo Revision, 1938) annexed to the International Telecommunications Convention (Madrid, 1934), as issued today, reads in the main:

"IT IS ORDERED, That amateur radio operators and amateur radio stations licensed by the Federal Communications Commission shall not exchange communications with operators or radio stations of any foreign government or located in any foreign country; Provided, however, that this Order is not intended to prohibit the exchange of communications between licensed amateur operators and licensed amateur stations in the continental United States and licensed amateur operators and licensed amateur stations in the several Territories and possessions of the United States, or between licensed amateur operators and licensed amateur stations in the Continental United States and United States citizens authorized to operate amateur stations in the Philippine Islands or the Canal Zone, or between licensed amateur operators and licensed amateur stations in the several Territories and possessions of the United States.

IT IS FURTHER ORDERED, That all Rules and Regulations of the Commission inconsistent with this Order BE, AND THE SAME ARE HEREBY, SUSPENDED, pending the further Order of the Commission.

This Order shall become effective immediately."

### FCC AMENDS BROADCAST RULES

FCC has announced that Section 3.71 of its rules dealing with minimum operating schedules has been amended to read as follows:

"Except Sundays, the licensee of each standard broadcast station shall maintain a minimum operating schedule of two-thirds of the total hours that it is authorized to operate between 6 a. m. and 6 p. m., local standard time, and two-thirds of the total hours it is authorized to operate between 6 p. m. and midnight, local standard time, except that in an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating, the station may cease operation for a period of not to exceed 10 days, provided that the Commission and the Inspector in Charge shall be notified in writing immediately after the emergency develops."

### FCC ASSIGNMENTS

FCC has announced that the work, business and functions of the Commission for the month of June have been assigned as follows:

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

Commissioner Walker—Designated to hear and determine, order, certify, report or otherwise act upon; (a) except as otherwise

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

## HIGH FREQUENCY ALLOCATIONS

Specific allocations of frequencies in the band 116,000 to 119,000 kilocycles, and in the band 156,000 to 162,000 kilocycles, have been approved by the Federal Communications Commission in accordance with Order No. 67 to become effective June 18 as follows:

<i>Frequency kc.</i>	<i>Allocation</i>	<i>Frequency kc.</i>	<i>Allocation</i>
116,050	Special Services and Experimental	117,550	Marine Fire
116,150	Police	117,650	Special Services and Experimental
116,250	Experimental	117,750	Police
116,350	Coastal and Ship Harbor	117,850	Special Emergency
116,450	Special Services and Experimental	117,950	Relay Press
116,550	Police	118,050	Special Services and Experimental
116,650	Special Emergency	118,150	Police
116,750	Relay Press	118,250	Experimental
116,850	Special Services and Experimental	118,350	Coastal and Ship Harbor
116,950	Police	118,450	Special Services and Experimental
117,050	Experimental	118,550	Police
117,150	Relay Press	118,650	Experimental
117,250	Special Services and Experimental	118,750	Relay Press
117,350	Police	118,850	Special Services and Experimental
117,450	Forestry	118,950	Forestry
156,075	Broadcast	156,375	Fixed
156,225	Fixed	156,525	Special Services and Experimental
156,675	Broadcast	159,225	Broadcast
156,825	Broadcast	159,375	Broadcast
156,975	Experimental	159,525	Fixed
157,125	Fixed	159,675	Fixed
157,275	Fixed	159,825	Special Emergency
157,425	Special Services and Experimental	159,975	Broadcast
157,575	Broadcast	160,125	Fixed
157,725	Experimental	160,275	Fixed
157,875	Fixed	160,425	Special Services and Experimental
158,025	Fixed	160,575	Fixed
158,175	Special Services and Experimental	160,725	Fixed
158,325	Broadcast	160,875	Forestry
158,475	Broadcast	161,025	Broadcast
158,625	Police	161,175	Broadcast
158,775	Fixed	161,325	Special Services and Experimental
158,925	Fixed	161,475	Fixed
159,075	Special Services and Experimental	161,625	Fixed
		161,775	Experimental
		161,925	Broadcast

Frequencies between 116,000 and 119,000 kilocycles are assignable on an experimental basis only in the service for which allocated until January 1, 1942. In the first mentioned band, assignments made prior to January 1, 1941, will be on a basis of non-interference to existing broadcast stations on frequencies between 116,000 and 118,000 kilocycles, and to existing Govern-

ment stations on frequencies between 118,000 and 119,000 kilocycles.

Frequencies between 129,000 and 132,000 kilocycles, and between 140,000 and 144,000 kilocycles, are also available for experimental purposes in accordance with the rules and regulations governing such service.

## FEDERAL COMMUNICATIONS COMMISSION

### FINAL ORDERS

The FCC has announced the adoption of an order granting the applications of the Nevada Broadcasting Company and the Las Vegas Broadcasting Company, both for new stations in **Las Vegas, Nevada**, the Nevada Broadcasting Company to operate on frequency **1370 kilocycles**, with power of 100 watts night, 250 watts day, unlimited time, and the Las Vegas Broadcasting Company to use **1420 kilocycles**, with the same power and unlimited hours of operation, subject to the condition that permittees shall file application for modification of construction permit, specifying exact transmitter locations within two months after effective date of order.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

No hearings or oral arguments are scheduled to be heard before the Commission in broadcast cases during the week beginning June 10.

### FUTURE HEARINGS

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

July 1

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., **1370 kc.**, 250 watts, unlimited time.

July 2

NEW—The Kaw Valley Broadcasting Co., Inc., Topeka, Kans.—C. P., **1500 kc.**, 250 watts, unlimited time.

July 3

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., **1370 kc.**, 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

Western Radio Corp., The Dalles, Ore.—Granted construction permit for a new station to operate on **1200 kc.**, 100 watts night, 250 watts day, unlimited time (B5-P-2838).

- WTSP—Sam H. Mann, McKinney Barton and Dorothy Line, St. Petersburg, Fla.—Granted authority to transfer control of the Pinellas Broadcasting Company, licensee of station WTSP, from Sam H. Mann, McKinney Barton and Dorothy Line, to Nelson P. Poynter, 50 shares of common stock for a total consideration of \$39,000. Station operates on **1370 ke.**, 250 watts, unlimited time (B3-TC-211).
- WSYR-WSYU—M. S. Wilder, Syracuse, N. Y.—Granted authority to transfer control of Central New York Broadcasting Corp., licensee of WSYR-WSYU, from M. S. Wilder to H. C. Wilder, 1500 shares of common stock (par value \$15,000). Station operates on **570 ke.**, 1 KW, unlimited time, DA day and night (B1-TC-214).
- WJTN—Harry C. Wilder, Jamestown, N. Y.—Granted authority to transfer control of James Broadcasting Co., Inc., licensee of WJTN, from Harry C. Wilder to Jay E. Mason, 490 shares of common stock for \$4,900 and 75 shares of preferred stock for \$7,500. Station operates on **1210 ke.**, 250 watts, unlimited time (B1-TC-208).
- W8XWJ—The Evening News Assn., Detroit, Mich.—Granted renewal of high frequency broadcast license for the period ending January 1, 1941, on an experimental basis only, conditionally.
- WLWO—The Crosley Corp., Cincinnati, Ohio.—Granted modification of license to add frequency **17800 ke.** in addition to the presently authorized frequencies used by international station WLWO—**6060, 9590, 11870, 15270, and 21650 ke.** (B2-MLIR-27).
- WSPB—WSPB, Inc., Sarasota, Fla.—Granted modification of license to increase nighttime power from 100 to 250 watts, operating on **1420 ke.** (B3-ML-950).
- KUIN—Southern Oregon Broadcasting Co., Grants Pass, Ore.—Granted construction permit to make changes in transmitter and increase power from 100 to 250 watts, unlimited time, on **1310 ke.** (B5-P-2779).
- WFAS—Westchester Broadcasting Corp., White Plains, N. Y.—Granted construction permit to install new transmitter and increase power from 100 to 250 watts on **1210 ke.**, S-WGBB-WBRB (B1-P-2786).
- KYUM—Yuma Broadcasting Co., Yuma, Ariz.—Granted modification of license to increase night power from 100 to 250 watts, on **1210 ke.**, unlimited time (B5-ML-993).
- WTHT—The Hartford Times, Inc., Hartford, Conn.—Granted modification of construction permit (B1-P-2240) authorizing increase in night power from 100 to 250 watts, operating on **1200 ke.**, unlimited time (B1-MP-897).
- The Commission announced the grant of the following application:
- West Virginia Radio Corp., Morgantown, W. Va.—Granted construction permit for a new station to operate on **1200 ke.**, 250 watts, unlimited time. Exact transmitter, studio site and antenna system to be determined subject to Commission's approval.

### DESIGNATED FOR HEARING

Glover Weiss, trading as Glover Weiss Co., Jacksonville, Fla.—Application for construction permit to erect a new station to operate on **1440 ke.**, 250 watts, unlimited time (B3-P-2812).

### MISCELLANEOUS

- KVIO—Puget Sound Broadcasting Co., Inc., Tacoma, Wash.—Denied petition for rehearing filed in re application of KIRO, the Queen City Broadcasting Company, for authority to move transmitter and increase power from 1 KW to 10 KW, unlimited time, which was granted by the Commission on April 16.
- WCAD—St. Lawrence University, Canton, N. Y.—Granted special temporary authority to change hours of operation from EST to EDST for the period June 1 to August 1. Also granted special temporary authority to operate from 10:30 a. m. to 12:30 p. m., EDST on June 9, in order to broadcast Commencement Exercises of Theological School; from 2:30 to 4 p. m., EDST on June 9, in order to broadcast Baccalaureate Sermon of College; from 10 a. m. to 12:30 p. m., in order to broadcast Graduating Exercises of College, and from 1:30 to 3 p. m., EDST on June 10 in order to broadcast Senior Luncheon.
- WMAZ—Southeastern Broadcasting Co., Inc., Macon, Ga.—Granted special temporary authority to operate from 9:15 p. m. to 12 midnight EST, on June 7 in order to broadcast election returns only; also granted special temporary authority to operate from 9:15 p. m. to 10 p. m., EST on June 3, in order to broadcast the Mercer University Graduation Exercises.
- WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts local sunset (June 7:30 p. m., CST) to 9 p. m., CST on June 5, in order to broadcast commencement exercises of Madonna High School and to operate from 7:30 to 9 p. m., CST on June 14, in order to broadcast Americanism program to be presented by Aurora Lodge of Elks.
- Anthracite Broadcasting Co., Inc., Scranton, Pa.—Granted motion for postponement of hearing from June 3 to July 2 on application for new station to operate on **1370 ke.**, 250 watts, unlimited time.
- The Kaw Valley Broadcasting Co., Inc., Topeka, Kans.—Granted petition for continuance of hearing from June 11 to July 2 in re application for new station to operate on **1500 ke.**, 250 watts, unlimited time.
- WMBG—Havens & Martin, Richmond, Va.—Granted construction permit to install new auxiliary transmitter, using 1 KW instead of 250 watts, for emergency use only. (B2-P-2876)
- WBZ—Westinghouse E and M Co., Boston, Mass.—Granted modification of construction permit (B1-P-2161) as modified, for extension of completion date from 6-30-40 to 9-30-40. (B1-MP-984)
- WSUI—State University of Iowa, Iowa City, Ia.—Granted license to cover construction permit authorizing increase in power to 1 KW, 5 KW LS, installation of new transmitter and DA for day and night use, and move of transmitter; **880 ke.** Also granted authority to determine operating power by direct measurement of antenna power. (B4-L-1153 and B4-Z-401)
- KVOR—Out West Broadcasting Co., Colorado Springs, Colo.—Granted authority to determine operating power by direct measurement of antenna power. (B5-Z-399)
- WRJN—Racine Broadcasting Corp., Racine, Wis.—Granted authority to determine operating power by direct measurement of antenna power. (B4-Z-400)
- WDAE—Tampa Times Co., Tampa, Fla.—Granted license to cover construction permit (B3-P-2554), which authorized changes in equipment, installation of directional antenna for day and night use and increase in power to 5 KW; **1220 ke.**, unlimited time (B3-L-1152). Also granted authority to determine operating power by direct measurement of antenna power. (B3-Z-398)
- KEGE—A. E. Belo Corp., area of Dallas, Tex.—Granted construction permit to install new transmitter and decrease power from 3 to 2 watts in portable-mobile relay station. (B3-PRE-356)
- W3XPY—Bell Tel. Labs., Inc., Whippany, N. J.—Granted license to cover construction permit for new developmental broadcast station; frequency **43,200 ke.**, 5 KW. (B1-LEX-14)
- WSVA—Shenandoah Valley Broadcasting Corp., Harrisonburg, Va.—Granted modification of construction permit (B2-P-2578), authorizing approval of antenna and specifying transmitter site to be used for 1 KW equipment as site now used; 5 miles So. of Harrisonburg, East of Valley Pike. (B2-MP-966)
- WHLD—The Niagara Falls Gazette Publ. Co., Niagara Falls, N. Y.—Granted license to cover construction permit (B1-P-2210) as modified, which authorized a new station to operate on **1260 ke.**, 1 KW, daytime hours of operation (B1-L-1151). Also granted authority to determine operating power by direct measurement of antenna input. (B1-Z-396)
- WEHH—Columbia Broadcasting System, Inc., Portable-Mobile (area of N. Y. City)—Granted modification of construction permit (B1-PRE-281) as modified, which authorized changes in equipment and reduction of power to 15 watts, for authority to increase power from 15 watts to 30 watts and make changes in equipment. (B1-MPRE-44)
- Hagerstown Broadcasting Co., Hagerstown, Md. area.—Granted construction permit for new relay broadcast station; frequency **1622, 2058, 2150, 2790 ke.**, 100 watts. (B1-PRY-220)
- WEGP—Berks Broadcasting Co., Portable-Mobile, area of Reading, Pa.—Granted construction permit to increase power in relay station to 2 watts, and install new transmitter. (Bq-PRE-353)
- WAAU—Columbia Broadcasting System, Inc., New York, N. Y.—Granted special temporary authority to transmit to standard

- broadcast station WAPI, Birmingham, Ala., on June 1 and 2, 1940, in connection with the Birmingham Air Races; transmitter to be operated aboard plane.
- WLBL—State of Wisconsin, Dept. of Agriculture, Stevens Point, Wisc.—Granted extension of special temporary authority to operate specified time 8:00 a. m. to 4:15 p. m. CST daily for the period June 17, 1940, to not later than July 16, 1940, pending the completion of plans being made for additional station personnel to permit full daytime operation.
- KUSD—University of South Dakota, Vermillion, S. D.—Granted special temporary authority to remain silent for the period June 11, 1940, to not later than August 1, 1940, in order to observe the University's summer vacation.
- WLWJ—The Crosley Corp., Portable-Mobile (area of Cincinnati, Ohio).—Granted license to cover construction permit for new relay broadcast station; frequencies 1606, 2022, 2102, 2758 kc., power 50 watts. (B2-LRY-192)
- WPRO—Cherry & Webb Broadcasting Co., East Providence, R. I.—Granted license to cover construction permit for changes in directional antenna system, and increase in power from 1 KW night, 5 KW day, to 5 KW day and night (B1-L-1156)
- KMBC—Midland Broadcasting Co., Kansas City, Mo.—Granted license to cover construction permit for increase in power, install directional antenna for night use, and make equipment changes; 950 kc., 5 KW, unlimited time, directional antenna night (B4-L-1155). Also granted authority to determine operating power, by direct measurement of antenna input. (B4-Z-402)
- WOCB—Harriett M. Alleman & Helen W. MacLellan, d/b as Cape Cod Broadcasting Co., near Hyannis, Mass.—Granted modification of construction permit as modified which authorized construction of a new broadcast station, to install a new transmitter; 1240 kc., 250 watts, unlimited time (B1-MP-986)
- WINN—Kentucky Broadcasting Corp., Louisville, Ky.—Granted modification of construction permit as modified which authorized construction of new broadcast station, for a new transmitter and extend commencement and completion dates from December 2, 1939 and June 2, 1940, to 2 days after grant and 60 days thereafter respectively; 1210 kc., 100 watts, 250 watts LS, unlimited time (B2-MP-983)
- Grand Rapids Broadcasting Corp., Grand Rapids, Mich.—Granted petition to reconsider and grant without a hearing the application for a new station to operate on 1200 kc., 250 watts, unlimited hours, subject to condition that permittee shall file an application for modification of construction permit within two months after effective date of order, specifying exact transmitter location and antenna system.
- KSFO—The Associated Broadcasters, Inc., San Francisco, Cal.—Denied petition to change present assignment of KSFO, subject to final determination of any conflicting applications for the frequency involved, so as to operate with use of the facilities 740 kc. with 50 KW night and day, unlimited time, employing a directional antenna.
- Radio Corp. of Orlando, Orlando, Fla.—Dismissed petition for reconsideration of Commission grant and request for joint hearing in the matter of the application of Hazlewood, Inc., Orlando, Fla., for construction permit to erect a new station to operate on 1200 kc., 250 watts, unlimited time. (B3-P-2394)
- KOAC—Oregon State Agriculture College, Corvallis, Ore.—Dismissed petition for rehearing and request for special relief, directed to the opinion and Final Order of the Commission, granting the application of Salt River Valley Broadcasting Co. (KOY) for modification of license to change frequency from 1390 kc. to 550 kc., with 1 KW power.
- Broadcasting Corp. of America, Riverside, Cal.—Denied petition to grant without a hearing the application for a new station to operate on 1390 kc., 1 KW, unlimited time. Notice of hearing upon said application (B5-P-2648) to be amended to substitute Riverside Broadcasting Co. in place of Howard T. Sampson whose application has been withdrawn without prejudice. (B5-P-2296)
- WDBO—Orlando Broadcasting Co., Inc., Orlando, Fla.—Denied petition for rehearing in the matter of the application of Hazlewood, Inc., Orlando, Fla., for a new station to use frequency 1200 kc., 250 watts, unlimited time. (B3-P-2394)
- WCOL—WCOL, Inc., Columbus, Ohio.—Granted license to cover construction permit for change in frequency from 1210 to 1200 kc., increase in power from 100 watts to 250 watts, and changes in equipment (B2-L-1154).
- WJTN—James Broadcasting Co., Inc., Jamestown, N. Y.—Granted special temporary authority to rebroadcast the regular routine messages of Jamestown Police Radio Station WJNY and the mobile units connected therewith from 7:30 p. m. to 8 p. m., EST, on June 5, 1940, in connection with the National Radio Festival.
- KBPS—Benson Polytechnic School, Portland, Ore.—Granted special temporary authority to remain silent for the period June 7, 1940, to not later than August 1, 1940, in order to observe regular school vacation.
- WNBM—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate relay broadcast station WNBM on board steamship *Brazil* using a 500-watt NBC Composite transmitter, type P-500-A, serial No. 1, crystal control, high level modulation with 4 RCA 805 tubes in the last radio stage, under the permissive proviso of Section 308(A) of the Act, and to operate on additional frequencies 4797.5, 6425, 9135, 12862.5, and 17310 kc., in order to relay broadcast Toscanini concerts and special program material from the *Brazil* bound for east coast South American ports to South American broadcast stations whenever feasible, for a period not to exceed 30 days (provided no interference is caused ship station WSBW or to any other radio service).
- John B. Cooley, Minot, N. D.—Granted special temporary authority to operate two relay transmitters on 300 mc. and 301 mc., power 2 watts, from June 16, 1940, to not later than June 22, 1940, in order to relay broadcast program material from the North Dakota State Fair in Minot, N. D., to Radio Station KLPM (equipment to be in accordance with diagram attached to letter dated May 22, 1940).
- Sioux City Broadcasting Co., Sioux City, Iowa.—Granted special temporary authority to operate two relay broadcast stations on frequencies listed in Group A and Group D, Sec. 4.23, power 10 watts, in order to relay broadcast program in connection with the Missouri River barge celebration, to Radio Station KTRI on June 10, 1940.

## APPLICATIONS FILED AT FCC

### 630 Kilocycles

- WPRO—Cherry and Webb Broadcasting Co., Providence, R. I.—License to cover construction permit (B1-MP-831) as modified for changes in directional antenna and increase in power.

### 710 Kilocycles

- WOR—Bamberger Broadcasting Service, Inc., Newark, N. J.—Extension of special experimental authority for transmission of facsimile signals from 1 a. m. to sunrise, EST, using 50 KW power, period beginning 8-1-40.

### 760 Kilocycles

- KXA—American Radio Telephone Co., Seattle, Wash.—License to cover construction permit (B5-P-1702) as modified for increase in power, move of transmitter, changes in equipment, installation of vertical antenna, and approval of studio site.

### 830 Kilocycles

- KFUO—Evangelical Lutheran Synod of Missouri, Ohio and other States, Clayton, Mo.—Construction permit to install new transmitter and vertical radiator, and increase power from 1 KW to 1 KW night, 5 KW day. Requests Class II station.

### 950 Kilocycles

- KMBC—Midland Broadcasting Co., Kansas City, Mo.—License to cover construction permit (B4-P-2507) as modified for increase in power, install directional antenna for night use, and make equipment changes.
- KMBC—Midland Broadcasting Co., Kansas City, Mo.—Authority to determine operating power by direct measurement of antenna power.

### 1010 Kilocycles

- KGGF—Hugh J. Powell, Coffeyville, Kans.—Construction permit to increase power from 1 to 5 KW, install new transmitter and directional antenna for night use, and move transmitter. Requests Class III-A station.

### 1050 Kilocycles

KFBI—The Farmers and Bankers Broadcasting Corp., Wichita, Kans.—Modification of construction permit (B4-P-1865) as modified for new transmitter, antenna, and move of transmitter and studio, further requesting authority to install directional antenna for night use, and change power and hours of operation from 5 KW, limited time, to 5 KW to sunset at KNX (PST) and 1 KW thereafter, unlimited time; extend commencement date to 30 days after grant and completion date to 90 days thereafter. Amended to change requested power to 1 KW night, 5 KW day.

### 1060 Kilocycles

KWJJ—KWJJ Broadcast Co., Inc., Portland, Ore.—Construction permit to install directional antenna for night use, change frequency from 1060 to 1040 kc., increase power from 500 watts to 1 KW, time from limited to unlimited. Request Class II station.

### 1130 Kilocycles

KSL—Radio Service Corp. of Utah, Salt Lake City, Utah.—Authority to determine operating power by direct measurement of antenna power.

### 1210 Kilocycles

WHBU—Anderson Broadcasting Corp., Anderson, Ind.—License to cover construction permit (B4-P-2801) to install new transmitter and make changes in antenna.

NEW—LaGrange Broadcasting Co., LaGrange, Ga.—Construction permit for a new broadcast station to be operated on 1210 kc., 100 watts, unlimited time. Amended to give transmitter location as LaGrange and studio as Broom St., LaGrange, Ga.

WKOK—Sunbury Broadcasting Corp., Sunbury, Pa.—Construction permit to make changes in equipment and increase power from 100 to 250 watts day and night. Amended re antenna.

WINN—Kentucky Broadcasting Corp., Louisville, Ky.—Modification of construction permit (B2-P-1809) as modified for a new station to install new transmitter, change in type of antenna, extend commencement and completion dates from 12-2-39 and 6-2-40 to 2 days after grant and 60 days thereafter, respectively. Amended to omit request for changes in antenna.

WOCB—Harriett A. Alleman and Helen W. MacLellan, d/b as Cape Cod Broadcasting Co., near Hyannis, Mass.—Modification of construction permit (B1-P-1140) as modified for a new station, to install new transmitter.

### 1220 Kilocycles

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

### 1340 Kilocycles

WORD—Spartanburg Advertising Co., Spartanburg, S. C.—Modification of construction permit (B3-P-2261) for a new station, requesting authority to increase power from 100 watts night, 250 watts day, to 250 watts day and night; change type of transmitting equipment; approval of antenna; and change proposed location of studio and transmitter sites; extend commencement and completion dates to 30 and 180 days, respectively.

### 1340 Kilocycles

KDTH—Telegraph Herald, Dubuque, Iowa.—Modification of construction permit (B4-P-960) for a new station. for approval of transmitter site, approval of antenna, install new transmitter, and move studio. Class III-B station.

### 1420 Kilocycles

WELL—Enquirer-News Co., Battle Creek, Mich.—Voluntary assignment of construction permit (B2-P-2669) for increase in power, install new transmitter, and make antenna changes, from Enquirer-News Co. to Federated Publications, Inc.

### 1500 Kilocycles

KBST—The Big Spring Herald Broadcasting Co., Big Spring, Tex.—Authority to transfer control of corporation from Joe

Galbraith (250 shares common stock) to Howard Barrett, 75 shares; Bonnie Davis, 75 shares; Houston Harte, 50 shares; and M. B. Hanks, 50 shares common stock.

## MISCELLANEOUS

WGEO—General Electric Co., So. Schenectady, N. Y.—Modification of license to change frequencies from 6190, 9530 and 21590 kc. to 6190, 9530 and 15330 kc., sharing time on 6190 and 15330 kc. with stations KGEI and WGEA; 9530 kc. with station KGEI.

KGEA—General Electric Co., So. Schenectady, N. Y.—Modification of license to add the frequencies 6190 and 21590 kc. to those already licensed, sharing time on 6190 kc. with stations KGEI and WGEO and unlimited time on 21590 kc.

WGEA—General Electric Co., So. Schenectady, N. Y.—Construction permit to increase power from 25 to 50 KW, install new transmitter, and add the frequencies of 6190 and 21590 kc. to those already licensed, sharing time on 6190 kc. with stations KGEI and WGEO and unlimited time on 21590 kc.

WLWD—The Crosley Corp., Mobile.—License to use equipment of relay station WLWJ.

KGEI—General Electric Co., San Francisco, Calif.—Construction permit to increase power from 20 to 50 KW and install new transmitter.

NEW—Board of Education of the San Francisco Unified School District, San Francisco, Calif.—Construction permit for a new non-commercial educational broadcast station to be operated on 42100 kc., 1000 watts, special emission for frequency modulation.

NEW—The Associated Broadcasters, Inc., Portable-Mobile (area San Francisco, Calif.)—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150 and 2790 kc., 15 watts, Emission A-3.

W7XSW—Symons Broadcasting Co., Spokane, Wash.—Modification of construction permit (B5-PFB-16) for new facsimile broadcast station, requesting authority to extend commencement and completion dates from 3-24-40 and 9-24-40 to 9-1-40 and 1-1-41, respectively.

WAFK—A. Frank Katzentine, Portable-Mobile (area Miami Beach, Fla.)—Modification of construction permit (B-PRY-207) to change frequencies from 1646, 2090, 2190, 2830 to 1622, 2058, 2150, 2790 kc., and extend commencement date from 6-11-40 to 30 days after grant.

NEW—The Maryland Broadcasting Co., Baltimore, Md.—Construction permit for a new broadcast station to be operated on 1210 kc., 250 watts, unlimited time, Class IV station. Amended to give transmitter location as 1220-1230 Curtain Ave., Baltimore, Md., and install vertical antenna.

W2XWE—WOKO, Inc., Albany, N. Y.—License to cover construction permit (B1-PFB-18) to move transmitter locally.

W3-XMC—McNary and Chambers, Washington, D. C.—License to cover construction permit (B1-PHB-225) which authorized local move of transmitter.

WHPR—WHP, Inc., Portable-Mobile (area Harrisburg, Pa.)—License to cover construction permit (B2-PRE-339) for a new relay broadcast station.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**Agricultural Insecticide & Fungicide Association**—An unlawful price fixing conspiracy in the sale of chemicals, fertilizers, insecticides, fungicides and related items, is alleged in a complaint issued against the Agricultural Insecticide & Fungicide Association, New York, its officers, directors and members, and against five

cooperating corporations, the Allegheny Chemical Corporation, Reading, Pa.; Ansbacher-Siegle Corporation, Brooklyn, and General Chemical Company, Phelps Dodge Refining Corporation, and Tennessee Corporation, all of New York.

Association officer respondents are: R. N. Chipman, Bound Brook, N. J., chairman of the board of directors, and L. S. Hitchner, president and treasurer, and June C. Heitzman, secretary, both of New York.

Respondent members of the association board of directors are: R. N. Chipman, Bound Brook, N. J.; H. D. Whittlesey, Cleveland; H. P. Mansfield, Wilmington, Del.; J. B. Cary, Middleport, N. Y.; J. H. Boyd, Memphis, Tenn.; A. J. Flebut, Richmond, Calif.; G. F. Leonard, Louisville, Ky., and R. E. Demmon, G. E. Riches, and L. S. Hitchner, New York.

Twenty-six respondent association member companies, named as representative of the entire membership, are: Acme White Lead and Color Works, Detroit; American Agricultural Chemical Co., American Cyanamid and Chemical Corp., George W. Cole and Company, Inc., Derris, Inc., John Powell & Co., Inc., and Stauffer Chemical Co., Inc., all of New York; American Nicotine Company, Inc., Henderson, Ky.; The Antiseptic Products Company, Denver, Colo.; California Spray-Chemical Corporation, Richmond, Calif.; Chipman Chemical Company, Inc., Bound Brook, N. J.; Hercules Glue Company, Ltd., trading as Colloidal Products Corporation, San Francisco; Commercial Chemical Company, Memphis, Tenn.; Dow Chemical Company, Midland, Mich.; E. I. duPont de Nemours & Company, Inc., Wilmington, Del.; The Latimer-Goodwin Chemical Company, Grand Junction, Colo.; Fred L. Lavanburg Company, Brooklyn, N. Y.; Lucas Kil-Tone Co., Philadelphia; Niagara Sprayer and Chemical Co., Inc., Middleport, N. Y.; Nicotine Production Corporation, Inc., Clarksville, Tenn.; Sherwin-Williams Co., Inc., Cleveland; Southern Acid & Sulphur Co., Inc., St. Louis; J. M. Taylor, E. P. Brown and E. W. Parker, trading as Taylor Chemical Works, Ltd., Aberdeen, N. C.; Tobacco By-Products and Chemical Corporation, Louisville, Ky.; The J. W. Woolfolk Company, Fort Valley, Ga., and Pittsburgh Plate Glass Company, Corona Chemical Division, Milwaukee.

Among the products manufactured and distributed by the 26 respondent member companies and three of the five cooperating corporations are chemicals, fertilizers, various types of insecticides and fungicides and related items. Two of the cooperating companies, Phelps Dodge Refining Corporation and Tennessee Corporation, manufacture and distribute monohydrated copper sulphate and certain other copper by-products and specialties which are used in the manufacture of certain insecticides and fungicides.

It is alleged that on or about October 1, 1936, the respondent association and member and cooperating companies entered into an understanding, agreement or conspiracy among themselves to restrain competition in the sale of their products by agreeing to fix and maintain uniform prices, terms and discounts and to cooperate with each other in maintaining this program.

Pursuant to these arrangements, it is alleged, the respondent association acted as a clearing house for exchange of sales and price information submitted by members; association members held regular meetings at which trade policies and prices were established; the association compiled and distributed to the respondent members and cooperating companies white lists or "Distributor Guides" containing names of dealers to whom to sell on a wholesale basis to the exclusion of other dealers, and the association assisted in policing the respondent members and the cooperating respondents in enforcing the use of the white lists.

In further pursuance of the understandings and agreements, it is alleged, the association compiled and distributed to members and cooperating respondents lists of dealers to be recognized as retail dealers to the exclusion of other dealers, and maintained an open price filing system whereby it relayed to the respondent members and cooperating companies advance notice of immediate and future price rises and declines.

It is alleged that results of these activities have been the suppression of competition in the interstate sale of the respondents' products; empowering the respondents to control the market and enhance prices, and a tendency to create a monopoly in the respondents, all in violation of the Federal Trade Commission Act. (4145)

**Beautiderm Company**—See Electrolysis Associates, Inc.

**Electrolysis Associates, Inc.**, 1451 Broadway, New York, and its president, treasurer and majority stockholder, Louis Zinberg,

trading as Beautiderm Company, of the same address, have been served with a complaint alleging misleading representations in the sale of "Beautiderm Midget", a device for removing superfluous hair.

Among representations allegedly contained in the respondents' advertising matter were that their device is an effective, efficient, safe and scientific apparatus for the electrolytic removal of superfluous hair permanently, painlessly and harmlessly by individual self-application.

The complaint alleges that operation of the respondents' device involves insertion of a needle into the hair follicle for destroying the root of the hair by electrolysis, which process may cause serious injury to health. The complaint further alleges that the device will not accomplish the results claimed and is not safe, painless and harmless when used by the unskilled lay public.

The respondents are further charged with disseminating false advertisements through their failure therein to reveal that use of the device under conditions prescribed in the advertisements, or under customary or usual conditions, may result in serious and irreparable injury to health.

Upon petition of the Commission, the United States District Court for the Southern District of New York recently issued an order restraining the respondents from further dissemination of false advertisements of their product pending issuance and final disposition of the Commission's complaint now issued. (4144)

**Mayos Products Company**—George D. Moorman and Roy C. Stockbridge, individually and trading as Mayos Products Company and as M. P. Company, engaged in the sale and distribution of a medicinal preparation designated "Mayos Periodic Compound", are charged, in a complaint with misrepresentation.

The complaint charges that the respondents, whose office and principal place of business is at 1833 West Larchmont Ave., Chicago, have represented, in advertisements in newspapers, periodicals, and other advertising literature in connection with the sale and distribution of their product, that the preparation is a cure or remedy for delayed, scanty, irregular or painful menstruation, and is a competent and effective treatment for such ailments, and that the preparation is entirely safe and harmless and may be used without danger of ill effects upon the health of the user.

The complaint alleges that these representations are false and misleading; that the preparation does not constitute a competent or effective treatment for any of the ailments, and contains ergotin, aloes, extract cotton root bark, extract black hellebore and oil of savin in quantities sufficient to cause serious and irreparable injury to health if taken under the conditions prescribed in the advertisements or under such conditions as are customary and usual. (4147)

**M. P. Company**—See Mayos Products Company.

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Crete Mills**, Crete, Nebr., engaged in the business of milling and selling feed for animals, including chicken feed manufactured and sold under the trade name of "Victor Chick Pellets," has been ordered to cease and desist from misrepresentation.

The Commission finds that in advertisements published in newspapers, farm papers, and through radio broadcasts, the respondent corporation has represented, among other things, that "Victor Chick Pellets" will grow chicks faster than other feed; make them reach the egg-laying period in less time than those fed mash feed; will keep indefinitely, cost less, and excel all other feeds.

The Commission finds that these representations are misleading, and orders the respondent to cease and desist from further representations that "Victor Chick Pellets" will grow chicks faster, healthier, cheaper and with less likelihood of disease or death than any other feed, regardless of price; that chicks fed the product reach the egg-laying period in less time than those fed mash feed; that the product will keep indefinitely and that there is no possibility of any ingredient in the feed getting rancid or moldy and causing chick deaths; that pullets fed upon the product will invariably lay eggs within any definite time or period earlier than chickens fed upon feeds of similar composition, or that the



product costs less than any other similar feeds or excels all other feeds, regardless of price.

The respondent is also ordered to cease representing that any feed containing corn other than kiln-dried corn is dangerous to the health and life of chicks. (3408)

**Hydrosal Company**, 333 East Eighth St., Cincinnati, has been ordered to discontinue misleading representations in the sale of "Hydrosal Liquid" and "Hydrosal Ointment."

The order directs the respondent company to cease and desist from disseminating advertisements representing that the respondent's preparations possess remedial, curative or healing properties with respect to eczema, piles, athlete's foot, poison ivy, or disorders characterized by or associated with pimples, skin outbreaks or itches.

Also prohibited is the representation that the respondent's preparations possess therapeutic value in the treatment of such conditions in excess of affording temporary relief from the symptom of itching usually accompanying or associated with such disorders, or that the preparations are in general use by the medical profession or hospitals. (4049)

**Income Record Publishing Co.**—See United States Business Card Co.

**Manhattan Hat Company, Inc.**—Prohibiting misleading representations in the sale of hats and caps, an order has been issued against Manhattan Hat Company, Inc., 124 Wooster St., New York, and Harry Samnick, its president, Jacob Samnick, its secretary, and Louis Reinken, its treasurer.

According to Commission findings, the respondents reconditioned and refitted old, worn and previously used hat bodies so that they had the appearance of being new and sold them to the trade without any markings or designation stamped thereon to indicate to purchasers that these products were made from old and previously used hat bodies and other materials.

The findings point out that various manufacturers made finished hats and caps not only from newly manufactured materials but from (1) previously used hat bodies, and (2) felt hat bodies obtained from new but shopworn hats. Shopworn hats, the findings continue, are new hats reclaimed from merchants' shelves by hat and cap manufacturers, who clean, steam and renovate them in practically the same manner as they do hats made from old, previously used hat bodies.

The respondents, according to findings, had stamped in hats and caps the legend "DeLuxe Quality," and also, in illegible and inconspicuous type, the legend "Made Over." The respondents' use of the term "Made Over," according to findings, was wholly insufficient to inform prospective purchasers that the hats and caps so sold were made of old, worn and previously used hat bodies rather than from shopworn hats which had never been worn or used.

The Commission order directs the respondents to cease and desist from 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 by failure to stamp on the sweat bands thereof, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweat bands, a statement that such products are composed of second-hand or used materials, provided that if sweat bands are not affixed to such hats or caps, then such stamping must appear on the bodies of the hats or caps in conspicuous and legible terms which cannot be removed or obliterated without mutilating such bodies.

The order also prohibits representation in any manner that hats or caps made in whole or in part from old, used or second-hand materials are new or are composed of new materials. (1898)

**McDonnell & Sons, Inc.**, of Buffalo, N. Y., and Barre, Vt., has been ordered to discontinue misleading representations in the sale of granite grave markers, monuments, memorials and mausoleums.

According to Commission findings, the respondent company advertised that sales of its products were made by the respondent directly from quarry to cemetery; that the respondent company operated its quarry and finishing plant; that all work turned out by it was manufactured and finished by craftsmen in the plant and shops operated by the respondent and that its quarrying and manufacturing facilities placed it in a position to execute the highest grade of memorial work at the lowest possible cost.

These representations, according to findings, had a tendency to deceive buyers into believing that the respondent's products were made from granite produced from a quarry which it operated and had been finished in its own plant. Many purchasers, the findings point out, prefer buying directly from the quarrier and manufacturer in the belief that they may thereby obtain lower prices and other advantages not available when purchases are made through middlemen or wholesalers.

Findings are further that the respondent company's business was established about 82 years ago and that it still owns a quarry and a finishing plant at Barre, Vt., but has not operated them in recent years. Since 1932, the findings continue, the respondent has purchased granite parts for grave markers, monuments, memorials and mausoleums from other operators and quarry owners. Such work has been produced under supervision of an officer of the respondent located at Barre, Vt.

The Commission order directs the respondent to cease and desist from representing that products which are not made from granite obtained from its own quarry are sold directly from quarry to ultimate purchaser; or that the granite from which such products are made is produced in a quarry owned and operated by the respondent; or, that products which are not manufactured and finished in a plant owned, operated or controlled by the respondent, are made or manufactured by the respondent. (3907)

**Southern Vitrified Pipe Association**—Nine manufacturers of vitrified clay sewer pipe in the southeastern part of the United States and the Southern Vitrified Pipe Association, Cincinnati, and the association's officers, have been ordered to discontinue practices deemed to be in restraint of price competition in the sale of their products.

The respondent manufacturers named in the order are: W. S. Dickey Clay Manufacturing Company, Kansas City, Mo., with plants in Alabama, Tennessee and other States; Lee Clay Products Company, Clearfield, Ky.; Pomona Terra Cotta Company, Pomona, N. C.; Pine Hall Brick and Pipe Company, Winston-Salem and Ceramic, N. C.; The Columbia Clay Company, Columbia, S. C.; Georgia Vitrified Brick and Clay Company, Augusta and Cambria, Ga.; Oconee Clay Products Company, Milledgeville, Ga., which resigned its association membership in 1937; Cannelton Sewer Pipe Company, Cannelton, Ind., and Owensboro Sewer Pipe Company, Owensboro, Ky.

Respondent officers of the association are: Cliff B. Beasley, president; W. Clement Boren, Jr., vice president; D. M. Strickland, secretary-manager, and John M. Byrne, treasurer.

The association's membership comprises most of the manufacturers of vitrified sewer pipe east of the Mississippi and south of the Ohio and Potomac rivers. Large quantities of that product are sold to Federal, State and municipal governments.

Commission findings are that, among other things, the respondent manufacturers combined to restrict competition by price agreements; by agreeing to make sales on a delivered basis only, with equalization of freight charges; by a united policy of refusing to sell governmental agencies on an f.o.b. mill basis, thus depriving the Federal Government of favorable rail rates; by exchange of intended price quotations on Government orders prior to opening of sealed bids, and by agreements for the purpose of causing dealer customers to submit identical bids on Governmental orders.

The Commission order directs the respondent manufacturers or any two or more of them to cease and desist, by concerted action, agreement or understanding, from (1) fixing or establishing prices, terms and conditions of sale; (2) carrying on, through the respondent association or other central agency, or through meetings, or otherwise, discussions and exchanges of information concerning proposed or future prices; (3) promising to adhere to filed prices, terms and sale conditions pending the filing of changes with the association, and adherence to such promises; (4) quoting and selling on a delivered basis only to equalize costs to buyers regardless of variations in freight from different points of production and shipment; (5) fixing arbitrary weights to be used in calculating freight charges and equalizations so as to make delivered prices and discounts uniform; (6) refusing to quote and sell to Government purchasers on an f.o.b. mill basis and (7) exchanging prices proposed for quotation in bids in advance of submission and opening of sealed bids on Federal, State and municipal projects.

Other cooperative practices ordered discontinued are: (1) fixing and establishing of differentials in price to be charged on sales to dealers as compared with sales to building contractors; (2) agreeing with their respective dealer customers as to prices to be quoted on the resale of vitrified clay sewer pipe; (3) determining what concerns shall be recognized as dealers entitled to purchase

at dealers' prices; (4) restricting the quantity of vitrified clay sewer pipe to be produced by the respondent manufacturers, and (5) collaborating with trade associations composed of vitrified clay sewer pipe manufacturers in other sections, but who sell in the respondents' territory, so as to effect restriction of price competition in the respondents' territory.

The order also prohibits the respondents from concertedly obtaining adherence to prices, terms and sale conditions filed by the manufacturers with the respondent association or any other central agency, by exchanging price information at meetings held under association auspices; by investigating complaints of alleged price deviation by the manufacturers; by examination of books and records of suspected offenders, and by threats of legal action against them.

The respondents are directed to cease employing "The Byrne Organization" to act as an agency in performing any practice forbidden in the Commission order. Findings are that this organization, owned in part by the respondents D. M. Strickland and John M. Byrne, was employed as an agency for putting the respondents' practices and policies into effect.

The Commission ordered dismissal of its amended complaint in this proceeding as to P. Bannon Pipe Company, Louisville, Ky., a corporation which, having been adjudicated a bankrupt, is in the process of dissolution. (3868)

**United States Business Card Company**, United States Stationery Corporation, and Lewis Weisman, individually and trading as Income Record Publishing Company, engaged in selling stationery and business forms, with offices and principal place of business at Elizabeth, N. J., have been ordered to cease and desist from certain misrepresentations.

Findings of the Commission are that Lewis Weisman, who is in business under the name Income Record Publishing Company, also is president and treasurer of United States Business Card Company and United States Stationery Corporation, owns a majority of stock of each corporation, and directs and controls their sales policies. United States Business Card Company, a New York corporation, has been inactive since 1937.

The Commission finds that in promoting the sale of their goods the respondents have represented that certain of their business forms were approved by the United States Government, by placing on the forms the phrase "U. S. Approved." The United States Business Card Company, the findings are, also represented that it was the world's largest manufacturer of business cards exclusively.

In truth, the Commission finds, none of the business forms sold by the respondents was ever approved by or made according to the specifications of the United States Government, nor was the United States Business Card Company the world's largest manufacturer of business cards.

The respondents are ordered to cease and desist from representing that their products are approved by or manufactured according to specifications of the United States Government or any agency thereof, and the United States Business Card Company is ordered to cease representing that it is the world's largest manufacturer of business cards or that it is the world's largest manufacturer which is engaged solely in the manufacture of business cards. (3784)

**United States Stationery Corp.**—See United States Business Card Co.

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Bluebird Studios**—Harry, Senia, Margaret and August Doehla, co-partners trading variously under the firm names of Bluebird Studios and Harry Doehla Company, Fitchburg, Mass., in connection with the sale of greeting cards or other merchandise, agree to cease employing in their advertising matter the statement "Request samples" or otherwise inviting their customers or prospective customers to receive sample goods, unless in immediate connection therewith and with equal conspicuousness it be clearly indicated that the goods so referred to will be billed to the recipient and payment required. (2820)

**Harry Doehla Company**—See Bluebird Studios.

**M. B. Grogan Company**—Merwin B. Grogan, sole trader as M. B. Grogan Company, 122 South Michigan Ave., Chicago, and **Southern Greeting Card Company**, Memphis, agree to cease advertising "free samples" to prospective salesmen of their products or making any other use of the word "Free" or similar expression in a manner purporting a gift or gratuity only, where any consideration such as payment of money, rendering of services, or otherwise, is required of the person receiving articles of merchandise sent in response to his request for such free samples or other gratuity.

The respondents also stipulate that they will cease delivering any invoiced article of merchandise to a customer or prospective customer without prior notice of the terms under which such article is to be sent and without first obtaining permission to make the shipment. The respondents also agree to cease inducing a customer to order samples or other goods by deceptively concealing the terms of the transaction, or in any other way imposing a burden upon a customer or prospective customer either to pay for goods received by him or return them when he has not been previously apprised of such conditions. (2819 and 2822)

**Leonard J. Hartman**, 1538 West Fifth St., Brooklyn, in the sale of "Concentrated Food Particle (Wheat Germ Oil)", agrees to cease advertising that the product will prevent or overcome disease, afford an increase in health or energy, and is a competent treatment or effective remedy for certain ailments of women. The respondent also agrees to discontinue advertising that the preparation will restore potency or is a competent treatment or effective remedy for sterility, unless the representation is limited to its aid in treating the condition when it is due to a Vitamin E deficiency and it is further explained in direct connection therewith that sterility due to a Vitamin E deficiency is an extremely rare occurrence. (02573)

**Alexandra de Markoff Sales Corporation**, 642 Fifth Ave., New York, engaged in the sale of cosmetics, has entered into a stipulation in which it agrees to desist from use of the words "compounded by hand," or other words of similar import, to describe products which are not compounded by hand, or from use of the words in any way tending to convey the belief that the products referred to are in fact made or mixed by hand; from use of the words "Skin Food," or other words of similar import to designate a product which does not, in fact, serve as a food or nourishment for the human skin or tissues, and from use of the words in any way so as to imply that the product will feed or nourish the skin or tissues to which it is externally applied.

The respondent corporation also agrees to discontinue representing that its so-called "Skin Food," when applied to the skin, is absorbed by the skin with the result that the skin is fed or nourished or otherwise therapeutically benefited by absorption of the product, and to cease representing that its products will erase or remove lines or wrinkles from the skin, build up the tissues, remold the face or restore or perpetuate youthful or firm contours to the face or throat. (28114)

**Robbin's Camera Shop**—Maurice and Hilda Robbin, trading as Robbin's Camera Shop, 529 Fourteenth St., N. W., Washington, D. C., have entered into a stipulation in which they agree to discontinue certain representations.

In the sale of "John Shannon Vacuum Filler Sacless Fountain Pens," the respondents agree to cease representing that such products have a \$3 or other alleged valuation in excess of the actual value or usual price; that the offered retail sales price is "Special" or for "3 days only," when in fact it is the regular price without limitation as to time, and that bona fide protection for life is extended when in fact no such protection is offered and the products are not of such quality as to last for the period of life expectancy.

The respondents also stipulate that they will discontinue employing the statement "Your first investment is your only investment" or any other statement of like meaning, when in truth such statement is contrary to fact. (2821)

**Southern Greeting Card Company**—See M. B. Grogan Company.

**Spiegel, Inc.**, 1061 West 35th St., New York, has entered into a stipulation in which it agrees to cease misleading representations in the sale of men's shirts.

The respondent corporation agrees to cease representing by statement or inference that yarn dyed shirts or other textile materials are "Vat Dyed," or in any other way passing off as "Vat Dyed" any merchandise not actually dyed by the vat process.

The stipulation points out that when a textile material steeped in a liquor containing a dye is exposed to the air, the dye is reformed by oxidation and precipitated in the fiber. Dyes so used are called "Vat Dyes." Fabrics made of yarn dyed before being woven are referred to as "Yarn Dyed." The stipulation recites that to the trade and purchasing public the term "Vat Dyed" connotes a superior quality of dye coloring which commands a higher price for a product than if it were yarn dyed. (2823)

**Stern Brothers**, New York, has entered into a stipulation to discontinue certain representations in the sale of machine-made rugs.

Among representations which the respondent corporation agrees to discontinue are use of the words "Kara Kirman" or other distinctively Oriental names as descriptive of rugs which are not in fact made in the countries or localities designated or implied, with all the essential characteristics and qualities of such rugs, and use of the words "Oriental Reproductions," "Sarouk, Kirman, Kashan Reproductions," "American-Made Oriental Reproductions," or other use of the word "Reproduction" or similar word implying that the article referred to is a reproduction, replica or duplicate of an original, as descriptive of rugs which are not in fact reproductions of the types indicated.

The respondent corporation also stipulates that it will cease employing the words "American Oriental," "Domestic Oriental" or other appellation including the word "Oriental" or other expression indicative of an Oriental type, as descriptive of a rug which does not contain all the inherent qualities, properties, and constructive features of a true Oriental rug.

Other representations which the respondent agrees to desist from

using are the words "Sarouk," "Kirman," "Kashan," or other distinctively Oriental appellations in connection with any rug which was not made in the country or locality designated and does not contain all the inherent qualities and properties of such Oriental rugs; unless, when properly used to describe the design or pattern only, such Oriental appellations are accompanied by a word such as "Design" or "Pattern" printed in type equally conspicuous to indicate clearly that only the form delineated on the surface of the rug is a likeness of the type named; for example, "Kirman Design," "Sarouk Pattern". (2818)

**Wilson Bros. Paint and Hardware Company**, 3863 Cottage Grove Ave., Chicago, agrees to cease advertising that its preparation "Distol Concentrate" will kill bed bugs or bed bug eggs instantly; that most bed bug mixtures scatter bed bugs into the walls or woodwork; that roaches are carriers of cancer, and that Distol Concentrate is odorless. The respondent also agrees to cease representing that its product "Thymite" will eliminate roaches from all buildings overnight; that one application will keep any building clean of roaches, water bugs, silver bugs or ants, for one year, and that there are no other insecticides which will achieve substantially the same results as will Distol Concentrate or Thymite.

### FTC CLOSES CASE

The Federal Trade Commission has closed without prejudice its case against United Distillers Products Corporation, 5599 Hudson Blvd., North Bergen, N. J., which has been charged with misleading use of the word "Distillers" in its corporate name.

The order of dismissal recites that the respondent now owns and operates registered distillery No. 1 at Amston, Conn., under Distiller's Permit No. 841, issued to it by the Federal Alcohol Administration.

Closing of the case was ordered without prejudice to the Commission's right to reopen it and resume prosecution, should future facts so warrant.





### THE WEEK IN WASHINGTON

The FCC "monopoly" committee issued its report, sharply critical of many parts of the present broadcasting structure. Current contracts between networks and affiliated stations came in for special condemnation. (p. 4325.)

James C. Petrillo was nominated without opposition for president of the American Federation of Musicians, to succeed Joe Weber, retiring because of ill health. (p. 4329.)

WPRO, Providence, became the 300th member of BMI. Representatives of the radio departments of leading advertising agencies expressed a desire to cooperate with BMI in every way feasible. (p. 4329.)

District meetings were held in St. Louis, Wichita and Salt Lake. Meetings are scheduled next week for Los Angeles (June 17), Memphis (June 20), and Rochester, New York (June 22). (p. 4331.)

## Monopoly Report

Contracts between networks and affiliates were strongly criticized in the long awaited "monopoly" report prepared by an FCC committee and made public Wednesday.

The 138-page report, with six volumes of exhibits, is being carefully studied by the NAB, with a view to determining how it might affect the entire industry. Appropriate action will be taken, if any is found advisable.

Here is the FCC description of the report:

"Many arbitrary and inequitable practices" on the part of the radio networks are cited by a special committee of the Federal Communications Commission as the result of a two-year investigation of chain broadcasting methods.

"The heart of the abuses of chain broadcasting is the network-outlet contract," declares the committee in its report, submitted to the Commission today. Accordingly, it recommends "reformation" of these contracts to eliminate such abuses while retaining the advantages of chain service.

The Commission authorized release of the so-called "monopoly" committee's report pending its consideration by the full Commission.

The 1300-page report of the committee, comprising Commissioner Thad H. Brown as chairman, and Commissioners Paul A. Walker and Frederick I. Thompson, "reveals at every turn the dominant position of the network organizations in the field of radiobroadcasting." It is based upon more than 10,000 pages of testimony and nearly 800 exhibits, largely obtained through hearings which continued for 73 days, in an investigation pursuant to a Commission order of March 18, 1938.

The report discusses in detail practices employed in connection with the simultaneous broadcasting of identical programs by two or more stations. It differentiates between stations owned or directly controlled by the networks, and affiliated "outlet" stations which broadcast the same program under contractual arrangement with the networks.

The committee finds that the interests of these outlet stations "have been subordinated in the interests of the network owned and controlled station." It points out that of the 660 standard broadcast stations operated in 1938, more than half—350—were on major networks and included almost all of the country's high-powered stations. The 660 stations were owned by 460 persons. However, 87 of these persons owned more than one station and received approximately 52 per cent of the total business of all commercial broadcast stations.

Apart from the stations affiliated with their networks, the National Broadcasting Company and the Columbia Broadcasting System in 1938 owned or controlled 23 stations, of which 15 were 50-kilowatt, unlimited time, clear channel stations. The record reveals that the chains have developed around these key stations and have been operated largely for their benefit.

"The predominance of network organization is evidenced by their disproportionate share of the income of the radio broadcasting industry," comments the committee in reporting that of the \$18,854,784 net operating income of all the stations and networks for 1938, nearly half—\$9,277,352—went to National and Columbia.

Examples of "arbitrary and inequitable practices" on the part of the networks in their relation with affiliated stations are cited by the report as follows:

"The provision that the outlet station cannot accept programs  
(Continued on page 4326)



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W.

WASHINGTON

Phone NAational 2080

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

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

## MONOPOLY REPORT

(Continued from page 4325)

from any network other than the one to which it is bound by contract deprives the station of profitable business and the listening public of programs for which there is a demand.

"The practice of requiring stations to set aside all or a major portion of their broadcast time for the utilization of the networks, regardless of whether such time is used or not, places an undue burden upon the outlet station and lessens the ability of the station to serve the local needs of the community."

"The provision that non-network rates for national advertising business cannot be less than those of the network prevents the outlet station from entering into a healthy competition for advertising business.

"The provisions of the contract concerning the free use of the first converted hours (a nighttime hour or its equivalent in two daytime hours operation), combined with low initial compensating rates for the next hours, results in an inequitable distribution of proceeds from network broadcasting. Whereas Columbia and National had aggregate network time sales of \$44,313,778 for 1938, they paid to the 253 independently controlled stations on their networks only \$12,267,560, approximately one-half of which was paid to 25 of these stations with a relatively strong competitive position based on the need of the networks for their particular facilities.

"Moreover, the contracts generally cover periods of time far in excess of the period for which the station is licensed and bind the outlet to network policies far beyond the expiration date of the license."

The committee finds these arbitrary contractual arrangements further reflected in the program policies of the networks, mentioning:

"Outlet stations are required by their contracts to accept all commercial programs sent by the network organizations unless they are able to prove to the satisfaction of the networks that a particular program will not serve public interest. Since the outlet stations have only general advance knowledge of the content of the program, they have come to accept whatever the network chooses to forward to them.

"Furthermore, approximately 90 per cent of the commercial programs sent by network organizations are produced by advertising agencies, so that the delegation of program responsibility by the licensee is carried one step further."

The committee cites a number of instances in which chains have gone even farther than the regular network-outlet contract and have "actually taken over the management" of the affiliated station in violation of Section 310(b) of the Communications Act. The Commission has already taken cognizance of this problem and is investigating these contracts.

Pointing out that all but two of the 34 high-power, clear-channel stations and all the high-power regional stations are on the two major networks, the committee reaches "the inescapable conclusion . . . that National and Columbia, directed by a few men, hold a powerful

influence over the public domain of the air and measurably control radio communication to the people of the United States," adding: "If freedom of communication is one of the precious possessions of the American people, such a condition is not thought by the committee to be in the public interest and presents inherent danger to the welfare of a country where democratic processes prevail."

The National Broadcasting Company has two distinct networks with separate service to two stations in each of many cities. The manner in which they are operated is regarded as evidence of the "complete domination" of the affiliated stations and is also "one of the most inequitable by-products of these contracts." The report explains:

"The contracts which stations have with National do not specify to which of its chains the outlet is to be linked. The outlet station is only informed that it is a part of the National network. By virtue of this factor, National has the power to determine the economic fate of many of its outlets by arbitrarily assigning to the prosperous Red network or to the unprofitable Blue network."

The policy of Columbia and National of placing talent under exclusive contract, according to the report, has the effect of limiting the efforts of much of the best talent in the country to network programs and of arbitrarily restricting the programs of independent competing stations, as well as the communities in which these independent stations are located. These two networks between them control about 800 of the best known artists in the broadcast and concert field.

The report reveals the National Broadcasting Company a dominant factor in the field of electrical transcriptions, stating: "It has gained great competitive advantages in this field from its position in radiobroadcasting and its transcription activities have, in turn, buttressed its position in the radiobroadcast industry. The committee feels that such domination reacts to public disadvantage by penalizing independent stations which, not being members of a network, must make frequent use of electrical transcriptions. Approximately one-half of all commercial transcriptions sold by National in 1938 in the United States were broadcast by the stations on its network, while slightly less than one-fifth were broadcast by stations on the networks of Columbia and Mutual.

"During the past ten years," to quote the report, "networks have so developed that today programs are broadcast to the general public, not by the stations whose owners applied for and received licenses for such a privilege, but through the network organizations. The record shows that network organizations today are utilizing about 48 per cent of the broadcast time of more than 50 per cent of the commercial stations in the United States."

As an example of the dominant position occupied by the stations that are owned and directly controlled by networks, as distinguished from affiliated stations, the committee notes:

The 23 stations owned or controlled by Columbia or National had one-sixth of the total time sales for all 660 stations.

The amount paid by Columbia and National from network time sales to their 23 owned stations was nearly one-third the amount received from all three major networks by 327 independently controlled stations on the networks.

Of non-network business sold to national advertisers, the 23 stations had one-seventh of the amount for all 660 stations.

Of purely local business, the 23 stations had one-twelfth of that for all 660 stations.

The net operating income of the 23 stations was nearly one-third of the net operating income of all 660 stations.

The net operating income of the 23 stations was more than one-half of the net operating income of the 327 independently controlled stations.

While 310 stations not on major networks lost \$149,000, the 23 owned or controlled stations had net operating income of \$4,958,289.

The 23 stations broadcast sustaining programs for approximately 50 per cent of their time, while the 327 independently controlled stations broadcast sustaining programs for approximately 70 per cent of their time.

It appears to the committee that stations owned or controlled by Columbia and National are in a favored position compared to the independently controlled stations affiliated with networks. It observes: "The independently controlled stations do not reach the network advertiser directly but only through the networks for network time sales. Therefore, they have no voice in selling their time to network advertisers and must rely absolutely upon the network sales force. As between two stations serving the same area, either with primary or secondary signal, self interest determines the extent to which the network sales force will undertake to influence the choice of the network advertiser in favor of the network owned or controlled station."

The networks (with the exception of Columbia, Mutual, and Yankee) retain the revenues from all sales of network time during the first hours of commercial broadcasting in each 28-day period. Columbia retains the revenues from the first five "converted hours" of commercial broadcast per week and National retains the revenue of from four to five such hours.

The practices of Mutual, it is pointed out, differ somewhat from the general network operations. At the time of the hearings, Mutual took no options on the time of stations and received only a commission, not exceeding 15 per cent, on the proceeds of network commercials. While it has an organization for selling network commercial program time to advertising agencies, the stations which served as Mutual outlets have the privilege of also selling the network time, for which they share commissions with Mutual. Also, Mutual has no program producing facilities.

"The business of broadcasting is the fastest growing source of advertising revenue in America," comments the report in showing that income from this source increased from \$28,000,000 gross in 1928 to \$165,000,000 ten years later. But unlike other big business enterprises, broadcasting is not the chief activity of its owners, but is operated principally as a "side line" to the main business. More and more of the applications filed with the Commission for authority to own stations show the applicants

to be persons of other large business interests, such as manufacturing, banking, publishing, natural resources development, public utility, etc.

Two-thirds of the nation's standard broadcast stations are operated as incidental to other businesses. In many cases, the actual owners of the stations do not personally operate them. In addition to the operation of approximately 300 stations by newspapers, 125 other stations are operated by businesses of various kinds. Two-thirds of all standard broadcast stations are licensed to corporations or are under their control. Examination of the minutes of meetings of directors of these corporations for 1938 indicates the surprising fact that no consideration was given to the operation of the stations in the directors' meetings of some 80 per cent of the corporations.

Many of the largest corporations which control broadcast stations directly or indirectly are themselves controlled through proxy voting by a very small number of persons who, themselves, hold no material ownership interest in the companies. For example: Radio Corporation of America, which owns the National Broadcasting Company, is controlled by three persons who between them own only 5,829 shares of a total of 9,864,502 voted by them.

The report places ownership of commercial stations in four categories:

(a) Forty-one owners controlling stations which have 33 per cent of the revenues of all stations.

(b) Thirty-five owners controlling stations which have 10 per cent of the revenues of all stations.

(c) Eleven owners controlling stations which have 15 per cent of the revenues of all stations.

(d) Three hundred and seventy-seven owners controlling stations which have 42 per cent of the revenue of all stations.

For the privilege of entering rich markets, high prices have been paid by the networks for broadcast stations. National has paid 386 per cent of book value, and Columbia 280 per cent. In 1938 National and Columbia actually had greater profits from their owned or controlled stations than from their entire network operations.

Network organizations are not required to obtain a license or other Federal authority in order to function. The Communications Act fixes responsibility upon individual station licensees for operation in the public interest. In practice, however, the record shows that the responsibility discharged by the licensee of a station engaged in chain broadcasting is reduced to the matter of simply selecting the network with which the station is to be associated. After the station becomes an outlet for a network by undertaking the obligations of the outlet contract now in general use, the matter of selecting programs, accepting advertising material, and, in general, the broadcasting of programs by the station insofar as network programs are concerned is placed in the control of the network.

The networks, in turn, have passed on to advertising agencies the right of selection and production of these

network programs. The responsibilities are shifted still further from the station when, as in many instances, the advertising agencies have passed them on to program producing agencies. The networks have not supervised the selection of the types or the production of these programs, and the record shows they seldom reject programs offered to them either by advertising agencies or their program producing agencies. At least 90 per cent of all network commercial programs broadcast in this country are thus produced. These programs brought the networks approximately \$50,000,000 in revenue for 1938.

As the committee sums it up: "The station licensee has very limited supervision over network programs. The protection of the listening public is thus passed from licensee to network to advertising agency to program producing agency. The responsibility for serving the public interest placed by the statute upon the station licensee evaporates when it is so diffused."

The committee cites the broadcasting of the 1939 World Series baseball games as an illustration of the effect of exclusive outlet contracts upon presentation of particular programs. The report relates:

"Mutual obtained exclusive privileges from the baseball authorities for the broadcasting of the series with the Gillette Company as commercial sponsor. It then attempted to purchase time from stations in various communities, making offers to stations which were then under contract with other networks. Columbia and National immediately called upon their outlet stations to respect the provisions of their contracts under penalty of jeopardizing their rights under the contracts. This prevented certain licensees from accepting a program for which they believed there was public demand and which they thought would be in the public interest. It also deprived the advertiser of network advertising service in some areas, and prevented the licensee from receiving income which could have been obtained from acceptance of the program series. Mutual, on the other hand, refused to allow other stations to broadcast the program in communities where it had exclusive outlets and also refused the program to stations in other communities which it considered were within the area covered by Mutual outlets. As a result, thousands of potential listeners failed to hear the World Series of 1939."

The primary service rendered by the networks is far from nationwide in scope, according to the committee's findings, and "millions of persons receive no adequate network program service under existing conditions." Likewise, it believes that network duplication should be held to a minimum. The report continues:

"The basic theory of the Communications Act is that broadcast stations shall render service to the public. Chain broadcasting is valuable to the furnishing of a complete program service. The two principal networks have compiled a record of profitable business operation, and have established themselves in a dominant position in the radio field. But, perhaps not unnaturally, the desire for profits appears to have been foremost, and unquestionably, the profit motive has operated to restrict the distribution of network service, and to deprive many listeners of the advantages of chain broadcasting service.

"Although the major networks purport to be national in their scope, the record shows that, while they have gone voluntarily into the better markets, they have neglected the less profitable ones and, as a result, some 320 stations, including about 220 which are the only stations in their communities, remain without major network connections.

"From a financial and economic standpoint it seems clear that the network organizations occupy a predominant place in the broadcast industry which has enabled them to profit handsomely

at the expense of the independently owned and controlled stations. . . . It should also be recognized that there is considerable evidence in the record which indicates that from a social viewpoint the profits derived from network operations have not been sufficiently utilized for the betterment and expansion of the industry."

Consequently, the committee feels that consideration should be given to the problem of retaining the advantages of chain service while eliminating the abuses discussed in its report.

"It is clear," says the report, "that the importance from a public standpoint of chain broadcasting operations is far greater than that of any individual broadcast stations. It would appear, therefore, that some means should be developed to insure the operation of chain broadcasting organizations in the public interest."

The committee holds that the Commission has authority to deal with network contractual arrangements under Section 303(i) of the Communications Act which empowers the Commission "to make special regulations applicable to radio stations engaged in chain broadcasting," augmented by Sections 307(d) and 309(a) requiring the Commission to refuse licenses or renewals unless the public interest, convenience or necessity is served thereby. To quote, in part, the committee's letter of transmittal accompanying the report:

"It is our opinion, based upon the extensive investigation which we have just completed, that public interest, convenience or necessity are adversely affected by inclusion in the network-outlet contracts of many of the contractual provisions discussed. . . . The elimination of arbitrary and inequitable contractual arrangements will tend to subject the networks to active competition and will render the independent station more secure within the industry, and better able to cope with the networks in all fields of network activity.

"The committee believes that competition in the radiobroadcast field can be further enhanced by a revision of the so-called clear-channel policy, whereby new stations are refused access to clear channels regardless of the service which the new station would be able to render and regardless of how small the interference to the clear channel would be. The record evidences that all but two of the high-power clear channel stations in the United States are on the Columbia and National networks as well as all the high-power regional stations. The exclusive grant of a clear channel to a station which can only serve limited areas prevents people in other sections of the country from receiving service from stations which could otherwise operate on the clear channel frequency. In our opinion, the Commission should consider the wisdom and practicability of utilizing the clear channels so that people living in all sections of the United States can have the benefit of radio reception at present denied them.

"The committee believes that the Commission should proceed at once to deal with these problems to the extent that Congress has given it authority in the Communications Act of 1934. In our opinion, the Commission possesses ample power under the Communications Act to redefine its licensing policy and require the elimination of inequitable and arbitrary contractual arrangements which affect the duty of the licensee to serve the public interest. The actual administrative experience which the Commission will obtain under its new licensing policy will enable it to suggest to the Congress the enactment of amendatory legislation if such is later found to be necessary.

"It is the opinion of the committee that through the exercise of the powers of the Commission in dealing with the contractual relations between network and outlet, the potential advantages of chain broadcasting in this country can be retained. At the same time, the abuses which have prevented many of its potential advantages from being realized can be corrected. It is the committee's belief that the excision of arbitrary and inequitable provisions from network-outlet contracts will eliminate many of the detrimental practices involved in chain broadcasting without sacrificing any of the benefits."



## Labor

### PETRILLO HEADS A. F. OF M.

James C. Petrillo was nominated, without opposition, for president of the American Federation of Musicians at the union's annual convention Thursday in Indianapolis, Ind.

Petrillo was slated to succeed Joe Weber, president for 40 years, who was made "technical adviser" for life. Weber announced Monday that the state of his health made retirement necessary.

Petrillo has been president of the Chicago local.

All other national officers were nominated for reelection without opposition.

One of Weber's last big jobs as president was to defeat a resolution calling for all members to refuse to make records and transcriptions. The convention likewise rejected a resolution calling for the Canadian Broadcasting Company to quit using recorded programs.

### PAYMENT FOR REST PERIODS

Employees under the Wage and Hour Act must be paid for short rest periods, according to announcement this week by Colonel Philip B. Fleming, Administrator.

A "short" rest period, as construed in instructions sent to all field representatives of the Division by Colonel Fleming, will include periods up to and including 20 minutes. When rest periods customarily taken by employees are longer, final decision on whether or not the employee will be paid for it will rest with the Regional Director.

The following considerations will guide the Regional Director in making his decision: the freedom of the employee to leave the premises and go where he pleases during the intermission; the duration of the intermission—whether sufficient to permit the employee reasonable freedom of action and a real opportunity for relaxation; whether the intermission is clearly not an attempt to evade or circumvent the provisions of the Fair Labor Standards Act. In all cases where the Regional Director decides that an intermission shall not be counted as "hours worked," he has been instructed to report the results of his investigation and the reasons for his action to the Administrator.

For enforcement purposes, computation of hours worked under the new rule generally will apply only since April 1, 1940. Where time spent in rest periods prior to that date has been deducted from hours worked, ordinarily, the deductions will be allowed to stand, Colonel Fleming said.

## BMI Developments

WPRO, Providence, R. I., was the 300th station to join BMI. The Rhode Island station sent in its subscription this week.

Sydney M. Kaye, BMI's vice president and general counsel, addressed a group of sixty representatives of the radio departments of leading advertising agencies at a luncheon on Wednesday (June 12) at Stouffer's Restaurant, 540 Fifth Avenue at which M. E. Tompkins, BMI's General Manager was guest of honor.

After outlining the reasons for the current controversy, Mr. Kaye compared the present situation of both broadcaster and advertiser in regard to music to that of the inhabitant of a tropical island who, needing only a breech clout, was forced to pay for a dozen fur coats. Research has revealed, he explained, that in 1938 only 388 tunes accounted for 43 per cent of the playing time on the air and 2121 tunes for 42 per cent, or that a total of 2500 numbers filled 85 per cent of air time. BMI, he promised, will have many times 2500 tunes, both new and public domain, arranged and available for broadcasting before the end of 1940. In this connection he pointed out that both broadcaster and advertiser had been doing a preposterous thing in paying ASCAP for something which was free—i.e., public domain music—and that public domain tunes, not only the classics but the old favorites and the "heart" songs, would be made available in new arrangements.

All users of music, he declared, have been exploited by ASCAP but the broadcaster is "forty times as big a sucker as any other" as the broadcaster has been paying forty times more per dollar of gross revenue than any other ASCAP licensee.

Broadcasters are chiefly interested, he added, in promoting a free competitive situation in music performance via radio, as music on the air is the only material used by either broadcaster or advertiser subject to monopolistic control. The industry is seeking a "per use" basis of payment and believes that the sponsors of commercial programs not using ASCAP music should not be forced to pay for it.

"There isn't a person in this room," he said, "who pays 7½ per cent of his income for the privilege of using a product or service—yet ASCAP is asking the networks to pay 7½ per cent of a program's revenue not only for the privilege of using its music but also for the privilege of not using it."

In outlining what the advertiser could do he mentioned four classifications of music appeal on which BMI could be of material assistance. They are (1) theme songs (2)

“Mood music” or that of background appeal (3) Music of Secondary Appeal and (4) Music of Primary Appeal.

Following his speech Mr. Kaye answered all questions to the satisfaction of everyone. The agency men were enthusiastic over the possibilities of BMI and expressed a desire to cooperate in every way feasible.

## BMI FEATURE TUNES

June 17-July 1

1. DON'T THE MOON LOOK PRETTY?
2. PRACTICE MAKES PERFECT
3. WE COULD MAKE SUCH BEAUTIFUL MUSIC
4. WHAT GOOD'S THE MOON?
5. HERE IN THE VELVET NIGHT
6. IN THE SILENCE OF THE DAWN

Carl Haverlin, BMI's Station Relations Director, now making the rounds of the NAB district meetings, has received a wire from Frank King, of WMBR, President of the Florida Broadcasters Association, which says:

FLORIDA ASSOCIATION PASSED RESOLUTION UNANIMOUSLY APPROVING POLICIES PLAN AND ACTIVITY. COMMITMENTS INDICATE AT LEAST AN ADDITIONAL EIGHT BMI SUBSCRIBERS.

Mr. Haverlin reports that the Tenth and Twelfth Districts have also registered unanimous approval for BMI.

Here is the “proof of the pudding”. BMI subscribers have now had BMI music for several weeks. They have been putting it on the air, using it to build their programs. They have had experience of BMI service, become acquainted with the work of the organization as it is developing. Their approval means that BMI's is marching along the right road, the road that leads to satisfactory practical results.

The effect of such approval is shown by Mr. King's telegram—more BMI subscribers.

Recently the publicity agent for the Robbin-Feist-Miller group of music publishing houses issued a release in which Jack Robbins suggested ways and means that the publishers might find useful in combatting what he called radio's “Blitzkrieg on American composers and publishers.” Aside from the fact that it is a bit of unappetizing smugness for an ASCAP publisher to adopt the pretense of concern over the welfare of the American composer, Mr. Robbins' proposals had at least one other aspect that was ironical.

“Robbins' second channel of exploitation”—so runs the publicity release—“will be the automatic music ma-

chines, whose numbers are estimated to now total over 400,000 around the country.”

“Exploitation” is the right word beyond question. It is the old familiar ASCAP technique of trying to make the victim tie himself to the whipping-post.

By a clause in the 1909 Copyright Act, coin-operated phonographs were specifically exempted from paying fees for the performance of copyright music unless admission is charged to the place in which they are played. ASCAP, of course, has always gone green around the gills at mention of this provision in the law, has tried to circumvent it—unsuccessfully, and is now trying to have it repealed.

ASCAP officials, in a statement to the Congressional committee on the proposed revision of the copyright law, said that under the new law they expected to collect a “nominal fee” of \$60.00 a year from the coin machines. Since it is reliably estimated that the net earnings of the machines average between \$10 and \$15 a year, it is easy to understand why the coin-machine industry is heart and soul behind BMI.

Now an ASCAP publisher proposes to use this industry as a “channel of exploitation” through which to combat the effort to free all commercial users of music, coin-machines included, from the grip and the threat of the ASCAP monopoly power.

He proposes to use the machines to enable ASCAP to levy a confiscatory tax on the machines!

Referring to the government's anti-trust moves against ASCAP, an ASCAP official was quoted last week as saying that “he was at a loss to understand why every country in the world excepting the United States did everything in its power to encourage the performing rights societies and foster native musical talent, whereas Federal government here was doing exactly the opposite.”

The point is worth answering. The answer lies in the difference between ASCAP and other performing rights societies. It emphasizes anew the basic errors in the whole ASCAP system.

According to the statement of Gene Buck, ASCAP's President, made this past April, ASCAP's composers and authors number 1,083.

According to E. C. Mills, Chairman of ASCAP's Administrative Committee, in his article, *What is ASCAP?* the membership of ASCAP's foreign affiliates brings the total up to about 45,000.

The foreign societies show this much larger membership, not because there are so many more composers in other countries, but because membership in the performing rights societies in those countries is not restricted. *Any writer can become a member on application.* The society then collects his fees for him on the basis of performance.

ASCAP will not even consider an application for mem-

bership until the applicant has already had five numbers published and then will accept or reject the application as its Board may choose. In event that the application is accepted, the new member must spend a year as a Non-Participating Member. Thereafter he will be allowed to share in the division of proceeds on the basis of ASCAP's curiously inequitable classification system.

In other words, *every other performing rights society in the world admits all writers to membership; ASCAP is a small and exclusive club, a little closed shop.*

In other societies distribution of fees for performance of music is based on performance. In ASCAP it is based on performance only in part, based also on seniority, favoritism, and the arbitrary decision of the ASCAP Board.

Other societies are controlled by their members. In many cases the by-laws provide that the society shall be dissolved at stated intervals, usually every seven years. On such dissolution the members can recover the rights to their music, reorganize the society, take any other steps that seem to them desirable.

ASCAP is governed by a Board of Directors which is self-perpetuating. Sigmund Romberg has written:

"The individual member has no voice in the management of ASCAP. Some of our biggest members, those who are not on the Board, complain bitterly against this self-perpetuating system—and justly so. It is un-American and against our traditions of liberty, freedom and equality."

Performing rights societies in other countries are organized and operated to collect fees for the performance of music in behalf of the writers of that music—all writers.

ASCAP is organized to collect fees for some writers to the exclusion and detriment of others, acting in accordance with the wishes and interests of a group of twelve publishers and twelve writers.

Other societies are organized on a democratic basis, operated fairly. ASCAP is organized on the basis of an exclusive club, seeking to dominate the music market for the benefit of its members—and chiefly for the benefit of a small inner circle even among its own members.

The fight against ASCAP, on the part of the government as well as on the part of the broadcasters and other commercial users of music, is not a fight against a selfish monopolistic control in the hands of a few writers and publishers which does as much harm to all other writers as it does to those who play the music.

It is actually a fight for democracy.

## District Meetings

### District 10

The morning session of the District 10 meeting, held in St. Louis June 8, was taken up with a complete resume

by President Neville Miller of NAB of the various activities of the Association. Labor, Legislation, FM and Television developments, Copyright, FCC Reports and a variety of other matters were covered. C. E. Arney, Jr., Assistant to the President of NAB, reported on the tentative plans for the Annual Convention to be held in San Francisco on August 4th to 7th.

Craig Lawrence, KRNT, Des Moines, who served as chairman of the Tenth District Sales Manager's Conference held Friday at the Chase Hotel reported to the meeting upon the happenings of that conference. He presented a resolution calling upon the Board of Directors of NAB to approve a survey and study of the effect of Daylight Savings Time upon the program and commercial phases of radio. This resolution was unanimously adopted by the membership meeting.

The St. Louis broadcasters were host to the entire delegation at a delightful luncheon in the Chase Club Room at which talented performers from various St. Louis stations put on an entertaining show.

The afternoon session was taken up with a complete report on the progress and accomplishments of Broadcast Music Inc. Carl Haverlin, Stations Relations Director of BMI, presented a most interesting and revealing series of charts depicting in graphic manner the present status of BMI and the support being given it by the industry. He also explained charts which show the music requirements of the industry and of individual operators and the extent to which BMI is now prepared to meet that problem and the plans and programs in the making that will enable the BMI organization to care for the full needs of broadcasters when the ASCAP contracts expire. His presentation made a distinct impression upon his listeners. A motion was unanimously passed expressing the complete confidence of 10th District broadcasters in BMI and Father W. A. Burk, WLW, long a leader of thought and action among midwest broadcasters, took the floor and announced his subscription to BMI, and other broadcasters followed suit.

The biennial election of a Director for the 10th District followed and John J. Gillin, Jr. (WOW-Omaha), was unanimously renamed for the two-year term.

Edgar Bill, WMBD, Peoria, Illinois, Chairman of the NAB Code Compliance Committee, outlined the need for united support on the part of the broadcasters of the Code. He pointed out that the public, including educational, religious, civil liberties and other groups, had been lavish in their endorsement of the Code and that it had raised the industry to a most favorable position. He asked for a better understanding on the part of broadcasters. His remarks were followed by lengthy discussion of a generally favorable character but no action was taken.

Following the afternoon session which lasted until after 5 p. m., the St. Louis broadcasters again played the role

of hosts at a delightful cocktail party and buffet supper.

Twenty-five of the thirty-three member stations of the National Association of Broadcasters were represented at the meeting:

L. A. Benson of WIL, St. Louis; Hale Bondurant, WHO, Des Moines, Iowa; Father W. A. Burk, S. J., of WEW, St. Louis; William B. Quarten, WMT, Cedar Rapids, Iowa; Beryl Lettridge, WOC, Davenport, Iowa; Craig Lawrence, KRNT, Des Moines, Iowa; Mike Carmichael, KWK, St. Louis; Ken Church, KMOX, St. Louis; R. T. Convey, KWK, St. Louis; Bob Drohlich, KDRO, Sedalia, Mo.; Bill Durney, WIL, St. Louis; Ray Dady, KWK, St. Louis; Harold Fair, WHO, Des Moines, Iowa; Dean Fitzer, WDAF, Kansas City, Mo.; L. O. Fitzgibbons, WOC, Davenport, Iowa; Harold Fulton, WHO, Des Moines, Iowa; John J. Gillin, Jr., WHO, Omaha, Neb.; Luther Hill, KSO, Des Moines, Iowa; Oscar Hirsch, KFVS, Cape Girardeau, Mo.; Charles A. Kennedy, KVFD, Fort Dodge, Iowa; J. O. Maland, WHO, Des Moines, Iowa; Cy. Rapp, KMA, Shenandoah, Iowa; William Reuss, WOW, Omaha, Neb.; Claude Rock, WIL, St. Louis, Mo.; R. H. Sawyer, KMA, Shenandoah, Iowa; Vernon H. "Bing" Smith, KOWH, Omaha, Neb.; C. L. Thomas, KFRU, Columbia, Mo.; "Woody" Woods, WHO, Des Moines, Iowa; E. C. Woodward, KFNF, Shenandoah, Iowa; John Bohn, KMOX, St. Louis; Merle S. Jones, KMOX, St. Louis; Arthur Casey, KMOX, St. Louis; J. Souldard Johnson, KMOX, St. Louis; Don Searle, KOIL, Omaha, Neb.; KMMJ, Grand Island, Neb.; and KFAB, Lincoln, Neb. In addition Edgar Bill, Chairman of the NAB Code Compliance Committee and President of WMBD, Peoria, Illinois, and Gerner Bath, Public Relations Director of KMBD; Morris Blink of Standard Radio were in attendance.

The Sales Managers of NAB stations in the 10th District, embracing stations in Iowa, Missouri and Nebraska, held a most interesting session at the Hotel Chase in St. Louis on Friday, June 7. Recommendations respecting some of the subjects discussed were adopted by the Sales Managers for consideration by the members of the Tenth District who convene for a general business session and the election of a Director at the Hotel Chase on Saturday the 8th. Those in attendance at the Sales Managers meeting were:

John W. Bohn, KMOX, St. Louis; L. O. Fitzgibbons, WOC, Davenport, Iowa; Mike Carmichael, KWK, St. Louis; John J. Gillen, WOW, Omaha, Nebraska, Director of the 10th NAB District; Ray Dady, KWK, St. Louis; Chas. A. Kennedy, KVFD, Fort Dodge, Iowa; Bill Durney, WIL, St. Louis; Wm. B. Quarten, WMT, Cedar Rapids, Iowa; Claude C. Rock, WIL, St. Louis; J. "Cy" Rapp, Shenandoah, Iowa; Don Searle, KOIL-KFAB-KMMJ, Omaha, Lincoln and Grand Island, Nebraska; Bob Convey, KWK, St. Louis; Harold Fulton and Hale Bondurant of WHO, Des Moines, Iowa, and Craig Lawrence of KSO-KRNT, Des Moines, who presided over the session. C. E. Arney, Jr., Assistant to President Neville Miller, represented the headquarters staff at the session.

#### District 12

The broadcasters of Kansas and Oklahoma, comprising the Twelfth District of the National Association of Broadcasters, met in the Farmers and Bankers Life Building—home of Station KFBI in Wichita—on Sunday, June 9.

Neville Miller, President of NAB, reported upon the various activities of the Association and extended discussion, in which most of the delegates joined, was held. The conference went on record as desiring a thorough study made by the National Association of the matter of Daylight Savings and its effect upon the program and commercial phases of radio. The purpose is to se-

cure facts upon which constructive action may be based.

Carl Haverlin, Stations Relations Director of Broadcast Music, Inc., of New York City, presented through a series of charts and graphs the progress made by BMI in building up a supply of music for the use of broadcasters. This study also demonstrated in convincing manner, the limits of broadcaster's music requirements. There was lively interest on the part of all present and following the discussion several stations, not previously allied with BMI, expressed their intent to join. The conference adopted a resolution unreservedly endorsing BMI and urging wider support.

Following a luncheon at the Wichita Club at which talent from Radio Station KFBI presented a most delightful entertainment program, the delegates resumed their business session. Herbert Hollister, General Manager of KFBI, Wichita, was unanimously re-elected as 12th District Director for the ensuing two-year term.

The following were present:

H. K. Lindsley, Farmers and Bankers Life Insurance Co.; Herbert Hollister, KFBI; Jack Todd, KANS; Plez Clark, KFH; Mrs. W. H. Reitz, KVAK; J. C. Denious, KGNO; K. W. Trimble, KTSW; Clem Morgan, KVGB; Ellis Atteberry, KCKN; R. J. Laubengayer, KSAL; Ben Ludy, WIBW; Milton B. Garber, KCRC; M. H. Bonebrake, KOCY; Neal Barrett, KOMA; Owen Balch, KSAL; Vernon Reed, KFH; Don Searle, KOIL; Frank Lynch, WBBZ; Mrs. Adelaide L. Carrell, WBBZ; Phil McKnight, WIBW; Ken Douglass, KTOK; Clark Luther, KFH; K. W. Pyle, KFBI; John Schilling, WHB; Nelson Rupard, WHB; Clarence Rupp, KFBI; Leroy Stokely, KFBI; Vern Minor, KVAK; Neville Miller, NAB; C. E. Arney, Jr., NAB; Carl Haverlin, Broadcast Music, Inc., and Milton Blink, Standard Radio.

#### District 14

Nineteen of twenty-four NAB member stations were present at the Fourteenth District Meeting in Salt Lake City, June 12. The meeting passed unanimously a resolution endorsing BMI and praising its progress and accomplishments. Four stations—KVOD, Denver; KDYL, Salt Lake; KIDO, Boise, and KEUB, Price, Utah—signed BMI subscriptions in open meeting. Gene O'Fallon, KFEL, Denver, was unanimously reelected director. Earl Glade, KSL, Salt Lake, member of the NAB Code Compliance Committee, made stirring appeal for united support on part of industry of Code provisions, especially those dealing with controversial issues. He pointed out that emergency situation placed heavy responsibility on broadcaster and extreme care was needed to further national interest. The meeting lasted all day and included lunch under auspices of sales managers with Walt Wagstaff, KDYL, in charge.

## Sales

### RETAILERS TO "TRY" RADIO

The NAB Sales Managers' Division, in cooperation with the Bureau of Radio Advertising, is progressing

rapidly with plans for NAB participation in the forthcoming NRDGA and AFA conventions.

The National Retail Dry Goods Association, which convenes at the Palmer House, Chicago, June 17-20, has asked the Bureau to put on another "Radio for Retailers" session. The meeting, scheduled for Wednesday morning, June 19, will take the form of a "mock trial by jury" on the question "Can Radio Help the Retailer Fortify for the Forties?". A panel of six or more prominent broadcasters and retail executives will serve as combination jury and expert witnesses. NAB members are welcome at the discussion and a printed transcript will later be made available, similar to the "Radio Transcript" recently published by the NRDGA.

#### NAB Plans "Radio Night" at AFA Convention

Plans for NAB participation in the Advertising Federation of America convention, which meets at the Hotel Sherman, Chicago, June 23-27, include the usual Sales Managers' departmentals the mornings of June 24 and 25, and an elaborate Radio Cabaret entertainment the evening of June 25. All Chicago member stations and the networks are contributing talent and special acts, and the networks will also provide an orchestra for dancing in compliment to the AFA and its members.

William R. Cline, commercial manager of WLS, Chicago, and chairman of the NAB Sales Managers' Division, is in charge of general arrangements with Jules Herbiveaux, NBC, as chairman of the Program Committee, and Oren Weaver, CBS, heading the Program Promotion Committee.

#### Stations to Salute AFA Members

The Bureau of Radio Advertising has suggested to all member stations that they arrange local "salute" broadcasts tying in with the AFA's 36th Annual Convention. The AFA is composed largely of local advertising clubs throughout the country and the theme of this year's meeting is "Advertising's Contribution to the American Way of Living".

The broadcasters will present one or more programs to honor advertising and advertising men and what they have done to reduce cost of goods, step up distribution, raise living standards and promote prosperity. Local AFA delegates and advertising club officials will be heard on the broadcasts, which will be scheduled the week immediately following the AFA convention.

The Bureau's letter points out the advantages of capitalizing on the national promotion, doing a double-barrel job of building good will among advertisers and listeners and providing an effective answer to the consumer movement as it affects the radio medium. Chicago stations and networks are already planning similar salute broadcasts to the AFA and its affiliated Chicago Federation of Advertising Clubs.

## Promotion

### RMA CONVENTION

A new horizon for listening (circulation) was opened to broadcasters this week, in Chicago, at the 16th annual convention of the Radio Manufacturers Association and the Radio Parts National Trade Show. The horizon is to be extended with a new pocket size radio set weighing only twenty-six (26) ounces.

It is the brain child of Arthur T. Haugh, Glendale, Cal., a former president of the RMA and one of its founders. General use of the set which is expected to sell at ten dollars, retail, would add millions of hours of program listening per day.

On a broadcast over WENR and NBC-Blue Wednesday (June 12) night, Dr. O. H. Caldwell, former radio commissioner, and editor of "Radio Today," praised the radio industry campaign to increase listeners and listening. He concurred in NAB's contention that there are so many good things on the air that the listening level, both daytime and nighttime, will attain a new plateau if extra effort is made to induce the purchase of additional sets.

James S. Knowlson, president, Stewart-Warner Corporation, Chicago, was elected new president of RMA on Wednesday. Retiring president was A. S. Wells, president, Wells-Gardner & Company, Chicago.

Four vice presidents elected to office were: Paul V. Galvin, president, Galvin Manufacturing Corporation, (Motorola), Chicago; Roy Burlew, president, Ken-Rad Tube and Lamp Corporation, Owensboro, Ky.; H. E. Osmun, vice-president, Centralab, Milwaukee; and Donald MacGregor, general manager, The Webster Company, Chicago.

Leslie F. Muter, president, The Muter Company, Chicago, was re-elected treasurer.

### PICNIC CLIMAX TO WWVA FESTIVAL

By proclamation of Mayor John J. Mathison, the City of Wheeling is celebrating Radio Festival, June 10-16.

Always on the alert to sell radio to the good townfolk, WWVA is exerting greater effort in that direction during the special week set aside to honor radio in general and WWVA in particular.

In Wheeling store windows, special Board of Trade window cards are saluting the city's voice of the air. Open house is being observed at the WWVA studios and listeners may sit in on their favorite broadcasts.

To climax the big week a Jamboree picnic is to be held at Wheeling Park, the playground of the Ohio Valley with a ball game between the WWVA staff and entertainers as the big feature. The game will be broadcast as a demonstration of "Little WWVA," popular station mobile unit which will also pick up the various regular shows presented throughout the day at the park.

For Saturday night, June 15, Texas Bill Thomas, known the country over as master of ceremonies of the famous WWVA Jamboree, has arranged two bangup performances for the Wheeling Municipal Auditorium. Sunday, June 16, there will be a special broadcast of the 200-voice Industrial Chorus from the amphitheater at Oglebay Park and the week will be brought to a grand

climax with the Sunday afternoon coast-to-coast broadcast of Wheeling's own network show "It's Wheeling Steel," direct from the auditorium of Wheeling's Capitol Theater through WWVA.

## WIBW AWARDS FESTIVAL CASH

Sixteen-year-old Lynn Pittaway, a junior in the Hodgeman County High School, Jetmore, Kansas, won the WIBW, Topeka, essay contest.

Ben Ludy, station manager, awarded twenty-five dollars to the winner and the same amount to his school. The next fifty runners-up received one dollar each.

Lynn's essay will now compete for the NAB hundred dollar award.

## 2,500 PARTICIPATE IN FESTIVAL AT KQW

Over 50 quarter hour programs, featuring school orchestras and bands, glee clubs, choruses, discussion and forum groups and dramatic classes and more than 2,500 of San Jose's 10,000 school students took part in the National Radio Festival.

KQW's manager, C. L. McCarthy, said that the educational project was one of the most ambitious ever undertaken in radio. For five consecutive Saturdays, May 4-June 1, the station turned its entire operation over to the San Jose school students from nine until noon.

## WHBF PROMOTES CIRCULATION

WHBF, Rock Island, Ill., through Ivan Streed, production manager, reports: "We have been using auto radio and Radio Servicemen of America announcements for quite some time and will continue to do so."

## Miscellaneous

### INSURANCE COMMITTEE

Roger W. Clipp, WFIL, chairman of the NAB Insurance Committee, sends the following report on a June 5 meeting in New York:

Committee members present were: William I. Moore, WBNX; C. A. Wall, National Broadcasting Company; J. R. Poppele, WOR; C. R. Dean, Columbia Broadcasting System; and R. W. Clipp, WFIL, chairman. Also present were Benjamin W. Blakey, of Benedict and Benedict, Insurance, New York; and Brian B. Kane, Insurance Company of North America.

The Committee adopted the following plan for handling the insurance problems of broadcasters:

1. Determine the various types of insurance carried by the majority of broadcasters.
2. Outline the types of risks covered by insurance which is now available to broadcasters.
3. Get the insurance companies to standardize the insurance policies for broadcasters.

It will be necessary to prepare a detailed but simple questionnaire to send to the membership to gather information which will be used as a starting point. Having secured this, we will proceed on the other points outlined

above. Regarding detailed data, the committee will work with the Edison Institute—the organization which functions for all of the public utilities on insurance matters.

This report which you will publish I think should serve the purpose of notifying the membership that the committee is in action and working on the insurance and that we will continue to pursue it as quickly as time will permit.

There is a great deal of information which we must collect before we can accomplish the most important point which is standardization of risks as it applies to broadcasting stations. We find that many broadcasters are almost totally unfamiliar with the fact that in the first place they are subject to many risks that they know nothing about, and that there exists types of insurance to cover most—if not all—of these risks. We also discovered that insurance companies on the other hand are not too familiar with the problems of broadcasters so there exists a good opportunity to do an educational job in all directions.

## PORTER TO NATIONAL DEFENSE

Paul Porter was today appointed Executive Assistant to Mr. Chester C. Davis, member of the National Defense Advisory Commission responsible for accommodating national agricultural problems and policies to the defense program, particularly with respect to maintenance of the parity system of agricultural and industrial prices.

Mr. Porter, Washington Attorney for the Columbia Broadcasting System, has been granted a leave of absence to join Mr. Davis' staff. He was Executive Assistant to Mr. Davis when the latter was Administrator of the Agricultural Adjustment Administration.

Mr. Porter's responsibilities will involve close contact with various Government agencies such as—Office of the Secretary of Agriculture, the Surplus Commodities Corp., the Bureau of Agricultural Economics, the Agricultural Adjustment Administration, Reconstruction Finance Corp., and the Red Cross.

## EDDIE CARTER, RUTH HILL

Station KVOS, Bellingham, Washington, would like to know the whereabouts of Eddie Carter and Ruth Hill.

## STATE LEGISLATION

### LOUISIANA:

H. 778 (Barranger) RACE TRACK INFORMATION—To repeal act 28 of the 1st Special Session of 1934 as amended by act 13 of the 2nd Special Session of 1934 relating to information pertaining to any race track.

## 836 STATIONS

During the month of May, 1940, the Federal Communications Commission issued operating licenses to four stations, and granted twelve permits for the construction

of new stations. Two stations were deleted. A comparative table by months follows:

	June 1	July 1	Aug. 1	Sept. 1	Oct. 1	Nov. 1	Dec. 1	Jan. 1	Feb. 1	Mar. 1	April 1	May 1	June 1
Operating .....	735	735	738	739	743	751	755	765	769	771	775	779	783
Construction .....	38	43	56	59	57	58	57	49	48	51	48	47	53
	773	778	794	798	800	809	812	814	817	822	823	826	836

## The Commission

### FLY DISCUSSES AMATEURS AND TELEVISION PROGRESS

Questioned at a press conference early this week, FCC Chairman James Lawrence Fly said that it is possible that something further may have to be done in connection with the amateurs and the present war situation.

He pointed out that he was pretty sure, for example, that the Commission would give serious attention to the question of the citizenship of applicants. While he was speaking particularly of amateurs, he inferred that this might be carried further. In an application the Commission simply asks "Are you a citizen?", and heretofore the Commission has simply taken the applicant's word for it. Now, however, he said the Commission wants proof of citizenship, not only for amateurs but for others as well. He said, for instance, that the Commission wants enough information to establish citizenship beyond any doubt and also as a means of quick reference.

Chairman Fly told the newsmen that he has recently conferred with a limited number of television companies and applicants with a view to assisting in research and programs. He said that he hasn't had conferences with any of the television manufacturers with a view to reaching an agreement. In the first place, Mr. Fly said, the Commission is anxious to see stations get going and for the Commission to get those grants out and programs started. That is the Commission's first order of business as regards television. He said that he will continue to confer on programs of experimental and coordinating nature. As this narrows down, he will get to the question of standards.

### STATION LICENSES EXTENDED FOR TREATY REALLOCATIONS

In order to permit further studies of the frequency assignments to stations under the North American Regional Broadcast Agreement, the FCC today extended standard broadcast station licenses expiring August 1 for an additional two months, to October 1. The Commission will announce at a later date the procedure with respect to the licensing of facilities which will be available under the provisions of this agreement.

Today's order applies to all standard broadcast stations, and automatically extends the expiration date of all licenses for which applications for renewals have been filed. Modified licenses to cover the new expiration date will not be issued.

Licensees who have not as yet submitted renewal applications are notified that in order to permit operation after August 1 applications for renewal, based on the present authorized facilities, must be filed. However, if an application for renewal covering the period beyond August 1 has been filed, it will not be necessary to re-file such application under the provisions of today's order.

Licensees are required to post the Commission's order attached to their licenses in accordance with the rules governing posting of licenses.

### MINIMUM OPERATING SCHEDULES

The recent amendment to Section 3.71 of the FCC's Rules covering minimum operating schedule (NAB REPORTS, June 7, 1940, p. 4315) is intended merely to clarify the meaning of that section. Some stations have been operating under a mistaken interpretation of the rule and find it burdensome to make the required change in operating schedule at once. NAB suggests that such stations request of the Commission an extension of time within which to comply.

### EARLY MORNING BROADCAST SERVICE FOR RURAL AREAS

Early morning broadcast service to many rural sections now denied such service is invited by Federal Communications Commission action in authorizing daytime and limited-time standard broadcast stations to begin operation at 4 a. m., local standard time.

Many farmers and other dwellers in rural areas arise before sunrise and in the past have had to rely upon distant broadcast stations for program service. The new ruling, announced today, will permit local stations generally to start broadcasting earlier, thus furnishing farm communities with general news and vital information concerning local weather conditions and agricultural market reports at the beginning of the work day.

Although some interference may result from this new opportunity to broadcast between the hours of 4 a. m. and sunrise, the Commission believes that the overall effect of its order will be to benefit particularly those residents of farming areas who have heretofore not had such early local program service.

The new order of the Commission does not change any of the rules and regulations regarding standard broadcast operations which apply to the regular broadcast day, which is defined as that period of time between local sunrise and 12 midnight local standard time. Additional hours are granted during the experimental period which is defined in Section 3.10 of the Commission's rules as

that time between midnight and local sunrise; consequently, any interference which may result to standard broadcasting will be experienced chiefly during the "experimental period."

### ORDER NO. 74

At a meeting of the Federal Communications Commission held in its offices at Washington, D. C., on the 7th day of June, 1940:

Pursuant to authority contained in Section 303 of the Communications Act of 1934, as amended,

It is ORDERED, That pending further Order of the Commission or amendment of the Rules and Regulations:

(a) the provisions of Sections 3.6, 3.8, 3.9, 3.23, 3.79 and 3.84 shall not prohibit the operation between four o'clock a. m., local standard time, and local sunrise, of standard broadcast stations licensed to operate during day time hours or limited time hours;

(b) nothing contained in outstanding instruments of authorization for such stations shall prohibit such operation;

(c) the period 4:00 a. m. to 6:00 a. m., local standard time, shall not be included in determining compliance with Sec. 3.71 (as amended June 4, 1940) of the Commission's Rules and Regulations.

This Order shall become effective immediately.

FEDERAL COMMUNICATIONS COMMISSION,  
T. J. SLOWIE,  
Secretary.

### FROM THE FCC MAIL BAG

Recent events prompt the Federal Communications Commission to reiterate that, having no authority to censor radio programs, it can neither put anybody off the air nor on the air.

In the matter of broadcast time for candidates for public office, the Communications Act specifies: "If any licensee (station) shall permit any person who is a *legally qualified* candidate for public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting stations. . . ." and shall have "no power of censorship" over the material so broadcast. However, there is no requirement that the station must give such time in the first place, for Section 315 of the Act stipulates: "*No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.*" (This subject was covered in detail in a general information release, "Campaign Use of Radio," issued March 11th last, copies of which are available for the asking.)

Under the statute injunction against interference with individual radio programs, the Commission has had to advise inquirers that it is equally without authority to—

Censor statements of radio commentators, as requested by a New York man.

Require a national network to grant time to a Florida man to discuss national defense.

Deny the radio to "pressure groups interested in involving the United States in the present European conflict," as demanded by a New York woman.

Accede to request by a California woman that "pressure be put on radio stations to allow only 'sane' and 'unbiased' programs, which cut out all propaganda for war."

Pass on the type of wording of advertising announcements, as suggested by many listeners.

Likewise, the Commission has no authority to handle a New Orleans request that a radio station be made to employ six musicians instead of a trio.

Take action on complaint of a Peoria, Illinois, property owner relating to the height of his neighbor's aerial.

Help a New York woman develop a radio device for detecting and destroying enemy planes—or perfect a District of Columbia inventor's radio horn.

Radio station WSUI, Iowa State University, requested, and was given permission, to reproduce FCC's general information release of May 14th, "Radio Broadcasting Explained," for public distribution.

Incidentally, FCC's first printed general information booklet, "An ABC of the FCC," 13 pages in pocket size, is now being distributed on request.

### TIME SIGNAL BROADCASTING

Notice to All Broadcast Station Licensees:

Subject: *Rebroadcast of Naval Observatory Time Signals.*

(This supersedes Notice on same subject under date of February 9, 1940.)

Under date of February 9, 1940, the Commission announced that upon request any broadcast station showing compliance with the following conditions would be authorized to rebroadcast Naval Observatory Time Signals:

(1) Announcement of the time signal must be made without reference to any commercial activity;

(2) The time signal to be rebroadcast must be obtained by direct reception from a Naval radio transmitter which is broadcasting the time signal;

(3) The Naval Observatory time signals are intended to be sufficiently accurate for astronomical and other scientific purposes. No time may, therefore, be announced as a Naval Observatory time signal if any time lag has been introduced.

In order to meet requirements (2) and (3), it is necessary that the Naval Observatory time signals be obtained by direct reception from a Naval radio station which is transmitting the time signal with relatively short circuits between the receiver and the broadcast transmitter. This required that stations which formerly obtained the time signals from the networks either discontinue the practice or make provisions for direct reception. A number of stations made such provisions; however, still others did not and, as a consequence, a large number of complaints have been received by both the Navy Department and the Commission in regard to the discontinuance of the rebroadcast of these time signals.

The original requirements were made in order that the accuracy of the time signals might be improved so as to be acceptable for normal scientific purposes. However, upon receipt of the complaints mentioned above, this question was restudied and it appears that the time signals as transmitted by the various broadcast stations whether obtained by direct reception or by means of telephone lines, either local or national networks, are



entirely satisfactory for the purposes of the average user provided no mechanical relays are used. Therefore, effective this date any broadcast station so desiring is hereby authorized to rebroadcast the Naval Observatory time signals or transmit the signals received from other sources provided no mechanical relays are used and that announcement of the time signal is made without reference to any commercial activity. Each licensee receiving the signals from wire lines should obtain and be prepared to inform any inquirers as to the actual time delay in transmission.

Persons requiring more accurate time signals should make provision for direct reception from Naval radio stations as shown in the following tabulation. Corrections, additions, and other information in this regard are published weekly in the Hydrographic Bulletin which may be obtained upon request from the Hydrographic Office, Navy Department, Washington, D. C.

T. J. SLOWIE, *Secretary.*

#### SCHEDULE OF NAVY STATIONS TRANSMITTING NAVAL OBSERVATORY TIME SIGNALS

Time (Eastern Standard)	Station	Call Sign	Frequency in kilocycles and type of emission. A1 unless otherwise noted	Remarks
P.M. P.M.				
7:55 to 8:00	Washington, D. C.	NAA	113	*
8:55 to 9:00	Washington, D. C.	NAA/NSS	113; 4390; 9425; 12630	*
9:55 to 10:00	Washington, D. C.	NAA/NSS	113; 4390; 9425; 12630	*
	San Francisco, Cal.	NPG	42.8; 113; 9090; 12540	*
				(NPG broadcasts from crystal clock corrected from Naval Observatory.)
10:55 to 11:00	Washington, D. C.	NAA/NSS	9425	*
	Oahu (Honolulu)	NPM	113; 9090; 12540	*
	T. H.			*
11:25 to 11:30	Cavite, P. I.	NPO	113; 9250; 12630	*
11:55 to 12:00	Washington, D. C.	NAA	113; 9425	*
	Balboa, C. Z.	NBA	113; 4390; 9250	*
A.M. A.M.				
12:55 to 1:00	Washington, D. C.	NAA	113; 9425	*
1:55 to 2:00	Washington, D. C.	NAA	113; 9425	*
2:55 to 3:00	Washington, D. C.	NAA	113; 4390; 9425; 12630	**
	San Francisco, Cal.	NPG	42.8	**
3:55 to 4:00	Washington, D. C.	NAA	113; 4390; 9425; 12630	*
4:55 to 5:00	Washington, D. C.	NAA	113; 4390; 9425; 12630	*
5:55 to 6:00	Washington, D. C.	NAA	113	*
6:55 to 7:00	Cavite, P. I.	NPO	113; 9250; 12630	*
	Washington, D. C.	NAA	113	*
7:55 to 8:00	Washington, D. C.	NAA	113; 9425	*
8:55 to 9:00	Washington, D. C.	NAA/NSS	113; 9425; 12630; 17370	*
9:55 to 10:00	Washington, D. C.	NAA/NSS	113; 9425; 12630; 17370	*
	San Francisco, Cal.	NPG	42.8; 113; 9090; 12540	*
				(NPG broadcasts from crystal clock corrected from Naval Observatory.)
10:55 to 11:00	Washington, D. C.	NAA/NSS	9425	*
	Oahu (Honolulu)	NPM	113; 9090; 12540	*
	T. H.			*
11:55 to 12:00	Washington, D. C.	NAA	17.8; 113; 9425	*
	Balboa, C. Z.	NBA	113; 4390; 9250	*
	San Francisco, Cal.	NPG	42.8	**
P.M. P.M.				
12:55 to 1:00	Washington, D. C.	NAA	113	*
1:55 to 2:00	Washington, D. C.	NAA	113; 9425	*
2:55 to 3:00	Washington, D. C.	NAA	113; 9425; 12630; 17370	*
	Oahu (Honolulu)			*
	T. H.	NPM	113; 9090	*
	San Francisco, Cal.	NPG	42.8; 113	**
3:55 to 4:00	Washington, D. C.	NAA	113; 9425; 12630; 17370	*
4:55 to 5:00	Washington, D. C.	NAA	113; 9425; 12630; 17370	*
5:55 to 6:00	Washington, D. C.	NAA	113; 9425	*
6:55 to 7:00	Washington, D. C.	NAA	113; 9425	*
	San Francisco, Cal.	NPG	42.8	**

\* First-order time signals.—These are precision time signals for chronometer rating and scientific use, normally correct as broadcast to less than one-tenth of a second. The average error of the Washington time signals has been reduced to less than .02 of a second.

\*\* Second-order time signals.—These are time signals for chronometer rating and ordinary use, normally correct as broadcast to less than five-tenth of a second, having a generally constant lag.

In the event of a failure or an error occurring in any of the time signals, except the rebroadcast of Washington time signals at San Francisco and Pearl Harbor, T. H., another time signal will be transmitted 1 hour later on the same frequency. San Francisco in the event of a failure or error occurring in the Washington time signal, will transmit a time signal from the clock at that point.

## FCC WARNING

The FCC on June 8 issued a sharp warning to all United States ship radio operators and to station licensees, that superfluous, unnecessary, or unidentified communications from ship stations to other ships or to shore stations will not be tolerated and that violation in this respect will be vigorously prosecuted.

## FEDERAL COMMUNICATIONS COMMISSION

### FINAL ORDERS

FCC has announced adoption as final its Proposed Findings of Fact and Conclusions, as modified, granting the applications of Ben S. McGlashan, **Los Angeles, Calif.**, for renewal of license of High Frequency Broadcast Station W6XKG, and granting renewal of license of High Frequency Broadcast Station W6XRE, in part, in so far as it requests authority to use the frequency **350,000 kilocycles**, with power of 500 watts, and denied in so far as it requests authority to use the frequencies **42,300 kilocycles** and **116,950 kilocycles**. The authority granted for the operation of these stations is subject to the conditions that the applicant will supply satisfactory proof that he has a program of research and experimentation which is within the purview of Section 4.112 of the Commission's Rules and Regulations, and that the authorizations issued are upon an experimental basis only and subject to change or cancellation by the Commission at any time, without advance notice or hearing.

### FINDING OF FACT

Denial of the application for renewal of license for Station KRKO, located at **Everett, Washington**, operated by Lee E. Mudgett on **1370 kilocycles**, with 50 watts power, sharing time with KEEN at Seattle, has been announced by the FCC.

The Commission in its Proposed Findings of Fact and Conclusions, held that "the licensee, in the conduct of business and the exercise of rights associated with the operation of Station KRKO, has been dominated and directed by various persons who have provided funds in substantial amounts for the original acquisition of the station in 1934 and for its subsequent maintenance and operation . . . and the granting of the application for renewal of license for KRKO will not serve public interest, convenience or necessity."

Action of the Commission with reference to the granting of applications for renewal of licenses of stations in

the radio broadcast service is by the express provisions of the Communications Act limited to and governed by the same considerations and practice which affect the granting of original applications.

"Neither the letter nor the spirit of the licenses heretofore granted to Lee E. Mudgett for the operation of station KRKO has been observed," the Commission explained, and "inasmuch as he has not been free to exercise the rights conferred therein, or to accept the responsibility thereby delegated to him, without intervention of outside influences, the granting of the application for renewal of license will not serve public interest, convenience or necessity."

In addition to the application for renewal of license, the licensee applied for construction permit to move antenna site locally, install new equipment and vertical radiators, change operating assignment from 50 watts sharing equally with KEEN, Seattle, to 100 watts night, 250 watts until local sunset, with unlimited hours of operation, and to voluntarily assign the KRKO license to The Everett Broadcasting Company, Inc.

In view of the foregoing conclusions the applications for assignment of license and construction permit will be dismissed.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

No hearings or oral arguments are scheduled to be heard before the Commission in broadcast cases during the week beginning Monday, June 17.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

- KGY—Louis Wasmer, Olympia, Wash.—Granted consent to control of corporation KGY, Inc., from Louis Wasmer to Tom Olsen, involving 52½ shares of outstanding capital stock of licensee corporation, for a consideration of \$9,291. (Station operates on 1210 ke., 100 watts, unlimited except when station KTW is operating.) B5-TC-213.
- KWJB—Sims Broadcasting Company, Globe, Ariz.—Granted consent to voluntary assignment of license from Sims Broadcasting Company (Bartley T. Sims, Manager) to Bartley T. Sims, d/b as Sims Broadcasting Company. Station operates on 1210 ke., 250 watts, unlimited time (B5-AL-269).
- KWJB—Sims Broadcasting Company, Globe, Ariz.—Granted renewal of license for the period ending August 1, 1940 (B5-R-840).
- KTBG—State Capital Broadcasting Assn., Inc., Austin, Tex.—Granted extension of present license upon a temporary basis only for the period ending August 1, 1940, subject to all of the terms and conditions of the order of revocation entered February 7, 1940, and subject further to final determination of the Commission on said order (B3-R-1007).

### DESIGNATED FOR HEARING

- North Jersey Broadcasting Co., Inc., Paterson, N. J.—Application for construction permit for new station to operate on 900 ke., 1 KW, daytime hours (B1-P-2624).
- KRLC—H. E. Studebaker, Lewiston, Idaho.—Application for modification of license to change frequency from 1390 to 1370 ke., contingent upon application of KUJ.\* (B5-ML-902).
- KUJ—KUJ, Inc., Walla Walla, Wash.—Application for construction permit to move transmitter, exact site to be determined subject to Commission's approval; install new transmitting equipment and antenna; change frequency from 1370 to 1390 ke.; and increase power from 100 watts to 1 KW, contingent upon application of KRLC for modification of license (B5-P-2610)\*.
- KYOS—Merced Broadcasting Co., Merced, Calif.—Application for construction permit to install new transmitting equipment; make changes in ground system; change frequency from 1040 to 1390 ke.; increase power from 250 watts to 500 watts night, 1 KW LS, and operating time from day only to unlimited (contingent upon the granting of KOY's application for change of frequency from 1390 ke. to 550 ke.)\* (B5-P-2545).

\*Hearing to be combined with two applications from Riverside, Calif., already designated.

### MISCELLANEOUS

- WLOF—Hazlewood, Inc., Orlando, Fla.—Granted modification of construction permit which authorized new station, for approval of antenna and transmitter site, change location of studio, and install new transmitter; tower to be painted and lighted in accordance with Sec. 3.45(d); upon the express condition that this grant shall not be construed as a finding by the Commission upon the application of Radio Corp. of Orlando requesting the same facilities, nor upon the application for license to operate Station WLOF when the construction of same has been completed, nor upon any of the issues involved therein, nor that the Commission has found that operation of this station is, or will be, in the public interest beyond the express terms hereof (B3-MP-971).
- KTMS—News-Press Publishing Co., Santa Barbara, Calif.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-403).
- WKBN—WKBN Broadcasting Corp., Youngstown, Ohio.—Granted special temporary authority to operate from 9 a. m. to 11 a. m. and from 1 p. m. to 3 p. m., EST, on July 4, 1940, in order to broadcast holiday program (provided WOSU remains silent).
- KFRU—KFRU, Inc., Columbus, Mo.—Granted special temporary authority to operate simultaneously with Station WGBF with power reduced to 250 watts from local sunset (June 7:30 p. m., CST) to the conclusion of special baseball games on June 14 and 21, 1940, in order to broadcast baseball games only.
- WGBF—Evansville on the Air, Inc., Evansville, Ind.—Granted special temporary authority to operate as above except simultaneously with KFRU, in order to permit KFRU to broadcast baseball games.
- KOAC—Oregon State Agricultural College, Corvallis, Ore.—Granted special temporary authority to operate from 9 a. m. to 1 p. m. and from 6 p. m. to 10 p. m., PST, for the period July 1, 1940, to not later than July 30, 1940 (instead of unlimited time as licensed) in order to observe the regular vacation period.
- WFDF—Flint Broadcasting Co., Flint, Mich.—Granted petition to amend application for construction permit requesting change in frequency from 1310 to 880 ke., and power from 100 watts to 1 KW, unlimited time, to modify proposed directional antenna.
- Oscar Kronenberg, Steubenville, Ohio.—Granted petition to dismiss without prejudice application for new station to operate on 1310 ke., 250 watts, unlimited time.
- WQXR—Interstate Broadcasting Co., Inc., New York, N. Y.—Granted modification of construction permit for new equipment, move of transmitter, and increase in power. for approval of antenna and transmitter site, provided tower is marked in accordance with Sec. 3.45(d).
- WARM—Union Broadcasting Co., Scranton, Pa.—Granted modification of construction permit authorizing new station, to install new type of transmitter (B2-MP-985).

Arlington Broadcasting Corp., Arlington, Va.—Denied as in case of default the application for construction permit for new broadcast station at Arlington, Va., to operate on **1420 kc.**, 250 watts, 250 watts LS, unlimited time.

WGAR—WGAR Broadcasting Co., Cleveland, Ohio.—Granted special temporary authority to operate from 9:30 p. m. to 3 a. m., EST, the night of June 8, 1940, with power of 5 KW, non-directional, for the purpose of broadcasting the Greater Cleveland Red Cross Program, designed to raise funds for European relief.

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with Station WGBF with power reduced to 250 watts, from 9:30 p. m. to 10 p. m., CST, on June 27, 1940, in order to broadcast a special baseball game.

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Granted special temporary authority to operate as above except simultaneously with KFRU in order to permit KFRU to broadcast a special baseball game only.

W2XOY—General Electric Co., Schenectady, N. Y.—Granted special temporary authority to relay through high frequency broadcast station W2XOY the frequency modulated programs of high frequency station W2XMN, for the period ending in no event later than July 1, 1940.

WHKC—United Broadcasting Co., Columbus, Ohio.—Denied special temporary authority to operate unlimited time for the period beginning June 24, 1940, to the conclusion of the Republican National Convention and for the period beginning July 15, 1940, to the conclusion of the Democratic National Convention, in order to broadcast the Mutual Broadcasting System's programs covering said conventions.

W10XKT—Allen B. Du Mont Laboratories, Inc., New York, N. Y.—Granted special temporary authority to operate portable-mobile television transmitter described in application (File No. B1-PVB-28) on channels **156 to 168 mc.**, for the period ending in no event later than January 1, 1941.

WSAJ—Grove City College, Grove City, Pa.—Granted special temporary authority to remain silent for the period beginning June 12, 1940, and ending not later than August 1, 1940, in order to observe college vacation.

WKEU—Radio Station WKEU, Griffin, Ga.—Granted special temporary authority to operate from 6:45 p. m. to 12 p. m., CST, on June 16, 17, 18, and 19, 1940, in order to broadcast programs celebrating Griffin's Centennial, sponsored by the Chamber of Commerce.

WINS—Hearst Radio, Inc., New York, N. Y.—Granted special temporary authority to operate from 9:15 p. m. to midnight, EST, on July 11, 1940, in order to broadcast the All-Star Boxing Show for the benefit of the New York City Milk Fund.

WNBI—National Broadcasting Co., Bound Brook, N. J.—Granted authority to add frequency **11820 kc.** to present licensed frequencies (which are **6100** and **17780 kc.**, 35 KW, unlimited time on **6100 kc.**, and shares with WPIT on **17780 kc.**). This special authorization is granted for the period ending Nov. 1, 1940, upon a temporary basis only upon the express condition that it is subject to change or cancellation by the Commission at any time without advance notice or hearing, and that no interference is caused to stations of the British Administration. Nothing herein shall be construed as finding that the operation of station upon frequency **11820 kc.** is or will be in the public interest beyond the express terms hereof.

WFMD—The Monocacy Broadcasting Co., Frederick, Md.—Granted special temporary authority to operate from 7:45 p. m. to midnight, EST, on June 11, 1940, in order to broadcast election returns only, using 100 watts power.

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate with power of 250 watts from 7:30 p. m., CST, to the conclusion of political rallies on June 20, 21, 22, 24, 25, 26, and 27, 1940.

KFRU—KFRU, Inc., Columbia, Mo.—Granted special temporary authority to operate simultaneously with station WGBF with power reduced to 250 watts from 8 p. m. to 9:30 p. m., CST, on June 20, 1940, in order to permit WGBF to broadcast the Louis-Godoy fight.

WGBF—Evansville on the Air, Inc., Evansville, Ind.—Granted special temporary authority to operate as above except simultaneously with KFRU, in order to broadcast the Louis-Godoy fight.

WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts from

local sunset (June 7:30 p. m., CST) to 9 p. m., CST, on June 16, 1940, in order to broadcast the Civic Patriotic anniversary program of the Luxemburger Hall in Aurora.

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate from 8 p. m. to midnight, CST, on June 14, 1940, in order to broadcast the National Flag Day celebration being sponsored by the Elks Clubs of Eau Claire and Chippewa Falls.

## APPLICATIONS FILED AT FCC

### 590 Kilocycles

NEW—West Publishers, Inc., Corpus Christi, Tex.—Construction permit for new broadcast station to be operated on **590 kc.**, 500 watts night, 1 KW daytime, unlimited time. Class III-B.

### 770 Kilocycles

WBBM—Columbia Broadcasting System, Inc., Chicago, Ill.—Extension of special experimental authorization to operate synchronously with KFAB from sunset at Lincoln, Nebr., to 12 midnight, period 8-1-40 to 2-1-41.

KFAB—KFAB Broadcasting Co., Lincoln, Nebr.—Extension of special experimental authorization to operate synchronously with WBBM from local sunset at Lincoln, Nebr., to midnight, CST, period beginning 8-1-40.

### 850 Kilocycles

WWL—Loyola University, New Orleans, La.—Extension of special experimental authorization for unlimited time, period beginning 8-1-40.

### 880 Kilocycles

KVAN—Vancouver Radio Corp., Vancouver, Wash.—Modification of license to increase power from 250 watts to 500 watts.

### 900 Kilocycles

WKY—WKY Radiophone Co., Oklahoma City, Okla.—Modification of license to increase power from 1 KW night, 5 KW daytime, to 5 KW day and night.

### 940 Kilocycles

NEW—The Tribune Co., Tampa, Fla.—Construction permit for a new broadcast station to be operated on **940 kc.**, 1 KW night, 5 KW day, unlimited time, directional antenna for night use. Class III-B station. Amended to give location of transmitter as East End Davis Causeway, near Tampa, Fla.

### 1040 Kilocycles

KRLD—KRLD Radio Corp., Dallas, Tex.—Modification of license to use directional antenna system at night only.

### 1050 Kilocycles

WIBC—Indiana Broadcasting Corp., Indianapolis, Ind.—Construction permit to change hours from daytime to unlimited, using 1 KW day and night, install directional antenna for day and night use, move transmitter. Class II station.

### 1060 Kilocycles

WTIC—The Travelers Broadcasting Service Corp., Hartford, Conn.—Extension of special experimental authorization to operate simultaneously with KRLD, unlimited time, using directional antenna night, period 8-1-40 (on **1040 kc.**).

WBAL—The WBAL Broadcasting Co., Baltimore, Md.—Extension of special experimental authorization to operate simultaneously with KTHS on **1060 kc.**, from sunrise at Baltimore to local sunset at Hot Springs, Ark., to operate from local sunset at Hot Springs to 9 p. m., EST, on **1060 kc.**, and operate synchronously with WJZ on **760 kc.**,  $2\frac{1}{2}$  KW, directional antenna, from 9 p. m., EST, period beginning 8-1-40.

### 1100 Kilocycles

KWKH—International Broadcasting Corp., Shreveport, La.—Authority to determine operating power by direct measurement of antenna power.

### 1210 Kilocycles

NEW—The Twin States Broadcasting Co., Augusta, Ga.—Construction permit for a new radio broadcast station to be operated on **1210 kc.**, 250 watts, unlimited time. Class IV.

### 1260 Kilocycles

WHIO—Miami Valley Broadcasting Corp., Dayton, Ohio.—Construction permit for changes in antenna and transmitter; increase in power from 1 KW night, 5 KW daytime, to 5 KW day and night; and move transmitter locally. Amended re antenna.

### 1270 Kilocycles

WOOD—King-Trendle Broadcasting Corp., Grand Rapids, Mich.—Construction permit to increase power from 500 watts to 5 KW; change hours from share WASH to unlimited time; install new transmitting equipment and directional antenna for night use; move studio and transmitter. Requests Class III-A station. Amended to omit request for change in hours of operation.

NEW—The Brockway Co., Watertown, N. Y.—Construction permit for new broadcast station to be operated on **1270 kc.**, 500 watts, daytime. Amended re equipment.

### 1370 Kilocycles

WCOS—Carolina Advertising Corp., Columbia, S. C.—Modification of license to change frequency from **1370 kc.** to **1400 kc.**, in accordance with reallocation.

### 1420 Kilocycles

NEW—KNOE, Inc., Monroe, La.—Construction permit for new broadcast station to be operated on **1420 kc.**, 250 watts, unlimited time. Class IV.

NEW—Blanfox Radio Co., Harlan, Ky.—Construction permit for a new broadcast station to be operated on **1420 kc.**, 250 watts, unlimited time. Class IV station.

### 1460 Kilocycles

WJSV—Columbia Broadcasting System, Inc., Washington, D. C.—Modification of license to change daytime directional antenna pattern.

### 1500 Kilocycles

WKEU—Radio Station WKEU, Griffin, Ga.—Modification of construction permit (B3-P-2693) for changes in antenna and hours of operation, requesting extension of commencement date from 6-4-40 to 10-4-40 and completion date from 12-4-40 to 5-4-41.

WMOG—Coastal Broadcasting Co., Brunswick, Ga.—License to cover construction permit (B3-P-2306) for new broadcast station.

NEW—Findlay Radio Co., Findlay, Ohio.—Construction permit for a new broadcast station to be operated on **1500 kc.**, 250 watts, daytime. Class IV station.

KROD—Dorrence D. Roderick, El Paso, Tex.—License to cover construction permit (B3-P-947) as modified for new broadcast station.

KROD—Dorrence D. Roderick, El Paso, Tex.—Authority to determine operating power by direct measurement of antenna power.

### MISCELLANEOUS

W10XKT—Allen B. DuMont Laboratories, Inc., Portable-Mobile, area of New York, N. Y.—Construction permit to reinstate the construction permit B1-PVB-28, which expired 5-6-40, changing frequencies, emission and transmitter to: **258000-270000 kc.**, 50 watts power, A5 emission.

WLWO—The Crosley Corp., Mason, Ohio.—Special experimental authorization for international broadcast station to operate a 1-KW transmitter on **6080 kc.**, with 1 KW power and A0 and A1 emission, for identification purposes only.

NEW—Balaban & Katz Corp., Chicago, Ill.—Construction permit for a new television broadcast station to be operated on **66000-72000 kc.**, 1000 watts, A3 and A5 emission, unlimited time. Form 318, requests Class II television station.

W9XZV—Zenith Radio Corp., Chicago, Ill.—Modification of license for changes in authorized frequencies from **42000-50000, 60000-86000 kc.** to **44000-50000 kc.**, in accordance

with revised rules. Amended: Requests Class II television station and **50000-56000 kc.**

W9XUI—University of Iowa, Iowa City, Iowa.—Modification of license to request change in frequencies from **42000-56000, 60000-86000 kc.** to **50000-56000 kc.** Amended: Form 318, requesting Class I station and change frequencies to **60000-66000 kc.**

KAIZ—Woodmen of the World Life Insurance Society, Portable-Mobile.—License to cover construction permit (B4-PRY-201) for a new relay broadcast station.

KQCB—Queen City Broadcasting Co., Inc., Portable-Mobile.—Construction permit to increase power from 12 to 40 watts and install new transmitter.

NEW—B. B. Shapiro, F. P. Shapiro and H. Shapiro, d/b as Leroy's Jewelers, Los Angeles, Calif.—Construction permit for a new television broadcast station to be operated on **66000-72000 kc.**, power 1 KW, emission A3 and A5 for both visual and aural. Form 318, requests Class II television station.

NEW—Television Productions, Inc., Los Angeles, Calif.—Construction permit for a new television broadcast station to be operated on **66000-72000 kc.**, power 1000 watts for both visual and aural, emission A3 and A5 and special. Form 318, requests Class II television station.

KFAS—Midnight Sun Broadcasting Company, Portable-Mobile, area of Fairbanks, Alaska.—License to cover construction permit (B-PRE-344) for a new relay broadcast station.

NEW—Atlantic Coast Broadcasting Co., Portable-Mobile, area of Charleston, S. C.—Construction permit for new relay broadcast station to be operated on **31220, 35620, 37020, 39260 kc.**, 2 watts, A3 emission.

NEW—Don Lee Broadcasting System, San Francisco, Calif.—Construction permit for a new television broadcast station to be operated on **44000-50000 kc.**, 1000 watts for both visual and aural transmitters, emission A3, A5 and special. Amended to request frequencies **50000-56000 kc.**

NEW—R. B. Eaton, Des Moines, Iowa.—Construction permit for a new television broadcast station to be operated on **44000-50000 kc.**, 100 watts for both visual and aural, emission A3 and A5. Form 318, requests Class II television station.

NEW—The Crosley Corp., Cincinnati, Ohio.—Construction permit for a new television station to be operated on **50000-56000 kc.**, power visual and aural 1000 watts, emission A3 and A5. Form 318, requests Class II television station.

W2XBT—National Broadcasting Co., Inc., Portable.—Modification of license to change frequency from **156000-162000** to **162000-168000 kc.**

W1XG—General Television Corp., Boston, Mass.—Construction permit to install audio transmitter to use with video transmitter, 500 watts power, A3 emission. Amended re location of audio transmitter.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**W. C. Allen Candy Company, Inc.**, 1028 East Burnside St., Portland, Ore., is alleged to distribute to dealers assortments of merchandise so arranged as to involve use of a lottery. One of them allegedly consists of various containers, candy and a suitcase, together with a punch board from which customers buy numbers at different prices. Recipients of certain specified numbers are entitled to receive boats of candy and the buyer of the last punch on the board draws a suitcase, according to the complaint. It is alleged that a purchaser failing to punch one of the specified numbers receives nothing but the privilege of punching the board and that the prizes thus are distributed wholly by lot or chance. (4156)

**Continental Blade Corporation**—See Lightfoot Schultz Co.

**Economy Sales Company, Inc.**, 910 Bergen Ave., Jersey City, N. J., and Samuel Knight, alias Samuel Nitke, individually and as an officer of the corporate respondent, distributors of luggage, jewelry and other merchandise, allegedly distribute various lottery plans including a push card plan for use in connection with clubs and fraternal organizations in promoting the sale of the respondents' merchandise wholly by lot or chance. It is alleged that the respondents also offer to conduct carnivals and dances for such organizations, awarding prizes to purchasers of tickets for these events who hold tickets containing certain specified numbers or to the purchaser of the last ticket in a book. (4150)

**G & F Sales Company**—Lillian M. Granger, L. H. Murray, and Clara and Adolf Feitler, trading as G. & F. Sales Company, 35 South Franklin St., Chicago, are dealers in radios, watches and other merchandise. They are alleged to sell certain assortments, one of which contains several tins of peanuts and a radio, together with a punch board the numbers on which are effectively concealed and sell for 5 cents each. The person punching the number corresponding to that concealed under a seal on the board receives the radio, and persons punching certain other numbers receive for five cents a tin of peanuts worth more than that amount, wholly by lot or chance, according to the complaint. (4155)

**Lightfoot Schultz Company**, Continental Blade Corporation, and Lawrence Distributing Corporation, are charged, in a complaint, with unfair and deceptive acts and practices in commerce.

Lightfoot Schultz Company has its principal office at 663 Fifth Ave., New York, and a factory in Hoboken, N. J. The offices of Continental Blade Corporation are at 66 Court St., Brooklyn, and it has a factory at 315 Jay St., Brooklyn. Lawrence Distributing Corporation has its principal office and place of business at 315 Jay St., Brooklyn. All the respondents are wholly owned subsidiaries of the American Safety Razor Corporation.

The complaint points out that Lightfoot Schultz Company is engaged in the manufacture and sale of soaps and toilet preparations, Continental Blade Corporation in the manufacture and sale of safety blades and also in the sale and distribution of soaps manufactured by Lightfoot Schultz Company. Lawrence Distributing Corporation is also engaged in the sale and distribution of soaps manufactured by Lightfoot Schultz Company.

For the purpose of inducing the purchase of the various products sold and distributed by them, the complaint charges, the respondents have been engaged in the practice of falsely representing the retail price at which their products are customarily sold. Typical of such are representations made by the respondents with reference to resale prices of various soaps manufactured by Lightfoot Schultz Company. These products are customarily sold by the respondents to wholesalers and jobbers for resale to peddlers packed in cartons of three cakes of soap each. On each of these cartons is imprinted the legend "Combination Price 75¢." By use of these words and figures, the complaint continues, the respondents represent that the cartons of soap have an actual retail value or selling price of 75 cents each, and the price marks serve as representations on the part of the respondents to purchasers that the soaps are fine toilet soaps of high quality.

In truth, the complaint alleges, the prices placed by the respondents on the cartons in no sense represent the actual value or retail selling price of the products but are fictitious and greatly in excess of the actual values or the actual retail selling prices, and the soaps are sold by the respondents at from \$2.60 to \$3 per gross cakes, or at a price of from 5 to 6 cents per carton of three cakes of soap.

As a result of the respondents' representations, the complaint alleges, the purchasing public is led to believe that the actual retail values or usual retail selling prices of the soaps are the prices stamped or marked on the cartons, when in fact those prices are fictitious and in no sense represent the usual retail selling prices or actual retail values of the soap. By this means, the complaint alleges, the respondents have placed in the hands of unscrupulous peddlers and canvassers a means and instrumentality whereby such peddlers and canvassers are enabled to mislead and deceive the purchasing public. (4148)

**May's Cut Rate Drug Company**—Complaints have been issued against drug companies in Clarksburg and Charleston, W. Va. and

McKeesport, Pa., alleging false advertisement of a drug preparation the use of which under usual conditions or under conditions as prescribed in advertisements may be injurious to health. The respondents are May's Cut Rate Drug Company, 109 South Fourth St., Clarksburg, W. Va., May's Cut Rate Drug Company of Charleston, 911 Quarrier St., Charleston, W. Va., and Pittsburgh Cut Rate Drug Company, 329 Fifth Ave., McKeesport, Pa.

According to the complaints, these respondents advertised as a competent, effective, safe and harmless treatment for delayed menstruation, a preparation designated as "Genuine Mayco English Crown Female Capsules for Delayed Periods" and also as "Genuine Mayco English Crown Female Capsules," described further as either "Double Strength" or as "Triple Strength."

It is alleged that this preparation is not competent and effective as a treatment for delayed menstruation and that it is not safe or harmless in that it contains the drugs apiol green, ergotin, oil of savin and aloin in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in the advertisements or under customary or usual conditions. The complaints further allege that the respondents' advertisements are false in that they fail to reveal that use of the preparation under such conditions may result in serious and irreparable injury to health.

Upon petition of the Federal Trade Commission, each of the respondent companies recently was restrained by a United States District Court from further advertisement of this preparation pending issuance and final disposition of the complaints now issued by the Commission. (4152-4153-4154)

**Omega Electrolysis Institute**—See Omega Manufacturing Co., Inc.

**Omega Manufacturing Company, Inc.**, a corporation, trading as Omega Electrolysis Institute, and Milton L. Brownshield, individually and as an officer of the corporation, 516 Fifth Ave., New York, are charged, in a complaint with misrepresentation.

The complaint charges that the respondents are engaged in the sale and distribution of a device designated the "Omega Home Use Portable Machine," recommended for use in the electrolytic removal of superfluous hair from the human body by individual self-application in the home. The complaint alleges that in advertisements distributed throughout the various States, the respondents represented the device as an effective, safe and scientific apparatus for the removal of superfluous hair, and that it is foolproof, painless, pleasant, quick, simple and easy to use and will have no ill effects upon the human body.

The complaint alleges that operation of the respondents' device involves insertion of a needle into the hair follicle for destroying the root of the hair by electrolysis, which process may cause serious injury to health. The complaint further alleges that the device will not accomplish the results claimed and is not safe, foolproof and painless when used by the unskilled lay public.

The respondents are further charged with disseminating false advertisements through their failure therein to reveal that use of the device under conditions prescribed in the advertisements, or under customary or usual conditions, may result in serious and irreparable injury to health.

Upon petition of the Commission, the United States District Court for the Southern District of New York recently issued an order restraining the respondents from further dissemination of false advertisements of their product pending issuance and final disposition of the Commission's complaint now issued. (4146)

**Pittsburgh Cut Rate Drug Co.**—See May's Cut Rate Drug Co.

**Thomas Brothers**—Chester E. Thomas, trading as Thomas Brothers, 20 N. E. Weidler St., Portland, Oreg., is alleged to distribute candy and salted peanut assortments so arranged as to involve use of a lottery. One assortment allegedly is composed of a plaster of paris toy and 30 bags of salted peanuts of uniform size, shape and quality, each bag containing a number tab. It is alleged that purchasers pay 1 to 5 cents a bag, according to the number drawn; that the buyer of the last package of peanuts receives the toy, and that the price of each bag is determined, and the toy is distributed, wholly by lot or chance. Another assortment, it is alleged, consists of a box of chocolates and several bars of candy of uniform size and shape, together with a push

card. Each purchaser, it is alleged, receives a bar of candy. Holders of certain designated numbers, however, receive additional bars and the purchaser making the last punch receives the box of chocolates, all without extra cost and entirely by lot or chance, according to the complaint. (4151)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Herb Juice-Penol Company, Inc.**, a corporation, trading as Pow-O-Lin Laboratories, Danville, Va., has been ordered to discontinue misrepresentations in the sale of "Pow-O-Lin," a medicine.

Commission findings are that in newspaper, circular and radio advertising, the respondent represented that "Pow-O-Lin" possesses beneficial therapeutic properties with respect to curing, remedying and competently treating constipation and "faulty elimination" characterized by and associated with symptoms such as biliousness, indigestion, gas pains, headaches, dizziness, pains in the back or chest, stiffness of the joints, swollen feet or ankles, nervousness, insomnia, loss of appetite, or lack of energy.

However, the findings continue, the respondent's preparation has no therapeutic properties in excess of those of a cathartic or laxative and serves no purpose other than to assist in the temporary evacuation of the intestinal tract; the use of the respondent's preparation will not serve as a remedy or cure for or affect any tendency to constipation; the symptoms mentioned are not usually typical of any particular group of disorders and are not necessarily due to constipation, and the preparation has no beneficial value other than temporary in overcoming the specific symptoms when they are due to constipation, and no value in treating them when they are due to causes other than constipation.

The Commission order directs the respondent to cease disseminating advertisements which represent that its preparation is a cure or remedy for the symptoms mentioned, or that it is a competent or effective treatment for these symptoms in excess of temporarily relieving them when they are due to, or persist because of, constipation.

The further representations that the respondent's preparation is a cure or remedy for constipation or that its use will serve to eliminate or affect the tendency to constipation; that the preparation constitutes a competent or effective treatment for constipation in excess of assisting in temporary evacuation of the intestinal tract, and that it possesses any therapeutic properties beyond those of a cathartic or laxative, are also ordered discontinued. (4067)

**Hygienic Corporation of America** and its subsidiaries, Hygienic Company of America and Merrill-Saunders Company, Ltd., all of 5256-58 South Hoover St., Los Angeles, have been ordered to discontinue misrepresentations in the sale of so-called feminine hygiene preparations and appliances.

Also named in the order as a respondent is Harold L. DeBar, of the same Los Angeles address, principal stockholder and director of activities of the corporate respondents, who also is in business under the names American Health Association of Washington, D. C. Women's Advisory Bureau, Women's Co-operative Service, Protex-U-Hygienic Service, American Bureau of Hygiene, and Surete Laboratories.

Commission findings are that the respondents misrepresented the efficacy of their products designated generally as "Protex-U" and "Surete," which consisted substantially of douche powder, ointment, jelly, syringe, applicator, and vaginal diaphragm, sold in sets and separately. It was also found that by misleading use of the fictitious name "American Health Association" and other false representations, the respondents sought to promote sales through women agents, who were designated as "Visiting Nurses" pledged to cooperate in the association's "cause" and in its "aims of more healthful living through public education."

Commission findings are further that the respondents' representations regarding their alleged public health activities were entirely false; that their business was solely commercial, neither their activities nor products having been sponsored or approved by any public health service, as had been implied in their advertising; that their saleswomen were not nurses qualified to advise

women customers, and that, contrary to the respondents' representations, their products constituted neither competent preventives of conception nor remedies for women's ailments, nor were they effective prophylactics.

The Commission order directs the respondents to cease and desist from representing that any of their preparations or appliances, used alone or with any other of such articles, will prevent conception or possess therapeutic value in treating women's ailments; that any of these articles destroy bacteria or are effective prophylactics, or (through failure to reveal that its use is not wholly safe), that the respondents' appliance known as "Health Shield" (vaginal syringe) may be used without injurious effects.

The order also prohibits representations that the respondents are connected with a public health service; employment of the name "American Health Association" or "American Health Association of Washington, D. C." or other name of similar import to describe the respondents or their business; use of the words "Nurse" or "Visiting Nurse" or "Nurse Membership" or terms of similar import to designate the respondents' solicitors or saleswomen, or other representation that they are nurses. (3303)

**Lady Esther, Ltd.**, Chicago, cosmetics distributor, has been ordered to discontinue certain misleading representations in advertising "Lady Esther Face Cream."

Commission findings are that the respondent corporation represented this preparation as being capable of penetrating into and below the skin, and of dissolving dirt and waste matter in the pores of the skin, when such were not the facts, and that the respondent made other representations of similar import. The principal effect of the respondent's cream, according to findings, is to cleanse the outer surface of the skin and the exterior openings of the pores. The respondent's cream, the findings continue, does not penetrate the skin, but may, to a limited extent, be temporarily absorbed by the skin and in this way may have a temporary lubricating effect.

The Commission order directs the respondent corporation to cease and desist from such representations concerning penetration of the skin by its preparation, and also to discontinue advertising that its cream will overcome, correct or cure a dry skin or do more in affecting a dry skin than furnish a temporary supply of lubrication; that this cream is as efficacious on an oily skin as on a dry skin, except that it will clean an oily skin at least to the same extent as a dry skin; that use of the cream will prevent or remove wrinkles or facial lines other than those caused by skin dryness, or will remove blackheads or any portion of blackheads except the superficial dirt on the outside surface thereof; that the cream is a solvent of or dissolves dust, soot, dirt, dead skin cells or the various forms of dirt and waste matter that soil the skin, and that the respondent guarantees its cream or the results represented as attainable by its use, unless the true nature and extent of such guarantee are clearly and adequately disclosed. (3917)

**Merrill-Saunders Co., Ltd.**—See Hygienic Corp. of America.

**New York Diesel Institution, Inc.**, 47 Rector St., Newark, N. J., has been ordered to discontinue certain misleading representations in the sale of courses of study concerning Diesel engines and other trade subjects, conducted wholly or partly by correspondence.

Commission findings are that, contrary to actual accomplishment, the respondent represented that it would make employment available with good pay to students completing its courses, and that it advertised its offer of training as being made only to a limited number of students in any territory, and to persons having special qualifications or training, when in fact all students who could pay the price were accepted.

The respondent, according to findings, also represented that classes including shop training on Diesel engines and machinery to be installed in its buildings would be held in various cities other than Newark, N. J., under competent instructors, when in fact no such training was offered except at Newark.

The Commission further found that students of average ability who intelligently pursued the respondent's courses would need other training to qualify as Diesel engineers, expert operators or skilled workmen on Diesel engines.

Under the Commission order, the respondent is directed to cease and desist from its misleading representations.

The Commission dismissed its complaint in this proceeding as to Henry M. Kramrath, John L. Snider, Everett K. Pangburn,

Richard B. Cornell and Frank F. Hayward, formerly in active control of the corporate respondent's management, for the reason that the complaint and notice of hearings were not served upon them, their whereabouts having been unknown. (3785)

**Pow-O-Lin Laboratories**—See Herb Juice-Penol Co., Inc.

## STIPULATIONS

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

**Raye Burns School of Cartooning**—Trading as Raye Burns School of Cartooning, Bernard Singerman, Cleveland, has entered into a stipulation to discontinue certain representations in the sale of his correspondence courses.

The respondent Singerman agrees to discontinue the use in his advertising matter of statements or representations, letters or reproductions of letters purportedly written by the editor or others associated with magazines or publications, the effect of which tends to convey the impression that such publications now buy thousands or any number of cartoons yearly from the Raye Burns School of Cartooning, when in fact such publications have not been in print for some time. The respondent also agrees to discontinue use of letters or reproductions of letters purportedly received by the respondent without solicitation on his part from persons associated with magazines, syndicates, schools, and the like, so as to imply that such publications or concerns habitually call upon the Raye Burns School of Cartooning for the cartoonists they need, or that the school enjoys a prestige in the matter of placing its students with such publications or concerns which it does not have.

Among other representations which the respondent agrees to discontinue are statements tending to convey the idea that anyone, whether talented or not, can achieve success as a cartoonist or readily find lucrative employment, or that students of the respondent's school are widely sought after by editors, publishers or others desiring to purchase cartoons. (2826)

**Enterprise Aluminum Company**, Massillon, Ohio, manufacturer of aluminum kitchen utensils, has entered into a stipulation to discontinue certain representations in the sale of its products. Under its stipulation, the respondent agrees to cease employing the word "Silverglo" or terms of similar import to describe its aluminum products and to discontinue using any like designation containing the word "Silver" with a tendency to create the impression that the durability or value of such articles is enhanced or affected by silver metal contained therein. Such products, the stipulation points out, are neither composed in part of nor finished with silver, as implied by use of the trade designation "Silverglo." (2828)

**Equitable Embroidery Company, Inc.**, 260 Fifth Ave., New York, agrees to desist from use of the words "Madero Embroidery" or "Madero" as a brand, trade-mark or other sales designation of sheets, pillowcases or other merchandise sold by it; or from use of the word "Madero" or any other semblance of the word "Maderia" as descriptive of any article of merchandise not produced in the Maderia Islands with all the qualities and properties of genuine Maderia products. The respondent further agrees to cease representing that a patent is pending on the construction or with reference to any other feature of its products; to discontinue employing the word "Manufacturers" as descriptive of its business, and to cease using any other words of similar implication the effect of which tends to convey the belief that it manufactures the products it sells or owns and operates a plant at Mayaguez, Puerto Rico, or elsewhere, in which its articles are made, when such are not the facts. (2830)

**Gimbel Brothers, Inc.**, New York, has entered into a stipulation in which it agrees to cease and desist from certain representations in the sale of rugs.

In its stipulation, the respondent corporation agrees to discontinue use of the words "Oriental Reproduction," "Oriental Replica," "Copies of Real Orientals," "Aristan Reproductions of Orientals,"

"Imported Reproductions of Hand-Woven Orientals," or other use of the words "Reproduction," "Replica," or "Copies" or other similar words implying that the article referred to is a reproduction, replica or duplicate of an original, when such is not a fact, and to cease use of the phrase "American Oriental" or other appellation including the word "Oriental" or other expression indicative of an Oriental type, as descriptive of a rug which does not contain all the inherent properties, qualities and constructive features of a true Oriental rug.

The respondent also agrees to discontinue use of the word "Oriental" or other distinctively Oriental appellation in connection with any rug which has not been made in the country or locality designated or implied and does not contain all the inherent qualities or properties of such Oriental rug; unless, if properly used to describe the design and pattern only, such word of Oriental appellation shall be immediately accompanied by a word such as "Design" or "Pattern" printed in type equally conspicuous so as to indicate clearly that only the form delineated on the surface of the rug is a likeness of the type named.

The respondent corporation further agrees to cease using the phrase "Imported Reproductions of Hand-Woven Orientals" and the word "Imported" or any word of like meaning in connection with geographic names or words in any way tending to create the impression that goods actually made in other countries or regions are from the countries or regions named or implied. The stipulation provides that if the word "Imported" or similar term is properly used to indicate that such goods are not of domestic origin and geographic names or terms are correctly used to describe the type of product imported, then the true country of origin shall be clearly disclosed. (2831)

**John A. Hertel Company**—Two firms engaged in the interstate sale of greeting cards have entered into stipulations to discontinue certain representations in the sale of such products. The respondents are: Edith M. Schwer, Executrix of the Estate of Charles C. Schwer, Deceased, trading as Charles C. Schwer, 171 Elm St., Westfield, Mass., and John A. Hertel Company, 305 West Adams St., Chicago.

The respondents agree to cease advertising "Free Samples" to prospective salesmen of their products or making any other use of the word "Free" or similar expression in a manner purporting a gift or gratuity only, where any consideration such as payment of money, rendering of services, or otherwise, is required of the person receiving articles of merchandise sent in response to his request for such free samples or other gratuity.

The respondents also stipulate that they will cease delivering any invoiced article of merchandise to a customer or prospective customer without prior notice of the terms under which such article is to be sent and without first obtaining permission to make the shipment. The respondents also agree to cease inducing a customer to order samples or other goods by deceptively concealing the terms of the transaction, or in any other way imposing a burden upon a customer or prospective customer either to pay for goods received by him or return them when he has not been previously apprised of such conditions. (2824 and 2825)

**McCullum Laboratories, Inc.**, 17234 South Main St., Gardena, Calif., has entered into a stipulation in which it agrees to discontinue certain representations in the sale of food supplements and medicinal preparations designated "Isodent," "Isomar," "Isoveg," "Isolax," "Kelp Tablets," "Breakfast Granules," "Alfalfa Tea and Tablets" and "Garlic-Parsley McCullum Tablets."

Among the representations which the respondent agrees to discontinue are: that any of these products supplies to the average diet the mineral or vegetable elements in which such diet is deficient; that the medicinal preparation "Isodent," is a balanced dentifrice or restores natural color to the teeth, builds firmness of the gum tissues, attacks acid mouth germs or reduces tartar; that "Isomar" is a balanced gland food or combines the most valuable organic minerals from land or sea vegetation, and that "Isoveg," a food product, provides a source of many of the more important nutritional factors, or that such factors are frequently missing in the average daily menu.

The respondent further stipulates that it will cease advertising "Kelp Tablets" as being rich in vital minerals or such minerals as being necessary to body nutriment; "Breakfast Granules" as an aid to digestion; "Alfalfa Tea and Tablets" as aiding nature in providing a source of natural alkaline nutriment, as being a valuable internal supplement to creams or powders, or as increasing liquid secretion, and "Garlic-Parsley McCullum Tablets" as being capable of reducing high blood pressure. The respondent

also agrees to cease representing that clinical investigation has shown that either garlic or parsley will cause a lowering of blood pressure, or relieve headaches, dizziness or similar symptoms resulting from functional high blood pressure. (02575)

**Medical Tea Company of California, Inc.**, and Otto Wise, an individual trading as Medical Tea Company of California, 307 South Hill St., Los Angeles, in the sale of a medicinal herb tea known as "Cento Tea," formerly designated "Aesculapius Tea," agree to cease representing that such product of its particular formula has been used for centuries or any period of time greater than is a fact; that the preparation or any of its ingredients is valuable in treating gall, liver or kidney ailments or in preventing or dissolving kidney stones or gallstones; that the product is a competent and reliable agent for relief of symptoms associated with gall, liver or kidney ailments, or possesses healing or analgesic properties, and other similar representations. The respondents also agree to discontinue advertising that this preparation is not a laxative; that its ingredients are carried to the affected parts; that its every ingredient possesses therapeutic value, and that its hypericum content stimulates the appetite. (02576)

**Old Dutch Mills, Inc.**, 80 Front St., New York, engaged in the roasting, blending, sale and distribution of coffee, has entered into a stipulation in which it agrees to discontinue certain practices in connection with the interstate sale of its product.

The respondent stipulates that it will cease employing the words "Mocha and Java" in advertising matter, on containers or in salesmen's presentations, as descriptive of its "Old Dutch" brand of coffee or other product of similar composition; and will discontinue featuring the words "Mocha" and "Java" in any way which has a tendency to convey the belief to purchasers that a blend of these coffees with other types of coffee is a pure blend of wholly "Mocha and Java" as such term is construed by the trade and consuming public.

Further practices which the respondent agrees to discontinue are the passing off of an inferior blend of coffee as "Mocha and Java" and the naming, in its sales promotional representations or on brands or otherwise, of the minor factors of a blended coffee without first naming also in equally conspicuous type the major factors, all in their order of predominance by bulk; for example, "Santos, Colombian, Mocha and Java."

The stipulation points out that the blend of "Mocha" coffee grown in the Yemen district in Arabia, and "Java" coffee grown in the Island of Java, has been favorably known throughout the world for many years. (2829)

**Armand S. Weill Co., Inc.**, 170 Franklin St., Buffalo, an advertising agency, in connection with its dissemination of advertisements for "Raz-Mah," a drug, on behalf of Templetons, Inc., Buffalo, agrees to cease representing that "Raz-Mah" is sold by all druggists, and that by use of the preparation asthma sufferers will be almost instantly relieved from wheezy, difficult breathing; hay fever sufferers will get speedy relief from sneezing, itching and excessive watery secretions in the nose and eyes; coughs due to bronchial irritation will be quickly relieved, and bronchial irritations will be prevented from developing into asthma. (02577)

**Woods Manufacturing Company, Ltd.**, Montréal, Canada, in the sale of sleeping bags manufactured at the Ogdensburg plant, agrees to cease use in advertising matter of the words "Eider" or "Arctic", alone or in connection with the word "Down" as descriptive of the filler content of its products which are not in fact filled with down obtained from the eider duck, and to discontinue use of the words "Eider" or "Arctic" or other words of similar import in any manner tending to convey the impression that the filler of the products is composed of eiderdown, as such term is generally accepted to mean.

The respondent company also stipulates that in connection with the sale, advertising, describing or distributing of its products, it will discontinue employing any statement, pictures or symbols which may tend to convey the impression that the filler of such articles is composed of down obtained from wild or other water fowl, such as are referred to by the statement or represented by the pictures or symbols, when in fact such is not the case. (2827)

#### FTC CASE CLOSED

The Federal Trade Commission has closed without prejudice its case against Luzier's, Inc., Kansas City, Mo., which had been charged with unfair representations in the sale of cosmetics. Closing of the case was ordered without prejudice to the Commission's right to reopen it for further proceeding, should future facts so warrant.



**THE WEEK IN WASHINGTON**

FCC still "sitting on" Monopoly Committee report. Other matters presently occupying time. Early action expected. (p. 4353.)

FCC gives "green light" to television broadcasting to increase number of stations. (p. 4345.)

NAB to continue effort to secure redefinition of "executive" under Wage and Hour Administration. (p. 4347.)

BMI acquires six additional stations. ASCAP proposal exposed. (p. 4348.)

One hundred thousand radio operators licensed by FCC are required to prove citizenship. (p. 4354.)

**Television Rules**

Opening television broadcast channels to an increased number of stations in leading cities from coast to coast for the purpose of rendering the utmost in public service on an experimental basis, with adequate safeguard against monopolistic practices, is provided in the new rules and regulations governing television announced today by the Federal Communications Commission.

In conformity with this policy of encouragement to that industry, the Commission tentatively approved 23 applications for television stations in various sections of the country, and announced that it will consider 19 remaining applications and outstanding licenses in the immediate future.

Most of these stations will be permitted to furnish television programs to the public, and it is expected that when the industry has developed uniform transmission standards offering a satisfactory level of performance these standards will be adopted by the Commission as a basis for regular commercial television operation. Meanwhile, every television station licensee will undertake to carry on substantial research and experimentation on the different engineering problems and to assist in the development of television for widespread public service.

With the completion of the projected stations, this country will have far more television broadcast stations than any other nation of the world.

The complete list of applications which the Commis-

sion plans to grant promptly upon a proper showing of a program of research and development follows, with proposed channel assignments:

City	Person or Firm	Channel No.
New York	National Broadcasting Co.	1
	Columbia Broadcasting System	2
	Bamberger Broadcasting Service	6
Chicago	Allen B. DuMont Laboratories	4
	Zenith Radio Corporation	1
	Balaban & Katz	2
Los Angeles	National Broadcasting Co.	5
	Don Lee Broadcasting System	1
	Television Productions	4
Washington	Hughes Tool Co.	2
	Allen B. DuMont Laboratories	1
San Francisco	National Broadcasting Co.	2
	Don Lee Broadcasting System	1
Philadelphia	Hughes Tool Co.	2
	Philco Radio & Television Corp.	3
Cincinnati	*Radio Corporation of America (Camden) WCAU	5
	Crosley Corporation	1
Albany	General Electric Co.	3
Fort Wayne	*Philo T. Farnsworth	3
West Lafayette, Ind.	*Purdue University	3
Passaic, N. J.	*Allen B. DuMont Laboratories	4
Iowa City	*Iowa State University	1 & 12

\* Indicates stations primarily for laboratory research, or training; no public program service authorized.

Of the 19 cases held in abeyance, 16 are new applications and four are existing licenses under the old rules and regulations. In each instance the applicant may supplement his application and make satisfactory showing that a grant will result in engineering work which will tend to the development of a uniform system of transmission standards of acceptable technical quality. These pending cases are:

City	Person or Firm
Boston	*General Television Corp.
	Boston Edison Co.
Des Moines	R. B. Eaton
	Travelers Broadcasting Service Corp., WDRC
Hartford	*Iowa State University (2100-2200 kc.)
Iowa City	*First National Television
	Midland Broadcasting Co.
Kansas City, Mo.	Earl C. Anthony
	May Department Stores
	LeRoy's Jewelers
	Milwaukee Journal
Milwaukee	Kansas State College
	*Radio Pictures, Inc.
Manhattan, Kans.	Metropolitan Television, Inc.
	National Broadcasting Co.
New York	Henry Walczak
	Grant Union High School
Philadelphia	KSTP, Inc.
Springfield, Mass.	
Sacramento	
St. Paul	

\* Indicates existing licenses.

(Continued on page 4346)



THE NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W. WASHINGTON Phone NAational 2080

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

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

## TELEVISION RULES

(Continued from page 4345)

All licenses will be on a basis of research and experimentation tending to promote the development of television and to assist the engineers of that industry to reach an agreement upon uniform transmission standards which will permit the early and general commercialization of television. Until accord is reached on this vital point, no charges—either direct or indirect—may be made for the transmission of any type of television program.

In order to put to the fullest possible public use the 18 regular channels (50,000-108,000 and 162,000-294,000 kilocycles) plus any 6,000 kilocycle band above 300,000 kilocycles (excluding 400,000-401,000 kilocycles), made available to television under Commission Order No. 67, the Commission will not, except for extraordinary cause, authorize any one television broadcast station to use more than one channel in the main seven channels constituting Group A (50,000-108,000 kilocycles).

At the same time, the Commission stipulates that no person, directly or indirectly, shall operate or control more than three public programming television stations in this important group of channels, or operate or control more than one such station in the same service area. This, however, does not apply to stations which do not transmit programs for public reception.

The three groups of high-frequency channels assigned to television are:

GROUP A		GROUP B		GROUP C
Channel No.	Kilocycle Band	Channel No.	Kilocycle Band	
1	50,000-56,000	8	162,000-168,000	Any 6,000
2	60,000-66,000	9	180,000-186,000	kilocycle
3	66,000-72,000	10	186,000-192,000	band above
4	78,000-84,000	11	204,000-210,000	300,000
5	84,000-90,000	12	210,000-216,000	kilocycles,
6	96,000-102,000	13	234,000-240,000	excluding
7	102,000-108,000	14	240,000-246,000	band
		15	258,000-264,000	400,000 to
		16	264,000-270,000	401,000
		17	282,000-288,000	kilocycles
		18	288,000-294,000	

The 11 channels in Group B (Channels No. 8 to 18 inclusive) and the auxiliary channels in Group C may be assigned to television stations for supplementary purposes as television relay stations.

No mobile or portable television station for direct public service will be licensed at this time.

## PART 4. RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

### Television Broadcast Stations

Sec. 4.71—*Defined*. The term “television broadcast station” means a station licensed for the transmission of transient visual images of moving or fixed objects for simultaneous reception and reproduction by the general public. The transmission of synchronized sound (aural broadcast) is considered an essential phase of television broadcast and one license will authorize both visual and aural broadcast as herein set forth.

Sec. 4.72—*Purpose*. A license for a television broadcast station will be issued for the purpose of carrying on research, which must include engineering experimentation tending to develop uniform transmission standards of acceptable technical quality, and which may include equipment tests, training of technical personnel, and experimental programs.

Sec. 4.73—*Licensing requirements, necessary showing*.

A license for a television broadcast station will be issued only after a satisfactory showing has been made in regard to the following:

1. That the applicant has a definite program of research and experimentation in the technical phases of television broadcasting, which indicates reasonable promise of substantial contributions to the developments of the television art.
2. That upon the authorization of the proposed station the applicant can and will proceed immediately with its program of research.
3. That the transmission of signals by radio is essential to the proposed program of research and experimentation.
4. That the program of research and experimentation will be conducted by qualified personnel.
5. That the applicant is legally, financially, technically, and otherwise qualified to carry forward the program.
6. That public interest, convenience or necessity will be served through the operation of the proposed station.

Sec. 4.74—*Charges*.

No charges either direct or indirect shall be made by the licensee of a television station for the production or transmission of either aural or visual programs transmitted by such station.

Sec. 4.75—*Announcements*.

(a) Station identification.—A licensee of a television broadcast station shall make station identification announcement (call letters and location) at the beginning and ending of each time of operation and during operation (other than purely test operation) on the hour and half hour as provided below:

1. 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 30 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.
2. In case of variety-show programs, baseball-game broadcasts, or similar program of longer duration than 30 minutes, the identification announcement shall be made within 5 minutes of the hour and half hour.
3. In case of all other programs (except as provided in paragraphs (1) and (2) of this section) the identification an-

nouncement shall be made within 2 minutes of the hour and half hour.

4. In making the identification announcement, the call letters shall be given only on the channel of the station identified thereby.

(b) At the time station identification announcements are made, there shall be added the following: .

"This is a special television broadcast made by authority of the Federal Communications Commission for experimental purposes."

**Sec. 4.76—Operating requirements.**

(a) Each licensee of a television broadcast station shall diligently prosecute its program of research from the time its station is authorized.

(b) Each licensee of a television station will from time to time make such changes in its operations as may be directed by the Commission for the purpose of promoting experimentation and improvement in the art of television broadcasting.

**Sec. 4.77—Frequency assignment.**

(a) The following groups of channels are allocated for assignment to television broadcast stations licensed experimentally:

GROUP A		GROUP B		GROUP C
Channel No.	Kilocycle Band	Channel No.	Kilocycle Band	
1	50,000-56,000	8	162,000-168,000	Any 6,000
2	60,000-66,000	9	180,000-186,000	kilocycle
3	66,000-72,000	10	186,000-192,000	band above
4	78,000-84,000	11	204,000-210,000	300,000
5	84,000-90,000	12	210,000-216,000	kilocycles,
6	96,000-102,000	13	234,000-240,000	excluding
7	102,000-108,000	14	240,000-246,000	band
		15	258,000-264,000	400,000 to
		16	264,000-270,000	401,000
		17	282,000-288,000	kilocycles
		18	288,000-294,000	

(b) No television broadcast station will be authorized to use more than one channel in Group A except for good cause shown. Both aural and visual carriers with side bands for modulation are authorized but no emission shall result outside the authorized channel.

(c) No person (including all persons under common control) shall, directly or indirectly, own, operate or control more than three television stations on channels in Group A, and no such person shall, directly or indirectly, own, operate or control on channels in Group A more than one television station which would serve in whole or substantial part the same service area as another station operated or controlled by such person. This paragraph (c) shall not apply to stations which do not transmit programs for public reception.

(d) Channels in Groups B and C may be assigned to television stations to serve auxiliary purposes such as television relay stations. No mobile or portable station will be licensed for the purpose of transmitting television programs to the public directly.

**Sec. 4.78—Power.**

The operating power of a television station shall be adequate for but not in excess of that necessary to carry forward the program of research and in no case in excess of the power specified in its license.

**Sec. 4.79—Reports.**

(a) A report shall be filed with each application for renewal of station license which shall include a statement of each of the following:

1. Number of hours operated.
2. Full data on research and experimentation conducted including the type of transmitting and studio equipment used and their mode of operation.
3. Data on expense of operation during the period covered.
4. Power employed, field intensity measurements and visual and aural observations and the types of instruments and receivers utilized to determine the service area of station and the efficiency of respective types of transmissions.
5. Estimated degree of public participation in reception, and the results of public observation as to the efficiency of types of transmission.
6. Conclusions, tentative and final.
7. Program for further developments in television broadcasting.
8. All developments and major changes in equipment.
9. Any other pertinent developments.

(b) Special or progress reports shall be submitted from time to time as the Commission shall direct.

## Labor

**A. F. OF M. CONVENTION**

Every resolution directly affecting broadcasting was defeated or referred to the Executive Board at the American Federation of Musicians convention in Indianapolis, Ind., last week.

Outstanding among these were proposals to forbid union members to make records or transcriptions, and to "establish scales for network broadcasting commensurate with the extent of the networks."

Oscar F. Hild was elected to the Executive Board to succeed James C. Petrillo who was elected president of the union.

**WAGE AND HOUR ACT**

The National Association of Broadcasters intends to appear at a Wage and Hour Administration hearing on proposals to redefine "executive." A questionnaire is going out to all stations this week. One hundred per cent response is necessary. If any member does not receive the questionnaire within a few days, he should notify the NAB Labor Relations Department.

**COST OF LIVING**

The Labor Department reports that the cost of living for lower salaried workers in the larger cities remained practically unchanged during the three months ended March 15, 1940.

The only changes of as much as 1 per cent were reported from Portland, Ore., where it declined 1.1 per cent, and Boston, Mass., and Manchester, N. H., where increases of slightly over 1 per cent were noticed.

## BMI Developments

Six more stations have signed subscription and license agreements with BMI, bringing the number of commercial stations who are BMI members to 300. The new stations are:

WBRY—Waterbury, Conn.  
WGTC—Greenville, N. C.  
WPRO—Providence, R. I.  
KFAB—Lincoln, Neb.  
KFOR—Lincoln, Neb.  
KOIL—Omaha, Neb.

Two other important stations have also been added to the number of those committed to BMI, although their contracts have not yet been received.

Printed forms for new ASCAP license contracts were mailed to broadcasters on June 18th accompanied by a lengthy letter from John G. Paine, ASCAP's General Manager. The terms are essentially those contained in the proposals made in March.

The Paine letter does a fairly smooth job of camouflage. It is spotted with enough bouquets and creeping smilax so that the actual shape of the package wrapped up in it becomes apparent only on close inspection.

### Example No. 1:

"And with very few exceptions, not a single individual station in the whole United States will be asked to pay us a larger percentage than they paid us in the past," says Mr. Paine.

Of course under the principle of clearance at the source, the individual stations do not pay directly to ASCAP for use of ASCAP music on network broadcasts. Equally as a matter of course, they would have to pay through the networks. Since the proposed terms would make the networks pay "through the nose," the individual stations which carry any network broadcasts are no better off than if ASCAP had slapped its huge increases onto the stations directly.

By his little quibble ASCAP's Paine dresses his bomb up to look at first glance somewhat like a box of candy. No broadcaster, however, is likely to be sufficiently naive to be taken in by the trick. The only real surprise is that Mr. Paine should have thought it worthwhile trying.

### Example No. 2:

"We believe in the open door, and we offer every possible encouragement to budding talent. Our records show an impressive list of new members admitted each year," says Mr. Paine.

This cruel joke seems to please the ASCAP officials hugely. They repeat it often. They have recently made quite a splurge of prizes for music written in colleges. But as a matter of standard practice they encourage budding talent by putting every difficulty in the way of the unknown composer—especially (1) by refusing even to consider an application for membership until a writer has published five numbers without compensation for the performance of it, (2) by the practice of ASCAP publishing houses of refusing even to examine unsolicited manuscripts, (3) by their arbitrary system of distribution of the fees collected which works to the disadvantage of the younger writers, (4) by making it as difficult as they know how for the non-ASCAP composer to have his music played in public.

Their records do *not* show an impressive list of new members admitted each year when they are compared with those of performing rights societies in other countries where any writer may join by making application. Their records do not show an impressive list of new members even by comparison with BMI. After a quarter of a century ASCAP had only about 1000 writers; in two months BMI had about 40.

### Example No. 3:

"Through personal contact with broadcasting stations and advertising agencies . . . we have found that the great majority realized that if there was no ASCAP they would have to create one themselves, at their own expense. Without such a clearing house they would have the problem of clearing rights, ownership, etc., etc.," says Mr. Paine.

If ASCAP were only a clearing house, the statement would be true. If ASCAP were like any other performing rights society in the world, the present situation would not exist.

### Example No. 4:

"ASCAP . . . is merely a voluntary association of men and women who write and compose, and publish music. One hundred per cent of every dollar received belongs to them," says Mr. Paine.

All the publicity for the composers—"Justice for Genius"—but fifty per cent of the profit for the publishers.

While 100% belongs to the members, about 30% goes to various expenses, including the Paine. Of the balance a hundred-odd publishers get one-half; a thousand-odd writers get the other half.

### Example No. 5:

"I believe, by the way, that it will interest you to know that the use of music is constantly increasing," says Mr. Paine.

It ought to interest Mr. Paine to know that so far as the radio is concerned, the use of music is decreasing. On NBC total time dropped from more than 67% in 1934 to less than 59% in 1938. On CBS programs devoted exclusively to music dropped from 31% in 1932 to 18% in 1939.

That, according to ASCAP arithmetic, calls for an increase of fees.

### BMI FEATURE TUNES

June 17-July 1

1. DON'T THE MOON LOOK PRETTY?
2. PRACTICE MAKES PERFECT
3. WE COULD MAKE SUCH BEAUTIFUL MUSIC
4. WHAT GOOD'S THE MOON?
5. HERE IN THE VELVET NIGHT
6. IN THE SILENCE OF THE DAWN

M. E. Tompkins, BMI's General Manager, announces what he considers the strongest evidence yet given of the strength of the support which BMI is receiving from the broadcasting industry. On June 7th a call was issued for 15% of the license fee, to be payable on June 17th. By June 19th 80% of the total amount had been paid in to the bank. "To get 80% without a second call would have been a good record," said Mr. Tompkins. "To get it in two days is a really remarkable demonstration of the solidarity of the industry behind BMI."

Mr. Tompkins reports that he had letters from several stations expressing such enthusiasm over the work and the record of BMI and such confidence in its future that they offered to pay the full year's license fee at this time. That offer was declined with thanks, but the proof of approval was warmly welcomed. "The nature of this response to what BMI is doing," Mr. Tompkins concluded, "stimulates all of us at BMI to our utmost efforts in behalf of the various stations. This shoulder-to-shoulder work means great achievement for our common enterprise."

### District Meetings

#### District 14

Supplementing the account contained in last week's REPORTS the meeting of the 14th District was one of the most enthusiastic yet held. The account of proceedings was given but following is a list of the registrants:

C. E. Arney, Jr., NAB; W. E. Wagstaff, KDYL; Jack Richards, KEUB; Frank Bishop, KFEL; Gene O'Fallon, KFEL; Frank E.

Hurt, KFXD; Charles Howell, KFXJ; Rex Howell, KFXJ; Ed Yocum, KGHL; Jack Burnett, KGVO; A. J. Mosby, KGVO; C. G. Phillips, KIDO, Lloyd E. Yoder, KOA; Arch L. Madsen, KOVO; Clifton A. Tolboe, KOVO; K. O. MacPherson, KPFA-KGIR; Henry H. Fletcher, Ruthe A. Fletcher, KSEI; Earl J. Glade, E. J. Broman, W. E. Groves, Lennox Murdoch, Eugene Pack, Ivor Sharp, Glenn Shaw, Junius R. Tribe, Dan H. Vincent, KSL; Sherman T. Wright, KSUB; John E. Gardner, Mrs. John E. Gardner, KTFI; O. P. Soule, KTFI-KSEI; Reed Bullen, KVNU; William D. Pyle, KVOG; H. L. McCracken, KVRS; Carl Haverlin, BMI; Gerald King, Standard Radio; W. H. Beltz, RCA; S. S. Fox, KDYL; and Frank C. Carman, KUTA.

#### District 6

Sixth District broadcasters met at the Peabody Hotel in Memphis on Thursday, June 20. Joseph L. Miller, NAB Labor Relations Director, represented headquarters at this meeting.

#### District 2

The 2nd District will hold its convention at the Sagamore Hotel in Rochester on Saturday, June 22. District Director Wilder anticipates a full attendance.

### Sales

#### "RADIO FOR RETAILERS" DISCUSSED AT NRDGA CONVENTION

The National Retail Dry Goods Association again considered radio advertising in an informal panel-type discussion, at its mid-summer convention which came to a close at the Palmer House, Chicago, June 19. The radio meeting was in the form of a "mock trial," with prominent retailers and radio station men sitting on opposite sides of a jury to discuss the problems of retail radio advertising. The discussion was arranged by Joseph Hanson, Manager, Sales Promotion Division, NRDGA, in cooperation with the NAB Bureau of Radio Advertising.

The subject for decision was: "Can Radio Help the Retailer Fortify for the Forties?" G. R. Schaeffer, Publicity Director, Marshall Field & Company, Chicago, served as judge and chairman for the meeting, with Samuel J. Henry, Jr., of the Bureau of Radio Advertising, acting as prosecutor and master of ceremonies. The jury of expert witnesses for radio and retailers were:

#### RADIO

Charles Caley, Commercial Manager  
WMBD, Peoria, Ill. (Foreman)  
Ford Billings, Commercial Manager  
WOWO, Fort Wayne, Ind.  
Edward Y. Flanigan, Commercial Manager  
WSPD, Toledo, Ohio.

#### RETAILERS

J. M. Ellis, Sales Promotion Manager  
G. C. Murphy Stores, McKeesport, Pa. (Foreman)  
Maurice Chait, Director of Publicity  
P. A. Bergner & Company, Peoria, Ill.  
Clarence Zeisel, Sales Promotion Manager  
Zeisel Brothers, Elkhart, Ind.

This was the second radio meeting at an NRDGA convention this year, demonstrating the increasing interest of retailers and department stores in the broadcast medium. A full transcript of the "trial," covering both pro and con discussion and comments, will be made available to stores and NAB stations later on.

## BROADCASTERS COMPLETE PLANS FOR AFA CABARET NIGHT

The Sales Managers' Division of the National Association of Broadcasters, in cooperation with Chicago member stations and the networks has completed final plans for Broadcasters' Cabaret Night, to be held Tuesday evening, June 25th, at the 36th Annual Convention of the Advertising Federation of America. The event will take place in the ballroom of the Hotel Sherman, Chicago, where the AFA meets June 23-27.

The following outlines the evening's entertainment, together with committees in charge, under the active direction of William R. Cline, WLS, Chicago, who is national chairman of the NAB Sales Managers' Division.

9:00 P. M.

### BROADCASTERS' CABARET PARTY GRAND BALLROOM—HOTEL SHERMAN

*Tuesday, June 25, 1940*

A gay evening of dancing and radio-stage entertainers furnished by the Columbia Broadcasting System, Mutual Broadcasting System, National Broadcasting Company and Radio Stations WBBM, WENR, WGN, WLS, and WMAQ, Chicago, in co-operation with the National Association of Broadcasters—Sales Managers' Division.

#### CBS-WBBM

George Watson, Master of Ceremonies  
Bill Bunt's Sing Orchestra  
The Swing Quartet  
Dale Evans, Soloist

#### MUTUAL-WGN

The Three Graces  
Tom, Dick and Harry  
Bob Trendler, Pianist

#### NBC-WENR-WMAQ

Bob Brown, Master of Ceremonies  
William (Elmer) Short  
Escorts and Betty  
Vagabonds, Novelty Quartet  
Ransom Sherman  
Don McNeil  
Gerry Moore

#### STATION WLS

Jack Holden, Master of Ceremonies  
Pat Buttram, Winston County Flash  
WLS Rangers  
Yodeling De Zurik Sisters  
Hoosier Hot Shots  
Ramblin' Red Foley

Harry Kogen and his 20-piece radio-dance orchestra.  
Dancing 9:00 p. m. to 1:00 a. m.  
Furnished by CBS-MBS-NBC.

Compliments Hotel Sherman, Frank Bering, Mgr.

Mrs. Frank Bering (Joan Winters, popular radio actress) presents her famous educated horse, "PETER PAN," equine star of the movies.

## COMMITTEE ON ENTERTAINMENT:

Jules Herbuveaux—NBC—WENR-WMAQ, Chairman  
Stuart Dawson—CBS—WBBM  
Frank Schreiber—MBS—WGN  
Bradley R. Eidmann—WAAF  
Harold Safford—WLS

## COMMITTEE ON INVITATIONS AND RECEPTION:

J. Oren Weaver—CBS—WBBM, Chairman  
Frank Schreiber—MBS—WGN  
E. C. Carlson—NBC—WENR-WMAQ  
Don E. Kelley—WLS  
Arthur F. Harre—WAAF

## SALES MANAGERS SESSIONS AT AFA

For the business sessions on radio advertising, the NAB Sales Managers' Division plans a closed meeting Monday morning, June 24, when all sales managers present will meet with NAB and Bureau of Radio Advertising representatives to discuss current industry sales problems. Tuesday, June 25, the meeting will be open to AFA members as well, and questions and answer discussion will be in order, under the chairmanship of William R. Cline. The agenda includes:

The Proposed Unit Plan of Measuring Radio Advertising Volume  
Radio's Obligations to the Consumer  
The Significance of BMI to the Radio Advertiser  
The Commercial Section of the NAB Code—(Effective October 1, 1940)  
What the Bureau of Radio Advertising Means to Advertisers  
NAB Department Store Survey

## RESULTS FROM RADIO

"Results from Radio," Vol. 1, No. 7, has been released to all members by the Bureau of Radio Advertising.

The latest trade study is based on the "Cilco Town Crier" program, sponsored daily for five years over WMBD, Peoria, Illinois, by the Central Illinois Light Company. The account recently renewed its contract for the sixth consecutive year.

Member stations who have not ordered their supply of the Bureau's success stories are requested to do so at once, using the order form which accompanies the No. 7 study.

## Promotion

## RADIO FESTIVAL

### WGY—SCHENECTADY

Schenectady's Radio Festival Week begins Monday, June 24, and continues through the following Friday. During this period WGY will sponsor "A Get Acquainted Week." The station will salute the boys and girls, young men and women of the school system and will extend hospitality to visitors.

Build-up for the week is to begin with a special program at 6:30 p. m., Saturday, June 22, with short talks by Mayor Mills TenEyck, Robert Peare, of General Electric, and Colin Hager, station manager. The Mayor's Radio Festival Proclamation has been distributed to all pupils in the schools. Air announcements invited listeners to visit the station.

WGY secured the cooperation of the radio set dealers and the servicemen. On special programs will be discussed the care of

radio sets. Leading set dealers will be interviewed by W. J. Purcell and Bernard Cruger. Next Saturday's feature is the "Get Acquainted with the Announcer" theme. Staff announcers will be present with names on lapel to exchange greetings, autographs, etc., with visitors. Overflow visitors are to be welcomed and entertained by the announcers in other studios.

#### WCMI—ASHLAND-HUNTINGTON

Richard Westerkamp, program director, WCMI, says that the Radio Festival Week was a huge success for the station and the tri-state area of Ashland, Huntington and Ironton.

"We sincerely believe," he said, "that our audience is much more conscious of radio, its advantages and the necessity of preserving its democratic right of free speech. Our Festival Week was complete from Monday through Saturday with a special program on the air every night and spot announcements concerning radio service and free speech throughout each day.

"Visitors were invited to inspect our studios and there was a magnificent turnout, a continual stream each day. The Mayors of both Huntington and Ashland proclaimed Radio Festival Week."

The opening Monday night featured "outstanding musical talent from the entire area, such as the Lion's Club Quartet. There were talks by the presidents of the Junior Chamber of Commerce of Ashland and of the Huntington Parent-Teachers Associations."

"Radio Station At Work" was on the Tuesday bill-of-fare while Wednesday night had two special programs of an educational nature in connection with the Festival. One was a remote broadcast from the postoffice steps welcoming the Louisville Board of Trade; and the other a concert by the Ashland High School Band.

The Thursday night Festival feature was for women only—a style show from Chesapeake, Ohio. Friday night was turned over to the various program services. Saturday's Festival program found the youngsters participating in the weekly "Kiddies Party" which, for the occasion, was extended to an hour.

#### WOPI—BRISTOL

W. A. Wilson, president of WOPI, can always be found pitching for a sound radio promotion. He's in there pitching this time for Radio Festival. Exactly what he's doing, we'll find out during his next visit to headquarters. Luck to you, Mr. Wilson.

#### WBT—CHARLOTTE

"We feel that the week of June 3-8 promoted considerable good will for radio in this community."—William Winter, publicity director, WBT.

Because of early final examinations school authorities suggested that WSOC and WBT delay the essay contest until fall "which we agreed to do."

Both Charlotte radio stations took turns in delivering talks on the "ABC of Radio" before a number of clubs in the city. At the conclusion of each talk, a demonstration was presented showing how electrical transcriptions were made. Portable recording equipment was used and various members of the audience talked into the microphone. On several occasions some of the members led the rest in singing "God Bless America." The recordings were made on 78 r.p.m. discs and the discs were presented to the club.

#### WMAQ—CHICAGO

WMAQ marshalled the students of seventeen Chicago high schools into participation in Radio Festival. Hundreds of essays were entered in the essay contest. A committee selected 17-year-old Harry O'Brien, a senior at Fenger High School, and Eleanor Gaworski, also 17, a senior at Lindblom High School, as essay winners.

The station presented each of the seventeen schools with a portable radio and the two winners were given substantial checks which they were to use this summer to pay for attendance at summer school. Mr. O'Brien and Miss Gaworski were presented with their checks during the WMAQ high school studio party, Saturday, June 15, by Judith Waller, educational director, NBC central division. On Saturday, June 22, they are to appear on Club Matinee over the Blue Network.

#### WHIO—DAYTON

"We have received many favorable comments on our Radio Festival programs and announcements." . . . J. M. LeGate, general manager, WHIO.

WHIO's Festival ran from June 2 to 8. The air program was amply supported with 500 line copy insertions in "The Dayton Daily News;" and the radio column also carried the story.

On the 9:30-10:00 p. m. show were featured a WHIO chorus of fourteen girls from the Centerville High School, a fourteen year

old Dayton high school boy as soloist, a combination of organ piano, vibraharp and celeste; songs of the Southland by Little Tom and songs of the West by Lew Wampler and his ridge runners.

Another interesting show was scheduled on June 2, 7:00 to 7:15 p. m. It featured patriotic American music. Four to five 1-minute announcements daily throughout Festival Week stressed the advantages of the American system of broadcasting.

#### WSAZ—HUNTINGTON

A full page in color in "The Herald-Advertiser," Sunday morning, June 16, was used by WSAZ as additional promotion to tell the one hundred thousand residents of the listening area of the highlights of the station's Radio Festival program.

Every night in the week there was a special 30-minute or an hour broadcast with an additional featured program on Monday and Wednesday afternoons. On the latter afternoons H. R. Pinkard delivered an address on "Freedom of Press and Radio." The opener was set for 1:30 p. m. on Monday "Behind the Mike at WSAZ." On this show there were interviews by staff members from the maintenance man to the station manager.

#### *Promotes Circulation*

In the full page copy WSAZ paid special attention to building radio circulation. Radio sales were promoted in one box as follows:

"By the way, will your radio bring in the programs we offer in clear, toneful reception? Our new equipment insures perfect broadcasting service, but if your programs are not as clear as they should be, perhaps you would profit by visiting your nearby radio dealer. . . . He'll help you choose a new set—and take your old one in trade!"

Radio service was promoted in a second box in this fashion:

"Perhaps your set, if it is not more than a year old, needs servicing. . . . The radio service firms in Huntington will be glad to inspect your set, in order that proper adjustments or replacements may be made—for finer, clearer reception of the many programs and news features now on the air. . . . Call him tomorrow, for expert aid!"

#### WJTN—JAMESTOWN

"We would like to take this opportunity to express our gratitude to the NAB for fostering National Radio Festival Week. We have received many definite indications that it has done a lot of good from a number of angles, and we're looking forward to a repeat performance next year." . . . Marshall B. Shantz, Jr., program director.

#### WCAE—PITTSBURGH

During Radio Festival Week at WCAE the management used the staff orchestra's various programs to project an understanding and appreciation of the American System of Broadcasting. Reports have it that this promotion with the background of music by "The Airliners" was well received throughout the service area. Thank you, Jim Murray, for keeping us posted.

#### WFAA PROMOTES CIRCULATION WITH TWO MUSICAL SHOWS PER WEEK

Every Tuesday and Thursday afternoon for the summer, 4:00-4:15 WFAA, Dallas, is on the air with a program designed to stimulate greater use of portable and auto radios.

These 15-minute shows feature Craig Barton, his orchestra and vocalist, Bert Dodson, and were arranged by Ralph W. Nimmons, program director. The show is labelled "Vacation Varieties."

Here's one of the word pictures introduced after patter between two characters in the script:

"Ah don't let that happen to you neighbor . . . get friend wife one of those handy little pack portables so she can strap it on her back like a papoose. Then, while she does the daily chores she can listen to the trials and tribulations occurring in the eventful story of her favorite radio serial . . . listen to her favorite crooner even with one eye on the clock. I smell a music cue coming up.

That cue being that Craig Barton and the orchestra are going to play a nifty novelty called 'Watching the Clock.'"

And at another point listeners are advised:

"In the good old summertime . . . the zephyr like breezes . . . the tang of the great outdoors . . . and out in the woods for a picnic. And the ants . . . the good old ants. But wait! Here's a helpful hint . . . take along a portable radio . . . put it down along side the picnic table and tune in the latest bulletins on the European situation. Naturally, the ants will all run over to see how the battle is coming out, then while they have their ears glued to the radio, you quick spread the festive board and enjoy the gastronomic delights to the fullest. It's a dirty trick to play on the ants . . . but there'll be some crumbs left and while the ants devour those you can take your turn at the radio and if your turn happened to be right now, you'd be hearing Craig Barton and the orchestra playing 'That's My Weakness Now.'"

Opening announcement after theme, "'S Wonderful," reads:

"It's Downbeat Time alright . . . but with a difference. For even tho' the official unveiling is still a fortnite away, Craig begins a new summer series of Vacation Varieties today. Brother Barton and his boys will still be in there pitching with their stellar synco-pation . . . Bert Dodson will still be supplying sweet song stylings . . . but in addition, there'll be a word or two . . . a warning or two . . . on how you can get a little more out of that annual two-week outing . . . namely and to wit . . . take along a portable or an automobile radio. No need to miss your favorite program . . . the latest bulletins from the war zones . . . or whatever your listening fancy may dictate. Now just for instance if you were out in the wide open spaces right now without a radio you might be able to hear the 'Woodpecker's Song' and while the little red-headed rascal can tap out a fair tempo on his own, he just ain't got the rhythm of the Barton bounce. Craig, illustrate for the folks what they'd be missing."

### WHEC USES FULL COLUMN ADS TO PROMOTE AUTO AND PORTABLE SET LISTENING

Gunnar O. Wiig, general manager, WHEC, continues to make life interesting for listeners on the Rochester radio front. He keeps on promotin' summertime listening with admirable perseverance and admirable results.

One of his salvos is an illustrated full column in the Rochester papers which bracketed the problem. Five lines in the display head read: "They Sure DO Listen in the Summer."

Then came two paragraphs:

"Yes, and they sure should! The good old summertime, contrary to old-fashioned opinion, is one of the healthiest and most robust periods of the whole year for radio!

Listeners follow summer radio because summer radio follows listeners! Summer cottages, resort hotels and increasing thousands of cars are equipped with radios these days, not to mention the portable receivers one sees everywhere, from picnic grounds to canoes!"

Three individual pen and ink drawings with appropriate copy complete this example of WHEC's newspaper promotion.

### TELEPHONE PROMOTION

Now that the Bell System is on the air, the ice has been broken in a big way and it is logical to expect that individual telephone operating companies will more frequently let the hand slip and sign more contracts with individual stations. For that reason we are mentioning the fact

that a telephone broadcast, 9:30-10:00 p. m., Monday, June 3, was a part of the civic observance which WJTN, Jamestown, N. Y., packed into National Radio Festival Week.

This broadcast involved action on two floors. It included interviews, described demonstrations, with explanations of technical procedure.

It was highlighted by the placing of five long distance calls which were patched into the broadcast circuit and went over the air in their entirety. It satisfied all concerned.

## Research

### NAB RESEARCH COMMITTEE MEETING

A meeting of the NAB Research Committee was held in the NAB Headquarters in Washington, Tuesday, June 18th. Mr. William J. Scripps, Chairman of the committee, presided over the meeting with H. M. Beville, Jr., NBC Research Manager, Dr. Frank N. Stanton, CBS Research Director, Theodore C. Streibert, Vice-President of Radio Station WOR, C. E. Arney, Jr., NAB Assistant to the President, Edward M. Kirby, NAB Director of Public Relations and Paul F. Peter, NAB Director of Research, in attendance.

The principal subjects discussed at the meeting were Station Coverage Measurement Methods, Audience Measurement Methods, the Reporting of Radio Advertising Volume—Unit Measurement, the 1940 Census, Future Estimates of the Number and Distribution of Radio Sets, and Listening Habit Surveys.

The committee voted to hold its next meeting in Washington, July 10, 1940.

## Miscellaneous

### STATE LEGISLATION

LOUISIANA:

S. 332 (Ott) RACING INFORMATION—Relating to the furnishing by telephone, telegraph and radio information on race results.

### MEMBERSHIP CAMPAIGN

Five of the ten releases planned for the two months' membership drive have been sent to non-member stations. The 58 state and area chairmen as well as the District Directors are all functioning effectively. It is gratifying to report that the first two weeks resulted in the acquisition of fifteen new members as follows:

KCRC—Enid, Oklahoma  
KIDO—Boise, Idaho  
KRIC—Beaumont, Texas  
WBNY—Buffalo, New York



WJHP—Jacksonville, Florida  
WKPT—Kingsport, Tennessee  
WMAN—Mansfield, Ohio  
WMBC—Detroit, Michigan  
WMFF—Plattsburg, New York  
WOLF—Syracuse, New York  
WPRP—Ponce, Puerto Rico  
WSKB—McComb, Mississippi  
WSLB—Ogdensburg, New York  
WTRY—Troy, New York  
WTSP—St. Petersburg, Florida

Members are urged to make it their especial job to contact the operators of non-member stations and add their effort to secure affiliation with NAB. With the critical national situation now existing and rapidly developing on all fronts, the need for a united radio industry is greater than ever. Every broadcaster in the United States should be an active, militant member of NAB. Let's all go to work and bring in the remaining stations.

### CONVENTION

Plans for the Eighteenth Annual Convention to be held in San Francisco, August 4 to 7, inclusive, are shaping up splendidly. Howard Lane, Director for the 15th District, and other northern California broadcasters who will serve as hosts, are leaving no stones unturned in perfecting the finest possible arrangements.

All hotel reservations thus far received from member stations have been cared for. Lincoln Dellar, KSFO, San Francisco, and chairman of the Housing Committee, this week sent to all members an urgent request for immediate attention to their hotel requirements. He warns that after July 1, it will be "first come, first served" regardless of NAB membership. Members should, even though a bit doubtful about actually attending, make their hotel reservations. Requests for reservations should be sent direct to the St. Francis Hotel.

Arrangements to hold the banquet on Treasure Island, scene of the Golden Gate National Exposition, have been completed. Plans for the entertainment feature are developing in splendid fashion and a riotous performance is promised. It will be something entirely out of the ordinary.

Ralph Brunton, KJBS, San Francisco, who has served as entertainment chairman, has lined up a marvelous evening at the Fair. All registrants at the convention will be admitted as guests to the Folies Bergere, Billy Rose's Aquacade, and the Cavalcade of America. These are the three outstanding Fair attractions.

In addition, the San Francisco Press Club, through Chairman Brunton, has invited news and special events broadcasters as their guests at a cocktail party in the Press Club rooms on Sunday evening.

These are just a few of the highlights. The program is shaping up nicely and all of those matters that are of primary concern to broadcasters will be given thoughtful and constructive attention.

## The Commission

### FCC ORDER AMENDED

FCC has announced that paragraph 4(d) of Administrative Order No. 2 has been amended by the addition of the following language:

"Applications for consent to assignment of licenses or for consent to transfer of control of licensees of relay broadcast stations, when the Commission has on a prior date consented to a like assignment or transfer of control of the licensee of the standard broadcast station with which the relay stations are affiliated."

### MONITORING STATION IN MASSACHUSETTS

House of Representatives this week passed S. 2611 authorizing the purchase of a site and the erection of a building in Massachusetts by the FCC for use as a radio monitoring station. Provision is made in the bill for expenditure of \$30,000.

The bill which has already passed the Senate is as follows:

"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 Government 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 or facilities on such site for such purpose, and to provide the necessary associated antenna systems, roadways, power, water, and sanitary facilities, including the construction and installation of goniometric apparatus and including necessary outfits, apparatus, and equipment at a total cost of said site, buildings, and equipment of not to exceed \$30,000."

### FLY TALKS ON MONOPOLY REPORT

It may be some days before the FCC takes action on the Monopoly Committee's report made public last week, Chairman James Lawrence Fly of the Commission said at a press conference early this week.

Mr. Fly stated that he had not yet had time to read the report. He expected to leave Washington for a few days at which time he said he hoped to have an opportunity to go over the report.

Chairman Fly told the newsmen that the Commission has several other problems to get out of the way first, including the new FM regulations.

### WARNING TO ALL COMMERCIAL RADIO OPERATORS

All classes of commercial radio operators were today formally warned by the Federal Communications Commission to heed the strict letter of the law and international regulations which specifically prohibit superfluous and unnecessary personal chatter by radio. The Commission served notice that it intends to enforce these provisions vigorously and that it will hold station licenses

as well as commercial operators strictly accountable for any violation.

This warning applies to radiotelephone and radio telegraph services both. It augments the Commission notice of June 10 which particularly cautioned ship operators and ship station licensees against transmission of superfluous, unnecessary or unidentified conversation.

The full text of today's formal notice follows:

"On June 10, 1940, the Commission issued a warning specifically addressed to ship radio operators and ship station licensees against the transmission of superfluous, unnecessary or unidentified communications. The purpose of this notice is to emphasize the importance of strict compliance with the previous notice and at the same time to call attention specifically that the provisions of statute and treaty prohibiting the transmission of superfluous, unnecessary or unidentified communications apply to *all commercial operators as well as those communicating from ship stations.*

"The General Radio Regulations (Cairo Revision, 1938) annexed to the International Telecommunications Convention (Madrid, 1932), to which this Government is a party, and the Communications Act of 1934, specifically prohibit the transmission of superfluous, unnecessary or unidentified communications. The Commission intends to uphold vigorously these provisions of law and treaty and will hold all commercial radio operators and station licensees strictly accountable for any violations."

### CITIZENSHIP PROOF REQUIRED

Proof of the citizenship of about 100,000 radio operators licensed by the Federal Communications Commission is required under a Commission order announced today.

This new requirement applies to amateur as well as commercial operators, and calls upon them to file such proof in the form of affidavits, fingerprints, and photographs before August 15 next.

The Commission, which licenses citizens only for all classes of radio authorizations, has heretofore depended upon the applicant's own statement as to that fact. It will henceforth require evidence of citizenship on standard forms which the Commission is now sending out as a questionnaire.

The questionnaire, which present operators and future applicants must subscribe to under oath, demands proof of citizenship by birth or naturalization, and also elicits information as to the nationality of immediate relatives, time spent by operator or applicant outside of the United States, and service with this or foreign governments.

No exception to the filing of such evidence is prescribed. However, once the holder of a license has furnished satisfactory identification he will not have to file duplicate papers with subsequent license renewals unless his status as to citizenship undergoes change.

## FEDERAL COMMUNICATIONS COMMISSION

### FINDING OF FACT

The FCC has announced its Proposed Findings of Fact and Conclusions proposing to affirm the recommendations

of Commissioner Payne to revoke the license of station KSAM, Sam Houston Broadcasting Association, **Huntsville, Texas.** The station's operating assignment is **1500 kilocycles**, 250 watts, daytime only.

The Commission's conclusions in the proposed findings follow:

1. The respondents, H. G. Webster, Dr. C. N. Shaver and W. Bryan Shaver, co-partners doing business as the Sam Houston Broadcasting Association, in their original application for a construction permit to establish Radiobroadcast Station KSAM at Huntsville, Texas, and the evidence adduced at the hearing on such application, made false and misleading statements and failed to make full disclosure to this Commission of material facts concerning the financing, construction, ownership, management, operation and control of the proposed station. Such acts and conduct on the part of the respondents constitute basis for revocation of the license to operate Station KSAM under Section 312(a) of the Communications Act of 1934, as amended.

2. The respondents, without consent in writing of this Commission, transferred, assigned or otherwise disposed of rights theretofore granted to them by this Commission in the original construction permit and the license to operate Station KSAM to James G. Ulmer and Darrell E. Yates, to whom they had sold and transferred, respectively, a one-half and one-third interest in said station, and to one Harold Scott, to whom they transferred complete authority in the management, operation and control of said station in violation of Section 310(b) of the Communications Act of 1934, as amended, and the Rules and Regulations of the Commission.

3. Subsequent to the grant of the original application and issuance of the license to operate said station the respondents filed with this Commission various applications and reports which failed to disclose material facts concerning the ownership, operation and control of Station KSAM, and did therein make false and misleading statements and representations, which did in fact mislead this Commission concerning the real ownership, operation and control of said station, and also failed to file with the Commission certain contracts and other information affecting and concerning the financing, construction, ownership, operation and control of said station as required by, and in violation of, the Rules and Regulations of the Commission.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following oral arguments are scheduled to be heard before the Commission in broadcast cases during the week beginning Monday, June 24. They are subject to change.

Thursday, June 27

Oral Argument Before the Commission

Report No. B-102:

KTBC—State Capitol Broadcasting Assn., Inc., Austin, Tex.—In re: Revocation of Station License of KTBC.

Report No. B-103:

KNET—John Calvin Welch, William M. Keller and Bonner Frizzell, d/b as Palestine Broadcasting Assn., Palestine, Tex.—In re: Revocation of Station License of KNET.

Report No. B-104:

KRBA—Red Lands Broadcasting Assn. (Ben T. Wilson, Pres.), Lufkin, Tex.—In re: Revocation of Station License of KRBA.

### FUTURE HEARINGS

During the past week the Commission has announced the following future oral arguments in broadcast cases. They are subject to change.

Report No. 92:

- 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., 250 watts, unlimited time.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

- KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Granted consent to voluntary assignment of license of station KTRB from a partnership composed of Thomas R. McTammany and William H. Bates, Jr., to KTRB Broadcasting Co., Inc. (B5-AL-277).  
 KFH—Radio Station KFH Co., Wichita, Kans.—Granted construction permit to increase night power from 1 KW to 5 KW and install directional antenna for night use; 1300 kc., 5 KW watts LS, unlimited (B4-P-2462).  
 WMAN—George Satterlee, Mansfield, Ohio.—Granted consent to transfer of control of Richland, Inc., licensee of Station WMAN, to Monroe F. Rubin; station operates on 1370 kc., with 250 watts power daytime (B2-TC-226).  
 WNLC—Thames Broadcasting Corp., New London, Conn.—Granted construction permit to increase power to 250 watts day and night and add new transmitter; station operates on 1500 kc., unlimited time (B1-P-2598).  
 KDB—Santa Barbara Broadcasters, Ltd., Santa Barbara, Calif.—Granted modification of license to increase night power from 100 watts to 250 watts; 1500 kc., 250 watts, unlimited time (B5-ML-980).  
 KFDA—C. S. Gooch, Amarillo, Tex.—Granted consent to transfer of control of Amarillo Broadcasting Corp. (Station KFDA) from C. S. Gooch to J. L. Nunn; station operates on 1500 kc., with 100 watts power, unlimited time (B3-TC-200).  
 W3XP—Philco Radio & Television Corp., Philadelphia, Pa.—Granted modification of license of television broadcast station W3XP to change frequency from 204000-210000 kc. to 234000-246000 kc., change in location to portable-mobile, and authority to use W3XE as a relay station in conjunction with W3XP; power 15 watts visual only (B2-MLVE-23).  
 WEKT—St. Petersburg Chamber of Commerce (area of St. Petersburg, Fla.), Portable-Mobile.—Granted consent to voluntary assignment of license of relay broadcast station WEKT from St. Petersburg Chamber of Commerce to the City of St. Petersburg, Fla.; station operates on 33380, 35020, 37620, 39820 kc., 2 watts power (B3-ALRE-24).  
 The Western Broadcasting Company of Wyoming, Cheyenne, Wyo.—Granted construction permit for a new station to operate on 1370 kc., 250 watts, unlimited time. Exact transmitter site and type of antenna to be determined subject to Commission approval (B5-P-2331).

### DESIGNATED FOR HEARING

- Ben J. Sallows, Alliance, Nebr.—Application for construction permit for new station to operate on 1210 kc., 100 watts night, 250 watts LS, unlimited time, to be heard in conjunction with the applications of Paul R. Heitmeyer and Frontier Broadcasting Company for new stations in Cheyenne, Wyo.

### MISCELLANEOUS

- WHBU—Anderson Broadcasting Corp., Anderson, Ind.—Granted license to cover construction permit for installation of new transmitter and changes in antenna; frequency 1210 kc., 100 watts, 250 watts LS, unlimited time (B4-L-1159).  
 The Associated Broadcasters, Inc., Portable-Mobile (area of San Francisco, Calif.).—Granted construction permit for new

- relay broadcast station, frequencies 1622, 2058, 2150, 2790 kc., power 15 watts (B5-PRY-221).  
 WHPR—WHP, Inc., Portable-Mobile (area of Harrisburg, Pa.).—Granted license to cover construction permit for new relay broadcast station, frequencies 33380, 35020, 37620, 39820 kc., power 25 watts (B2-LRE-306).  
 W3XMC—McNary and Chambers, Washington, D. C.—Granted license to cover construction permit for move of transmitter locally.  
 W2XWE—WOKO, Inc., Albany, N. Y.—Granted license to cover construction permit for move of transmitter locally (B1-LFB-25).  
 W2XWV—Allen B. DuMont Laboratories, Inc., New York, N. Y.—Granted special temporary authority to operate a 50-watt television transmitter on frequencies 60000-86000 kc., at 515 Madison Ave., New York City, for the purpose of conducting field tests, for a period not to exceed thirty days.  
 KGGF—Hugh J. Powell, Coffeyville, Kans.—Granted special temporary authority to remain silent from 8 to 9:15 p. m., CST, on July 7, 14, 21, and from 2 to 3 p. m., CST, on July 1, 2, 3, 8, 9, 10, 11, 15, 16, 17, 18, 22, 23, 24, and 25, 1940, in order to permit WNAD to broadcast special educational programs; to operate from 7:15 p. m. to 9:15 p. m., CST, on July 4 and 30, and from 8:15 p. m. to 9:15 p. m., CST, on July 31, 1940, in order to permit WNAD to observe the vacation periods at the University.  
 WNAD—University of Oklahoma, Norman, Okla.—Granted special temporary authority to operate during above periods (provided KGGF remains silent), in order to broadcast educational programs; to remain silent as above in order to observe the vacation periods at the University.  
 KWK—Thomas Patrick, Inc., St. Louis, Mo.—Granted motion for leave to file amendment to application for construction permit requesting different facilities.  
 WHIP—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted motion for continuance of hearing from July 10, 1940, to an indefinite date, in re application for construction permit to change hours of operation.  
 KTBC—State Capitol Broadcasting Assn., Inc., Austin, Tex.—Scheduled for oral argument on June 27, 1940, in re proposed findings of fact on revocation of station license (B-102).  
 KNET—Palestine Broadcasting Assn., Palestine, Tex.—Scheduled for oral argument on June 27, 1940, in re proposed findings of fact on revocation of station license (B-103).  
 KRBA—Red Lands Broadcasting Assn., Lufkin, Tex.—Scheduled for oral argument on June 27, 1940, in re proposed findings of fact on revocation of station license (B-104).  
 WMOG—Coastal Broadcasting Co., Brunswick, Ga.—Granted license to cover construction permit for new broadcast station, frequency 1500 kc., 100 watts, 250 watts LS, unlimited time (B3-L-1160).  
 WKEU—Radio Station WKEU, Griffin, Ga.—Granted modification of construction permit which authorized changes in antenna and hours of operation, for extension of commencement date from June 4, 1940, to October 4, 1940, and completion date from December 4, 1940, to May 4, 1941; 1500 kc., 100 watts, unlimited time (B3-MP-989).  
 WAFK—A. Frank Katzentine (area of Miami Beach, Fla.), Portable-Mobile.—Granted modification of construction permit which authorized a new relay broadcast station, to change frequencies from 1646, 2090, 2190, 2830 kc. to 1622, 2058, 2150, 2790 kc., and extend commencement date from June 11, 1940, to 30 days after date of grant.  
 WABJ—Pensacola Broadcasting Co., Pensacola, Fla.—Granted special temporary authority to operate ship station WFLT on 1622, 2058, 2150 and 2790 kc., on June 15 and 16, 1940, in order to relay broadcast the annual fishing rodeo from the Gulf to radio station WCOA.  
 KTRB—Thomas R. McTammany and Wm. H. Bates, Jr., Modesto, Calif.—Granted special temporary authority to operate from 9 p. m., PST, to the conclusion of the Stanislaus County Hairdressers Association Hair Style Show on June 20, 1940, in order to broadcast the show only.  
 WPIC—Sharon Herald Broadcasting Co., Sharon, Pa.—Granted special temporary authority to operate from local sunset (June 8 p. m., EST) to midnight, EST, on June 19, 1940, in order to broadcast a special Red Cross subscription drive.  
 WORL—Broadcasting Service Organization, Inc., Boston, Mass.—Granted special temporary authority to operate from 10 p. m. to 11 p. m., EST, on June 16, 1940, in order to

APPLICATIONS FILED AT FCC

560 Kilocycles

broadcast a portion of the Bunker Hill Day patriotic dinner to be held in Boston.

W7XSW—Symons Broadcasting Co., Spokane, Wash.—Granted modification of construction permit for new facsimile broadcast station to extend commencement date from March 24, 1940, to September 1, 1940, and completion date from September 24, 1940, to January 1, 1941 (B5-MPFB-8).

WNBX—Twin State Broadcasting Corp., Keene, N. H.—Granted modification of construction permit for changes in directional antenna for both day and night and move of transmitter and studio, for extension of completion date from June 10, 1940, to September 10, 1940 (B1-MP-981).

WKBB—Sanders Bros. Radio Station, Dubuque, Iowa.—Dismissed petition for reconsideration and further hearing filed by WKBB in re application of Telegraph Herald, Dubuque, Iowa, for a new station to operate on 1340 kc., 500 watts, daytime only, which was granted by the Commission July 2, 1937.

Jansky & Bailey, Georgetown, D. C.—Cancelled modification of license authorizing change in frequency of high frequency broadcast station W3XO, which was granted May 15, 1940, since licensees do not at this time desire to change the frequency of station (B1-MLHB-24).

Congress Square Hotel Co., Transferee.—Denied request of Congress Square Hotel Company, Transferee, for hearing in re application of Thompson L. Gurnsey and Congress Square Hotel Company for consent to transfer control of the Main Broadcasting Corporation, licensee of WLBZ, Bangor, Maine, which application was dismissed by the Commission March 22, 1940.

Radio Voice of Springfield, Inc., Springfield, Ohio.—Adopted final order (B-100) GRANTING the application of Radio Voice of Springfield, Inc., Springfield, Ohio, for construction permit for new broadcast station to operate on 1310 kc., with 100 watts power, unlimited time, upon the condition that permittee file an application for modification of construction permit, specifying the exact transmitter location and antenna system within two months.

C. L. Weathersbee, W. H. Nichols, C. L. Pickler and E. M. Thompson, d/b as Albemarle Broadcasting Station, Albemarle, N. C.—Adopted final order (B-98) DENYING the application for construction permit for new broadcast station to operate on 1370 kc., with 100 watts power, daytime only.

Bellingham Broadcasting Co., Inc., Bellingham, Wash.; and KVOS—KVOS, Inc., Bellingham, Wash.—Scheduled for oral argument July 11, 1940, the Proposed Findings of Fact (No. B-92) on the application of Bellingham Broadcasting Co. for construction permit for new broadcast station, and application of KVOS, Inc., for renewal of license of station KVOS.

KFRO—Voice of Longview, Longview, Tex.—Granted special temporary authority to operate with power of 250 watts from 7:30 p. m., CST, to the conclusion of church services on July 7, 14, 21, 28, 1940, in order to broadcast church services only; also from 7:30 p. m. to conclusion of political broadcasts on June 28, 29, July 1, 2, 3, 4, 5, 6, 8, 9, 10, 1940, in order to broadcast political rallies only.

WBNY—Roy L. Albertson, Buffalo, N. Y.—Granted special temporary authority to operate from 8:30 a. m. to 10 a. m., EST, for the period June 28, 1940, to not later than July 29, 1940, in order to broadcast musical programs as described in letter dated June 14, 1940 (provided WSVS remains silent).

WBAA—Purdue University, West Lafayette, Ind.—Granted special temporary authority to operate from 7:15 p. m. to 10:15 p. m., CST, on July 13, 1940, in order to broadcast the Purdue University Music Festival only.

KGCA—Charles Walter Greenley, Decorah, Iowa.—Granted extension of special temporary authority to remain silent from June 17, 1940, to not later than July 16, 1940, pending the filing of modification of license and completion of arrangements with station KWLC.

WSVS—Seneca Vocational High School, Buffalo, N. Y. (Elmer S. Pierce, Principal).—Granted modification of license to change name to Board of Education, City of Buffalo (B1-ML-1003).

KLS—Radio Service Corp. of Utah, Salt Lake City, Utah.—Granted authority to determine operating power by direct measurement of antenna input in compliance with Section 3.54 (B5-Z-405).

610 Kilocycles

WFIL—WFIL Broadcasting Co., Philadelphia, Pa.—Construction permit to install new transmitter, directional antenna for use day and night, increase power from 1 to 5 KW.

KFRC—Don Lee Broadcasting System, San Francisco, Calif.—License to cover construction permit (B5-P-335) as modified for increase in power.

700 Kilocycles

WLW—The Crosley Corp., Cincinnati, Ohio.—Extension of special experimental authorization to transmit facsimile signals from 12 midnight to local sunrise, EST, using 50 KW power, period beginning 8-1-40.

740 Kilocycles

WHEB—Granite State Broadcasting Corp., Portsmouth, N. H.—Authority to transfer control of corporation from H. J. Wilson to R. G. Le Tourneau, 4 shares common stock.

780 Kilocycles

WPRA—Puerto Rico Advertising Co., Inc., Mayaguez, P. R.—Authority to determine operating power by direct measurement of antenna power.

830 Kilocycles

KFUO—Evangelical Lutheran Synod of Missouri, Ohio and Other States, Clayton, Mo.—Construction permit to install new transmitter and vertical radiator and increase power from 1 KW to 1 KW night, 5 KW day. Requests Class II station. Amended to increase power to 5 KW day and night.

850 Kilocycles

WKAR—Michigan State College, E. Lansing, Mich.—License to cover construction permit (B2-P-2746) to install new equipment, changes in antenna system, increase power and move transmitter.

WKAR—Michigan State College, E. Lansing, Mich.—Authority to determine operating power by direct measurement of antenna power.

WESG—Cornell University, Ithaca, N. Y.—Modification of license to move studio from Mark Twain Hotel, Elmira, N. Y., to Cornell Campus, Ithaca, N. Y.

930 Kilocycles

KMH—May Broadcasting Co., Shenandoah, Iowa.—Construction permit to install directional antenna for night use; increase power from 1 KW night, 5 KW day, to 5 KW day and night. Amended: Filed in new name and requests Class III-A station.

940 Kilocycles

NEW—Atlantic Broadcasting Corp., Miami, Fla.—Construction permit for a new broadcast station to be operated on 940 kc., 500 watts night, 1 KW day, unlimited time. Class III-B station. Amended to change location of studio and transmitter.

1040 Kilocycles

KTHS—Hot Springs Chamber of Commerce, Hot Springs National Park, Ark.—Extension of special experimental authority to operate on 1060 kc., simultaneous with WBAL from 6 a. m. to local sunset daily, suspend until 8 p. m., and unlimited time from then until midnight, period 6-1-40 to 7-1-40. Amended: Simultaneous with WBAL from local sunrise to local sunset daily, suspend until 8 p. m., and unlimited time from then until midnight, period 8-1-40 to 2-1-41.

1100 Kilocycles

WOV—Greater New York Broadcasting Corp., New York, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 1120 Kilocycles

KFSG—Echo Park Evangelistic Assn., Los Angeles, Calif.—Authority to determine operating power by direct measurement of antenna power.

### 1140 Kilocycles

KVOO—Southwestern Sales Corp., Tulsa, Okla.—Extension of special experimental authority to operate unlimited time, using directional antenna night, period beginning 8-1-40.

### 1200 Kilocycles

KHAS—The Nebraska Broadcasting Co., Hastings, Nebr.—Modification of construction permit (File No. B4-P-2367) as modified for a new broadcast station, requesting extension of completion date from 7-14-40 to 10-1-40.

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Voluntary assignment of license from Hammond-Calumet Broadcasting Corp. to O. E. Richardson and Fred L. Adair.

WLOG—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—Authority to determine operating power by direct measurement of antenna power.

WLOG—Clarence H. Frey and Robert O. Greever, Logan, W. Va.—License to cover construction permit (B2-P-2340) as modified for a new broadcast station.

KFXD—Frank E. Hurt, Nampa, Idaho.—Construction permit to change frequency from 1200 to 990 kc.; increase power from 250 watts to 1 KW; equipment changes; move transmitter; install new antenna, and request Class II station. Amended to give transmitter site and specify type of antenna.

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—License to cover construction permit (B2-P-794) as modified for new broadcast station.

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Authority to determine operating power by direct measurement of antenna power.

WPID—Petersburg Newspaper Corp., Petersburg, Va.—License to cover construction permit (B2-P-1475) as modified for a new broadcast station.

WPID—Petersburg Newspaper Corp., Petersburg, Va.—Authority to determine operating power by direct measurement of antenna power.

WSOC—Radio Station WSOC, Inc., Charlotte, N. C.—Construction permit to install new antenna, move studio and transmitter, and increase power from 100 watts night, 250 watts day, to 250 watts day and night.

### 1220 Kilocycles

KWSC—State College of Washington, Pullman, Wash.—Authority to install automatic frequency control apparatus.

### 1260 Kilocycles

WNBX—Twin State Broadcasting Corp., Keene, N. H.—Modification of construction permit (B1-P-2415) for changes in directional antenna, using both day and night, and move of transmitter and studio, requesting extension of completion date from 6-10-40 to 9-10-40.

### 1270 Kilocycles

NEW—Cuyahoga Valley Broadcasting Co., Cleveland, Ohio.—Construction permit for a new broadcast station to be operated on 1270 kc., 1 KW, daytime. Amended to request 1000 kc., antenna changes, and to specify transmitter and studio sites.

### 1310 Kilocycles

WFDF—Flint Broadcasting Co., Flint, Mich.—Construction permit to install new transmitter; install directional antenna for night use; increase power from 100 watts to 1 KW; and change frequency from 1310 to 880 kc., and move transmitter. Amended: Changes in directional antenna for day and night use.

Radio Corporation of Annapolis, Annapolis, Md.—Construction permit for a new broadcast station to be operated on 1310 kc., 100 watts, unlimited time, Class IV station. Amended re antenna and specify transmitter site.

WSGN—The Birmingham News Co., Birmingham, Ala.—License to cover construction permit (B3-P-2558) to install new antenna, increase power, and move transmitter.

WDAK—L. J. Duncan, Leila A. Duncan, Josephine A. Keith, Effie H. Allen, Aubrey Gay, d/b as Valley Broadcasting Co., West Point, Ga.—Modification of construction permit (B3-P-2442) for a new station, requesting approval of transmitter and studio sites at General Tyler Hotel, West Point, Ga., approval of antenna, and install new transmitter.

### 1370 Kilocycles

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Authority to determine operating power by direct measurement of antenna power.

WHKY—Catawba Valley Broadcasting Co., Inc., Hickory, N. C.—Authority to determine operating power by direct measurement of antenna power.

WSVS—Elmer S. Pierce, Principal, Seneca Vocational High School, Buffalo, N. Y.—Modification of license to change name from Elmer S. Pierce, Principal, Seneca Vocational High School, to Board of Education, City of Buffalo.

NEW—J. Cecil Bott, H. L. McCracken, Matilda Lannen, and Nettie Bott, d/b as The Western Broadcasting Co. of Wyoming, Cheyenne, Wyo.—Construction permit for a new broadcast station to be operated on 1370 kc., 100 watts night, 250 watts day, unlimited time. Amended to omit name of H. L. McCracken from partnership and request 1370 kc., 250 watts, change type of equipment, and specify studio site.

WJHO—Yetta G. Samford, C. S. Shealy, Thos. D. Samford, Jr., J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala.—Authority to determine operating power by direct measurement of antenna power.

WJHO—Yetta G. Samford, C. S. Shealy, Thos. D. Samford, Jr., J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala.—License to cover construction permit (B3-P-2373) as modified for a new broadcast station.

KFRO—Voice of Longview, Longview, Tex.—Modification of construction permit (File No. B3-P-2117) as modified for change in frequency, increase power, unlimited time, move transmitter, new transmitting equipment, installation of directional antenna for night use, requesting extension of completion date from 6-19-40 to 7-19-40.

### 1390 Kilocycles

WHK—United Broadcasting Co., Cleveland, Ohio.—Extension of special experimental authorization to transmit facsimile signals from 1 a. m. to local sunrise, using 1 KW power, for period beginning 8-1-40.

### 1420 Kilocycles

NEW—Pan-American Broadcasting System, Inc., Hollywood, Fla.—Construction permit for a new broadcast station to be operated on 1420 kc., 250 watts, unlimited time. Amended to move location of transmitter (same address).

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

WKIP—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—License to cover construction permit (B1-P-2446) as modified for a new broadcast station.

### 1500 Kilocycles

NEW—Robert V. Lee, Bradenton, Fla.—Construction permit for a new broadcast station to be operated on 1500 kc., 250 watts, unlimited time, Class IV station. Amended to change location of transmitter, and antenna changes.

NEW—Leonard L. Abess, Miami Beach, Fla.—Construction permit for a new broadcast station to be operated on 1500 kc., 250 watts, unlimited time. Requests facilities WKAT, contingent on WKAT being granted change in frequency. Amended to give location of transmitter and studio and omit request for facilities of WKAT.

WGTC—J. J. White, tr. as Greenville Broadcasting Co., Greenville, N. C.—Authority to determine operating power by direct measurement of antenna power.

KVOE—The Voice of the Orange Empire, Inc., Ltd., Santa Ana, Calif.—Construction permit to increase power from 100 watts to 250 watts and install new equipment.

WGTC—J. J. White, tr. as Greenville Broadcasting Co., Greenville, N. C.—License to cover construction permit (B3-P-2053) as modified for a new broadcast station.

## 1530 Kilocycles

WAKR—Summit Radio Corp., Akron, Ohio.—Modification of construction permit (B2-PSB-14) for a new station, requesting installation of new transmitter, changes in directional antenna system, using day and night, move transmitter and extend commencement date to 30 days after grant and completion date 60 days thereafter.

## MISCELLANEOUS

WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Construction permit to change frequencies from 6100, 17780 ke. to 6100, 11820, 21630 ke., power from 35 to 50 KW, and make equipment changes.

WRCA—National Broadcasting Co., Inc., Bound Brook, N. J.—Construction permit to change frequencies from 9670, 21630 ke. to 9670, 17780 ke., power from 35 to 50 KW, and make equipment changes.

WTNK—WOAX, Inc., Portable-Mobile.—License to cover construction permit (B1-PRY-193) for a new relay broadcast station.

NEW—Columbia Broadcasting System, Inc., Brentwood, N. Y.—Construction permit for a new international broadcast station to be operated on 50000 watts, 6060, 9590, 21520 ke. sharing with station WCAB, 11830, 17830 ke. sharing with station WCBX, 15270 ke. sharing with stations WCAB, WCBX and WLWO, A3 emission.

WCBX—Columbia Broadcasting System, Inc., Brentwood, N. Y.—Construction permit to increase power from 10 to 50 KW, install new transmitter, and move transmitter from ½ mile from Wayne, N. J., to Brentwood, N. Y.

WNBI—National Broadcasting Co., Inc., Bound Brook, N. J.—Modification of license to add the frequency 11820 ke. to those already assigned, i.e., 6100 and 17780 ke., and make equipment changes.

W1XTG—Worcester Telegram Publishing Co., Inc., Holden, Mass.—License to cover construction permit (B1-PHB-78) as modified for new high frequency broadcast station.

W6XAO—Don Lee Broadcasting System, Hollywood, Calif.—Modification of construction permit (B5-PVB-38) as modified, requesting change in frequency from 44000-50000 to 50000-56000 ke., and extend commencement and completion dates from 3-31-40 and 9-30-40 to 60 days after grant and 180 days thereafter.

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 8-13-40.

that the product is composed principally of desiccated thyroid, whole pituitary substance, ovarian substance, potassium iodide, and phenolphthalein; that preparations containing thyroid have been used to treat certain types of obesity due to endocrine dysfunction, but that, when so used, the patient must be constantly under specialized medical supervision to avoid serious injury to health.

The complaint further charges that the respondents disseminated false advertisements through failure to reveal to purchasers that use of "Re-Duce-Oids" under conditions prescribed in the advertisements or under customary or usual conditions may result in serious injury to health in that the preparation contains the dangerous drug thyroid. Continued ingestion of thyroid, according to the complaint, accelerates the rate of metabolism, thereby burning the body tissues, especially fat tissue, in excess of that which is normal, and might cause other serious injury to health. It is further alleged that because of the potassium iodide content, use of the preparation would be definitely harmful to persons ill of goiter or pulmonary tuberculosis. (4159)

**California Sunshine Products, Inc.**—See American Medicinal Products, Inc.

**Radio Distributors**—A complaint charging the use of lottery methods in connection with the sale of radios and other merchandise to ultimate consumers has been issued against Leona Johnson and Aubrey M. Graff, individually and trading as Radio Distributors, 30 North Dearborn St., Chicago.

The complaint alleges that the respondents, in connection with the sale of their merchandise, furnish various devices and merchandising plans involving games of chance, one of which included a push card bearing 58 feminine names with concealed numbers. Instructions on the card read, in part: "Nos. 1-39 pay what you draw. All others 39¢. None higher." Purchasers of the name corresponding to that concealed under a master seal on the card received a radio and purchasers of certain designated numbers drew other prizes, wholly by lot or chance, according to the complaint. (4157)

**Reva Company**—Misrepresentation of a cosmetic preparation for the hair and scalp is alleged in a complaint issued against Cecil Dwight Kitchen, trading as The Reva Company, 4234 Lincoln Ave., Chicago.

The respondent is alleged to have represented that his preparation "Reva" is not a hair dye, but that it substitutes or replaces the pigment in hair necessary to give it color, and that it stimulates hair growth and restores natural youthlike color. The respondent, it is alleged, also advertised that use of his preparation would produce no harmful effects and that it is a cure, remedy and competent treatment for dandruff, scalp eczema and falling hair.

However, the complaint alleges that the respondent's product is a lead sulphur dye which dyes the exterior of the hair shaft and that the color produced by its use is that of an artificial dye. The preparation, it is alleged, will not accomplish the other results claimed; has no therapeutic value in excess of affording temporary relief from itching in some instances, and its use is not safe or harmless, but may cause injury in that its application to skin or scalp where abrasions are present might result in absorption of lead into the system. (4158)

**Scientific Laboratories of America**—See American Medicinal Products, Inc.

**Thyrole Products Company**—Alleging violation of the Federal Trade Commission Act in the sale of a medicinal preparation recommended for reducing overweight, a complaint has been issued against I. Ralph Weinstock, trading as Thyrole Products Company, 34th and Chestnut Sts., Philadelphia.

The complaint alleges that the respondent advertised "O.B.C. Reducing Capsules", otherwise known as "O.B.C. Capsules", as being a cure or remedy, and a safe, competent and effective treatment for obesity, when such is not a fact.

False advertising is also alleged in that the respondent failed to reveal that use of the capsules under conditions prescribed in the advertisements or under customary and usual conditions, might cause serious and irreparable injury. The respondent's prepara-

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Medicinal Products, Inc.**—Misrepresentation in the sale of a drug preparation recommended for weight reducing, is alleged in a complaint issued against American Medicinal Products, Inc., 6630 Santa Monica Boulevard, Los Angeles. The complaint also names as a respondent Ernest G. Rurup, trading under the names Scientific Laboratories of America and California Sunshine Products, Inc., and as an officer of American Medicinal Products, Inc.

It is alleged that in newspaper, periodical and circular advertising matter the respondents advertised their product "Re-Duce-Oids" as a cure, remedy, and safe, competent and effective treatment for obesity, when such is not a fact. The complaint alleges

tion, according to the complaint, contains powdered strychnine alkaloid, powdered extract belladonna, aloin, phenolphthalein and thyroid.

The United States District Court, Eastern District of Pennsylvania, on petition of the Commission, recently enjoined the respondent from certain advertising of his preparation pending issuance of the Commission's complaint and final determination of its proceeding. (4160)

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Capital City Candy Company**—See Midwest Merchandise Co.

**Evans Candy House**—See United Candy Company.

**Gair Manufacturing Company**—Orders have been issued directing two Chicago merchandise distributing organizations and a Philadelphia dealer to discontinue use of lottery methods in the sale of their products to ultimate consumers. The respondents are Frank E. Gairing, individually and trading as Gair Manufacturing Company, 1446 Summerdale Ave., and Robert C. Bundy, individually and trading as Jackson Sales Company, formerly of 53 West Jackson Boulevard, Chicago, and Meyer R. Eisenbrock, individually and trading as Marhar Sales Company, 1322 West Girard Ave., Philadelphia.

The Commission case against Robert C. Bundy, trading as Jackson Sales Company, originally included Belmont Sales Company, a corporation, formerly of 53 West Jackson Boulevard, now dissolved and out of business, and Robert C. Bundy and Mildred Bundy, individually and as officers of Belmont Sales Company. Commission findings are, however, that evidence received does not support the allegations of the complaint against Mildred or Robert C. Bundy as officers of the corporation so that the Commission's findings and order refer only to the acts and practices of Robert C. Bundy, individually and trading as Jackson Sales Company. The Commission closed without prejudice its case against the dissolved corporation and against Mildred Bundy.

The Commission order directs that Frank E. Gairing, trading as Gair Manufacturing Company, in the sale of watches and other merchandise, and Robert C. Bundy, trading as Jackson Sales Company, in the sale of bedspreads, silverware and other articles, cease supplying to or placing in the hands of others push or pull cards, punch boards or other lottery devices for use in selling merchandise to the public by means of a lottery; discontinue shipping to agents, distributors, or members of the public such devices so prepared or printed that they may be used in selling merchandise to the public, and desist from selling or otherwise disposing of any merchandise by means of lottery devices.

The order against Frank E. Gairing, trading as Gair Manufacturing Company, also directs that use of the word "Manufacturing" in that respondent's trade name be discontinued, unless and until he actually owns, operates or controls a factory in which the products he sells are made. (3672 and 3422)

The order against Meyer R. Eisenbrock, individually and trading as Marhar Sales Company, Philadelphia, dealer in blankets, bedspreads and other merchandise, directs that he cease supplying to or placing in the hands of others any merchandise, together with a sales plan or method involving the use of a lottery scheme or game of chance by which such articles may be sold to the purchasing public, and to discontinue selling or otherwise disposing of any merchandise by use of such lottery scheme.

Commission findings are that the respondent Eisenbrock, prior to December, 1937, distributed various "Club Plans" for use in selling his merchandise through churches, fraternal organizations or clubs. Findings are that under such a club plan, each member paid a fixed amount each week for a period usually not exceeding 22 weeks; that at the end of each week the member whose name or number was drawn would receive an article of merchandise for the amount paid in up to the time of drawing; that at the end of the period all remaining members would receive an article but that by that time they had paid the face value. Thus the amount paid, according to findings, was determined wholly by lot or chance. (3773)

**Jackson Sales Company**—See Gair Manufacturing Co.

**Marhar Sales Company**—See Gair Manufacturing Company.

**Midwest Merchandise Company**—Dealers in Kansas City and Atlanta to discontinue lottery methods in connection with the sale of their products to ultimate consumers. The respondents are C. I. Levin and Edward Johnson, individually and trading as Midwest Merchandise Company, 1006 Broadway, Kansas City, Mo., distributor of knives, watches and other merchandise, and R. L. Jackson, individually and trading as Capital City Candy Company, 506-508 Decatur St., S. E., Atlanta, Ga.

The Commission order directs the respondents to cease selling or distributing merchandise so packed and assembled that sales may be made by means of a lottery; to cease supplying to or placing in the hands of others assortments of merchandise, together with push or pull cards, punch boards or other lottery devices which may be used in selling products to the public; to cease supplying to or placing in the hands of others such lottery devices, either with assortments of merchandise, or separately, which devices may be used in selling merchandise to the public, and to discontinue selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme. (4058-4092)

**General American Sales Corp.**—See Square Deal Candy Co.

**National Sure-Fit Quilting Company, Inc.**, 40-20 Twenty-second St., Long Island City, N. Y., has been ordered to discontinue misrepresentations in the sale of bed comforters.

Commission findings are that the respondent company and local distributors, in advertising the respondent's comforters, featured the name "Villadown," tending to mislead buyers into believing that these articles were filled wholly with down. The facts were, according to findings, that the filler consisted of only 5 per cent down and 95 per cent cotton, but that this was explained only in small lettering in the advertisements.

The Commission order directs the respondent corporation to cease using the term "Villadown" or any other term which includes the word "down" or any colorable simulation of it or any term of similar meaning to describe a quilt, comforter or other similar product the filler of which is not composed wholly of down, the light fluffy undercoating of the waterfowl. The order provides, however, that if such term is employed to describe a filler composed in part of down and in part of materials other than down, the term must be immediately accompanied by a word or words of equal size or conspicuousness designating the substance, fiber or material of which the filler is composed, with designation of each constituent fiber or material in the order of its predominance by weight, beginning with the largest single constituent. (3728)

**Square Deal Candy Company**—A Los Angeles candy dealer and a Chicago distributor of merchandise have been ordered to discontinue lottery methods in connection with the sale of their products to ultimate consumers. The respondents are Warren Watkins, individually and trading as Square Deal Candy Company, 768 Merchant St., Los Angeles, and General American Sales Corporation and David C. Baskin, its president, 32 West Randolph St., Chicago.

The order against Warren Watkins, trading as Square Deal Candy Company, directs that he cease selling or distributing candy or other merchandise so packed and assembled that sales may be made by means of a lottery. The orders direct the respondents in each case to cease supplying to or placing in the hands of others any merchandise, together with push or pull cards, punch boards or other lottery devices which may be used in selling such products to the public; to cease supplying to or placing in the hands of others such lottery devices, either with assortments of merchandise, or separately, which devices may be used in selling articles to the public, and to discontinue selling or otherwise distributing any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

The Commission closed without prejudice its case against Arnold and Faye Simon, who had been named respondents individually and as officers of the corporation in the General American Sales Corporation case. Findings are that the evidence did not support

the allegations of the complaint as to these two individuals. (3405-3706)

**United Candy Company**—Two candy distributors, one in Charlotte, N. C., and the other in Atlanta, Ga., have been ordered to discontinue lottery methods in connection with the sale of their products through dealers to ultimate consumers. The respondents are E. T. James, Jr., individually and trading as United Candy Company, 1507 West Trade St., Charlotte, and William C. Evans, individually and trading as Evans Candy House, 309 Marietta St., Atlanta.

The Commission order directs the respondents to cease selling or distributing candy or other merchandise so packed and assembled that sales may be made by means of a lottery; to cease supplying to or placing in the hands of others assortments of candy or other merchandise, together with push or pull cards, punch boards or other lottery devices which may be used in selling such products to the public; to cease supplying to or placing in the hands of others such lottery devices, either with assortments of candy or other merchandise, or separately, which devices may be used in selling such articles to the public, and to discontinue selling or otherwise distributing any merchandise by means of a game of chance, gift enterprise, or lottery scheme. (4060-4102)

**United Factories, Inc.**—Prohibiting misrepresentation of a product advertised as a "reconditioner of automotive engines", a cease and desist order has been issued against United Factories, Inc., Kansas City, Mo.

"Micaseal", the respondent corporation's product, was found to have been advertised in a manner tending to mislead purchasers into believing that its use will effect substantial economies in operating automobiles and other accomplishments not justified by the facts.

The Commission order directs the respondent to cease representing that use of "Micaseal" will decrease the oil or gas consumption of a motor, increase engine compression or check excessive oil pumping, or that its use will check excessive carbon formation or add speed, power or smoothness to the operation of old motors. The order also prohibits the representations that use of the preparation will recondition a motor or produce results equal to or comparable with a mechanical reconditioning of an automobile engine, and that nationally known laboratories have made impartial tests of "Micaseal" and have certified that it has merit when used in an automobile engine. (3797)

**U. S. Drug Laboratories**—See U. S. Drug & Sales Co.

**U. S. Drug & Sales Company**—Edward L. Leisenring, trading as U. S. Drug & Sales Company, U. S. Drug Laboratories, and U. S. Drug Company, and Gordon Leisenring, both of 1534 Lawrence St., Denver, Colo., have been ordered to cease and desist from misrepresentation of medicinal preparations sold and distributed by them.

The Commission finds that the respondents have been engaged in the sale of various medicinal preparations including one advertised as "Man's Pep Tonic" and as "Man's Tonic," and sold as "U. S. Special Tablets," and a preparation advertised as "Man's Pep Tonic (Double Str. Capsule)" and as "Man's Tonic (Double Str. Capsule)," and sold as "Sextogen Capsules for Men or Women." The preparations were found also to have been advertised as being safe, competent and reliable tonics; as effective, safe and scientific aphrodisiacs and scientific treatments for strengthening and rejuvenating the glands, and as possessing therapeutic value in the treatment of debility.

Last February Judge Symes of the U. S. District Court for the District of Colorado, issued a restraining order on petition of the Federal Trade Commission, forbidding the respondents from further dissemination of certain false advertising of the preparations. The Court found that the advertisements were false in that they failed to reveal that the preparations contained, among other ingredients, the dangerous drugs zinc phosphide, extract of damiana, extract nux vomica, and yohimbine hydrochloride, and that use of the preparations under such conditions as are customary or usual might result in serious and irreparable injury to the health of users. The Court order was granted pending the issuance of a complaint under the regular Commission procedure and until such complaint was dismissed by the Commission, set aside by the Courts or until the order of the Commission to cease and desist became final.

In the cease and desist order now issued the respondents are forbidden to disseminate or cause to be disseminated any advertisements representing that the preparations are safe, competent or reliable tonics; safe, effective or scientific aphrodisiacs; safe or scientific treatments for strengthening or rejuvenating the glands or sexual organs of men or women; or that the preparations possess any value in the treatment of debility, or which advertisements fail to reveal that use of the preparations may result in serious or irreparable injury to the health of the user. (4053)

## STIPULATIONS

Following stipulations have been entered into by the Commission:

**Artmoore Company, Inc.**, 108 North Water St., Milwaukee, in the sale of the "New Art Cleaner," agrees to cease advertising that prospective agents can make profits or earnings in a specified period which exceed average net profits or earnings consistently made in like periods by the respondent's full time salesmen; that no investment is required for one to sell the "New Art Cleaner," and that one will have no competition in such sale. (02580)

**Danville Knitting Mills, Inc.**, also trading as Master Knit Hosiery Mills, Danville, Va., engaged in the manufacture and sale of hosiery products, has agreed to cease and desist from representing on its transfers, brands, in its advertising matter, or otherwise, that its "Master Knit Hose," or any product of similar construction or composition, has toes and/or heels of linen or is made with linen toe and/or heel, and has toe and/or heel of 3-ply construction, or reinforced gore of toe and/or heel. (2838)

**Detrola Corporation**, 1501 Beard Ave., Detroit, radio and camera manufacturer, has entered into a stipulation in which it agrees to cease advertising that its "Detrola Candid Camera" or other camera having an actual shutter speed of 1/100th of a second, has a shutter speed of 1/200th of a second; or in any other way representing that the shutter speed of a camera which it sells is in excess of the actual speed attained. (2836)

**Dixie Dale Company**—Michael Michalik, trading as Dixie Dale Company, 43 East Ohio St., Chicago, agrees to discontinue representing that "Dixie Dale De Luxe Hair Preparation" will grow hair or speed its growth, stop hair from falling out, give to hair strength or life, make hair softer, and end dandruff troubles. (02581)

**Eagle Mattress Co., Inc.**—See R. C. Heller Co., Inc.

**Editors & Publishers Service Co.**—Charles A. Roberts, doing business as Editors & Publishers Service Co., 25 West Broadway, New York, engaged in selling lists and bulletins containing information relating to slogans, titles and names which have been successful in winning prizes in various competitive contests, agrees to discontinue representing, by unqualified statements such as "You can win" or "You cash in on our knowledge of what it takes to win," or in any other manner, that the reader of the advertisement is assured of winning any contest, cash or prize by reason of buying material composed by, or information furnished by, Editors & Publishers Service Co., or that the material or information furnished will definitely enable one to win, or constitutes more than the assistance of Editors & Publishers Service Co. to the readers in competing for such cash or prizes. (02579)

**Ellis Hosiery Mills**—Ellis Mills and Marvin T. Reavis, co-partners trading as Ellis Hosiery Mills, Hickory, N. C., manufacturers and distributors of hosiery products, have agreed to desist from certain methods of competition.

English ribbed hose, the stipulation points out, is a distinctive type and quality of hosiery originating in England, manufactured there under a patented process and imported into the United



States, where it has long been favorably known and recognized by the trade and the purchasing public. Later English machines for this type of hosiery were imported into the United States, and are used by some hosiery mills. Similar machines are now also manufactured in America, on which hosiery in simulation of the English rib is made for the domestic market. Among many purchasers there is a preference first for the English made imported product, and second for such product made on machines imported from England. This has in some cases resulted in a false branding of an American machine product as being made on machines imported from England.

Ellis Mills and Marvin T. Reavis, in connection with their sale and distribution of hosiery products, have agreed to cease and desist from the use, on their transfers, brands or other markings, of the words "Genuine 6 x 3 Rib" as descriptive of hose that is but an imitation of English rib, or the words or legend "Made on machines imported from England"; or representing or characterizing such product in any other way that may import or imply the belief that the hosiery is either of a style and quality known to the trade and public as genuine English rib hose, or is manufactured by English made machines. (2840)

**Louis Fenster & Brother, Inc.**, 333 Seventh Ave., New York, engaged in the sale and distribution of fur garments, has agreed to cease and desist from invoicing or otherwise designating or referring to coats or other articles made or manufactured from the peltries of Chinese lamb as "Blk. Pers.," "Black Persian Caracul," "Blk. Persian Caracul," "Krimmer Caracul," or other use of the words "Persian" or "Krimmer," either with or without the explanatory clause "Dyed Lamb." The respondent corporation has also agreed to desist from representing directly or inferentially, or placing in the hands of others a means to represent, that coats or other articles made or manufactured from Chinese lamb peltries are made or manufactured from the peltries of Persian lambs or Krimmer lambs, or otherwise making representations which convey or tend to convey a misconception as to the character, name, nature, breed or zoological origin of any fur products offered for sale or sold by it. (2833)

**Hall Gentry Studios**—Maurice W. Teplow, trading as Hall Gentry Studios, 1705 Pacific Ave., Dallas, Tex., has entered into a stipulation to discontinue certain representations in the sale of photographic portraits.

Among representations which the respondent agrees to discontinue are that his regular method of sale is a "special offer;" that the "regular value" of \$1 photographs is \$5 or any amount in excess of the price customarily charged, and, through advertising literature containing the descriptive language "Goldtone Featherweight Oil Colored Print" and "Black and White Vignette Etching" or expressions of similar import, that sepia print photographs are "Goldtones" or are "Goldtones Oil Colored," and that ordinary black and white photographs are "Vignette Etchings" or etchings of any kind. (2834)

**Hamilton Mills**—Joseph D. Miller and David L. Davis, co-partners trading as Hamilton Mills, 1450 Broadway, New York, engaged in the sale and distribution of garments designated "Sportswear," have agreed to cease and desist from use of the word "Mills" as part of their trade name, and of the words "Mill" and "Manufacturers" as descriptive of their business; and from the use of other words of similar implication, the effect of which tends or may tend to convey the belief that they make or manufacture the products sold by them or that they actually own and operate or directly and absolutely control a plant or factory in which such products are made or manufactured. (2832)

**R. C. Heller Co., Inc.**—A Baltimore and a Boston mattress manufacturer have entered into stipulations to discontinue certain representations in the sale of their products. The respondents are R. C. Heller Company Inc., 34 South Frederick St., Baltimore, and Eagle Mattress Company, Inc., 42 Everett St., Boston.

Each respondent corporation agrees to cease employing designations implying that products sold by it have been designed by or under the supervision of a doctor of medicine. R. C. Heller Com-

pany, Inc., stipulates that it will cease using the word "guaranteed" or words of similar meaning in connection with sales of mattresses unless accompanied by clear disclosure of exactly what is offered by way of security, as for example, refund of purchase price, and Eagle Mattress Company, Inc., agrees to cease employing any language implying that its products are endorsed or guaranteed by a member of the medical profession. (2835-2841)

**Katz Drug Company**, 1130 Walnut St., Kansas City, Mo., agrees to cease representing that "Perma Tonic" is a health builder, unless it is explained in direct connection therewith that Perma Tonic of itself does not build health; that the system needs the ingredients contained in the product, and that the preparation is a competent treatment or effective remedy for headaches or billiousness, unless limited to temporary relief of these conditions when they are due to constipation, and for constipation, unless limited to temporary relief. The respondent corporation also agrees that in connection with use of the word "Tonic" as part of the trade name for its product it will insert the word "Gastric" immediately prior thereto. (02583)

**Lefton Textile Corporation**, 39 West 38th St., New York, has entered into a stipulation in which it agrees to cease certain representations in the interstate sale of ribbons.

The respondent corporation agrees to desist from advertising, branding, invoicing, selling or offering for sale any product composed in whole or in part of rayon unless full and nondeceptive disclosure of the fiber and other content is made by clearly naming each constituent fiber in the order of its predominance by weight, and by giving the percentage of any fiber present in less than a substantial amount or in any case less than 5 per cent.

Use of the word "Velvet" or other word signifying pure silk to describe products not made wholly of silk, is a further representation which the respondent agrees to discontinue. The stipulation provides that if the word "Velvet" or a similar word is properly used as descriptive of the type of construction only, of a fabric or product containing fiber other than pure silk, then such word is to be immediately accompanied by other words clearly disclosing the constituent fibers or material in the order of their predominance by weight.

A further practice which the respondent agrees to discontinue is the advertising, branding, invoicing, selling or offering for sale of ribbons having cut edges or made by the adhesion of separate layers of fabric, unless full and nondeceptive disclosure of such manufacturing process is made by clearly designating such process by use of some generally understood descriptive term such as "cut-edge" to describe ribbons having cut (not woven or selvage) edges, and "pasted-back" to describe ribbons made by the joining of two separate layers of fabric. (2837)

**Master Knit Hosiery Mills**—See Danville Hosiery Mills, Inc.

**O'Dea, Sheldon & Canaday, Inc.**, 400 Madison Ave., New York, engaged in conducting an advertising agency which disseminated advertisements for a root beer beverage designated "Hires R-J Root Beer" on behalf of The Charles E. Hires Company, Philadelphia, has agreed that it will cease from disseminating or causing to be disseminated any advertisements which represent directly or by implication that Hires R-J Root Beer will preserve the alkaline reserve; that Hires R-J Root Beer has the same alkaline reaction as orange juice and in the same manner aids in maintaining the alkaline balance; that the root beer is healthful because it is not acid-forming, or is a health protecting beverage, and that it agrees with foods because it is not acid-forming. (02585)

**Reliable Radio Company**—Louis Jutze, trading as Reliable Radio Company, 7710 South Bishop St., Chicago, agrees to desist from advertising that the "Tee-Nie" crystal radio set is designed to operate in one's pocket or without ground or aerial connections; that it gives clear reception, implying that reception is obtainable without earphones; that he has sold any number of Tee-Nie radios in excess of the number actually sold; that the instrument's

principle of operation is new or different, or that the product is more effective than other types of radios. (02582)

**Sunclean Products Company**—Roy Quinlan, trading as Sunclean Products Company, 551 Fifth Ave., New York, in the sale of "Safe-Clean Laxatives," agrees to cease advertising that it is a "wonderful discovery" producing "amazing results," or that its results are different from those of competing laxatives; that it will end constipation, contains nothing injurious and is not habit-forming; that its use will keep the intestines clean and healthy, and that it has any appreciable effect on the functioning of the liver or kidneys. In his stipulation the respondent admitted, among other things, that a laxative is contraindicated under certain conditions, in which cases this preparation would not be safe for use. (02578)

**Mrs. L. H. Tillotson**, 95 South State St., Painesville, Ohio, stipulates that she will desist from advertising "Black Drops" as being a "specific" for neuritis of the sciatic nerve, for kidney trouble, or for any other disease, and as being a cure for any sickness or disease. She also agrees to cease representing that the product contains no drugs and is sold by a medical doctor. (02584)

#### FTC CASE CLOSED

The Federal Trade Commission has closed without prejudice its case against the K. K. Importing Corporation, 45 John St., New York, which was charged with violating the Federal Trade Commission Act in the sale of optical lenses. The respondent company has been dissolved and is no longer in business.

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



## THE WEEK IN WASHINGTON

Neville Miller, in a special message to all broadcast station executives, gives a detailed analysis of new ASCAP contract.

"ASCAP has refused to negotiate with the industry; behind closed doors it has drawn the terms of surrender, and John Paine urges you to come singly to his office and capitulate," Miller says. (p. 4365)

The radio plank of the Republican platform says that radio should be free as the press. (p. 4363)

NAB convention is set for San Francisco on August 4. The program is near completion. Proposed amendments to the By-Laws are in this issue. (p. 4370)

The NAB Board of Directors expresses the view that political broadcasts should be limited to speakers, interviews, announcements and broadcasts of bona fide political meetings held outside the studios. (p. 4370)

The Board also urges all broadcasting stations carrying foreign language programs to exercise "extreme precaution" to prevent the broadcasting of propaganda "inimical to the interests of the United States." (p. 4371)

The NAB Board meets with the BMI Board in New York and discusses important BMI policy. Samuel R. Rosenbaum, WFIL, resigns from the BMI Board because of the pressure of other business. (p. 4372)

The NAB intends to appear July 25 at a hearing called by the Wage and Hour Administration to consider proposals for redefining the classes of employees exempt from the 42-hour limit on the regular work week. (p. 4372)

The FCC makes an interesting decision involving the "economic injury" question. (p. 4372)

The RMA recommends radio advertising by radio dealers. (p. 4373)

NAB Sales Managers Division entertains 1500 at the Advertising Federation of America convention in Chicago. (p. 4374)

The current series of District meetings comes to a close with meetings in Rochester, Memphis and Los Angeles. (p. 4375)

The FCC issues its FM rules. (p. 4376)

The Commission gets \$1,600,000 for "defense" work and announces some of its plans. Chairman Fly says a "defense committee" will be set up. (p. 4380)

## Republicans Declare For Radio Freedom

Radio should be as free as the press.

That is the sense of the Republican Party, expressed in its platform adopted June 26 in Philadelphia.

The text of the radio plank:

### FREE SPEECH

*The principles of a free press and free speech, as established by the Constitution, should apply to the radio. Federal regulation of radio is necessary in view of the natural limitations of wave lengths, but this gives no excuse for censorship. We oppose the use of licensing to establish arbitrary controls. Licenses should be revocable only when, after public hearings, due cause for cancellation is shown.*

Adoption of this plank followed an appearance before the convention resolutions committee last week by Neville Miller, John Kennedy, WCHS; Harry Butcher, CBS; Frank M. Russell, NBC, and Russell P. Place, NAB counsel.

The committee will ask the Democratic Party to put a radio plank in its platform at the Chicago convention next month.

## The Convention

Just five weeks from next Monday, Neville Miller will drop the gavel for the opening session of the NAB's Eighteenth Annual Convention at the St. Francis Hotel, San Francisco.

The convention is definitely set for the Golden Gate. The Board, meeting last week in New York, decided against any change.

Every member will want to attend. A bang-up business  
(Continued on page 4364)



The NATIONAL ASSOCIATION OF BROADCASTERS

1626 K St., N. W. WASHINGTON Phone NATIONAL 2080

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

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

### THE CONVENTION

(Continued from page 4363)

ness schedule is being arranged. Pacific Coast broadcasters, elated to play hosts to their Eastern and Mid-Western friends promise a grand time for everyone.

The complete program for the convention, slated to start Sunday, August 4, will be announced in about two weeks.

Meantime, every member should make his plans to be on hand. The NAB promises a convention that should never be forgotten.

### HOW ARE YOU GOING?

We know there are a lot of miles between some of you broadcasters and San Francisco. We know, too, that in past years there were a lot of miles between western broadcasters and the places where the conventions were held. These westerners came in goodly numbers and now they are extremely anxious to have their eastern friends in the broadcasting industry see the west, partake of their hospitality and benefit by being at the convention.

Have you made your plans? Through Raymond-Whitcomb, Inc., of Baltimore, we have worked out arrangements for some "all-expense" tours. The routes are alternative and were based upon expressions made by broadcasters in response to a preliminary questionnaire. There are three alternate schedules for the outbound trip. On the homeward trek, you have five alternatives. The following skeleton outline sets forth the choices. All schedules call for departure from Chicago. One, on Saturday, July 27, and the other two on Sunday, July 28. All will "land" you in San Francisco at 8:00 a. m. on Sunday, August 4, the day the convention opens. You have been sent and, if you desire, will again be provided complete outlines of the routes, services and costs of these tours. Here is the skeleton outline.

#### TOUR No. 1

Lv. Chicago Sunday, July 28 —12:35 p. m.  
Ar. San Francisco Sunday, August 4 — 8:00 a. m.

(This tour via Denver, Salt Lake City and Los Angeles)

#### TOUR No. 2

Lv. Chicago Sunday, July 28 —10:30 a. m.  
Ar. San Francisco Sunday, August 4 — 8:00 a. m.

(This tour via Colorado Springs, Grand Canyon and Los Angeles)

#### TOUR No. 3

Lv. Chicago Saturday, July 27 —12:35 p. m.  
Ar. San Francisco Sunday, August 4 — 8:00 a. m.

(This tour via Denver, Salt Lake City, Cedar City and the North Rim of the Grand Canyon and Los Angeles)

RETURNING: Any who desire, may come direct from San Francisco to Chicago leaving on Western Pacific at 9:00 p. m., Thursday, August 8, and arriving in Chicago at 11:55 a. m., Sunday, August 11.

For those who wish to see the Pacific Northwest and visit either Yellowstone National Park or Glacier National Park, the following homeward schedule has been arranged.

Lv. San Francisco Thursday, August 8 — 5:00 p. m.  
Ar. Portland Friday, August 9 —12:30 p. m.  
Lv. Portland Friday, August 9 —11:30 p. m.  
Ar. Seattle Saturday, August 10— 6:45 a. m.

Those who desire to go by way of the Canadian Rockies will leave Seattle, Sunday, August 11, by Canadian Pacific Railway at 9:00 p. m., stop in Victoria, Vancouver, Banff and Lake Louise, and arrive in Chicago, Saturday, August 16, at 2:40 p. m.

Those desiring to return by Yellowstone or Glacier National Parks will have choice of the following alternative schedules:

On Saturday a one day trip to Victoria, B. C., leaving Seattle at 9:00 a. m. and returning at 9:00 p. m. Sunday will be spent in sight-seeing in Seattle, then the alternative tours leave as follows:

1. Leave Seattle, Sunday, August 11, Northern Pacific, 9:45 p. m., by way of Yellowstone National Park, arriving Chicago, Saturday, August 17, 8:45 a. m.

2. Leave Seattle, Sunday, August 11, Chicago Milwaukee and St. Paul Railway, 10:30 p. m., by way of Yellowstone National Park, arriving Chicago, Saturday, August 17, 8:55 a. m.

3. Leave Seattle, Sunday, August 11, Great Northern Railroad, 10:15 p. m., by way of Glacier National Park, arriving Chicago, Friday, August 16, at 8:40 a. m.

Here you have a choice between a two weeks' and a three weeks' excursion. The arrangements are de luxe. Your time will be your own, but every consideration has been given to means through which you may be able to make thorough arrangements that will make possible your enjoyment of the scenic attractions of the West.

The Pullman Company, rail carriers and hotels, which have set aside facilities for the groups who go on these tours, must know not later than July 10 what our requirements will be. If you haven't made your selection of a tour yet, you are requested to do so right away so that you may be included. Remember the deadline for reservations is July 10. You may address communications direct to Raymond-Whitcomb, Inc., Baltimore, or to headquarters office. Let us hear from you.

### STATION PROMOTIONAL MATERIAL

At past conventions space has been provided for the display by stations of promotional material. In order that plans may be made to effectively handle this matter at the San Francisco convention we sincerely request the management of all stations desiring to make a display of their promotional material at San Francisco to immediately advise headquarters. Give us complete explanation of the type of material you plan to show and the form in which you would like to show it. We are par-

(Continued on page 4370)

# THE ASCAP CONTRACT

June 27, 1940.

## Important to All Broadcast Station Executives:

On Friday, June 21, the Boards of the National Association of Broadcasters, the Independent Radio Network Affiliates and Broadcast Music, Inc., held an all day session in New York. Of the thirty-five persons who make up the joint boards, thirty-three were present, representing all classes of stations and all interests in broadcasting. Without a dissenting vote, a new plan for the future financing of BMI was adopted, and the plan is based on BMI's permanent organization on a basis which contemplates meeting the economic needs of stations in the small income level, as well as for providing an economic basis for stations in the higher income level.

I know you would have been impressed by the seriousness and optimism of that meeting. The progress of BMI to date clearly demonstrates that we can solve our music problem and the action taken at the meeting indicated the confidence which broadcasters have in BMI. The solution which broadcasters have sought for years is now within our grasp—provided we do not abandon our efforts to create a pool of music and accept the bait dangled before our eyes by ASCAP in the form of the proposed contract supposedly favorable to stations, but which actually is illusory.

Simultaneously with this meeting of broadcasters, ASCAP sent out its proposed form of contract which the joint meeting unanimously found to be disadvantageous to broadcasters, no matter where situated, nor in what income category.

I enclose an analysis of the "single station" license agreement. The basic abuses inherent in ASCAP's organization and its method of levying charges upon broadcasters are well known, and are not discussed here, as they would exist even if the form of contract was satisfactory. I urge you to study the contract in the light of this analysis.

I call your particular attention to the fact that ASCAP has drawn a one-sided contract for you to sign. ASCAP requires a lot in the way of payment, it guarantees little; ASCAP may cancel the contract, but the broadcaster is bound for five years; there are no provisions for lessening the cost upon failures by ASCAP to deliver, but there are many provisions for levying increased toll upon broadcasters; the percentage of payment is lessened in some cases, but the base is broadened to include not only time sales, but talent costs, line charges, etc.; none of the present abuses are eliminated; the question whether you have the right to make an arrangement is left unanswered, undoubtedly for a purpose; the indemnity clause does not protect the sponsor or the agency; and there are many other interesting features which ASCAP has thought up for "your benefit".

More important than the form of the contract, more basic than the question of whether this station or that may obtain a temporary financial saving, is the true underlying problem. The industry's action at this time will determine whether broadcasters can obtain music in a free competitive market, or continue to sign on a dotted line laid before them by a music monopoly.

ASCAP has refused to negotiate with the industry; behind closed doors, it has drawn the terms of surrender, and John Paine urges you to come singly to his office and capitulate.

Very truly yours,



*President, National Association of Broadcasters.*

#### ANALYSIS OF "SINGLE STATION" LICENSE AGREEMENT TENDERED TO BROADCASTERS BY ASCAP

The new ASCAP contract will prove, when analyzed, to afford no protection whatsoever to broadcasters. It obligates broadcasters for a period of five years, but it imposes no obligation on ASCAP to furnish any specified body of music at any specified price. In other words the proposed contract will not give any station which was induced to sign it protection for any portion of the term of the contract. The apparent protection which it gives and the apparent rights which it grants are in fact entirely illusory. It is not possible in a brief memorandum to set forth all of the disadvantages of the ASCAP contract, but the following are the chief means by which ASCAP accomplishes the result of binding the station while leaving itself free to do anything it wants.

#### I—The Broadcaster Who Signs the ASCAP Contract Does Not Know What, if Anything, He Will Be Getting for His Money

Previous contracts between broadcasters and ASCAP have defined the body of music which is licensed, by having ASCAP agree during the term of the contract to maintain for the service of the broadcaster substantially its catalogue of compositions as of the date on which the contract was signed. In other words broadcasters knew what they were getting. *The proposed contract omits this provision and substitutes nothing in its place.* ASCAP makes no representation as to the extent of the catalogue which it will give you. ASCAP can substantially reduce its catalogue prior to the date on which the broadcaster signs. Publishers and writers may withdraw. *Indeed,*

*it is known that important publishing houses have not yet committed themselves to ASCAP for a further term.* If these houses do not join ASCAP, broadcasters who sign now will still pay the full amount under the proposed contract.

Not only that, but ASCAP can reduce the repertory even during the term of the contract. ASCAP has committed itself to no agreement to maintain its repertory for your needs. On the contrary, ASCAP has affirmatively stated that it reserves the right to discontinue all of ASCAP's contracts with its foreign affiliated societies, including all of the compositions of Argentine, Belgian, Brazilian, Bulgarian, Czecho-slovakian, Danish, English, Finnish, French, German, Hungarian, Italian, Yugoslavian, Norwegian, Portuguese, Roumanian, Spanish, Swedish and Swiss composers and publishers. ASCAP has always represented that there were 45,000 composers whose works were made available to you through foreign catalogues as against only 1,000 American composers who are members of ASCAP. Yet ASCAP gives itself the right to withdraw all of these musical compositions from the operation of the license with the broadcaster and says that this "shall not affect the license *or the compensation payable hereunder.*" Since ASCAP remits money to foreign societies, it would actually be in ASCAP's interest to reduce its repertory because this would mean that the money which it collected from broadcasters could be divided among even fewer persons than in the past.

In addition to all of these rights to reduce in advance or to diminish during the term of the new contract the body of music which broadcasters think they are getting, ASCAP, for the first time, gives itself the right to assign the contract to any person, firm or corporation or association it wants to assign it to, and provides that the

contract will inure to the benefit of the person to whom the contract is assigned. This means that you may make your contract with ASCAP but that you may find yourself doing business with somebody else, perhaps a person or firm or corporation of no financial responsibility with very limited music rights. In other words, you may make a contract, paying a price that you think ASCAP is entitled to, and then find that you have your contract with some new corporation to whom you would not, in the first instance, have agreed to pay a penny.

To sum up, under these new provisions ASCAP reserves to itself the right to give the broadcaster who signs the contract *as much music or as little music as ASCAP pleases*. In other words, the broadcaster who signs this contract is "buying a pig in a poke."

## II—ASCAP May Restrict Its Entire Catalogue Without Any Recourse on the Part of the Broadcaster

The provisions in previous contracts with respect to the restriction of musical numbers have been extremely unfavorable to broadcasters. ASCAP publishers have been restricting the use of their compositions as a means of obtaining additional compensation from broadcasters, not by way of cash, but by way of free advertising for motion pictures, theatrical attractions, etc. Under the old contract, at least, the broadcaster had the right to cancel his contract in the event that any musical composition was withdrawn, which meant that the broadcaster could stop his payments if the catalogue became useless to him. *ASCAP has found a way to make this bad provision worse.*

The proposed contract gives ASCAP the affirmative right to withdraw any thousand numbers that it wishes to restrict. These may be the thousand best numbers, and ASCAP may demand additional payment for their performance. Much worse than this, however, is the situation of broadcasters if more than a thousand numbers are withdrawn. In order to indicate what the provisions of the ASCAP contract really accomplish, let us examine a concrete case.

We will assume that ASCAP restricts 10,000 compositions. The broadcaster then has only one right. He may give sixty days notice of cancellation. During these sixty days he cannot use the 10,000 numbers which constitute the only useful part of the ASCAP repertory. On the fifty-ninth day ASCAP may reduce the number of restricted compositions to 1,000. The notice then becomes entirely inoperative. A few days later ASCAP can again restrict 10,000 compositions. The broadcaster again has no right other than to give sixty days notice. During these sixty days he cannot use the compositions, and at the end of the sixty days ASCAP can restore the

numbers to the repertory for a few days and then begin the performance all over again. This can continue until the broadcaster runs out of postage stamps, and, with the exception of a few intervals of a few days at a time, the broadcaster will continue to pay his full license fee on his entire gross business, but get no real value out of the ASCAP catalogue whatsoever.

## III—The Proposed Contract "Freezes" the Broadcaster's Present Status

The proposed license relates only to "non visual broadcasting" and it specifically excludes any transmission of sound in synchronization or simultaneously with visual images. In other words, television has to be paid for separately, but the broadcaster is not relieved of the obligations of the contract even though it becomes useless to him because television has become commercial within the period of the agreement.

For the first time the new form of license restricts the broadcaster not only to a single enumerated broadcasting station but even to studios specifically enumerated in the contract. *Frequency Modulation is not covered by the agreement.* A new contract at ASCAP's own terms is needed for F.M., and nothing in the contract relieves the broadcaster from any payment under the contract which he now is asked to sign. Even the moving of a studio to a new location or the building of a new studio would leave the broadcaster at ASCAP's mercy, since he has no legal right to originate from such point without ASCAP's consent.

Moreover, network broadcasting is entirely excluded. This applies to a broadcast program which is simultaneously broadcast over as few as two stations. If two stations simultaneously broadcast an athletic event, a parade or a presidential inauguration, they are not covered by their contracts, and ASCAP can make new and greater demands for the privilege of doing this. Indeed, if a network takes out an ASCAP license, *network programs can be carried over the stations even if the station has never signed the single station license agreement.* Furthermore, if a broadcasting station which signs this agreement wishes to originate a program which will be heard over any other broadcasting station, the station which has already signed the single station license is required to sign the 7½% network license in the regular form. This applies equally to originations by a station which is a network affiliate for the purpose of putting a program for other stations on the network, or to a temporary hook-up under which a station would wish to make an athletic or similar event available to another station. In other words, the station is making payment purely for individual local origination. If it is apparently paying less, it is certainly getting much less.

#### IV—ASCAP Has Deprived the Station of All Escapes from the Contract But Has Given Itself Additional “Outs”

Previous contracts have contained provisions under which the broadcaster can cancel his contract if the broadcaster's license is terminated, cancelled, revoked or suspended, or if radio broadcasting is supported from other sources or operated by other than private interests. *This clause has been omitted, and nothing has been substituted in its place.* In other words, if the broadcaster loses his license, or if war conditions bring about some drastic change in our industry, the broadcaster, nevertheless, and for the first time, has no right to cancel his contract.

When the shoe is on the other foot, the contract operates quite differently. For instance, if the state or county or city in which the broadcasting station is located passes any law which ASCAP doesn't like, ASCAP reserves the right to terminate the agreement with the broadcaster. The broadcaster cannot terminate the agreement with ASCAP if any laws are amended by the government. The law to which ASCAP objects may have been something with which the broadcaster had nothing to do. The broadcaster may even have opposed the law. ASCAP, nevertheless, reserves the right forthwith to tear up the broadcaster's contract in the event of a statutory change distasteful to ASCAP. Under this clause an innocent broadcaster may find himself stopped in the middle of a day's broadcasting.

#### V—The ASCAP Tax Is Levied Not Only on Time Sales But on Talent Costs, Line Charges, Etc.

For the first time, “broadcasting facilities” are defined to include all regularly employed personnel, including actors, singers, musicians, etc. The only time that the broadcaster can avoid paying ASCAP a percentage on talent costs is where the talent is not regularly employed, where the talent is actually engaged for the sponsor for a specific program and where the talent is actually paid separately for specific commercial services. *This means that all of the money which a broadcaster gets from selling his house band to a sponsor, through furnishing the services of regularly employed announcers, etc., is income on which ASCAP collects its percentage.*

Not only does ASCAP collect on talent *but also on line charges, etc.* This result is accomplished by having the agreement provide that the broadcaster is *not* required to “account for sums received from religious broadcasts where the amount paid is solely in reimbursement for the cost of lines, wire charges and technical personnel.” There is a further provision that “special line charges, special announcers and extra engineers” may be deducted with respect to “athletic events.” This means that the broadcaster *must* pay the percentage on all costs of lines,

wire charges and technical personnel except religious broadcasts, and must pay his percentage on all extraordinary expenses such as special line charges, special announcers and extra engineers on all programs except athletic events.

Even in the limited cases in which deductions are allowed, they can be made only if the broadcaster has charged the sponsor “the highest rate charged for a similar given period of time.” This means the national rate, so that *no deduction may be taken on any program broadcast for a local sponsor.* In fact ASCAP must be paid on at least the highest card rate applicable to a similar period of time even if payment is made in some medium other than cash or notes, namely, free rent of a studio located in a hotel for which daily announcements are given, etc.

Indeed, “broadcasting facilities” by express definition includes services and “services” by express definition includes not only wire service and electrical transcriptions but “service of every nature.” This means that the ASCAP tax is levied not only on sale of time, not only on personnel, not only on wire charges, but on every merchandising and other service of any nature whatsoever which a broadcaster may render to an advertiser.

When these factors are weighed, the apparent temporary savings to some broadcasters will, it would appear certain, be greatly reduced.

#### VI—The Proposed Contract Does Not Cure the Essential Defects of the Existing Contract

Since the last ASCAP contract was drawn abuses have arisen and threats been made, which any new contract, which properly protects broadcasters, should correct. ASCAP fails to correct and, in fact, it perpetuates all of the clauses under which a nullification of the ASCAP contract was threatened. Some of these are:

(a) There was no specific clause in the last ASCAP license giving broadcasters the right to perform “special arrangements” of ASCAP compositions and permitting them to make any written copies of parts for their files. Broadcasters took it for granted (as they had a right to) that a license to perform carried with it the normal rights which would make such license usable. As every broadcaster knows, the right to perform ASCAP compositions precisely as they are printed is not worth anything because every band and every performer adapts the composition to specific needs. To the amazement of broadcasters, ASCAP publishers, since the last contract was executed, have claimed that under the ASCAP license the ASCAP publisher is still free to exact a special charge in any amount the publisher wishes for the right to arrange the musical composition. There is now pending a test suit against a phonograph record company in which



a leading ASCAP publisher makes precisely this claim—the claim that a broadcaster can perform a phonograph record only if the tune has been recorded precisely as printed. The viewpoint so put forward has been supported by ASCAP publishers and writers as a whole and by the special organizations of publishers and writers who are included within ASCAP. ASCAP has refused to oppose these claims of its members but has, indeed, said that ASCAP does not own the right to arrange compositions and has said that it could not grant this right even if it wanted to. Under these circumstances, the proposed ASCAP contract means that broadcasters are buying a law suit and that if the law suit is won, the whole ASCAP contract is robbed of its usefulness. This would not mean that broadcasters could stop paying under the proposed contract. They would have to continue to pay their full percentages, but they would have to pay as much more as the ASCAP members wanted to exact.

(b) When an attempt was recently made to exact special charges from stations for the right to perform phonograph records the music publisher members of ASCAP, through their official organization, Music Publishers' Protective Association, were quick to assert that they were entitled to special compensation from broadcasters from the the performance of phonograph records. A law suit is now pending to determine whether broadcasters must make special payment for the right to perform records. If this law suit should be decided adversely to broadcasters, music publishers would assert under the foregoing "arrangement" claim that they were entitled to a part of the revenue. The proposed con-

tract gives no protection against the making of any such claim.

(c) The present indemnity clause in the ASCAP contract has long been unsatisfactory because it does not protect broadcasters who perform a foreign composition contained in the ASCAP repertory. During the last few years, however, a new abuse has arisen. Persons who have sued for infringement have, in some cases, sued not broadcasters but sponsors and advertising agencies. ASCAP's counsel have consistently taken the position that the ASCAP indemnity protects only the broadcasting station, and they have refused to defend the law suits against the advertising agencies and sponsor or to indemnify agencies and sponsors against damages. This means that the broadcaster has had to assume the defense at the broadcaster's expense or possibly deter a client from using his station. A new contract with ASCAP should provide that not only the broadcaster but his advertising agencies and sponsors are protected if they play a number which ASCAP represents as being in the ASCAP repertory.

THE FOREGOING ANALYSIS DOES NOT ATTEMPT TO DISCUSS THE BASIC ABUSES INHERENT IN ASCAP'S ORGANIZATION OR ITS METHOD OF LEVYING CHARGES UPON BROADCASTERS. THESE BASIC DEFECTS WOULD EXIST EVEN IF THE FORM OF CONTRACT HEREIN DESCRIBED WERE SATISFACTORY. THIS ANALYSIS SHOULD, THEREFORE, BE CONSIDERED AS CONSTITUTING ADDITIONAL REASONS WHY BROADCASTERS SHOULD CAREFULLY CONSIDER THEIR COURSE OF ACTION.

## STATION PROMOTIONAL MATERIAL

(Continued from page 4364)

ticularly anxious to get the dimensions of the space which you will require. Naturally it may be necessary to make some adjustments to conform all the exhibits to the space available. To every extent possible, however, the wishes of the individual broadcaster will be accommodated. Let us hear from you promptly.

### AMENDMENTS TO BY-LAWS

Two proposals to amend the By-Laws of the National Association have been authorized for submission by the Board of Directors.

Article XIII of the By-Laws requires that proposed changes shall be "submitted by mail to the last recorded address of each member at least 30 days before the time of the meeting which is to consider the change". The meeting to consider the change is the Eighteenth Annual meeting to be held at San Francisco, August 4 to 7, inclusive. This is, therefore, your notice of the following proposed amendment.

That Article VII, Section 1, of the By-Laws be amended to read as follows:

"DIRECTORS:

"Section 1. Number. The business and affairs of the Association shall be managed by and under the direction of a Board of Directors of (twenty-three) *twenty-six* members, to be selected as hereinafter provided, each of whom shall be an Active Member of the Association or a representative actually engaged in the business of an Active Member."

That Article VII, Section 2, of the By-Laws be amended to read as follows:

"Section 2. Classification of Directors. There shall be one Director from each District, referred to hereinafter for purposes of convenience as District Directors. There shall be six additional Directors, referred to hereinafter for purposes of convenience as Directors-at-Large, two of whom shall be representative of large stations, two of whom shall be representative of medium stations, and two of whom shall be representative of small stations, operating power to govern these classifications. *There shall be three additional Directors, referred to hereinafter for purposes of convenience as Network Directors, one of whom shall be representative of Columbia Broadcasting System, Inc., one of whom shall be representative of Mutual Broadcasting System, Inc., and one of whom shall be representative of National Broadcasting Company, Inc.*"

That Article VII, Section 4, of the By-Laws be amended to read as follows:

"Section 4. Nomination of Directors-at-Large *and Network Directors*. The District Directors shall constitute a Nominating Committee which Committee shall meet in advance of the annual membership meeting and shall nominate two persons for each of the six Directors-at-Large, *and two persons for each of the three Network Directors* as defined in Section 2 above. Such nominations shall be reported to the membership during the first session of the annual meeting."

That Article VII, Section 5, of the By-Laws be amended to read as follows:

"Section 5. Election of Directors-at-Large *and Network Directors*. Election of Directors-at-Large *and Network Directors* shall proceed as follows:

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

"B. The Elections Committee shall prepare ballots upon which there shall be arranged the names of the twelve nominees for Directors-at-Large in six groups of two names each, *and the names of the six nominees for Network Directors in three groups of two names each.*

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

"D. The Elections Committee shall distribute ballots.

"E. The Elections Committee shall on the second day of the membership meeting announce a time and place for balloting and shall supervise such balloting.

"F. Immediately after the conclusion of balloting, the Elections Committee shall proceed to count ballots and announce the results.

"G. The nominee receiving the highest number of votes in each of the (six) *nine* groups shall be declared elected."

That Article VII, Section 6, of the By-Laws be amended to read as follows:

"Section 6. Tenure. All Directors-at-Large *and Network Directors* shall be elected to hold office until the conclusion of the membership meeting to be held next after their election. District Directors shall assume office at the first meeting of the Board of Directors following the meeting of the membership held after their election and shall hold office until the close of the second annual meeting after assuming office; provided: that District Directors elected at the 1938 annual membership meeting by District 1, District 3, District 5, District 7, District 9, District 11, District 13, District 15 and District 17, shall serve until the close of the 1939 membership meeting and that District Directors elected at the 1938 annual membership meeting by District 2, District 4, District 6, District 8, District 10, District 12, District 14, and District 16, shall serve until the close of the 1940 membership meeting."

(EXPLANATION: Matter in italics is new; matter in parentheses is to be omitted.)

The second amendment is as follows:

That Article III, Section 2, of the By-Laws be amended by striking therefrom the following: "(licensed within the band 550 to 1600 kilocycles)" and inserting in lieu thereof the following: "the term 'radio broadcasting' as used herein is defined as the free dissemination to the general public, by means of electromagnetic waves, of intelligence and entertainment appealing either to the aural or visual senses or both."

The section, as amended, will read as follows:

"Article III. Membership and Districts. . . .

"Section 2. Active members. Any individual, firm or corporation engaged in the operation of a radio broadcasting station within the United States or its dependencies shall be eligible to Active Membership in the Association to the extent of one membership for each radio broadcasting station which it operates. The term 'radio broadcasting' as used herein is defined as the free dissemination to the general public, by means of electro-magnetic waves, of intelligence and entertainment appealing either to the aural or visual senses or both."

### POLITICAL BROADCASTS

Following a thorough discussion of the subject, the Board of Directors, at a meeting held in New York last Saturday, expressed the view that political broadcasts should be limited to speakers, interviews and announcements, and to broadcasts of bona fide political meetings or rallies held outside the studio.

It was the feeling of the Board that stations and networks will find that the best interests of the industry will be served by a broadcasting policy which would bar the following: dramatizations of political issues, either in the form of announcements or programs; studio political "rallies"; audience participation programs such as the

"Man on the Street" type; anonymous, simulated and unidentified voices at any time.

The Board discussed the matter of the sale of time on election day, and came to the conclusion that this is a subject, in some states affected by law, within the decision of the individual broadcaster. They also discussed but took no action on the matter of limitation to not more than one hour in any one evening to any one candidate.

### FOREIGN LANGUAGE BROADCASTS

The Board of Directors urges all broadcasting stations carrying foreign language programs "to exercise extreme precautions against the use of their facilities, wittingly or unwittingly, to promote propaganda inimical to the interests of the United States."

The Board, at a meeting in New York, adopted the following resolution:

"RESOLVED, that the Board of Directors of the National Association of Broadcasters recognizes the importance of preserving freedom of speech and radio, and the necessity of serving the interests of that segment of the listening public which is most effectively reached by broadcasts in foreign languages. During the present period of emergency, stations carrying foreign language broadcasts are urged to exercise extreme precautions against the use of their facilities, wittingly or unwittingly, to promote propaganda inimical to the interests of the United States. Scripts should be carefully scrutinized in advance by station managers, and appropriate measures should be taken to guard against deviation from approved scripts."

In connection with the resolution, Neville Miller issued the following statement:

"The Board, mindful of the traditions of free speech and free radio, and of the value of foreign language broadcasting to reach important groups of citizens, urgently recommends to all stations carrying foreign languages that in advance of their presentation,

"(1) All scripts in foreign languages be carefully read and appraised in the light of American national defense;

"(2) After the station's approval of such scripts, adequate and capable linguists in whom complete confidence may be reposed, shall be utilized to supervise active presentation on the air to prevent possible ad lib insertions or deviations from the scripts;

"(3) A complete file of continuity and script of all foreign language broadcasts should be kept.

"The Board further is of the opinion that the licensees of broadcasting stations operating in the foreign language field are capable of handling this problem intelligently and voluntarily and their service to national defense, both potential and actual, in maintaining intimate contact and understanding with foreign language groups should be maintained."

## BMI Developments

Two more stations are welcomed to the list of BMI subscribers and licensees:

KVOD—Denver, Colorado.  
WGRC—New Albany, Indiana

On June 21 there was a joint meeting of the BMI board of directors with the NAB directors and representatives of IRNA and NIB at the Waldorf-Astoria Hotel in New York. The meeting was devoted to a consideration of various BMI matters and resulted in a unanimous ex-

pression of approval of the BMI work to date and of the general project of financing the expanded activities of BMI. Details of the expansion project were left to the judgment of the BMI board.

Trade papers have recently published stories about the proposed acquisition by BMI of the Robbins, Feist, and Miller catalogues (all controlled by Metro-Goldwyn-Mayer Pictures, Inc.) at a sum in excess of \$4,000,000. It has been common knowledge on Tin Pan Alley that BMI representatives have been carrying on negotiations with representatives of these and other ASCAP music publishers. No negotiations have been consummated or deals concluded with any music publishing houses, other than those already announced, and BMI members can be assured that authoritative statements will be given to members of BMI through the usual channels at least as soon as to the press, in the event that BMI concludes outstanding catalogue acquisitions with any publishing houses either within or without ASCAP.

At the Waldorf meeting BMI officers received further strong confirmation of the desire of BMI subscribers for an increased amount of BMI and other non-ASCAP music in transcribed form. M. E. Tompkins, BMI's General Manager, gave assurances that transcriptions would be made available to meet this demand. For this purpose he is inviting representatives of the various transcription companies to meet with him in the near future. At this meeting plans and arrangements will be made so that the transcription industry, in cooperation with BMI, may furnish an ample supply of music in recorded form suited to the needs of all stations.

One ASCAP official excused the delay in issuing the proposed license contracts on the ground that every time the committee met to approve the release of the contracts they got some new ideas about them.

On that point broadcasters seem to be, for once, in the same position as ASCAP officials. Now that the contracts have been released, every time a broadcaster looks at them he can think of new things to say—most of them unprintable.

Among the six or eight hundred manuscripts that BMI's editors receive each week there are some choice items which the public will probably never see. Some sort of prize for originality must be awarded to the ambitious writer who submitted a manuscript which proved to be the music of "The Star-Spangled Banner" decorated with new words. A Rand-McNally atlas might be a fitting prize for another writer who had the palms of Hawaii waving against the blue skies of Tahiti. And certainly a consolation prize ought to go to the songbird who sang, "I'm Only An Egg In A Love Nest."

## BMI FEATURE TUNES

July 1-July 8

1. DON'T THE MOON LOOK PRETTY?
2. PRACTICE MAKES PERFECT
3. WE COULD MAKE SUCH BEAUTIFUL MUSIC
4. WHAT GOOD'S THE MOON?
5. HERE IN THE VELVET NIGHT
6. IN THE SILENCE OF THE DAWN

Samuel R. Rosenbaum, WFIL, resigned with regret last week as a BMI director. Mr. Rosenbaum notified Neville Miller that the pressure of other business matters in Philadelphia made it impossible for him to attend board meetings regularly, and that he thought he should make way for someone who could. The board elected Paul W. Morency, WTIC, to succeed Mr. Rosenbaum.

## Labor

### NAB TO ASK REDEFINITION OF "EXECUTIVE" JULY 25

The NAB intends to appear July 25 at a hearing called by the Wage and Hour Administration to consider proposals for redefining the classes of employees exempt from the 42-hour limit on the regular work week.

The Wage and Hour Act exempts bona fide executives, professional workers, outside salesmen and certain other classes. The Administration has so defined "executive," however, that very few broadcasting executives are exempt.

The most burdensome provision in the Administration's definition of "executive" is the requirement that an executive "does no substantial amount of work of the same nature as that performed by non-exempt employees."

The NAB intends to ask for removal of that requirement.

Last week, Joseph L. Miller, NAB labor relations director, sent out a questionnaire for information necessary to presenting the industry's case.

Failure of a substantial majority of all stations to answer this questionnaire would not only make presentation difficult but also make it appear that the industry was not interested in any change.

The present definition of "executive":

The term "employee employed in a bona fide executive (and administrative \* \* \* capacity" in section 13(a)(1) of the Act shall mean any employee whose primary duty is the management of the establishment, or a customarily recognized department thereof, in which he is employed, and who customarily

and regularly directs the work of other employees therein, and who has the authority to hire and fire other employees or whose suggestions and recommendations as to the hiring and firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight, and who customarily and regularly exercises discretionary powers, and who does no substantial amount of work of the same nature as that performed by non-exempt employees of the employer, and who is compensated for his services at not less than \$30 (exclusive of board, lodging, or other facilities) for a workweek.

## Legal

### "ECONOMIC INJURY"

Broadcasters interested in the "economic injury" question will read with interest the FCC's summary of its decision in an Erie, Pa., case:

Congress intent would be nullified and Supreme Court declaration concerning the desirable effects of competition would be meaningless if the FCC were required to deny a radio station entry into the field merely because it would have an adverse effect on an existing station, declares the Commission in denying petition for a rehearing filed by WLEU Broadcasting Company, Erie, Pa., on the Commission's grant of a construction permit to the Presque Isle Broadcasting Co. for a new station at that place. To quote from the Commission's decision:

"It is a direct contradiction of the proposition that free competition is the basic principle of the American system of broadcasting to contend that the Commission is under a duty to consider the effect which competition may have upon the ability of an existing licensee to continue to serve the public. It is implicit in the idea of free competition that public interest cannot possibly be adversely affected by the failure of an existing station to survive due to increased competition, because this result cannot follow unless the new station's competitive efforts enable it to render a superior public service.

"The Supreme Court has made it perfectly clear that 'Congress intended to leave competition in the field of broadcasting where it found it' and to permit 'a licensee to survive or succumb according to his ability to make his programs attractive to the public.' A licensee is not entitled to be protected from competition and the Commission is under no duty to make findings on the effect of such competition on the licensee."

The Commission notes a vital distinction between the situation where an applicant is not financially qualified and the case where the applicant is so qualified, but points out that the petitioner does not allege that this applicant is not financially qualified but bases its complaint on the possible effect of competitive effort. The statute does not require the Commission to consider the latter factor but makes success or failure in the broadcasting business depend solely on a licensee's "ability to make his programs attractive to the public."

WLEU, the only broadcast station in Erie at the present time, operates on 1420 kilocycles with 250 watts, unlimited time. It devotes approximately 40 per cent of its time to NBC Blue Network programs. The Presque Isle Broadcasting Co., which received a construction permit March 13, proposes a local program service. There are 75 churches, 25 charitable organizations, 30 educational institutions, and more than 100 civic or social organizations in Erie. The Presque Isle Broadcasting Co. proposes to operate on 1500 kilocycles with 250 watts day and 100 watts night.

Russell P. Place, NAB counsel, made the following comment:

In the Saunders Brothers decision the Supreme Court, in addition to the quotation given by the Commission, said:

"We hold that resulting economic injury to a rival station is not in and of itself, and apart from considerations of public convenience, interest or necessity, an element the Commission must weigh and as to which it must make findings in passing on an application for a broadcast license."

The Court went on, however, to make the following observations:

"This is not to say that the question of competition between a proposed station and one operating under an existing license is to be entirely disregarded by the Commission, and, indeed, the Commission's practice shows that it does not disregard that question. It may have a vital and important bearing upon the ability of the applicant adequately to serve his public; it may indicate that both stations,—the existing and the proposed,—will go under, with the result that a portion of the listening public will be left without adequate service; it may indicate that, by a division of the field, both stations will be compelled to render inadequate service. These matters, however, are distinct from the consideration that, if a license be granted, competition between the licensee and any other existing station may cause economic loss to the latter."

It would therefore appear that the second sentence quoted above from the Commission's decision may indicate a lack of appreciation of all that the Court said in the Saunders Brothers decision. The Commission's statement that "It is implicit in the idea of free competition that public interest cannot possibly be adversely affected by the failure of an existing station to survive due to increased competition, because this result cannot follow unless the new station's competitive efforts enable it to render a superior public service" overlooks the views of the Supreme Court that it is possible for both stations to go under and that a division of the field may compel both stations to render inadequate public service.

### **LIBEL LAW UNCONSTITUTIONAL**

On June 21, Judge Shields of the Circuit Court for Duval County, Florida, held that the Florida radio defamation statute, Chapter 19616, Acts of 1939, is unconstitutional. In denying the defendant Florida Broadcasting Company's motion to dismiss the declarations in the three companion libel cases of Boyd, Haimowitz and Nooney vs. Brown Whatley and Florida Broadcasting Company, Judge Shields said:

"1. By said motion to dismiss, which raises the same defense to plaintiff's declaration as the 25th ground of said Florida Broadcasting Company's demurrer, said Company moved the Court to dismiss it from this cause because, 'By the express terms of Chapter 19616 Laws of Florida, which was in full effect and operation when the alleged libelous statements were published or uttered by defendant Brown Whatley in a radio broadcast over the broadcasting station owned and operated by this defendant, this defendant is not liable for any damages for any defamatory or libelous statements so published or uttered.

"It appears that the practical effect of the Act relied on would be to prohibit the recovery from a Radio Broadcasting Company of any damages of any kind, including actual or compensatory damages, for any libelous statement which might be uttered as part of a radio broadcast from its station.

"The Act clearly violates the spirit and the letter of Sections 1, 4, 12 and 13 of the Declaration or Rights of the Constitution of Florida which provide: That all men are equal before the law and have certain inalienable rights, among which are those of enjoying life and liberty, acquiring, possessing and protecting property; that all Courts in this State shall be open, so that every person for any injury done him in his lands, goods, person or reputation shall have remedy by due course of law; that no person shall be deprived of life, liberty, or property without due process of law; that every person may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right. It is, therefore, the opinion of the Court that said Act is unconstitutional and void, and that said motion to dismiss should be, and the same is hereby denied."

On other points, Judge Shields ruled with the defendants and sustained their demurrers. These cases will be appealed to the Supreme Court of Florida in due course.

The Florida statute is as follows:

"The owner, lessee, licensee or operator of a radio broadcasting station, and the agents or employees of any such owner, lessee,

licensee or operator, shall not be liable for any damages for any defamatory or libelous statements published or uttered in or as a part of a radio broadcast, by one other than such owner, lessee, licensee or operator, or agent or employee thereof, unless the said owner, lessee, licensee and operators or agent or employee affirmatively declares that such statements are made for and in behalf of such owner, lessee, licensee or operator of such radio station or its agent or employee."

### **"LEGALLY QUALIFIED" CANDIDATES**

Members desiring information as to whether or not political candidates are legally qualified in their State should communicate with the Legal Department.

### **BBC REBROADCASTS**

The NAB has been advised by Gerald Cock of the British Broadcasting Corporation, 620 Fifth Avenue, New York, that any station wishing to rebroadcast BBC direct from Europe should communicate with him.

## **Promotion**

### **RMA RECOMMENDS RADIO ADVERTISING BY DEALERS**

The RMA is on record with its members on the matter of broadcasting. Definite recommendations are made. The text of RMA's communication to members, as received by Arthur Stringer, appears below.

The idea behind the letter is to give assistance to NAB member stations in the solicitation of cooperative advertising from radio distributors and dealers.

A copy of General Electric's folio of spot broadcasting announcements, featuring its 1941 Golden Tone radio line, has just come off the press. One of the first copies has been received at headquarters. The announcements are exceptionally well done and will deliver.

Announcements of other radio manufacturers are undoubtedly in process of production or distribution.

Remember, the key man in securing broadcast business in the field is not at the factory. He is in your territory and is waiting to be sold.

Receiver spot business is getting better each year. 1940-41 should make a record.

Aside from station income, there is another reason for getting set accounts on the air. They help in building better circulation. The owner of a new set listens longer than the owner of a worn out receiver. Reception is also better.

When reallocation comes, about 2 million sets will become obsolete so far as being able to get the entire spectrum from 550-1600 kilocycles.

Most all of the sets, if not all, to be sold this year will be able to get all standard stations after the change,

though of course the new push button sets will have to be reset.

Several stations have already reported signing radio business. Nathan Lord, WAVE, Louisville, is one. The account is Philco Sales & Service, Philco distributors.

The RMA letter to members reads:

"Action by RMA members, especially large companies, is recommended by the RMA Board of Directors for further cooperation in the joint radio promotion campaign of the National Association of Broadcasters and RMA.

"The broadcasters of NAB, local stations as well as networks, have been and now are giving splendid service to the radio industry with many special programs, spot announcements, promotion features and other activities—all aiding manufacturers, distributors and dealers to sell more radio sets and also increase the unit of sale.

"Local broadcasters desire to be placed at least on an equal basis of competition with newspapers, in respect to the cooperative advertising allowances of manufacturers to their distributors and dealers. The RMA committee in the joint promotion campaign, and also our officers and directors who have held conferences with the NAB, agree that we should assist local stations to solicit part of the cooperative advertising allowances of distributors and dealers. This can be accomplished if RMA members will supply to their distributors advertising material, such as forms of spot announcements, continuity, etc., similar to the advertising material furnished to distributors for newspaper use. This is recommended so that local broadcast stations may better solicit such local advertising from radio distributors and dealers.

"Also it would be effective if you would send your distributors a letter reiterating your company's faith in the power of radio broadcast advertising, especially for replacement sales. Such a letter might well point out the close community of interest existing between radio distributors and dealers and the local broadcast stations, together with the necessity of their working closer together for their mutual interests. Such an expression would be in accordance with the views expressed by members of the RMA committee and RMA Board of Directors who were appointed to work out the joint national campaign of industry cooperation with NAB. If you will send your distributors (or so interest your advertising agency) samples of the suggested distributor-dealer spot announcements, continuity, etc., and suggest their use on broadcasting stations, it would be most helpful.

"It is now desired that RMA members demonstrate to NAB and its members that they are doing their part by encouraging their distributors and dealers to place cooperative advertising with local stations. The broadcasters are helping your sales. Please do your part to help them."

## RADIO FESTIVAL

### STATION MANAGERS:

Please mail your Radio Festival prize winning essays to headquarters. So as not to disbar late contestants, the time to receive essays is hereby extended to July 15, 1940.

### FRIENDLY VIRGINIANS:

Virginians are friendly folks, just how friendly was evident during National Radio Festival week in Richmond. How they feel on this subject is seen from the broadcast of Walter R. Bishop, director of public relations, WRVA, in welcoming to the airlines the new radio station, WPID, Petersburg:

"Sometimes our contemporaries," said Mr. Bishop, "are designated as our 'competitors' in the field of broadcasting. We always think of them as our 'neighbors,' and as we salute WPID, our new neighbor, this evening, we express the sincere hope that our future relations may merit for us both the title of 'good neighbors.'"

"It seems appropriate that during the week which has been set aside as National Radio Festival Week, this station should make its debut and take its place among the 800 broadcasting establishments of the nation at a time when the public is invited to become better acquainted with the American system of broad-

casting, operating under the plan of private competition in contrast to the European system, controlled by governments which formulate policies and supervise selection of the material which is broadcast under the system of giving the listeners what these governments think they should hear, rather than what the listener may prefer. WRVA welcomes WPID as we share together the responsibility of serving an audience deserving the best, and we know that this new station will assist in upholding the traditions of the American system of broadcasting."

Mr. Bishop, as other Virginia broadcasters, is especially gratified over the action of Gov. James H. Price in officially proclaiming National Radio Festival Week in Virginia.

"We consider this a recognition of broadcasting," he said, "since the Governor does not issue these proclamations upon every request."

### LISTENING POSTS:

WGAR broadcasts Radio Newsreel, 5:45—6:00 p. m., Thursdays and Saturdays, in behalf of Fleetwing Corp., whose gasoline service stations dot the landscape in Cleveland and elsewhere.

The unusual thing about this news show is that each gas station turns on a powerful set to broadcast the programs—always to a crowd. According to Carl George, WGAR program manager, Fleetwing is receiving much additional public approval on account of the establishment of listening posts at their service stations.

### GAS STATIONS HELP:

This year, it is observed, that a great many more gasoline service stations throughout the United States, than last year, are selling auto radio sets. It is realized that this activity by others has added hundreds of thousands of additional listening hours.

### SPECIAL TOURS:

WSPD is increasing its public prestige in Toledo through the promotion of a series of all expense-personally conducted tours to the New York World's Fair.

As outlined by Russell Gohring, program manager, the \$39 cost covers round trip rail fare, meals in dining car, room at hotel with bath and radio (two in room), all breakfasts, transfer, sight-seeing trips, from departure Saturday night to return on Wednesday morning. The only extras are for three luncheons and Monday dinner.

### ON THE AIR:

WDZ's program manager, Hank Fisher, Tuscola, Ill., is using his 1,000 watts to good advantage this summer to increase the use of auto and portable sets. Referring to NAB's May 29 mailing, he says:

"These announcements have already been placed on our schedule and will be run until their completion. If WDZ may be of any assistance to you in the future, please don't fail to call on us."

## Sales

## BROADCASTERS' CABARET PARTY HUGE SUCCESS

More than 1,500 members and guests of the Advertising Federation of America enjoyed a three-hour radio program they couldn't have bought Tuesday, June 25, when the NAB Sales Managers' Division presented its Broadcasters' Cabaret Party in the Grand Ballroom of the Hotel Sherman, Chicago, at the 36th Annual AFA Convention.

Featuring twenty separate acts with over fifty well-known radio entertainers contributed by Chicago members and the networks, the gala affair was the NAB Sales Managers' salute to the AFA and affiliated advertising clubs throughout the country. A twenty-piece orchestra

## District Meetings

provided jointly by CBS-MBS-NBC played for dancing from 8:30 to 1 a. m., and, judging from attendance and enthusiasm shown, the Radio Party was a huge success. Planned to accommodate 850, the ballroom was packed by 9 p. m. Additional tables were hastily set up in the halls and lobbies of the hotel and later arrivals overflowed into the balconies. At midnight, when the last radio act had been presented and dancing had resumed, there was still not a table to be had.

In charge of the affair and largely responsible for its success were William R. Cline, Commercial Manager of WLS, Chicago, who is national chairman of the Sales Managers' Division, and his committee of Chicago broadcasters headed by Jules Herbuveaux, NBC, and J. Oren Weaver, CBS. Harold Safford, WLS Program Director, and his assistant, Al Boyd, handled production on the show and kept the large and varied cast moving smoothly.

A souvenir program, including pictures of the talent and brief, pertinent facts on radio as an advertising medium, was presented to everyone attending the show. NAB members who would like a copy of the program should write to Samuel J. Henry, Jr., NAB Bureau of Radio Advertising. Also representing NAB at the party were Ed Kirby, Public Relations Director, and Carl Haverlin, BMI Stations Relations Director. In addition to the AFA Board of Directors, invited convention speakers and their guests totaling over one hundred, many prominent advertising and agency executives, as well as broadcasters, were present.

### Sales Managers Meet at AFA

The business sessions of the NAB Sales Managers' Division, held June 24 and 25 in conjunction with the 36th Annual AFA Convention, drew a representative audience of sales managers and AFA members. The meetings were held under the chairmanship of William R. Cline, WLS, Chicago, who is national chairman of the Sales Managers' Division.

More than twenty-five NAB Sales Managers met Monday morning and afternoon in a closed business session to discuss current industry sales problems. The commercial men urgently recommended the immediate adoption of a complete "Media Records" for radio, along the lines of the proposed unit plan for measuring radio advertising volume. At the open meeting Tuesday morning, more than forty were present, including agency time buyers, station and network representatives and members of the trade press. They heard Carl Haverlin, BMI Station Relations Director, in an interesting presentation of current BMI developments and their significance to advertisers. NAB was represented at the business sessions by Samuel J. Henry, Jr., NAB Bureau of Radio Advertising, and Ed Kirby, who discussed the commercial section of the NAB Code, paid political broadcasts and other developments.

### DISTRICT 2

Clarence Wheeler, WHEC, Rochester, was elected director of District 2 at its meeting last week. Colonel Harry Wilder, who has been District Director since the NAB reorganization, was not a candidate for reelection. He received a unanimous vote of appreciation for the work he has done on behalf of the broadcasters in New York State. The District also enthusiastically endorsed BMI. Carl Haverlin, BMI Station Relations Director, and Ed Kirby, NAB Director of Public Relations, were guest speakers.

Those present: Samuel Woodworth, WFBL; E. K. Johnson, WIBX; Kolin Hager, WGY; S. D. Gregory, WJZ; J. G. Gude, WABC; F. S. Brauner, WABC; John T. Calkins, WENY; H. T. Woodman, WEAJ; Clarence Wheeler, WHEC; E. M. Stoer, Hearst Radio; Jack Kennedy, WHAM; Roy L. Albertson, WBNY; Harold E. Smith, WOKO; Harry L. Goldman, WABY; Simon Goldman, WJTN; G. O. Wigg, WHEC; William Fay, WHAM; E. H. Twamley, WBEN; E. A. Hanover, WHAM; Frank A. Seitz, WFAS; Mary A. Seitz, WFAS; Thomas L. Brown, WHDL; William I. Moore, WBNX; W. G. Eckman, WJTN; Harry C. Wilder, WSYR, WTRY; H. J. Frank, WSLB; Gene Thomas, WOR; Frederick L. Keesee, WMBO; Cecil Mastin, WNBK.

### DISTRICT 6

Edwin W. Craig, WSM, was reelected District 6 Director at a meeting June 20 in Memphis. Joseph L. Miller, NAB Labor Relations Director, and Carl Haverlin, BMI Station Relations Director, were guest speakers. Members present unanimously adopted a resolution introduced by H. W. Slavick, WMC, and seconded by H. W. Wheelahan, WSMB, giving BMI "their complete confidence." Those present:

W. H. Summerville, Louis Read, WWL; F. C. Sowell, F. D. Binns, WLAC; Storm Whaley, KVOA; Ralph Wentworth, Langworth; Harold Wheelahan, T. J. Fontelieu, H. G. Nebe, WSMB; John C. McCormack, KWKH and KTBS; Ed Zimmerman, C. K. Beaver, KARK; H. R. Krelstein, WMPS; Carl Haverlin, BMI; H. W. Slavick, E. Brom, Jr., John Cleghorn, WMC; E. A. Alburty, WHBQ; Wiley P. Harris, WJDX; Joe Eggleston, WMC; Raymond F. Hufft, WNOE; O. W. Jones, WQBC; F. A. Cavey, WWL; George Blumenstock, WSKB; Hollis R. Wooten, WREC; J. H. DeWitt, Jr., WSM; Hoyt B. Wooten, WREC; Jack M. Draughon, WSIX; Edwin W. Craig, WSM; Harry Stone, WSM; Gustavus Reiniger, REL.

### DISTRICT 16

At a well-attended Los Angeles meeting, Harrison Holliday, KECA-KFI, was elected District 16 Director on June 17. Carl Haverlin, BMI Station Relations Director, was guest speaker.

### 17 NEW MEMBERS APPROVED

At its meeting in New York, Saturday, the 22nd, the Board of Directors accepted and approved the applications of seventeen new NAB member stations as follows:

KCRC—Enid, Oklahoma  
 KIDO—Boise, Idaho  
 KRIC—Beaumont, Texas  
 WBNY—Buffalo, New York  
 WJHP—Jacksonville, Florida  
 WKPT—Kingsport, Tennessee  
 WMAN—Mansfield, Ohio  
 WMBC—Detroit, Michigan  
 WMFF—Plattsburg, New York  
 WOLF—Syracuse, New York  
 WPRP—Ponce, Puerto Rico  
 WSKB—McComb, Mississippi  
 WSLB—Ogdensburg, New York  
 WTRY—Troy, New York  
 WTSP—St. Petersburg, Florida  
 WESG—Ithaca, New York  
 WTNJ—Trenton, New Jersey

The Board expressed appreciation of the splendid work done by the membership chairmen in the various states and areas. They pledged themselves as Directors, to increased activity in behalf of new members and called upon all members of the Association to assist.

The drive to obtain at least fifty new members by convention time is on. This goal can be reached if every member will make it a part of his daily duty to solicit non-member stations. We are sending out weekly releases from headquarters which have aroused the interest of many non-member stations and should be increasingly effective. To get the desired result, your personal cooperation is earnestly requested.

## FM Rules

Frequency modulation—now popularly known as FM—formally takes its place in the ranks of recognized commercial broadcasting as a result of initial rules governing regular program service of this type, the FCC announced this week. This new service will be known as “high frequency broadcast” to distinguish it from standard broadcast.

Rapid development of FM stations throughout the nation is expedited by Commission action in apportioning frequencies and otherwise stipulating operation of FM so as to make such broadcast available to as many American homes as possible. Under the rules just approved, FM facilities are, in effect, available to every community in the land.

Important in these rules is the requirement that the program service shall embody presentation particularly adapted to the high fidelity quality of this new method of broadcast. This, with its staticless qualities, assures the listening public an improved type of service.

Unlike standard (amplitude modulation) broadcast stations, FM stations will be licensed to serve a specified area in square miles. In places where one or more FM stations are located, their radius of service will be made as comparable as possible. Such parity of service is feasible because FM is not subject to objectionable

interference as in the case of the older long distance type of broadcasting.

The public is assured of a reasonable amount of FM program service initially by the Commission requiring a daily, except Sunday, minimum operating schedule of at least three hours during the day and three hours at night. FM stations are further obligated to devote at least one hour each day and one hour each night to programs not duplicated simultaneously in the same area, which means programs distinct from standard broadcast. The latter provision is intended to demonstrate the full fidelity of the FM system.

Since facsimile makes its commercial debut under FM auspices, the Commission may now grant authority to a high frequency broadcast station for the multiplex transmission of facsimile and aural broadcast programs, provided the facsimile transmission is incidental to the aural broadcast and does not reduce the quality of the aural program or the frequency swing required for the transmission of FM or bring about interference on adjacent channels.

In carrying out the principles set forth in the Commission's recent report following enthusiastic praise for FM at the frequency modulation hearing, the band of frequencies extending from 43,000 to 50,000 kilocycles is apportioned for service areas in the following manner:

For cities or towns with a total population of less than 25,000 exclusive of adjacent rural areas, these channels are assigned: 48,900; 49,100; 49,300; 49,500; 49,700 and 49,900. This class of station will have a service area not to exceed 500 square miles except where definite need for a greater area is shown and no objectionable interference will result.

To serve populations of 25,000 or more within areas of less than 3000 square miles, these channels are assigned: 44,500; 44,700; 44,900; 45,100; 45,300; 45,500; 45,700; 45,900; 46,100; 46,300; 46,500; 46,700; 46,900; 47,100; 47,300; 47,500; 47,700; 47,900; 48,100; 48,300; 48,500 and 48,700. In this class, the applicant must specify a service area which shall comprise either a metropolitan district, a city, or a particular district having common cultural, economic, geographical or other characteristics to justify service to the area as a unit.

For areas in excess of 3,000 square miles, the channel assignments are: 43,100; 43,300; 43,500; 43,700; 43,900; 44,100, and 44,300. Here the applicant can serve two or more large cities or metropolitan districts and a large adjacent rural area; or, in exceptional cases, one city or metropolitan district and a large adjacent rural area.

One channel only will be assigned to a station. To avoid possibility of objectionable interference, FM stations serving the same area will not be assigned adjacent channels.

To safeguard the public against monopoly, no person or group can, directly or indirectly, control more than one FM station in the same area. Likewise, no person or group may control more than one such station, except upon showing that such operation would foster competition or will provide a high-frequency broadcasting service distinct and separate from existing services, and that such operation would not concentrate control in a manner inconsistent with public interest, convenience, or necessity. In this connection, the Commission declares that



control of more than six stations by the same person or persons under common control is inconsistent with the public interest.

The Commission will not authorize the installation of a transmitter having a maximum rated power more than twice the operating power of the station. In employing transcriptions, methods of making announcements and other routine, high frequency stations will be governed largely by the same rules which apply to standard broadcast stations.

The rules announced today cover the basic principles believed necessary by the Commission to give FM a proper start commercially. They will be supplemented by Standards of Good Engineering Practice for High Frequency Broadcast Stations, to be made available next week, together with a chart to be used for determining the signal range of this type of station. The new application forms for high frequency stations will likewise be available shortly.

As previously announced, applications will not be considered until the engineering standards and the new forms are ready. Thereafter, as soon as applications are received, the Commission will act on them promptly.

Practical operation and progress of FM will undoubtedly result in changes to these rules and standards from time to time. Meanwhile, the Commission insures both public and industry an orderly development of high frequency broadcast stations by requiring proof of performance by FM stations within one year from the date of inauguration of this type of service.

## FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D. C.

June 22, 1940.

The existing rules governing standard broadcast stations, and the new rules governing high frequency broadcast stations are to be combined in Part 3 of the Commission's rules, which will be entitled "Rules Governing Standard and High Frequency Broadcast Stations." Subpart A of the rules, applicable only to standard broadcast stations comprises existing rules 3.1 to 3.86 inclusive. Subpart C, containing general rules applicable both to standard and high frequency broadcast stations, will comprise existing rules 3.87 to 3.104 inclusive. Subpart B, comprising the new rules governing high frequency broadcast stations is as follows:

### SUB-PART B. RULES GOVERNING HIGH FREQUENCY BROADCAST STATIONS

#### Definitions<sup>1</sup>

Sec. 3.201 *High frequency broadcast station.* The term "high frequency broadcast station" means a station licensed primarily for the transmission of radiotelephone emissions intended to be received by the general public and operated on a channel in the High Frequency broadcast<sup>2,3</sup> band.

Sec. 3.202 *High frequency broadcast band.* The term "high frequency broadcast band" means the band of frequencies extending from 43,000 to 50,000 kilocycles, both inclusive.

Sec. 3.203 *Frequency Modulation.* The term "frequency modulation" means a system of modulation of a radio signal in which the frequency of the carrier wave is varied in accordance with the

<sup>1</sup> Other definitions which may pertain to high frequency broadcast stations are included in Sections 2.1 to 2.35 and Sections 3.1 to 3.16, and the Communications Act of 1934, as amended.

<sup>2</sup> See Section 3.226 concerning multiplexing, aural and facsimile programs.

<sup>3</sup> High frequency broadcast stations must use frequency modulation exclusively in accordance with Section 3.228 (d).

signal to be transmitted while the amplitude of the carrier remains constant.

Sec. 3.204 *Center Frequency.* The term "center frequency" means the frequency of the carrier wave with no modulation. (With modulation the instantaneous operating frequency swings above and below the center frequency. The operating frequency with no modulation shall be the center frequency within the frequency tolerance.)

Sec. 3.205 *High Frequency broadcast channel.* The term "high frequency broadcast channel" means a band of frequencies 200 kilocycles wide and is designated by its center frequency. Channels for high frequency broadcast stations begin at 43,100 kilocycles and continue in successive steps of 200 kilocycles to and including the frequency 49,900 kilocycles.

Sec. 3.206 *Service area.* The term "service area" of a high frequency broadcast station means the area in which the signal is not subject to objectionable interference or objectionable fading. (High frequency broadcast stations are considered to have only one service area; for determination of such area see *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*)

Sec. 3.207 *Antenna Field Gain.* The term "antenna field gain" of a high frequency broadcast antenna means the ratio of the effective free space field intensity produced at one mile in the horizontal plane expressed in millivolts per meter for 1 kilowatt antenna input power to 137.6.

Sec. 3.208 *Free Space Field Intensity.* The term "free space field intensity" means the field intensity that would exist at a point in the absence of waves reflected from the earth or other reflecting objects.

Sec. 3.209 *Frequency swing.* The term "frequency swing" is used only with respect to frequency modulation and means the instantaneous departure of the carrier frequency from the center frequency resulting from modulation.

Sec. 3.210 *Multiplex transmission.* The term "multiplex transmission" means the simultaneous transmission of two or more signals by means of a common carrier wave. (Multiplex transmission as applied to high frequency broadcast stations means the transmission of facsimile or other aural signals in addition to the regular broadcast signals.)

Sec. 3.211 *Percentage Modulation.* The term "percentage modulation" with respect to frequency modulation means the ratio of the actual frequency swing to the frequency swing required for 100 percent modulation expressed in percentage. (For high frequency broadcast stations, a frequency swing of 75 kilocycles is standard for 100 percent modulation.)

Sec. 3.212 *Experimental period.* The term "experimental period" means that period of time between 12 midnight and sunrise. This period may be used for experimental purposes in testing and maintaining apparatus by the licensee of any high frequency 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.

Sec. 3.213 *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.

#### Allocation of Facilities<sup>1</sup>

Sec. 3.221 *Basis of Licensing High Frequency Broadcast Stations.* High frequency broadcast stations shall be licensed to serve a specified area in square miles. The contour bounding the service area and the radii of the contour shall be determined in accordance with the *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*

Sec. 3.222 *Area Served.* (a) High frequency broadcast stations shall be licensed to serve areas having characteristics falling within the provisions of subparagraphs (a), (b), or (c) of Sec. 3.225 hereof. The Commission, in considering applications for high frequency broadcast stations, will establish service areas.

(b) Where a service area has been established in which one or more existing high frequency broadcast stations are in operation, the contours of any new station proposed to serve such area shall compare with those of the existing station or stations as nearly as possible.

Sec. 3.223 *Time of Operation.* All high frequency broadcast stations shall be licensed for unlimited time operation.

Sec. 3.224 *Showing Required.* Authorization for a new high

<sup>1</sup> The rules relating to allocation of facilities are intended primarily for the information of applicants. Nothing contained in said rules shall be regarded as any recognition of any legal right on behalf of any person to a grant or denial of any application.

frequency broadcast station or increase in facilities of an existing station<sup>2</sup> will be issued only after a satisfactory showing has been made in regard to the following matters:

(a) That the area and population which the applicant proposes to serve has the characteristics of an area described in subparagraphs (a), (b), or (c) of Sec. 3.225 hereof. The application shall be accompanied by a full analysis of the basis upon which the area as set forth in the application was determined. No application for construction permit for a new station or change of service area will be accepted unless a definite site, full details of the proposed antenna, and a suitable map showing the expected service area are furnished with the application. (See *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*)

(b) Where a service area has been established in which one or more existing high frequency broadcast stations are in operation, that the contours of any new station proposed to serve such area will compare with those of the existing station or stations as nearly as possible, or that the service area already established should be modified.

(c) That objectionable interference will not be caused to existing stations or that if interference will be caused the need for the proposed service outweigh the need for the service which will be lost by reason of such interference.

(d) 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 *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*)

(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 *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*)

(f) That there is a need for the proposed program service in the area to be served.

(g) That the applicant is financially qualified to construct and operate the proposed station; and, if the proposed station is to serve substantially the same area as an existing station, that applicant will be able to compete effectively with the existing station or stations.

(h) That the program service will include a portion of programs particularly adapted to a service utilizing the full fidelity capability of the system, as set forth in the *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*

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

(j) That the applicant is legally qualified, is of good character, and possesses other qualifications sufficient to provide a satisfactory public service.

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

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

Sec. 3.225 *Channel Assignments.* The channels set forth below with the indicated center frequencies are available for high frequency broadcast stations:

(a) (1) Applicants for licenses to serve cities or towns having a total population of less than 25,000 (approximate) (exclusive of adjacent rural areas) shall apply for one of the following channel assignments:

48900	49500
49100	49700
49300	49900

(2) The application shall specify a service area which shall not exceed 500 square miles, except where a definite need for a greater area is shown and no objectionable interference will result.

(b) (1) Applicants for licenses to serve populations of 25,000 (approximate) or more within areas comprising less than 3,000 square miles shall apply for one of the following channel assignments:

44500	45500
44700	45700
44900	45900
45100	46100
45300	46300

46500	47700
46700	47900
46900	48100
47100	48300
47300	48500
47500	48700

(2) The applications shall specify a service area which shall comprise (i) either a metropolitan district, (ii) a city, (iii) an area which may comprise one or more towns or communities or subdivisions of cities or metropolitan districts having such common cultural, economic, geographical, or other characteristics as to justify service to the area as a unit.

(c) (1) Applicants for licenses to serve areas in excess of 3,000 square miles shall apply for one of the following channel assignments:

43100	43900
43300	44100
43500	44300
43700	

(2) The application shall specify a service area comprising two or more large cities or metropolitan districts and a large adjacent rural area; or, in exceptional cases, one city or metropolitan district and a large adjacent rural area.

(d) High frequency broadcast stations shall use frequency modulation exclusively.

(e) Stations serving all or a substantial part of the same area will not be assigned adjacent channels.

(f) One channel only will be assigned to a station.

SEC. 3.226. *Facsimile broadcasting and multiplex transmission.* The Commission may grant authority to a high frequency broadcast station for the multiplex transmission of facsimile and aural broadcast programs provided the facsimile transmission is incidental to the aural broadcast and does not either reduce the quality of or the frequency swing required for the transmission of the aural program. The frequency swing for the modulation of the aural program should be maintained at 75 kc. and the facsimile signal added thereto. No transmission outside the authorized band of 200 kc. shall result from such multiplex operation nor shall interference be caused to other stations operating on adjacent channels. The transmission of multiplex signals may also be authorized on an experimental basis in accordance with Section 3.32, sub-part A.

SEC. 3.227 *Proof of performance required.* Within one year of the date of first regular operation of a high frequency broadcast station, continuous field intensity records along several radials shall be submitted to the Commission which will establish the actual field contours, and from which operating constants required to deliver service to the area specified in the license are determined. The Commission may grant extensions of time upon showing of reasonable need therefor.

SEC. 3.228 *Multiple Ownership.* (a) No person (including all persons under common control)<sup>1</sup> shall, directly or indirectly, own, operate, or control more than one high frequency broadcast station that would serve substantially the same service area as another high frequency broadcast station owned, operated, or controlled by such person.

(b) No person (including all persons under common control) shall, directly or indirectly, own, operate, or control more than one high frequency broadcast station, except upon a showing (1) that such ownership, operation, or control would foster competition among high frequency broadcast stations or provide a high frequency broadcasting service distinct and separate from existing services, and (2) that such ownership, operation, or control would not result in the concentration of control of high frequency broadcasting facilities in a manner inconsistent with public interest, convenience, or necessity; *provided, however,* that the Commission will consider the ownership, operation, or control of more than six high frequency broadcast stations to constitute the concentration of control of high frequency broadcasting facilities in a manner inconsistent with public interest, convenience, or necessity.

SEC. 3.229 *Normal license period.* All high frequency 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 48900, 49100, 49300, 49500, 49700, and 49900, April 1.

(b) For stations operating on the frequencies 44500, 44700, 44900, 45100, 45300, 45500, 45700, 45900, 46100, 46300, and 46500, May 1.

<sup>2</sup> Special authorizations which do not involve experimental authorization may be granted pursuant to Section 1.365.

<sup>1</sup> The word "control" as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised.

(c) For stations operating on the frequencies 46700, 46900, 47100, 47300, 47500, 47700, 47900, 48100, 48300, 48500, and 48700, June 1.

(d) For stations operating on the frequencies 43100, 43300, 43500, 43700, 43900, 44100, and 44300, July 1.

#### EQUIPMENT

SEC. 3.241 *Maximum power rating.* The Commission will not authorize the installation of a transmitter having a maximum rated power more than twice the operating power of the station.

SEC. 3.242 *Maximum rated carrier power; how determined.*

(a) The maximum rated carrier power of a standard transmitter shall be determined by the manufacturer's rating of the equipment.

(b) The maximum rated carrier power of a composite transmitter shall be determined by the sum of the applicable commercial ratings of the vacuum tubes employed in the last radio stage.

SEC. 3.243 *Frequency monitor.* The licensee of each high frequency broadcast station shall have in operation at the transmitter a frequency monitor independent of the frequency control of the transmitter. It shall have a stability of 20 parts per million. For detailed requirements thereof see *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*

SEC. 3.244 *Modulation Monitor.* The licensee of each high frequency broadcast station shall have in operation at the transmitter an approved modulation monitor. For detailed requirements thereof see *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*

SEC. 3.245 *Required transmitter performance.* (a) The external performance of high frequency broadcast transmitters shall be within the minimum requirements prescribed by the Commission contained in the *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*

(b) The transmitter center frequency shall be controlled directly by automatic means which do not depend on inductances and capacities for inherent stability.

(c) 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.

SEC. 3.246 *Indicating Instruments.* The direct plate circuit current and voltage shall be measured by instruments having an acceptable accuracy. (See *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*)

SEC. 3.247 *Auxiliary and Duplicate Transmitters.* See Sections 3.63 and 3.64 for provisions governing the use of auxiliary and duplicate transmitters at high frequency broadcast stations.

SEC. 3.248 *Changes in equipment and antenna system.* Licensees of high frequency broadcast stations shall observe the following provisions with regard to changes in equipment and antenna system:

(a) No changes in equipment shall be made:

1. That would result in the emission of signals outside of the authorized channel.

2. That would result in the external performance of the transmitter being in disagreement with that prescribed in the *Standards of Good Engineering Practice for High Frequency Broadcast Stations.*

(b) Specific authority, upon filing formal application<sup>1</sup> therefor, is required for a change in service area or for any of the following changes:

1. Changes involving an increase in the maximum power rating of the transmitter.

2. A replacement of the transmitter as a whole.

3. Change in the location of the transmitter antenna.

4. Change in antenna system, including transmission line, which would result in a measurable change in service or which would affect the determination of the operating power by the direct method. 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.

5. Change in location of main studio to outside of the borders of the city, state, district, territory, or possession.

6. Change in the power delivered to the antenna.

(c) Specific authority, upon filing *informal* request therefor, is required for the following change in equipment and antenna:

1. Change in the indicating instruments installed to measure

the antenna current or transmission line, direct plate circuit voltage and the direct current of the last radio stage, except by instruments of the same type, maximum scale reading and accuracy.

2. Minor changes in the antenna system and/or transmission line which would not result in an increase of service area.

3. Changes in the location of the main studio except as provided for in subsection (b) 5.

(d) Other changes, except as above provided for in this section or in Standards of Good Engineering Practice for High Frequency Broadcast Stations prescribed by the Commission may be made at any time without the authority of the Commission, provided that the Commission shall be promptly notified thereof, and such changes shall be shown in the next application for renewal of license.

SEC. 3.251 *Operating power; how determined.* The operating power, and the requirements for maintenance thereof, of each high frequency broadcast station shall be determined by the Standards of Good Engineering Practice for High Frequency Broadcast Stations.

SEC. 3.252 *Modulation.* (a) The 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.

SEC. 3.253 *Frequency tolerance.* The operating frequency without modulation of each broadcast station shall be maintained within 2000 cycles of the assigned center frequency.

#### Operation

SEC. 3.261 *Minimum operating schedule; service.* (a) Except Sundays, the licensee of each high frequency broadcast station shall maintain a regular daily operating schedule which shall consist of at least three hours of operation during the period 6 a. m. to 6 p. m., local standard time and three hours of operation during the period 6 p. m. to midnight, local standard time. In an emergency, however, when due to causes beyond the control of the licensee, it becomes impossible to continue operating, the station may cease operation for a period not to exceed ten days, provided that the Commission and the Inspector in Charge of the radio district in which the station is located<sup>1</sup> shall be notified in writing immediately after the emergency develops.

(a) Such stations shall devote a minimum of one hour each day during the period 6 a. m. to 6 p. m., and one hour each day during the period 6 p. m. to midnight, the programs not duplicated simultaneously as primary service in the same area by any standard broadcast station or by any high frequency broadcast station. During said one hour periods, a service utilizing the full fidelity capability of the system, as set forth in the Standards of Good Engineering Practice for High Frequency Broadcast Stations, shall be rendered. However, the Commission may, upon request accompanied by a showing of reasons therefor, grant exemption from the foregoing requirements, in whole or in part, for periods not in excess of three months.

(c) In addition to the foregoing minimum requirements, the Commission will consider, in determining whether public interest, convenience, and necessity has been or will be served by the operation of the station, the extent to which the station has made or will make use of the facility to develop a distinct and separate service from that otherwise available in the service area.

#### FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C.

#### Notice Concerning High Frequency Broadcast Stations

In connection with the revised rules and regulations governing High Frequency Broadcast Stations, which place FM (frequency modulation) on a commercial basis, the Commission will, at an early date, repeal Sections 4.111-4.117 of its rules which have heretofore governed the experimental operation of such stations.

Section 4.114 of the rules to be repealed allocates frequencies in the band 25,300-26,900 kilocycles for the use of High Frequency Broadcast Stations, and there are outstanding licenses issued on an experimental basis, subject to cancellation, for the operation of stations using these bands. The Commission contemplates that these frequencies will be made available, by revision of rules to be promulgated shortly, for Developmental Broadcast Stations covered by the provisions of Sections 4.151-4.157 of the rules.

<sup>1</sup> See Appendix No. 3, Part 1.

<sup>1</sup> See *Standards of Good Engineering Practice for High Frequency Broadcast Stations* for specific application form required.

Thereafter, the Commission does not contemplate the granting of any application for the use of frequencies in the 25,300-26,900 band for experimentation looking to the establishment of any commercial domestic broadcasting service. Existing stations in this band may apply for modification of licenses to permit continued operation on their present frequency assignments under the classification of Developmental Broadcast Stations, or they may apply, under the provisions of the new rules covering High Frequency Broadcast Stations, for licenses authorizing commercial operation on the frequencies 43,000 kilocycles and above now assigned for such service.

## The Commission

### FCC EXPANDING FIELD FORCE FOR DEFENSE EMERGENCY

Effective policing of communications under the coordinated national defense program necessitates the Federal Communications Commission moving to augment its field force with additional fixed monitoring stations as well as new bases of operation for mobile units. Under this expansion program, which begins immediately, several hundred inspectors and other experts will be employed. President Roosevelt has allocated \$1,600,000 from his \$132,000,000 "blank check" defense fund for this purpose.

The additional force is needed to maintain a comprehensive 24-hour surveillance of all communication channels, inclusive of broadcast and other radio transmission. Present radio monitoring facilities will be supplemented with ten primary long-range direction-finder stations. These stations determine the bearings of unauthorized or otherwise suspicious communications. The mobile equipment, which includes direction finding apparatus, traces the origin of such transmissions.

In addition to increased monitoring duties, the field division will be required to watch radiotelegraph and radiotelephone circuits for superfluous signals, record same, and translate foreign language broadcast material. It must also make certain of the citizenship of several hundred thousand persons now charged with the responsibility of communications, as well as of their immediate families. This figure covers about 100,000 licensed radio operators, including amateurs; a like number of cable and wire operators, and other employees such as those of broadcast and other radio stations. It is necessary to know more about the private communications employees who daily handle official dispatches and other Government messages.

Another emergency task will be to guard against the possible misuse of electrical apparatus, including diathermy devices (now employed in many thousand offices of physicians), as transmitters in a manner which might jeopardize the nation's security. Still another undertaking will be to keep tab on possible use of transmitters which have been manufactured but not sold or licensed for authorized communication purposes.

The Commission now operates seven monitoring stations, in various parts of the country, which are largely devoted to making routine measurements of frequencies and determining the quality of emissions, as well as spotting interference. In the course of such work, they observe unlicensed operation incidentally. However, these monitoring stations as now manned and equipped could not cope with the additional work contemplated.

Congress recently authorized a new monitoring station for Massachusetts, but this is to relocate and improve the existing one. The new bases for mobile operation are being established at strategic points throughout the United States and its possessions.

Routine functions of the field division, which now numbers less than 200 persons, embrace inspection of all classes of stations licensed by the Commission, and the issuance of licenses; investigation of complaints of interference and illegal operation; conducting field strength surveys and analyzing signal characteristics; inspecting ship and other marine radio stations, and general regulatory supervision.

During the last fiscal year the Commission investigated more than one thousand complaints of unlicensed operation, and the number of cases pressing for investigation is growing under the present situation. Experience gained in past investigation of unlicensed stations, particularly in the use of the ultra high frequencies, has demonstrated the advantage of an inter-radio communication system for the purpose of synchronizing operations and exchanging intelligence. The prospective new primary monitoring stations and mobile units will be equipped with transmitters and receivers so as to be able to more quickly run down unlawful operation.

Since the Commission is under Civil Service, the additional personnel will come from those rolls.

### NEW "DEFENSE COMMITTEE"

A Defense Communications Committee is going to be set up by the Government, it was announced Monday by FCC Chairman James Lawrence Fly at his press conference. Mr. Fly was not disposed to go into the details of the Committee or its objectives. Mr. Fly said that the Committee would undoubtedly be set up "pretty soon."

When asked for specific purposes of the setup of the Committee, Mr. Fly said that "it seemed pretty obvious." However, he stated that he was not prepared at that time to discuss specific features. On being pressed by the newsmen he said that he didn't feel that he could be expected at the present time to tell of any specific plans. He intimated that these plans would be taken up from time to time with the broadcast and other interested industries. The industries, he said, would cooperate with the Committee and the plans might not be confidential later. He was asked if the new Committee would coop-

erate with the National Defense Committee and Mr. Fly replied that no doubt it would.

It was intimated during the course of the conference that the new Defense Committee will consist of Government officials, including the FCC, Army, Navy, State and Treasury departments.

Neville Miller, Harry Butcher, CBS; Theodore Streibert, MBS, and Frank M. Russell, NBC, conferred with Chairman Fly this week about these matters.

### WCBD PETITIONS DENIED

There is no statutory or other requirement that the FCC withhold action on a broadcast application, which it deems in the public interest, in order to consider such application on a comparable basis with some pending application. So the Commission stated in denying a petition filed by Station WCBD, Chicago, for rehearing of the grant, on May 8, of application by the Evangelical Lutheran Synod for modification of license for its Station KFUF, Clayton, Mo., to change frequency from 550 kilocycles to 830 kilocycles, with 1 kilowatt power to local sunset at Denver, and a petition for return of KFUF's subsequent application to increase power to 5 KW as a Class II station.

Station WCBD is scheduled for hearing on its application to change its frequency from 1080 kilocycles to 830 kilocycles, with 5 kilowatts power daytime. In denying WCBD's first petition, the Commission commented:

"Before petitioner's application can be denied, it must be afforded an opportunity to be heard on any grounds which we have for denying the application, and if the only basis for denying petitioner's application is the superiority of the service rendered or possessed by Evangelical Lutheran Synod (KFUF), petitioner will have ample opportunity to show that its operation as proposed will better serve the public interest than will the operation of KFUF as authorized by the instant grant. The grant herein to KFUF does not preclude the Commission at a later date from taking any action which it may find will serve the public interest."

### BROWN CONFIRMATION DELAYED

The term of Col. Thad H. Brown as a member of the FCC expires on June 30. Owing to the Congressional recess, the Senate will not be able to take action on his nomination for reappointment before that time. Congress returns from its recess on July 1 and it is assumed that action will be taken shortly thereafter.

### FROM THE FCC MAIL BAG

A Trenton, N. J., man is under the mistaken notion that records of all broadcast programs are filed with the Commission. It is suggested that he write to the particular station which broadcast the particular program in which he is interested.

Likewise, a Brooklyn, N. Y., man is informed that the Commission does not require a broadcast station to file an indemnity bond to cover possible damages sustained by sponsors.

Nor can the Commission help a Norfolk, Va., individual collect a \$1,000 prize which he claims is due him from a certain network sponsored program.

It suggests that a Philadelphia non-baseball radio fan squawk direct to the local station which he takes to task for cancelling network programs in order to broadcast baseball scores.

A New Yorker complains to the Commission that he is being made the victim of "heat and death rays," and seems to hold radio transmissions indirectly responsible. The Commission is unable to offer help, but a doctor might.

While appreciating the patriotic motive, the Commission can only file the letter of a South Ozone Park, N. Y., man urging the Commission to require the playing of the national anthem by all broadcast stations upon going on or off the air.

### ADMINISTRATIVE ORDER NO. 3

At a recent meeting FCC adopted Administrative Order No. 3 as follows:

*It Is Ordered*, That, whenever the Chairman or Acting Chairman of the Commission shall determine a quorum of the Commission is not present, he is authorized to place the following provisions in effect for the period during which such absence or inability to act may continue:

(1) There is hereby assigned and referred to a Board consisting of all members of the Commission present and able to act, all work, business, or functions of the Federal Communications Commission arising under the Communications Act of 1934, as amended, except that portion of the work, business, or functions of the Federal Communications Commission assigned and referred to the respective Boards and individual Commissioners as provided in Administrative Order No. 2, as amended; *Provided, however*, that this authority shall not extend to investigations instituted upon the Commission's own motion or, without consent of the parties thereto, to contested proceedings involving the taking of testimony at public hearings, or to investigations specifically required by the Communications Act of 1934, as amended.

(2) The Board created by sub-paragraph (1) acting by a majority thereof, shall have power and authority to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions so assigned or referred to it, and in respect thereof shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations. Any order, decision, or report made or other action taken by said Board in respect of any matters so assigned or referred shall have the same force and effect, and may be made, evidenced and enforced in the same manner as if made, or taken by the Commission.

(3) Any party affected by any order, decision or report of said Board may file a petition for rehearing by the Commission, as provided by Section 1.271 of the Commission's Rules of Practice and Procedure, and every such petition shall be passed upon by the Commission.

This Order shall become effective on the 1st day of July, 1940.

### BROADCAST MEASUREMENTS

During the month of May, FCC experts measured 708 broadcast stations with 120 not measured.

Six hundred and fifty-seven stations showed a maximum deviation within 0-10 cycles; 47 stations a deviation within 11-25 cycles; 3 stations a deviation within 26-50 cycles; no stations with a deviation over 20 cycles; and one station showing a deviation over 50 cycles.

### ADMINISTRATIVE ORDER AMENDED

FCC has amended Paragraph 4(d) of Administrative Order No. 2 by adding the following language after the phrase, "applications for relay broadcast stations":

"Applications for consent to assignment of licenses or for consent to transfer of control of licensees of relay broadcast stations, when the Commission has on a prior date consented to a like assignment or transfer of control of the licensee of the standard broadcast station with which the relay stations are affiliated."

## MONITOR STATION

President Roosevelt on Tuesday signed the bill authorizing the expenditure of \$30,000 by the FCC to establish a monitoring station in Massachusetts.

### REMOVAL OF WREN DENIED

Holding that showing of need is related to the protection of listeners and not solely to the protection of private interests, the FCC has announced proposed denial of the application of radio broadcast station WREN, at Lawrence, Kans., to move its transmitter from a point near Tonganoxie to Kansas, that State, and to establish its main studio in Kansas City, Mo.

"The primary purpose of removal of WREN to Kansas City is to obtain a larger population coverage of Kansas City and its environs in order to increase its advertising revenues and serve as a more effective outlet of the Blue Network," comments the Commission in its Proposed Findings of Fact and Conclusions (No. B-99). "If the transmitter is moved as proposed in the application, station WREN would deliver satisfactory service throughout the Kansas City metropolitan area, but its service to Lawrence and other small communities in Kansas would be less satisfactory, and some rural portions of the present service area would be entirely deprived of service."

The Commission points out that the Kansas City metropolitan area is already served by at least six stations. "The essence of the applicant's proposal, therefore, is to move its transmitter to a large metropolitan area, which already receives service from an ample number of stations, from a semi-rural area where the existing service is relatively inadequate." Concludes the Commission:

"In view of the loss or diminution of broadcast service to the area theretofore served, it is incumbent upon a station proposing such a change to establish a greater need for additional broadcast service in the new area proposed to be served than may exist in the area previously served. The question of need is an important consideration under such circumstances in order that certain areas may not, by a too liberal assignment of frequencies, have the benefit of an unduly large proportion of the limited broadcast channels available to the prejudice of other districts. (F. W. Meyer, Docket No. 5074, decided November 15, 1939.) It is true that the Commission stated in the *F. W. Meyer* case that the showing of a public need for additional broadcast facilities is not an essential prerequisite to support the grant of an application for a new station. However, this principle is not applicable in a case such as the present where an existing station proposes to change its location, and the respective interests of different communities and areas are, therefore, involved.

"The showing made by the applicant in support of the proposed change was predicated upon two factors: First that the applicant operates on a regional frequency and should, therefore, be regarded as a station established to serve the metropolitan district of Kansas City primarily; and second, that the increase in coverage which would result from the removal of its station to the Kansas City area would make the station a more effective outlet for the Blue Network programs of the National Broadcasting Company. In so far as the first factor is concerned, it does not follow from the fact that a station is assigned a regional frequency that it must serve a metropolitan district regardless of other considerations which may be involved. The classification of stations under the Commission's rules and standards of engineering practice is purely for the administrative convenience of the Commission

in allocating frequencies and is not a source of any right in licensees or applicants. Indeed, the simple answer to WREN's claim is that the applicant, having once asked the Commission to assign a regional station to the City of Lawrence, now takes the curiously inconsistent position that, by reason of that very assignment, this station should now be assigned to Kansas City. In so far as the second factor is concerned, this is related more to the private interests of the applicant and the National Broadcasting Company than it is to the interests of the communities involved. The mere fact that the applicant hopes to better itself financially by moving from a small city to a large city is not a controlling consideration in determining whether public interest, convenience, or necessity would be served by permitting such a move.

"Although an increase in the population served by WREN would result from its proposed change of site, this is not, in the instant case, sufficient to support a finding that public interest, convenience or necessity would be served by a grant of the application. The listeners who would gain such service at night are already served by six or more other stations, and the applicant has failed to make a showing concerning the present service to areas which would gain daytime service. Certain areas in Kansas which now receive service from WREN will lose such service and a number of communities, including Lawrence would be served with an inferior signal. As far as the record shows, these areas now receive service from only two stations other than WREN.

"Notwithstanding the fact that the areas which would lose service or obtain an inferior (and in some instances an unsatisfactory) signal, are smaller in population than the areas which would gain a service or obtain a better signal from WREN, the Commission is unable to find, from the evidence submitted, that the detriments to the former areas are outweighed by the proposed benefits to the latter areas, or, that the proposed change is responsive to any need which is substantial enough to overbalance this consideration. It is, therefore, unable to conclude that public interest, convenience or necessity would be served by a grant of the application of WREN."

No change was requested in the station's operating assignment on 1220 kilocycles with power of 1 kilowatt night and 5 kilowatts until local sunset, sharing time with Station KFKU, University of Kansas, also at Lawrence. Hearing on the application was held in May, 1939. The Commission's proposed findings deny the applicant's motion of March, 1940, to strike out issues relating to the need for additional service in the proposed service area, and further opines that "inasmuch as the elimination of the remaining issues can accomplish no useful purpose in view of this denial, the motion is dismissed insofar as it requests elimination of such other issues."

### STATIONS SOLVE INTERFERENCE

Four unrelated radio stations in various parts of the country wanted to increase their respective power of transmission. To do this involved mutual interference. So, through the medium of the Federal Communications Commission, they worked out a directional antenna system that will enable them to cover more territory yet, at the same time, not "collide" with one another's transmissions.

The result of this get-together was climaxed when the Commission authorized construction permits as follows:

WAAT, Bremer Broadcasting Corp., Jersey City, N. J., to move transmitter to Kearney, N. J., increase power from 500 watts to 1 kilowatt, and increase hours of operation from daytime to unlimited time. WAAT operates on 940 kilocycles.

WAVE, Inc., Louisville, Ky., to move transmitter to near Jeffersonville, Ind., and increase power from 1 kilowatt to 5 kilowatts. WAVE operates on 940 kilocycles.

WCSH, Congress Square Hotel, Portland, Me., to increase power from 1 kilowatt night and 2½ kilowatts day, to 5 kilowatts unlimited time. WCSH operates on 940 kilocycles.

WDAY, Inc., Fargo, N. Dak., to increase night power from 1 kilowatt to 5 kilowatts. WDAY has operated with 5 kilowatts day on the frequency 940 kilocycles.

## FEDERAL COMMUNICATIONS COMMISSION DOCKET

Following broadcast hearings are scheduled before the Commission for the week beginning Monday, July 1. They are subject to change.

### Monday, July 1

NEW—Anthracite Broadcasting Co., Inc., Scranton, Pa.—C. P., 1370 kc., 250 watts, unlimited time.

### Tuesday, July 2

NEW—The Kaw Valley Broadcasting Co., Inc., Topeka, Kans.—C. P., 1500 kc., 250 watts, unlimited time.

### FUTURE HEARINGS

Following future broadcast hearings and oral arguments have been scheduled before the Commission. They are subject to change.

### July 18

#### Oral Argument Before the Commission

Report No. B-107:

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.—Renewal of license, 1410 kc., 1 KW, unlimited time; and auxiliary, 1410 kc., 500 watts, 1 KW LS. Time: Auxiliary purposes only.

### August 5

NEW—Hobart Stephenson, Milton Edge, Edgar J. Korsmeyer, d/b as Stephenson, Edge & Korsmeyer, Jacksonville, Ill.—C. P., 1150 kc., 250 watts, daytime.

NEW—Helen J. Walton and Walter Bellatti, Jacksonville, Ill.—C. P., 1150 kc., 250 watts, daytime.

## FEDERAL COMMUNICATIONS COMMISSION ACTION

### APPLICATIONS GRANTED

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Granted construction permit to install new transmitter; increase power and hours of operation from 500 watts, daytime to 6 p. m., to 1 KW unlimited time; install directional antenna for night use; and move transmitter from Jersey City to Kearney, N. J.; station operates on 940 kc. (B1-P-2704).

WAVE—WAVE, Inc., Louisville, Ky.—Granted construction permit to increase power from 1 KW to 5 KW, on 940 kc.; install new transmitter and move transmitter site from Louisville to near Jeffersonville, Ind., and install directional antenna for day and night use (B2-P-2531).

WCSH—Congress Square Hotel, Portland, Me.—Granted construction permit to increase power from 1 KW night, 2½ KW day, to 5 KW, on 940 kc., and install directional antenna for day and night use (B1-P-2535).

WDAY—WDAY, Inc., Fargo, N. Dak.—Granted construction permit to increase night power from 1 KW to 5 KW, on 940 kc., and install directional antenna for night use (B4-P-2530).

Textile Broadcasting Co., Greenville, S. C.—Granted construction permit for new broadcast station to operate on 1500 kc., 250 watts, unlimited (B3-P-2738).

WJW—WJW, Inc., Akron, Ohio.—Granted consent to transfer of control of WJW, Inc., licensee of Station WJW, Akron, Ohio, and relay stations WENJ and WENI, from William F. Jones, Ruth Rubin and Edward S. Sheck to William M. O'Neil; 1210 kc., 250 watts day and night, unlimited (B2-TC-222).

WWAE—Hammond-Calumet Broadcasting Corp., Hammond, Ind.—Granted consent to assignment of license of Station WWAE from Hammond-Calumet Broadcasting Corp. to O. E. Richardson and Fred L. Adair; 1200 kc., 100 watts day and night, unlimited time day, shares WFAM night (B4-AL-272).

KGBX—Springfield Broadcasting Co., Springfield, Mo.—Granted construction permit to install new transmitter, increase power from 500 watts to 5 KW, and make changes in directional antenna for night use; 1230 kc., unlimited time (B4-P-2510).

WFBM—Radio Station WFBM, Indianapolis, Ind.—Granted modification of license to increase night power from 1 KW to 5 KW, using directional antenna at night; 1230 kc., 5 KW day and night, unlimited time (B4-ML-354).

Herald Publishing Co., Albany, Ga.—Granted construction permit for new Class III-B broadcast station, frequency 1230 kc., 1 KW, daytime only (B3-P-2774).

MSB Broadcasting Co., Omaha, Nebr.—Granted construction permit for new Class IV broadcast station, frequency 1500 kc., 250 watts, unlimited time; exact transmitter and studio sites to be determined with Commission's approval (B4-P-2697).

KABR—Aberdeen Broadcast Co., Aberdeen, S. Dak.—Granted construction permit to install new transmitter, make changes in directional antenna (for night use), and increase power from 500 watts, 1 KW LS, to 5 KW day and night (B4-P-2625).

WHK—United Broadcasting Co., Cleveland, Ohio.—Granted construction permit to increase night power to 5 KW and install directional antenna for night use; 1390 kc., 5 KW day and night, unlimited time (B2-P-2670).

KLRA—Arkansas Broadcasting Co., Little Rock, Ark.—Granted construction permit to increase night power to 5 KW and install directional antenna for night use; 1390 kc., 5 KW day and night, unlimited time (B3-P-2572).

KHUB—M. L. Medley, Cookeville, Tenn.—Granted consent to voluntary assignment of the construction permit for station WHUB from M. L. Medley to WHUB, Inc.; 1370 kc., 250 watts, unlimited time (B3-AP-31).

WNEL—Juan Piza, San Juan, P. R.—Granted construction permit to make changes in transmitting equipment; change antenna; increase power from 1 KW night, 2½ KW day, to 5 KW, and move transmitter site locally; 1290 kc. (B-P-2762).

### DESIGNATED FOR HEARING

Greenville Broadcasting Co., Greenville, S. C.—Application for construction permit for new broadcast station, Class IV, to operate on 1500 kc., 250 watts day and night, unlimited time (B3-P-2807).

### RENEWAL OF LICENSES

KTHS—Hot Springs Chamber of Commerce, Hot Springs, Ark.—Present license extended on a temporary basis for a period of 30 days.

KOY—Salt River Valley Broadcasting Co., Phoenix, Ariz.—Granted renewal of license for the period ending October 1, 1940.

KGBU—Alaska Radio & Service Co., Inc., Ketchikan, Alaska.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

KMA—May Broadcasting Co., Shenandoah, Iowa.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

KTW—The First Presbyterian Church of Seattle, Seattle, Wash.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

WDSU—WDSU, Inc., New Orleans, La.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

KFAR—Midnight Sun Broadcasting Co., Fairbanks, Alaska.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

WGST & Auxiliary—Georgia School of Technology, Atlanta, Ga.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

WMC & Auxiliary—Memphis Commercial Appeal Co., Memphis, Tenn.—Present license further extended upon a temporary basis only, for the period ending August 1, 1940, pending determination upon application for renewal.

KXO—E. R. Irely, F. M. Bowles, El Centro, Calif.—Present license extended upon a temporary basis only, for the period ending August 1, 1940, subject to whatever action may be taken upon pending application for renewal.

W9XSP—Star-Times Publishing Co., St. Louis, Mo.—Present facsimile broadcast station license extended upon a temporary basis only, for the period ending August 1, pending determination upon application for renewal of license.

W9XG—Purdue University, W. Lafayette, Ind.—Present television broadcast station license further extended upon a temporary basis only, for the period ending August 1, pending receipt of and determination upon application for renewal.

W9XK—State University of Iowa, Iowa City, Iowa.—Present television broadcast station license further extended upon a temporary basis only, for the period ending August 1, pending receipt of and determination upon application for renewal.

W2XDA—General Electric Co., Schenectady, N. Y.—Present high frequency broadcast station license further extended upon a temporary basis only until August 1, pending receipt of and determination upon application for renewal.

#### MISCELLANEOUS

KFRC—Don Lee Broadcasting System, San Francisco, Calif.—Granted license to cover construction permit for increase in power; **610 kc.**, 5 KW, unlimited time (B5-L-1163).

WKIP—Poughkeepsie Broadcasting Corp., Poughkeepsie, N. Y.—Granted license to cover construction permit for new broadcast station, **1420 kc.**, 250 watts power, unlimited time (B1-L-1165). Also granted authority to determine operating power by direct measurement of antenna input (B1-Z-410).

KFSG—Echo Park Evangelistic Assn., Los Angeles, Calif.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-414).

WOV—Greater New York Broadcasting Corp., New York, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-412).

KQRR-KQRQ—Sioux City Broadcasting Co., Sioux City, Iowa.—Granted special temporary authority to operate two relay broadcast stations on frequencies listed in Group A and Group D, Section 4.23, power 10 watts, in order to relay broadcast program in connection with the Missouri River barge celebration to Radio Station KTRI on June 26 or 27, 1940.

W2XBU—National Broadcasting Co., Inc., New York, N. Y.—Granted special temporary authority to operate the equipment described in construction permit (File No. B1-PVB-54), on **288 mc.** (channels 18 and 19), at Franklin Field, Philadelphia, Pa., from June 20 to not later than June 23, 1940, in order to make tests, and to June 30, 1940, in order to transmit pictures from Franklin Field to the W2XBT unit at Convention Hall in the manner described in applicant's letter dated June 12, 1940.

KFRO—Voice of Longview, Longview, Tex.—Granted modification of construction permit for increase in power from 250 watts to 1 KW; change in frequency to **1340 kc.**; change in hours of operation from daytime to unlimited; move transmitter; and install new equipment and directional antenna for night use, for extension of completion date from June 19, 1940, to July 19, 1940 (B3-MP-991).

WEAU—Central Broadcasting Co., Eau Claire, Wis.—Granted special temporary authority to operate unlimited time for the period beginning June 24, 1940, to the conclusion of the Republican National Convention, and from July 15, 1940, to the conclusion of the Democratic National Convention,

in order to broadcast programs covering said conventions only.

WQDM—E. J. Regan and F. Arthur Bostwick, d/b as Regan and Bostwick, St. Albans, Vt.—Granted special temporary authority to operate from 7:45 p. m. to 12 midnight, EST, for the period June 24, 1940, to not later than June 29, 1940, in order to broadcast the proceedings of the Republican National Convention.

KTRB—Thomas R. McTammany and William H. Bates, Jr., Modesto, Calif.—Granted special temporary authority to operate from 7:30 p. m. to the conclusion of the public meeting of the Stanislaus County Peace Officers Association, in order to broadcast said meeting only, on July 2, 1940; to operate from 7:30 p. m. to midnight, PST, on July 4, 1940, in order to broadcast events incident to the Fourth of July celebration in Modesto.

The Mayflower Broadcasting Corp., Boston, Mass., and WAAB—The Yankee Network, Inc., Boston, Mass.—Designated for hearing on July 18, 1940, the proposed findings of fact in re application of The Mayflower Broadcasting Corp. for a new broadcast station to operate on **1410 kc.**, with power of 500 watts night and 1 KW day, unlimited time, requesting the facilities now assigned to Station WAAB, and the application of The Yankee Network, Inc., for renewal of license of Station WAAV for main and auxiliary transmitters (B-107).

WAAT—Bremer Broadcasting Corp., Jersey City, N. J.—Granted special temporary authority to operate from 6 p. m. to 6:30 p. m., EST, for a period not to exceed 30 days, in order to broadcast United States Army recruiting publicity.

The Kaw Valley Broadcasting Co., Topeka, Kans.—Denied petition to reconsider and grant application for construction permit to erect a new station in Topeka to operate unlimited time, with power of 250 watts, on the frequency **1500 kc.**, which was designated for hearing on March 29, 1940.

KGB—Don Lee Broadcasting System, San Diego, Calif.—Cancelled authority granted November 27, 1939, for construction permit (B5-P-1497) to install new transmitter, erect a vertical antenna, move transmitter site locally, and increase power from 1 KW to 5 KW, and retired application to closed files.

WLEU—WLEU Broadcasting Co., Erie, Pa.—Denied petition for rehearing in re application of Presque Isle Broadcasting Co. for a new station in Erie, Pa., to operate on **1500 kc.**, 100 watts night, 250 watts LS, unlimited time, which was granted by the Commission on March 13, 1940.

Allegheny-Kiski Broadcasting Co., New Kensington, Pa.—Granted construction permit for new broadcast station, frequency **1120 kc.**, 250 watts, day only; exact site of transmitter and studio locations to be determined subject to Commission's approval; also antenna system (B2-P-2770).

WENR—National Broadcasting Co., Inc., Chicago, Ill.—Granted special temporary authority to rebroadcast programs to be received from State of Illinois National Guard Stations from 9:15 p. m. to 9:30 p. m., CDST, on June 27, 1940, in connection with the Annual Military Show of the Illinois National Guard.

WKST—WKST, Inc., New Castle, Pa.—Granted special temporary authority to operate from 8 p. m. to 9 p. m., EST, on July 1, 1940, in order to broadcast Americanization Day program.

Everett L. Dillard, tr/as Commercial Radio Equipment Co., Kansas City, Mo.—Granted special temporary authority to operate high frequency broadcast station W9XA on frequency **26300 kc.**, using maximum power of 1000 watts, special emission (frequency modulation), in cooperation with the licensee of high frequency broadcast station W2XJI, for a period not to exceed 30 days, to conduct and determine the extent of mutual skywave interference existing between two stations operating with 1 KW on **26300 kc.**, employing frequency modulation, and to determine to what field strength contour of the desired station the interfering station whose transmissions are received via skywave will interfere with program reception of the desired station in its own coverage area.

KDTH—Telegraph Herald, Dubuque, Iowa.—Granted modification of construction permit for new station, for approval of transmitter site, approval of antenna, installation of new transmitter, and move of studio; **1340 kc.**, 500 watts, daytime (B4-MP-987).

KWSC—State College of Washington, Pullman, Wash.—Granted authority to install automatic frequency control apparatus (B5-F-145).



WMRO—Martin R. O'Brien, Aurora, Ill.—Granted special temporary authority to operate with power of 100 watts, local sunset (June 7:30 p. m., CST) to 10 p. m., CST, on June 24, 1940, in order to broadcast a speech by Congressman Dies and a program sponsored by the American Legion at Elmhurst, Ill.

KFOR—Cornbelt Broadcasting Corp., Lincoln, Nebr.—Granted modification of construction permit which authorized changes in equipment, for extension of completion date from June 23, 1940, to December 23, 1940; 1210 kc., 100 watts night, 250 watts day, unlimited time (B4-MP-995).

WSAM—Saginaw Broadcasting Co., Saginaw, Mich.—Granted license to cover construction permit as modified which authorized construction of new broadcast station; 1200 kc., 100 watts, 250 watts LS, specified hours (B2-L-1161). Also granted authority to determine operating power by direct measurement of antenna input (B2-Z-406).

WGTC—J. J. White, d/b as Greenville Broadcasting Co., Greenville, N. C.—Granted license to cover construction permit for new station to operate on 1500 kc., with 250 watts power, unlimited time (B3-L-1168). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-415).

WLBZ—Maine Broadcasting Co., Inc., Bangor, Maine.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-422).

KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Granted authority to determine operating power by direct measurement of antenna input (B5-Z-420).

WSLB—St. Lawrence Broadcasting Corp., Ogdensburg, N. Y.—Granted authority to determine operating power by direct measurement of antenna input (B1-Z-418).

Pawtucket Broadcastin<sup>g</sup> Co., Pawtucket, R. I.—Adopted final order (B-101) GRANTING the application of Pawtucket Broadcasting Co., Pawtucket, R. I., for a construction permit for a new broadcasting station to operate on 1390 kc., with power of 1 KW, unlimited time.

KXA—American Radio Telephone Co., Seattle, Wash.—Granted license to cover construction permit as modified for increase in power from 250 watts, 500 watts day, to 1 KW day and night; move of transmitter; changes in equipment; installation of vertical antenna; and approval of studio site; frequency 760 kc. (B5-L-1158).

KTCH—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—Granted license to cover construction permit for increase in night power; 1500 kc., 250 watts, unlimited time (B-L-1171).

KROD—Dorrance D. Roderick, El Paso, Tex.—Granted license to cover construction permit for new broadcast station to operate on 1500 kc., 250 watts power, unlimited time (B3-L-1162). Also granted authority to determine operating power by direct measurement of antenna input (B3-Z-407).

WJHO—Yetta C. Sanford, C. S. Shealy, Thos. D. Sanford, Jr., J. H. Orr, d/b as Opelika-Auburn Broadcasting Co., Opelika, Ala.—Granted license to cover construction permit for new broadcast station to operate on 1370 kc., 100 watts, 250 watts LS, unlimited time (B3-L-1169). Also granted authority to determine operating power by direct measurement of antenna power (B3-Z-417).

## APPLICATIONS FILED AT FCC

### 590 Kilocycles

WKZO—WKZO, Inc., Kalamazoo, Mich.—Construction permit to increase power from 1 KW to 1 KW night, 5 KW day, and install new transmitter, using directional antenna night.

### 610 Kilocycles

NEW—The Radio Voice of New Hampshire, Inc., Manchester, N. H.—Construction permit for a new broadcast station to be operated on 610 kc., 1 KW night, 5 KW day, directional antenna night and day, Class III-B station.

### 620 Kilocycles

WLBZ—Maine Broadcasting Co., Inc., Bangor, Maine.—Authority to determine operating power by direct measurement of antenna power.

### 630 Kilocycles

NEW—William H. Amesbury, Minneapolis, Minn.—Construction permit for a new broadcast station to be operated on 630

kc., 500 watts, unlimited time, directional antenna for day and night use. Amended to increase power from 500 watts to 1 KW, and make changes in directional antenna.

### 720 Kilocycles

WGN—WGN, Inc., Chicago, Ill.—Extension of special experimental authority for transmission of facsimile signals 1 to 6 a. m., CST, using 50 KW, for period 8-1-40 to 2-1-41. Amended to change time of transmission from 1 a. m. to local sunrise, CST.

### 890 Kilocycles

WBAA—Purdue University, W. Lafayette, Ind.—Construction permit to install new transmitter; make changes in antenna (directional antenna night use); change hours from specified to unlimited time; increase power from 500 watts night, 1 KW day, to 1 KW night, 5 KW day, and move transmitter. Amended to request Class III-B station.

### 920 Kilocycles

WSPA—Spartanburg Advertising Co., Spartanburg, S. C.—Construction permit to install directional antenna for night use, change time from daytime to unlimited, using 1 KW power, and move transmitter. Request Class III-B station.

### 950 Kilocycles

WTRY—Troy Broadcasting Co., Inc., Troy, N. Y.—Authority to determine operating power by direct measurement of antenna power.

### 1010 Kilocycles

WHN—Marcus Loew Booking Agency, New York, N. Y.—Construction permit to install new transmitter and directional antenna for day and night use; change frequency from 1010 to 1050 kc.; increase power from 1 KW night, 5 KW day, to 50 KW; and move transmitter. Class II, under terms North American Agreement.

### 1120 Kilocycles

WTAW—Agricultural & Mechanical College of Texas, College Station, Tex.—Modification of license to change specified hours from: Daily except Sunday, 11:25 a. m. to 12 noon; Sunday, 8:30 to 9:30 a. m.; Friday, 4:30 to 5:30 p. m.; to daily except Sunday, 11:30 a. m. to 12:30 p. m.; Saturday only, 2:30 to 5:30 p. m.; 3 to 6 p. m. daily except Saturday February through September and 2:30 to 5:30 daily except Saturday October through January. Amended to request time daily except Sunday from 7:30 to 9:30 a. m. and 11:30 to 12:30.\* (Contingent on KTBC's license being revoked.)

KRKD—Radio Broadcasters, Inc., Los Angeles, Calif.—Authority to determine operating power by direct measurement of antenna power.

### 1210 Kilocycles

KFOR—Cornbelt Broadcasting Corp., Lincoln, Nebr.—Modification of construction permit (B4-P-2537) for changes in equipment, requesting extension of completion date from 6-23-40 to 12-23-40.

WINN—Kentucky Broadcasting Corp., Louisville, Ky.—License to cover construction permit (B2-P-1809) as modified for a new broadcast station.

WINN—Kentucky Broadcasting Corp., Louisville, Ky.—Authority to determine operating power by direct measurement of antenna power.

### 1240 Kilocycles

KTFI—Radio Broadcasting Corp., Twin Falls, Idaho.—Authority to determine operating power by direct measurement of antenna power.

### 1300 Kilocycles

WLOL—Independent Merchants Broadcasting Co., Minneapolis, Minn.—License to cover construction permit (B4-P-2482) as modified for a new broadcast station.

\* In addition to above hours.

WLWL—Independent Merchants Broadcasting Co., Minneapolis, Minn.—Authority to determine operating power by direct measurement of antenna power.

#### 1310 Kilocycles

KROC—Southern Minnesota Broadcasting Co., Rochester, Minn.—Authority to determine operating power by direct measurement of antenna power.

#### 1370 Kilocycles

WMSL—Tennessee Valley Broadcasting Co., Inc., Decatur, Ala.—Authority to determine operating power by direct measurement of antenna power.

NEW—Butler Radio, Inc., Tyler, Tex.—Construction permit for a new broadcast station to be operated on 1370 kc., 250 watts, unlimited time.

#### 1420 Kilocycles

WLAP—American Broadcasting Corp. of Ky., Lexington, Ky.—Construction permit to move transmitter and install new antenna.

WHDL—WHDL, Inc., Olean, N. Y.—Authority to determine operating power by direct measurement of antenna power.

#### 1440 Kilocycles

WMBD—Peoria Broadcasting Co., Peoria, Ill.—Modification of license to change name of licensee from Peoria Broadcasting Company to WMBD Broadcasting Company.

#### 1450 Kilocycles

KCMO—KCMO Broadcasting Co., Kansas City, Mo.—Authority to make changes in automatic frequency control equipment.

#### 1470 Kilocycles

WLAC—J. T. Ward, tr/as WLAC Broadcasting Service, Nashville, Tenn.—Authority to determine operating power by direct measurement of antenna power.

#### 1480 Kilocycles

WKBW—Buffalo Broadcasting Corp., Buffalo, N. Y.—Construction permit to install new transmitter and directional antenna for day and night use; increase power from 5 to 50 KW; move transmitter. Request Class I-B station.

#### 1500 Kilocycles

NEW—James Freeman Holmes, Valdosta, Ga.—Construction permit for a new broadcast station to be operated on 1500 kc., 100 watts night, 250 watts day, unlimited time. Requests Class IV station.

KYSM—F. B. Clements & Co., a co-partnership composed of F. Braden Clements, Clara D. Clements and C. C. Clements, d/b as Southern Minnesota Supply Co., Mankato, Minn.—Construction permit to change frequency from 1500 to 940 kc.;\* increase power from 250 watts to 1 KW; install new equipment and directional antenna for night use. Requests Class II station.\*

KTOH—Garden Island Publishing Co., Ltd., Lihue, Hawaii.—License to cover construction permit (B-MP-917) for increase in power.

### MISCELLANEOUS

W9XG—Purdue University, West Lafayette, Ind.—Construction permit to request frequency channel 66000-72000 kc. for visual and aural power \* 3000 watts visual, 750 watts aural, emission A3 and A5; changes in equipment. (\*3000 watts peak power.) FORM 318. Requests Class I television broadcast station.

NEW—South Carolina Broadcasting Co., Inc., Portable-Mobile.—Construction permit for a new relay broadcast station to be operated on 1622, 2058, 2150, 2790 kc., 25 watts, emission A-3, portable-mobile, area Charleston, S. C.

W8XVH—WBNS, Inc., Columbus, Ohio.—License to cover construction permit (B2-PHB-239) to install new equipment.

\* Frequency and class of station under North American Regional Agreement.

W2XOR—Bamberger Broadcasting Service, Inc., Carteret, N. J.—Construction permit to install new transmitter, antenna changes, and move transmitter from Carteret, N. J., to New York, N. Y.

## FEDERAL TRADE COMMISSION ACTION

### COMPLAINTS

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

**American Lead Pencil Company**—Six corporations constituting practically all of the manufacturers of rubber erasers in the United States have been served with a complaint alleging a combination and agreement to fix and maintain prices, terms and bids in connection with their sale of such products. The respondents are American Lead Pencil Company, Hoboken, N. J.; Eagle Pencil Company, Inc., New York; Joseph Dixon Crucible Company, Jersey City, N. J.; Eberhard Faber Pencil Company, Inc., Brooklyn, and Weldon Roberts Rubber Company and A. W. Faber, Inc., both of Newark, N. J.

It is alleged that, prior to November, 1935, the respondents entered into an agreement to fix and maintain, and that they have fixed and maintained, the prices at which their product is sold, and the uniform terms and conditions governing such sales, and that they agreed to submit and have submitted, directly and through their agents, uniform and identical bids on their product when requests were made for such bids.

The complaint points out that many firms and corporations and Federal, State and Municipal Governments, because of the substantial quantity of rubber erasers used, purchase them through invitations for bids, and that from these bids are selected the members of the rubber eraser industry from whom purchases will be made for given times or in stated quantities.

The complaint alleges that the effect of the respondents' practices has been to monopolize for them the business of manufacturing and selling rubber erasers; to unreasonably lessen, eliminate and restrain competition in this field in interstate commerce, and to deprive the public of advantages of price, service and other considerations which it would otherwise receive. (4170)

**Art Display Company**—See United Sales Co.

**Augusta Knitting Corporation**—Misrepresentation of the fiber content of ladies' knitted undergarments is alleged in a complaint issued against Augusta Knitting Corporation, Utica, N. Y.

According to the complaint, the respondent misleadingly represented that its knitted undergarments are composed entirely of silk and wool in the proportion of 50 per cent silk and 50 per cent wool, when in truth they have a cotton content ranging from 45 to 57 per cent.

The respondent further allegedly represented that its garments have longer wearing qualities than those of its competitors, when such is not a fact.

The complaint continues that the respondent fails to disclose by appropriate brands or tags attached to its garments all of the fiber constituents from which they are made, and fails to disclose the existence of cotton as a substantial constituent of such garments. (4162)

**Joseph Dixon Crucible Co.**—See American Lead Pencil Co.

**Eagle Pencil Co., Inc.**—See American Lead Pencil Co.

**Eberhard Faber Pencil Co.**—See American Lead Pencil Co.

**Elgin Razor Corporation**—Charging unfair practices through the unauthorized use of well known trade names a complaint has been issued against a group of Chicago manufacturing corporations which have operated at different times in cooperation with Henry T. Schiff in the sale of radios, cameras, talking machines, electric sunlamps, clocks, razors and lighters, and electric and other novelties. The complaint also names as respondents various officers of the corporations, several of whom are relatives of the respondent Schiff.

Corporate respondents in the case are Elgin Razor Corporation, Underwood Laboratories, Inc., Underwood Industries, Inc., Match King, Inc., The American Supercraft Corporation, Paris Bead & Novelty House, Inc., The Keen Manufacturing Company, Inc., The Monarch Manufacturing Company, and The American Camera Corporation.

Individual respondents are Henry T. Schiff, president and director of all but three of the corporations, and Frances R. Schiff, his wife; Benjamin A. Schiff, his brother; Robert M. Schiff, his son; Jack Galter, his son-in-law; Dora M. Galter, his daughter; William Galter, brother of Jack Galter and associated with him in business; Harry C. Feinberg, Robert D. Schoenbrod and Arnold F. Shapiro; Max Bressler and his wife, Ruth Bressler; Ralph Korol, Albert I. Leight, Albert J. Tarrson, Ed Cohan and G. T. Bunker, all of Chicago and all of whom are or have been officers, directors, or agents of one or more of the respondent corporations.

It is alleged that the various respondents have conspired and cooperated in a scheme to deceive the public and compete unfairly with other manufacturers and dealers by falsely representing the price of their products and by adopting and using as corporate and trade names and as marks and brands affixed to their products such well and favorably known names as "Elgin," "Underwood," "Remington" and "Hamilton."

The complaint charges that, among other things, the respondents advertised "Elgin Electric Shavers" and "candid type cameras" using the name "Elgin Laboratories," also an "Underwood Electric Dry Shaver" in connection with the corporate name "Underwood Industries, Inc.," and a "Hamilton Electric Shaver." The complaint further charges that the respondents' representations were false and misleading in that their products were not made or sold by corporations, firms or individuals identified in the public mind by the names Elgin, Underwood, Remington and Hamilton; the so-called reduced or special prices advertised were the usual or regular prices; the cameras advertised were not such as could properly be described as "candid," and the respondents did not own, operate or control a properly equipped laboratory, supervised and managed by scientifically trained persons.

The respondent Henry T. Schiff, according to the complaint, has places of business at 711 West Lake St., 429 South Ashland Blvd., 305 West Adams St., 207 East Ohio St., and at other addresses in Chicago and in other cities unknown to the Federal Trade Commission, his connection with which is not revealed to the public.

It is alleged that during the last 20 years he has organized, financed and controlled and is now operating businesses under other corporate, trade and brand names, including: The Elgin Laboratories, Inc., International Merchandise Corporation, International Service Corporation, International Products Corporation, Monument Manufacturing Company, Inc., Underwood Laboratories, Lucky Strike Manufacturing Company, Schafer & Company, Vitaneola Talking Machine Company, Old Reliable Manufacturing Company, Fay Manufacturing Company, General Chromium & Copper Company, Utility Manufacturing Company, Electric Clock Corporation of America, Motor Engineering Company, Atlas Metal Works, Inc., Fire Chief, Inc., Electric Kwik Shave Company, and the brand names Auburn, Regal and many other corporation, company, trade and brand names.

The addresses of these corporations and companies are unknown to the Commission, the complaint continues, and the Commission has been informed that all of them have been engaged in practices similar to those alleged in its complaint. (4169)

**R. E. Engineers**—See Perfect Mfg. Corporation.

**A. W. Faber, Inc.**—See American Lead Pencil Co.

**L. Hoffman**—Louis Hoffman, trading as L. Hoffman, 459 Broadway, New York, was charged, in a complaint, with the dissemination of certain misrepresentations in the sale of desk pads and other office accessories.

According to the complaint, the respondent represented, by the use of terms such as "Flexhide Calf Finish Leather," "Genuine

Top Grain Leather" and "Genuine Top Grain Furniture Leather," that genuine top grain leather is used in his desk pads, and by such words as "Grecian Gold Tooled Border" and "Genuine Gold Tooled Border," that genuine gold leaf is used and applied on the border of his product, when in fact the respondents' desk pads are not composed of top grain leather and in most instances the borders are made of imitation gold, and gold leaf is not used in the process.

It is further charged that the respondent published a pictorial presentation of various styles of desk pads as being offered for sale by him, when in fact he did not sell products of the design depicted and such illustrations, in some instances, were those of a competitor's higher-priced desk pad superior both in design and pattern. The complaint also alleges that the respondent advertised his business as having been established in 1888, when such is not a fact. (4165)

**Magnetic Ray Company**—Alleging violation of the Federal Trade Commission Act in the sale of an electrical device for treating various ailments, a complaint has been issued against Frank B. Moran, trading as Magnetic Ray Company and as Magnetic Ray Clinic, 2023 Main St., Dallas, Texas.

It is alleged that the respondent represented that use of his device, "Magnetic Ray," provides a cure, remedy or safe, scientific, competent and effective treatment for more than 35 ailments, including rheumatism, eczema, diabetes, arthritis, asthma, constipation, hemorrhoids, varicose veins, high and low blood pressure, paralysis, headaches, and neuralgia, when such are not the facts.

The respondent further allegedly represented that his device far exceeds electricity, light, heat, X-rays, radium rays, violet and ultra-violet rays in therapeutic value, when according to the complaint, the heat produced by his device is approximately equal to that produced by a 40-watt bulb, and would therefore be of no therapeutic value nor be comparable to X-ray, radium rays, or violet and ultra-violet rays.

Further allegations made by the respondent are that use of his device stimulates a normal and healthful functioning of the various organs and glands of the body; equalizes circulation of the blood; relieves pain and muscular and nervous tension, and stimulates rapid increase in the oxidation and elimination of accumulated poisons, thereby removing the condition of auto-toxemia, when such are not the facts. (4164)

**National Retail Liquor Package Stores Assn., Inc.**—Complaint has been issued charging the National Retail Liquor Package Stores Association, Inc., New York, and its officers, directors and members, including 29 State or sectional retail dealers' trade associations, with a price fixing combination and conspiracy in the resale of liquors, in violation of the Federal Trade Commission Act.

State or sectional association member respondents are: Greater New York Licensed Liquor Stores Association, New York City; Bronx Wine and Liquor Stores Associates, Inc., Bronx, New York City; Federated Retail Liquor Dealers of Kings County, Brooklyn; Long Island Wine and Liquor Dealers Association, Jamaica, Long Island, N. Y.; Capitol District Liquor Stores Association, Inc., Albany, N. Y.; Central New York Liquor Dealers Association, Syracuse, N. Y.; Dutchess County Retail Liquor Dealers Association, Poughkeepsie, N. Y.; Retail Liquor Stores Association of Western New York, Buffalo, N. Y.; Genesee Valley Retail Liquor Stores Association, Rochester, N. Y.; Southern Tier Retail Liquor Stores Association, Binghamton, N. Y.; Westchester Package Stores Association, White Plains, N. Y.; National Council of State Liquor Dealers Association, Palmyra, N. J.; New Jersey Licensed Beverage Association, Pennsauken, N. J.; New Jersey Retail Liquor Package Stores Association, Paterson, N. J.; and Massachusetts Federation of Retail Package Stores Association, Boston.

Rhode Island Retail Liquor Dealers Association, Providence, R. I.; Connecticut Retail Liquor Package Stores Association, Hartford, Conn.; Baltimore Retail Liquor Dealers Association, Baltimore; D. C. Retail Liquor Dealers Association, Washington, D. C.; Atlanta Retail Liquor Package Stores Association, Atlanta; Retail Liquor Dealers Association of Louisiana, New Orleans; Arkansas Retail Liquor Dealers Association, Little Rock, Ark.; Louisville Retail Liquor Package Stores Association, Louisville, Ky.; Indiana Retail Liquor Dealers Association, Terre Haute, Ind.; Illinois Retail Liquor Package Stores Association, Chicago; Wisconsin Retail Liquor Dealers Association, Milwaukee; Minnesota Council of Wine and Spirits Merchants, Inc., Minneapolis;

Colorado Package Liquor Association, Denver, and South Dakota Retail Liquor Dealers Association, Sioux Falls, S. D.

It is alleged that the various respondents, in seeking to make their combination effective, performed by agreement among themselves the following practices: fixed and maintained uniform prices for their resale of wines, spirits and liquors, under threat of boycott, fixed the prices at which manufacturers and importers shall sell such products and the prices at which both wholesalers and the respondents shall resell; under threat of boycott, compelled and sought to compel manufacturers and importers to sell in States having "Fair Trade" acts, only under resale price maintenance contracts, and at prices and differentials fixed by the respondents, and in like manner compelled manufacturers, importers and wholesalers not to sell to retailers who resell at prices less than those fixed by the respondent national association members and fixed by State "Fair Trade" resale price maintenance contracts.

The complaint further alleges that the various respondents, in seeking to make their combination effective, by agreement among themselves and under threat of boycott, have compelled and sought to compel manufacturers, importers and wholesalers not to sell to retailers who resell at prices less than those fixed by the respondent national association members; to grant to members of the member associations uniform discounts and allowances, and to institute and prosecute suits against retailers for reselling at prices less than those provided for in "Fair Trade" contracts.

It is also alleged that the respondents, by agreement among themselves, have spied upon and reported to manufacturers, importers and wholesalers, those retailers reselling below the fixed prices; have demanded, under threat of boycott, that such manufacturers, importers and wholesalers refuse to further supply such price-cutting retailers, and have attempted to bring about the revocation or suspension of the licenses of retailers who resell at prices lower than those fixed by the members of the member associations.

Among alleged results of the respondents' practices are prevention of price competition, increase of prices to the public, and creation of a monopoly in the respondents. (4168)

**Perfect Manufacturing Company**—Misrepresentation of an electrical and mechanical device for attachment to radio receiving sets is alleged in a complaint issued against The Perfect Manufacturing Company, trading as R. E. Engineers, Madison Road, Cincinnati.

According to the complaint, the respondent represented that its device "Add-A-Tube" will give longer life to radio tubes, will improve radio reception, will make it possible to receive radio broadcasts from domestic and foreign stations which could not be received without use of this device, and will bring the user's radio up to date, when such are not the facts.

It is further alleged that the respondent advertised that use of its device will give any radio the tone, sharpness of selectivity and the static-free reception found in the most expensive radio sets on the market, will improve reception on every type of radio receiving set, will give the user's radio automatic volume control and guarantee clear local and long-distance reception, and will make an old radio receiving set as efficient as modern sets, when actually it will not accomplish all the results claimed.

Through the use of the name "Add-A-Tube," the complaint continues, the respondent implies that its device, when attached to a radio receiving set, gives the set an additional tube, when such is not a fact. (4163)

**Smoke Conditioner Company**—Misrepresentation in the sale of a cigarette holder designated as "Smoke Conditioner" is alleged in a complaint issued against Henry M. Salisbury and Frank R. Johnson, trading as Smoke Conditioner Company, 254 West 31st St., New York.

It is alleged that the respondents represented directly or by implication that their "Smoke Conditioner" embodies entirely new and revolutionary principles in cigarette holders; that it never has a bad odor or taste; that it prevents nicotine and irritating substances in a cigarette from reaching the smoker, and that its use promotes health by eliminating all deleterious substances from the tobacco smoke, when such are not the facts.

The complaint points out that use of the respondent's holder eliminates only a small percentage of nicotine and other deleterious substances present in tobacco. (4166)

**St. Joseph School of Flying**—Misrepresentation in the sale of a correspondence course in aviation is alleged in a complaint

issued against Leon Hood, trading as St. Joseph School of Flying, St. Joseph, Mo.

According to the complaint, the respondent misleadingly implied in his advertising that he and his school are connected with or are representative of the United States Government, and that they have been commissioned or authorized by the Government to give instruction to and train civilian pilots; that the correspondence course is given free; that students completing the correspondence course may obtain substantial deductions in the cost of actual flying instruction by virtue of a discount, and that such discount will be allowed by many other aviation schools; that the instruction offered is recognized and endorsed by other aviation schools, and that the respondent's school is officially connected with the municipal airport at St. Joseph, Mo., when such are not the true facts.

Further alleged misleading representations of the respondent are that the school is equipped with offices, shops, equipment, classrooms and personnel for the giving of resident instruction in the scientific and practical features of aviation; that the home study course offered is of such extent and character as to give students a full and complete knowledge of the principles of aviation and comprises complete ground training, and that only picked students of the correspondence course will be permitted to take actual flying instruction, when such are not the facts. (4167)

**United Art Display Co.**—See United Sales Co.

**United Art Display & Sales Co.**—See United Sales Co.

**United Display Company**—See United Sales Co.

**United Sales Company**—Alleging violation of the Federal Trade Commission Act in the sale of photographic enlargements and frames, a complaint has been issued against Max Cohen, trading variously as United Sales Company, United Art Display and Sales Company, Art Display Company, United Art Display Company, and United Display Company, 4042 South Broadway Place, Los Angeles.

It is alleged that the respondent's crews of initial contact salesmen, who are deceptively represented as "operating under the sanction of the United States Supreme Court," make house-to-house canvasses ostensibly to obtain photographs, usually of children, for enlargement, one-half of the price of which is required as deposit at the time the order is taken. These salesmen allegedly represent that the photographs of children are to be sold for advertising purposes to manufacturers of children's products; that there is a large demand for such pictures, and that, in order to obtain acceptable pictures, the respondent is also conducting a contest in which valuable prizes are awarded.

It is alleged that in their sales talks the initial solicitors carefully avoid any reference to frames for the pictures; that the enlargements made by the respondent are of such peculiar shape that frames to fit them can be obtained only from the respondent at the prices exacted, and that after the enlargements have been made, the original pictures and enlargements thereof are sent by the respondent to other salesmen called "proof passers," who deliver them to the customers, collect the unpaid balance and seek to sell frames for the pictures. The complaint points out that the sale of enlargements is merely incidental to the respondent's plan of operation studiously devised for selling frames, and that if a customer refuses to purchase a frame or pay for one after it has been ordered, the respondent in many instances refuses to deliver the original treasured family photograph borrowed from the customer until a frame is ordered or a balance claimed on a frame is paid in full. (4161)

**Weldon Roberts Rubber Co.**—See American Lead Pencil Co.

## CEASE AND DESIST ORDERS

Commission has issued the following cease and desist orders:

**Ace Auto Supply Co.**—See Perfect Recondition Spark Plug Co.

**Bauer & Black**—See Kendall Company.

**Henry Bergman**—Misrepresentations in the sale of instruments advertised as useful for locating gold and silver, a booklet known as "Jacob's Rod," and other articles, are prohibited in an order to cease and desist issued against Henry Bergman, 2004 Milton Ave., Springfield, Mo.

The order, among other things, directs that the respondent cease and desist from representing that his treasure locating instrument has any value in searching for hidden treasure; that a person reading the "Jacob's Rod" booklet will be enabled to ascertain his psychic powers, make his own goldometer, or locate hidden treasure, or that there is any basis, in fact, for the statement that the directions given in this booklet were practiced by Jacob or any other ancient patriarch. (4026)

**Crown Distributing Company**—A Los Angeles distributor of radios, cameras, and pen and pencil sets, and a Minnesota dealer in drugs, cosmetics, foods and household novelties, were ordered to discontinue the use of lottery methods in connection with the sale of their products to ultimate consumers. The respondents are Marvin Alan Koolish, trading as Crown Distributing Company and Crown Sales Company, 8742 Holloway Drive, Los Angeles, and Frank Spors, trading as Spors Company, Le Center, Minn.

The orders direct the respondents to cease supplying others with merchandise together with lottery devices which may be used in selling such products to the public; to cease supplying to or placing in the hands of others such lottery devices, either with assortments of merchandise, or separately, which devices may be used in selling articles to the public, and to discontinue selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

Frank Spors, trading as Spors Company, was also ordered to cease using the term "Wholesale Importers and Manufacturers" to describe the character of his business operations, except in connection with such items as are actually manufactured or imported by him; representing that all of the items of merchandise offered for sale are imported or manufactured by him, or that any designated item of merchandise is imported or manufactured by him, when such item has not been so imported or manufactured. The respondent Spors was further ordered to cease representing pictorially or otherwise that his place of business is larger than is actually the fact. (4041-3165)

**Crown Sales Company**—See Crown Distributing Company.

**Gardner Remedies, Inc.**, 2633-50th Ave., S. W., Seattle, Wash., has been ordered to discontinue misrepresentations in the sale of "Gardner's Food Herbs," a medicinal preparation.

The Commission's findings are that the respondent's preparation possesses no therapeutic value except in so far as its small peppermint content might have a slight tendency to aid digestion.

The order directs the respondent to cease advertising that its preparation is a cure or remedy for, or that it possesses any substantial therapeutic value in the treatment of, hyperacidity or excess acid, acidosis, rheumatism, kidney, liver or stomach disorders, stomach ulcers, indigestion, constipation, acid or sour stomach, gas, heartburn, colitis, dizziness, abnormal kidney functions, backache, swelling of the ankles, soreness in the region of the kidneys, soreness or stiffness in the cords or muscles of the neck, hives, skin rashes, heart pains, shortness of breath, high or low blood pressure, or sleeplessness. (3595)

**Kendall Company**, trading as Bauer & Black, of Boston and Chicago, was ordered to discontinue misrepresentations in the sale of a cosmetic preparation, "Velure Vanishing Lotion," formerly designated "Velure Lotion."

The Commission's order directs the respondent to cease advertising that its preparation is a new or scientific discovery; that, when applied to the hands, it acts more quickly in softening and beautifying the skin or achieves beneficial results more rapidly than other competitive products; that the preparation penetrates the skin and leaves no artificial coating or stickiness on the skin, or that it conserves or supplements the natural oils of the skin.

The respondent was further ordered to discontinue representations that its preparation has a bleaching or whitening effect on

the skin or makes hands shades whiter or lighter, or that it is more economical or effective in use than competitive hand lotions. (3894)

**Perfect Recondition Spark Plug Co.**—Peter Sanders and Harry Sanders, trading as The Perfect Recondition Spark Plug Company, 1133-39 Bedford Ave., Brooklyn, and Samuel Sanders, trading as Ace Auto Supply Company, 161 B Ave., New York, have been ordered to discontinue certain representations in the sale of used and reconditioned spark plugs.

Findings of the Commission are that the respondents sold spark plugs bearing the brand names "Champion" and "AC" without disclosure that such articles were used or defective and had been repaired and reconditioned.

The order prohibits the respondents from selling any spark plug which has been used and thereafter reconditioned in any manner unless the words "used," "second-hand," "reconditioned," or some other similar words, have been permanently stamped or fixed on each of the plugs in a color in contrast to the surface to which the word is applied and of a size and in such location as to be clearly legible to the purchasers after the plug shall have been installed, and unless there has been plainly printed or marked on the containers of the plugs a notice that they are used, second-hand or reconditioned. (3392)

**Rulo Company**—Norman D. Loughlin, Volney T. James and Page H. Lamoreaux, trading as Rulo Company and the Rulo Corporation, Los Angeles, were ordered to discontinue further misleading representations in the sale of an automotive device known as "Rulo Automatic Injector" and an automotive lubricant, "Rulo Energy Fluid," which had been sold by them prior to January 1, 1938.

The order directs the respondents to cease representing that the use of their device and fluid will effect substantial economies in the operation of an automobile through the lessening of gasoline and oil consumption; will substantially increase the power and compression of the automobile motor; will remove carbon from the motor and prevent carbon formation, or will substantially lessen engine friction and attendant engine wear.

The respondents were further ordered to discontinue representations that use of "Rulo Automatic Injector" and "Rulo Energy Fluid" will eliminate the necessity of grinding the valves, prevent valves from sticking, and can seat valves; will prevent the motor from knocking; will produce first grade or ethyl gasoline performance with gasoline of a lower grade, or will prolong the life of the motor and cause it to operate smoother.

The order also directs the respondents to cease representing that "Rulo Energy Fluid" is scientifically made from a secret formula; that its use removes hard carbon; that it is a perfect heat-resistant lubricant, or that it assures perfect upper cylinder lubrication even when the motor is cold when started.

The Commission dismissed its case against L. E. Ruppe, Bernal H. Dyas and Ruth C. Hemstreet, who had been named respondents in the complaint. (3761)

**Spors Company**—See Crown Distributing Company.

**Westminster Tire Corporation**, 601 West 26th St., New York, engaged in the sale of pneumatic automobile and truck tires, has been ordered to cease and desist from certain representations concerning its products.

The Commission finds that the respondent has made representations concerning the character and quality of its products by means of letters, blotters, signs and price lists, and by means of tire wrappings, markings, insignia and brands appearing on tires, circulated and distributed to dealers located in various States, among which are the placing, fixing or molding into the sidewalls of tires and upon the tire wrappings, encasing the tires, the designation "V-7" in addition to the respondent's name and the size and type of tire.

The Commission finds that such tires are of four-ply bead to bead construction with double breaker strips, white sidewalls, extra material and tread stock, giving them a net weight considerably in excess of the corresponding weight of the first line four-ply tires marketed by other manufacturers and distributors. The Commission also finds that the respondent, because of the unusual character of construction, has made no express declaration as to the ply construction of the tires, and therefore has not

disclosed, in the absence of specific inquiry by dealers who purchase the products, that the "V-7" tires are of four-ply construction, and that in the absence of inquiry regarding them, prospective purchasers have not been advised that the "V-7" tires are actually of four-ply construction.

The respondent's acts and practices, the Commission finds, serve to place in the hands of unscrupulous or uninformed retail dealers a means by which the dealers may mislead the purchasing public into the erroneous belief that the "V-7" tires actually contain seven plies.

Westminster Tire Corporation and its representatives are ordered to cease and desist from representing, directly or indirectly, by means of letters, words, figures, markings, insignia or brands appearing in price lists, or on tire wrappings, or on tires, or in any other way, that the automobile and truck tires sold by the respondent contain more plies in their construction than they actually contain, or that the construction of its tires or the materials therein contained are other than the actual construction and materials. (3786)

**Zonite Products Corporation** has been ordered to cease and desist from certain misleading representations concerning the products of its competitors.

Zonite Products Corporation, with offices in the Chrysler Building, New York, and its manufacturing plant in New Brunswick, N. J., through its Larvex Division is engaged in the manufacture of a liquid moth repellent designated "Larvex," for spraying on clothing, upholstered furniture, rugs and other non-washable fabrics, together with a powder also designated as "Larvex," which, when mixed with water as directed is recommended as a rinse for blankets, sweaters, and other washable fabrics. The preparations are designed to protect such articles from the ravages of moths.

The Commission finds that in advertisements published in magazines and other printed matter circulated throughout the States, the respondent has represented, among other things, that:

"If you, too, want sure protection against moth damage, don't take chances with moth balls, chests, and other makeshift ways. Too much is at stake.

"It is not enough to try with insecticides, bug-killers, moth balls, cedar chests, and tarbags with obnoxious odors, to drive away or kill the flying moth. When you see the flying moth it is too late—she has already laid eggs in your woolen things—and old-fashioned methods don't baffle the hungry moth-worms which hatch from the eggs."

By means of these representations, the Commission finds, the respondent has represented that moth balls, cedar oil, tar and various other competitive products fail to give adequate protection against moth damage, and thereby unfairly disparages many of the respondent's competitors and their respective products. The Commission finds that such representations are misleading and deceptive, as there are many such competitive products which, when properly used, will protect fabrics against moth damage.

The respondent is ordered to cease and desist from representations that moth balls, cedar oil, tar and other products containing pyrethrum, naphthalene or paradichloro-benzene will not protect fabrics and garments from damage by moth worms or larvae. (3363)

## STIPULATIONS

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

**Jack Barnett Furs, Inc.**, 214 West 29th St., New York, agreed to cease disseminating invoices or other descriptive literature which fail to disclose clearly that the garments designated are manufactured from dyed furs or peltries. (2844)

**Beyda's Linen Shop**—See Esther Shop, Inc.

**John W. Eshelman & Sons**, Lancaster, Pa., has entered into a stipulation in which that corporation agrees to discontinue advertising "Red Rose Laying Mash" as the only feed that will produce or maintain profitable hens; "Red Rose Fattening Mash"

as being necessary for obtaining fancy or top-grade broilers, and the same preparation as imparting a delicacy of taste or flavor which cannot otherwise be obtained. (02590)

**Esther Shop, Inc.**, 1225 F St., N. W., and Esther Beyda, trading as Beyda's Linen Shop, 1118 F St., N. W., both of Washington, D. C., have entered into stipulations in which they agreed to discontinue certain representations in the sale of linens and laces.

The Esther Shop, Inc., agreed to cease using the words "Fine Tuscany," "Hand-Made Tuscany" or words of similar meaning, and Beyda's Linen Shop agreed to discontinue use of the words "Tuscany Lace," "Guaranteed Handmade Tuscany Lace," "Tuscany Lace Cloth," or similar words, with or without the explanation "Made in China," as descriptive, respectively, of laces or other articles sold by them which are not true Tuscany lace actually made in Tuscany of linen thread.

Beyda's Linen Shop also stipulated that it will cease using the word "Guaranteed" or any other words of similar meaning in its advertising unless clear disclosure is made of exactly what is offered by way of security, as for example, refund of purchase price. (2846-2847)

**Evenkuit Hosiery Mills**, Bay City, Mich., agrees to discontinue employing the designations "Genuine Crepe" or "Crepe" as descriptive of a hose or other product which, due to its construction, cannot properly be labeled "Crepe." The respondent corporation also stipulates that it will cease advertising, branding or selling any product composed in whole or in part of rayon unless complete disclosure of the fiber and other content is made by clearly designating each constituent fiber in the order of its predominance by weight, and by giving the percentage of any fiber present in less than a substantial amount, or in any case less than 5 per cent. (2848)

**Frank & Seder**, Eleventh & Market Sts., Philadelphia, agreed to discontinue use of the term "All Wool" as descriptive of a garment which is not composed entirely of wool, or deceptive concealment of the true fiber content or failure to make full and nondeceptive disclosure in its advertising or other trade indicia of the fiber content of articles purporting to be wool, such fibers to be stated in the order of their predominance by weight, and any fibers present in less than a substantial amount to be indicated by stating the percentage.

Frank & Seder further agreed to cease advertising, branding or selling any product composed in whole or in part of rayon unless full disclosure of the fiber and other content is made by clearly and nondeceptively designating each constituent fiber in the order of its predominance by weight, 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.

It was also stipulated that Frank & Seder will cease selling or offering for sale any silk or silk product, or designating it by the unqualified terms "Silk" or "Silk Crepe," when such article contains any metallic weighting, without full and nondeceptive disclosure of the presence of such metallic weighting, together with its proportion, designated in tags, brands, invoices, and all advertising matter. (2853)

**International Laboratories, Inc.**, Rochester, N. Y., has entered into a stipulation in which it agrees to cease representing that "Dare's Mentha-Pepsin" is a competent treatment or effective remedy for stomach ailments; that any given amount of it will prove its efficacy in a definite time, and that it contains ingredients which will invigorate the stomach generally or are so combined with pepsin as to make the pepsin highly efficacious and speedy in its action. The respondent corporation also agrees to cease further use of the word "Pepsin" alone or with other words, to designate any preparation not containing sufficient pepsin as an active ingredient to possess therapeutic value because of it. (02587)

**Kallman & Morris, Inc.**, 530 Seventh Ave., New York, agreed to discontinue use of the words "Reproduced by Kalmour" or other use of the word "Reproduced" or of any word which imports that the article is a replica or duplicate of an original, as descriptive of dresses which are not in fact true reproductions in all particulars of the types named. The respondent corporation also stipulated that it will cease using, or placing in the hands of

others the means to use, pictorial or other representations of dresses which do not accurately or definitely depict the garments offered for sale, or otherwise representing such garments in any way which tends to convey the impression that such dresses are of a value greater than is indicated by the prices, or that dresses actually sold or offered for sale are identical with or of a quality equal to the garments so depicted. (2852)

**Kanner Dress Company, Inc.**, 1350 Broadway, New York, in the sale of dresses, agrees to cease using the words "Crepe," "French Crepe," "Cinderella Crepe," "Acetate Crepe," "Silk Garments," "Silk Weaves," or any other word signifying pure silk to designate any fabric or product not composed wholly of unweighted silk. The stipulation provides that if the word "Crepe" or similar word is used properly as descriptive of the type of construction only, of a fabric or product made of rayon, then such word shall be immediately accompanied by the word "Rayon" in letters equally conspicuous; for example, "Rayon Crepe," "Acetate Rayon Crepe." Other practices which the respondent agrees to discontinue are use of the words "Acetate," "Celanese" or other trade term, alone or in combination with other words, as descriptive of the rayon content of garments, fabrics or material, unless immediately accompanied in equally conspicuous type by the word "Rayon"; selling or offering any product made of rayon without clearly disclosing in all printed matter such rayon content, and use of the word "Guaranteed" unless clear disclosure is made of exactly what is offered by way of security, as for example, refund of purchase price. (2842)

**H. M. Kolbe Company, Inc.**, 48 Leonard St., New York, in the sale of woven fabrics or cloth, stipulates that it will desist from using the descriptive designations "Part Linen," "Part Linen Suiting," or "A Part Linen Fabric" for its "Sagamore" suitings or any other cloth or fabric of similar composition, and from naming or in any way featuring a minor constituent fiber of a mixed fabric offered for sale and sold without first naming also, as a part of such descriptive statement and with equal conspicuousness, the major constituent fibers, all in the order of their predominance by weight. The stipulation points out that the fiber content of the woven fabrics or cloth invoiced and designated by the respondent corporation consisted of cotton and flax, of which the flax or linen content constituted a minor portion. (2845)

**Mollin Company**—Sally Lindner, Sybil Moses and Jean Tanner, trading as Mollin Company, St. Paul, Minn., have entered into a stipulation in which they agreed to discontinue certain representations in the sale of home permanent wave outfits.

The respondents agreed to cease representing that by the use of their "Glamour Permanent Wave" outfit, a permanent wave may be accomplished which will last for six months in every instance, or regardless of the type or kind of hair treated; using the phrase "reconditions the hair," or any similar statement, so as to convey the belief to purchasers that their outfit will restore old, worn or faded hair to its original condition, or using the word "free" as descriptive of their shampoo and wave set, when in fact such items are not given free or as a gratuity but are a part of the outfit and their cost is included in the price charged.

It was further stipulated that the respondents will discontinue use of the words "New York" or "Hollywood" in connection with the words "Milady Hair Specialist" on the box container of the outfit, so as to imply that they are engaged in business in either of such localities.

The respondents also agreed to cease employing the word "Manufacturers" or any similar word, when they do not make the items of which their wave sets are composed and do not actually own, operate or control the plant where such articles are manufactured. (2855)

**Ome Daiber, Inc.**, trading as Royal Feather Quilt Company, 2407 First Ave., Seattle, in the sale of feather quilts and comforters, agrees to cease representing by use of expressions such as "Pre-Season Clearance," "Big Seasonal Reduction," "How I Can Save Money on Pre-Season Sale," or otherwise, that its regular method of sale is a special offer; or, directly or inferentially, that a special price is offered when the regular price is charged, or that some advantage in quality is offered when there is none. The respondent also agrees to discontinue statements such as

"While They Last," or "Prompt Action Will Save You 40%" or other representations that an offer or purported offer is open for a limited time so long as any orders received after the expiration of the time limitation, implied or otherwise, are accepted and filled. (2850)

**Peter Paul, Inc.**—See Platt-Forbes, Inc.

**Pickgan Labrofacts, Inc.**, 250 East 43rd St., New York, in the sale of "Allay," agreed to cease representing through the use of such expressions as "pain banisher," "get rid of pain," "insure freedom from pain," "drives away pain," "kills pain," or in any other manner, that its product terminates pain or has any effect on pain in excess of affording temporary relief; that it is safe for use, or that it affords a new method for relieving pain. The respondent further agreed to discontinue representations that "Allay" has any efficacy in preventing the development of colds, or is an effective remedy for colds, or that it acts or commences to act in three seconds after the tablets are taken. This stipulation supersedes and modifies one accepted by the Commission from the respondent corporation concerning the same product in October, 1937. (01906)

**Platt-Forbes, Inc.**, 386 Fourth Ave., New York, an advertising agency, and Peter Paul, Inc., Naugatuck, Conn., dealer in chewing gum, have entered into stipulations in which each agreed to discontinue certain representations.

Platt-Forbes, Inc., advertising on behalf of Peter Paul, Inc., agreed to cease advertising that use of "Ten Crown Charcoal Gum" will make or help make teeth white or otherwise alter their inherent color except to the extent that it may do so through the removal of certain enamel film or debris from the teeth. Peter Paul, Inc., also stipulated that it will discontinue such representations in the sale of its chewing gum. (02589-02588)

**Radio City Thrift Shop**—See Ritz Thrift Shop, Inc.

**Ritz Thrift Shop, Inc.**, and Aaron Kaye and June Jacobs, co-partners trading as Radio City Thrift Shop, 153 West 57th St., New York, stipulated that they will cease making representations implying that their second-hand fur garments, or any appreciable proportion of them, are left with them for sale by society women or the ultra-rich, are purchased from society women or the ultra-rich or estates, or otherwise misrepresenting the source of such second-hand garments. The respondents also agreed to cease advertising any special sale of used or second-hand furs or other used goods or merchandise, unless the advertisements clearly indicate that such items offered for sale are used or second-hand. (2843)

**Rose Manufacturing Company**, 37th and Filbert Sta., Philadelphia, stipulated that it will cease representing that its spray, "Tri-Ogen," for plants and flowers, will kill, protect against or repel all insects generally; that it will control, or give complete protection against, all fungus diseases, or give complete plant protection, or that use of this spray will make the plant immune from attacks by all insects and diseases. The respondent further agreed to cease advertising that any results are assured through use of the spray; that it is the most successful and revolutionary discovery ever made in the history of rose culture, or that it is the first definite mildew and black-spot control combined with an insecticide. (02586)

**Royal Feather Quilt Company**—See Ome Daiber, Inc.

**John Shillito Company**, Cincinnati, has entered into a stipulation in which it agrees to cease and desist from certain representations in the sale of rugs.

In its stipulation, the respondent agrees to discontinue use of the words "Chinese," "Persian," "Oriental," "Kashmir," "Mandalays," "Bagdad," "Baristan," "Persiatana," "India" or other distinctively Oriental names as descriptive of rugs which are not made in the countries or localities designated with all the essential characteristics and qualities of such rugs, and the use of the words "Persian Reproductions," "Oriental Reproductions" or other use

of the word "Reproduction" or of any similar word which signifies that the article to which such word applies is a replica or duplicate of an original, as descriptive of rugs which are not true counter-parts or reconstructions in all particulars of the types named.

The respondent also agrees to cease using the words "Persian," "Chinese," "Oriental," "Kashmir," "Mandalays," "Bagdad," "Baristan," "Persiatana," "India," or other distinctively Oriental appellation in connection with any rug which does not contain all the inherent qualities and properties of an Oriental rug; unless, if properly used to describe the design or pattern only, such words of Oriental appellation shall be immediately accompanied by a word such as "Design" or "Pattern" printed in equally conspicuous type, so as to indicate clearly that only the form delineated on the surface of the rug is a likeness of the type named; for example, "Persian Design," "Chinese Pattern."

The respondent corporation further agrees to discontinue use of the word "Guaranteed" unless clear disclosure is made of exactly what is offered by way of security; as for example, refund of purchase price. (2851)

**Vermont Hosiery and Machinery Company, Northfield, Vt.,** agrees to cease using the phrase "100% Virgin Wool Face" alone

or in connection with other words as descriptive of hosiery the face of which is not composed wholly of virgin wool. The stipulation provides that if parts of the hosiery, as the top, leg and sole, are faced with wool, but the heel and toe are not so faced, the words "Wool Face" are used properly to describe the facing of the top, leg and sole, such words shall be accompanied by other words clearly indicating that the hosiery is not faced throughout with wool. The respondent corporation also stipulates that it will cease employing the word "Lisle" as descriptive of lining of hosiery with lisle, and the word "Shrinkless" or other words of similar implication, suggesting that the hosiery is proof against shrinkage. (2849)

#### FTC CLOSES CASE

Federal Trade Commission has closed without prejudice its case against Frosted Products Equipment Company, Inc., 43 East 20th St., New York, which had been charged with the use of lottery methods in the sale of its products to ultimate consumers.

It appearing that the business of the respondent corporation has been entirely discontinued, the Commission closed its case without prejudice to its right to reopen it for further proceeding, should future facts so warrant.